

Thirteenth Kerala Legislative Assembly

Bill No. 80

**THE SPECIAL MARRIAGE (KERALA AMENDMENT)
BILL, 2012**

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further to amend the Special Marriage Act, 1954 in its application to the State of Kerala.

Preamble.—WHEREAS, it is expedient further to amend the Special Marriage Act, 1954 (Central Act 43 of 1954) in its application to the State of Kerala, for the purposes hereinafter appearing ;

BE it enacted in the Sixty-third Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Special Marriage (Kerala Amendment) Act, 2012.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Amendment of section 6.*—In the Special Marriage Act, 1954 (Central Act 43 of 1954), (hereinafter referred to as the principal Act), in section 6 after sub-section (3), the following sub-section, shall be inserted, namely:—

“(4) Where either of parties to an intended marriage is a foreign national, the Marriage Officer shall cause the notice to be published in the following manner, namely:—

(a) by affixing a true copy of such notice under his hand and seal in some conspicuous place in his office ;

(b) by forwarding true copies of such notice under his hand and seal to the parents of the parties to the marriage by any mode of communication including e-mail at the expense of the parties :

Provided that when service of notice is effected through any internet process, ‘a print out’ of the same and ‘delivery note’ as it appears in the computer system after the communication is sent through the system shall be taken and kept in the relevant office documents relating to the matter and it shall be deemed to be the evidence of acknowledgement of the notice by the person to whom the notice is issued ;

(c) by publishing such notice in a newspaper having wide circulation,—

(i) in the State or States in India in which the parties or the Indian party to the marriage belong or belongs; and

(ii) in the country or countries in which the parties ordinarily reside.”.

3. *Amendment of section 7.*—In section 7 of the principal Act,—

(i) in sub-section (1), for the words, brackets and figures “under sub-section (2) of section 6” the words, brackets and figures “under sub-section (2) or sub-section (4) of section 6”, shall be substituted ;

(ii) in sub-section (2), for the words, brackets and figures, “sub-section (2) of section 6”, the words, brackets and figures “under sub-section (2) or sub-section (4) of section 6”, shall be substituted.

4. *Amendment of section 8.*—In section 8 of the principal Act, after sub-section (1), the following explanation, shall be added, namely:—

“*Explanation.*—For the purpose of this sub-section, where the publication of the notice by different modes under clauses (a), (b) and (c) of sub-section (4) of section 6, is on different dates, the period of thirty days shall be computed from the latest date.”.

5. *Amendment of section 14.*—In section 14 of the principal Act,—

(i) in the marginal notes, for the words “three months” the words “the stipulated period” shall be substituted ;

(ii) in the opening sentence, after the words “three calendar months” the words “and where either of the parties to the marriage is a foreign national, six calendar months” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Special Marriage Act, 1954 (Central Act 43 of 1954) does not contain any provision enabling foreign nationals to register the marriage solemnized in Kerala. The provision under sub-section (3) of section 2 of the said Act to send a notice to the Marriage Officer to the native place of the foreign National in order to verify whether he is competent and suffers no disability to enter into a marriage in Kerala is inadequate. This Bill enables solemnization of marriages in Kerala if any of the parties to the marriages is a foreign national under the Special Marriage Act, 1954 (Central Act 43 of 1954). The Bill specifically provides for the special conditions to be complied with before solemnization of

such marriages of the foreign national to avoid the difficulties being felt generally in the matter of solemnization of such marriages and to ensure that the foreign national is competent and suffers no disability to enter into a valid marriage in Kerala.

2. The Bill seeks to amend the Special Marriage Act, 1954 in its application to the State of Kerala to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

K. M. MANI

EXTRACT FROM THE RELEVANT PORTIONS OF THE SPECIAL
MARRIAGE ACT, 1954
(CENTRAL ACT 43 OF 1954)

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6. *Marriage Notice Book and publication.*—(1) The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

(2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

(3) Where either of the parties to an intended marriage is not permanently residing within the local limits of the district of the Marriage Officer to whom the notice has been given under section 5, the Marriage Officer shall also cause a copy of such notice to be transmitted to the Marriage Officer of the district within whose limits such party is permanently residing, and that Marriage Officer shall thereupon cause a copy thereof to be affixed to some conspicuous place in his office.

7. *Objection to marriage.*—(1) Any person may, before the expiration of thirty days from the date on which any such notice has been published under sub-section (2) of section 6, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

(2) After the expiration of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of section 6, the marriage may be solemnized, unless it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained if necessary, to the person making the objection and shall be signed by him or on his behalf.

8. *Procedure on receipt of objection.*—(1) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied

that it ought not to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the District Court within the local limits of whose jurisdiction the Marriage Officer has his Office, and the decision of the District Court on such appeal shall be final, and the Marriage Officer shall act in conformity with the decision of the Court.

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14. *New notice when marriage not solemnized within three months.*—Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Officer as required by section 5 or where an appeal has been filed under sub-section (2) of section 8, within three months from the date of the decision of the District Court on such appeal or, where the record of a case has been transmitted to the Central Government under section 10, within three months from the date of decision of the Central Government, the notice and all other proceedings arising there from shall be deemed to have lapsed, and no Marriage Officer shall solemnize the marriage until a new notice has been given in the manner laid down in this Act.

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