

ASSAM ACT IX OF 1935.

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THE ASSAM MOSLEM MARRIAGES AND DIVORCES REGISTRATION ACT, 1935.

AN

Act to provide for the voluntary registration of Moslem Marriages and Divorces.

Preamble. WHEREAS it is expedient to provide for the voluntary registration of Moslem Marriages and Divorces.

It is hereby enacted as follows :—

Short title. 1.(1) This Act may be called "The Assam Moslem Marriages and Divorces Registration Act, 1935."

Commencement. (2) It shall come into force in any part of the province on such date as the Local Government may, by notification in the *Assam Gazette*, appoint in this behalf.

Extent. (3) It extends to the whole of Assam.

Interpretation. 2. In this Act—unless there be something repugnant in the subject or context :—

"Inspector General of Registration" and "Registrar". (1) "Inspector General of Registration" and "Registrar" respectively mean the officers so designated and appointed under the Indian Registration Act, ^{Act XVI of 1908.} 1908, or other law for the time being in force for the registration of documents.

"Moslem Registrar". (2) "Moslem Registrar" means any person who is duly authorised under this Act to register Moslem marriages and divorces.

"District". (3) "District" means a district formed under the provisions of the Registration Act, 1908. ^{Act XVI of 1908.}

"Pardanasheen". (4) "Pardanasheen" designates a woman who according to custom objects to appear in a public office.

Local Government may grant licenses to register. 3. The Local Government may grant a license to any person, being a Moslem, authorising him to register Moslem marriages and divorces

Price—English 4 d.] [Indian 3 annas.

which have been effected within certain specified limits, on application being made for such registration : and may revoke or suspend such license :

Provided that not more than two persons shall be licensed to exercise the said functions within the same limits : and provided further that, when two persons are so licensed to act within the same limits, the one shall be a member of the Sunni, and the other of the Shia, sect.

Moslem Registrar to use seals.

4 Every Moslem Registrar shall use a seal bearing the following inscriptions in the Persian character and language :

" The seal of the Moslem Registrar of " .

Government to provide seal and books.

5. The Government shall supply for the office of every Moslem Registrar the seal and the books necessary for the purposes of this Act. The pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books are issued.

Moslem Registrar to keep registers.

6. Every Moslem Registrar shall maintain the following register-books :—

Book I.—Register of marriages, in the Form (A) contained in the Schedule I to this Act.

Book II.—Register of divorces other than those of the kind known as "Khula" in the Form (B) contained in the Schedule II to this Act.

Book III.—Register of divorces of the kind known as "Khula" in the Form (C) contained in the Schedule III to this Act.

Entries to be numbered.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Applications by whom to be made.

8. Every application for registration under this Act shall be made to the Moslem Registrar orally as follows :—

(1) *If the application be for the registration of a marriage—*

by the parties to the marriage jointly : provided that if the bridegroom or the bride, or both, be minors, application shall be made on

their behalf by their respective lawful guardians : and provided further that, if the bride be pardanasheen, such application may be made on her behalf by her duly authorised Vakil ;

(2) *If the application be for the registration of a divorce other than of the kind known as Khula—*

by the man who has effected the divorce ;

(3) *If the application be for the registration of a divorce of the kind known as Khula—*

by the parties jointly : provided that if the woman be pardanasheen, such application may be made on her behalf by her duly authorised Vakil or lawful guardian.

Duties of Moslem Registrar on application.

9. On application being made to a Moslem Registrar for registration under this Act of a marriage or divorce within one month of marriage or divorce being effected, and not otherwise, and on payment to him of a fee prescribed as per Schedule IV to this Act, the Moslem Registrar shall—

- (a) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected ;
- (b) satisfy himself as to the identity of the person appearing before him and alleging that the marriage or divorce has been effected ;
- (c) in the case of any person appearing as representative of the man or woman (whether he appears as guardian or Vakil) satisfy himself of the right of such person to appear.

If the Moslem Registrar be satisfied on the above points and not otherwise, he shall make an entry of the marriage or divorce in the proper register :

Provided that no such entry shall be made otherwise than in the presence of every person who, by section 10 of this Act, is required to sign such entry.

Entries by
whom to be
signed.

10. Every entry in a register kept under this Act shall be signed as follows:—

If the entry be of a marriage in a register in the Form (A) contained in the Schedule I to this Act—

- (1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively;

Provided that if the woman be pardanasheen the entry may be signed on her behalf by her duly authorised Vakil;

- (2) by two witnesses who were present at the marriage ceremony;
- (3) in cases in which the woman is represented by a Vakil by two witnesses to the fact of the Vakil having been duly authorised to represent her;
- (4) by the Moslem Registrar;

(b) If the entry be of a divorce other than the kind known as Khula in a register in the Form (B) contained in the Schedule II to this Act—

- (1) by the man who has effected the divorce;
- (2) by the witness who identifies the man who has effected the divorce;
- (3) if the man be of the Shia sect, by two witnesses to the divorce being effected;
- (4) by the Moslem Registrar;

(c) If the entry be of a divorce of the kind known as Khula in a register in the Form (C) contained in the Schedule III to this Act—

- (1) by the parties to the Khula, provided that, if the woman be pardanasheen, the entry may be signed on her behalf by her duly authorised Vakil or lawful guardian;
- (2) by the person who identifies the man;
- (3) by the person who identifies the woman;
- (4) if the application for registration has been made by a Vakil on behalf of the woman, by two witnesses to the fact of the Vakil having been duly authorised to represent her;

(5) if the man be of the Shia sect, by two witnesses to the divorce being effected;

(6) by the Moslem Registrar.

Copies of entry to be given to parties.

11. On completion of the registration of any marriage or divorce, the Moslem Registrar shall deliver to each of the applicants for registration an attested copy of the entry; and for such copy no charge shall be made.

Index to be kept.

12. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register; and every entry in such index shall be made, so far as practicable, immediately after the Moslem Registrar has made an entry in any such register.

Particulars to be shown in index.

13. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage, or divorce and the date of registration. It shall also contain such other particulars, and shall be prepared in such form, as the Local Government may direct.

Index may be inspected and copies of entries in registers taken.

14. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Moslem Registrar or of the Registrar of the district, and the copies of the entries in such index which are filed in the office of the Registrar of the district under the provisions of section 21 of this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the Registrar of the district under section 21 of this Act, shall be given to all persons applying for such copies.

Such copies shall be signed and sealed by the Registrar of the district or by the Moslem Registrar, as the case may be.

Fees for searches and copies.

15. Every Registrar of a district and every Moslem Registrar shall, for the purposes of this Act, be entitled to levy the following fees:—

- (1) for every search or permission to search in any index or register under his charge—four annas;
- (2) for every certified copy of any entry in a register other than the first copy referred to in section 11 of this Act—
one rupee.

Moslem Registrars to be subject to control of District Registrars.

16. Every Moslem Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Moslem Registrar is situated. Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act, which he considers necessary in respect of any act or omission of any Moslem Registrar subordinate to him.

Powers of Local Government to make rules.

17. The Local Government may, from time to time, by notification in the *Assam Gazette*, frame rules, provided that such rules shall not be inconsistent with any provisions of this Act:—

- (a) for determining the qualifications to be required from persons to whom licences under section 3 of this Act may be granted ;
- (b) for regulating the attendance of Moslem Registrars at the celebration of marriages, and their remuneration for such attendance ;
- (c) for regulating the grant of copies by Registrars and Moslem Registrars ;
- (d) for regulating the payment by the Moslem Registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by Government ;
- (e) for regulating the application of the fees levied by Registrars of Districts and by Moslem Registrars under this Act ; and
- (f) for regulating such other matters as appear to Government necessary to effect the purposes of the Act. The Local Government may, from time to time, cancel or alter any such rules : Provided that all rules made under this section shall be subject to the condition of previous publication.

Inspector General of Registration to exercise general superintendence.

18. The Inspector General of Registration shall exercise a general superintendence over offices of the Moslem Registrars, and shall have power to frame regulations, from time to time, consistent with the rules made under this Act, for the guidance of the said Moslem Registrars and their offices generally.

Refusal to register to be recorded.

19. Every Moslem Registrar refusing to register a marriage or divorce shall make an order of refusal, and record his reasons for such order in a book to be kept for that purpose.

Appeal against refusal to register.

20. An appeal shall lie against an order of a Moslem Registrar refusing or admitting to register a marriage or divorce, to the Registrar to whom such Moslem Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order, and the Registrar may revise or alter such order.

Copies of entries to be sent monthly to Registrar of District.

21. Every Moslem Registrar shall, at the expiration of every month, send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 12 and 13 of this Act, to the Registrar of the district within which such Moslem Registrar has been authorised to act, and the Registrar, on receiving such copies, shall file them in his office.

Registers to be given up.

22. Every Moslem Registrar shall keep safely each register until the same shall be filled, and shall then or earlier, if he shall leave the district or cease to hold a license, make over the same to the Registrar of the district for safe custody, or to such other person as the Registrar may direct.

Moslem Registrar to be a public servant.

23. Every Moslem Registrar shall be, and be deemed to be, a public servant, and his duties under this Act shall be deemed to be public duties.

Saving clause.

24. Nothing in this Act contained shall be construed to—

- (a) render invalid, merely by reason of its not having been registered, any Moslem marriage or divorce which would otherwise be valid;
- (b) render valid, by reasons of its having been registered, any Moslem marriage or divorce which would otherwise be invalid;
- (c) authorise the attendance of any Moslem Registrar at the celebration or dissolution of a marriage or divorce except at the request of all the parties concerned;

(d) affect the religion or religious rites and usages of any of His Majesty's subjects in India ;

(e) prevent any person, who is unable to write, from putting his mark, instead of the signature required by this Act.

25. Nothing contained in this Act, or in the rules made under the authority of this Act, shall be deemed to affect the jurisdiction of the Civil Courts.

SCHEDULE I.

[See Sections 6 and 10.]

FORM (A)—BOOK I.

Register of Marriages.

1. Consecutive Number.
2. Name of the bridegroom and that of his father, with their respective residences.
3. Name of the bride and that of her father, with their respective residences.
4. Whether the bride is a spinster, a widow, or divorced by a former husband, or she herself divorced her husband, whether she is adult or otherwise.
5. Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of relationship in which he stands to the bridegroom.
6. Name of guardian of the bride (if she be a minor) and that of her father, with specification of his residence and the relationship in which he stands to the bride.
7. Name of the bride's Vakil, and of his father and their residences, with specification of the relationship in which the Vakil stands to the bride.
8. Names of the witnesses to the due authorisation of the bride's Vakil, with names of their fathers and residences and specification of relationship in which they stand to the bride.
9. Date of marriage.
10. Amount of dower. How much is m'ujjal (prompt) and how much is muwajjal (deferred).
11. Whether any portion of the dower was paid at the moment. If so, how much and how ?

12. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.

13. Special conditions, if any.

14. Names of village or town, police jurisdiction, and district in which the marriage took place.

15. Name of the person in whose house the marriage ceremony took place, and that of his father with his residence.

16. Date of registration.

NOTE.—Columns 5 and 6 will be blank if the bride and bridegroom, respectively, are not represented by guardians and columns 7 and 8 will be blank when the bride is not represented by a Vakil.

SCHEDULE II.

[See Sections 6 and 10.]

FORM (B)—BOOK II.

Register of divorces other than those of the kind known as Khula.

1. Consecutive number.
2. Name of the husband and of his father and their residences.
3. Names of the wife and of her father, and their residences.
4. Date of divorce.
5. Description of divorce
6. Manner in which the divorce was effected.
7. Names of the village or town, police jurisdiction, and district in which the divorce took place.
8. Name of the person in whose house the divorce took place and of his father with residences.
9. Names of witnesses to the divorce, if any, the names of their father and their respective residences.
10. Name of the person identifying the husband before the Moslem Registrar and that of his father, and their residences.
11. Date of registration.

SCHEDULE III.

[See Sections 6 and 10.]

FORM (C)—BOOK III.

Register of divorces of the kind known as Khula.

1. Consecutive number.
2. Name of the husband and that of his father, and their residences.

3. Name of the wife and that of her father, and their residences.
4. Date of Khula.
5. Amount of dower.
6. Whether Khula was acknowledged by the wife in person before the Moslem Registrar.
7. If so, name of the party identifying her before the Moslem Registrar, and that of her father and their residences with specification of the relationship which he bears to her, if any.
8. If the Khula be acknowledged before the Moslem Registrar, by the wife's guardian, his name and that of his father and their residences with specification of the relationship which the guardian bears to the wife.
9. Names of the two witnesses to the due authorisation of the wife's Vakil and those of their fathers, with their residences.
10. Name of village or town, police jurisdiction, and district where the Khula took place.
11. Name of the person in whose house the Khula took place and that of his father.
12. Names of the witnesses, if any to the divorce being effected, the names of their fathers and their residences.
13. Name of the person identifying the husband and that of his father, and their residences.
14. Date of registration.

NOTE.—Column 8 will be blank if the woman is not represented by a Vakil.

SCHEDULE IV.

TABLE OF FEES.

[See Section 9.]

	Rs.	a.	p.
When the dower does not exceed Rs. 50	0	12	0
When the dower exceeds Rs. 50 but does not exceed Rs. 100	1	0	0
When the dower exceeds Rs. 100 but does not exceed Rs. 250	1	8	0
When the dower exceeds Rs. 250 but does not exceed Rs. 500	2	0	0
When the dower exceeds Rs. 500 but does not exceed Rs. 1,000	3	0	0
For every additional Rs. 1,000 or part thereof	1	8	0
For a divorce of any kind	1	0	0