

THE KERALA CHRISTIAN MARRIAGE BILL, 2008

An act to amend, consolidate and extend the law relating to solemnization and registration of marriages among Christians in the State of Kerala.

Preamble

WHEREAS it is necessary and expedient to amend and consolidate and extend the law relating to solemnization and registration of marriages among Christians in the State of Kerala: Be it enacted in the Fifty ninth Year of the Republic of India as follows:

1. Short title.—(1) This Act may be called “The Kerala Christian Marriage Act, ____”.

2. Local extent and commencement.—It extends to the whole of the State of Kerala, and shall come into force at once.

3. Interpretation clause.—Unless the context otherwise requires—

(a) ‘Christians’ means a persons professing the Christian religion;

Explanation.—A person who received baptism in accordance with the precepts of a Christian denomination shall be deemed to profess the Christian religion.

(b) “Government” means the State Government of Kerala.

(c) “Marriage Registrar” means the person appointed under section 6 of this Act.

(d) “Registrar General of Births, Deaths and Marriage” means Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886).

(e) “Minister of Religion” means a person authorized as such by a non-Episcopal Christian denomination in accordance with its constitution or regulations.

(f) “Episcopal denomination” means any denomination which recognizes the authority of a Bishop as ordained in accordance with the regulations of that denomination and which permits infant baptism.

(g) “Non-Episcopal denomination” means a denomination of Christian religion which does not have the office designated as Bishop or Episcopa or Metropolitan.

(h) “Episcopal ordination” means the conferment of authority to perform all or any of the sacraments of the Christian Church by or under the authority of a Bishop of the Episcopal denomination.

(i) “Licensing Authority” means the person authorized by the Government under section 7 for granting licence.

CHAPTER 1

SOLEMNIZATION OF MARRIAGE

4. *Conditions relating to solemnization of a Christian marriage.*—Notwithstanding anything contained in any other law for the time being in force, a marriage between persons, either of whom is a Christian, may be solemnized under this Act, if at the time of the marriage the following conditions subsist namely:

- (a) neither party has a spouse, in a valid marriage, living;
- (b) neither party is incapable of giving consent to the marriage in consequence of derangement of mental health;
- (c) the parties have attained marriageable age as provided in the Child Marriage Restraint Act, 1929 (Central Act XIX of 1929) and
- (d) the parties are not within the degrees of prohibited relationship as mentioned in the First Schedule hereto.

5. *Persons by whom marriages may be solemnized.*—A marriage between persons, either of whom is a Christian, may be solemnized by a Marriage Registrar, or by a person who has received Episcopal Ordination or by a person licensed under section 7 of this Act.

6. *Marriage Registrar.*—A Marriage Officer appointed under the provisions of the Special Marriage Act, 1954 for any local area shall be the Marriage Registrar for that local area under this Act.

7. *Issuing of Licence.*—(1) The State Government may authorize the District Collector or any other Officer to issue licence to any Christian for solemnizing a marriage under this Act.

(2) Any person authorized by a non-Episcopal denomination may apply to the licensing authority for the issue of a licence to the person or persons mentioned in such application.

(3) Any licence issued by the licensing authority shall be deemed to be the conferment of authority to solemnize a marriage between members of non-Episcopal denomination.

(4) The Licensing Authority may conduct such enquiry as he deems fit and issue the licence applied for and if he refuses to issue the licence, he shall communicate his reasons for such refusal to the applicant.

(5) Any applicant aggrieved by such refusal may prefer an appeal to the District Court within whose jurisdiction the cause of action arose.

8. *Notice of intended marriage.*—When a marriage is intended to be solemnized under this Act, the parties to the proposed marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage Registrar of the area in which at least one of the parties to the marriage has his or her permanent residence or domicile.

9. *Declaration by parties and witnesses.*—Along with the notice under section 8, the parties and two witnesses shall, in the presence of the Marriage Registrar, sign a declaration in the form specified in the Third Schedule to this Act, and the declaration shall be countersigned by the Marriage Registrar.

10. Marriage Registrar to satisfy himself that parties understood purport of notice and declaration made.

—The Marriage Registrar shall, before authorizing solemnization of a marriage, satisfy himself that the parties to the proposed marriage understood the true import of the notice and the declaration made by them.

11. Marriage Notice Book and publication. —(1) The Marriage Registrar shall keep all notices given under section 8 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book to be kept in the form specified in the Fourth Schedule.

(2) The Marriage Registrar shall cause every such notice to be published by affixing a copy thereof on some conspicuous place in his office.

(i) Where either of the parties to a proposed marriage is not permanently residing within the local limits of jurisdiction of the Marriage Registrar to whom notice has been given under section 8, the Marriage Registrar shall cause a copy of such notice to be transmitted to the Marriage Registrar of the place within whose limits such party is permanently residing, or has his or her domicile and the latter shall thereupon cause a copy thereof to be affixed on some conspicuous place in his office.

(ii) Where either of the parties to an intended marriage is not permanently residing but has only domicile within the local limits of jurisdiction of the Marriage Registrar to whom notice has been given under section 8, he shall also cause a copy of such notice to be published at least in one English and one Malayalam Daily, which in his opinion, have wide circulation in the area.

12. Objections to marriage and issue of certificate of marriage. —(1) Any person, may, before the expiration of seven days from the date of publication of the notice under sub-section (2) of section 11, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

(2) If no objection has been received within the aforesaid period of seven days, the marriage may be solemnized by a person specified in section 5.

13. Procedure on receipt of objection. —(1) If objections are received under sub-section (1) of section 12, the Marriage Registrar shall prohibit the solemnization of the proposed marriage until such objections are disposed of by him. If he is satisfied that the objections are without sufficient cause for denying solemnization of the marriage or the objections are withdrawn, he shall permit or proceed to solemnize the marriage.

Provided further that the Marriage Registrar shall complete the enquiry into the objections within seven days from the date of the objections, unless there are sufficient reasons to be recorded in writing for extension of that period.

(2) If the Marriage Registrar upholds the objection and refuses to allow solemnization of the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the District Court within the local limits of whose jurisdiction the office of the Marriage Registrar is situate.

14. Powers of Marriage Registrar in respect of inquiries.—(1) For the purpose of any inquiry under section 11, the Marriage Registrar shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and inspection;
- (c) compelling the production of documents;
- (d) reception of evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses; and any proceeding before the Marriage Registrar shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code (45 of 1860).

15. Liability for frivolous objection against solemnization of marriage.—If the Marriage Registrar is satisfied that the objections made to the proposed marriage are not reasonable and have not been made in good faith he may impose on the person so objecting, compensation not exceeding fifty thousand rupees payable to such person or persons whom he deems entitled to. Any order so passed may be executed by the Civil Court within the local limits of whose jurisdiction the Marriage Registrar has his office.

16. Marriage Registrar to issue certificate for solemnization of marriage.—(1) As may be desired by the parties to the marriage, after completion of the procedure regarding publication of notice and inquiry in case of any objection, the Marriage Registrar shall permit the marriage to be solemnized.

(2) After permission is granted as mentioned above, it is open to the parties to approach a person specified in section 5 for solemnizing the marriage.

CHAPTER II

TIME AND PLACE OF SOLEMNIZING MARRIAGE

17. Place, form and time for solemnizing marriage.—(1) Every marriage under this Act may be solemnized at such time and place as deemed convenient.

(2) Every such marriage may be solemnized either by the Marriage Registrar or by a person who has received Episcopal Ordination or by a person licensed under section 7 in accordance with the formalities adopted or made by the person solemnizing it.

18. Registration of marriage and certificate of marriage.—(1) When a marriage has been solemnized by the Marriage Registrar, he shall enter the necessary details in a book kept in the form specified in the Fifth Schedule, to be called the Marriage Certificate Book. The relevant page or pages of the Marriage Certificate Book shall be signed by the parties to the marriage, the person solemnizing the marriage and two witnesses.

(2) When the marriage has been solemnized by any other person specified under section 5, a certificate of solemnization of marriage in the form specified in the Sixth Schedule shall be issued to the parties and

one copy shall be forwarded to the Marriage Registrar forthwith and the Marriage Registrar shall enter the relevant details thereof in the Marriage Certificate Book and preserve the certificate.

19. New notice when marriage not solemnized within three months.— Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Registrar as required by section 8, or where an appeal has been filed under sub-section (3) of section 11, within three months from the date of the decision of the district court on such appeal, no Marriage Registrar shall allow solemnization of the marriage until a new notice has been given in the manner as laid down in this Act.

CHAPTER III

PENALTIES

20. *Unauthorised person granting certificate pretending to be licensed.*—(1) Whoever, not being authorised, to grant a certificate of marriage , issued any document purporting to be a certificate of marriage, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to fifty thousand rupees.

(2) Whoever, being bound to perform the duties imposed on him under the provisions of this Act, without just cause refuses, or willfully neglects or omits, to perform any of the duties so imposed on him, shall be punished with fine which may extend to fifty thousand rupees.

Explanation.—A minister of religion or a clergyman or Bishop declining to solemnize a marriage as being contrary to the rules of the denomination concerned shall be deemed to be a just cause for the purpose of this section.

21. *Penalty for signing false declaration or certificate.*—Every person making, signing or attesting any declaration or certificate required by or under this Act containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be guilty of the offence described in section 199 of the Indian Penal Code, 1860 (45 of 1860).

CHAPTER IV

MISCELLANEOUS

22. *Marriage Certificate Book to be open to inspection.*—(1) The Marriage Certificate Book kept under this Act shall at all reasonable times be open for inspection, by any person on an application made for that purpose, on payment of the prescribed fee and a certified extract there from shall be admissible as evidence of the statements therein contained.

(2) Certified extracts to be issued.—Certified extracts from the Marriage Certificate Book shall, on application, be given by the Marriage Registrar to the parties to the marriage or to any other applicant on payment of the prescribed fee.

23. *Fees.*—Fee shall be chargeable under this Act for receiving and publishing notices of intended marriages; solemnizing marriage by the Marriage Registrar; issuing certificates for authorizing solemnization of marriage by Marriage Registrar and registering marriage; entering protests against, the

solemnization of the marriage, by the said Registrars; searching register books; giving copies of entries or declarations or certificates. The State Government shall fix the amount of such fees respectively, and may from time to time vary or remit them either generally or in special cases, as it may deem fit. Provided that until rules are framed by the State Government, the fee prescribed under the Special Marriage Act, 1954 (Central Act 43 of 1954) shall be levied.

24. Transmission of copies of entries in marriage records.—Every Marriage Registrar shall send to the Registrar General of Births, Deaths and Marriages of the State at such intervals and in such form as may be prescribed, a true copy of all entries made by him in the Marriage Certificate Book since the last of such intervals.

25. Correction of errors.—(1) Any Marriage Registrar who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after 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 entry in the margin without any alteration of the original entry and shall sign the marginal entry and add thereto the date of such correction and the Marriage Registrar shall make the like marginal entry in the certificate thereof.

(2) Where a copy of any entry has already been sent under section 24 to the Registrar General or other authority the Marriage Registrar shall make and sent in like manner a separate certificate of the original erroneous entry and of the marginal corrections therein made.

26. Power to make rules.—(1) The State Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:

- (a) the duties and powers of Marriage Registrars and the areas in which they may exercise jurisdiction;
- (b) the eligibility, terms and conditions under which a License to solemnize a marriage is to be granted under section 7.
- (c) the manner in which a Marriage Registrar may hold inquiries under this Act and the procedure therefore;
- (d) the form and manner in which any books required by or under this Act shall be maintained.
- (e) the fees that may be levied for the performance of any duty imposed upon a Marriage Registrar under this Act;
- (f) the manner in which public notice shall be given under section 9;
- (g) the form in which, and the intervals within which, copies of entries in the Marriage Certificate Book shall be sent in pursuance of sections 24 and 25;
- (h) the manner in which persons licensed under the Act should keep records relating to solemnization of marriages done by them;

(i) any other matter which may be or requires to be prescribed.

(3) Every rule made by the State Government under this Act shall be laid, as soon as it is made, before the State Legislature.

27. Non-validation of marriages within prohibited degrees.—Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

28. Repeals.—(1) The Cochin Christian Civil Marriage Act, V of 1095 M.E. is hereby repealed.

(2) Withstanding such repeal, all marriages duly solemnized under the Cochin Christian Civil Marriage Act, V of 1095 M.E. shall be deemed to have been solemnized under this Act.

SCHEDULE I

(See Section 4)

PROHIBITED DEGREES OF CONSANGUINITY

A man shall not marry his.—Paternal grandfather's mother; Paternal grandmother's mother; Maternal grandfather's mother; Maternal grandmother's mother; Paternal grandmother; Paternal grandfather's wife; Maternal grandmother; Maternal grandfather's wife; Mother or step-mother; Father's sister or step-sister; Mother's sister or step-sister; Sister or step-sister; Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother; Sister's daughter or step-sister's daughter, or any direct lineal descendant of a sister or step-sister; Daughter or step-daughter, or any direct lineal descendant of either; Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son; Wife of son or step-son, or of any direct lineal descendant of a son or step-son; Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter; Mother of daughter's husband; Mother of son's wife; Mother of wife's paternal grandfather; Mother of wife's paternal grandmother; Mother of wife's maternal grandfather; Mother of wife's maternal grandmother; Wife's paternal grandmother; Wife's maternal grandmother; Wife's mother or step-mother; Wife's father's sister; Wife's mother's sister; Father's brother's wife; Mother's brother's wife; Brother's son's wife; Sister's son's wife.

A woman shall not marry her.—Paternal grandfather's father; Paternal Grandmother's father; Maternal grandfather's father; Maternal grandmother's father; Paternal grandfather; Paternal grandmothers husband; Maternal grandmother; Maternal grandmother's husband; Father or step-father; Father's brother or step-brother; Mother's brother or step-brother; Brother or step-brother; Brother's son or stepbrother's son, or any direct lineal descendant of a brother or step-brother; Sister's son or step-sister's son; or any direct lineal descendant of a sister or step-sister; Son or step-son, or any direct lineal descendant of either; Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter; Husband of daughter or step-daughter, or of any direct lineal descendant of a daughter or step-daughter; Husband of son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step-son; Father of daughter's husband; Father of son's wife; Father of husband's paternal grandfather; Father of husband's paternal grandmother; Father of husband's maternal grandfather; Father of husband's maternal grandmother; Husband's paternal grandfather; Husband's maternal grandfather; Husband's father or step-father; Brother of husband's father; brother of husband's mother; husband's brother's son, or his direct lineal descendant; Husband's sister's son, or his direct lineal descendant; Brother's daughter's husband; Sister's daughter's husband.

In any case, the parties shall not be within the range of third generation counted from the common primogenitor-male or female.

SCHEDULE II

(See Section 8)

To

The Registrar 5 of Marriages'

NOTICE OF MARRIAGE

Names/Name of parents.....Profession or occupation.....Age.....Full address of the parties.....The Church, or the place of worship or the place at which the marriage is intended to be solemnized

We intend to get married in accordance with the provisions of the Kerala Christian Marriage Act, 2009.

AB. (Sd.) CD. (Sd.)

Witnesses: 1.....(Sd.)

2.....(Sd.)

Place:

Date:

SCHEDULE III

(See Section 9)

DECLARATION BY PARTIES AND WITNESSES

I,.....aged.....s/o.....having permanent residence/domicile at.....do hereby solemnly declare

that I am a Christian and that I am not previously married (or that there is no subsisting marriage between me and any other person) and that there are no other lawful impediments in my getting married.

AND

I,.....aged.....d/o.....having permanent residence/domicile at.....do hereby solemnly declare

that I am a Christian and that I am not previously married (or that there is no subsisting marriage between me and any other person) and that there are no other lawful impediments in my getting married.

That notice of intended marriage under the Kerala Christian Marriage Act, 2009 is produced herewith and the entries and statement contained in the Notice are true and correct.

All the facts stated above are true and correct.

AB. (Sd.) CD. (Sd.)

Witnesses: 1.....(Sd)

2.....(Sd)

Place:

Date:

Signed in my presence

(Sd.)

Marriage Registrar.

Photograph

SCHEDULE IV

(See Section 11)

MARRIAGE NOTICE BOOK

Photographs of both the parties

Names/Names of parents.....Profession or occupation.....Age.....Full address of the parties.....The Church, or the place of worship or the place at which the marriage is intended to be solemnized

The declaration required by section 9 of the Kerala Christian Marriage Act, 2009 has been duly made and produced along with the Notice of Marriage.

AB. (Sd.) CD. (Sd.)

Witnesses: 1.....(Sd.)

2.....(Sd.)

Place:

Date:

Date of receipt of Notice:

(Sd.)

Marriage Registrar.

SCHEDULE V

[See Section 18 (1)]

MARRIAGE CERTIFICATE BOOK

Names of parties _____ Names of parents _____ Profession or
occupation _____ Age _____ The Church, or the place at which the marriage was
solemnized (Full address of the parties to the marriage)

Date of notice entered in the Marriage Notice Book.....

The declaration required by section 9 of the Kerala Christian Marriage Act, 2009 has been duly made and
all other requirements under the Act has been complied with.

AB. (Sd.) CD. (Sd.)

Witnesses: 1.....(Sd.)

2.....(Sd.)

Place:

Date:

(Sd.)

Marriage Registrar.

SCHEDULE VI

Photograph [See Section 18 (2)] Photograph

CERTIFICATE OF SOLEMNISATION OF MARRIAGE

I.....do hereby certify that on the.....day of.....a marriage between
the parties named and described hereunder has been solemnized (that is to say):

Names of parties to the marriage _____ Names of parents_____ Profession or
occupation_____ Age____ Church, or place of worship or the place at which the marriage was solemnized

Full address of the parties to the marriage

AB. (Sd.) CD. (Sd.)

Witnesses: 1.....(Sd.)

2.....(Sd.)

Place:

Date:

(Sd.)

Name and address of person solemnizing the marriage.

(Office seal)

Statement of objects and reasons

The Cochin Christian Civil Marriage Act, V of 1095 M.E. has been in vogue in the territories of the former State of Cochin enabling solemnization of civil marriages among Christians. Even after the adoption of the Constitution of India, the law continued in force. However, there are different denominations of Christians in Kerala having no personal law governing solemnization of marriage. That apart, a second marriage between persons one or both of whom had secured decree of divorce from Civil Court, is not being approved for solemnization in the Church in many instances on the ground of want of an annulment order in accordance with the rules of the Church. Certificate of marriage issued by the statutory authorities is required in the transnational movement of citizens. This necessitates registration of marriages solemnized by ecclesiastical personages. In the circumstances, it is deemed necessary to have a consolidated statute for the Christian community applicable to the whole of the State of Kerala. The Cochin Christian Civil Marriage Act contains well drafted provisions, which can now be used with necessary adaptations in formulating the new law. The bill is intended to achieve the above objectives.