

No. 673

BILL No. 17 OF 1957.

THE MARRIAGE (AMENDMENT) BILL, 1957.

Arrangement of Sections.

Section.

- 1. Short title.
- 2. Repeal and re-enactment of section 4 of Chapter 164.
- 3. Amendment of section 5 of Chapter 164.
- 4. Repeal and re-enactment of section 6 of Chapter 164.
- 5. Repeal and re-enactment of section 7 of Chapter 164.
- 6. Insertion of new section 30A in Chapter 164.
- 7. Amendment of section 32 of Chapter 164.
- 8. Amendment of section 45 of Chapter 164.
- 9. Insertion of new section 51A in Chapter 164.
- 10. Amendment of section 52 of Chapter 164.
- 11. Insertion of new section 53A in Chapter 164.
- 12. Registration of certain marriages contracted before commencement of this Ordinance.
- 13. Saving.

A BILL

INTITULED

AN ORDINANCE FURTHER TO AMEND THE MARRIAGE ORDINANCE.

Enacted by the Legislature of British Guiana:—

1. This Ordinance may be cited as the Marriage (Amendment) Ordinance, 1957, and shall be construed and read as one with the Marriage Ordinance, hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same.

Short title.

Cap. 164.

2. Section 4 of the Principal Ordinance is hereby repealed and the following substituted therefor —

Repeal and re-enactment of section 4 of Chapter 164.

"Appointment of marriage officers.

4.(1) The Governor may, in his discretion, appoint any fit and proper person —

- (a) being a minister of the Christian religion, ordained, or otherwise set apart, to the ministry of that religion, according to the usage of the communion to which he belongs; or
- (b) being of the Hindu religion; or
- (c) being of the Islamic religion,

to be a marriage officer for the Colony.

(2) Any marriage officer may act in that character throughout the Colony."

3. Section 5 of the Principal Ordinance is hereby amended by renumbering that section as subsection (1), and by adding thereafter the following subsection —

Amendment of section 5 of Chapter 164.

"(2) No marriage officer who professes either the Hindu or Islamic religion shall solemnize a marriage other than in accordance with the provisions of this Ordinance."

4. Section 6 of the Principal Ordinance is hereby repealed and the following substituted therefor —

Repeal and re-enactment of section 6 of Chapter 164.

"Applications for appointment as a marriage officer.

6.(1) All applications for appointment as marriage officers must be made in writing to the Registrar General, who shall without delay transmit the application to the Chief Secretary for the information of the Governor.

(2) Every minister of the Christian religion acting in that character for a congregation, or having the local superintendence of several congregations, who applies to be appointed a marriage officer must state in his application the name or other description of the place of public worship in which he acts, or of the places of public worship of the congregations over which he has local superintendence, and the postal address at or to

which all communications intended for him may be delivered or sent.

(3) Every member of the Hindu or Islamic religion who applies to be appointed a marriage officer shall state in his application his postal address at or to which all communications intended for him may be delivered or sent, and the name of the Hindu or Islamic sect to which he belongs."

Repeal and re-enactment of section 7 of Chapter 164.

5. Section 7 of the Principal Ordinance is hereby repealed and the following substituted therefor —

"Notifica-
tion of ceas-
ing to act as
a minister of
religion.

7. Every marriage officer shall, if he ceases to act as a minister of religion, or to profess the Hindu religion or Islamic religion as the case may be, forthwith notify the fact to the Registrar General."

Insertion of new section 30A in Chapter 164.

6. The Principal Ordinance is hereby amended by the insertion therein after section 30 of the following new section —

"Avoidance
of marriages
where either
party is un-
der the
specified age.

30A. (1) Notwithstanding the provisions of section 30 of this Ordinance, and subject to the provisions of subsection (2) of this section, a marriage shall be void if the parties or either of them is under the age of sixteen in the case of a male or fourteen in the case of a female:

(2) If a female under the age of fourteen years becomes pregnant or is delivered of a child, she may apply by petition to the Chief Justice, or (in case of there being no person officiating as Chief Justice) a judge of the Supreme Court, for permission to be married under that age to a person not being a person under the age of sixteen years or, if under that age, he admits to being the putative father of the child whether yet delivered or not, or is adjudged by a court of competent jurisdiction to be the father of the child; and the Chief Justice or judge of the Supreme Court, if satisfied that the petitioner is pregnant or has been delivered of a child he shall, subject to the provisions of sections 28 and 31 of this Ordinance, judicially declare, by order in writing, that the marriage may be solemnized forthwith; and every marriage duly solemnized in pursuance or under the authority or direction of that Order shall be good, valid and effectual to all intents and purposes whatsoever, as if both parties thereto had been above the age of twenty-one years.

(3) Nothing in subsection (1) of this section shall affect any marriage contracted before the commencement of this section and any such marriage shall be or become valid in any case where, if subsection (1) of this section had not been enacted, it would be or become valid."

Amend-
ment of
section 32 of
Chapter 164.

7. Section 32 of the Principal Ordinance is hereby amended —

- (a) by the renumbering of that section as subsection (1), and by the insertion therein between the word "Except" and the word "in" of the words "as provided in subsection (2) of this section and";
- (b) by the insertion thereafter of the following new subsection —

"(2) No marriage shall be solemnized by a marriage officer who is of the Hindu or Islamic religion unless there is produced to that marriage officer a licence granted under the provisions of section 38 of this Ordinance, or a certificate issued under the provisions of section 48 of this Ordinance."

Amend-
ment of sec-
tion 45 of
Chapter 164.

8. Subsection (4) of section 45 of the Principal Ordinance is hereby amended by the deletion of the full stop at the end thereof, and by the insertion after the word "aforesaid" of the words "together with the birth certificates of the parties intending marriage or other satisfactory evidence of the ages of such parties."

Insertion of
new section
51A in
Chapter 164.

9. The Principal Ordinance is hereby amended by the insertion therein after section 51 of the following new section —

"Requisites
of a valid
Hindu or
Muslim
marriage
under the
Ordinance.

51A. The requisites of a valid marriage contracted under this Ordinance and according to the religious rites of persons professing the Hindu or Islamic religion are —

- (a) that each of the parties shall belong to and

profess the same faith or religion being the Hindu faith or religion or the Islamic faith or religion as the case may be;

- (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;
- (d) that the marriage shall be solemnized by a marriage officer in accordance with the rites of the Hindu religion or the Islamic religion as the case may be and in accordance 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 in the presence of two or more credible witnesses and shall sign or mark the register in accordance with the provisions of section 57 of this Ordinance;
- (f) that the marriage shall be registered in accordance with the provisions of this Ordinance."

10. Section 52 of the Principal Ordinance is hereby amended by —

Amendment of section 52 of Chapter 164.

- (a) the substitution of a colon for the semicolon at the end of paragraph (b) thereof, and by the insertion thereafter of the following proviso —

"Provided that the provisions of paragraph (a) of this section shall not apply to marriages contracted by persons professing the Hindu or Islamic religion.";

- (b) the repeal of the proviso at the end of subparagraph (ii) of paragraph (c) thereof, and by the substitution of the following —

"Provided that in the marriage of persons professing the Hindu or Islamic religion, it shall not be necessary for either party to pronounce the name of either party."

11. The following section is hereby inserted after section 53 of the Principal Ordinance —

53A. No person who has contracted a marriage under the provisions of this Ordinance shall, upon that marriage being dissolved for any reason whatever, be permitted to contract a marriage under the provisions of the Indian Labour Ordinance.

Labour Ordinance. Cap. 104.

Insertion of new section 53A in Chapter 164.

12. (1) Notwithstanding anything contained to the contrary in this Ordinance or in any other Ordinance, the Registrar General shall, during a period of twelve months from the commencement of this Ordinance, upon an application being made to him in Form No. 1 of the schedule hereto by persons who have been granted certificates of exemption from the provisions of the Indian Labour Ordinance, cause an entry to be made in a marriage register book in accordance with the provisions of the Principal Ordinance of the particulars of a marriage contracted between persons professing the Hindu or Islamic religion, and still subsisting at the date of the application, and shall upon being requested by any person, and subject to the provisions of section 60 of the Principal Ordinance cause to be issued a certified copy of the said entry in accordance with the provisions of section 59 of the Principal Ordinance.

Registration of certain marriages contracted before commencement of this Ordinance. Form No. 1. Schedule.

Cap. 104.

(2) (a) Where a marriage has been contracted under the provisions of the Indian Labour Ordinance, and where subsequent to the marriage both parties have been granted certificates of exemption from the provisions of the said Ordinance, either party to the marriage may apply to the Registrar General in Form No. 2 of the schedule hereto to enter particulars of the said marriage in a marriage register book.

Cap. 104.

Form No. 2

Schedule.

(b) Such application shall be accompanied by a certificate of registration issued under the provisions of section 143 of the Indian Labour Ordinance.

Cap 104.

(c) Upon the receipt of such an application, the Registrar General shall cause an entry to be made in a marriage register book in accordance with the provisions of sections 57 and 58 of the Principal Ordinance, and shall cause to be issued upon being requested by any person and subject to the provisions of section 60 of the Principal Ordinance a certified copy of the said entry in accordance with the provisions of section 59 of the Principal Ordinance.

13. Nothing contained in this Ordinance shall preclude the solemnization or performance of a marriage under Part X of the Indian Labour Ordinance.

Saving.

Cap. 104.

SCHEDULE

Section 12(1).

FORM No. 1

DECLARATION OF MARRIAGE.

We, A.B. and C.D.

severally declare as follows:

- 1. We are both of the religion and subject to the same personal law.
- 2. We were duly married according to the said religion and personal law at (place) on (date)
- 3. We are living together at the present time as husband and wife.

Dated this day of 19

A.B.

C.D.

Signatures of 2 witnesses if either declarant cannot write —

1.

2.

FORM No. 2

Section 12 (2) (a),

DECLARATION REQUIRED BY SECTION 12 (2).

Date and place of marriage	Husband's name, status and age at date of marriage	Wife's name, status and age at date of marriage

I, of and I, of

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 provisions of the Indian Labour Ordinance.
- 2. That such marriage is still subsisting at the date hereunder written.

Declared at this day of

19

Before me,

.....
Registrar General.

OBJECTS AND REASONS.

This bill seeks to amend the Marriage Ordinance (Chapter 164) to provide for the appointment of persons of the Hindu or Islamic religion as marriage officers, and for the registration of marriages contracted by Hindus and Muslims in the general register of marriages. It also seeks to prescribe the requisites for a valid Hindu or Muslim marriage.

2. It is also sought to fix the minimum age (sixteen for males and fourteen for females) at which marriages may be contracted. This provision does not at present appear in Chapter 164.

3. The bill also seeks to make provision for the registration of marriages contracted by persons who have been granted certificates of exemption from the Indian Labour Ordinance.

M. S. PORCHER,
Chief Secretary (Acting).

(M.P. C. 70/5).
(Leg. Bill No. 17/1957).