The Indian Christian Marriage Act, 1872

Act 15 of 1872. 88 sections. Bare Act with the official footnotes.

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[18th July, 1872.]

An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

PREAMBLE.-WHEREAS it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion; It is hereby enacted as follows:-

PRELIMINARY

Section 1. Short title

This Act may be called the Indian Christian Marriage Act, 1872.

Extent.-[1][It extends to the whole of India [2][except [3][the territories which, immediately before the 1st November, 1956, were comprised in the States] of Travancore-Cochin, Manipur and [4]***].][5]

[6]* * * * *

[1] Subs. by A.O. 1950 for the second para., as amended by A.O. 1937 and A.O. 1948. [NOTE:--The Act does not extend to the State of Manipur, vide Act 30 of 1950, s. 3(2A) and Sch. As amended by Act 68 of 1956, s. 2. The Act has been extended to and brought into force in Dadra and Nagar Haveli (w.e.f. 1-7-1965) by Reg. 6 of 1963, s. 2 and Sch. I.]

[2] Subs. by Act 3 of 1951, s. 3 and Sch., for "except Part B States".

[3] Subs. by the Adaption of Laws (No. 2) Order, 1956, for "the States".

[4] The words "State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10- 2019).

[5] In its application to Pondicherry, in section 1, the following proviso shall be added at the end of section 1- "Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry."- (vide Act 26 of 1968).

[6] The commencement cl. rep. by Act 16 of 1874, s. 1 and the Schedule.

Section 2. Enactments repealed

[Enactments repealed.] -Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and the Schedule.

Section 3. Interpretation clause

In this Act, unless there is something repugnant in the subject or context,-

"Church of England" and "Anglican".-mean and apply to the Church of England as by law established;

"Church of Scotland".-means the Church of Scotland as by law established;

"Church of Rome" and "Roman Catholic".-mean and apply to the Church which regards the Pope of Rome as its spiritual head;

"Church".-includes any chapel or other building generally used for public Christian worship;

[1]["India".-means the [2][territories] to which this Act extends;]

"minor".-"minor" means a person who has not completed the age of twenty-one years and who is not a widower or a widow;

[3]* * * * *

the expression "Christians" means persons professing the Christian religion;

[4][and the expression "Indian Christians" includes the Christian descendants of natives of India converted to Christianity, as well as such converts;] [5]["Registrar General of Births, Deaths and Marriages".-means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886).]

[1] Ins. by Act 3 of 1951, s. 3 and Sch.
[2] Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "territory comprised in the States".
[3] The definition of "Native State" omitted by the A.O. 1937.
[4] Subs. by A.O. 1950, for the definition.
[5] Ins. by Act 6 of 1886, s. 30.

PART I THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED

Section 4. Marriages to be solemnized according to Act

Every marriage between persons, one or both of whom is [1][or are] a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

[1] Ins. by Act 12 of 1891, s. 2 and the Second Schedule.

Section 5. Persons by whom marriages may be solemnized

Marriages may be solemnized in [1][India]-

(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland;

(3) by any Minister of Religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between [2][Indian] Christians.

[1] Subs. by Act 3 of 1951, s. 3 and Sch., for "Part A States and Part C States".
[2] Subs. by the A. O. 1950, for "Native".

Section 6. Grant and revocation of licenses to solemnize marriages

[1][The State Government, so far as regards the territories under its administration, [2]*** may, by notification in the Official Gazette [3]***, grant licenses to Ministers of Religion to solemnize marriages within such territories [4]*** and may, by a like notification revoke such licenses.]

[1] Subs. by Act 2 of 1891, s. 1, for s. 6.
[2] The words "and the Central Government, so far as regards any Indian State" omitted by the A.O. 1950.
[3] The words "or in the Gazette of India, as the case may be" omitted by the A.O. 1937.
[4] The words "and State, respectively," omitted by the A.O. 1950.

Section 7. Marriage Registrars

The State Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any district subject to its administration.

Senior Marriage Registrar.-Where there are more Marriage Registrars than one in any district, the State Government shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be Marriage Registrar.-When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the district shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

State Amendment

KARNATAKA

In section 7, for the words, "Magistrate of the district" the words "District Magistrate" shall be substituted.

[Vide Karnataka Act 13 of 1965, s. 67 and Schedule.]

Section 8. Marriage Registrars in Indian States

[Marriage Registrars in Indian States.] -Rep., by the A. O. 1950.

Section 9. Licensing of persons to grant certificates of marriage between Indian Christians

The State Government [1]*** may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between [2][Indian] Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the Official Gazette.

[1] The words and brackets "or (so far as regard any Indian State) the Central Government" omitted by the A.O. 1950.

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

PART II TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED

Section 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 authorized to grant such license, [1][or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland.]

[1] Ins. by Act 2 of 1891, s. 2.

Section 11. Place for solemnizing marriage

No Clergyman of the Church of England shall solemnize a marriage in any place other than a church[1][where worship is generally held according to the forms of the Church of England],

unless there is no [1][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 the said Bishop from time to time authorizes.

[1] Ins. by s. 3, ibid.

PART III MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT

Section 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.

Section 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.

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.

Section 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.

Section 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.

Section 16. Procedure on 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.

Section 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 herein after 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 certificate 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.

Section 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.

Section 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 authorized to give such consent be resident in India.

Section 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 is 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.

Section 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.

Section 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.

Section 23. Issue of certificates to Indian Christians

When any[1][Indian] Christians 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 [1][Indian] Christians 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 [1][Indian] Christian into some language which he understands.

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

Section 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.

Section 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.

Section 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.

PART IV REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION

Section 27. Marriages when to be registered

All marriages hereafter solemnized in [1][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[2] in manner hereinafter prescribed.

[1] Subs. by Act 3 of 1951, s. 3 and Sch., for "a Part A State or a Part C State".

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

Section 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.

Section 29. Quarterly returns to Archdeaconry

Every Clergyman of the Church of England shall send four times in every year returns induplicate, 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.

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 [1][Registrar General of Births, Deaths and Marriages].

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L. G.".

Section 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 [1][Registrar General of Births, Deaths and Marriages] returns of the entries of all marriages registered by him during the three months next preceding.

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L. G.".

Section 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 [1][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.

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L. G.".

Section 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.

Section 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.

Section 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 [1][Registrar General of Births, Deaths and Marriages].

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L. G.".

Section 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.

Section 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 [1][Registrar General of Births, Deaths and Marriages].

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L. G.".

Section 37. Registration of marriages between Indian Christians, by persons referred to in clauses (1), (2) and (3) of section 5

Whenany marriage between [1][Indian] Christians is solemnized [2][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 leave 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 [3][Registrar General of Births, Deaths and Marriages,] to be kept by him with the records of his office.

[1] Subs. by the A. O. 1950, for "Native".
[2] Subs. by Act 18 of 1928, s. 2 and the first Schedule, for "under Part I or Part III or this Act".
[3] Subs. by Act 6 of 1886, s. 30, for "Secretary to the Local Government.".

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

Section 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.

Section 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.

Section 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 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.

Section 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 of such oath having been made:

Proviso.-Provided-

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

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act;

that four days after the receipt of the notice have expired; and further,

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

Section 42. Oath before issue of certificate

The certificate mentioned in section 41 shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath[1]-

(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

(b) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar,

and, where either or each of the parties is a minor,

(c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

[1] As to the meaning of "oath", see the General Clauses Act, 1897 (10 of 1897), s. 3(37) and s. 4.

Section 43. Petition to High Court to order certificate in less than fourteen days

When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras and Bombay, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the High Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by section 41.

Order on petition.-And on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order before the expiration of the fourteen days so required.

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

Order on petition

Section 44. Consent of father or guardian

The provisions of section 19 apply to every marriage under this Part, either of the parties to which is a minor;

Protest against issue of certificate.-And any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "forbidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

Effect of protest.-When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

Section 45. Petition where person whose consent is necessary is insane, or unjustly withholds consent

If any person whose consent is necessary to any marriage under this Part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage,

the parties intending marriage may apply by petition, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge:

Procedure on petition.-And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way;

and, if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage;

and, if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in relation to the marriage as if the issue of such certificate had not been forbidden.

Section 46. Petition when Marriage Registrar refuses certificate

Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge.

Procedure on petition.-The said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon.

The decision of such Judge of the High Court or District Judge, as the case may be, shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

Section 47. Petition when Marriage Registrar in Indian State refuses certificate

[Petition when Marriage Registrar in Indian State refuses certificate.] Omitted by the A.O. 1950.

Section 48. Petition when Registrar doubts authority of person forbidding

Whenever a Marriage Registrar, acting under the provisions of section 44, is not satisfied that the person 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 thecae 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.

[1]* * * * *

[1] Omitted by the A. O. 1950.

Section 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.

Section 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 State Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

Section 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.

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]."

Section 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.

Section 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.

Section 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 induplicate; 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 certificates 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.

Section 55. Certificates 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[1][Registrar General of Births, Deaths and Marriages].

Custody of register-book.-The Marriage Registrar shall keep safely the said register-book until it is filled, and shall then send it to the [1][Registrar General of Births, Deaths and Marriages], to be kept by him with the records of his office.

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to the L.G.".

Section 56.

[Officers to whom Registrars in Indian States shall send certificates.) Omitted by the A. O. 1950.

Section 57. Registrars to ascertain that notice and certificate are understood by Indian Christians

When any [1][Indian] Christians about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said [1][Indian] Christians understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such [1][Indian] Christians into a language which he understands;

or the Marriage Registrar shall otherwise ascertain whether the[1][Indian] Christians is cognizant of the purport and effect of the said notice and certificate.

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

Section 58. Indian Christians to be made to understand declarations

When any [1][Indian] Christians is married under the provisions of this Part, the person solemnizing the marriage shall ascertain whether such [1][Indian] Christians understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such [1][Indian] Christians, into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Act.

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

Section 59. Registration of marriages between Indian Christians

The registration of marriages between [1][Indian] Christians under this Part shall be made in conformity with the rules laid down in section 37 (so far as they are applicable), and not otherwise.

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

PART VI MARRIAGE OF INDIAN CHRISTIANS

Section 60. On what conditions marriages of [1][Indian] Christians may be certified

Every marriage between [1][Indian] Christians applying for a certificate, shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and not otherwise:-

(1) the age of the man intending to be married [2][shall not be under [3][twenty-one years]], and the age of the woman intending to be married [4][shall not be under [5][eighteen years]];

(2) neither of the persons intending to be married shall have a wife or husband still living;

(3) in the presence of a person licensed under section 9, and of at least two credible witnesses other than such person, each of the parties shall say to the other-

"I call upon these persons here present to witness that. 1, A. B., in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, C. D., to be my lawful wedded wife [or husband]" or words to the like effect:

[6]* * * * *

[1] Subs. by the Act A.O. 1950, for "Native".
[2] Subs. by Act 48 of 1952, s. 3 and the Second Schedule, for "shall exceed sixteen years".
[3] Subs. by Act 2 of 1978, s. 6 and the Schedule, for "eighteen years" (w.e.f. 1-10-1978).
[4] Subs. by Act 48 of 1952, s. 3 and the Second Schedule, for "shall exceed thirteen years".
[5] Subs. by Act 2 of 1978, s. 6 and Schedule, for "fifteen years" (w.e.f. 1-10-1978).
[6] Proviso omitted by s. 6 and the Schedule, ibid., (w.e.f. 1-10-1978).

Section 61. Grant of certificate

When, in respect to any marriage solemnized under this Part, the conditions prescribed in section 60 have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

Section 62. Keeping of register-book and deposit of extracts therefrom with Registrar General

[1][(1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form as the State Government by which he was licensed may from time to time prescribe, a register-book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar General of Births, Deaths and Marriages for the territories under the administration of the said State Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.]

[2]* * * * *

[1] Subs. by Act 2 of 1891, s. 4, for s. 62.
[2] Sub-section (2) omitted by the A.O. 1950.

Section 63. Searches in register book and copies of entries

Every person licensed under this Act to grant certificates of marriage, and keeping a marriage-register-book under section 62, shall at all reasonable times, allow search to be made in such book, and shall, on payment of the proper fee, give a copy, certified under his hand, of any entry therein.

Section 64. Books in which marriages of Indian Christians under Part I or Part III are registered

The provisions of sections 62 and 63, as to the form of the register-book, depositing extracts therefrom, allowing searches thereof, and giving copies of the entries therein, shall, mutatis mutandis, apply to the books kept under section 37.

Section 65. Part VI not to apply to Roman Catholics. Saving of certain marriages

This Part of this Act, except so much of sections 62 and 63 as are referred to in section 64, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of [1][Part V of Act No. 25 of 1864], previous to the twenty-third day of February, 1865.

[1] Act 25 of 1864 had been rep. by Act 5 of 1855, which was rep. by this Act.

PART VII PENALTIES

Section 66. False oath, declaration, notice or certificate for procuring marriage

[1][Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,-

(a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code (45 of 1860) with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine.]

[1] Subs. by Act 2 of 1891, s. 5, for s. 66.

Section 67. Forbidding, by false personation issue of certificate by Marriage Registrar

Whoever forbids the issue, by a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section 205 of the Indian Penal Code (45 of 1860).

Section 68. Solemnizing marriage without due authority

[1][Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years,

[2]* * * * *

and shall also be liable to fine.]

[1] Subs. by s. 6, ibid., for s. 68.
[2] Omitted by the A.O. 1950.

Section 69. Solemnizing marriage out of proper time, or without witnesses

Whoever knowingly and wilfully solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Saving of marriages solemnized under special licence.-This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section 10.

[1][Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland.]

[1] Ins. by Act 2 of 1891, s. 7.

Section 70. Solemnizing without notice or within fourteen days after notice, marriage with minor

Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or, when one of the parties to the marriage is a minor and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Section 71. Issuing certificate, or marrying, without publication of notice

A Marriage Registrar under this Act, who commits any of the following offences:-

(1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act;

[1][(2) marrying after expiry of notice.-after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage;]

(3) solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice.-solemnizes, without an order of a competent Court authorizing him to do so, any marriage, when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar;

(4) issuing certificate against authorized prohibition.-issues any certificate the issue of which has been prohibited, as in this Act provided, by any person authorized to prohibit the issue thereof,

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

[1] Subs. by Act 2 of 1891, s. 8(1), for clause (2).

Section 72. Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition

Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of [1][two months] after the notice has been entered by him as aforesaid,

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section 166 of the Indian Penal Code (45 of 1860).

[1] Subs. by s. 8(2), ibid., for "three months".

Section 73. Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland or Rome)

Whoever, being authorized under this Act to solemnize a marriage,

and not being a Clergyman of the Church of England solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies and customs of that church,

issuing certificate, or marrying, without publishing notice, or after expiry of certificate;- knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III of this Act, or after the expiration of two months after the certificate has been issued by him;

issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice.- or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or

without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district;

issuing certificate authorizedly forbidden:-or knowingly and wilfully issues any certificate the issue of which has been forbidden, under this Act, by any person authorized to forbid the issue;

solemnizing marriage authorizedly forbidden.-or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same;

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

Section 74. Unlicensed person granting certificate pretending to be licensed

Whoever, not being licensed to grant a certificate of marriage under Part VI of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

[1][Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part shall be punished with fine which may extend to one hundred rupees.]

[1] Ins. by Act 2 of 1891, s. 9.

Section 75. Destroying or falsifying register-books

Whoever, by himself or another, wilfully destroys or injures any register-book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register-book or counterfoil certificates,

or wilfully inserts any false entry in any such register-book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Section 76. Limitation of prosecutions under Act

The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

PART VIII MISCELLANEOUS

Section 77. What matters need not be proved in respect of marriage in accordance with Act

Whenever any marriage has been solemnized in accordance with the provisions of sections 4 and 5, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:-

(1) any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law;

(2) the notice of the marriage;

(3) the certificate or translation thereof;

(4) the time and place at which the marriage has been solemnized;

(5) the registration of the marriage.

Section 78. Corrections of errors

Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, 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 such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And, in case such certificate has been already sent to the [1][Registrar General of Births, Deaths and Marriages], such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to a L.G.".

Section 79. Searches and copies of entries

Every person solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or [1][Registrar General of Births, Deaths and Marriages] having the custody for the time being of any register of marriages, or of any certificate, or duplicate, or copies of certificate, under this Act,

shall, on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate, or duplicate or copies, and give a copy under his hand of any entry in the same.

[1] Subs. by Act 6 of 1886, s. 30, for "Secretary to a L.G.".

Section 80. Certified copy of entry in marriage-register, etc., to be evidence

Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage-register or certificate, or duplicate, required to be kept or delivered under this Act, of any entry of a marriage in such register or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate, or duplicate, or of any entry therein, respectively, or of such copy.

Section 81. Certificates of certain marriages to be sent to Central Government

[1][The Registrar General of Births, Deaths and Marriages [2]*** shall, at the end of every quarter in each year, select, from the certificates of marriages forwarded to [3][him], during such quarter, the certificates of the marriages of which [4][the Government by whom he was appointed] may desire that evidence shall be transmitted to England, and shall send the same certificates, signed by [3][him] to the [5][Central Government].]

[1] Subs. by Act 13 of 1911, s. 2, for s. 81.
[2] The words and figures "and the officers appointed under section 56" omitted by Act 48 of 1952, s. 3 and the Second Schedule.
[3] Subs. by s. 3 and the Second Schedule, ibid., for "them respectively".
[4] Subs. by the A.O. 1937, for "the G. G. in C.".
[5] Subs. by the A.O. 1948, for "Secretary of State for India".

Section 82. State Government to prescribe fees

Fees shall be chargeable under this Act for-

receiving and publishing notices of marriages;

issuing[1][certificates for marriage] by Marriage Registrars, and registering marriages by the same;

entering protests against, or prohibitions of, the issue of [2][certificates for marriage] by the said Registrars;

searching register-books or certificates, or duplicates, of copies thereof;

giving copies of entries in the same under sections 63 and 79.

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 to it may seem fit.

[1] Subs. by Act 1 of 1903, s. 3 and the Second Schedule, for "certificates of marriage".
[2] Subs. by s. 3 and the Second Schedule, ibid., for "marriage certificates".

Section 83. Power to make rules

[1][(1)] The State Government [2][may, by notification in the Official Gazette, make rules] in regard to the disposal of the fees mentioned in section 82, the supply of register-books, and the preparation and submission of returns of marriages solemnized under this Act.

[3][(2) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.]

[1] Section 83 re-numbered as sub-section (1) thereof by Act 20 of 1983, s. 2 and the Schedule (w.e.f. 15-3-1984).
[2] Subs. by s. 2 and the Schedule, ibid., for "may make rules" (w.e.f. 15-3-1984).
[3] Ins. by s. 2 and the Schedule, ibid. (w.e.f. 15-3-1984).

Section 84. Power to prescribe fees and rules for Indian States

[Power to prescribe fees and rules for Indian States.] Omitted by the A.O. 1950.

Section 85. Power to declare who shall be District Judge

The State Government may, by notification in the Official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

Section 86. Powers and functions exercisable as regards Indian States

[Powers and functions exercisable as regards Indian States.] Omitted by the A.O. 1950.

Section 87. Saving of Consular marriages

Nothing in this Act applies to any marriage performed by any Minister, Consul, or Consular Agent between subjects of the State which he represents and according to the laws of such State.

Section 88. 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.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

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SCHEDULE V.-Enactments repealed. Rep.by the Repealing Act, 1938 (1 of 1938), s. 2 and the (official file, page 26)

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