

The Orissa Muhammedan Marriages and Divorces Registration Rules, 1976

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Rule

THE-ORISSA-MUHAMMEDAN-MARRIAGES-AND-DIVORCES-REGISTRATION-RULES-1976

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The Orissa Muhammedan Marriages and Divorces Registration Rules, 1976Published vide Notification SRO No. 1181/76/30.11.1976Notification S.R.O. No. 1181/76, dated 30th November, 1976. - In exercise of the powers conferred by Section 24 of the Orissa Muhammedan Marriages and Divorces Registration Act, 1949 (Orissa Act VII of 1949), the State Government do hereby make the following rules, namely :

1. Short title and commencement.

(a)These rules may be called the Orissa Muhammedan Marriages and Divorces Registration Rules, 1976.(b)These rules shall come into force at once.

2. Definitions.

- in these rules-(i)"Act" means the Orissa Muhammedan Marriages and Divorces Registration Act, 1949 (Orissa Act VII of 1949);(ii)"Form" means a Form appended to these rules;(iii)"section" means a section of the Act;(iv)all other words and expressions used in these rules shall have the same meaning as are respectively to them in the Act.

2A. [[Inserted vide O.G.E. No. 1347 dated 18.9.2006.]

(1)Registration of Marriages among the Mohammedans shall be made within a period of thirty days.(2)any party to the marriage contravening the provisions of sub-rule (1) shall submit the

application for registration of marriage or divorce after the period of thirty days on payment of penalty of rupees twenty five.]

3. Who may be nominated.

- A person to be licensed as Muhammedan Registrar should have sufficient acquaintance with the Arabic language and Muhammedan law of marriage and divorce, and be of good moral character. Preference shall ordinarily be given to ex-Kazis and Government pensioners, being Muhammedans, Maulavies, Khundkars and Mullahs, who reside or are willing to reside at a convenient place within the limits of the proposed jurisdiction, provided they possess the above qualifications.

4. Nomination of Muhammedan Registrars.

- The District Registrar shall nominate sufficient number of persons possessing the qualifications specified in Rule 3 to be licensed as Muhammedan Registrars under Section 3. The District Registrars shall also specify the limits within which each of the persons so nominated shall exercise the functions of Muhammedan Registrar.

5. Form of application.

- The District Registrar's nomination shall be accompanied by the original application of the candidate in Form 'A', together with a certificate of good moral character, and (unless the applicant holds a certificate of qualification from any Madrassa) every candidate shall be required to furnish a certificate of his possessing sufficient acquaintance with the Arabic language and the Muhammedan law of marriage and divorce, signed by three Muhammedan gentlemen of respectability and position and countersigned by the District Magistrate or District Judge.

6.

The limits within which a Muhammedan 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 one or more police-stations or parts thereof as the State Government may from time to time direct. The headquarters shall be at some convenient place within those limits.

7.

The District Registrar's nomination along with the applications and certificates, shall be forwarded to Government. In case the nomination of the District Registrar is disapproved by Government, the District Registrar may submit a fresh nomination. For this purpose a list of candidates willing to serve as Muhammedan Registrars in any district to which they may be licensed shall be kept in the office of the Inspector-General of Registration.

8. Liability to examination.

- Should such a course appear expedient hereafter, all Muhammedan Registrars who may have been appointed under these rules, and all future applicants for licences, shall be liable to examination in the following subjects-(1)Arabic and the vernacular of the district;(2)Muhammedan Law of Marriage and Divorce; and(3)The Orissa Muhammedan Marriages and Divorces Act, 1945 and the rules thereunder.If any person who has been licensed as a Muhammedan Registrar fails to pass such examination, his licence will be liable to cancellation. Such examination may be held at such times and places and by such examiners, as the State Government may from time to time appoint.

9.

Licences to qualified persons who have been approved to be Muhammedan Registrars will be granted in Form 'B'.

10.

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

11.

When a Muhammedan Registrar makes over his office to a successor, a certificate shall be signed by both jointly indicating the date on which the office is made over and of the safety of correctness of the records ; and this certificate shall be forwarded by the District Registrar to the Inspector-General of Registration.

12.

Muhammedan Registrars shall not be entitled to leave as of right under the rules in force for Government servants. The District Registrar may, however, grant leave in cases of urgency but no leave exceeding one month shall be granted without the previous sanction of the Inspector-General of Registration. All leave shall at once be reported to the Inspector-General of Registration together with the arrangements made for carrying on the duties of the Muhammedan Registrar.

13.

In case of leave or absence from duty, the next nearest Muhammedan Registrar shall ordinarily be authorised to carry on the duties of the absentee, in addition to his own, or the District Registrar may grant a temporary licence to a person from among the list of candidates for Muhammedan Registrarships maintained in the office of the Inspector-General of Registration under Rule 7.

14.

Licensed Muhammedan Registrars are not Government servants.

15.

The general control and supervision of the working of the Act shall be exercised by the inspecting staff attached to the department for registration of documents but Muhammedan Deputy Collectors, Sub-Deputy Collectors or Revenue Supervisors may specially be deputed by the District Registrar to inspect Muhammedan Marriage Registry Offices at any time.

16.

Muhammedan Registrar will, on first appointment, be supplied with the following registers namely :

1. Register A (Book I) (vide Section 6)

2. Copies of Book I for parties

3. Copies of Book I for the Registrar

4. Copies of Book I for issue

5. Register 6 (Book II) (vide Section 6)

6. Copies of Book II for parties

7. Copies of Book II for Registrar

8. Copies of Book II for issue

9. Register C (Book III) (vide Section 6)

10. Copies of Book III for parties

11. Copies of Book III for Registrar

12. Copies of Book III for issue

13. Register D (Book IV) (vide Section 6) Copies of Book IV for parties Copies of Book IV for Registrar copies of Book IV for issue

14. Book of Refusals

15. Index Book

16. Index sheets

17. Form of application

18. Catalogue

19. Act and rules in Urdu

20. Indent for forms.

He will also be supplied with a seal, and will use ink supplied from Government stores only for making entries in the registers and indexes. All books, registers, etc., which may subsequently be supplied, shall be paid for by the Muhammedan Registrar at the time of supply, but in any case when the District Registrar thinks it necessary he may defer the realisation of the charge for a term not exceeding three months. In case of failure to pay at the prescribed period, the District Registrar, should report the case for orders to the Inspector-General of Registration. When the first supply is exhausted, a Muhammedan, Registrar will obtain on indent, from the Government stores, at cost price, Register Books I, II, III and IV, Index Books, Index sheets, Forms of Application, Catalogues and a seal, and keep up himself Books of Refusals and Books of Appeals.

17. Custody of seals.

- The seal shall always remain in the personal custody of the Muhammedan Registrar and shall be made over with the records to the officer appointed to receive the same, whenever a Muhammedan Registrar ceases, either temporarily or permanently, to exercise his functions.

18. Table of fees.

- A printed table of fees in vernacular of the district shall be suspended in some conspicuous place in every Muhammedan Registrar's office.

19. Disposal of fees.

- The fees received by a Muhammedan Registrar under Sections 10 and 16 of the Act 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 16. All fees received by a District Registrar shall be credited to Government in the same way as fees realised under the Indian Registration Act.

20. Attendance at marriages.

- When the attendance of a Muhammedan Registrar is required at the celebration of a marriage or other ceremony the party requiring his attendance may make an application to the Muhammedan Registrar, specifying the place and time of the marriage or other ceremony, and that officer may attend.

21.

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

22.

Every Muhammedan Registrar shall exhibit in some conspicuous part of his office a table of fees, he is authorised to levy under Sections 9 and 16.

23. Procedure on application to Registrar in absence of any of the parties.

- When a Muhammedan 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 12, 15 and 22.

24.

If all the persons, who by Section 11 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.

25. Procedure before registration.

- The Muhammedan 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 : (a) by examining the parties to the marriage, or if either or both of them are minors, their lawful guardians. If the woman be a purdahnashin her duly authorised agent shall be examined instead of the woman; (b) by examining the two witnesses who were present at the marriage.

26.

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

27.

The Muhammedan 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 : (a) by examining the parties to the Khula; provided that if the woman is a purdahnashin her duly authorised agent shall be examined instead of the woman; (b) if the man be of the Shia sect, by also examining the two witnesses to the divorce being effected.

28.

The Muhammedan Registrar shall satisfy himself of the identity of persons appearing before him as witnesses of a 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.

29.

In the case of any person appearing as the representative of the man or woman (whether he appears as guardian) or duly authorised agent the Muhammedan Registrar shall satisfy himself of the right of such person to appear by examining such person. If an agent so appears, the Muhammedan Registrar shall further examine witness to the fact of the agent having been duly authorised to appear.

30.

When the entry of the marriage or divorce has been made in the proper register, it shall be read over by the Muhammedan Registrar to the persons, who, by Section 11 are required to sign such entry. If they admit its correctness, the entry shall then be signed by them.

31.

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

32. Correction of error.

- If a Muhammedan Registrar discovers any error in the form of substance of any entry of a marriage or divorce made by him, he 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 he shall also make the like marginal entry in the copies thereof. Every entry made under this rule shall be attested by the witnesses in whose presence it was made and in case a copy has been already sent to the Registrar, such persons shall make and send another copy thereof, containing both the original erroneous entry and the marginal correction therein made.

33.

No erasures shall be made with a knife in any register 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.

34. Refusal of registration.

- 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 Marriage Registrar to whom application for registration is made. (2) If the application is not made by the person specified in Section 8. (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 11 to sign the entry in the proper register fail to appear within the time limit for such appearance by the Muhammedan Registrar under Rule 24. (5) If the Muhammedan 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 Muhammedan Registrar fails to satisfy himself as to the identity of the persons appearing before him and alleging that the marriage has been effected. (7) In the case of any person, appearing as the representative of the man or woman whether he appears as guardian or as agent, the Muhammedan Registrar fails to satisfy himself of the right of such person to appear. (8) If one of the parties applying for registration of marriage, or if the man applying for the divorce, appears to be of unsound mind.

35. Refusal deferred.

- Clauses (2) and (8) of the order of refusal, 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.

36.

The reasons for refusal to register shall be concisely and clearly stated in each particular case. When registration is refused under Clause (5), (6) or (7) of Rule 34 the Muhammedan Registrar shall record the grounds of his decision.

37. In what cases fees may be refunded.

- Fees paid under Section 9 shall not be refunded unless registration is refused for one of the reasons in Clauses (1), (2), (3) and (8) in Rule 34. Fees and travelling allowances paid for the attendance of Muhammedan Registrars at the celebration of marriages shall be refunded only in cases where the Muhammedan 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.

38. Manner of refund.

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

39. Certificate of closure of Volume.

- When a register book is closed, a certificate to that effect shall be appended at the close of the written portion and a certificate showing the number of pages written up on shall be entered on the first page.

40. The registers and indexes shall be kept in such languages as the Inspector.

- General of Registration shall, from time to time, prescribe for any district in which the Act has taken effect or for any Muhammedan Registrar. Copies under Sections 12, 15 and 22 should be prepared in the language in which the registers are kept.

41.

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.

42.

The index to marriages and divorces shall be prepared from registers Book I, II, III and IV contain the particulars as stated in Form 'C'.

43.

Name shall be indexed according to their first letter, and shall be arranged in the order of the Oriya alphabet. A mere title or designation of race shall not be taken as the index word. Thus Shaikh Ramzan will be indexed Ramzan Shaikh, Mir Aulad Ali, Aulad Ali, Mir.

44.

A catalogue in Form 'D' shall be kept up and permanently preserved. In every Muhammedan Register's Office, and on the occasion of every transfer of records the officer receiving charge of the 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 column of remarks, together with the date of transfer.

45.

In district offices the following records shall be preserved in perpetuity, namely-All Register Books I, II, III, and IV and their indexesThe CatalogueRegister of refusalsRegister of appealsReports of the destruction of records and list of papers destroyed.

46. Destruction of records.

- The following records may be destroyed after the expiration of three full years from the period to which they relate, namely:(i)Applications for registration or for attendance at the celebration of marriages under Rule 9.(ii)Applications for search or copies of extracts.(iii)All correspondence, whether in the vernacular or in English which is of an ordinary routine character and which the Registrar considers may be destroyed.

47. Search and copies .

- No records or papers whatever shall be destroyed without the previous sanction of the Inspector-General.

48.

Applications for search in the records or for copies of extracts therefrom shall be made in writing. No stamps shall be 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 Muhammedan Registrar shall be filed by him, the date of application and the date on which a search was made or copy delivered, being noted on the back of the application. If the register from which an extract is required has been transferred to the District Registrar or other person under Section 23, the application, together with the prescribed fee, shall be forwarded by the Muhammedan Registrar to such District Registrar or other person at the expense of the applicants.

49.

A call for information from any Court, shall if it necessitates search in the registers, be accompanied by the necessary as or 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 Muhammedan 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. Two rupees may be charged for extracts and copies of the orders and records not otherwise provided for in the law.

Form 'A'[See Rule 5](1)Name of candidate with usual signature of candidate.....(2)Date of application and full address of candidate.....(3)Age of the candidate.....(4)Profession or present employment of candidate with present salary and pension.....(5)Father's name and profession.....(6)Present family residence of candidate.....(7)Distance of residence from proposed registry office and Sadar station.....(8)Whether candidate has a masonry house for office.....(9)If previously employed under Government, details of past service if ever dismissed from any post.....(10)Names and address of persons recommending the candidate.....(11)Whether the candidate is acquainted with Arabic, Persian, Urdu or English.....(12)Whether the candidate is acquainted with the Muhammedan laws and rules, any certificate from any Government or private Madrassa (stating its name).....(13)Remarks of the District Registrar.....

Form 'B'[See Rule 9]Licence under Section 3 (Orissa Act VII of 1959)To By virtue of the authority conferred upon the State Government by Orissa Act VII of 1949 you are hereby authorised to register, in the manner prescribed by the above Act, all Muhammedan marriages and divorces on application 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 State Government, in pursuance of the power conferred by the above Act.

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

Issuing authorityForm 'C'[See Rule 43]Indexes(1)Name of party.....(2)Father's name(3)Residences.....(4)Place of registration.....(5)Year of registration.....(6)Serial No. for the year.....(7)Book.....(8)Volume.....Residence includes village or town, police station and district.

Form 'D'[See Rule 44]

Serial No.	District or sub-district to which the books relate	Year	Title of the books	Volume	No. of entries in each book	No. of pages written on	Remarks
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