

Muslim Personal Law (Shariat) Application (Kerala) Rules, 2018

KERALA

India

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Rule

MUSLIM-PERSONAL-LAW-SHARIAT-APPLICATION-KERALA-RULES-2018

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Muslim Personal Law (Shariat) Application (Kerala) Rules, 2018Published vide Notification No. G.O. (P) No. 13/2018/Law. 21st December, 2018S. R. O. No. 920/2018. - In exercise of the powers conferred by section 4 of the Muslim Personal Law (Shariat) Application Act, 1937 (Central Act 26 of 1937), the Government of Kerala hereby make the following rules, namely:-

1. Short title and commencement.

(1)These rules may be called the Muslim Personal Law (Shariat) Application (Kerala) Rules, 2018.(2)They shall come into force at once.

2. Definitions.

- In these rules unless the context otherwise requires,-(a)"Act" means the Muslim Personal Law (Shariat) Application Act. 1937 (Central Act 26 of 1937);(b)"Appellate Authority" means Additional District Magistrate having jurisdiction over a district;(c)"Form" means the Forms appended to these rules;(d)"prescribed authority" means Tahasildar having jurisdiction over the area wherein the party is permanently residing;(e)"section" means a section of the Act.

3. Filing of declaration.

(1)Any Muslim who desires to obtain a declaration provided under section 3 of the Act may tile before the prescribed authority in Form I duly attested by a Notary Public, appended to these rules;(2)A declaration in Form 1 shall be in writing and be filed directly to the prescribed authority.

4. Fee for filing declaration.

(1)The prescribed authority shall realise an amount of Rs.100 by way of fee for obtaining Certificate of declaration. The fee shall be paid either in cash or by way of treasury chalan and in the latter case the fee receipt shall be attached along with Form I. The prescribed authority shall give a cash receipt for the payment.(2)As soon as a Form I under rule 3 has been received by the prescribed authority, he shall enter the necessary particulars in a Register kept for the purpose in Form II with number and date of receipt of the Form I and shall be countersigned by the dated signature and seal of the prescribed authority.

5. Enquiry on declaration.

(1)On receipt of Form I the prescribed authority shall conduct such enquiries as he may deem fit into the claim of the party as to whether he satisfies all the conditions stipulated in section 3 of the Act, within one month from the date, of receipt of the Form I.(2)The party shall produce a Certificate obtained from the Jama-ath concerned as well as a caste certificate obtained from the revenue authorities and other sufficient evidence to prove age and competency of the party as required under section 3 of the Act and shall produce three passport size photographs to affix the same in the space provided for in Forms appended to these rules.(3)If on enquiry, the prescribed authority satisfies that the declaration furnished by the party are true and correct, he shall issue a Certificate of Declaration in a stamp paper in Form III within 45 days from the date of receipt of Form I. The stamp paper shall be of the value of Rs. 50 and shall be produced by the party.(4)If on enquiry, it is found that the declarant does not satisfy the requirements in section 3, the prescribed authority shall reject the declaration, after affording him an opportunity of being heard by way of an order in writing and the same shall be communicated to the party within one week from the date of such order.

6. Appeal.

(1)Where the prescribed authority rejects a declaration, the person desiring to make the same may appeal to the Appellate Authority having jurisdiction over the area, within thirty days from the date of receipt of the order under sub-rule (4) of rule (5).(2)On receipt of the appeal the Appellate Authority may call for the file relating to refusal by the prescribed authority and shall dispose of the appeal within one month from the date of receipt of such appeal, after providing him an opportunity of being heard.(3)Where the Appellate Authority is satisfied that the appellant is entitled to make such a declaration he shall so order the prescribed authority to accept the declaration and thereupon the prescribed authority shall act accordingly.(4)An order passed by the Appellate Authority shall be communicated to the party in writing within one week from the date of order.

7. Attendance at Private Residence.

- Where the party seeks before the prescribed authority for the attendance at a private residence for the performance of his duties, then the prescribed authority shall attend and perform the duty

accordingly at such private residence as sought for and in that event an additional fee of rupees one thousand shall be realised from the party concerned either by cash or by way of treasury chalan and a cash receipt shall be given to the party for cash payment.

8. Disposal of fees.

- All fees realised by the authorities under this rule shall be remitted in the Government Treasury under the receipt head of the Revenue Department.

9. Supply of Register Books.

- The Collector shall arrange for the supply of Folms and Registers required under these rules.

From I Affix aPassport sizePhotograph

(See Rule 3)

Declaration

I.....S/o/D/o..... residing at
..... VillageTalukDistrict, permanently
residing athereby declare, affirm and state as follows:I
am (a) a Muslim,(b)competent to contract under section 11 of Indian Contract Act, 1872,(c)is a
resident of the territory to which this Act applies;I intend to be governed by the Muslim Personal
Law on matters such as adoption, wills and legacies as specified in section 3 of the Act;I intend to
express my desire to be governed through a declaration to that effect;I am producing herewith the
following proofs to satisfy my claim under section 3 of the Act, viz:-(a)(b)(c)(d)All the facts stated
above are true to the best of my knowledge, information and belief.Dated Signature of the
party.Solemnly affirmed and signed before me by the declarant who is known to me personally on
this the day of..... at.....Notary Public

From II Affix aPassport sizePhotograph

[See Rule 4(2)]

Register

1	Name in full (in Capital)	:	.....
2	Father's Name	:	.....
3	Mother's Name	:	.....
4	Nationality	:	.....
5	Address of the party in full:	:	.....
House No.		:	.....

Ward No.	:	.....
Taluk	:	.....
Village	:	.....
District	:	.....
Post Office	:	.....
e-mail ID	:	.....
Telephone No.	:	.....
6	Present Address of the party in full:	:
House No.	:	.....
Ward No.	:	.....
Taluk Village District Post Office e-mail IDTelephone No.	:	.....
7	Age and Date of Birth	:
(Sufficient proof shall be produced)	:	.....
8	Sex	:
9	Occupation	:
10	Previous marital status	:
(Married/Unmarried/ Widower/Widow/Divorced)	:	.....
11	Whether any spouse is living (if yes, number	:

	of spouse living)	
12	Details of children, if any (in case of minors, specify)	:
13	Details of descendants, if any:-	:
Signature of the Party		
Space for Office Use		
	Date of receipt of declaration	:
	Details of Documents/Records/ Proof required under Rule 5(2)	:
Dated Signature with office seal of the Prescribed Authority Form III [See rule 5(4)] Government of Kerala Certificate of Declaration* (to be obtained in a stamp paper) Certificate		
No...../.....Dated.....		
Affix a Passport size Photograph		

(Office seal covering Photograph) This is to declare that Shri/Smt.....
S/o./D/o..... permanently residing at.....
.....Village.....Taluk, District, is a Muslim, entitled to be governed
by section 3 of the Muslim Personal Law (Shariat) Application Act, 1937 for the purposes of section
3 of the said Act. Issued under my hand and seal on this the day of.....Dated Signature
with office seal of the Prescribed Authority.* This certificate is issued for the limited purpose of the
Act.