

[AS PASSED BY THE SENATE]

A

BILL

to provide for solemnization of marriages by Hindu families and for matters ancillary and incidental thereto

Whereas it is constitutional obligation that the state shall protect the marriage, the family, the mother and the child and also safeguard the legitimate rights and interests of minorities:

And Whereas it is expedient to have a consolidated law providing for solemnization of marriages by Hindu families and the matters connected therewith and incidental thereto:

And Whereas the Provincial Assemblies of Balochistan, Khyber Pakhtunkhwa and Punjab have passed Resolutions under Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Majlis-e-Shoora (Parliament) may, by law, regulate solemnization of marriages by Hindu families and for matters connected therewith and incidental thereto:

It is hereby enacted as follows:-

1. Short title, extent, application and commencement.--(1) This Act may be called the Hindu Marriage Act, 2017.

(2) It extends to the Islamabad Capital Territory and the Provinces of Balochistan, Khyber Pakhtunkhwa and Punjab.

(3) Subject to sub-section (2), it shall apply to those citizen of Pakistan who profess Hindu religion in any of its forms.

(4) It shall come into force at once.

2. Definitions.-- In this Act, unless the subject or context otherwise requires,-

(a) "Court" means a Family Court as defined under the West Pakistan Family Courts Act, 1964(W.P. Act XXXV of 1964):

(b) "customs" and "customary rites" mean any tradition which is not unlawful and the same has been continuously and uniformly observed for a long time among Hindus in any local area, tribe, community, group or family:

- (c) "degrees of prohibited relationship" means any prohibited relationship as per laws, religion and customs having force of law relating to Hindu persons;
- (d) "Government" means the Federal Government or the Provincial Government as the case may be;
- (e) "Hindu marriage" means the union of Hindu male and Hindu female solemnized under this Act and includes the marriage solemnized before commencement of this Act in accordance with the law, religion and customs having force of law relating to Hindu persons;
- (f) "marriage register" means register of marriages maintained by marriage registrar as may be prescribed;
- (g) "marriage registrar" means a person authorized and appointed by the Government to register Hindu marriages under this Act;
- (h) "prescribed" means prescribed by rules made under this Act; and
- (i) "*shaadiparat*" means certificate of marriage issued by the marriage registrar, which certifies the solemnization of Hindu marriage.

3. Overriding effect of Act.-The provisions of this Act shall have effect not withstanding any other law or custom or usage for the time being in force.

4. Conditions for a Hindu marriage.-A Hindu marriage shall be solemnized, if the following conditions are fulfilled, namely:-

- (a) at the time of the marriage, the parties are of sound mind and capable of giving a valid consent;
- (b) both the parties are not below the age of eighteen years;
- (c) the parties to the marriage are not within the degrees of prohibited relationship; and
- (d) neither party has a spouse living at the time of marriage:

Provided that condition in clause (d) shall not apply where a living female spouse cannot conceive a child and medically declared to be so.

5. Ceremonies for Hindu marriage.-A Hindu marriage may be solemnized in accordance with the customary rites, rituals and ceremonies of either party thereto.

6. Registration of Hindu marriages.- (1) The solemnization of every Hindu marriage shall be registered in accordance with the provisions of this Act. Such registration shall take place within a period of fifteen days of solemnization of Hindu marriage.

(2) The marriage register shall be open for inspection and shall be admissible as evidence of the contents contained therein or certified extracts there from shall, on application, be given by the marriage registrar on payment of such fee, as may be prescribed.

7. Appointment and functions of marriage registrar.-(1) The Government shall by notification in official Gazette, appoint one or such numbers of marriage registrars in the territory of a district or such other areas as would be convenient for Hindu population living in the said district or such other areas.

(2) For the purposes of registration of Hindu marriage, the marriage registrar or person duly authorized by him from amongst the local Hindu community in the manners as may be prescribed, shall be responsible to register the marriage. The parties to Hindu marriage shall give their particulars to the respective registrar or his authorized person for the purpose of entry thereof in *shadiparat*.

(3) The form of *shaudiparat*, the record to be preserved and maintained by the marriage registrar shall be such as may be prescribed. Until the rules are made, the *shaudiparat* annexed as Schedule A of this Act shall be used as *shaudiparat*.

(4) The marriage registrar shall prepare such number of copies as may be prescribed and unless the rules are made, he shall prepare three copies thereof. One copy each shall be given to the respective parties to marriage and one copy shall be kept in the office of marriage registrar as a public record.

8. Restitution of conjugal rights.- When either a husband or a wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may, by a petition to the Court, apply for restitution of conjugal rights and the Court, on being satisfied of truth of statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights.

Explanation- Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.

9. Judicial separation.-(1) Either party to Hindu marriage, whether solemnized before or after commencement of this Act, may present a petition to the Court praying for a decree of judicial separation on any of the grounds specified in sub-section (1) of section 12 and in the case of a wife also on any of the grounds specified in sub-section (2) thereof.

(2) Where a decree of judicial separation has been passed, the Court may, on the application of both the parties and on being satisfied of truth of statements made in such petition, rescind the decree if it considers it just and reasonable to do so.

10. Void marriages.- Any Hindu marriage solemnized after commencement of this Act may, on a petition to the Court presented by either party to the marriage or their real parents, be declared null and void on the conditions specified in clauses (c) and (d) of section 4.