

Amended by Order. 23/47



*See Proclamations 22+23/47
Suppl. R. G. 30.5.46
P.P. 210+211*

TRINIDAD AND TOBAGO.

No. 13—1945.

[L.S.]

I ASSENT.

A. B. WRIGHT,
Acting Governor.
26th June, 1945.

AN ORDINANCE to make provision for the solemnization and registration of Hindu Marriages.

Enactment, **E**NACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Short title and commencement.

1. This Ordinance may be cited as the Hindu Marriage Ordinance, 1945, and shall not come into operation until such date as the Governor shall give notice by Proclamation that His Majesty's power of disallowance will not be exercised in respect thereof.

*Proclamation 22/46
d/a 30.5.46 Suppl.
R.G. 30.5.46 p. 210*

2. In this Ordinance—

Definitions.

- “ district ” means a Hindu marriage district constituted under section 3 of this Ordinance ;
- “ District Registrar ” means a Registrar of Hindu marriages appointed for a district under the provisions of section 4 of this Ordinance ;
- “ Marriage Officer ” means a person licensed as such under the provisions of section 5 of this Ordinance ;
- “ Registrar ” means the Registrar of Hindu Marriages appointed for the Colony under the provisions of section 4 of this Ordinance.

3. The Governor may by proclamation divide the Colony into Hindu marriage districts for the purposes of this Ordinance and may from time to time by like proclamation alter such districts either by change of boundaries or by union or sub-division of districts or by the formation of new districts.

See Proclamation No. Hindu 23/46 - Suppl. marriage districts. R. 2. 30. 5. 46 p. 211

4. The Governor may appoint a Registrar of Hindu marriages for the Colony and a District Registrar of Hindu marriages for each district.

Appointment of Registrar and of District Registrars.

The Registrar and District Registrars shall hold office during the Governor's pleasure.

5. (1) It shall be lawful for the Governor by writing under his hand to grant licences to such persons, being priests of the Hindu religion, as he may in his discretion think fit to be Marriage Officers, and he may, without assigning any reason for so doing, cancel any such licence.

Hindu Marriage Officers.

Repealed & replaced by Sec. 2 of 23/47

(2) A licence under this section shall be in Form A of Part III of the Schedule hereto.

Form A.

(3) The grant or cancellation of any such licence shall be notified in the *Royal Gazette* and shall take effect from the date of such publication.

(4) Whenever a licence has been cancelled, the holder thereof shall return it to the Colonial Secretary forthwith after notice of such cancellation has been forwarded to him by letter signed by or on behalf of the Colonial Secretary and addressed at his usual or last known place of abode or business. If he fails to do so, he shall be liable on summary conviction to a fine of fifty dollars.

6. It shall be lawful for any Marriage Officer to act as such in any district.

Marriage Officers may act in any part of the Colony.

Applications
for licences as
Marriage
Officers.

7. (1) Any Hindu priest who desires to be licensed as a Marriage Officer shall make application in writing to the Colonial Secretary. Such application shall state the dwelling place of the applicant and the name of the Hindu sect to which he belongs, and shall be accompanied by a certificate to the effect that the applicant is a fit and proper person to be licensed as a Marriage Officer from the President and Secretary of one of the following organisations: The Hindu Sanatam Dharam Association of Trinidad, the Sanatan Dharma Board of Control, the Kabir Panthi Association of Trinidad, the Arya Pratinidhi Sabha of Trinidad and any other Hindu organization which may be recognised by the Governor as hereafter provided.

(2) If an application is received from any organisation for recognition as provided in the preceding subsection, notice of such application shall be advertised in the *Royal Gazette* and any one who wishes to object to such recognition shall do so in writing to the Colonial Secretary within one month of the publication of such notice.

(3) If the Governor shall thereafter accord recognition to any such organization, notice of such recognition shall be published in the *Royal Gazette*.

District
Registrars
to keep list of
Marriage
Officers.

8. Every District Registrar shall keep affixed in a conspicuous place in his office a list containing the names and addresses of all Marriage Officers licensed under this Ordinance.

Requisites
of valid
marriage.

9. The requisites of a valid Hindu marriage under this Ordinance are—

- (a) that each of the parties shall belong to and profess the Hindu faith or religion ;
- (b) that both parties shall, as regards age, mental capacity and otherwise, be capable of contracting marriage ;
- (c) that the parties shall not be within the prohibited degrees of consanguinity and affinity according to the Hindu law relating to marriage ;
- (d) that the marriage shall be solemnized by a Marriage Officer in accordance with the rites of the Hindu religion and with the provisions of this Ordinance ;
- (e) that the parties understanding the nature of the contract, shall freely consent to marry one another in the presence of the Marriage Officer

who solemnizes the marriage and shall sign or mark the certificate drawn up by the said officer in accordance with the provisions of section 13 of this Ordinance ;

(f) that the marriage shall be registered in accordance with the provisions of this Ordinance

10. It shall be lawful for any Marriage Officer without previous notice of the intended marriage being given and without any other formality required by the Marriage Ordinance to solemnize a marriage between persons belonging to and professing the Hindu faith or religion ; and such marriage shall, subject to the provisions of this Ordinance, be as valid as if it had been solemnized in conformity with the provisions of the said Marriage Ordinance.

Marriage by
Marriage
Officer,
Ch. 29. No. 2.

11. (1) The age at which a person, being a member of the Hindu faith or religion, is capable of contracting marriage shall be eighteen years in the case of males and fourteen years in the case of females.

Age limit and
consent of
parents.

(2) Without prejudice to the provisions of the preceding subsection, a marriage shall not be solemnized by a Marriage Officer if the intended husband (not being a widower) is under twenty-one years of age or the intended wife (not being a widow) is under sixteen years of age unless the consent to the marriage of the party who is under age by virtue of the provisions of this subsection has been given in accordance with the following provisions of this section, and such consent is hereby required for the marriage of such party under age.

(3) The required consent may be given by the father of the party under age, and if the father be dead by the guardian or guardians appointed or one of them, and in case there be no such guardian then by the mother of such party so under age, and if the mother be dead then by such other person as may be appointed for the purpose by the Governor.

(4) In case the father, mother, or a guardian whose consent to a marriage is required under the provisions of the last preceding subsection is absent from the Colony or is unable or refuses to give such consent or is not of sound mind, it shall be lawful for the party in whose case consent is required to apply to the Governor to appoint a person, being a member of the Hindu community, to investigate the circumstances of the intended marriage and if after such investigation it shall appear to the person so appointed that there are no reasonable objections to such intended

marriage such person shall so formally declare in writing and such declaration shall, for the purposes of this Ordinance, be deemed equivalent to such consent as aforesaid.

(5) A consent shall, when not given in the presence of a Marriage Officer, be signified in writing under the hand of the person giving such consent and the Marriage Officer by whom the marriage is solemnized shall record on the certificate drawn up by him in accordance with the provisions of section 13 of this Ordinance the fact that the required consent has been given, the name of the person by whom such consent has been given and whether such consent has been given in his presence or in writing.

Marriages
which may
not be
registered.

12. If any person shall intermarry otherwise than in accordance with the provisions of this Ordinance, or if the parties to any marriage are within the prohibited degrees of consanguinity or affinity according to the Hindu law relating to marriage, the marriage of such persons shall not be registered under the provisions of this Ordinance.

Marriage
certificate.

13. (1) Immediately after a Hindu marriage has been solemnized by a Marriage Officer, he shall enter in English or Hindi in a book to be supplied by the Registrar and kept by the Marriage Officer for that purpose (hereinafter referred to as the "Hindu Marriage Certificate Book") a certificate in Form B of Part III of the Schedule hereto of the said marriage. Such certificate shall be signed by the parties to the marriage by two creditable witnesses of the said marriage known to the Marriage Officer, and by the Marriage Officer who shall also enter up in the counterfoil the prescribed particulars and sign the same: Provided that if any of the parties to the marriage cannot sign, he shall affix his mark in the presence of the Marriage Officer and of the two witnesses.

Form B

(2) Every Marriage Officer shall, within seven days of a Hindu marriage being solemnized by him, transmit to the District Registrar the certificate referred to in the preceding subsection together with the prescribed fee collected by him from the parties to the marriage.

(3) Upon receipt of the said certificate, the District Registrar, if it appears to him that the requisites of a valid Hindu marriage have been complied with and that the consent of every person required by this Ordinance to consent to such marriage has been obtained, shall countersign the certificate so forwarded and transmit same to the Registrar for registration: Provided that in the case

of a certificate drawn up in Hindi, the District Registrar shall cause a translation into English to be made and certified by an interpreter attached to a magistrate's court and shall, in proper cases, countersign the certificate and the translation and transmit same to the Registrar for registration.

(4) Whenever it is alleged that a Marriage Officer has duly solemnized a marriage under this Ordinance but has failed to comply with any of the provisions of subsections (1) and (2) of this section, any party to such alleged marriage may apply by summons to a Judge in Chambers for an order directing the Registrar to register such marriage.

Such summons shall be served upon the Registrar, upon the other party to the alleged marriage (when not an applicant) and upon the Marriage Officer (if alive and in the Colony). Upon the hearing of such summons the Judge may summon such person as is likely in his opinion to give material evidence in the matter and shall hear and determine the matter in a summary manner. If the Judge is satisfied from the evidence that the alleged marriage was duly solemnized, that the requisites of a valid Hindu marriage have been complied with, and that the consent of every person required by this Ordinance has been obtained, he shall make the order prayed for and award such costs as he may deem fit.

Any such order shall set out the essential particulars contained in Form B of Part III of the Schedule hereto (including the names of the witnesses) and any other matter which the Judge may deem necessary to give effect to the provisions of subsections (1) and (2) of this section, and such order shall be dealt with by the Registrar as if it were a certificate transmitted to him for registration by a District Registrar in accordance with the provisions of the last preceding subsection.

(5) Every Marriage Officer who—

- (a) fails to comply with the provisions of subsection (1) of this section, or
 - (b) without reasonable cause or excuse, shall fail to transmit to the District Registrar any certificate in accordance with the provisions of this section together with the prescribed fees, or
 - (c) solemnizes a Hindu marriage without proof that the persons whose consent is required by this Ordinance have given such consent,
- shall be liable on summary conviction to a fine of fifty dollars.

Registration of marriages entered into prior to commencement of Ordinance.

14. (1) Notwithstanding anything to the contrary, in sections 9 and 12 of this Ordinance, any Hindu marriage, which was entered into prior to the commencement of this Ordinance between Hindus domiciled in the Colony at the date of such marriage and which marriage is still subsisting and is valid according to the Hindu law relating to marriage, may be registered under this Ordinance in accordance with the provisions hereinafter contained.

Form C.

(2) The parties to such prior marriage shall attend before a Marriage Officer and shall make and sign a declaration in Form C of Part III of the Schedule hereto. Such declaration shall be signed in the presence of the Marriage Officer by two creditable witnesses, known to the Marriage Officer who shall identify the parties: Provided that if any of the parties to such prior marriage cannot sign his name he shall affix his mark in the presence of the two witnesses.

(3) The Marriage Officer shall then, in proper cases, immediately fill in, date and sign the certificate on the said Form C and shall transmit it to the District Registrar within seven days with the prescribed fee collected by him from the parties.

(4) The fees prescribed for the registration of a certificate of marriage shall apply in respect of the registration of the declaration of a former marriage.

(5) If such District Registrar is satisfied that the requisites of a valid Hindu marriage were complied with at the date it was contracted and that such prior marriage is still subsisting he shall transmit the declaration to the Registrar for registration.

Filing of certificate and registration of marriage by Registrar.

Form D.

15. (1) The Registrar shall file in his office all certificates and declarations of Hindu marriages (including translations thereof) which shall be transmitted to him in accordance with the provisions of this Ordinance and shall forthwith register in a book in Form D of Part III of the Schedule hereto to be kept in his office for that purpose (hereinafter referred to as the "Hindu Marriage Register Book") the particulars of every such certificate and declaration, and every entry shall be dated on the day on which it is so made and shall be signed by the Registrar. Such book shall be kept in such manner as is best suited for easy reference thereto.

Form E.

(2) Upon such registration by the Registrar and upon payment of the prescribed fee, the Registrar shall issue and transmit to the parties to the marriage a certificate of registration of the marriage in Form E of

Part III of the Schedule hereto. In the case of a marriage solemnized after the commencement of this Ordinance the Registrar shall send a notification of the fact and date of registration to the Marriage Officer by whom the marriage was solemnized, and such officer shall thereupon enter such particulars in the space provided for the purpose on the counterfoil of the "Hindu Marriage Certificate Book".

16. The children of any Hindu marriage registered in accordance with the provisions of this Ordinance shall be legitimate, and in the case of the children of a prior marriage registered by virtue of sections 14 and 15 of this Ordinance the date of such legitimation shall be the date of registration of such prior marriage under the provisions of this Ordinance :

Legitimacy
of children.

Provided that such legitimation in respect of each child of such prior marriage shall have effect as from the date of the birth of each such child :

Provided also that the provisions of this section shall not operate to alter the status of any child deemed legitimate by virtue of any other law.

17. The Legitimation Ordinance, save and except sections 3 and 10 thereof, shall apply, *mutatis mutandis* to persons legitimated by reason of registration of marriage under the provisions of this Ordinance.

Application of
Legitimation
Ordinance.
Ch. 5. No. 13.

18. The Registrar may correct any clerical error in any certificate or declaration of Hindu marriage filed in his office and in the Hindu Marriage Register Books and shall authenticate every such correction by his signature and the date of such correction.

Correction of
clerical errors.

19. (1) Upon payment of the prescribed fees, the Registrar shall at all reasonable times allow searches to be made in the Hindu Marriage Register Books and shall give certified copies therefrom.

Searches in
registers and
copies of
entries.

(2) Any copy certified under the hand of the Registrar to be a correct copy of any entry in the Hindu Marriage Register Books shall be admissible as evidence of the registration of the marriage to which it relates in all courts or before any person now or hereafter having by law or consent of parties authority to hear, receive and examine evidence.

20. Any person who shall knowingly and wilfully make any false declaration, or sign or mark any false application, notice or certificate, required by this Ordinance for the purpose of the registration of any marriage, and every person who shall wilfully make, or cause to be made,

False
declaration,
&c.

for the purpose of being inserted in any register of marriages any false statement touching any of the particulars required by this Ordinance to be known and registered, shall on being convicted thereof be subject to the same pains and penalties as if he were guilty of perjury.

Forging or
altering
register book
&c.

21. Every person who shall knowingly and wilfully forge or alter or falsely make, or shall offer, utter or dispose of, knowing the same to have been forged or altered or falsely made, any register book or any licence, certificate, declaration, entry or other statement mentioned in this Ordinance, or any certified copy or translation thereof respectively, or shall wilfully insert in any such register book or certified copy thereof any false entry of marriage, or shall certify any writing to be a copy, a translation or an extract of any certificate or register book, mentioned in this Ordinance, knowing the same to be false in any part thereof, or shall forge or counterfeit the seal of the Registrar General, shall be guilty of felony and liable on indictment to imprisonment for seven years.

Destroying or
injuring
register
book, &c.

22. Any person who shall unlawfully and maliciously destroy or injure, or cause to be destroyed or injured, any register book or any licence, certificate, declaration, entry or statement mentioned in this Ordinance, or any certified copy or translation thereof respectively, shall be guilty of felony, and liable on indictment to imprisonment for five years.

Offences by
unlicensed
Marriage
Officer.

23. Any person who without being duly licensed as a Marriage Officer—

(a) knowingly and wilfully solemnizes any marriage purporting to be a marriage under the provisions of this Ordinance; or

(b) knowingly and wilfully makes or signs any certificate or signs any declaration required by this Ordinance to be made or signed by a Marriage Officer,

shall be guilty of felony and liable on indictment to imprisonment for three years.

Prosecution
of offences.

24. No prosecution for any felony under this Ordinance shall be commenced after the expiration of three years from the commission of the offence nor without the written consent of the Attorney General.

Disposal of
fees.

25. All fees received by the Registrar General under this Ordinance shall be paid into the Treasury for the use of the Colony.

26. The Governor in Council may make such regulations as Regulations. may be necessary for the proper carrying out of the provisions of this Ordinance and more especially may prescribe—

- (a) the place or places at which shall be situate the offices of the several District Registrars ;
- (b) the form of any certificate, declaration, register or other document required for the purposes of this Ordinance ;
- (c) the conditions under which registers or other documents may be inspected ;
- (d) the fees to be paid in respect of anything required or permitted to be done under the provisions of this Ordinance, and provision for their remission on account of the poverty of the parties or for other good reason :

Provided that, until varied or revoked by any such regulations, the regulations contained in the Schedule Schedule. hereto shall be in force.

27. Sections 13, 14 and 16 to 23 inclusive of the Sections 13, 41 and 16 to 23 of Ch. 20. No. 1, not to apply to Hindus. Immigration (Indian) Ordinance, shall as from the commencement of this Ordinance, no longer apply to an immigrant (as defined in section 12 of that Ordinance) who belongs to the Hindu faith or religion, and to that extent the said sections are hereby modified : Provided that such modification shall not in any manner affect the validity of any record or entry lawfully made in any register or of any act or thing lawfully done under and by virtue of the provisions of the said sections

28. Nothing in this Ordinance contained shall be construed to prevent or disable any Hindu from contracting a Civil marriage permissible. civil marriage before the Registrar according to the provisions of the Marriage Ordinance. Ch. 29. No. 2.

SCHEDULE.

PART I.—GENERAL.

1. These Regulations may be cited as the Hindu Marriage Regulations, 1945.
2. The fees set forth in Part II of this Schedule shall be payable in respect of the matters therein specified.
3. The forms set forth in Part III of this Schedule shall be the forms to be used in respect of the matters therein specified : Provided that Forms B and C may be in English or Hindi.

PART II.—FEES.

Marriage registration fee :—

| | |
|--|--------------|
| if marriage certificate drawn up in Hindi | ...72 cents. |
| if marriage certificate drawn up in English | ...60 cents. |
| (payable to District Registrar by Marriage Officer on transmitting certificate of marriage.) | |
| On issue of certificate of registration of marriage | ...60 cents. |
| For every search in any register book | ...24 " |
| For every certified copy of any entry | ...48 " |

PART III.—FORMS.

(Section 5.) Trinidad & Tobago.

FORM A.

The Hindu Marriage Ordinance
Licence to be a Marriage Officer.

A.B., being a priest of the _____ sect of the Hindu Religion
residing at _____ is hereby licensed as a Marriage
Officer for the purposes of the Hindu Marriage Ordinance.

Governor.

Trinidad & Tobago.

FORM B.

(Section 13.)

The Hindu Marriage Ordinance.

No. _____
Hindu Marriage Certificate
Book.

No. _____
Hindu Marriage Certificate Book.

| Counterfoil. | Certificate. | | | | | |
|--|---|-------------------------------|------------------------------------|----------------------------|--|-------------------------------------|
| Marriage district Date of marriage Place of marriage Husband's name and age Wife's name and age Witnesses' names— (1) (2) Consent to marriage was given by _____ in writing/in person* Signature of Marriage Officer. Certificate forwarded to District Registrar at on _____ day of _____ 19 ____ Signature of Marriage Officer. †Registered on the _____ day of _____, 19 ____ Signature of Marriage Officer. *Delete if not applicable. †To be filled in by Marriage Officer when notified by Registrar. | Date and place of marriage. | Husband's name, age and sect. | Occupation of husband and address. | Wife's name, age and sect. | Name of father of husband and address. | Name of father of wife and address. |
| | | | | | | |
| | Signature or mark of parties to the marriage | | | | | |
| | (1) (2) | | | | | |
| | Signature of witnesses (1) (2) | | | | | |
| | I _____ of _____ a Hindu Marriage Officer certify that a marriage between the abovementioned parties in accordance with the Hindu Law of Marriage and the Hindu Marriage Ordinance was solemnized by me on the _____ day of _____, 19 ____ (and that the consent of _____ to the said marriage was given in writing/in person)* | | | | | |
| | Signature of Marriage Officer. | | | | | |
| | Signature of District Registrar for Marriage District of _____ | | | | | |
| | District Registrar. | | | | | |
| | Date _____ | | | | | |
| | *Delete if not applicable. | | | | | |

Trinidad & Tobago.

FORM C.

(Section 14.)

The Hindu Marriage Ordinance.

DECLARATION FOR PURPOSES OF SECTION 14.

| Date or approximate date and place of marriage. | Husband's name and age at date of marriage. | Wife's name and age at date of marriage. | Names and sex of children, with date of birth. | Names of children who are dead, with date and place of death. |
|---|---|--|--|---|
| | | | | |

I, _____ of _____ and _____ his wife respectively do solemnly and sincerely declare as follows:—

1. The details of the marriage set out above are true and such marriage was in accordance with the Hindu law relating to marriage.
2. That at the date of such marriage we were domiciled in the Colony.
3. That such marriage is still subsisting according to the Hindu law at the date hereunder written.

Declared at this _____ day of _____ 194 _____ before me

Signature or mark of parties :—
(1)
(2)

Marriage Officer

Signature of witnesses who identify the parties :—
(1)
(2)

I, _____ of _____ a Hindu Marriage Officer appointed under the Hindu Marriage Ordinance do hereby certify as follows:—

1. That the parties to the marriage specified above are desirous of registering such marriage under the said Ordinance.
2. That I have enquired into the circumstances of such marriage and to the best of my knowledge, information and belief the details specified above are true and such marriage was in accordance with the Hindu law and is still subsisting between the said parties at the date hereunder written.

Dated this _____ day of _____ 194 _____

.....
Marriage Officer.

Dated this _____ day of _____ 19 _____ and _____ countersigned by

District Registrar of Hindu Marriage for Marriage District of.....

Trinidad & Tobago.

FORM D.

(Section 15,

The Hindu Marriage Ordinance.

HINDU MARRIAGE REGISTER BOOK.

Registered No.

Marriage District.

| Date and place of Marriage. | Husband's name, age and sect. | Occupation of husband and address. | Wife's name, age and sect. | Name of father of husband and address. | Name of father of wife and address. | Marriage Officer. | District Registrar. |
|-----------------------------|-------------------------------|------------------------------------|----------------------------|--|-------------------------------------|-------------------|---------------------|
| | | | | | | | |

Registered this

day of

, 19

Registrar of Hindu Marriages.

N.B.—In the case of registration of a marriage in existence prior to the Ordinance the details to be entered shall be those appearing on the declaration and certificate on Form C.

Trinidad and Tobago.

FORM E.

(Section 15)

The Hindu Marriage Ordinance.

CERTIFICATE OF REGISTRATION OF MARRIAGE.

This is to certify that a marriage solemnized by a Hindu Marriage Officer*

_____ entered into †
 on the _____ day of _____, 19____, between
 of _____ and _____
 was duly registered in accordance with the provisions of the Hindu Marriage Ordinance on the _____ day of _____, 19____.

Registrar of Hindu Marriages.

* To be deleted in the case of registration of a marriage in existence prior to the Ordinance.

† To be deleted when marriage solemnized under the Ordinance.

Passed in Council this eighteenth day of May, in the year of Our Lord one thousand nine hundred and forty-five.

W. J. BOOS,

Clerk of the Council.