

COCHIN CHRISTIAN CIVIL MARRIAGE ACT, 1920 [Act No. 5 of 1095]

Preamble - THE COCHIN CHRISTIAN CIVIL MARRIAGE ACT, **1920** [Act No. 5 of 1095]

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[17th day of January 1920]

PREAMBLE

[1] *[An Act to provide for Legalising Civil Marriages between Persons Professing Christianity in the Cochin State.*

Whereas it is deemed desirable to make provision for legalising civil marriages between persons Professing the Christian religion;

It is hereby enacted as follows:-

Section 1 - Short title

This Act may be cited as The Cochin Christian Civil Marriage Act, V of 1095".

Section 2 - Local extent and Commencement

It extends to the whole of the Cochin State, and shall come into force at once.

Section 3 - Interpretation clause

In this Act, unless there is something repugnant in the subject or context:-

The expression "Christian" means persons professing the Christian religion; "Minor" means a person who has not completed the age of 21 years, and who is not a widower or a widow.

Section 4 - Persons by whom marriages may be solemnized

A Marriage between persons, one or both of whom is or are a Christian or Christians but neither of whom is a Christian British subject may be solemnized by or in the presence of a Marriage Registrar appointed under this Act.

Section 5 - Marriage Registrars

The Diwan may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any local area specified by notification in the Cochin Government Gazette.

Senior Marriage Registrar.- When there are more Marriage Registrars than one in any specified area, the Diwan shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be Marriage Registrar.- When there is only one Marriage Registrar in any specified local area, and such Registrar is absent from such local area, or ill, or when his office is temporarily vacant, the Magistrate having jurisdiction over the local area shall act as, and be. Marriage Registrar thereof during such absence, illness or temporary vacancy.

Section 6 - Time for solemnizing marriage

Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening.

Section 7 - Notice of intended marriage

When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form prescribed by the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the local area within which the parties have dwelt;

or, if the parties dwell in different local areas, shall give like notice to the Marriage Registrars of such local areas;

- (a) the name and surname, and the profession or condition, of each of the parties intending marriage,
- (b) the dwelling place of each of them,
- (c) the time during which each has dwelt therein, and
- (d) the place at which the marriage is to be solemnized;

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

Section 8 - Procedure, on receipt of notice

Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same local area, who shall likewise affix the copy in some conspicuous place in his own office.

Section 9 - Notice to be filed and copy entered in Marriage Notice Book

The Marriage Registrar shall file all such notices and keep them with the records of his office;

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the Diwan, and to be called the 'Marriage Notice Book';

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

Section 10 - Certificate of notice given and oath made

If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made;

Proviso.- Provided-

- (1) that no lawful impediment be shown to his satisfaction why such certificate should not issue:
- (2) that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorised in that behalf by this Act;
- (3) that four days after the receipt of the notice have expired; and further;
- (4) that where, by such oath, it appears that one of the parties intending marriage is a minor fourteen days after the entry of such notice have expired.

Section 11 - Oath before issue of certificate

The certificate mentioned in section 10 shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath-

- (a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and
- (b) that both the parties have, or (where they have dwelt in the jurisdiction of different Marriage Registrars) that the party making such oath has had their, his or her usual place of abode within the jurisdiction of such Marriage Registrar,

and, where either or each of the parties is a minor,

- (c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in the Cochin State authorised to give such consent, as the case may be.

Section 12 - Petition to Chief Court to order certificate in less than fourteen days

When one of the parties intending marriage is a minor, and the parties are desirous of being married

in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the Chief Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given directing him to issue his certificate before the expiration of the said fourteen days required by section 10.

Order on petition.- And, on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order before the expiration of the fourteen days so required, and the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

Section 13 - Consent of father or guardian or mother

The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorised to give such consent be resident in the Cochin State, and

Protest against issue of certificate.- any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing at any time before the issue of such certificate, the word 'forbidden' opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorised.

Effect of protest.- When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

Section 14 - Petition where person whose consent is necessary is insane, or unjustly withholds consent

If any person whose consent is necessary to any marriage is of unsound mind, or if any such person (other than the father) without just cause withholds his consent to the marriage the parties intending marriage may apply by petition to a Judge of the Chief Court;

Procedure on petition.- and the said judge of the Chief Court may examine the allegations of the petition in a summary way;

and, if upon examination such marriage appears proper, such Judge of the Chief Court shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage; and, if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under the above-said provisions in relation to the marriage as if the issue of such certificate had not been forbidden.

Section 15 - Petition when marriage Registrar refuses certificate

Whenever a Marriage Registrar refuses to issue a certificate, either of the parties intending marriage may apply by petition to a Judge of the Chief Court.

Procedure on petition.- The said Judge of the Chief Court may examine the allegations of the petition

in a summery way, and shall decide thereon.

The decision of such Judge of the Chief Court shall be final and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

Section 16 - Petition when Registrar doubts authority of person forbidding

Whenever a Marriage Registrar, acting under the provisions of section 13, is not satisfied that the person forbidding the issue of the certificate is authorised by law so to do the said Marriage Registrar shall apply by petition to a Judge of the Chief Court.

Procedure on petition.- The said petition shall state all the circumstances of the case,- and pray for the order and direction of the court concerning the same, and the said Judge of the Chief Court shall examine into the allegations of the petition and the circumstances of the case.

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorised by law so to do, such Judge of the Chief Court shall declare that the person forbidding the issue of such certificate is not authorised as aforesaid and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue had not been forbidden.;

Section 17 - Liability for frivolous protest against issue of certificate

Every person entering a protest with the Marriage Registrar, against the issue of any certificate, on grounds which such Marriage Registrar under section 13 or a Judge of the Chief Court under section 14 or 15, declares to be frivolous and such as ought not to obstruct the issue of the certificate shall be liable for the costs of all proceedings in relation there to and for damages to be recovered by suit by the person against whose marriage such protest was entered.

Section 18 - Form of certificate

The certificate to be issued by the Marriage Registrar under the provisions of section 10 shall be in the form contained in the second schedule to this Act annexed or to the like effect.

and the Diwan shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

Section 19 - Solemnization of marriage after issue of certificate

After the issue of the certificate of the Marriage Registrar,

or, where notice is required to be given under this act to the Marriage Registrars for different local areas after the issue of the certificate of the Marriage Registrars of such local areas,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect:-

"I do solemnly declare that I know not of any lawful impediment why I, A, B may not be jointed in

matrimony to C, D."

And each of the parties shall say to the other as follows or to the like effect:-

"I call upon these persons here present to witness that I, A, B, do take thee, C, D, to be my lawful wedded wife (or husband)."

Section 20 - When Marriage not had within two months after notice new notice re quired

Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar as required by section 9, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void; and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate there of given, at the time and in the manner aforesaid.

Section 21 - Marriage Registrar may ask for particulars to be registered

A Marriage Registrar before whom any marriage is solemnized may ask of the persons to be married the several particulars required to be registered touching such marriage.

Section 22 - Registration of marriage solemnized

After the solemnization of any marriage, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate, that is to say, in a marriage-register-book, according to the form of the third schedule thereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

The entry of such marriage in both the certificate and the marriage-register-book shall be signed by the person by or before whom the marriage has been solemnized if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

Section 23 - Registrar to satisfy himself that parties understand the purport and effect of notice and declaration made

The Marriage Registrar shall, before solemnizing a marriage, ascertain and satisfy himself that the parties to the proposed marriage understand the true effect and import of the notice and the declarations made at such marriage.

Section 24 - False notice or certificate for procuring marriage

Whoever, for the purpose of procuring a marriage, intentionally makes a false statement on oath or a false declaration or, where a notice or certificate is required by this Act, signs a false notice or certificate.

shall be deemed to have committed the offence punishable under section 179 of the Cochin Penal Code with imprisonment of either description for a term which may extend to three years and at the discretion of the Court with fine.

Section 25 - Forbiding, by false personation, issue of certificate by Marriage Registrar

Whoever forbids the issue, by a Marriage Registrar of a certificate by falsely representing himself to be a person whose consent to the marriage is required by law knowing or believing such representation to be false or not having reason to believe it to be true, shall be deemed guilty of the offence described in section 191 of the Cochin Penal Code.

Section 26 - A Marriage Registrar under this Act, who commits any of the following offences

- (1) Issuing certificate, or marrying without publication of notice.--Knowingly and willingly issues any certificate for marriage or solemnizes any marriage without publishing the notice, of such marriage as directed by this Act;
- (2) Marrying after expiry of notice.--after the expiration of two months after the copy of the notice has been entered as required by section 9 in respect of any marriage, solemnizes such marriage;
- (3) Solemnizing marriage with minor within fourteen days without authority of Court, or without sending copy of notice.--solemnizes, without any order of a competent Court authorising him to do so, any marriage when one of the parties is a minor before the expiration of fourteen days after the receipt of the notice of such marriage or without sending by the post or otherwise a copy of such notice to the Senior Marriage Registrar of the local area if there be more Marriage Registrars of the local area than one, and if he himself be not the Senior Marriage Registrar;
- (4) Issuing certificate against authorised prohibition.--issues any certificate the issue of which has been prohibited, as in this Act provided by any person authorised to prohibit the issue thereof;

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Section 27 - Issuing certificate after expiry of notice or in case of minor, within fourteen days after notice, or against authorised prohibition

Any Marriage Registrar knowingly and willfully issuing any certificate for marriage after the expiration of two months after the notice has been entered by him as aforesaid,

or knowingly and willfully issuing, without the order of a competent Court authorising him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorised in this behalf,

shall be deemed to have committed an offence under section 152 of the Cochin Penal Code.

Section 28 - Unauthorised person granting certificate pretending to be authorised

- (1) Whoever, not being authorised to grant a certificate of marriage under this Act, grants such certificate of marriage under this Act, grants such certificate intending thereby to make it appear that he is so authorised, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.
- (2) Whoever, being bound to perform the duties imposed on him under the provisions of this Act, without just cause refuses, or will fully neglects or omits, to perform any of the duties so imposed on him, shall be punished with fine which may extend to one hundred rupees.

Section 29 - Destroying or falsifying register-books

Whoever, by himself or another, will fully destroys or injures any register-book or the counterfoil certificates thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register-book or counterfoil certificates,

or will fully inserts any false entry in any such register-book or counterfoil certificate, or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Section 30 - Limitation of prosecution under Act

The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

Section 31 - What matters need not be proved in respect of marriage in accordance with Act

No marriage solemnized under the provisions of this Act shall be void merely on account of any irregularity in respect of any of the following matters, namely:-

- (1) any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law:
- (2) the notice of the marriage;
- (3) the certificate or translation thereof:
- (4) the time and place at which the marriage has been solemnized:

(5) the registration of the marriage.

Section 32 - Correction of errors

Every person charged with the duty of registering any marriage who discovers any error in the form or substance of any such entry, 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 add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

Section 33 - Searches and copies of entries

Every person solemnizing a marriage under this Act shall, on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate, or duplicate, or copies, and give a copy under his hand of any entry in the same.

Section 34 - Certified copy of entry in marriage register, etc., to be evidence

Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage-register or certificate, or duplicate, required to be kept or delivered under this Act, of any entry of a marriage in such register, or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate or duplicate, or of any entry therein, respectively, or of such copy.

Section 35 - Fees to be prescribed

Fees shall be chargeable under this Act for receiving and publishing notices of marriages;

issuing certificates for marriages by Marriage Registrars and registering marriages by the same; entering protest against, or prohibitions of, the issue of certificates for marriage by the said Registrars;

searching register-books or certificates, or duplicates or copies thereof; giving copies of entries in the same under section 33.

The Government shall fix the amount of such fees respectively,

and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

Section 36 - Power to make rules

The Diwan may make rules in regard to the disposal of fees mentioned in section 35, the supply or register-books, and the preparation and submission of returns of marriages solemnized under this Act.

Section 37 - Non validation of marriages within prohibited degrees

Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to

either of the parties forbids him or her to enter into.

Section 38 - Repeal

Act I of 1066 is hereby repealed.

Schedule - Schedule I

Schedule I

See Section 7

Notice of Marriage

To

Registrar of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date thereof, between me and the other party herein named and described (that is to say):-

Name	Condition	Rank of profession	Age	Dwelling place	Length of residence	Church, chapel or place of worship in which the marriage is to be solemnized.	Local area in which the other party resides, when the parties dwell in different local areas.
James Smith	Widower	Carpenter	Of full age	Clive Street	23 days	Free Church of Scotland	
Martha Green	Spinster	...	Minor	20, Hastings Street	More than one month	Church, Calcutta	

Witness my hand this

Day of (signed) james smith

(The italics in this schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another local area).

Schedule - Schedule II

Schedule II

(See section 18)

certificate of Receipt of Notice

do hereby certify that, on the day of notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of one of the parties (that is to say)-

Name	Condition	Rank of profession	Age	Dwelling place	Length of residence	Church, or chapel or place of worship in which the marriage is to be solemnized.	Local area in which the other party resides, when the parties dwell in different local areas.
James Smith	Widower	Carpenter	Of full age	Clive Street	23 days	Free Church of Scotland	
Martha Green	Spinster	...	Minor	20, Hastings Street	More than one month	Church, Calcutta	

and that the oath required by section 11 of the cochin Christian civil Marriage Act V of 1905 has been duly made by the said (James Smith))

Date of Notice entered

Date of certificate given

Day of (Signed)

This certificate will be void unless the marriage is solemnized on the before the day of

(This italic in the school are to be filled up as the case may be and the blank division thereof is only to be filled up when one of the parties lives in another local area).

Schedule - Schedule III

Schedule III

(See section 22)

Marriage Register Book

Number	When married		Name of parties		Condition	Rank of profession	Residence at the time of marriage	Father's name and surname	Surname
			Christian Name	Age					
Day	Month	Year			26 years	Widower	Carpenter		William White
			James	White		L			
				Martha	Duncan	17 years	Spinster		John Duncun

Married in the This marriage was solmmnized between us

William White John Duncun

in the presence of us

John Smith John Green

Christian Name

Certificate of Marriage Number	When married			Name of parties		Condition	Rank of profession	Residence at the time of marriage	Father's name and surname	Surname
				Age						
	Day	Month	Year	James	White	26 years	Widower	Carpenter		William White
				Martha	Duncun	17 years	Spinster			John Duncun

Married in the This marriage was solmnmized between us

James White Martha Duncun

in the presence of us

John Smith John Green

[1] Substituted for ' Raja' by Section 2 of Act 1 of 1109

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