

THE WEST PAKISTAN RULES UNDER MUSLIM FAMILY LAWS ORDINANCE, 1961

(Gazette of West Pakistan, Extraordinary, July 20, 1961)

(10th July, 1961)

Notification No. Integ. 4-5/61.---In exercise of powers conferred by Section 11 of the Muslim Family Laws Ordinance, 1961 (VIII of 1961), the Governor of West Pakistan is pleased to make the following rules, namely:---

PRELIMINARY

1. These rules may be called the West Pakistan Rules under the Muslim Family Laws Ordinance, 1961
2. In these rules unless there is anything repugnant in the subject or context:
 - (a) "Form" means a form appended to these rules;
 - (b) "Ordinance" means the Muslim Family Laws Ordinance, 1961 (VIII of 1961);
 - (c) "Register" means a register of nikahnamas prescribed under rule 8; and
 - (d) "Section" means a section of the Ordinance.

ARBITRATION COUNCIL

3. The Union Council which shall have jurisdiction in the matter for purpose of clause (d) of section 2, shall be as follows, namely:---
 - (a) in the case of an application to contract another marriage under sub-section (2) of section 6, it shall be the Union Council of the Union or Town in which the existing wife of the applicant, or where the husband has more wives than one, the wife with whom the applicant was married last, is residing at the time of his making the application;
 - (b) in the case of notice of talaq under sub-section (1) of section 7, it shall be the Union Council of the Union or Town in which the wife in relation to whom talaq has been pronounced was residing at the time of the pronouncement of talaq; and

1 To continue in force in all parts of newly-restored Provinces of N.W.F.P., Baluchistan, Sindh and Punjab vide Art. 19(2), Province of West Pakistan (Dissolution) Order, 1973 (P.O. No. 1 of 1970).

- (c) in the case of an application for maintenance under section 9, it shall be the Union Council of the Union or Town in which the wife is residing at the time of her making the application, and where application under that section is made by more than one wife, it shall be the Union Council of the Union or Town in which the wife who makes the application first, is residing at the time of her making the application.

[3-A. Where the whereabouts of the wife who is to be supplied a copy of the notice of talaq under sub-section (1) of section 7 of the Ordinance, are not known to the husband, or cannot, with due diligence, be ascertained by him, he may, if so permitted by the Chairman, give notice of the talaq to the wife through her father, mother, adult brother or adult sister, or if their whereabouts are not known to the husband or cannot, with due diligence, be ascertained by him, he may, with the permission of the Chairman serve the notice of talaq on her by publication in a newspaper, approved by the Chairman, having circulation in the locality where he last resided with the wife.]

4. Where a non-Muslim has been elected as Chairman of a Union Council, the Council shall as soon as may be elect one of its Muslim members as Chairman for the purposes of the Ordinance in the manner prescribed for the election of a Chairman of a Union Council.

5. (1) All proceedings before an Arbitration Council shall be held in *camera* unless the Chairman otherwise directs with the consent of all the parties.

(2) The Chairman shall conduct the proceedings of an Arbitration Council as expeditiously as possible.

(3) Subject to the provisions of sub-rule (4), such proceedings shall not be vitiated by reason of a vacancy in the Arbitration Council, whether on account of failure of any person to nominate a representative or otherwise.

(4) Where a vacancy arises otherwise than through failure to make a nomination, the Chairman shall require a fresh nomination.

(5) No party to proceedings before an Arbitration Council shall be a member of the Arbitration Council.

(6) All decisions of the Arbitration Council shall be taken by majority, and where no decision can be so taken, the decision of the Chairman shall be the decision of the Arbitration Council.

(7) A copy of the decision of the Arbitration Council duly attested by the Chairman, shall be furnished free of cost to each of the parties to the proceedings.

6. (1) Within seven days of receiving an application under sub-section (4) of section 6 or under sub-section (1) of section 9, or a notice under sub-section (1) of section 7, the Chairman shall, by order in writing, call upon each of the parties to nominate his or her representative, and each such party shall, within seven days of receiving the order, nominate in writing a representative and deliver the nomination to the Chairman or send it to him by registered post.

(2) Where a representative nominated by a party is, by reason of illness or otherwise, unable to attend the meetings of the Arbitration Council, or wilfully absents himself from such meeting or has lost the confidence of the party, the party, may, with the previous permission in writing of the Chairman, revoke the nomination and make, within such time as the Chairman may allow, a fresh nomination.

(3) Where fresh nomination is made under sub-rule (2), it shall not be necessary to commence the proceedings before the Arbitration Council *de novo*, unless the Chairman, for reasons to be recorded in writing, directs otherwise.

³[6A. (1) Where it is made to appear to the Collector whether on the application of a party to the proceedings or on his own information, that the Chairman is interested in favour of a party to any proceedings before the Arbitration Council or is prejudiced against any such party, or that the Chairman is misconducting himself in any such proceedings, the Collector may, after giving notice to all the parties to the proceedings, appoint any other member of the Union Council as the Chairman for purpose of this Ordinance, and pending the passing of such orders may stay the proceedings before the Arbitration Council.

(2) A Collector passing an order under this rule shall record in writing his reasons for the same.

REGISTRATION OF MARRIAGES

7. (1) Any person competent to solemnize a marriage under Muslim Law may apply to the Union Council for the grant of a licence to act as Nikah Registrar under section 5.

(2) If the Union Council, after making such inquiries as it may consider necessary, is satisfied that the applicant is a fit and proper person for the grant of a

3. Rule 6-A was added by Gazette Notification No. Integ. 4-5-61, dated 9th September, 1961.

licence, it may, subject to the conditions specified therein, grant a licence to him in Form I.

(3) A licence granted under this rule shall be permanent and shall be revocable only for the contravention of any of the conditions of the licence granted under this rule.

(4) If any person to whom a licence has been granted under this rule contravenes any of the conditions of such licence, he shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

8. (1) The Union Council shall, on payment of such cost as may be determined by the Provincial Government, supply to every Nikah Registrar bound register of nikahnamas in Form II, and a seal bearing the inspection "The seal of the Nikah Registrar of Ward (x) (y)..."⁴

(2) Each register shall contain fifty leaves consecutively numbered, each leaf having a nikahnama, in the quadruplicate, and the number of leaves shall be certified by the Chairman.

(3) Notwithstanding the payment of cost under sub-rule (1), the register and the seal shall remain the property of the Union Council.

9. (1) For the registration of a marriage registered under section 5, the Nikah Registrar shall be paid by the bridegroom or his representative a registration fee of two rupees, or when the dower exceeds two thousand rupees, a fee calculated at the rate of one rupee for every thousand or part of thousand rupees of such dower, subject to a maximum fee of twenty rupees.

(2) Of the fees received under sub-rule (1) the Nikah Registrar shall retain for himself eighty per cent and shall pay the remaining twenty per cent to the Union Council.

(3) Where dower consists of property other than money or partly of such property and partly of money, the valuation of the property shall, for purposes of fees under sub-rule (1), be the valuation as settled between the parties to the marriage.

10. (1) The Nikah Registrar shall, in the case of a marriage solemnized by him, fill in Form 12, in quadruplicate, in the register, the persons, whose signatures are required in the Form, shall then sign, and the Nikah Registrar shall then affix his signature and seal thereto, and keep the original intact in the register.

4. For (x) insert the name or number of the ward, and for (y) insert the name of the Union Council.

(2) The duplicate and triplicate of the Nikahnama filed in as aforesaid, shall be supplied to the bride and the bridegroom respectively, on payment of fifty paise each, and the quadruplicate shall be forwarded to the Union Council.

(3) If any person required by this rule to sign the register, refuses so to sign, he shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

11. (1) Where a marriage is solemnized in Pakistan by a person other than the Nikah Registrar, such person shall fill Form II, to be had loose on payment of such price as may be determined by the Provincial Government, the persons whose signatures required in the Form, shall then sign, and the person solemnizing the marriage then affix his signature to the Form and ensure delivery, as expeditiously as possible, of the same together with the registration fee to the Nikah Registrar of the Ward where the marriage is solemnized.

(2) If any person required by this rule to sign the Form refuses to sign, he shall be punishable with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

12. (1) In the case of marriage solemnized outside Pakistan, by a person who is a citizen of Pakistan, such person shall ensure delivery of Form II, filled in accordance with the provisions of rule 11 together with the registration fee, to the Consular Officer of Pakistan in or for the country in which the marriage is solemnized, for onward transmission to the Nikah Registrar of the Ward of which the bride is a permanent resident, and in case the bride is not a citizen of Pakistan, to the Nikah Registrar of the Ward of which the bridegroom is such resident.

(2) In the case of a marriage solemnized outside Pakistan by a person who is not a citizen of Pakistan, the bridegroom, and where only the bride is such citizen, the bride shall, for purposes of filling in, as far as may be, Form II, be deemed to be the person who has solemnized the marriage under sub-rule (1).

13. On receipt of Form II under rule 11 or 12, the Nikah Registrar shall proceed in the manner provided in rule 10 as if the marriage had been solemnized by him:

Provided that except where the marriage has been solemnized within his jurisdiction, it shall not be necessary for the Nikah Registrar to obtain the signatures of the necessary persons.

POLYGAMY

14. In considering whether another proposed marriage is just and necessary during the continuance of an existing marriage the Arbitration Council may, without prejudice to its general powers to consider what is just and necessary, have regard to such circumstances, as the following amongst others:

Sterility, physical infirmity, physical unfitness for the conjugal relation, wilful avoidance of a decree for restitution of conjugal rights, or insanity on the part of an existing wife.

15. An application under sub-section (1) of section 6 for permission to contract another marriage during the subsistence of an existing marriage shall be in writing, shall state whether the consent of the existing wife or wives has been obtained thereto, shall contain a brief statement of the grounds on which the new marriage is alleged to be just and necessary, shall bear the signature of the applicant, and shall be accompanied by a fee of one hundred rupees.

REVISION

16. (1) Application for the revision of a decision of an Arbitration Council, under sub-section (4) of section 6, or of a certificate under sub-section (2) of section 9, shall be preferred within thirty days of the decision or of the issue of the certificate, as the case may be, and shall be accompanied by a fee of two rupees.

(2) The application shall be in writing, set out the grounds on which the applicant seeks to have the decision or the certificate revised, and shall bear the signature of the applicant.

17. As soon as may be after the Arbitration Council has given its decision under rule 6, the record of the proceedings before it in which such decision has been given, shall be forwarded by the Chairman to the office of the Union Council, where it shall be preserved for a period of five years from the date of the decision.

18. (1) The quadruplicate of the Nikahnama forwarded by Nikah Registrar under sub-rule (2) of rule 10 shall be preserved in the office of the Union Council until such time as the register containing the original is, on being completed deposited by the Nikah Registrar in such office.

(2) The completed register so received shall be preserved permanently.

(3) In the office of Union Council there shall be prepared and maintained an index of the contents of every register, and every entry in such index shall be made, so far as practicable, immediately after the Nikah Registrar has made an entry in the register.

(4) The aforesaid index shall contain the name, place of residence and father's name of each party to every marriage registered within the Union or Town, as the case may be, and the dates of the marriage and registration.

19. (1) Subject to the previous payment of the fees prescribed in sub-rules (2) and (3), the index and the register shall, at all reasonable times, be open to inspection at the office of the Union Council by any person applying to inspect the same and copies of entries in the index and the register, duly signed and sealed by the Chairman, shall be given to all persons applying for such copies.

(2) The fee for inspection of an index or register shall be fifty paise.

(3) The fee for a certified copy of all or any of the entries relating to a marriage shall be:---

(a) for those in index ... Fifty paise.

(b) for those in a register ... Two rupees.

(4) Fees payable under this rule shall be credited to the Council.

PAYMENT OF FEES

20. Except fees payable to the Nikah Registrar, which shall be paid in cash, all fees payable under these rules shall be paid in non-judicial stamps.

COMPLAINTS

21. No Court shall take cognizance of any offence under the Ordinance or these rules, save on a complaint in writing by the Union Council, stating the facts constituting the offence.

Punjab substitution of rule 21: (Notification No. S.O.X--1--1575--Vol. II--Punjab Gazette, Extra., 26th November, 1976).

"21. No Courts shall take cognizance of any offence under the Ordinance or these rules save on a complaint in writing by the aggrieved party, stating the facts constituting the offence."

FORM I

(See Rule 7)

[Licence granted in pursuance of section 5(2) of the Muslim Family Laws Ordinance (VIII of 1961)]

In pursuance of sub-section (2) of section 5 of the Muslim Family Laws Ordinance, 1961 (VIII of 1961) the Union Council, Union Committee, Town Committee of.....in the district of.....hereby grants this.....day of.....19.....to

Mr.....son of.....resident of.....this licence, subject to the conditions hereunder specified, to be from the said date the Nikah Registrar for the following Ward/Wards:

- (1)
(2)
(3)
(4)

Seal.

Signature of the Chairman.

CONDITIONS

- 1. This licence is not transferable.
2. This licence is revocable for breach of any of the provisions of the Muslim Family Laws Ordinance, 1961 (VIII of 1961), or the rules made thereunder or of any condition of this licence.
3. The registers and seal supplied to the Nikah Registrar shall be returnable to the Union Council, Union Committee, Town Committee without refund of cost, when this licence expires or is revoked.
4. The Nikah Registrar shall not put the seal supplied to him to any improper use.
5. Such other conditions, if any, as may be specified by the Provincial Government.

FORM II

(See Rules 8, 10, 11 and 12 supra)

Form of Nikahnama as prescribed by Rule 8 of the Muslim Family Laws Rules, 1961.

- (1) Name of ward.....Town/Union.....Tehsil/Thana.....and District.....in which the marriage took place.
(2) Name of the bridegroom and his father, with their respective residences.....
(3) Age of bridegroom.....
(4) The names of the bride and her father, with their respective residences.....
(5) Whether the bride is a maiden, a widow or a divorce.....
(6) Age of the bride.....
(7) Name of Vakil, if any appointed by the bride, father's name and his residence:.....

(8) The name of the witnesses to the appointment of the bride's Vakil, with their fathers' names, their residence and their relationship with the bride:

(1)

(2)

(9) Name of the Vakil, if any, appointed by the bridegroom, his father's name and his residence:

.....

(10) The names of the witnesses to the appointment of the bridegroom's Vakil, with their father's names and their residences:

(1)

(2)

(11) Names of the witnesses to the marriage, their father's names and their residences:

(1)

(2)

(12) Date on which the marriage was contracted.....

(13) Amount of dower.....

(14) How much of the dower is *mu'wajjal* (prompt) and how much *mu'ajjal* (deferred).....

(15) Whether any portion of the dower was paid at the time of marriage. If so, how much.....

(16) Whether any property was given in lieu of the whole or any portion of the dower with specification of the same and its valuation agreed to between the parties:

.....

(17) Special conditions, if any:

.....

(18) Whether the husband has delegated the power of divorce to the wife, if so, under what conditions?

.....

(19) Whether the husband's right of divorce in any way curtailed?

.....

(20) Whether any document was drawn up at the time of marriage relating to dower, maintenance, etc. If so contents thereof in brief:

.....

(21) Whether the bridegroom has any existing wife, and if so, whether he has secured the permission of the Arbitration Council under the Muslim Family Laws Ordinance, 1961, to contract another marriage:

.....

(22) Number and date of the communication conveying to the bridegroom the permission of the Arbitration Council to contract another marriage:

.....

(23) Name and address of the person by whom the marriage was solemnized and his father:

.....

(24) Date of registration of marriage:

(25) Registration fee paid:

*Signature of the bridegroom
or his Vakil:*

*Signature of the witness to the
appointment of bridegroom's
Vakil:*

.....

.....

Signature of the bride:

*Signature of the
Vakil of the
bride:*

*Signature of the witness
to the appointment of
bride's Vakil:*

*Signature of the witnesses to the
marriage*

*Signature of the person who
solemnized the marriage:*

.....

(1)

(2)

.....

*Signature and seal of the Nikah
Registrar.*

.....

Seal.
