

CHAPTER 132

MARRIAGE AND DIVORCE (KANDYAN)

Acs
Nos. 44 of 1952,
34 of 1954,
22 of 1955,
Law
No. 41 of 1975.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO KANDYAN MARRIAGES AND DIVORCES, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st August. 1954.]

Short title.

1. This Act may be cited as the Kandyan Marriage and Divorce Act.

(a) the male party thereto is under the lawful age of marriage; or

Application of Act

2. The provisions of this Act shall not, unless otherwise expressly provided therein, apply to marriages contracted before the appointed date.

(b) the female party thereto is under the lawful age of marriage; or

Marriages between persons subject to Kandyan law.

3. (1) Subject to the provisions of this Act—

(c) the male and female parties thereto are both under the lawful age of marriage.

(a) a marriage, between persons subject to Kandyan law, shall be solemnized and registered under this Act or under the Marriage Registration Ordinance ; and -,

(2) Notwithstanding anything in subsection (1), a Kandyan marriage shall be deemed not to be or to have been invalid under that subsection by reason of one party and one party only thereto being, at the time of marriage, under the lawful age of marriage—

(b) any such marriage which is not so solemnized and registered shall be invalid.

(a) if both parties thereto cohabit as husband and wife, for a period of one year after the party aforesaid has attained the lawful age of marriage; or

(2) The fact that a marriage, between persons subject to Kandyan law, is solemnized and registered under the Marriage Registration Ordinance shall not affect the rights of such persons, or of other persons claiming title from or through such persons, to succeed to property under and in accordance with the Kandyan law.

(b) if a child is born of the marriage before the party aforesaid has attained the lawful age of marriage.

(3) Notwithstanding anything in subsection (1), a Kandyan marriage shall be deemed not to be or to have been invalid under that subsection by reason of both parties thereto being, at the time of marriage, under the lawful age of marriage.—

PART I

VALIDITY OF KANDYAN MARRIAGES AND LEGITIMIZATION OF ILLEGITIMATE CHILDREN

Lawful age of marriage.

4. (1) No Kandyan marriage shall be valid if, at the time of marriage—

(a) if both such parties cohabit as husband and wife for a period of one year after they both have attained the lawful age of marriage; or

(b) if a child is born of the marriage before both or either of them have attained the lawful age of marriage.

Prohibited degrees of relationship.

5. (1) No Kandyan marriage shall be valid—

(a) if either party thereto is directly descended from the other; or

(b) if the female party thereto is the sister of the male party thereto either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or the daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or

(c) if the male party thereto is the brother of the female party thereto either by the full or the half-blood, or the son of her brother or of her sister by the full or the half-blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.

(2) No marriage or cohabitation shall take place between persons who, being subject to Kandyan law, stand towards each other in any of the degrees of relationship specified in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section ; and in the event of any marriage or cohabitation between such persons, each such person shall be guilty of an offence under this Act.

Second marriage without legal dissolution of first marriage invalid.

6. No Kandyan marriage shall be valid—

(a) if one party thereto has contracted a prior marriage; and

(b) if the other party to such prior marriage is still living,

unless such prior marriage has been lawfully dissolved or declared void.

Legitimization of illegitimate children.

7. A valid Kandyan marriage shall render legitimate any children who may

have been procreated (whether before or after the appointed date) by the parties thereto previous to such marriage and children so legitimized shall be entitled to the same and the like rights as if they had been procreated by the parties thereto subsequent to such marriage.

PART II

CONSENT To MARRIAGE

8. (1) The consent of a competent authority is hereby required to the marriage under this Act of a minor subject to Kandyan law.

Consent required to marriage of minor.

(2) For the purposes of this Act, the expression " competent authority", in relation to a minor, means—

(a) the father of the minor; or.

(b) if the father is dead, or is under any legal incapacity, or is unable to give or refuse his consent by reason of absence from Sri Lanka, the mother of the minor; or

(c) if both the father and mother of the minor are dead, or are under any legal incapacity, or are unable to give or refuse consent by reason of absence from Sri Lanka, the guardian or guardians of the minor appointed by the father or, if the father is dead, or is under any legal incapacity, by the mother or, if the mother is dead, or is under any legal incapacity, by a competent court; or

(d) if both the father and mother of the minor are dead, or are under any legal incapacity, or are unable to give or refuse consent by reason of absence from Sri Lanka, and if further—

(i) no guardian or guardians of the minor has or have been appointed by the father, mother or a competent court; or

(ii) the guardian or guardians so appointed is or are dead, or is or are under any legal

incapacity, or is or are unable to give or refuse consent by reason of absence from Sri Lanka,

the District Registrar for the district in which the minor resides.

Authority to give or refuse consent.

9. Any competent authority whose consent to the marriage of a minor is required under the last preceding section may give or refuse such consent as to such authority may seem fit.

Consent of District Registrar.

10. (1) A District Registrar shall, if he is a competent authority in relation to a minor, entertain any application made under this section for his consent to the marriage of that minor under this Act.

(2) The application shall be made by means of a written petition either by the minor or by any other person "interested in the marriage of the minor.

(3) The petition shall bear a stamp or stamps of the prescribed value which shall be supplied by the applicant.

(4) The petition—

(a) shall be in the prescribed form;

(b) shall state the name and address of the applicant;

(c) shall state in what capacity he makes the application;

(d) shall, if the applicant is merely a person interested in the marriage of the minor, state the name and address of the minor;

(e) shall contain such other particulars as may be prescribed ; and

(f) shall be signed by the applicant.

(5) Upon the receipt of the petition, the District Registrar shall forthwith cause a notice to be served upon the applicant and, if the applicant is merely a person interested in the marriage of the minor, upon the minor.

(6) The notice-

(a) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as may be specified therein for the purpose of disposing of such application; and

(b) shall call upon the person to whom the notice is addressed to appear before the Registrar along with his witnesses, if any, on the date and at the time and place so indicated.

(7) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall dispose of the application after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry. The Registrar shall communicate his decision in writing to the applicant and, if the applicant is merely a person interested in the marriage of the minor, to the minor.

(8) Before disposing of the application the District Registrar shall give the applicant and, if the applicant is merely a person interested in the marriage of the minor, the minor and their respective witnesses, if any, an opportunity of being heard.

(9) The District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of the application.

11. (1) An appeal against the refusal of a competent authority to give his consent to the marriage of a minor under this Act shall lie to the District Court having jurisdiction in the area in which the minor resides. Appeals.

(2) The appeal shall be preferred by means of a written petition either by the minor or by any other person interested in the marriage of the minor:

Provided, however, that no appeal against the refusal to give his consent by a District Registrar in his capacity as a competent authority in relation to the minor may be preferred by any person who is merely a

person interested in the marriage of the minor unless the application for such consent was made by that person.

(3) The petition of appeal shall bear a stamp or stamps of the prescribed value which shall be supplied by the appellant.

- (4) The petition of appeal—
 - (a) shall be in the prescribed form;
 - (b) shall state the name and address of the appellant;
 - (c) shall state the name and address of the competent authority against whose decision the appeal is preferred;
 - (d) shall state in what capacity he makes the appeal;
 - (e) shall, if the appellant is merely a person interested in the marriage of the minor, state the name and address of such minor;
 - (f) shall contain such other particulars as may be prescribed ; and
 - (g) shall be signed by the appellant.

(5) Where an appeal is preferred under this section against the decision of a District Registrar in his capacity as a competent authority, the petition of appeal shall in the first instance be forwarded to that Registrar. Such Registrar shall forthwith, upon the receipt of the petition, forward it to the District Court along with the relevant record kept by him under section 10.

Power of court on appeals,

12. (1) Subject to the provisions of subsection (2), a District Court may, in its absolute discretion, on any appeal against the refusal of a competent authority to give his consent to the marriage of a minor under this Act, make order—

- (a) confirming the decision of such authority; or
- (b) setting aside that decision and consenting to the marriage.

(2) No order shall be made by a District Court under subsection (1) (b) of this section unless the court is satisfied that the refusal of a competent authority to consent to the marriage of a minor under this Act is unreasonable,

(3) The District Court shall cause a copy of the order to be served upon the appellant, the competent authority and, if the appellant is merely a person interested in the marriage of the minor, upon the minor.

(4) The decision of a District Court under this section on any appeal shall be final and conclusive and shall not be subject to appeal.

13. Before disposing of any appeal under this Part, a District Court shall give the parties thereto including the minor to whose marriage the appeal relates and their respective witnesses, if any, an opportunity of being heard.

Parties to be given an opportunity of being heard,

14. At the hearing of any appeal to a District Court under this Part, the procedure to be followed shall, save as hereinbefore provided and subject to any rules made by the Supreme Court for the purposes of this Act, be such as the court may direct either generally or in any particular case.

Procedure at hearing of appeals.

15. Where, on any appeal under this Part, a District Court makes order setting aside the decision of a competent authority and consenting to the marriage of a minor, the consent of that authority required by this Act for the marriage of that minor shall be deemed for all the purposes of this Act to have been given with effect from the date of the order.

Effect of order of court

PART III

REGISTRATION OF KANDYAN MARRIAGES

16. Every prospective Kandyan marriage shall be notified to the appropriate Registrar hereinafter specified by the service of notice thereof on such Registrar as hereinafter provided:—

Notice of prospective Kandyan marriage.

(1) Where both parties thereto have resided in the same division for a period of not less than ten days reckoned from the date of service of the notice, one party thereto shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(2) Where both parties thereto have resided in different divisions for the period referred to in paragraph (1) of this section, each party thereto shall serve notice thereof on the Divisional Registrar for the division in which that party so resided or on the District Registrar for the district in which that division is situated :

Provided that where both such divisions are situated in the same district, notice of the marriage shall, instead of being served by each party thereto on the District Registrar for that district under the preceding provisions of this section, be served by one such party on that District Registrar.

(3) Where only one party thereto has resided in any division for the period referred to in paragraph (1) of this section, that party shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(4) Where both parties thereto have not resided in any division for the period referred to in paragraph (1) of this section, one such party, being a party who has resided in a division for a period of not less than four days reckoned from the date of service of the notice, shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(5) In the event of the absence from Sri Lanka of one party thereto the other party may give notice thereof under paragraph (3) or paragraph (4) of this section in anticipation of the arrival in Sri Lanka of such party.

(6) The notice shall be substantially in the prescribed form, and—

(a) shall state—

(i) the name in full (including, if it is different, the name by which the party is commonly known), age, occupation or calling, civil condition (whether unmarried, widowed or divorced) and place of residence of each party thereto;

(ii) the nature of the marriage (whether in *binna* or *diga*); and

(iii) the length of residence of each party thereto in the district or division, as the case may be, of that Registrar;

(b) shall bear on its face or have attached thereto the written consent of any person whose consent to the marriage is required by this Act;

(c) shall contain a declaration made under paragraph (7) of this section and a certification by endorsement made under paragraph (9) of this section;

(d) shall bear a stamp or stamps of the prescribed value which shall be supplied by the party serving the notice; and

(e) shall be signed by that party.

(7) Before the notice is served on a Registrar by a party thereto, that party shall appear in person before the Registrar and, in the presence of the Registrar and two witnesses, make and subscribe a declaration to the following effect:—

(a) that to the best of that party's knowledge and belief the particulars stated in the notice are true and correct;

- (b) that there is no lawful impediment or other lawful hindrance to the marriage;
- (c) that neither party thereto is a minor or that both parties thereto are minors or that one party thereto is a minor; and
- (d) that the consent of any person thereto is required by this Act and that such consent has been obtained or that the consent of any person thereto is not required by this Act.

(8) The witnesses to the declaration shall be persons who are personally known to the party and, if the party is not known to the Registrar, to the Registrar. The name in full, occupation or calling and place of residence of each witness shall be entered at the foot of the declaration.

(9) After the declaration has been made and subscribed by a party thereto, the Registrar shall certify by endorsement at the foot of the declaration—

- (a) that the party is not known to the Registrar and that the witnesses are known to the Registrar or that such party is known to the Registrar;
- (b) that the witnesses have declared to him that they are personally known to such party; and
- (c) that the declaration was made and subscribed by the party in the presence of the Registrar.

Entry and publication of notice of Kandyan marriage.

17. A Registrar shall, on the service on him of notice of a prospective Kandyan marriage, forthwith comply with the following provisions:—

- (a) The Registrar shall file such notice and keep it with the records of his office.
- (b) The Registrar shall enter in his Marriage Notice Register such of the particulars specified in the notice as may be prescribed (hereinafter referred to as the "marriage notice entry").

(c) The Registrar shall publish the notice by exhibiting or causing to be exhibited a true copy of the notice or of a prescribed extract thereof at some conspicuous place in his office for a continuous period of at least twelve days reckoned from the date of the marriage notice entry.

(d) Where both parties to the marriage resided in different divisions for the period referred to in paragraph (2) of section 16, the Registrar shall—

- (i) if he is a Divisional Registrar; or
- (ii) if he is a District Registrar and if any one of such divisions is not situated in his district,

furnish a certified copy of the notice to the party by whom the notice was served.

18. The following provisions shall apply in any case where notice of a prospective Kandyan marriage has been served on a Registrar under this Act:— Issue of certificates in respect of Kandyan marriages.

(1) Subject as hereinafter provided, the Registrar shall, upon application made in that behalf by a party thereto, issue to that party a certificate (hereinafter referred to as a " marriage notice certificate ") in respect of the marriage.

(2) The Registrar shall not issue the marriage notice certificate—

- (a) if any lawful impediment or other lawful hindrance to the issue thereof has been shown to him; or
- (b) if, being a District Registrar, any objection to the issue thereof has been made to him under this Act, unless an order overruling that objection has been made by him under section 21; or
- (c) if, being a Divisional Registrar, any such objection

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- has been made to him, except upon the receipt by him of a certified copy of an order under section 21 overruling that objection.
- (3) Where the provisions of paragraph (1) or paragraph (3) or paragraph (4) of section 16 apply in the case of the marriage, the Registrar—
- (a) if he is a District Registrar, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section; or
- (ii) after the expiry of a period of three months reckoned from that date; and
- (b) if he is a Divisional Registrar, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, except under the authority of a special licence issued under section 19; or
- (ii) after the expiry of a period of three months reckoned from that date.
- (4) Where the provisions of paragraph (2) of section 16 apply in the case of the marriage, the Registrar—
- (a) if he is a District Registrar in whose district both parties thereto resided for the period referred to in that paragraph, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section; or
- (ii) after the expiry of a period of three months reckoned from that date; and
- (b) if he is a Divisional Registrar, shall not issue the marriage notice certificate—
- (i) except upon the production of a certified copy of the notice thereof served on any other Registrar under that paragraph; or
- (ii) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof or from the date of the marriage notice entry made by such other Registrar in respect thereof, whichever date is later, except under the authority of a special licence issued under section 19 or upon the production : of a marriage notice certificate issued by such

- other Registrar in respect of the marriage ; or
- (iii) after the expiry of a period of three months reckoned from the earlier of the two dates referred to in the last preceding sub-paragraph of this paragraph; and
- if he is a District Registrar in whose district only one party thereto resided for the period referred to in that paragraph, shall not issue the marriage notice certificate—
- (i) except upon the production of a certified copy of the notice thereof served on any other Registrar under that paragraph; or
- (ii) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof or from the date of the marriage notice entry made by such other Registrar in respect thereof, whichever date is later, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section or produces a marriage notice certificate issued by such other Registrar in respect of the marriage ; or
- (iii) after the expiry of a period of three months reckoned from the earlier of the two dates referred to in the last preceding sub-paragraph.
- (5) Any party to the marriage who desires to obtain a marriage notice certificate from a District Registrar before the expiry of the period referred to in paragraph (3) (a) (i) or paragraph (4) (a) (i) or paragraph (4) (c) (ii) of this section shall appear in person before that Registrar and make and subscribe a declaration to the following effect:—
- (i) that there is no lawful impediment or other lawful hindrance to the marriage; and
- (ii) that the consent of any person to the marriage is required by this Act and that such consent has been obtained or that the consent of any person to the marriage is not required by this Act.
- The declaration shall bear a stamp or stamps of the prescribed value which shall be supplied by the party making the declaration.
- (6) A marriage notice certificate issued by a Registrar under this section—
- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars; and
- (c) shall be signed by the Registrar.
- 19.** (1) The following provisions shall apply in the case of a prospective Kandyan marriage in respect of which a special licence is required for the issue of a marriage notice certificate before the expiry of the period referred to in paragraph (3) (b) (i) of section 18 ;—
- (a) Where notice of the marriage has been served upon the Divisional Registrar for a division under paragraph (1) or paragraph (3) or paragraph (4) of section 16, a party to the marriage may apply to the District Registrar in whose district that division is situated or to such

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- Divisional Registrar for a special licence authorizing such District Registrar or Divisional Registrar to issue a certificate before the expiry of that period.
- (b) Subject as hereinafter provided, the District Registrar or such Divisional Registrar shall, upon the receipt of the application, issue the licence.
- (c) The District Registrar or such Divisional Registrar shall not issue the licence—
- (i) if any lawful impediment or other lawful hindrance to the issue of the certificate has been shown to him; or
 - (ii) if any objection has been made under this Act to the issue of the certificate, unless an order has been made under section 21 overruling that objection.
- (d) The District Registrar or such Divisional Registrar shall not issue the licence except upon the production of a certified copy of the notice served on the. Divisional Registrar.
- (e) The District Registrar or such Divisional Registrar shall not issue the licence unless the applicant therefor makes and subscribes the declaration required by subsection (3) of this section.
- (2) The following provisions shall apply in the case of a prospective Kandyan marriage in respect of which a special licence is required for the issue of marriage notice certificates before the expiry of the period referred to in paragraph (4) (b) (ii) of section 18:—
- (a) Where notice of the marriage has been served upon two Divisional Registrars under paragraph (2) of section 16, a party to the marriage may apply to the District Registrar in whose district the division of either such Divisional Registrar is situated, or to either of such
- Divisional Registrars, for a special licence authorizing each such Divisional Registrar to issue a certificate before the expiry of that period.
- (b) Subject as hereinafter provided, the District Registrar or either of such Divisional Registrars shall, upon the receipt of the application, issue the licence.
- (c) The District Registrar or such Divisional Registrar shall not issue the licence—
- (i) .if any lawful impediment or other lawful hindrance to the issue of either such certificate has been shown to him, or
 - (ii) if any objection has been made under this Act to the issue of either such certificate, unless an order has been made under section 21 overruling that objection.
- (d) The District Registrar or such Divisional Registrar shall not issue the licence except upon the production of a certified copy of the notice served on each such Divisional Registrar.
- (e) The District Registrar or such Divisional Registrar shall not issue the licence unless the applicant therefor makes and subscribes the declaration required by subsection (3) of this section.
- (3) Before a special licence is issued, one of the parties to the intended marriage shall appear in person before the Divisional Registrar or the District Registrar, or where notice has been given to two Divisional Registrars, before either of the two Registrars and make and subscribe a written declaration to the following effect;—
- (a) that there is no lawful impediment or other lawful hindrance to the marriage;
 - (b) that the consent of any person to the marriage is required by this Act and

that such consent has been obtained or that the consent of any person to the marriage is not required by this Act; and

(c) that no objection to the issue of the certificate has been made under this Act or that any such objection has been made but has been overruled by order made under section 21.

(4) Where the declaration is made before the District Registrar it shall bear stamps to the value of thirty rupees to be supplied by the party making the declaration and where the declaration is made before the Divisional Registrar it shall be accompanied by a receipt issued by the District Registrar in proof of payment of a sum of thirty rupees.

Objections to issue of marriage notice certificates.

20. (1) Any person—
 (a) being a person whose consent to a Kandyman marriage is required by this Act; or
 (b) being a person who is interested in such marriage,

may object in writing to the issue of a marriage notice certificate in respect thereof.

(2) Every objection to the issue of such a certificate—

(a) shall be made to the Registrar who is empowered by this Act to issue the certificate;
 (b) shall be substantially in the prescribed form;
 (c) shall state—
 (i) the name and address of the objector;
 (ii) whether the objector makes the objection in his capacity as a person whose consent to the marriage is required by this Act or as a person who is interested in the marriage; and

(iii) the ground or grounds on which the objection is made ; and

(d) shall be signed, in the presence of such Registrar, by the objector and two credible witnesses who are known to such objector.

21. (1) Upon the receipt of an objection to the issue of a marriage notice certificate, a Registrar shall, if he is a Divisional Registrar, forthwith forward such objection to the District Registrar for the district in which his division is situated.

Inquiries into objections to issue of marriage notice certificates.

(2) Upon the receipt of an objection to the issue of a marriage notice certificate in respect of any prospective Kandyman marriage, made or forwarded to him under section 20 or under this section, a District Registrar shall forthwith cause a notice to be served upon each party to the marriage and the objector.

(3) The notice—
 (a) shall state the nature of the objection to the issue of the certificate ;
 (b) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as he may specify in the notice for the purpose of hearing such objection; and
 (c) shall call upon the person to whom the notice is addressed to appear before the District Registrar along with his witnesses, if any, on the date and at the time and place so indicated.

(4) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall make order upholding or overruling the objection after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry.

(5) The District Registrar shall cause a certified copy of the order to be served on each party to the inquiry and, if the

objection was forwarded to him by a Divisional Registrar under this section, on the Divisional Registrar.

(6) Before disposing of the objection, the District Registrar shall give the objector, each party to the marriage and their respective witnesses, if any, an opportunity of being heard,

(7) A District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of an objection to the issue of a marriage notice certificate.

22. (1) A Registrar, on whom notice of 3 prospective Kandyan marriage has been served under this Act, shall, unless there is any lawful impediment or other lawful hindrance to the marriage, solemnize the marriage in the manner hereinafter provided upon the production by the parties to the marriage of the following document or documents, as the case may be:—

- (a) where the provisions of paragraph (1) or paragraph (3) or paragraph (4) of section 16 apply in the case of the marriage, upon the production of the marriage notice certificate issued by such Registrar;
- (b) where such Registrar is a District Registrar and where both parties to the marriage resided in different divisions (being divisions situated in his district) for the period referred to in paragraph (2) of section 16, upon the production of the marriage notice certificate issued by him;
- (c) where such Registrar is a District Registrar and where both parties to the marriage resided in different divisions (one of which is not situated in his district) for the period referred to in paragraph (2) of section 16, upon the production of the following marriage notice certificates, namely, the marriage notice certificate issued by such Registrar and the marriage notice certificate issued by any other

Registrar on whom notice of the marriage was served under that paragraph;

(d) where such Registrar is a Divisional Registrar and where the provisions of paragraph (2) of section 16 apply in the case of the marriage, upon the production of the following marriage notice certificates, namely, the marriage notice certificate issued by such Registrar and the marriage notice certificate issued by any other Registrar on whom notice of the marriage was served under that paragraph.

(2) The marriage shall be solemnized by the Registrar—

- (a) in the presence of both parties to the marriage and two witnesses ;
- (b) in any authorized place;
- (c) at any time between the authorized hours on any day; and
- (d) in accordance with the provisions of subsection (3) of this section.

(3) Such marriage shall be solemnized—

- (a) by the Registrar asking the male party to the marriage, and at the same time causing such party to take the female party by the hand, " Do you take this woman (her name in full must be mentioned) to be your wedded wife ? "; and
- (b) after such male party has answered the question in the affirmative, by the Registrar asking the female party to the marriage, and at the same time causing her to take the male party by the hand, " Do you take this man (his name in full must be mentioned) to be your wedded husband ? "; and
- (c) by the female party answering the question in the affirmative.

Solemnization of Kandyan marriages.

Registration of Kandyan marriages.

23. (1) Immediately after the solemnization of a Kandyan marriage by a Registrar under section 22, the Registrar shall comply with the following provisions:—

(a) The Registrar shall register accurately in his Marriage Register the following particulars relating to the marriage;—

(i) the name in full, age, civil condition (whether unmarried, widowed or divorced), occupation or calling and place of residence of each party to the marriage ;

(ii) the nature of the marriage (whether in *binma* or *diga*) which the Registrar is hereby required to ascertain from the parties thereto prior to making the entry ; and

(iii) the name in full, occupation or calling and place of residence of each witness to the marriage.

(b) The Registrar shall cause the marriage registration entry consisting of the particulars registered in his Marriage Register under the preceding provisions of this section (hereinafter referred to as the " marriage registration entry ") to be signed by both parties and the witnesses to the marriage.

(c) After the marriage registration entry has been signed by both parties and the witnesses to the marriage, the Registrar shall, after satisfying himself that the particulars relating to the marriage stated in the marriage registration entry correspond with the particulars in the marriage notice certificate or certificates, as the case may be, issued under this Act in respect of the marriage, append his own signature to the entry.

(d) If the signature of any person in the marriage registration entry appears to the Registrar to be illegible, or if

any person instead of signing such entry has affixed his thumb impression, the Registrar shall write the name of such person above such signature or thumb impression, as the case may be.

(2) The marriage registration entry—

[§6, Law 41 of 1975.]

(a) shall be prepared in triplicate, that is to say, the original, the second copy (hereinafter referred to as the " duplicate"), and a third copy which shall bear an endorsement under the hand of the registrar to the effect that it is issued under section 23A; and

(b) shall be made—

(i) in the presence of both parties and the witnesses to the marriage;

(ii) in any authorized place; and

(iii) at any time between the authorized hours on any day.

(3) The marriage registration entry made under this section in respect of the marriage shall for all purposes constitute the registration of the marriage.

23A. The third copy referred to in the preceding section shall forthwith, free of charge, be delivered or transmitted by post to the female party to the marriage by the registrar.

Issue of copy of marriage registration entry free. [§6, Law 41 of 1975.]

24. (1) For the purposes of this Act, a Kandyan marriage shall be deemed to be solemnized and registered in an authorized place and between the authorized hours on any day—

What constitutes solemnization and registration of Kandyan marriages in authorized places and between authorized hours.

(a) if the marriage is solemnized and registered by a District Registrar—

(i) in his office at any time between the hours of 6 a.m. and 6 p.m. on that day; or

[§6, Law 41 of 1975.]

(ii) in such other place at any time on that day as he may in his absolute discretion determine

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so to do upon written application made in that behalf by a party to the marriage; or

(b) if the marriage is solemnized and registered by a Divisional Registrar—

(i) in his office at any time between the hours of 6 a.m. and 6 p.m. on that day; or

(ii) in such other place at any time on that day as the District Registrar in whose district notice of the marriage has been given may authorize the Divisional Registrar so to do upon written application made in that behalf by a party to the marriage.

(2) Every application authorized to be made under the preceding provisions of this section shall bear a stamp or stamps of the prescribed value.

24A. For the resolution of any doubts, it is hereby declared, that, notwithstanding anything to the contrary in section 24, where any Kandyan marriage has, before the 1st day of November, 1978, been solemnized and registered between the hours of 6 a.m. and 6 p.m. at any place outside the office of a District Registrar or Divisional Registrar, such solemnization and registration shall be deemed to be as valid and effectual, as if it has been solemnized and registered between the hours of 6 a.m. and 6 p.m. in the office of the District Registrar or the Divisional Registrar.

25. (1) Every Divisional Registrar shall, in respect of each month, send to the Registrar-General through the District Registrar in whose district his division is situated for custody in the office of the Registrar-General—

(a) the duplicate of every marriage registration entry made by such Divisional Registrar during that month; and

(b) if no such registration entry was made by him during that month, a certificate to that effect:

Provided that a Divisional Registrar shall send that duplicate or certificate direct to the Registrar-General, if such Registrar is so directed in writing by the Registrar-General.

(2) Every District Registrar shall, in respect of each month, send to the Registrar-General for custody in his office—

(a) the duplicate of every marriage registration entry made by such District Registrar during that month; and

(b) if no such entry was made during that month, a certificate to that effect.

(3) The Registrar-General shall, upon the receipt of any document sent to him under the preceding provisions of this section, cause such document to be filed and preserved in his office.

26. (1) Where the original of a marriage registration entry under this Act is lost, damaged, has become illegible or is in danger of becoming illegible, and the duplicate is available, the Registrar-General may, after due inquiry, cause to be substituted therefor, a copy of the duplicate certified by him to have been made after verification with the duplicate and to be a true copy of the duplicate. Every such copy shall replace the original and shall, for all purposes, be deemed to be the original of the marriage registration entry.

(2) Where the duplicate of a marriage registration entry under this Act is lost, damaged, has become illegible or is in danger of becoming illegible and the original is in the custody of a Registrar, the Registrar-General may, after due inquiry, cause to be substituted therefor a copy of the original, certified by the Registrar to have been made after verification with the original and to be a true copy of the original and, if such Registrar is a Divisional Registrar countersigned by the District Registrar in whose district the division of such Divisional Registrar is situated. Every

Replacement of original or duplicate marriage registration entry in certain circumstances. [§6, Law 41 of 1975.]

Resolution of doubts. [§6, Law 41 of 1975.]

Transmission of duplicates of entries made by Registrars.

such copy shall replace the duplicate and shall, for all purposes, be deemed to be the duplicate of the marriage registration entry.

(3) Where both the original and the duplicate of a marriage registration entry under this Act are lost, damaged, have become illegible or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such original and duplicate. Such copies shall replace the original and duplicate and shall, for all purposes, be deemed to be the original marriage registration entry and the duplicate of the marriage registration entry, respectively.

Consequences of delay in solemnization and registration of Kandyan marriages.

27. (I) Where a prospective Kandyan marriage is not solemnized and registered—

- (a) before the expiry of a period of three months reckoned from the date of the marriage notice entry in respect thereof made by a Registrar under this Act; or
- (b) if a marriage notice entry in respect thereof has been made by each of two Registrars under this Act, before the expiry of a period of three months reckoned from the date of the earlier of such entries,

the notice or notices and entry or entries, as the case may be, in respect thereof, and every certificate, licence and other document granted or issued in pursuance thereof, shall be null and void and of no effect for the purposes of this Act.

(2) The time taken up in disposing of any objection made under this Act against the issue of a marriage notice certificate shall not be taken into account for the purpose of the computation of the period of three months referred to in subsection (1) of this section or in section 18.

Registration to constitute best evidence of marriage.

28. (1) The registration under this Act of a Kandyan marriage shall be the best evidence of the marriage before all courts and in all proceedings in which it may be necessary to give evidence of the marriage. Where the marriage registration entry, which under section 23 (3) constitutes such

registration, does not indicate whether the marriage was contracted in *binna* or *diga*, the marriage shall be presumed to have been contracted in *diga* until the contrary is proved.

(2) For the purposes of subsection (1) of this section—

- (a) the copy, substituted under subsection (1) of section 26, for the original entry made by a Registrar in his Marriage Register; and
- (b) the copy, substituted under subsection (2) of section 26, for the duplicate entry made by a Registrar in his Marriage Register,

shall be deemed to be an original entry made by the Registrar in such register.

29. After the solemnization and registration of a Kandyan marriage—

Proof of certain matters not required once Kandyan marriage is registered.

- (1) it shall not be necessary, in support thereof, to prove—
 - (a) that any party thereto actually resided in any division or district specified in the notice of marriage or that any such party so resided for the period so specified;
 - (b) the consent thereto of any person whose consent was required by this Act; and
 - (c) that the marriage was solemnized and registered in an authorized place and at any time between the authorized hours on any day;

and

- (2) no evidence shall be given in any suit or other proceedings touching the validity of such marriage to prove—
 - (a) that any party thereto did not actually reside in the division or district specified in the notice of marriage or that any such party did not so reside for the period so specified;
 - (b) that the consent of any person whose consent thereto was required by this Act was not obtained and

(c) that the marriage was not solemnized and registered in an authorized place and at any time between the authorized hours on any day.

Mode of rectifying failures to register, and errors in registration of, Kandyan marriages.

30. (1) Where a Kandyan marriage has not been registered or has been incorrectly registered, a party thereto may apply to the Registrar-General to have the marriage registered or correctly registered, as the case may be. Such application shall be verified by an affidavit made by that party.

(2) Upon the receipt of an application under subsection (1) of this section, the Registrar-General shall cause a notice to be served upon the applicant and upon such other persons as he may deem fit. Such notice shall—

- (a) indicate that at a time and date specified in such notice the Registrar-General will attend at his office or at such other place as he may specify in the notice for the purpose of hearing the application; and
- (b) calling upon the person to whom the notice is addressed to appear before him on the date and at the time and place so indicated.

The Registrar-General shall also cause to be published, in a conspicuous place at his office, a notice specifying the particulars set out in paragraph (a) and calling upon all persons interested in the application, if they so desire, to appear before him on the date and at the time and place indicated in the notice.

(3) The Registrar-General shall attend on the date, and at the time and place, indicated in the notice and dispose of the application after such summary inquiry as he may deem necessary, either on that date or on any other date to which he may adjourn or postpone the inquiry.

(4) Before disposing of the application, the Registrar-General shall give each party on whom notice of the application has been served and his witnesses, if any, as well as each person who appears in response to the notice published under subsection (2) an opportunity of being heard.

(5) In disposing of the application the Registrar-General shall make order allowing or disallowing the application. Such order shall—

- (i) if the application is for the registration of the marriage, require a Divisional Registrar or District Registrar for the division or district, as the case may be, in which the marriage was contracted to register the marriage; or
- (ii) if the application is for the correct registration of the marriage, direct a Divisional Registrar or District Registrar for the division or district, as the case may be, in which the marriage was incorrectly registered to correctly register the marriage.

(6) No application for the registration or correct registration, as the case may be, of a Kandyan marriage shall be allowed by the Registrar-General under this section unless he is satisfied that the marriage was otherwise duly contracted and that the omission to register, or the incorrect registration of, the marriage was not due to any act, default or neglect of either party thereto.

(7) Every Registrar shall comply with any order issued to him by the Registrar-General under this section.

(8) The Registrar-General shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of any application.

(9) The powers conferred on the Registrar-General by the preceding provisions of this section may be exercised by any District Registrar generally or specially authorized in that behalf by the Registrar-General.

31. (1) Where, by virtue of any Order under section 40, any area which is situated within any division (hereinafter referred to as the " old division ") becomes, with effect from the date specified in that Order, a separate division or a part of any other existing division (hereinafter referred to as the " new division "), and where, before that

Issue of marriage notice certificates and solemnization and registration of Kandyan marriages upon alteration of divisions.

date, notice of a prospective Kandyan marriage is given by a party resident in that area, but the marriage notice certificate is not issued under section 18 before that date or the marriage is not solemnized and registered before that date, then, notwithstanding anything in this Act, that certificate may be issued, or that marriage may be solemnized and registered, and any other act required by this Act to be done in that connection by a Registrar of the old division may be done, by a Registrar of the old division or of the new division nominated in that behalf by the Registrar-General or the District Registrar within whose district that area is situated and the provisions of this Act shall apply accordingly ; and every such Registrar shall comply with such directions as may be given to him by the Registrar-General or the District Registrar, as the case may be.

(2) The provisions of subsection (1) shall apply in every case where one division is amalgamated with another division to form a new division in like manner as those provisions apply to a case where an area within a division becomes a separate division or a part of any other existing division.

PART IV

DIVORCES

Grounds for divorce.

32. The dissolution of a Kandyan marriage shall be granted on any of the following grounds:—

- (a) Adultery by the wife after marriage.
- (b) Adultery by the husband, coupled with incest or gross cruelty.
- (c) Complete and continued desertion by the wife for two years.
- (d) Complete and continued desertion by the husband for two years.

(e) Inability to live happily together, of which actual separation from bed and board for a period of one year shall be the test.

(f) Mutual consent.

33. (1) The male party to a Kandyan Divorce. marriage may apply for a dissolution of the marriage on any ground specified in paragraph (a) or paragraph (c) or paragraph (e) of section 32 and the female party to a Kandyan marriage may apply for a dissolution thereof on any ground specified in paragraph (b) or paragraph (d) or paragraph (e) of that section. Such application shall be made to the District Registrar for the district in which the party applicant resides, or in a case where the party applicant resides outside the Kandyan provinces to the District Registrar for the district in which the respondent resides or in which the marriage was registered. [§6, Law 41 of 1975.]

(2) Both parties to a Kandyan marriage may jointly apply to the District Registrar for the district in which either of the parties resides or in a case where both parties reside outside the Kandyan provinces, to the District Registrar for the district where the marriage was registered for a dissolution of the marriage on the ground specified in paragraph (f) of section 32. [§ 6, Law 41 of 1975.]

(3) The application shall be in writing and shall state—

- (a) the name in full and address of each party to the marriage;
- (b) the nature of the marriage (whether in *binna* or *diga*) and the number of surviving children;
- (c) the ground or grounds upon which the application is made; and

shall be, signed by the applicant, or in the case of a joint application, by both the applicants.

(4) The District Registrar shall forthwith, on the receipt of the application, cause a notice to be served upon each party to the marriage. The notice—

- (a) shall state the ground or grounds upon which the application is made;
 - (b) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as he may specify in the notice for the purpose of disposing of such application; and
 - (c) shall call upon the person to whom the notice is addressed to appear before such Registrar along with his witnesses, if any, on the date and at the time and place so indicated.
- (5) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall dispose of the application after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry.
- (6) In disposing of the application the District Registrar shall, in his discretion, make order—
- (a) granting the dissolution of the marriage in respect of which the application was made ; or
 - (b) refusing to grant the dissolution of such marriage.
- (7) In making an order under this section granting the dissolution of a Kandyan marriage, the District Registrar—
- (i) shall, if both parties to the marriage have agreed upon any compensation to be made to either or both of the parties on account of the dissolution thereof, embody the terms of the agreement in his order at the request of the parties;
 - (ii) may, in his discretion, provide in the order that the husband shall pay a certain sum of money periodically or make other provision for the maintenance of -his wife (if, but only if, the order does not embody any agreement under paragraph (i) of this subsection for compensation to be made to her); and
 - (iii) may, in his discretion, provide in the order that the husband shall pay a certain sum of money periodically or make other provision for the maintenance of his children.
- (8) Before disposing of any application under this section, the District Registrar shall give each party to the marriage and his or her witnesses, if any, an opportunity of being heard.
- (9) The District Registrar shall cause a copy of his order to be served upon each party to the marriage.
- (10) Subject to the provisions of subsection (11), an order granting the dissolution of a Kandyan marriage whether made by the District Registrar under this section or by the District Court on appeal shall be entered by the District Registrar in his Divorce Register. The entry aforesaid shall for all purposes constitute the registration of the dissolution of the marriage and accordingly the date on which such entry is made shall for the purposes aforesaid be the date of such registration as well as the date of such dissolution.
- (11) No order granting the dissolution of a Kandyan marriage made by the District Registrar under this section shall be entered by him in his Divorce Register—
- (a) until the time limit for an appeal expires; and
 - (b) where an appeal is preferred, until the District Court confirms the order.
- Where the District Court makes an order confirming the order of the District Registrar subject to any variations or modifications, the order as so varied or modified shall be entered in the Divorce Register.

[§6, Law 41 of 1975.] (12) (a) It shall be the duty of the District Registrar to make the entry in his Divorce Register in respect of such order in accordance With the provisions of this section.

(b) Every such entry shall be prepared in triplicate, that is to say, the original (which shall be retained by the District Registrar), the second copy (hereinafter referred to as the "duplicate"), and a third copy which shall bear an endorsement that it is issued under the hand of the District Registrar under this section.

(c) The third copy shall forthwith, free of charge, be delivered or transmitted by post to the party applicant and in the case of a joint application, to the female party.

(13) A District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of the application for the dissolution of a Kandyan marriage.

[§6, Law 41 of 1975.] (14) Every District Registrar shall, in respect of each month, by such date as may be fixed by the Registrar-General, send to the Registrar-General for custody in his office—

(a) the duplicate of every registration entry made under subsection (10) by such District Registrar during that month; and

(b) if no such entry was made during that month, a certificate to that effect.

[§6, Law 41 of 1975.] (15) Where the original of the registration entry referred to in subsection (10) is lost, damaged, has become illegible or is in danger of becoming illegible, and the duplicate is available, the Registrar-General may, after such inquiry as he may deem necessary, cause such original to be replaced by a copy of the duplicate certified by him to have been made after verification of the copy with the duplicate. Every such copy shall replace the original and shall, for all purposes, be deemed to be the original of the registration entry made under subsection (10).

(16) Where the duplicate of a registration entry made under subsection (10) is lost, damaged, has become illegible or is in danger of becoming illegible and the original is in the custody of the District Registrar, the Registrar-General may, after such inquiry as he may deem necessary, cause to be substituted therefor a copy of the original certified by the District Registrar to have been made after verification with the original and to be a true copy of the original. Every such copy shall replace the duplicate of the registration entry and shall, for all purposes, be deemed to be the duplicate of the original registration entry made under subsection (10).

(17) Where both the original of the registration entry made under subsection (10) and the duplicate sent to the Registrar-General under subsection (14) are lost, damaged, have become illegible or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such original and duplicate. Such copies shall replace the original and duplicate and shall, for all purposes, be deemed to be the original of the divorce registration entry and the duplicate of the original divorce registration entry, respectively.

34. (1) Any party to a Kandyan marriage who is aggrieved by the order made by a District Registrar on the application for a dissolution of the marriage may appeal against such order in the manner hereinafter provided to the District Court of the district in which such party resides.

(2) The appeal shall be preferred by means of a written petition verified by an affidavit made by the party appellant within thirty days of the service on such party of the order of the District Registrar.

(3) The petition of appeal shall bear a stamp or stamps of the prescribed value which shall be supplied by the appellant.

(4) The petition of appeal—

(a) shall be in the prescribed form;

[§6, Law 41 of 1975.]

[§6, Law 41 of 1975.]

Appeals.

- (b) shall state the names and addresses of the appellant and the other party to the marriage;
- (c) shall state the ground or grounds on which the appeal is made;
- (d) shall contain such other particulars as may be prescribed ; and
- (e) shall be signed by the appellant.

(5) The petition of appeal shall be forwarded in the first instance to the District Registrar against whose order the appeal is preferred. Such Registrar shall, on the receipt of the petition, immediately forward it to the District Court along with the relevant record kept by him under section 33.

(6) The District Court may, on any appeal under this section, make order—

- (a) confirming the order of a District Registrar; or
- (b) confirming such order subject to such variations or modifications as the District Court may deem necessary ; or
- (c) setting aside such order and, if such order is an order refusing to grant the dissolution of the marriage, granting the dissolution of the marriage.

(7) Subject to such rules as may be made in that behalf by the Supreme Court, the procedure to be followed on any appeal to the District Court under this section shall be such as may be determined by the court.

(8) The District Court shall cause a copy of any order made by the court under this section to be served upon the District Registrar and it shall be the duty of that Registrar to comply with such order.

35. (1) Save as otherwise expressly provided in subsection (2), an order for the dissolution of a Kandyan marriage made under this Act may, in so far and in so far only as it makes provision for any matter specified in paragraph (ii) or paragraph (iii)

of subsection (7) of section 33, be enforced, discharged, modified or suspended and, if discharged or suspended, be revived, by a District Court as though it were a like order made by that court under Chapter XLII of the Civil Procedure Code.

(2) No order for the dissolution of a Kandyan marriage made under this Act shall, in so far and in so far only as it makes provision for the wife in respect of any matter specified in paragraph (ii) of subsection (7) of section 33, be discharged except upon proof that she has been habitually cohabiting with any man since the date of dissolution of the marriage.

36. The registration under this Act of the dissolution of a Kandyan marriage shall be the best evidence of such dissolution before all courts and in all proceedings in which it may be necessary to give evidence of such dissolution.

Registration to constitute best evidence of divorce.

PART V

ADMINISTRATIVE ARRANGEMENTS

37. (1) The person for the time being holding office as the Registrar-General of Marriages for Sri Lanka shall be the Registrar-General of Kandyan Marriages for the purposes of this Act.

Registrar-General.

(2) The Registrar-General shall supervise and control the solemnization and registration of Kandyan marriages and the registration of dissolutions thereof under this Act and all other persons appointed for or engaged in carrying out the provisions of this Act.

38. Every person for the time being holding office as an Assistant Registrar-General of Marriages for Sri Lanka shall be an Assistant Registrar-General of Kandyan Marriages for the purposes of this Act.

Assistant Registrar-General.

39. (1) For each district which includes within its limits any part of the Kandyan provinces there shall be a District Registrar of Kandyan Marriages.

District Registrar.

(2) For any district referred to in subsection (1) the Government Agent of that district shall be the District Registrar.

Special provisions relating to orders for the dissolution of Kandyan marriages.

(3) Every Additional Government Agent, Assistant Government Agent, Additional Assistant Government Agent and Office Assistant to a Government Agent, of a district shall be an Additional District Registrar for that district.

(4) In the case of any district referred to in subsection (1) any person may be appointed to be the District Registrar in place of the officer specified in subsection (2), and any person, other than an officer specified in subsection (3), to be an Additional District Registrar.

(5) Every District Registrar shall, subject to the provisions of section 42, supervise and control the solemnization and registration of Kandyan marriages and the registration of divorces under this Act in his district and all other persons appointed for or engaged in carrying out the provisions of this Act in his district.

Division of Kandyan provinces into divisions.

40. The Minister may from time to time, by Order published in the Gazette, divide each district which includes within its limits any part of the Kandyan provinces into such number of divisions for the purposes of this Act as he may deem necessary, and may at any time by a like Order abolish, or vary the limits of, any such division.

Appointment of Registrars of Kandyan Marriages.

41. (1) There may from time to time be appointed a fit and proper person or each of two or more such persons to be or to act as a Registrar of Kandyan Marriages for each division.

(2) In the event of the death, sudden illness or incapacity of a Divisional Registrar for a division or in the event of any other emergency, the Registrar-General or the District Registrar in whose district that division is situated may, by writing under his hand, appoint a fit and proper person to act in place of such Divisional Registrar so, however, that no such appointment shall be made by a District Registrar for any period exceeding thirty days at any one time.

(3) Every appointment of a Divisional Registrar made by the Registrar-General or the District Registrar under the provisions of subsection (2) shall be forthwith entered

under his hand in a book which he shall keep for the purpose.

42. (1) In the exercise, performance or discharge of the powers, duties or functions conferred or imposed by or under this Act— Powers and duties of officers.

(a) each Assistant Registrar-General shall be subject to the general supervision and control of the Registrar-General;

(b) each District Registrar shall be subject to the general supervision and control of the Registrar-General ; and

(c) each Divisional Registrar shall be subject to the general supervision and control of the District Registrar for the district in which his division is situated.

(2) Subject to any directions issued by the Minister and subject to the general supervision and control of the Registrar-General—

(a) each Assistant Registrar-General may exercise, perform or discharge the powers, duties or functions conferred or imposed by or under this Act upon the Registrar-General ; and

(b) each District Registrar may exercise, perform or discharge the powers, duties or functions conferred or imposed by or under this Act on a Divisional Registrar.

43. (1) Save as hereinafter provided, every Divisional Registrar shall— Residence. office and additional offices of Divisional Registrars.

(a) reside and establish his office in such convenient place in his division as shall be appointed by the District Registrar for the district in which such division is situated ; and

(b) if so directed by that District Registrar, establish in his division such number of additional offices as may be approved by the District Registrar:

Provided that a District Registrar may, in the special circumstances of any case and with the prior approval of the Registrar-General, authorize a Divisional Registrar for any division which is situated in his district to reside or to have his office or to establish any additional office at a place outside his division.

(2) Every District Registrar shall forthwith notify to the Registrar-General the places appointed by him as the residence, office and additional office or offices (if any) of every Divisional Registrar in his district.

Attendance of Divisional Registrar at office. &c.

44. Every Divisional Registrar shall—

(a) attend his office and each additional office (if any) on such days and during such hours as shall, respectively, be appointed by the District Registrar for the district in which his division is situated ; and

(b) cause his name, with the words " Registrar of Kandyan Marriages", the name of his division, and the days and hours of his attendance as appointed by the District Registrar, to be placed in legible characters in Sinhala and English on a conspicuous place near the entrance of his office and each additional office (if any).

Books to be kept by Registrars.

45. (1) Every Registrar shall keep—

(a) a book to be called the " Marriage Notice Register" substantially in the prescribed form;

(b) a book to be called the " Marriage Register" substantially in the prescribed form; and

(c) such other books as he may be required to keep by or under the provisions of this Act.

(2) Every District Registrar shall keep a book to be called the " Divorce Register " substantially in the prescribed form.

(3) Every entry made by a Registrar in his Marriage Notice Register, Marriage Register and by a District Registrar in his Divorce Register shall be numbered consecutively.

(4) The Registrar-General and each District Registrar shall keep, for the purposes of this Act, such books as may be prescribed in such form as may be prescribed.

(5) Save as otherwise provided by or under this Act, the Registrar-General and every Registrar shall not allow any book or other documents kept by him under this Act to leave his possession except in compliance with the order of a competent court.

46. The Registrar-General may from time to time publish in the Gazette a list of the Divisional Registrars in Sri Lanka, with their names and the names of their divisions, offices and additional offices (if any).

Publication of lists of Divisional Registrars and their offices, &c.

47. (1) The Minister may from time to time make rules for the direction of the Registrar-General, the District Registrars, Divisional Registrars, and all persons whomsoever in the discharge of their duties under this Act, for all matters-required by this Act to be prescribed, and generally for carrying out the principles and provisions of this Act.

Power to make rules.

(2) No rule made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

(3) Upon the publication in the Gazette of a notification to the effect that a rule made by the Minister has been approved by Parliament, that rule shall be as valid and effectual as if it were herein enacted.

PART VI

GENERAL

48. (1) Every Divisional Registrar shall, if called upon to do so by the Registrar-General or the District Registrar, produce for the inspection of the Registrar-General or District Registrar, as the case may be, any book or other document which is in his possession in his capacity as Divisional Registrar.

Production of books, &c., for inspection.

(2) Every book or other document kept by the Registrar-General or a Registrar under this Act shall be open to the inspection of any person on payment of the prescribed fee.

Custody of registers, &c.

49. (1) Every Divisional Registrar shall transmit every register which is completed by him to the District Registrar,

(2) Every District Registrar shall preserve in his office every register which is completed by him as well as every register which is transmitted to him under subsection (1).

Surrender of records by Registrar on his ceasing to hold office.

50. A person shall, on his ceasing to hold office as a Divisional Registrar for a division, transmit as soon as possible to the District Registrar in whose district that division is situated all books, documents and other papers which were in his possession in his capacity as Registrar. The District Registrar shall carefully preserve in his office all the books, documents and other papers so transmitted, and in the event of the appointment of a successor to such retiring Registrar, transmit such books, documents and other papers to such successor.

Correction of clerical errors in registers.

51. The Registrar-General or any other person authorized in that behalf by the Registrar-General may, after such inquiry, as he may deem necessary, correct any clerical error which may from time to time be discovered in any register kept under this Act.

Destruction of documents.

52. Notwithstanding anything in this Act, a District Registrar may cause any Marriage Notice Register, certificate, licence, application, notice or declaration which is served on him, or forwarded or transmitted to him, under this Act to be destroyed after a period of ten years from the date of the last entry in such register or from the date of the certificate, licence, application, notice or declaration, as the case may be.

Powers in relation to inquiries.

53. (1) For the purposes of any inquiry under this Act, the Registrar-General or any District Registrar may—

- (a) by summons in writing, require the production before him of all documents and papers which he may deem necessary and may require any person holding or accountable for any such documents or papers to appear before him at such inquiry and to make and sign a declaration in respect of the same;

- (b) by summons in writing, require the attendance before him at such inquiry of any person whom he may desire to examine on oath; and

- (c) administer an oath or affirmation to any person referred to in paragraph (A).

(2) Any person who—

- (a) neglects or refuses to produce any documents or papers, or to make or sign a declaration, when required to do so under subsection (1); and

- (b) neglects or refuses to attend any inquiry when required to do so under subsection (1); or

- (c) gives false evidence at any inquiry under this Act,

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding one hundred rupees.

54. Such fee as may be prescribed shall be payable in advance— Fees.

- (a) to a District Registrar for the solemnization and registration of a prospective Kandyan marriage whether at his office or at any other authorized place; or

- (b) to a Divisional Registrar for the solemnization and registration of such marriage at any authorized place outside his office,

by the person requiring such Registrar to solemnize and register the marriage; and notwithstanding anything in this Act, if such fee is not so paid in advance such Registrar may refuse to solemnize and register the marriage.

PART VII

MISCELLANEOUS

55. In connexion with the preliminary Adjustments of arrangements necessary for bringing this Special matters. Act into operation, either generally or with reference to any special matter or matters,

either throughout the Kandyan provinces or in any specified part thereof, the Minister, by Order published in the Gazette, may issue all such directions as he may deem necessary with a view to providing for any unforeseen or special circumstances, or to determining or adjusting any question or matter, for the determination or adjustment of which no provision or effective provision is made by this Act.

Registrar shall be deemed to be duly served, issued, forwarded or transmitted if delivered at or sent by registered post to the office of the Registrar-General or Registrar, as the case may be.

Certified copies of books. &c.

56. (1) A person may on application made in that behalf and on payment of the prescribed fee, obtain from the Registrar-General or any Registrar a certified copy of or an extract from, any entry in a book or document in the possession of the Registrar-General or Registrar, as the case may be.

58. All expenses incurred in the administration of this Act shall be paid out of such moneys as may be voted by Parliament for the purpose.

Expenses.

[§ 6, Law 41 of 1975.]

(2) Such copy or extract, if purporting to be made under the hand of the Registrar-General or an Assistant Registrar-General or the District Registrar or an Additional District Registrar or the Divisional Registrar and the third copy issued under sections 23A and 33 (12) shall be received as prima facie evidence of the matters to which it relates without any further proof of the entry.

59. All sums paid or recovered by way of stamp fees, fees or fines under this Act, other than any sum paid to a Divisional Registrar as a fee under section 54, shall be credited to the Consolidated Fund.

Disposal of fees.

PART VIII

OFFENCES, PENALTIES AND INTERPRETATION

Service of notices, &c.

57. (1) Any notice, certificate, order, application or other document required or authorized for the purposes of this Act to be served on, or issued or forwarded or transmitted to, any person may be so served, issued, forwarded or transmitted—

- 60.** Any person who—
 - (a) for the purpose of procuring the solemnization or registration of a Kandyan marriage knowingly or wilfully makes and subscribes any false declaration or signs any false notice under this Act; or
 - (b) for the purpose of making an objection under this Act to the issue of a marriage notice certificate in respect of a Kandyan marriage, falsely represents himself to be a person whose consent to such marriage is required by this Act, knowing such representation to be false,

False declarations, &c.

shall be guilty of an offence under this Act.

- (a) by delivering it to that person;
- (b) by leaving it at the usual or last known place of abode of that person or, in the case of the Registrar-General or a Registrar, at his office; or
- (c) by sending it by post addressed to that person at his usual or last known place of abode or, in the case of the Registrar-General or a Registrar, at his office.

(2) Any notice, certificate, order, application or other document required or authorized for the purposes of this Act to be served on or issued or forwarded or transmitted to the Registrar-General or a

- 61.** Any person who—
 - (a) save as provided in section 52, knowingly and wilfully, tears, defaces or destroys any notice, certificate, declaration, register, book or other document kept under this Act or any part of such notice, certificate, declaration, register, book or document or any certified copy of such notice, certificate, declaration, register, book or document or of any part thereof kept under this Act; or

Destruction of documents, &c.

- (b) knowingly and wilfully inserts in any such notice, certificate, declaration, register, book or document any false statement; or
- (c) signs or issues under this Act any false certificate relating to any such notice, declaration, register, book or document; or
- (d) certifies any writing to be a copy of or extract from any such notice, certificate, declaration, register, book or document, knowing that such copy or extract, as the case may be, is not a true and correct copy thereof or extract therefrom,

shall be guilty of an offence under this Act.

Undue solemnization of marriages, &c.

62. Any person who—

- (a) knowingly and wilfully solemnizes or registers a Kandyan marriage when he is not authorized so to do by or under this Act; or
- (b) knowingly and wilfully solemnizes or registers a Kandyan marriage between persons one or both of whom is or are, as the case may be, not legally competent to contract a marriage,

shall be guilty of an offence under this Act.

Offences by Registrars.

63. Any Registrar who—

- (a) knowingly and wilfully solemnizes or registers a Kandyan marriage in contravention of any provision of this Act or of any rule made thereunder; or
- (b) knowingly and wilfully issues or grants any certificate, licence or other document under this Act in contravention of any provision of this Act or of any rule made thereunder; or
- (c) knowingly disobeys any provision of this Act or of any rule made thereunder intending to cause or knowing it to be likely to cause injury to any person or to the Government,

shall be guilty of an offence under this Act.

64. Every offence under this Act shall, save as otherwise expressly provided therein, be punishable with a fine not exceeding one thousand rupees or with imprisonment of either description for a term not exceeding two years or with both such fine and imprisonment.

Penalties.

65. All offences under this Act shall be cognizable offences for the purposes of the application of the provisions of the Code of Criminal Procedure Act, notwithstanding anything contained in the First Schedule of that Act, and shall be triable summarily by a Magistrate's Court.

Offences triable by Magistrate's court

66. In this Act, unless the context otherwise requires—

Interpretation.

" appointed date " means the 1st day of August, 1954;

" Additional District Registrar " means a person for the time being holding office as an Additional District Registrar of Kandyan Marriages for any district;

" Assistant Registrar-General " means a person for the time being holding office as an Assistant Registrar-General of Kandyan Marriages for the purposes of this Act;

" district " means administrative district;

" District Registrar " means a person for the time being holding office as a District Registrar of Kandyan Marriages for any district and includes an Additional District Registrar;

" division " means any division into which the Kandyan provinces are divided under this Act;

" Divisional Registrar " means a person for the time being holding office as a Divisional Registrar of Kandyan Marriages for a division;

" Kandyan marriage " means a marriage, under this Act, between persons subject to Kandyan law ;

" Kandyan provinces " means the provinces specified in Part I of the Schedule to this Act and includes the areas specified in Part II of that Schedule;

" lawful age of marriage "—

(a) in relation to the male party to a marriage, means sixteen years of age;

(b) in relation to the female party to a marriage, means twelve years of age;

" minor " means a male person under eighteen years of age or a female person under sixteen years of age;

" office ", in relation to a Divisional Registrar, includes any additional office established by him under this Act;

" prescribed" means prescribed by rule made under this Act;

" Registrar " means any District Registrar or Divisional Registrar; and

" Registrar-General " means the person for the time being holding office as the Registrar-General of Kandyan Marriages for the purposes of this Act, and includes a Deputy Registrar-General.

[§§2&3, Law 23 of 1978.]

PART IX

TRANSITORY PROVISIONS, &c.

Registers, &c., kept, and made under the Kandyan Marriage Ordinance.

67. (1) Notwithstanding the repeal of Kandyan Marriage Ordinance* every register or other book kept under that Ordinance and in existence on the day immediately preceding the appointed date shall be deemed to be a register or other book, as the case may be, kept under the corresponding provisions of this Act, and every entry made in such register or other book shall be deemed to be an entry made under the corresponding provisions of this Act:

Provided, however, that any question as to the correctness of any such entry shall, notwithstanding such repeal, be determined in the manner in which it would have been determined if that Ordinance had not been repealed-

(2) Notwithstanding the repeal of the Kandyan Marriage Ordinance* any regulation made under that Ordinance and in force on the day immediately preceding the appointed date shall be deemed to be a rule made under this Act and accordingly may be varied, amended or revoked under this Act.

68. Notwithstanding the repeal of the Kandyan Marriage Ordinance * and the Kandyan Marriage (Removal of Doubts) Ordinance,* the following provisions shall apply in the case of marriages as defined in the Kandyan Marriage Ordinance :—

Special provisions applicable to certain marriages.

(1) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the registration of any such marriage of which notice had been given under that Ordinance before the appointed date and for the purpose of the determination of any question as to the validity of any such marriage which is so registered.

(2) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the disposal of any application for the dissolution of any such marriage which had been made under that Ordinance before the appointed date and for the purpose of the determination of any question as to the validity of any order of dissolution made on such application.

(3) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the completion of any act which had been commenced, but not completed, under that Ordinance before the appointed date.

*Repealed by Act No. 44 of 1952.

- (4) The provisions of the Kandyan Marriage Ordinance and the Kandyan Marriage (Removal of Doubts) Ordinance shall continue in force for the purpose of the determination of any question as to the validity of any such marriage contracted before the appointed date.
- (5) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the determination of any question as to the validity of the dissolution, before the appointed date, of any such marriage.
- (6) The provisions of section 27 of the Kandyan Marriage Ordinance shall continue in force for the purpose of the determination of any question as to the legitimacy of, and the rights vested in, any child procreated by the parties to any such marriage prior to its registration under that Ordinance.
- (7) The fact that any such marriage was solemnized or registered before the

appointed date under the Marriage Registration Ordinance or under any enactment repealed by that Ordinance, shall not affect the rights of the parties thereto or of persons claiming title from or through such parties to succeed to property under and in accordance with the Kandyan law.

69. Notwithstanding anything in any other provision of this Act, a marriage registered under the Kandyan Marriage Ordinance may be dissolved on all or any of the grounds specified in section 32 of this Act; and accordingly for that purpose and that purpose only the provisions of Part IV of this Act shall apply in like manner and to the same extent as they apply to Kandyan marriages.

Application of Part IV to certain marriages.

70. Nothing in subsection (2) of section 4 of the Kandyan Succession Ordinance shall authorize or be deemed or construed to authorize the solemnization or registration under this Act of a marriage between persons either of whom is not a person subject to Kandyan law.

Kandyan Succession Ordinance not to apply to marriages under this Act,

[Section 66.)

SCHEDULE

KANDYAN PROVINCES

PART I

The provinces specified hereunder:—

- (1) The Central Province.
- (2) The North-Central Province.
- (3) The Province of Uva.
- (4) The Province of Sabaragamuwa.

PART II

The areas specified hereunder:—

- (1) Chinnacheddikulam East and West Korale and Kilakkumulai South Korale in the Vavuniya District, of the Northern Province.
- (2) Bintenne Pattu, Wegam Pattu, and Panama Pattu in the Batticalaa District, and Kaddukulam Pattu in the Trincomalee District, of the Eastern Province.
- (3) The Kurunegala District, and Demala Hat Pattu in the Puttalam District, of the North-Western Province.