



THE SPECIAL MARRIAGE ACT, 1872



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¹THE SPECIAL MARRIAGE ACT, 1872

²Act No. III OF 1872

[22nd March, 1872]

An Act to provide a form of Marriage in certain cases

Preamble. WHEREAS it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion, ³[and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion] and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows :

⁴[**1. Local extent.** This Act extends to the whole of Pakistan.]

2. Conditions upon which marriages under Act may be celebrated. Marriages may be celebrated under this Act between persons neither of whom professes the Christian or the Jewish, or the Hindu or the ⁵[Muslim], or the Parsi or the Buddhist, or the Sikh or the Jaina religion, ⁶[or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion] upon the following conditions :—

- (1) neither party must, at the time of the marriage, have a husband or wife living:
- (2) the man must have completed his age of eighteen years, and the woman her age of fourteen years, according to the Gregorian calendar:
- (3) each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her father or guardian to the marriage:
- (4) the parties must not be related to each other in any degree of consanguinity or affinity which would, according to any law to which either of them is subject, render a marriage between them illegal.

1st Proviso.— No such law or custom, other than one relating to consanguinity or affinity, shall prevent them from marrying.

2nd Proviso.— No law or custom as to consanguinity shall prevent them from marrying, unless a relationship can be traced between the parties through some common ancestor, who stands to each of them in a nearer relationship than that of great-great-grand-father or great-great-grand mother, or unless one of the parties is the lineal ancestor, or the brother or sister of some lineal ancestor, of the other.

¹Short title given by the Short Title Act, 1897 (14 of 1897)

²There was no Statement of Objects and Reasons; the Bill as introduced was published in the Gazette of India, 1868, p. 1403; for the Report of the Select Committee, dated 21st December 1871, see *ibid.*, 1871, Pt. V, p. 519; for discussions in Council, see *ibid.*, 1868, Supplement, pp. 890 and 1197; *ibid.*, 1871, Extra., Supplement, pp. 16 and 42; *ibid.*, 1872, Supplement, pp. 2, 57, 193 and 261.

This Act has been declared in force in Balochistan by the British Balochistan Laws Regulation, 1913 (2 of 1913), s. 3.

This Act has been extended to the Leased Areas of Balochistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and also applied in the Federated Areas of Balochistan, see Gazette of India, 1937, Pt. I, p. 1499.

³Ins. by the Special Marriage (Armdt.) Act, 1923 (30 of 1923), s.2.

⁴This section has successively been amended by the Repealing Act, 1874 (16 of 1874), s. 1 and Sch., Pt. I, A. O., 1949; and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), to read as above.

⁵Subs. by F.A.O., 1975, Art. 2 and Table for "Muhammadan".

⁶Ins. by Act 30 of 1923, s. 3.

3. Appointment of Marriage Registrars. The¹[Provincial Government] may appoint one or more Registrars under this Act, either by name or as holding any office for the time being, for any portion of the territory subject to its administration. The officer so appointed shall be called “Registrar of Marriages under Act III of 1872,” and is hereinafter referred to as “the Registrar”. The portion of territory for which any such officer is appointed shall be deemed his district.

4. One of the parties to intended marriage to give notice to Registrar. When a marriage is intended to be solemnized under this Act, one of the parties must give notice in writing to the Registrar before whom it is to be solemnized.

The Registrar to whom such notice is given must be the Registrar of a district within which one at least of the parties to the marriage has resided for fourteen days before such notice is given.

Such notice may be in the form given in the first schedule to this Act.

5. Notice to be filed and copy entered in the Marriage Notice Book. The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished to him by the²[Provincial Government], to be called the “Marriage Notice Book under Act III of 1872,” and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

6. Objection to Marriage. Fourteen days after notice of an intended marriage has been given under section 4, such marriage may be solemnized, unless it has been previously objected to in the manner hereinafter mentioned.

Any person may object to any such marriage on the ground that it would contravene some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section 2.

The nature of the objection made shall be recorded in writing by the Registrar in the register, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

7. Procedure on receipt of objection. On receipt of such notice of objection the Registrar shall not proceed to solemnize the marriage until the lapse of fourteen days from the receipt of such objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, until the lapse of fourteen days from the opening of such Court.

Objector may file suit. The person objecting to the intended marriage may file a suit in any Civil Court having local jurisdiction (other than a Court of Small Causes) for a declaratory decree, declaring that such marriage would contravene some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section 2.

8. Certificate of filing of suit to be lodged with Registrar. The officer before whom such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed. If such certificate be lodged with the registrar within fourteen days from the receipt of notice of

¹Subs. by A. O., 1937, for “L. G.”.

²Subs. *ibid.*, for “Govt.”.

objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, within fourteen days of the opening of such Court, the marriage shall not be solemnized till the decision of such Court has been given and the period allowed by law for appeals from such decision has elapsed; or, if there be an appeal from such decision, till the decision of the Appellate Court has been given.

If such certificate be not lodged in the manner and within the period prescribed in the last preceding paragraph, or if the decision of the Court be that such marriage would not contravene anyone or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section 2, such marriage may be solemnized.

If the decision of such Court be that the marriage in question would contravene anyone or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section 2, the marriage shall not be solemnized.

9. Court may fine when objection not reasonable. Any Court in which any such suit as is referred to in section 7 is filed may, if it shall appear to it that the objection was not reasonable and *bona fide*, inflict a fine, not exceeding one thousand rupees, on the person objecting, and award it, or any part of it, to the parties to the intended marriage.

10. Declaration by parties and witnesses. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form contained in the second schedule to this Act. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her father or guardian, except in the case of a widow, and, in every case, it shall be countersigned by the Registrar.

11. Marriage how to be solemnized. The marriage shall be solemnized in the presence of the Registrar and of the three witnesses who signed the declaration. It may be solemnized in any form, provided that each party says to the other, in the presence and hearing of the Registrar and witnesses, “I[A], take thee [B], to be my lawful wife (*or* husband.)”

12. Place where marriage may be solemnized. The marriage may be celebrated either at the office of the Registrar or at such other place, within reasonable distance of the office of the Registrar, as the parties desire: Provided that the ¹[Provincial Government] may prescribe the conditions under which such marriages may be solemnized at places other than the Registrar’s office, and the additional fees to be paid thereupon².

13. Certificate of marriage. When the marriage has been solemnized, the Registrar shall enter a certificate there of in a book to be kept by him for that purpose and to be called the “Marriage Certificate Book under Act III of 1872,” in the form given in the third schedule to this Act, and such certificate shall be signed by the parties to the marriage and the three witnesses.

³[**13A. Transmission of certified copies of entries in marriage certificate book to the Registrar General of Births, Deaths and Marriages.** The Registrar shall send to the Registrar

¹Subs. by A. O., 1937, for “L. G.”

²For rules framed under this section, see the different Local Rules and Orders.

³S. 13A ins. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 29.