

ASSAM MOSLEM MARRIAGES AND DIVORCES REGISTRATION RULES, 1935

In exercise of the powers conferred by Section 17 of the Assam Moslem Marriages and Divorces Registration Act, 1935 (Act IX of 1935), the Government of Assam are pleased to make the following rules for all parts of the Province in which the said Act is in force :

1. Definitions.—In these rules—(a) "*The Act*" means the Assam Moslem Marriages and divorces Registration Act, 1935.

(b) "*The Permanent Committee*" means the body of persons for the time being appointed by the Government of Assam for the transaction of such business connected with the administration of the Act and the Kazis Act, 1880 (Act No. XII of 1880), as is entrusted to them in the Province of Assam.

2. Nomination of Moslem Registrar.—As soon as the Act comes into force in any area, the District Registrar shall nominate a sufficient number of persons possessing the qualifications specified in Rule 3 to be licensed as Moslem Registrars under Section 3. The District Registrar shall also specify the limits within which each of the persons so nominated shall exercise the functions of Moslem Registrar.

3. Form of application.—The District Registrar's nominations shall be submitted to the Inspector General of registration to be placed before the Permanent Committee, and shall be accompanied by the original application of the candidate in the following form, together with a certificate of good moral character, and either a certificate that he has passed the Assam Senior Madrassa Final Examination or a certificate that he possesses a sufficient acquaintance with the Arabic language and the Moslem Law of Marriage and Divorce, signed by three Muhammadan gentlemen of respectability and position.

Application for Moslem Registrarship under the Assam Act IX of 1935 (An Act to provide for the voluntary registration of Moslem Marriages and Divorces at Thana.. District of)

4. Who may be nominated.—Candidates for permanent posts of Moslem Registrar will be preferred if they have passed the Assam Senior Madrassa Final Examination ; and they must be of good moral character. In the selection of Moslem Registrar preference shall ordinarily be given to candidates who are natives of or domiciled in Assam and who reside at a convenient place within the limits of the jurisdiction proposed ; but no person shall be nominated a Moslem Registrar merely by reason of some supposed hereditary right. The fact that a person is pensioner shall not be a bar.

5. Jurisdiction.—The limits within which a Moslem Registrar shall be licensed to Act shall coincide with the limits of a sub district under the Indian Registration Act, or with the jurisdiction of such police station or stations or parts

thereof, as the Government may, from time to time, direct. The head quarters shall be at some convenient place within those limits.

6. Should the nomination of the District Registrar be disapproved by the Permanent Committee, the District Registrar may be requested to submit a fresh nomination, or the committee may select another candidate with the necessary qualifications for the approval of Government.

7. **Liability to examination.**—(a) Every candidate selected for appointment as a Moslem Registrar shall at first be appointed on probation and shall not be confirmed until he has passed the prescribed examination.

(b) The said examination shall be held annually in each division in June at a convenient centre under the superintendence of a District Registrar or a Gazetted Officer of Government to be nominated by the District Registrar.

The centre shall be selected by the Inspector General of Registration in consultation with the District Registrars.

(c) The examination will consist of two papers, one in Mohammedan law, specially the Law of Marriage and divorce ; the other comprising questions on the Act and the Kazis Act, 1880 (Act XII of 1880), and rules framed thereunder by the Government.

(d) Probationers being passed as students of the Arabic Department will be required to present themselves for examination only in the second of those papers.

(e) The papers will be set by one of the members of the Permanent Committee or by a person appointed by the Permanent Committee, who shall also examine the papers and mark them and submit the results to the permanent Committee for approval. The Committee will decide which of the candidates shall be considered to have passed.

(f) Every probationer will be allowed to appear twice ; provided that no probationer will be compelled to appear within less than six months from the date of the appointment. Any candidate who fails to pass within three years from the date of his appointment shall be removed from his office.

8. The Inspector General of Registration may ensure, suspend, and may make transfers and postings of, Moslem Registrars. When possible he will consult the Permanent Committee.

9. **Form of licence.**—(1) Licences to qualified persons who have been approved of as Moslem Registrars will be granted in the following form :

Licence under Section 3 of the Assam Act IX of 1935

To

.....of.....

Shillong, the.....19.

By virtue of the authority conferred upon the Government of Assam, by

Section 3 of the Assam Moslem Marriages and divorces Registration Act, 1935 (Assam Act IX of 1935), you re hereby authorised to register, in the manner prescribed by the above Act, all moslem marriage and divorces which shall be effected withinin the District of.....on application being made to you for such registration.

(2) It will be your duty carefully to observe the provisions of the above-mentioned Act, and such rules as may from time to time be prescribed by the Provincial Government in pursuance of the power conferred upon them by the above Act.

(3) This licence shall continue in force until it is revoked or suspended by the said Government of Assam.

Secretary to Government of Assam

10. **Registration.**—When a Moslem Registrar desires to give up his licence or is about to leave the place of the district in which he has exercised the functions of Moslem Registrar he shall report the circumstances through the District Registrar to the Inspector General of Registration for orders.

11. **Charge of officer.**—When a Moslem Registrar makes over charge of his office to a successor, a certificate shall be jointly given of the date on which the office is made over and of the safety and correctness of the records ; and the certificate shall be forwarded by the District Registrar to the Inspector General of Registration

Form of Charge certificate by Moslem Registrars

To

The Registrar of.....

Sir,

We, the undersigned, have the honour to report that we have this day at.....o'clock in the forenoon (or afternoon), respectively, delivered over and received charge of the office of Moslem Registrar ofand the we have examined the registers and seen that all entries have been properly authenticated up to date and have compared the unreturned and refused deeds with the Fee-book and found them correct.

Relieved Officer

Relieving Officer

I hereby declare that I have compared the registers and books with the catalogue and found them correct, and that I have recorded a certificate to the effect in the catalogue.

Dated the.....19

Relieving Officer

12. **Leave.**—(a) Moslem Registrars shall not be entitled to leave at of right under the rules in force for Government servants. The Inspector General may, however, grant leave in cases of urgency and propose to Government a substitute.

(b) Moslem Registrar are required to submit their applications for leave to the District Registrars six weeks before the date on which they intend to avail themselves of it.

(c) The District Registrar may however grant leave not exceeding 10 days in cases of urgency without the previous sanction of the Inspector General of Registration. Assam without a substitute.

(d) No Moslem Registrar shall be absent from his jurisdiction without permission.

✓ 13. When forwarding the application of a Moslem Registrar for leave of when reporting the absence of a Moslem Registrar from duty, a district Registrar should nominate a suitable person to Act as substitute from the list of candidates which will be maintained in his office for the purpose. (This will not be restricted to candidates who hold the Assam Madrassa final Certificate).

✓ The district Registrar's nomination shall be considered by the Inspector General of Registration. A temporary licence will then be issued by Government on his recommendation to the selected candidate. A Moslem Registrar shall not be placed in charge of the office of another moslem Registrar unless he has been licensed to hold charge of the latter's office.

14. Neither entry of name in the list mentioned in Rule 13 nor temporary appointment to the office of a Moslem Registrar will be held to establish a claim to permanent appointment.

When a permanent vacancy occurs, a notice calling for applications to be filed within one month shall be posted at the district and Sub-Divisional Sub-Registry offices. The district Registrar will make his nomination from the applications filed, and the nomination will be scrutinised by the Permanent Committee under Rule 3.

15. **Not entitled to pension.**—Service as a Moslem Registrar shall not count as Government service, so as to give rise to any claim for pension or gratuity or to leave allowances of any kind.

16 **General control.**—(1) The general control and supervision of the working of the Act shall be exercised by the Inspector General of Registration aided by the District Registrars.

(2) District Registrars and Special Sub-Registrars are authorised to visit or to depute an Extra Assistant Commissioner or Sub-Deputy collector to visit and inspect all Moslem Marriage Registry offices and are authorised to inspect all such offices within their Sub-Divisions.

(3) Special Sub-Registrars and Sub-divisional Officers should not themselves pass any orders on the occasion of their inspections but should report to the District Registrars for orders on any points on which the orders appear to them to be necessary.

17. **Books and stationery.**—A Moslem Registrar will, on first appointment, be supplied with the registers, etc., mentioned below, free of charge ;

1. Register A (Book I)
2. Copies of Ditto for parties.
3. Ditto Ditto for the Registrar.
4. Ditto Ditto for issue.
5. Register B (Book II)
6. copies of Ditto for parties.
7. Ditto Ditto for the Registrar.
8. Ditto Ditto for Issue.
9. Register C (Book III)
10. Copies of Ditto for parties
11. Ditto Ditto for Registrar
12. Ditto Ditto for issue
13. Book of Refusal
14. Book of Appeals
15. Index Book.
16. Ditto Sheets.
17. Form of applications.
18. Catalogue.
19. Act and Rules in Urdu or Bengali or Assamese.
20. Requisition for forms.
21. Receipt Book.

He will also be supplied with a seal and will use no ink for making entries in the registers and indexes other than supplied from the Government stores. All books, registers, etc., which may subsequently be supplied, shall be paid for by the Moslem Registrar at the time of supply.

When the first supply is exhausted a Moslem Registrar will obtain on a requisition by a letter from the District Registrar all standardized forms. Such requisition must be accompanied by a treasury challan (unless the moslem Registrar is exempted from paying for forms) showing the deposit of the cost of such period forms as have been included in his requisition. No Moslem Registrar shall make an indent for forms direct on the Local Government or on the Government's contractor. Private printing of standardized forms by the Moslem Registrar is the indenting officer for forms required by the Moslem Registrars of his district and the Special Sub-Registrar or the Sub-Registrar at district head quarters or, where there is only an *ex-officio*, sub-Registrar, such officer as the District Registrar may appoint, will be responsible for maintaining an adequate stock of forms for distribution to Moslem Registrars. For this purpose the District Registrar shall maintain a stock Book of all forms required by the Moslem Registrars and the forms which are saleable are to be clearly marked as such in the book. An issue of saleable are to be clearly marked as such in the book. An

issue of saleable forms or stationery, including ink, will be made on receipt of a challan showing the deposit of the value or on reference to definite order of the District Registrar sanctioning a free issue of forms or stationery, including ink, to a Moslem Registrar whose monthly income is not more than Rs. 15. Sums received by the sale of these forms of stationery are to be credited to the head XXXIV—Stationery and Printing—Other presses receipts—Sale of forms.

18. Custody of seals.—The seal shall always remain in the personal custody of the Moslem Registrar and shall be made over with the records to the officer appointed in his place whenever a Moslem Registrar ceases, either temporarily, to exercise his functions.

19. Table of fees.—a printed table of fees in the vernacular of the district shall be displayed in some conspicuous place in every Moslem Registrar's office.

20. Disposal of fees.—The fees received by the Moslem Registrar under Sections 9 and 10 of the Act, and Rule 52 may be retained by him as his lawful remuneration ; provided that he duly pays for the registers and other articles supplied to him under Rule 17. All fees received by a District Registrar shall be credited to Government in the same way as fees realised under the Indian Registration Act.

A receipt shall be granted to the payee form the printed book prescribed for the purpose by the Moslem Registrar or district Registrar as the case may be, in which shall be entered in detail all sums received on account of fees and allowance. The receipt shall be sealed with the seal of the Moslem Registrar of District Registrar granting it and shall be signed and dated by that officer.

21. A Moslem Registrar shall not be debarred from holding any other salaried appointment with the permission of the district Registrar ; Provided that it does not interfere with the proper discharge of his duties as Moslem Registrar.

22. Attendance at marriages.—When the attendance of a Moslem Registrar is required at the celebration of a marriage or other ceremony, provided that it does not interfere with the proper discharge of his duties as Moslem Registrar.

23. It shall be lawful for Moslem registrars to travel on circuit within their jurisdiction for the purpose of attending at celebration of marriages or other ceremonies.

24. When the Moslem Registrar is present at the celebration of a marriage, he shall make an entry of the fact in the Register of Marriages and a copy of such entry shall be included in the copies to be made under Sections. 11,14, and 21 of the Act.

25. Procedure on application to register in absence of any of the parties.—If all the persons who, by Section 10 of the Act, are required to sign the entry of the marriage or divorce in the proper register, are not present, registration shall be deferred until they are all present ; provided that no marriage or divorce for registration of which application has been made within one month, as required by Section 9, shall be registered after the expiration of six months from the date on which the marriage or divorce was effected.

26. Procedure before registration.—The Moslem Registrar shall satisfy himself whether or not a marriage was effected by the persons by whom it is represented to have been effected in the following manner :

- (1) by examining the parties to the marriage, or, if either or both of them are minors, their lawful guardians. If the woman be a pardanashin, her duly authorised Vakil shall be examined instead of the woman ;
- (2) by examining the two witnesses who were present at the marriage.

27. The Moslem Registrar shall satisfy himself whether or not a divorce, other than the Kind known as Khula, was effected by the man by whom it is represented to have been effected by examining that man ; and if he be of the Shia sect, by examining also the two witnesses to the divorce.

28. The Moslem Registrar shall satisfy himself that a divorce of the kind known as khula was effected by the persons by whom it was represented to have been effected in the following manner :

- (1) by examining the parties to the Khula ; provided that if the woman be a pardanashin, her duly authorised Vakil or lawful guardian shall be examined instead of the women ;
- (2) If the man be of the Shia sect, by also examining the two witnesses to the divorce.

29. Identity of persons appearing as witness.—The Muslem Registrar shall satisfy himself of the identity of persons appearing before him as witnesses of marriage or divorce, unless they are otherwise personally known to him, by examining at least one witness to the identity of each person so appearing.

30. Right of the person appearing as representative.—In the case of person appearing as the representative of the man or woman whether he appears as guardian or Vakil, the Moslem Registrar shall satisfy himself of the right of such persons to appear by examining such person. If a Vakil so appears, the Moslem Registrar shall further examine witnesses to the fact of the Vakil having been duly authorised to appear.

31. Entry of marriage or divorce in register to be signed.—When the entry of the marriage or divorce has been made in the proper register, it shall be read over by the Moslem Registrar to the person who, by Section 10 of the Act, are required to sign such entry. If they admit its correctness, the entry shall then be signed by them.

32. Procedure when person cannot sign his name.—When a person who cannot write, signs his name by means of a mark his name shall be recorded at length, and the writer also shall sign his name in attestation that the mark was affixed in his presence.

33. correction of error.—If a Moslem Registrar discovers any error in the form or substance of any entry of a marriage or divorce made by him, he may within one month from the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by an entry in the margin without any alteration of

the original entry, and shall sign the original entry and add thereto the date of such correction and he shall also make the like marginal entry in the copies thereof. And every entry made under this section shall be attested by the witnesses in whose presence it was made.

An, in case a copy has been already sent to the Registrar, the Moslem Registrar shall make and send another copy thereof, containing both the original erroneous entry and the marginal correction therein made.

34. How correction is to be made.—No erasure shall be made with a knife in any registrar, book or record, but mistakes shall be corrected when necessary, with the pen, and shall be invariably attested by the Registering Officer. Corrections are not to be obliterated or blotted out, so as to be illegible, but a line is to be drawn through erroneous words with the pen so that they may remain legible.

35. Refusal to register.—The circumstances under which registration of a marriage or divorce should be refused are as follows :

- (1) If the marriage or divorce was not effected within the jurisdiction of the Moslem Registrar to whom application for registration is made.
- (2) If the application made by the person specified in Section 8 of the Act.
- (3) If the application has been made after the expiry of one month from the date on which the marriage or divorce was effected.
- (4) If all the persons required by Section 10 of the Act to sign the entry in the proper Register, fail to appear within the time limited for such appearance by the Moslem Registrar under Rule 25.
- (5) If the Moslem Registrar fails to satisfy himself that the marriage or divorce was effected by the person or persons by whom it is represented to have been effected.
- (6) If the Moslem Registrar fails to satisfy himself as to identify the persons appearing before him and alleging that the marriage has been effected.
- (7) If the case of any person appearing as the representative of the man or woman (whether he appears as guardian or as Vakil), if the Moslem Registrar is not satisfied as to the right of such person to appear.
- (8) If one of the parties applying for registration of marriage, or it the man applying for the divorce, appears to be of unsound mind.

36. Refusal deferred.—In cases (2), (4) and (8) referred to in Rule 35, the refusal order shall ordinarily be deferred till one month has elapsed from the date on which the marriage or divorce was effected ; but if the parties declare their inability to comply with the requirements of the law, or for any other reason wish that registration should at once be refused this may be done.

37. Reasons for refusal to register to be recorded.—The reasons for refusal to register to be recorded under Section 19 of the Act shall be concisely under Cl.

(5), (6) or (7) of Rule 35, the Moslem Registrar shall record the grounds of his decision.

38. In what cases fees may be refunded.—Fees under Section 9 of the Act shall not be refunded unless registration is refused for one of the reasons numbered (1), (2), (3) and (8) in Rule. 35 Fees and travelling allowances paid for the attendance of Moslem

Registrars at the celebration of marriage shall be refunded only in cases where the Moslem Registrar does not attend. Fees paid for searches in the registers and indexes or for copies of entries, shall be refunded only when the searches are not made or the copies not given.

39 Manner of refund.—The refund of fees paid to a Moslem Registrar shall be made by him at once on application he shall take and file a receipt for the amount of such repayment from the person to whom it is made.

40. Certificate of closure of volume.—When a Register book is closed, a certificate to that effect shall be appended at the at the close of the written portion, and a certificate showing the number of pages written upon shall be entered on the first page.

41. Language to be used.—The Registers and Indexes shall be kept in Bengali or Assamese. Copies under Sections 11,14, and 21 of the Act should be prepared in the language in which the register are kept.

42. The "year" referred to in Section 7 of the Act shall be a year of the Christian era commencing on the 1st January and ending on the 31st December.

43. Indexes.—The Index to Marriages and divorces shall be prepared from the Registers A, B and C, and shall contain the following particulars :

1. Name of the party.....

2. Father's name.....

3. Residence.....

Residence includes—

Village or town, Police station and district

4. Place of Registration.....

5. Date of Registration.....

6. Serial No. for the year

7. Book.....

8. Volume.....

9. Page.....

44. Names shall be indexed according to their first letter and shall be arranged in order of the Bengali or Assamese alphabet. A mere title or designation of race shall not be taken as the Index word.

Thus, Sheik Ramjan will be indexed Ramjan Shek : Mir Aulad Ali, Aulad Ali, Mir.

45. A catalogue in the form given below shall be kept up and permanently preserved in every Moslem Registrar's Office and on the occasion of every transfer of records the officer receiving charge of records shall compare them with the catalogue and certify therein that he has found them correct. Whenever any of the records are transferred to the district office, the fact shall be noted in the columns of remarks, together with the date of transfer :

Form of Catalogue

Serial No.	District of Sub-District to which the book relates	Year	Title of books	Volume	Number of entries in each	Number of pages written on	Remarks
1	2	3	4	5	6	7	8

46. The following records shall be preserved in perpetuity :

- (a) All register books A,B and C and their Indexes ;
- (b) The Catalogue ;
- (c) Reports of the destruction of records and lists of papers destroyed ;
- (d) Fee book.

47. The following records shall be preserved for the period noted against each, after which they will be destroyed :

- | | |
|---|----------|
| (a) register of Refusals | 12 years |
| (b) Register of Appeals | Ditto |
| (c) Inspection Reports | Ditto |
| (d) Annual Reports | Ditto |
| (e) Counterfoils of receipt granted under Rule 19 | Ditto |
| (f) Applications for registration or for attendance at the celebration of marriages under Rule 21 | 3 years |

- | | |
|--|---------|
| (g) Applications for search or copies of extracts | 3 years |
| (h) All correspondence, whether in the vernacular or in English, which is of an ordinary routine character and which the District Registrar considers may be destroyed | 3 years |
| (i) Requisition for forms and stationery | 3 years |
| (j) Applications for the post of Marriage Registrar | 3 years |
| (k) All other records not specified in the above rules | 3 years |

48. Monthly returns submitted to the Registrar of the district under Section 21 of the Act which are copies of entries in the registers and Index books may be destroyed as soon as the completed volume of Register or Index to which such returns relate is received in the Sadar office.

49. (a) No records or papers whatever shall be destroyed without the previous sanction of the Inspector General of Registration.

(b) Subject to such sanction the records in the offices of Registrars and Moslem Registrars may be destroyed after the expiration of the period of their retention as specified in Rule 47, the said period being computed from the 1st January next following the date of record.

50. Application for search in the records or for copies of extracts therefrom shall be made in writing ; no stamps are required on such applications. Applications made to the District Registrar shall be entered in the register kept by him for that purpose. Applications made to the Moslem Registrar shall be filed by him, the date of application and the date on which a search was made, or a copy delivered, being noted on the back of the application.

If register from which an extract is required has been transferred to the District Registrar or other person under Section 22 of the Act, the application together with the prescribed fee, shall be forwarded by the Moslem Registrar to such District Registrar or other person at the expense of the applicant.

51. A call for information from any Court, shall, if it necessitates search in the registers, be accompanied by the necessary fee for search. Officers of Government shall be permitted to inspect the registers without fee ; but if the production of a register in any Court is required, it shall be produced by the Moslem Registrar or other officer whom the District Registrar may depute for the purpose who will be entitled to claim payment of his expenses like any other witness.

52. Besides the fees leviable under Section 15 of the Act a fee of eight annas may be charged for extracts and copies of orders and records not otherwise provided for in the law.

53. **Annual report etc.**—The Inspector General of Registration should send an Annual Report on the working of the Act to the Government by the 15th July of each year. The body of the report should contain a table in the following form showing the principal features of the working of Act IX of 1935 during the preceding two years.

The test should go on to indicate the total number of offices opened and closed during the year under review, the total number of ceremonies registered, the average number of registrations in each office and the total and average income of Kazi Registrars. Attention should be directed to any notable fluctuations and brief indication should be given in a few general remarks of the estimation in which the provision of the Acts are held in different divisions of the province in which they are in force. The report should not exceed one page.

As an annexure, a table should be appended showing by districts and divisions the operations under Act IX of 1935 during the year under review and that immediately preceding. The form in which the should take is as shown below :

The District Registrar should send in the materials for the compilation of the report by the 15th May of each year, to the office of the Inspector General of Registration and the Moslem Registrars should submit their returns to the District Registrar not later than 15th April of each year.

✓ 54. For the supervision of Moslem Marriage Registrars and Kazis there will be a permanent committee, consisting of 6 (six) members of which the Inspector General of Registration shall be the *ex-officio*, President.

The following rules are prescribed for the guidance of the committee :

- (1) The committee shall consist of six members The Inspector General of Registration for the time being shall be President, and Persian and Arabic Professor of a Government College shall be a member. The remaining members shall be appointed by the Local Administration by notification in the official Gazette. They shall hold office for a term of three years, and shall be eligible for reappointment on the expiry of the term. Members shall be liable to removal for habitual failure to attend the meeting of the committee.
- (2) The jurisdiction of the committee shall extend to all districts of this Province in which the Assam Act IX of 1935 or Act XII of 1880 is, or may hereinafter be, in force.
- (3) The committee shall meet as often as may be found necessary for transaction of business at such place as may, on each occasion, be convenient. The President shall ordinarily fix the time and place of such meetings and shall be bound to cancel a meeting within on month on the requisition of any three members. Three members shall form a quorum for the transaction of business.
- (4) The committee shall deal with the following matters :
 - (a) The consideration of all nominations to the post of Moslem Registrar of Kazi.
 - (b) Recommendations for the dismissal and removal of Moslem Registrars or Kazi.
 - (c) The examination of Moslem Registrars and Kazis.
 - (d) The inspection of the offices of Moslem Registrars.