



## **RELEVANT PROVISIONS FOR SOLEMNIZATION OF MARRIAGE** **UNDER THE SPECIAL MARRIAGE ACT, 1954**

### CHAPTER II

### SOLEMNIZATION OF SPECIAL MARRIAGES

#### 4. Conditions relating to solemnization of special marriages –

Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely –

- (a) neither party has a spouse living;
- (b) neither party –
  - (i) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or
  - (ii) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
  - (iii) has been subject to recurrent attacks of insanity<sup>2\*\*\*</sup>;
- (c) the male has completed the age of twenty-one years and the female the age of eighteen years;
- (d) the parties are not within the degrees of prohibited relationship –

Provided that where a custom governing at least one of the parties permits of a marriage between them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationship; and

- (e) where the marriage is solemnized in the State of Jammu and Kashmir, both parties are citizens of India domiciled in the territories to which this Act extends.

Explanation.-In this section, "custom", in relation to a person belonging to any tribe, community, group or family, means any rule which the State Government may, by

notification in the Official Gazette, specify in this behalf as applicable to members of that tribe, community, group or family:

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1. Subs. by Act 68 of 1976, s. 21, for the former cl. (w.e.f. 27-5- 1976).
  2. Omitted by Act 39 of 1999, s. 3 (w.e.f. 29.12.1999).
  3. Subs. by Act 32 of 1963, s. 2, for cl. (d).
  4. Subs. by Act 33 of 1969, s. 29, for cl. (e).
  5. Ins. by Act 32 of 1963, s. 2.
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Provided that no such notification shall be issued in relation to the members of any tribe, community, group or family, unless the State Government is satisfied –

- (i) that such rule has been continuously and uniformly observed for a long time among those members;
- (ii) that such rule is certain and not unreasonable or opposed to public policy; and
- (iii) that such rule, if applicable only to a family, has not been discontinued by the family.

## **Notice of intended marriage**

5. When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

### **6. Marriage Notice Book and Publication.**

(1) The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

(2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

(3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is

permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

## 7. Objection to marriage.

(1) Any person may, before the expiration of thirty days from the date on which any such notice has been published under sub-section (2) of section 6, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained, if necessary, to the person making the objection and shall be signed by him or on his behalf.

## Procedure on receipt of objection

8. (1) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the court.

## 9. Powers of Marriage Officers in respect of inquiries.

(1) For the purpose of any inquiry under section 8, the Marriage Officer shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely –

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and inspection;

(c) compelling the production of documents;

(d) reception of evidence on affidavits; and

(e) issuing commissions for the examination of witnesses; and any proceeding before the Marriage Officer shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code (45 of 1860).

Explanation.-For the purpose of enforcing the attendance of any person to give evidence, the local limits of the jurisdiction of the Marriage Officer shall be the local limits of his district.

(2) If it appears to the Marriage Officer that the objection made to an intended marriage is not reasonable and has not been made in good faith he may impose on the person objecting costs by way of compensation not exceeding one thousand rupees and award the whole or any part thereof to the parties to the intended marriage, and any order for costs so made may be executed in the same manner as a decree passed by the district court within the local limits of whose jurisdiction the Marriage Officer has his office.

## 10. Procedure on receipt of objection by Marriage Officer abroad.

Where an objection is made under section 7 to a Marriage Officer 1\*[in the State of Jammu and Kashmir in respect of an intended marriage in the State], and the Marriage Officer, after making such inquiry into the matter as he thinks fit, entertains a doubt in respect thereof, he shall not solemnize the marriage but shall transmit the record with such statement respecting the matter as he thinks fit to the Central Government, and the Central Government, after making such inquiry into the matter and after obtaining such advice as it thinks fit, shall give its decision thereon in writing to the Marriage Officer who shall act in conformity with the decision of the Central Government.

## Declaration by parties and witnesses

11. Before the marriage is solemnized the parties and three witnesses shall, in the presence of the Marriage Officer, sign a declaration in the form specified in the Third Schedule to this Act, and the declaration shall be countersigned by the Marriage Officer.

## 12. Place and form of solemnization.

(1) The marriage may be solemnized at the office of the Marriage Officer or at such other place within a reasonable distance there from as the parties may desire, and upon such conditions and the payment of such additional fees as may be prescribed.

(2) The marriage may be solemnized in any form which the parties may choose to adopt:

Provided that it shall not be complete and binding on the parties, unless each party says to the other in the presence of the Marriage Officer and the three witnesses and in any language understood by the parties.-" I, (A), take thee (B), to be my lawful wife (or husband)."

### 13. Certificate of marriage.

(1) When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Fourth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses.

(2) On a certificate being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied with.

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1. Subs. by Act 33 of 1969, s. 29, for certain words.  
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### New notice when marriage not solemnized within three months

14. Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Officer as required by section 5, or where an appeal has been filed under sub-section (2) of section 8, within three months from the date of the decision of the district court on such appeal or, where the record of a case has been transmitted to the Central Government under section 10, within three months from the date of decision of the Central Government, the notice and all other proceedings arising therefrom shall be deemed to have lapsed, and no Marriage Officer shall solemnize the marriage until a new notice has been given in the manner laid down in this Act.

## THE FIRST SCHEDULE

[See section 2 (b) "Degrees of Prohibited relationship"]

### PART I

1. Mother
2. Father's widow (step-mother)
3. Mother's mother

4. Mother's father's widow (step grand-mother)
5. Mother's mother's mother
6. Mother's mother's father's widow (step great grand-mother)
7. Mother's father's mother
8. Mother's father's father's widow (step great grand-mother)
9. Father's mother
10. Father's father's widow (step grand-mother)
11. Father's mother's mother
12. Father's mother's father's widow (step great grand-mother)
13. Father's father's mother
14. Father's father's father's widow (step great grand mother)
15. Daughter
16. Son's widow
17. Daughter's daughter
18. Daughter's son's widow
19. Son's daughter
20. Son's son's widow
21. Daughter's daughter's daughter
22. Daughter's daughter's son's widow
23. Daughter's son's daughter
24. Daughter's son's son's widow
25. Son's daughter's daughter
26. Son's daughter's son's widow
27. Son's son's daughter
28. Son's son's son's widow
29. Sister
30. Sister's daughter
31. Brother's daughter]
32. Mother's sister
33. Father's sister
34. Father's brother's daughter
35. Father's sister's daughter

36. Mother's sister's daughter
37. Mother's brother's daughter

Explanation.—For the Purposes of this Part, the expression "widow" includes a divorced wife.

## **PART II**

1. Father
2. Mother's husband (step-father)
3. Father's father
4. Father's mother's husband (step grand-father)
5. Father's father's father
6. Father's father's mother's husband (step great grand-father)
7. Father's mother's father
8. Father's mother's mother's husband (Step great grand-father)
9. Mother's father
10. Mother's mother's husband (step grand-father)
11. Mother's father's father
12. Mother's father's mother's husband (step great grand-father)
13. Mother's mother's father
14. Mother's mother's mother's husband (step great grand-father)
15. Son
16. Daughter's husband
17. Son's son
18. Son's daughter's husband
19. Daughter's son
20. Daughter's daughter's husband
21. Son's son's son
22. Son's son's daughter's husband
23. Son's daughter's son
24. Son's daughter's daughter's husband
25. Daughter's son's son
26. Daughter's son's daughter's husband
27. Daughter's daughter's son

28. Daughter's daughter's daughter's husband

29. Brother

30. Brother's son

31. Sister's son

32. Mother's brother

33. Father's brother

34. Father's brother's son

35. Father's sister's son.

36. Mother's sister's son

37. Mother's brother's son

Explanation.—For the purpose of this Part, the expression "husband" includes a divorced husband.

**THE SECOND SCHEDULE**  
**(See Section 5)**  
**NOTICE OF INTENDED MARRIAGE**

To  
Marriage Officer for the ..... District. We are hereby  
give you notice that a marriage under the Special Marriage Act, 1954, is intended  
to be solemnized between us within three calendar months from the date hereof.

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Name	Condition	Occupation	Age	Dwelling Place	Permanent Dwelling Place if dwelling Place not Permanent	Length of residence
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A.B.  
Unmarried  
Widower  
Divorcee

CD.  
Unmarried  
Widow  
Divorcee

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Witness our hands this ..... day of .....20.....

(Signature) A.B.

(Signature) C.D.

**THE THIRD SCHEDULE (See Section 11)**  
**DECLARATION TO BE MADE BY THE BRIDEGROOM**

I, A.B., hereby declare as follow:-

1. I am at the present time unmarried (or a widower or a divorcee, as the case may be).
2. I have completed..... years of age.
3. I am not related to C.D. (the bride) within the degrees of prohibited relationship.
4. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signature) A.B.(the Bridegroom)

**DECLARATION TO BE MADE BY THE BRIDE**

I, C.D., hereby declare as follows:-

1. I am at the present time unmarried (or a widow or a divorcee, as the case may be)
2. I have completed.....years of age.
3. I am not related to A.B. (the bridegroom) within the degrees of prohibited relationship
4. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Signature) C.D. (the Bride).

Signed in our presence by the above-named A.B. and C.D. so far as we are aware there is no lawful impediment to the marriage.

(Signature) G.H.

(Signature) I.J. **Three witnesses.**

(Signature) K.L.

Countersigned E.F.,

Marriage Officer.

Dated the ..... day of ..... 20.....

**THE FOURTH SCHEDULE**  
**(See section 13)**  
**CERTIFICATE OF MARRIAGE**

I, E.F., hereby certify that on the ..... day of ..... 20....., A.B. and C.D.\* appeared before me and that each of them, in my presence and in the presence of three witnesses who have signed hereunder, made the declarations required by section 11 and that a marriage under this Act was solemnized between them in my presence.

(Signature) E.F.,

Marriage Officer for

(Signature) A.B.,

Bridegroom

(Signature) C.D.,

Bride

(Signature) G.H.

(Signature) I.J.

Three  
witnesses

(Signature) K.L.

Dated the ..... day of .....20.....

\* Herein give particulars of the parties.