

THE KERALA CHRISTIAN MARRIAGE REGISTRATION BILL, 2020

A

BILL

to consolidate and unify the laws relating to solemnization and registration of marriages among Christians throughout the State of Kerala.

Preamble.- WHEREAS it is necessary and expedient to consolidate and unify the laws relating to solemnization and registration of marriages among Christians in the State of Kerala.

BE it enacted in the seventy first year of the Republic of India as follows:-

1. **Short title, extent and commencement** .- (1) This Act may be called The Kerala Christian Marriage Registration Act, 2020
 - (2) It extends to the whole of the State of Kerala.
 - (3) It shall come into force at once.
2. **Definitions.**- In this Act, unless the context otherwise requires,-
 - (a) "Act" means The Kerala Christian Marriage Registration Act, 2020;
 - (b) "Christian" means and includes any person who believes in the Bible and accept Jesus Christ as the only begotten Son of God and has been baptized, to whichever denomination he belongs.

- (c) “Episcopal Denomination” means any Christian denomination which recognises the authority of a Bishop ordained in accordance with the regulations of that denomination;
- (d) “Episcopal Ordination” means conferment of authority to perform all or any of the sacraments of Christian faith by or under the authority of a Bishop;
- (e) “Government” means the Government of Kerala;
- (f) “Marriage Officer” means a person authorised by an episcopal or non episcopal denomination for solemnizing a marriage under this Act;
- (g) “Marriage Registrar” means the person designated as Marriage Registrar under section 6 of this Act;
- (h) “Non Episcopal Denomination” means a christian denomination which does not have the office designated as Bishop or Episcopa or Metropolitan and includes the section called Jehova’s witnesses;
- (i) “Prescribed” means prescribed by Rules made under this Act.

3. *Conditions relating to solemnization of marriage.*- Notwithstanding anything contained in any other law for the time being in force, a marriage between persons, either of whom is a Christian or both of them are Christians, may be solemnized under this Act, if the following conditions are satisfied at the time of marriage, namely:-

- (a) neither party has a spouse, in a valid marriage, living at the time of marriage;
- (b) neither party is incapable of giving valid consent to the marriage in consequence of mental illness;
- (c) the parties have attained the age as provided in the Prohibition of Child Marriage Act, 2006 (Central Act 6 of 2007).

(d) the parties are not within the degrees of prohibited relationship as mentioned in the First Schedule of the Act.

- 4. *Persons by whom marriage can be solemnized.***- The marriage between persons either of whom is a Christian or both of them are Christians may be solemnized by a Marriage Officer in accordance with the provisions of this Act.
- 5. *Notice of intended marriage.***- (1) When a marriage is intended to be solemnized under this Act, either of the parties to the proposed marriage shall give a notice thereof in writing in the manner as may be prescribed to the Marriage Officer of the area in which he or she resides.

(2) The party giving notice shall, along with the notice, submit declarations signed by both parties and counter signed by two witnesses before the Marriage Officer, as may be prescribed.
- 6. *Marriage Registrar*** .- The government shall designate the Secretary of the Local Self Government Institutions as the Marriage Registrar within his jurisdiction. He shall maintain a marriage register for the registration of Christian marriages as may be prescribed.
- 7. *Publication of notice and its maintenance.***- (1) When a notice under section 5 has been received by the Marriage officer, he shall cause a copy of every such notice to be published in the notice board of the office of the Marriage Officer.

(2) The Marriage Officer shall also sent a copy of the said notice to the Marriage Officer within whose local limits the other party to the proposed marriage resides and the Marriage Officer who received such a notice shall cause a copy of every such notice to be published in the notice board of the office of such Marriage Officer .

(3) The Marriage Officer shall keep all notices and declarations received under section 5 as a permanent record in his office, in the manner as may be prescribed.

8. Procedure after publication of notice.- (1) After the publication of notice any person may make objections, if any, to the Marriage Officer within 7 days from the date of publication on any of the grounds specified in section 3 of this Act.

(2) If no objection has been received within the aforesaid period, the Marriage Officer shall solemnize the marriage.

(3) If any objection is received under sub section (1), the Marriage Officer shall not solemnize the marriage until such objections are duly inquired into and disposed of by him. If, on inquiry, the Marriage Officer is satisfied that the objections are without sufficient cause for denying solemnization of marriage or objections are withdrawn, he shall solemnize the marriage.

(4) After inquiry, if the Marriage Officer upholds the objection, he may decide to refuse solemnization of marriage and serve a copy of such decision to the parties of the proposed marriage forthwith:

Provided that the Marriage Officer shall complete the inquiry on such objections under this section within 7 days from the date of receipt of such objections, unless there are sufficient reasons to be recorded in writing for extension of the period of inquiry.

(5) The decision of the Marriage Officer under this section shall be final and binding on the parties.

(6) If the parties decide to solemnize the marriage before any other Marriage Officer, either party shall submit a request before the Marriage

Officer who published the notice under section 7 and such Marriage Officer shall transmit a letter along with copies of notice and declarations received under section 5 to the Marriage Officer under whom the parties have decided to solemnize the marriage.

(7) The Marriage Officer shall transmit the letter under sub section(6) only after completing the procedures contemplated in sub sections (1) to (4).

(8) The Marriage Officer who receives such a letter under sub section (6) shall solemnize the marriage under this Act and shall enter the necessary details as given in the notice and declarations in the record maintained for that purpose.

- 9. Time and place of solemnization of marriage.-** Every marriage under the Act may be solemnized by the Marriage Officer at such place and time as deemed convenient for the parties.
- 10. Rites and Ceremonies of marriage.-** Every christian marriage shall be solemnised in accordance with the customary rites and ceremonies of any of the parties of such Christian denominations.
- 11. Maintenance of Document of Solemnization of Marriage.-** When a marriage has been solemnised by the Marriage Officer, he shall enter the necessary details as given in the notice and declarations under section 5 in a record kept for that purpose, as may be prescribed . The parties to the marriage shall affix their signature in such record in the presence of two witnesses and the same shall be counter signed by the marriage officer. The Marriage Officer shall keep the record as a permanent record and issue copies of such record as and when applied by either of the parties to the marriage.

- 12. Christian Marriage to be compulsorily Registrable.-** (1) From the date of commencement of this Act all Christian marriages solemnized under the Act shall compulsorily be registered.
- (2) Either of the parties to the marriage shall submit an application, in the manner as may be prescribed, along with the document issued by the Marriage Officer to the Marriage Registrar for the registration of Christian marriage within two months from the date of solemnization of marriage along with a memorandum containing the details as may be prescribed.
- (3) Both the parties to the marriage shall affix their signature in the presence of two witnesses in the marriage register maintained for this purpose.
- (4) On verifying the records and satisfying the solemnization of marriage, the Marriage Registrar shall register the marriage and issue certificate of marriage to the concerned parties on remitting such fee as may be prescribed.
- (5) In case a Christian marriage could not be registered within the period specified in sub-section (2) of section 12, the parties to the marriage may apply to the Marriage Registrar, along with an application showing sufficient grounds to condone the delay, with all relevant records.
- (6) On satisfying upon sufficient grounds the Marriage Registrar may, after due verification of application and records, condone the delay and register the marriage on payment of such fee as may be prescribed.
- 13. Registration of Christian marriages solemnized prior to this Act.-** The Christian marriages solemnized prior to the commencement of this Act may be registered under the provisions of the Act on filing an application by the parties concerned on payment of such fee as may be prescribed

with relevant documents issued by the Authority where such marriage was solemnized, to the Marriage Registrar within a period of one year from the commencement of this Act:

Provided that Government may, by notification published in the Official Gazette, extend the period of one year on sufficient grounds.

- 14. Penalty for unauthorised acts.-** (1) If any person, not being authorised to solemnize a marriage does any act purporting to solemnize a marriage or issue a record purporting to be a document of solemnization of marriage, shall on conviction be punishable with imprisonment for a term which may extent to three years and shall also be liable to fine which may extend to rupees ten thousand.
- (2) whoever, being bound to perform the duties imposed on him under the provisions of this Act, without reasonable cause, refuses or wilfully neglects or omits to perform any of the duties so imposed on him, shall on conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to rupees ten thousand or with both.
- 15. Penalty for signing false declaration or certificate.-** Any person making, signing or attesting any declaration or document required by or under the Act and Rules framed under this Act containing a statement which is false or which he either knows or believes to be false or does not believe to be true shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees ten thousand or with both.
- 16. Offences are cognizable and bailable.-** Any offence under this Act shall be cognizable and bailable.

17. Permanent record and *Marriage Register to be opened for Inspection.*-

(1) The permanent record maintained by the Marriage Officer and marriage register maintained by the Marriage Registrar under this Act shall be open for inspection by any person, on an application made for that purpose, on payment of such fee as may be prescribed and a certified extract there from shall be admissible as evidence of the statements contained therein.

(2) Certified extract from the permanent record or Marriage Register shall, on application, be given by the Marriage Officer or the Marriage Registrar, as the case may be, to the parties to the marriage or any other person on payment of such fee as may be prescribed.

18. Correction of errors.—(1) Any Marriage Officer or the Marriage Registrar, who discovers any error in the form or substance of any entry in the permanent record or the marriage register, as the case may be, 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 credible witnesses, correct the error by making entry in the margin without any alteration of the original entry and shall sign such marginal entry and add thereto the date of such correction and the Marriage Officer or the Marriage Registrar shall make the same marginal entry in the document or in the certificate thereof.

(2) Every correction made under this section shall be attested by the parties in whose presence it was made.

19. *Power to make Rules.*- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out for the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:

(a) the form and details of the notice to be given to the Marriage-Officer under sub-section (1) of section 5;

(b) the details of the declarations to be submitted along with the notice to the Marriage Officer under sub-section (2) of section 5;

(c) the form and details of the marriage register under section 6;

(d) the form, details and the manner in which the permanent record kept by the Marriage Officer under sub-section (3) of section 7;

(e) the form and details of application and memorandum to be submitted to the Marriage Officer under sub-section (2) of section 12;

(f) the fee that may be levied for the issue of certificate of marriage under sub-section (4) of section 12;

(g) the amount of fine to be remitted for condonation of delay under sub-section (6) of section 12;

(h) the amount of fee to be remitted for registration of marriages solemnized prior to the commencement of this Act under section 13;

(i) the amount of fee to be remitted for inspection of registers and to issue of certified extract under section 17;

(j) any other matter that may be deemed necessary under the provisions of this Act.

(3) Every Rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of 14 days, which may be comprised in one session or

in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Rule or decides that the Rule should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

20. *Repeal and savings.*- (1) The Cochin Christian Civil Marriage Act, 1095 (Act V of 1095 M.E) is hereby repealed.

(2) From the date of commencement of the Act, the provisions of Indian Christian Marriage Act, 1872 (Central Act 15 of 1872) shall have no application to the territories comprised in Malabar area as defined in the State Reorganisation Act, 1956.

(3) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Cochin Christian Civil Marriage Act, 1095 and the Indian Christian Marriage Act 1872 shall be deemed to have been done under the Act.

FIRST SCHEDULE

(See Section 3 (d))

PROHIBITED DEGREES OF CONSANGUINITY

A man shall not marry his.-

1. Paternal grandfather's mother;
2. Paternal grandmother's mother;
3. Maternal grandfather's mother;

4. Maternal grandmother's mother;
5. Paternal grandmother;
6. Paternal grandfather's wife;
7. Maternal grandmother;
8. Maternal grandfather's wife;
9. Mother or step-mother;
10. Father's sister;
11. Mother's sister;
12. Sister;
13. Brother's daughter, or any direct lineal descendant of a brother;
14. Sister's daughter, or any direct lineal descendant of a sister;
15. Daughter or step-daughter, or any direct lineal descendant of either;
16. Son's daughter, or any direct lineal descendant of a son;
17. Wife of son, or of any direct lineal descendant of a son;
18. Wife of daughter's son, or of any direct lineal descendant of a daughter;
19. Mother of daughter's husband;
20. Mother of son's wife;
21. Mother of wife's paternal grandfather;
22. Mother of wife's paternal grandmother;
23. Wife's paternal grandfather;
24. Wife's maternal grandmother;
25. Wife's mother;
26. Wife's father's sister;
27. Wife's mother's sister;
28. Father's brother's wife;
29. Mother's brother's wife;
30. Brother's son's wife;

31. Sister's son's wife.

Explanation: A brother includes half brother and A sister includes half-sister.

A woman shall not marry her.- Paternal grandfather's father; Paternal Grandmother's father; Maternal grandfather's father; Maternal grandmother's father; Paternal grandfather; Paternal grandmother's husband; Maternal grandmother; Maternal grandmother's husband; Father or step-father; Father's brother or step-brother; Mother's brother or step-brother; Brother or step-brother; Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother, Sister's son or step-sister's son; or any direct lineal descendant of a sister or step-sister; Son or step-son, or any direct lineal descendant of either; Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter; Husband of daughter or step-daughter, or of any direct lineal descendant of a daughter or step-daughter; Husband of son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step-son; Father of daughter's husband; Father of son's wife; Father of husband's paternal grandfather; Father of husband's paternal grandmother; Father of husband's maternal grandfather; Father of husband's maternal grandmother; Husband's paternal grandfather; Husband's maternal grandfather; Husband's father or step-father; Brother of husband's father; brother of husband's mother; husband's brother's son, or his direct lineal descendant; Husband's sister's son, or his direct lineal descendant; Brother's daughter's husband; Sister's daughter's husband.

In any case, the parties shall not be within the range of third generation counted from the common primogenitor-male or female.

STATEMENT OF OBJECTS AND REASONS

At present there is no unified law in the State of Kerala with respect to the registration of Christian Marriages. The Cochin Christian Civil Marriage Act, 1095 (Act v of

1095) extends only to the erstwhile Cochin State and the Indian Christian Marriage Act 1872 (15 of 1872) extends only to the erstwhile Malabar area of the State of Kerala. However the Christian denominations of the State are having no specific and consolidated law governing registration of Christian Marriages. A valid certificate of marriage issued by a statutory authority is a mandate for various purposes. Now Christian marriages are registered under the provisions of Kerala Registration of Marriages (Common) Rules, 2008. In these circumstances it is highly necessary to enact an unified law for the solemnization and registration of Christian Marriages within the whole State of Kerala. The Bill is intended to achieve the above objectives.