

Revised Rules Under Sections 18 and 24 of the Bengal Mohammedan Marriages and Divorce Registration Act, 1876

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Rule

REVISED-RULES-UNDER-SECTIONS-18-AND-24-OF-THE-BENGAL-MO of 1876

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Revised Rules Under Sections 18 and 24 of the Bengal Mohammedan Marriages and Divorce Registration Act, 1876An Act to provide for the voluntary registration of Mohammedan Marriages and Divorces, (approved by the Lieutenant Governor of Bengal)

1. Nomination of Mohammedan Registrars.

- As soon as the Act has been extended to any district under Section 1, the District Registrar shall nominate a sufficient number of persons possessing the qualifications specified in Rule 3 to be licensed as Mohammedan Registrars under Section 3. The District Registrar shall also specify the limits within which each of the persons so nominated shall exercise the functions of Mohammedan Registrar.

2. Form of application.

- The District Registrar's nomination shall be submitted to the Permanent Committee in Calcutta and shall be accompanied by the original application of the candidate in the form appended 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 Mohammedan law of marriage and divorce signed by three Mohammedan gentlemen of respectability and position, and

countersigned by the District Magistrate or District Judge. Application for a Mohammadan Registrarship under Act 1 (B.&O.) of 1876 (An Act to provide for the voluntary registration of Mahammadan Marriage and Divorce) at.....thana.....district of

Name and usual signature of candidate, date of application and address in full	Age	Profession or present employment of candidate, with present salary or pension	Father's name and profession	Present family residence of candidate	Distance of residence from proposed registry office and sadar station	Whether candidate has masonry house for office
1	2	3	4	5	6	7
If previously employed under Government, details of past service, if ever dismissed from any post, particulars of the fact		Names and addresses of persons recommending the candidate	Whether candidate is acquainted with Arabic, Persian, Urdu, Bengali, or English	Whether candidate is acquainted with Mohammadan law, and holds any certificate from any Government or private Madrasa (stating its name)	Remarks of the District Register	Remarks
8		9	10	11	12	13

3. Who may be nominated.

- Candidates selected for the post of Mohammadan Registrars should be possessed of sufficient acquaintance with the Arabic language and Mohammadan law of marriage and divorce and be of good moral character. Preference shall ordinarily be given to ex-kazis and Government pensioners, being Mohammadans, Maulvies, Khundkars and Mullahs, who reside, or are willing to reside at a convenient place within the limits of the proposed jurisdiction, provided they are possessed of the above qualifications, but no person shall be nominated merely by reason of some supposed hereditary right.

4. Jurisdiction.

- The limits within which a Mohammadan Registrar shall be licensed to act shall coincide with the limits of a sub-district under the Indian Registration Act, or within the jurisdiction of one or more police-stations or part thereof as the Lieutenant-Governor may from time to time direct. The head-quarters shall be at some convenient place within those limits.

5.

The District Registrar's nomination with the accompanying applications and certificates shall be

forwarded to Government by the Permanent Committee with their remarks and recommendations. Should the nomination of the District Registrar be disapproved, the District Registrar may be requested to submit a fresh nomination, or the Permanent Committee may select any other candidate. For this purpose a list of candidates willing to serve as Muhammadan Registrars in any district to which they may be appointed shall be kept in the office of the Inspector-General of Registration.

6. Liability to examination.

- Should such a course appear expedient hereafter, all Mohammadan 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 vernacular of the district;(2)Mohammadan law of marriage and divorce;(3)Act I of 1876 (B. & O.) and the Rules.And if any person, who has been appointed a Mohammadan Registrar, fails to pass such examination, his licence will be liable to be cancelled. Such examination may be held at such times and places and by such examiners as the Lieutenant-Governor may from time to time appoint.

7. Form of licence.

(1)Licences to qualified persons who have been approved of as Mohammadan Registrars will be granted in the following form:-"Licence under Section 3, Act I (B. & O.) of 1876ToofCalcutta, the 188.....By virtue of the authority conferred upon His Honour the Lieutenant-Governor of Bengal by Act I (B. & O.) of 1876, you are hereby authorized to register, in the manner prescribed by the above Act, all Mohammadan marriages and divorces which shall be effected within.....on application being made to you for such registration.(2)It will be your duty carefully to observe the provisions of the abovementioned Act, and such Rules as may from time to time be prescribed by His Honour the Lieutenant-Governor in pursuance of the power conferred upon him by the above Act.(3)This licence shall continue in force until it is revoked or suspended by the said Lieutenant-Governor of Bengal.By order of His Honour the Lieutenant-Governor of Bengal.Secretary to the Government of Bengal.

8. Registration of licence.

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

9. Change of officers.

- When a Mohammadan Registrar make over charge of his office to a successor, a certificate shall be jointly given of the date on which the office is made over, and of the safety and correctness of the records; and this certificate shall be forwarded by the District Registrar to the Inspector-General.

10. Leave.

- Mohammadan Registrar 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. All leave shall be at once reported to that officer, together with the arrangements made for carrying on the duties of the Mohammadan Registrar.

11.

In cases of leave or absence from duty, the next nearest Mohammadan Registrar shall ordinarily be appointed to carry on the duties of the absentee, in addition to his own, or the District Registrar may appoint a temporary substitute, on his being licensed, from among the list of candidates for Mohammadan Registrarships registered in his office.

12. Not entitled to pension.

- It is not intended that service as a Mohammadan Registrar shall count as Government service, so as to give rise to any claim for pension or gratuity, or to leave allowances of any kind. ,

13. General Control.

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

14. Books and Stationery.

- A Mohammadan Registrar will, on first appointment, be supplied with the registers, etc., mentioned below, free of charge:-

1. Register A (Book I).

2. Copies of ditto for parties.

3. Ditto for the Registrar.

4. Ditto for issue.

- 5. Register B (Book II).**
- 6. Copies of ditto for parties.**
- 7. Copies of Register B (Book II) for the Registrar.**
- 8. Ditto for issue.**
- 9. Register C (Book III).**
- 10. Copies of Register C (Book 111) for parties.**
- 11. Ditto for the Registrar.**
- 12. Ditto for issue.**
- 13. Book of refusals.**
- 14. Index Book.**
- 15. Ditto Sheets.**
- 16. Form of application.**
- 17. Catalogue.**
- 18. Act and Rules in Urdu.**
- 19. Indent for forms.**

He will also be supplied with a seal and will use no ink for making entries in the registers and indexes other than that supplied from the Government stores. All books, registers, etc., which may subsequently be supplied shall be paid for by the Mohammadan Registrar at the time of supply; but in any case, when the District Registrar thinks it necessary, he may defer the realization 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 Mohammadan Registrar will obtain an indent from the Government stores, at cost, price, Register Books A, B and C, Index Books, index Sheets, Forms of Application, Catalogues and a seal which is not to cost more than Rs. 2. He will supply himself with forms 2, 3, 4, 6, 7, 8, 10, 11, 12 on good stout paper, and keep up himself Books of Refusals and Books of Appeals on country paper.

15. Custody of Seals.

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

16. Table of fees.

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

17. Disposal of fees.

- The fees received by a Mohammadan Registrar under Sections 9 and 16 of the Act, and Rules 20 and 49, 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 14. All fees received by a District Registrar shall be credited to Government in the same way as fees realized under the Indian Registration Act.

18. Attendance at marriages.

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

19.

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

20. Fees.

- Mohammadan Registrars are at liberty to make their own terms as regards the extra fees to be given them for attending marriages or divorces. They are prohibited from demanding fees beyond the following scale for attending at a marriage or other ceremony. Rupees 3 plus travelling allowance at the rate of three annas a mile.

21.

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

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

- When a Mohammadan Registrar is present at the celebration of a marriage, he shall make an entry of the fact in the register of marriages (A), and a copy of such entry shall be included in the copies to be made under Sections 12, 15 and 22 of the Act.

23.

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.

24. Procedure before Registration.

- The Mohammadan Registrar shall satisfy himself whether or not a marriage was effected by the persons by whom it is represented to have been effected in the following manner-(1)by examining the parties to the marriage, or if either or both of them are minors, their lawful guardians. If the woman be a pardahnashin, her duly authorized- vakil shall be examined instead of the woman;(2)by examining the two witnesses who were present at the marriage.

25.

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

26.

The Mohammadan Registrar shall satisfy himself that a divorce of the kind known as khula, was effected by the person whom it was represented to have been effected in the following manner:-(1)by examining the parties to the khula:Provided that if the woman be pardahnashin, her duly constituted vakil shall be examined instead of the woman;(2)if the man be of the Shia sect, by also examining the two witnesses to the divorce being effected.

27.

The Mohammadan 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.

28.

In the case of any person appearing as the representative of the man or woman (whether he appears as guardian or wakil), the Mohammedan Registrar shall satisfy himself of the right of such person to appear, by examining such person. If a wakil so appears, the Mohammedan Registrar shall further examine witnesses to the fact of the wakil having been duly authorized to appear.

29.

When the entry of the marriage or divorce has been made in the proper register, it shall be read over by the Mohammedan 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.

30.

When a person who cannot write signs 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.

31. Correction of error.

- If a Mohammedan Registrar discovers any error in the form or substance or 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 thereto the date of such correction, and he shall also make the like marginal entry in the copies thereof. And every entry made under this Section shall be attested by the witnesses in whose presence it was made. And, in case a copy has been already sent to the Registrar, such person shall make and send another copy thereof, containing both the original erroneous entry and the marginal correction therein made.

32.

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 invariably be 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.

33. Refusal to register.

- The circumstances under which registration of 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 the registration is made.(2)If the application is not made by the

persons specified in Section 8 of the Act.(3)If 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 Mohammedan Registrar under Rule 23.(5)If the Mohammedan Registrar fail to satisfy himself that that marriage or divorce was effected by the person or persons by whom it is represented to have been effected.(6)If the Mohammedan Registrar fail 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 wakil, if the Mohammedan Registrar fail to satisfy himself of the right of such persons 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.

34. Refusal deferred.

- In cases 2 and 8 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 with that registration should at once be refused, this may*be done.

35.

The reasons for refusal to register to be recorded under Section 20 shall be concisely and clearly stated in each particular case. When registration is refused under Clauses (5), (6) or (7) of Rule 33, the Mohammedan Registrar shall record the ground of his decision.

36. In what case fees may be refunded.

- Fees paid under Section 9 shall not be refunded unless registration is refused for one of the reasons numbered (1), (2), (3) and (8) in Rule 33. Fees and travelling allowances paid for the attendance of Mohammedan Registrar at the celebration of marriage shall be refunded only in cases where the Mohammedan 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.

37. Manner of refund.

- The refund of fees paid to a Mohammedan 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.

38. 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 upon shall be entered on the

first page.

39. Language to be used.

- The Registers and Indexes shall be in Bengali. Copies under Sections 12,15 and 22 should be prepared in the language in which the registers are kept.

40.

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

41. Index.

- The index to marriages and divorces shall be prepared from Registers A, B and C, and contain the following particulars:-

1. Name of party.

2. Father's name.

3. [Residence] [Residence includes village, or town, police Station and District.]

4. Place of registration.

5. Year of registration.

6. Serial number for the year.

7. Book.

8. Volume,

9. Page.

42.

Names shall be indexed according to their first letter, and shall be arranged in the order of the Bengali 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 AN, Mir.

43. Catalogue.

- A catalogue, in form given below, shall be kept up and permanently preserved in every Mohammedan Registrar'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. Form of Catalogue

Serial No.	District or sub-district to which the	Year	Title of book	Volume	Number of entries in each	Number of page written on	Remarks
1	2	3	4	5	6	7	8

44.

In district offices the following records shall be preserved in perpetuity:-All register books A, B and C, and their indexes. The Catalogue. Registers of Refusals. Register of Appeals. Reports of the destruction of records and list of papers destroyed.

45. Destruction of records.

- The following records may be destroyed after the expiration of three full years from the period to which they relate:-Application for registration for or attendance at the celebration of marriages under Rule 18. Application for search, or copies of extracts. All correspondence, whether in the vernacular or in English, which is of an ordinary routine character, and which the Registrar considers, may be destroyed.

46. Search and copies.

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

47.

Application 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 Mohammedan Registrar shall be filed by him, the date of application and the date on which a search was made, or a copy delivered being noted on the back of the application. If 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 Mohammedan Registrar to such District Registrar or other person at the expense of the applicant.

48.

A call for information from any Court shall, if it necessitates search in the registers, be accompanied by the necessary fee for search. Officers of Government shall be permitted to inspect the registers without fee; but if the production of a register in any Court is required, it shall be produced by the Mohammadan 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.

49.

Besides the fees leviable under Section 16 of the Act, a fee of eight annas may be charged for extracts and copies of orders and records not otherwise provided for in the law. Notification No. 6563/R., dated the 24th September, 1913. - In exercise of the powers conferred on him by Section 24 of the Bengal Mohammadan Marriages and Divorces Registration Act, 1876 (Bengal Act I of 1876), and in supersession of all previous rules on the subject, the Lieutenant-Governor in Council is pleased to make the following Rules for the guidance of the Permanent Committee for the supervision of Mohammadan Registrars appointed under the said Act and of Kazis appointed under the Kazis Act, 1880 (XII of 1880):-

1. The Committee shall consist of five or more members appointed by the Local Government, the appointments being notified in the Bihar and Orissa Gazette. The Inspector-General of Registration for the time being shall be ex-officio President of the Committee. Three members shall form a quorum. In case of the death, resignation or inability (from any cause) to act for any member, the President shall submit a fresh nomination for the consideration of Government.

2. The Committee shall meet at the Office of the Inspector-General of Registration; or at any other place previously notified by the Inspector-General, twice a year. Notice of the matters to be laid before Committee shall be circulated before hand. In case of any urgent business or upon the requisition of three members, the President shall call a special meeting of the Committee for the consideration of such business.

3. The Committee shall have power to deal with the following matters:-

(1)The consideration of all nominations to the post of Mohammadan Registrars made by District Registrar under Rule 2 of the rules framed under the Mohammadan Marriage Registration Act for recommendation to Government:(2)The temporary suspension or removal of Mohammadan Registrars, subject to the submission of a report for the final order of Government.(3)The consideration of all nominations to the post of Kazi made by District Registrars for recommendation

to Government.(4)The temporary suspension or removal of Kazis, subject to the submission of a report for the final orders of Government.

4. Subject to the approval of Government, the Committee shall be empowered to arrange for the examination from time to time of all Mohammedan Registrars:-

(1)In the Mohammedan Law of Marriage and Divorce, and(2)In Act I (B. & O.) of 1876 and its Rules.