Marriage and Divorce of Mohammedans Act 1906

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CHAPTER 252

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CHAPTER 252

THE MARRIAGE AND DIVORCE OF MOHAMMEDANS ACT.

Commencement: 15 April, 1906.

An Act relating to marriage and divorce of Mohammedans.

1. Marriage Act and Marriage of Africans Act not to apply in certain cases.

The Marriage Act and the Marriage of Africans Act shall cease to apply to the celebration of marriages between persons both of whom profess the Mohammedan religion, and neither of whom is a party to an existing marriage, under or declared valid by those Acts, with any person other than a Mohammedan.

2. Mohammedan marriages and divorces.

All marriages between persons professing the Mohammedan religion, and all divorces from such marriages celebrated or given according to the rites and observances of the Mohammedan religion customary and usual among the tribe or sect in which the marriage or divorce takes place, shall be valid and registered as provided in this Act.

3. Minister may appoint registrars.

The Minister may by statutory order appoint any person, hereafter called a registrar, to register Mohammedan marriages and divorces which have been effected within certain specified limits; and the registrar may appoint persons to be deputy registrars within those limits, and hereafter “registrar” shall include a deputy registrar.

4. Registrars to keep books.

Every registrar shall keep up the following register books, which shall be supplied to him or her by the Minister—

Book 1—register of marriages in the Form A in the Schedule to this Act; and

Book 2—register of divorces in the Form B in that Schedule.

5. Marriages and divorces to be registered.

(1) Application for registration shall be made within one month from the date of the marriage or divorce, before a registrar in the manner and by the persons following—

in the case of a marriage, by the husband, or in the event of his death before the expiration of one month from the date of the marriage, by the widow; but if either party whose duty it is to apply is a minor, the application shall be made by his or her lawful guardian, and if the widow be a purdah-nisheen the application shall be made by her personally or on her behalf by her duly authorised vakil;

in the case of a divorce— (i) other than of the kind known as Khula, by the man who

effected the divorce; and (ii) of the kind known as Khula, by the parties to the divorce

jointly, but if the woman is a purdah-nisheen the application may be made on her behalf by her duly authorised vakil.

(2) Nothing in this section shall prevent a woman or, if she is a purdah-nisheen, her authorised vakil, or her guardian applying for the registration of marriage or divorce if the man fails to apply, or a minor from so applying if his or her guardian fails to apply.

6. Registrar to make inquiry.

On application being made to a registrar for registration under this Act, and upon the receipt by the registrar of such fee as the Minister may by statutory order direct, he or she shall satisfy himself or herself whether or not such marriage or divorce has been effected by or between the parties, and also as to the identity of the parties; and, further, in the case of a person appearing as a guardian or a vakil, as to the right of that person to appear.

7. If satisfied, registrar shall register.

If the registrar is satisfied on the above points, and not otherwise, he or she shall make an entry of the marriage or divorce in the appropriate register.

8. By whom registers must be signed.

(1) The entries in the appropriate registers shall be signed by the

following (a)

(b)

persons—

in the case of a marriage, by the husband and wife or the

guardians or vakil, as the case may be, and by two witnesses to

the marriage;

in the case of a divorce—

(i) other than of the kind known as Khula, by the man who has effected the divorce, the witness who identifies him and, if the man is of the Shiah Sect, by two witnesses to the divorce being effected; and

(ii) of the kind known as Khula, by the man and woman, or by her vakil if she is a purdah-nisheen, parties to the divorce, by the persons identifying the man and woman and if the man is of the Shiah Sect, by two witnesses to the divorce being effected.

(2) All the entries in the registers shall be signed by the registrar.

9. Free copies of entries to parties.

On completion of the registration of any marriage or divorce, the registrar shall deliver free of charge to each of the parties to the marriage or divorce an attested copy of the entry.

10. Record of refusals to register.

Every registrar refusing to register a marriage or divorce shall make an order of refusal, and record his or her reasons for the order in a book to be kept for that purpose.

11. Appeals from refusals.

An appeal shall lie against an order made by a registrar under section 10 to the registrar of marriages of the district in which the registration was refused appointed under the Marriage Act, or to the registrar general of marriages so appointed (hereafter called the Registrar General), and the order made upon that appeal shall be final, and shall be communicated to the registrar who has refused to register, and who shall record it in the book mentioned in section 10, and in the event of his or her order being reversed or altered he or she shall comply with the terms of the order.

12. Quarterly returns.

Every registrar shall, at the expiration of every three months, send certified copies of all entries made by him or her during the preceding quarter in the registers and books, which he or she is required by this Act to keep, to the Registrar General, who shall file the copies in his or her office.

13. Safe custody of returns and books, etc.

Every registrar shall keep safely such registers and books until they shall be filled, and shall then, or earlier, if he or she leaves the limits of the area for which he or she is appointed or his or her appointment is revoked, forward them to the Registrar General or to such other person as the latter may direct.

14. Registers, etc. to be open for inspection, and copies to be obtainable.

The registers, and the copies of the registers which are filed with the Registrar General, shall be open to inspection by any person applying to inspect them, and copies of any entry or of any certified copy of any entry shall be given to any person applying for the copy on the payment of a fee of two shillings.

15. Rules.

The Minister may from time to time make such rules as he or she thinks fit for carrying out the purposes of this Act.

16. Savings.

Nothing in this Act shall be construed to—

render invalid, merely by reason of its not having been registered, any Mohammedan marriage or divorce which would otherwise be valid;

render valid, by reason of its having been registered, any such marriage or divorce which would otherwise be invalid;

authorise the attendance of any registrar at the celebration of a marriage except at the request of all the parties concerned;

affect the religion or religious rites of any persons in Uganda;

prevent any person who is unable to write from putting his or her mark instead of the signature required by this Act.

17. Offences and penalties.

Any person, who being required by this Act to apply for registration of a marriage or divorce, fails to make that application commits an offence and is liable on conviction to imprisonment for a period not exceeding one month and to a fine not exceeding two hundred shillings.

18. Jurisdiction in divorce cases.

Nothing in the Divorce Act shall authorise the grant of any relief under that Act where the marriage of the parties has been declared valid under this Act; but nothing in this section shall prevent any competent court from granting relief under Mohammedan law; and the High Court and any court to which jurisdiction is specially given by the Minister by statutory instrument shall have jurisdiction for granting that relief.

Schedule .

Forms.

Republic of Uganda

Form A.
Book 1—Register of Marriages.
The Marriage and Divorce of Mohammedans Act.

Consecutive No.

Name and tribe of bridegroom and that of his father, with their

respective residences

3. Name and tribe of the bride and that of her father, with their respective

residences

Whether the bride is a spinster, a widow or divorced by a former husband, and whether she is adult or otherwise

Name of the guardian of the bridegroom (if the bridegroom is a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which the guardian stands to the

bridegroom

6. Name of the guardian of the bride (if she is a minor) and that of the guardian's father, with specification of the guardian's residence, and the relationship in which the guardian stands to the bride

7. Name of the bride's vakil, and of the vakil's father, and their residences, with specification of the relationship in which the vakil

stands to the bride

8. Name of the witnesses to the due authorisation of the bride's vakil, with names of their father and residences, and specification of the

relationship in which they stand to the bride

Date on which the marriage was contracted

Amount of dower

How much of the dower is Moajjul (prompt) and how much Mowujjul (deferred)

Whether any portion of the dower was paid at the moment. If so, how much?

Whether any property was given in lieu of the whole or any portion of

the dower, with specification of the same

14. Special conditions, (if any)

Names of village or town, and the area in which the marriage took place

Name of the person in whose house the marriage ceremony took place,

and that of the person's father

17. Date of registration

Republic of Uganda

Form B.
Book 2—Register of Divorces.
The Marriage and Divorce of Mohammedans Act.

Consecutive No.

Names and tribe of the husband and his father, and their residences

3. Names and tribe of the wife and of her father, and their residences

Date of divorce

Description of divorce

Manner in which the divorce was effected

Names of the village or town, and area in which the divorce took place

Name of the party in whose house the divorce took place, and of that

party's father

9. Names of witnesses to the divorce (if any), the names of their fathers

and their respective residences

10. Name of the party identifying the husband before the registrar, and that

of the party's father, and their residences

Date of registration

If the divorce be a Khula, the following particulars must be added—

amount of dower

whether Khula was acknowledged by the wife in person before the registrar, and, if so, the name of the party identifying her before the registrar and that of the party's father and that of their residences, with the specification of the relationship the party

bears to her (if any)

(c) if the Khula is acknowledged before the registrar by the wife's vakil, the vakil's name and the name of the vakil's father, and their residences, with specification of the relationship which the

vakil bears to the wife (if any)

(d) names of the two witnesses to the due authorisation of the wife's vakil, and those of their fathers, with their residences

History: Cap. 213.

Cross References

Divorce Act, Cap. 249.
Marriage Act, Cap. 251.
Marriage of Africans Act, Cap. 253.