



LAWS OF KENYA

**MOHAMMEDAN MARRIAGE AND
DIVORCE REGISTRATION ACT**

CHAPTER 155

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CHAPTER 155

MOHAMMEDAN MARRIAGE AND DIVORCE REGISTRATION ACT

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CHAPTER 155

MOHAMMEDAN MARRIAGE AND DIVORCE REGISTRATION ACT

[Date of commencement: 8th June, 1906.]

An Act to provide for the registration of Mohammedan marriages and divorces

[Act No. 13 of 1906, Cap. 147 (1948), Act No. 15 of 1961, L.N. 519/1961, L.N. 520/1961, L.N. 462/1963, L.N. 2/1964, Act No. 21 of 1966, Act No. 14 of 1972.]

1. Short title

This Act may be cited as the Mohammedan Marriage and Divorce Registration Act.

2. Interpretation

In this Act—

“**assistant registrar**” means an assistant registrar of Mohammedan marriages and divorces appointed under section 4 of this Act;

“**purdah-nisheen**” means a woman who according to the custom of the country might reasonably object to appear in a public office;

“**Registrar**” means the Registrar of Mohammedan Marriages and Divorces appointed under section 3 of this Act.

[Act No. 15 of 1961, Sch.]

3. Appointment of Registrar

The Minister shall appoint a Registrar of Mohammedan Marriages and Divorces.

[Act No. 15 of 1961, Sch., L.N. 519/1961, Sch.]

4. Deleted by Act No. 14 of 1972, Ninth Sch.

[Act No. 15 of 1961, Sch., L.N. 519/1961, Sch., L.N. 462/1963, Sch., Act No. 21 of 1966, Sch., Act No. 14 of 1972, Ninth Sch.]

5. Seal

The Registrar and every assistant registrar shall use a seal bearing such inscription as the Minister may authorize.

[Act No. 15 of 1961, Sch., L.N. 519/1961, Sch.]

6. Supply of seals and books

The Registrar shall supply for the office of each assistant registrar the seal and books necessary for the purposes of this Act, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page thereof by the Registrar.

[Act No. 15 of 1961, Sch.]

7. Registers to be kept

Every assistant registrar shall keep the following registers—

- (a) a register of marriages in the form in the First Schedule to this Act; and
- (b) a register of divorces in the form in the Second Schedule to this Act.

[Act No. 15 of 1961, Sch.]

8. Entries to be numbered

All entries in each register prescribed by this Act shall be numbered in a consecutive series, which shall commence and terminate with each year; a fresh series being commenced at the beginning of each year.

9. Registration of marriages and divorces

The parties to a marriage or divorce recognized by Mohammedan law, or if the man or the woman or both are minors their respective lawful guardians, shall register such marriage or divorce with an assistant registrar within seven days from the celebration of such marriage or the pronouncement of such divorce, as the case may be.

[Act No. 15 of 1961, Sch.]

10. Method of application for registration

Every application for registration under this Act shall be made to the assistant registrar orally as follows—

- (a) if the application is for the registration of a marriage, by the parties to the marriage jointly:

Provided that if the man or the woman or both are minors application shall be made on their behalf by their respective lawful guardians and if the woman is a purdah-nisheen such application may be made on her behalf by her duly authorized agent;

- (b) if the application is for registration of a divorce, by the parties to the divorce jointly:

Provided that if the woman is a purdah-nisheen such application may be made on her behalf by her duly authorized agent.

[Act No. 15 of 1961, Sch.]

11. Duties of assistant Registrar on application

(1) On application being made to an assistant registrar for registration under this Act of a marriage or divorce, the assistant registrar shall—

- (a) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage or divorce has been effected;
- (c) in the case of any person appearing as the representative of the man or woman (whether he appears as guardian or agent), satisfy himself of the right of such person to appear.

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(2) If the assistant registrar is satisfied on the above points and not otherwise, he shall make an entry of the marriage or divorce in the proper register:

Provided that no such entry shall be made otherwise than in the presence of every person who by section 13 of this Act is required to sign such entry.

[Act No. 15 of 1961, Sch.]

12. Fees payable for registration

There shall be payable to the assistant registrar in respect of every registration of a marriage and in respect of every registration of a divorce such sum as the Minister may prescribe.

[Act No. 15 of 1961, Sch., L.N. 520/1961, Sch.]

13. Signatures to entries

Every entry in a register kept under this Act shall be signed as follows—

(a) if the entry is of a marriage—

(i) by the parties to the marriage or, if either or both of them are minors, by their lawful guardians respectively:

Provided that if the woman is a purdah-nisheen the entry may be signed by her duly authorized agent;

(ii) by two witnesses who were present at the marriage ceremony;

(iii) in cases in which the woman is represented by an agent, by two witnesses to the fact of the agent being duly authorized to represent her; and

(iv) by the assistant registrar;

(b) if the entry is of a divorce—

(i) by the parties to the divorce:

Provided that if the woman is a purdah-nisheen the entry may be signed on her behalf by her duly authorized agent;

(ii) by the person who identifies the man;

(iii) by the person who identifies the woman;

(iv) in cases where the woman is represented by an agent, by two witnesses to the fact of the agent having been duly authorized to represent her; and

(v) by the assistant registrar.

[Act No. 15 of 1961, Sch.]

14. Copies of entry to be given to parties

On completion of the registration of any marriage or divorce, the assistant registrar shall deliver free of any charge to each of the applicants for registration an attested copy of the entry.

[Act No. 15 of 1961, Sch.]

15. Index to be kept

(1) Each assistant registrar shall prepare a current index of the contents of the register of marriages, and the register of divorces and every entry in such index shall be made, so far as practicable, immediately after the assistant registrar has made an entry in any such register.

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(2) The index shall contain the name, place of residence and father's name of each party to every marriage or divorce and the date of registration; and it shall also contain such other particulars and shall be prepared in such form as the Minister may direct.

[Act No. 15 of 1961, Sch., L.N. 520/1961, Sch.]

16. Copies of register and index to be sent to Registrar

Every assistant registrar shall at the expiration of every month send to the Registrar certified copies of all entries made by him during the month in the register of marriages and in the register of divorces, and also of all entries made in the current index in accordance with section 15 of this Act, and the Registrar shall on receiving such copies file them in his office, and shall prepare alphabetical indexes of the marriages and divorces registered.

[Act No. 15 of 1961, Sch.]

17. Custody of registers

Every assistant registrar shall keep safely each register until the same is filled, and shall then, or earlier if he ceases to act as assistant registrar in the district or for the sect or community prescribed by his appointment, make over the same to the Registrar for safe custody.

[Act No. 15 of 1961, Sch.]

18. Inspection of registers and provisions of copies

(1) Any register or index or the copy of any entries in a register or index made and certified in accordance with section 16 of this Act, whether in the custody of an assistant registrar or the Registrar, shall, on payment of the prescribed fee, be open to inspection by any person applying to inspect the same.

(2) An assistant registrar or the Registrar, as the case may be, shall, on payment of the prescribed fee, furnish a copy of any entry made in any register or index in his custody or in any certified copy of the entries in any register or index made in accordance with section 16 of this Act and in his custody; and such copy shall be signed and sealed by the person making the same.

- (a) The fee payable for the inspection of any register or index shall be such sum as the Minister may prescribe.
- (b) The fee payable for a copy of any entry in a register or index other than the first copy referred to in section 14 of this Act shall be such sum as the Minister may prescribe.

[Act No. 15 of 1961, Sch., L.N. 520/1961, Sch.]

19. Superintendence of Registrar

The Registrar shall exercise a general superintendence and control over all assistant registrars appointed under this Act.

[Act No. 15 of 1961, Sch.]

20. Refusal to register

Any assistant registrar refusing to register a marriage or divorce shall make an order of refusal and record his reasons for such order in a book to be kept for that purpose.

[Act No. 15 of 1961, Sch.]

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21. Appeal from refusal

An appeal shall lie against the order of an assistant registrar refusing to register a marriage or divorce to the Registrar if made within twenty-one days from the date of the order, and the Registrar may reverse or alter such order, and the order passed by the Registrar on appeal shall be final.

[Act No. 15 of 1961, Sch.]

22. Correction of entries

(1) An assistant registrar or the Registrar may correct any error in any register or index.

(2) Correction shall be made without erasing the original entry, and shall be authenticated by the signature of the person making the same.

[Act No. 15 of 1961, Sch.]

23. Rules

(1) The Minister may make rules with regard to the following matters and generally for carrying into effect the provisions of this Act—

- (a) for regulating the attendance of assistant registrars at the celebration of marriages, and their remuneration for such attendance;
- (b) for regulating the grant of copies by assistant registrars and the Registrar;
- (c) prescribing the amount of any fee, where a fee is authorized by this Act;
- (d) for regulating the application of the fees levied under this Act.

[Act No. 15 of 1961, Sch., L.N. 520/1961, Sch.,
L.N. 462/1963, Sch., Act No. 21 of 1966, Sch.]

24. Saving

Nothing in this Act contained shall be construed to—

- (a) render invalid, merely by reason of its not having been registered, any Mohammedan marriage or divorce which would otherwise be valid;
- (b) render valid, by reason of its having been registered, any Mohammedan marriage or divorce which would otherwise be invalid;
- (c) authorize the attendance of any assistant registrar at the celebration of a marriage except at the request of all the parties concerned;
- (d) affect the religion or religious rites and usages of any person subject to this Act;
- (e) prevent any person who is unable to write from putting his mark instead of the signature required by this Act.

[Act No. 15 of 1961, Sch.]

25. Offences

Any person who being under an obligation to register a marriage or divorce under this Act fails to do so within the prescribed period, or refuses to state any

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of the prescribed particulars, or wilfully gives any false information or particulars for the purpose of registration, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment not exceeding six months, or to both such fine and such imprisonment.

26. Application

The Minister may, by notice in the *Gazette*, apply this Act to any area or to any tribe, sect or community within any area, and may by such notice fix the day on which the Act shall commence and take effect in such area or with regard to such tribe sect or community.

[L.N. 519/1961, Sch.]

FIRST SCHEDULE

[Section 7(a).]

FORM OF REGISTER OF MARRIAGES

- (1) Consecutive number.
 - (2) Names of the bridegroom and his father with their respective addresses.
 - (3) Names of the bride and her father with their respective addresses.
 - (4) Whether the bride is a spinster, widow or divorced from a former husband, and whether she is adult or otherwise.
 - (5) Name of the guardian of the bridegroom (if the bridegroom is a minor) and that of the guardian's father, the guardian's address and the relationship in which he stands to the bridegroom.
 - (6) Name of the guardian of the bride (if she is a minor) and that of his father, the guardian's address and the relationship in which he stands to the bride.
 - (7) The name of the bride's agent (if any) and of his father and their addresses and the relationship in which the said agent stands to the bride.
 - (8) Names of the witnesses to the due authorization of the bride's agent (if any), with names of their fathers, their addresses and the relationship in which they stand to the bride.
 - (9) Date on which the marriage was contracted (English style and according to the Mohammedan calendar).
 - (10) Amount of dower and method of payment.
 - (11) Specification of property (if any) given in lieu of dower.
 - (12) Name of place and district where the marriage took place.
 - (13) Name of the person in whose house the marriage ceremony took place and that of his father.
 - (14) Date of registration (English style).
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SECOND SCHEDULE

[Section 7(b).]

FORM OF REGISTER OF DIVORCES

- (1) Consecutive number.
 - (2) Names of the husband and of his father and their addresses.
 - (3) Names of the wife and of her father and their addresses.
 - (4) Date of divorce (English style and according to the Mohammedan calendar).
 - (5) Description of divorce.
 - (6) Manner in which divorce was effected.
 - (7) Name of the place and district in which the divorce took place.
 - (8) Name of the party in whose house the divorce took place and of his father.
 - (9) Names of witnesses to the divorce, if any, the names of their fathers and their respective addresses.
 - (10) Name of person identifying the husband before the assistant Registrar and that of his father and their addresses.
 - (11) Name of the person identifying the wife before the assistant Registrar and that of his father and their addresses and the relationship (if any) of such person to the wife.
 - (12) Date of registration (English style).
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CHAPTER 155

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SUBSIDIARY LEGISLATION

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[Subsidiary]

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[Subsidiary]

[Cap. 147(1948), Sub. Leg.]

1. These Rules may be cited as the Mohammedan Marriage and Divorce Registration Rules.
2. The following fees shall be levied throughout the area to which the Act has been applied—

	Sh.
(a) for the registration of a marriage	2
(b) for the registration of a divorce	4
(c) for the inspection of any specified entry in a register or index	1
(d) for a general search of any register or index, for each year searched (with a maximum fee of Sh. 20)	2
(e) for the copy of any entry in a register or index, other than the first copy referred to in section 14 of the Act	2

3. In the event of the contracting parties desiring the presence of an assistant registrar at the celebration of the marriage, the assistant registrar shall attend on being given sufficient notice thereof, and shall be entitled to receive and retain the customary remuneration (Ada).
4. On payment of the fee prescribed, any person shall be entitled to receive a certified copy of any entry in a register or index.
5. An assistant registrar of Mohammedan Marriages and Divorces may, if he is not a person receiving a salary from the Government, retain for his own use any fees which he is authorized to levy and collect under the said Act.

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[Subsidiary]

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[Subsidiary]

[Cap. 147(1948), Sub. Leg.]

The Act applies to all Mohammedans in Kenya excepting those Mohammedans of the following Shiah Communities—

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[Subsidiary]

