

TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to provide for Hindus living in Pakistan

It is enacted as follows:-

1. **Short title extent and commencement:** (1) This Act may be called the Hindu Marriage Act, 2014.

(2) It extends to the whole of Pakistan and to Hindu citizens of Pakistan.

(3) It shall come into force at once.

2. **Application of Act.** - (1) This Act shall apply:

(a) To all person who profess Hindu Religion in any of its forms.

3. **Definitions.**- In this Act, unless the context otherwise requires:-

(a) **"Family Court"** means a Civil Court having been notified as family court under the west Family Courts Act 1964;

(b) **"Prescribed"** means prescribed by rules made under this Act;

(c) **"Degrees of prohibited relationship".** means any prohibited relationship as per laws, religion and customs having force of law;

(d) **Government,** means the Federal or Provincial as the case may be ;

(e) **"Hindu Marriage",** means the lawful union of Hindu male and Hindu female solemnized under the Act;

(f) *Shaadi Parat*, means certificate or document of marriage issued by the Marriage Registrar;

(g) *Marriage Registrar*, means a person who is duly authorized and appointed by the Government to have authority to register the Hindu Marriages, issued by the competent authority;

(h) *Marriage Register* means the Register of marriages maintained by the Marriage Registrar as prescribed by the Government;

4. Overriding effect of Act. - Notwithstanding any other law for the time being in force, the provisions of this Act shall prevail.

Hindu Marriages

5. Conditions for Hindu Marriage: A marriage shall be solemnized under this Act on fulfillment of the following conditions, namely:-

- (i) parties to the marriage are of 18 years of age or above;
- (ii) parties to the marriage render free consent;
- (iii) parties are not within the prohibited degree of relationship;
- (iv) neither of the parties to the marriage has a spouse living at time of marriage

Provided this condition shall not apply where a wife cannot conceive a child and medically declared to be so;

6. Ceremonies for marriage. A marriage may be solemnized in a manner prevalent within the customary rites and ceremonies of either party thereto.

7. Registration of the marriages:

- (1) For the purpose of facilitating the proof of marriages, the Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed in a Marriage Register kept for the purpose.

(2) Notwithstanding anything contained in sub-section (1), the Government may, if it is of opinion that it is necessary or expedient so to do, provide that the entering of the particulars referred to in sub-section (1) shall be compulsory whether in all cases or in such cases as may be specified, and where any such direction has been issued, any person contravening any rule made in this behalf shall be punishable with fine which may extend to **one hundred thousand rupees depending upon the severity of the offence.**

(3) The Marriage Register shall be open for inspection, and shall be admissible as evidence of the statement therein contained and certified extracts there from shall, on application, be given by the Registrar on payment of the prescribed fee.

(4) Notwithstanding anything contained in this section, the validity of any marriage shall in no way be affected by the omission of **register.**

8. Judicial separation. (1) Either party to a marriage, may present a petition to a court of competent jurisdiction for a decree for judicial separation on any of the following grounds;

- i. The other party renounced the Hindu Religion and adopted another one; or
- ii. Has, after the solemnization of the marriage, treated the petitioner with cruelty; or
- iii. Has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or
- iv. has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.
- v. has been suffering from a virulent and incurable form of disease; or

Nullity of Marriage

9. **Void marriages:-** Any marriage solemnized after the commencement of this Act shall be null and void and may on a petition presented by either party, be so declared by a decree of nullity if it contravenes any one of the following grounds

- a) That the parties are not within the prohibited degree of relationship;
- b) That age of any party to the marriage is less than 18 years

10. **Voidable marriage.-** (1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:-

- (a) that the marriage has not been consummated owing to the impotence of the respondent; or
 - (b) that the consent to the marriage given was not free
 - (c) That the consent of the petitioner was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent; or
 - (d) That the other spouse was living at time of the marriage and this fact was concealed by design
- 2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage mentioned in clause (c) shall be entertained if;
- (i) the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered; or
 - (ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud has been discovered;

11. Divorce.- (1) Any marriage solemnized whether before or after the commencement of this Act may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on any of the following ground;

- i. The other party renounced the Hindu Religion and adopted another one; or
- ii. Has, after the solemnization of the marriage, treated the petitioner with cruelty; or
- iii. Has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or
- iv. has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.
- v. has been suffering from a virulent and incurable form of disease;

12. Alternative relief in divorce proceeding.-

During proceedings of divorce, the court may on its satisfaction, is of the view, that decree of divorce is not suitable, may pass a decree of judicial separation.

13. Divorce by mutual consent.- (1) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the family court by both the parties to a marriage together whether such marriage was solemnized before or after the commencement of this Act, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

14. Divorced persons when may marry again.- When a marriage has been dissolved by a decree of divorce and the time for appealing has expired without an appeal having been presented or an appeal has been preferred but has been dismissed it shall be lawful for either party to the marriage to marry again after expiry of three months from final decision.

15. Legitimacy of children of void and voidable marriage.-

Without prejudice to having declared marriage as null and void, the children would be entitled to all the benefits available under the law, if born within nine months of such annulment, unless proved otherwise.

Jurisdiction and procedure

16. Court to which petition shall be presented.- Every petition under this Act shall be presented to the Family court and the provisions of Family Courts Act XXXV of 1964 except Section 14(2), 21 and 23 and West Pakistan Family Court Rules 1965 excepting proviso to Rule 6 (b) shall mutatis mutandis apply to the proceedings under this Act.

17. Reconciliation Proceedings: during pendency of a petition before the court under Sections 10, 11 and 13, the court shall have/make an attempt of reconciliation between the parties at pre-trial and post trial stages.

18. Validation of Marriages. - All marriages solemnized before commencement of this Act shall be deemed valid

19. Registration of marriages

Every marriage solemnized under this Act shall be registered with in fifteen days in accordance with the provisions of this Act. The parties to such marriage shall give their respective particulars to the Marriage Registrar, for the purpose of entering the particulars in the "Shaadi Parat".

20. Appointment and annulment of Marriage Registrar:

- i- The government may by notification appoint Marriage Registrars for such areas as it considers necessary, for a specific term or otherwise.
- ii- The Government by notification may invest all the powers of Marriage Registrar to a Pandit/Maharaj/Panch or any other such elder of community in their respective areas. Functions of authorized persons shall be to register marriages solemnized during their jurisdiction, and issue license accordingly.

- iii- The Government shall maintain also appoint a District Marriage Registrar for each District.
- iv- The license of the Marriage Registrar may be annulled by the government or by the competent authority in case; the specific term is lapsed, the Marriage Registrar indulges in nitrous activities injurious to his office, has become insane or incapable of carry on his functions as marriage registrar.
- v- The marriage registrar shall not function, unless he has a license of marriage registration issued by the government.

21. **Marriage Registrar:**

The Marriage Registrar shall maintain a Marriage Register for the purpose of entering the particulars in the Shaadi Parat.

22. **Shaadi Parrat:**

- i. The "Shaadi Parrat" shall be issued by the Marriage Registrar as provided in schedule A.
- ii. Marriage Registrar shall issue three copies/forms of Shaadi Parrat to the persons for such solemnization. The forms will be duly filled by the respective parties and returned to the Marriage Registrar. The Marriage Registrar will fill in the information in the register and at the time of marriage, Marriage Registrar will verify and get the signatures of parties and witnesses and put the signature and seal the marriage registrar. One copy each shall be issued to bridegroom, groom, office of District Marriage Registrar and to Marriage Registrar.

23. **Marriage Register to be open for the public inspection:**

The Marriage Register shall be a public document and it shall remained open to public inspection during working hours. Certified copy of the "Shaadi Parrat" shall be issued by the marriage registrar, attested by him with his seal and sign, on the application by person relevant to the marriage on a prescribed and on such condition as government prescribed.

24. ***Penalty for violating the provisions of section 23 for making false statements in "Shaadi Parrat":***

Any person who;

- i. violates or fails to comply with the provisions of section 23 of the Act or*
- ii. Makes any statement or gives particulars to be entered in the "Shaadi Parrat" which is false or has reason to believe to be false shall be punished with a simple imprisonment which may extend to Six months but not less than one month or fine which may extend to 50,000 rupees, or both.*

25. ***Application of Criminal Procedure Code 1898 And Qanoon-e-Shahadtt Order 1984:***

- i. The offences under this Act shall be triable by the Magistrate 1st Class*
- ii. The Criminal Procedure Code 1898 and Qanoon-e-Shahadatt Order 1984 shall be applicable on the Act.*

26. ***Offences in the Act are non-cognizable and non-compoundable:***

- (1) All the offences in the Act shall non-cognizable and non-compoundable.*
- (2) No court shall take cognizance of the complaint except in writing complaint of the District Marriage Registrar.*

27. ***Power to make rules:***

The government shall within 6 months of the frame enactment of this statute, notify the rules for the purpose of furtherance of the objects and provisions of this Ordinance

28. ***Overriding effects:***

Notwithstanding, anything contained in any other law, for the time being in force, which is contrary to the Act, the provisions of this Act shall have overriding effect.

The Schedule "A"

SHAADI PARRAT

1- Date of Marriage _____

2- Name of Union Council , Tehsil / Town,

District

3- Particulars of Bridegroom:

i. Full Name _____ CNIC

ii Father's Name _____ CNIC

iii Date of Birth _____

Date of Solemnization of Marriage Place

Temporary Address:

vii. Matrimonial Status: Single Married Divorced Widower

viii. Number of Dependents. _____

ix. Religion: Hindus Bhuddist Jain Sikh

4- Particulars of Bride:

i. Full
Name _____ CNIC

ii. Father's Name _____
CNIC _____

iii. Mother's Name _____
CNIC _____

iv. Age _____

v. Permanent
Address: _____

vi. Temporary Address:

vii. Matrimonial Status: Single Married Divorced Widower

