

## COMMENTS

In this part of the Act certain conditions have been laid down for a marriage to be valid under the Act. The parties to the marriage must be Christian as defined under section 3 of the Act or at least one of them must be a Christian and the marriage must have been solemnised in accordance with the provisions of section 5 of the Act by a person duly authorised to do so. The State Governments of the area have been authorised to grant and revoke the licences, granted in favour of certain persons, for the solemnization of marriages under the Act. As per the provisions contained in the Act, the marriage must be performed in a particular form duly entered in the Marriage Register, maintained for this purpose. The factum of marriage can be proved by producing the entries from this register. Other evidence can also be produced for this purpose. Versions of the eye witnesses to the marriage, subsequent conduct of the couple living as husband and wife, can also be a good piece of evidence to prove the factum of a Christian marriage, (1964)2 Andhra WR 136. Admission of either spouse is a relevant factor to prove the factum of marriage.

A Christian Marriage can also take place at the house of the bride's mother and in that case the signing of Marriage Register is not essential under the Act; AIR 1960 Ori 164.

In Christian marriage even if one of its parties is a Hindu cannot be dissolved by a decree of divorce under section 13 of the Hindu Marriage Act; (1993)MLJ 31.

A marriage performed under the Christian Marriage Act and validly registered under the provisions of Special Marriage Act can be dissolved on the basis of mutual consent under section 28 of the Special Marriage Act if the conditions laid down in that section are fulfilled; (1995) MLJ 492.

## PART II

## TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED

**10. Time for solemnizing marriage.**—Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening:

*Exceptions.*—Provided that nothing in this section shall apply to—

- (1) a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or
- (2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorised to grant such license, '[or
- (3) a Clergyman of the Church of the Scotland solemnizing a marriage according to the rule, rites, ceremonies and customs of the Church of Scotland.]

3. Ins. by Act 2 of 1891, sec.2.

**11. Place for solemnizing marriage.**—No Clergyman of the Church of England shall solemnize a marriage in any place other than a Church '[where worship is generally held according to the norms of the Church of England,]

unless there is no '[such] church within five miles distance by the shortest road from such place, or

unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

**Fee for special license.**—For such special license, the Registrar of the Diocese may charge such additional fee as said Bishop from time to time authorizes.

## COMMENTS

As a general rule every marriage under this Act shall be solemnised between the hours of six in the morning and seven in the evening and the place of marriage is a Church. Exceptions are, however, made in case where a special licence permitting a clergyman of the Church is granted. The Act of a person who solemnises a marriage beyond these hours and outside the Church in the absence of the witnesses without any special licence, has been made punishable under section 69 of the Act. The punishment provided is upto three years imprisonment.

## PART III

## MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT

**12. Notice of intended marriage.**—Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act—

one of the persons intending marriage shall give notice in writing, according to the form contained in the First Schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein—

- (a) the name and surname, and the profession or condition, of each of the persons intending marriage;
- (b) the dwelling-place of each of them;
- (c) the time during which each has dwelt there; and
- (d) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

**13. Publication of such notice.**—If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

1. Ins. by Act 2 of 1891, sec.3.

**Return or transfer of notice.**—But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

**14. Notice of intended marriage in private dwelling.**—If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in section 12, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

**15. Sending copy of notice to Marriage Registrar when one party is a minor.**—When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of section 13, send by the post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

**16. Procedure in receipt of notice.**—The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district who shall likewise publish the same in the manner above directed.

**17. Issue of certificate of notice given and declaration made.**—Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made:

**Proviso.**—Provided—

- (1) that no such certificates shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;
- (2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and
- (3) that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf.

**18. Declaration before issue of certificate.**—The certificate mentioned in section 17 shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

- (a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage,
- and, when either or both of the parties is or are a minor or minors—
- (b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

**19. Consent of father, or guardian or mother.**—The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorised to give such consent be resident in India.

**20. Power to prohibit by notice issue of certificate.**—Every person whose consent to a marriage is required under section 19, is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

**21. Procedure on receipt of notice.**—If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

**22. Issue of certificate in case of minority.**—When either of the persons intending marriage is a minor, and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by section 19 has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

✓ **23. Issue of certificate to [Indian] Christians.**—When any [Indian] Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister under section 17, such Minister shall, before issuing the certificate, ascertain whether such [Indian] Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be, translated the notice or certificate to such [Indian] Christian into some language which he understands.

**24. Form of certificate.**—The certificate to be issued by such Minister shall be in the form contained in the Second Schedule hereto annexed, or to the like effect.

**25. Solemnization of marriage.**—After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

**26. Certificate void if marriage not solemnized within two months.**—Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void,

and no person shall proceed to solemnize the said marriage until new notice has been given, and a certificate thereof issued in manner aforesaid.

1. Subs. by the A.O. 1950, for "Native".

## COMMENTS

This part of the Act deals with the notice of intended marriage and its publication before the actual marriage ceremony. It lays down that one of the persons intending marriage shall give a notice in writing as per the form contained in First Schedule to the Act, to the Minister of Religion whom he or she desires to solemnise the marriage.

If the marriage is intended to be in a particular Church and the Minister of Religion, who has received the notice, has no jurisdiction to officiate as a Minister in that Church, he shall either return the notice back or send it to the concerned Minister of Religion who shall affix the same at some conspicuous part of such Church. If the marriage is intended to be in a private dwelling, the Minister of Religion shall forward the notice to the Marriage Registrar of the district, who shall affix the same at some conspicuous place in his own office.

Before the solemnization of marriage, a certificate by the Minister of Religion is essential. Such certificate shall not be issued before the expiry of four days from the date of the receipt of the notice. It should also be shown that there is no impediment in the issuance of the certificate and the issue of the same has not been forbidden. If the marriage is not solemnised within two months from the date of the issue of the certificate becomes void and fresh notice is to be served.

If a party to a marriage is a minor, the consent of father if living, or if the father is dead, the consent of the guardian of the person of such minor or if there is no guardian, then that of the mother, is essential before marriage. A marriage of minor without such consent is not valid; AIR 1952 Punj 277.

## PART IV

REGISTRATION OF MARRIAGES SOLEMNIZED BY  
MINISTER OF RELIGION

**27. Marriages when to be registered.**—All marriages hereafter solemnized in <sup>1</sup>[India] between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V or Part VI of this Act, shall be registered<sup>2</sup> in manner hereinafter prescribed.

**28. Registration of marriages solemnized by Clergymen of Church of England.**—Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the Third Schedule hereto annexed, every marriage which he solemnizes under this Act.

**29. Quarterly returns to Archdeaconry.**—Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

1. Subs. by Act 3 of 1951, sec. 3 and Sch., for "a Part A State or a Part B State,".

2. As to the establishment of general registry offices of births, deaths and marriages, see the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), Chapter II.

**Contents of returns.**—Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September and from the first day of October to the thirty-first day of December, of each year, respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The said Registrar upon receiving the said returns shall send one copy thereof to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

**30. Registration and returns of marriages solemnized by Clergymen of Church of Rome.**—Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages] returns of the entries of all marriages registered by him during the three months next preceding.

**31. Registration and returns of marriages solemnized by Clergymen of Church of Scotland.**—Every Clergyman of the Church of Scotland shall keep a register of marriages,

and shall register therein, according to the tabular form set forth in the Third Schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages], through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in section 29, of all such marriages.

**32. Certain marriages to be registered in duplicate.**—Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall immediately after the solemnization thereof, be registered, in duplicate by the person solemnizing the same; (that is to say) in a marriage register-book to be kept by him for that purpose, according to the form contained in the Fourth Schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

**33. Entries of such marriages to be signed and attested.**—The entry of such marriage in both the certificate and marriage-register-book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

1. Subs. by Act 6 of 1886, sec. 30, for "Secretary to the Local Government".

**34. Certificate to be forwarded to Marriage Registrar, copied and sent to Registrar General.**—The person solemnizing the marriage shall forthwith separate the certificate from the marriage-register-book and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar.

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

**35. Copies of certificates to be entered and numbered.**—Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

**36. Registrar to add number of entry to certificate, and send to Registrar General.**—The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

**37. Registration of marriages between Indian Christians by persons referred to in clauses (1), (2) and (3) of section 5.**—When any marriage between <sup>2</sup>[Indian] Christians is solemnized <sup>3</sup>[by any such person, Clergyman or Minister of Religion as is referred to in clause (1), clause (2) or clause (3) of section 5,] the person solemnizing the same shall, instead of proceeding in the manner provided by sections 28 to 36, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or, if he leaves the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

**Custody and disposal of register-book.**—Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages], to be kept by him with the records of his office.

#### COMMENTS

This part of the Act deals with the registration of the marriages solemnised under this Act. The registration of marriages between Indian Christians is to be in conformity with the rules laid down by this section, so far as they are applicable. The entries of such marriages are to be signed by both the parties and the persons solemnising the marriages and shall be attested by two credible witnesses.

1. Subs. by Act 6 of 1886, sec. 30, for "Secretary to the Local Government".

2. Subs. by the A.O. 1950, for "Native".

3. Subs. by Act 18 of 1928, sec. 2 and Sch. I, for "Under Part I or Part III of this Act".

#### PART V

### MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR

**38. Notice of intended marriage before Marriage Registrar.**—When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the First Schedule hereto annexed, or to the like effect, to any Marriage Registrar of the district within which the parties have dwelt,

or, if the parties dwell in different districts, shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling-place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized:

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

**39. Publication of notice.**—Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

**40. Notice to be filed and copy entered in Marriage Notice Book.**—The Marriage Registrar shall file all such notices and keep them with the records of his office,

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the <sup>1</sup>[State] Government, and to be called the "Marriage Notice Book",

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

**41. Certificate of notice given and oath made.**—If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and or such oath having been made:

**Proviso.**—Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

1. Subs. by the A.O. 1950, for "Provincial".

forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, where his district is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district be not within any of the said towns, then to the District Judge.

**Procedure on petition.**—The said petition shall state all the circumstances of the case, and pray for the order and direction of the court concerning the same,

and the said Judge of the High Court or District Judge, as the case may be, shall examine into the allegations of the petition and the circumstances of the case,

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of the High Court or District Judge, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

<sup>1</sup>[\*\*\*]

**49. Liability for frivolous protest against issue of certificate.**—Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate, on grounds which such Marriage Registrar, under section 44, or a Judge of the High Court or the District Judge, under section 45 or 46, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages, to be recovered by suit by the person against whose marriage such protest was entered.

**50. Form of certificate.**—The certificate to be issued by the Marriage Registrar under the provisions of section 41 shall be in the form contained in the Second Schedule to this Act annexed or to the like effect,

and the <sup>2</sup>[State] Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

**51. Solemnization of marriage after issue of certificate.**—After the issue of the certificate of the Marriage Registrar,

or, where notice is required to be given under this Act to the Marriage Registrars for different districts, after the issue of the certificates of the Marriage Registrars for such districts,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate, or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

1. The last three paragraphs omitted by the A.O. 1950.

2. Subs. by the A.O. 1950, for "Provincial".

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect:

"I do solemnly declare that I know not of any lawful impediment why I, A.B., may not be joined in matrimony to C.D."

And each of the parties shall say to the other as follows or to the like effect:

"I call upon these persons here present to witness that I, A.B., do take thee, C.D., to be my lawful wedded wife (or husband)"

**52. When marriage not had within two months after notice, new notice required.**—Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section 40, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

**53. Marriage Registrar may ask for particulars to be registered.**—A Marriage Registrar before whom any marriage is solemnized under this Part may ask of the persons to be married the several particulars required to be registered touching such marriage.

**54. Registration of marriages solemnized under Part V.**—After the solemnization of any marriage under this Part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate; that is to say, in a marriage-register-book, according to the form of the Fourth Schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

The entry of such marriage in both the certificate and the marriage-register-book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

**55. Certificate to be sent monthly to Registrar General.**—The Marriage Registrar shall forthwith separate the certificate from the marriage-register-book and send it, at the end of every month, to the <sup>1</sup>[Registrar General of Births, Deaths and Marriages].

**Custody of register-book.**—The Marriage Registrar shall keep safely the said register-

1. Subs. by Act 6 of 1886, sec. 30, for "Secretary to the Local Government".