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NOTIFICATION

No. C. 18015/148/2005-LJC/73, the 22nd September, 2006. The Mizoram Moslem Marriage Registration Rules, 2006 framed under the Assam Moslem Marriages and Divorces Registration Act, 1935 is hereby publish in the Mizoram Gazette to invite suggestions/Objections/Views/Comments from members of the general public to the proposed draft and to furnish the same to the Under Secretary to Govt. of Mizoram, Law and Judicial Department, Civil Secretariat, Block 'B' Room 3 within 30 days from the date of publication of this notice on any working day during office hour.

Sd/-

Chawngtinthanga,
Deputy Secretary to the Govt. of Mizoram.

Whereas, the Hon'ble Supreme Court of India in its order dated February 14, 2006 in Transfer Petition (C) No. 291 of 2005 titled 'Seema -Vrs- Ashwani Kumar' has issued directions to all the states to frame rules providing, inter-alia, for compulsory registration of marriages;

Whereas the Government of Mizoram in pursuance of the aforesaid directions, intends to frame rules under the Assam Moslem Marriages and Divorces Registration Act 1935 (Act IX of 1935) as it applies to the state of Mizoram;

And whereas it is considered necessary to invite and elicit suggestions/ objections/ views/ comments from the general public so as to reach the State Government within a period of 30 days from the date of publication of this notice;

Now, therefore the State Government of Mizoram hereby invites suggestions/ objections/ views/ comments from members of the general public of the State with respect to the proposed draft rules published here under and to furnish the same to the Under Secretary to the Government of Mizoram, Law and Judicial Department, Civil Secretariat, Block 'B', Room 3 within 30 days from the date of publication of this notice on any working day during office hours:-

CONTENT OF THE RULES

In exercise of the powers conferred by section 17 of the Assam Moslem Marriage and Divorces Regulation Act, 1935 (Assam Act IX of 1935) as applied to Mizoram, the State Government of Mizoram hereby makes the following rules, namely;

1. Short title and Commencement : (1) These rules may be called the Mizoram Moslem Marriages Registration Rules, 2006. (2) They shall come into force from the date of notification in the Official Gazette.
2. Definition :- In these rules unless the context otherwise requires -
 - (a) "Act" means the Assam Moslem Marriages and Divorces Registration Act 1935 (Assam Act IX of 1935) as it applies in the state of Mizoram,
 - (b) "Permanent Committee" means the body of persons for the time being appointed by the government of Mizoram for the transaction of such business connected with the administration of the Act, as is entrusted to them in the State of Mizoram.
3. Registration of marriages to be compulsory : With the notification of these rules, all marriages solemnized in Mizoram under the Act shall be compulsorily registered.
4. As soon as the Act comes into force in any area, the District Registrar shall nominate sufficient number of persons possessing the qualifications of specified in rule 5 to be licensed as Moslem Marriage Registrars under Section 6. The District Registrar shall also specify the limits within which each of the persons so nominated shall exercise the functions of Moslem Registrar.

5. The District Registrar's nomination shall be submitted in the Inspector General of Registration to be placed before the Permanent Committee, and shall be accompanied by the original application of the candidate in the following form, together with a certificate of good moral character, and either a certificate that he has passed the Senior Madrasa final Examination or a certificate that he possesses sufficient acquaintance with the Arabic language and the Moslem Law of Marriage and Divorce, signed by three Mohammadan gentlemen of respectability and position :

Application for the Moslem Marriage Registrarship for registration of Moslem Marriages and Divorces at _____ thana _____
District of _____

1. Name and usual signature of candidate and address in full
 2. Age
 3. Profession or present employment of candidate with present salary or pension.
 4. Father's name and profession
 5. Present family residence of candidate
 6. Distance of residence from the Moslem registry office and Sadar station
 7. Whether candidate has a masonry house for his office
 8. If previously employed under Government details of past service; if ever dismissed from any post, particulars of the fact
 9. Name and address of persons recommending the candidate.
 10. Whether the candidate is acquainted with Arabic, Persian, Urdu, Bengali, Assamese or English
 11. Whether the candidate has passed the Senior Madrasa examination and holds any Certificate from any Government or private Madrasa (stating his name)
 12. Remark of the District Registrar
 13. Remarks
6. Candidates for nomination of Moslem Marriage registrar will be preferred if they have passed the Senior Madrasa final examination, and are of good moral character. In the selection of Moslem Marriage Registrar, preference shall ordinarily give to candidates who are native and are domiciled in Mizoram and who reside at a convenient place within the limits of the Jurisdiction proposed; but no persons shall be nominated as Moslem marriage Registrar merely by reason of some supposed hereditary right. The fact that a person is a pensioner shall not be a bar. A person whose age exceeds sixty years will not be appointed as a Moslem Marriage Registrar.
7. The limits within which a Moslem Marriage Registrar shall be licensed to act shall coincide with the limits of a sub-district under the Indian Registration Act, or with in the jurisdiction of such police station or stations or parts thereof, as the Government may, from time to time, direct. The headquarters shall be at some convenient place within those limits.
8. In case the nomination of the District Registrar is disapproved by the Permanent Committee, the District Registrar may be requested to submit a fresh nomination of the Committee may select another candidate with the necessary qualifications for the approval of the State Government.

9. The Inspector General of Registration may censure, suspend, and may make transfer and posting of Moslem Marriage Registrars. Wherever required may consult the Permanent Committee.
10. Licenses to qualified persons who have been approved as Moslem Marriage Registrars will be granted in the following form :-

"To _____ of

 _____ Aizawl/Vairengte,
 the _____ 20 _____.

By Virtue of the authority conferred upon the Government of Mizoram, by Section 3 of the Assam Moslem Marriages and Divorces Registration Act, 1935 as adapted by Government of Mizoram, you are hereby authorized to register, in the manner prescribed by the above Act, all Moslem Marriages which shall be effected within _____ in the District of _____ on application being made to you for such Registration.

- (2) It will be your duty to carefully observe the provisions of the above-mentioned Act, and such rules as may, from time to time, be prescribed by the State Government, in pursuance of the power conferred upon them, by the above Act.
- (3) This licence shall continue to be in force until it is revoked or suspended by the Government of Mizoram"
11. When a Moslem Marriage Registrar desires to give up his licence or is about to leave the place of the district in which he has exercised the functions of Moslem Marriage Registrar, he shall report the circumstances through the District Registrar to the Inspector General of Registration for orders.
12. When a Moslem Marriage Registrar makes over charge of his office to a successor, a certificate shall be jointly given of the date on which the office is made over and of the safety and correctness of the records; and the certificate shall be forwarded by the District Registrar to the Inspector General of Registration.
13. (1) A Moslem Marriage Registrar shall not be entitled to leave as of right under the rules in force for Government servants. The Inspector General may, however, grant leave in cases of urgency and propose to the Government for a substitute.
 (2) A Moslem Marriage Registrar is required to submit his application for leave to the District Registrar six weeks before the date on which he intends to avail himself of it.
 (3) The District Registrar may, however, grant leave-not exceeding 10 days in cases of urgency pending formal sanction of the Inspector General of Registration, Mizoram without a substitute.
 (4) No Moslem Registrar shall be absent from his jurisdiction, without permission of the District Registrar.
14. (1) When forwarding of the application of a Moslem Marriage Registrar for leave or when reporting his absence from duty, a District Registrar should nominate a suitable person to act as substitute from the list of candidates which will be maintained in his office for the purpose.

- (2) The District Registrar's nomination shall be considered by the Inspector General of Registration. A temporary licence will then be issued by Govt. on his recommendation to the selected candidates. A Moslem Marriage Registrar shall not be placed in charge of the office of another Moslem Marriage Registrar unless he has been licensed to hold the charge of the latter office.
15. Service as a Moslem Marriage Registrar shall not count as Government service, so as to give rise to any claim for pension of gratuity or to leave or allowances of any kind from the State Government.
16. (1) The general control and supervision of the working of the Moslem Marriage Registrars under the Act shall be exercised by the Inspector General of Registration added by the District Registrars and Sub-Registrars, if any.
(2) District Registrars and Sub-Registrars, if any, are authorized to visit or to depute a competent official not below the rank of a Superintendent, to visit and inspect all Moslem Marriage Registry Offices within the districts.
(3) Inspecting officials other than District Registrars should not themselves pass any orders on the occasion of their inspections but should report the District Registrars for orders on any points on which the orders appear to them to be necessary.
17. A Moslem Marriage Registrar shall, on first appointment, be supplied with the registers, etc., mentioned below, free of charge :-
 1. Register A (Book I)
 2. Copies of do for parties
 3. Do do for the Registrar
 4. Do do for issue
 5. Register B (Book II)
 6. Copies of do for parties
 7. Do do for the Registrar
 8. Do do for issue
 9. Register C (Book III)
 10. Copies of do for parties
 11. Do do for Registrar
 12. Do do for issue
 13. Book of Refusal
 14. Book Appeals
 15. Index Book
 16. Ditto Sheets
 17. Form of applications
 18. Catalogue
 19. The Moslem Marriages and Divorces Registration Act, 1935 (as applicable to Mizoram)
 20. Requisition for forms
 21. Receipt Book

He shall also be supplied with a seal and will use no forms, registers and index other than that supplied from the Government stores. All books, registers, etc., which may subsequently be supplied, shall be paid for by the Moslem Marriage Registrar at the time of supply.

When the first supply is exhausted a Moslem Marriage Registrar will obtain on a requisition by a letter from the District Registrar all standardized forms. Such requisition must be accompanied by a treasury challan (unless the Moslem Marriage Registrar is exempted from paying for forms) showing the deposit of the cost of such priced forms as have been included in his requisition. No Moslem Marriage Registrar shall make an indent for forms direct on the Local Government or on the Government Contractors. Private printing of standardized forms by the Moslem Marriage Registrars is forbidden. The District Registrar is the indenting officer for forms required by the Moslem Marriage Registrar of his district and will be responsible for maintaining an adequate stock of forms for distribution to Moslem Marriage Registrars. For this purpose the District Registrar shall maintain a Stock Book of all forms required by the Moslem Marriage Registrars and the forms which are saleable are to be clearly marked as such in the book. An issue of saleable forms or stationery, including ink, will be made on receipt of a challan showing the deposit of the value or on reference to a definite order of the District Registrar sanctioning a free issue of forms or stationery, including ink, to a Moslem Marriage Registrar whose monthly income is not more than Rs.1000/-. Sums received by the sale of these forms or stationery are to be credited to the Head of Account as the State Government may prescribe.

18. The Seal shall always remain in the personal custody of the Moslem Marriage Registrar and shall be made over with the records to the officer appointed in his place whenever a Moslem Registrar cedes, either temporarily or permanently, to exercise his functions.
19. A printed table of fees in the vernacular of the district shall be affixed in some conspicuous place in every Moslem Marriage Registrar's Office.
20. The fees received by the Moslem Marriage Registrar under Sections 9 and 15 of the Act, and rule 53 may be retained by him as his lawful remuneration, provided that he duly pays for the registers and other articles supplied to him under Rule 17. All fees received by the District Registrar shall be credited to Government in the same way as fees realized under the India Registration Act.

A receipt shall be granted to the payee from the printed book prescribed for the purpose by the Moslem Registrar or District Registrar as the case may be, in which shall be entered in detail all sums received on account of fees and allowance. The receipt shall be sealed with the seal of the Moslem Marriage Registrar or District Registrar granting it and shall be signed and dated by that officer.

21. A Moslem Marriage Registrar shall not be debarred from holding any other salaried appointment with the permission of the District Registrar, provided that it does not interfere with the proper discharge of his duties as the Moslem Marriage Registrar.
22. When the attendance of a Moslem Marriage Registrar is required at the celebration of a marriage or other ceremony, the party requiring his attendance shall make an application to the Moslem Marriage Registrar, specifying the place and time of the marriage or other ceremony, where that officer may attend.

23. It shall be lawful for Moslem Marriage Registrars to travel on circuit within their jurisdiction for the purpose of attending celebration of marriages or other ceremonies. A Moslem Marriage Registrar may charge from either of the parties to a marriage the following fees for visiting a place (other than his own office) for the purpose of attending the celebration of such marriage or other ceremony in connection with the registration of the marriage :
 - (a) An attendance fee which shall not exceed Rs. 100/-
 - (b) A travelling allowances at a rate not exceeding Rs. 5/- per Km for the distance actually traveled.
24. When the Moslem Marriage Registrar is present at the celebration of a marriage, he shall make an entry of the fact in the Register of Marriages (A), and a copy of such entry shall be included in the copies to be made under relevant Sections.
25. If all the persons who, by Section 10 of the Act, are required to sign the entry of the marriage in the proper register, are not present, registration shall be deferred until they are all present, provided that no marriage for registration of which application has been made within one month, as required by Section 9, shall be registered after the expiration of six months from the date on which the marriage was effected.
26. The Moslem Marriage Registrar shall satisfy himself whether or not a marriage was effected by the persons by whom it is represented to have been/effectuated in the following manner :-
 - (1) By examining the parties to the marriage, or, if either or both them are minors, their lawful guardians. If the woman is a purdahnasheen, then her duly authorized Vakil shall be examined instead of the women.
 - (2) By examining the two witnesses who were present at the marriage.
27. Moslem Marriage Registrar shall satisfy himself whether or not a divorce other than the kind known as Khula, was effected by the man by whom it is represented to have been effected by examining that man; and if he is of the Shia sect, by examining also the two witnesses to the divorce, before registering a marriage.
28. The Moslem Marriage Registrar shall satisfy himself of the identity of persons appearing before him as witnesses of marriage, unless they are otherwise personally known to him, by examining at least one witness to the identity of each person so appearing.
29. In the case of any person appearing as the representative of the man or women (whether he appears as guardian or Vakil), the Moslem Marriage Registrar shall satisfy himself of the right of such person to appear by examining such person. If a Vakil so appears, the Moslem Marriage Registrar shall further examine witnesses to the fact of the Vakil having been duly authorized to appear.
30. When the entry of the marriage has been made in the proper register, it shall be read over by the Moslem Marriage Registrar to the persons who, by Section 10 of the Act, are required to sign such entry. If they admit its correctness, the entry shall then be signed by them.

31. When a person who cannot write, signs his name by means of a mark, his name shall be recorded at length, and the writer also shall sign his name in attestation that the mark was affixed in his presence.
32. If a Moslem Marriage Registrar discovers any error in the form of substance of any entry of a marriage made by him, within one month from the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry and add thereto the date of such correction and he shall also make the like marginal entry in the copies thereof. And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And, in case a copy has been already sent to the Registrar, the Moslem Marriage Registrar shall make and send another copy thereof, containing both the original erroneous entry and the marginal correction therein made.

33. No erasures shall be made with knife in any register, book or record, but mistakes shall be corrected when necessary, with a pen, and shall be invariably attested by the Registering Officer. Corrections are not to be obliterated or blotted out, so as to be illegible, but a line is to be drawn through erroneous words with the pen, so that they may remain legible.
34. The circumstances under which registration of marriage should be refused are as follows :-
 - (1) If the marriage was not effected within the jurisdiction of the Moslem Marriage Registrar to whom application for registration is made
 - (2) If the application is not made by the person specified in Section 8 of the Act.
 - (3) If the application has been made after the expiry of one month from the date on which the marriage was effected.
 - (4) If all the persons required by section 10 of the Act of sign the entry in the proper Registrar fail to appear within the time-limit for such appearance fixed by the Moslem Marriage Registrar under Rule 25.
 - (5) If the Moslem Marriage Registrar fails, to satisfy himself that the marriage was effected by the person or persons by whom it is represented to have been effected.
 - (6) If the Moslem Marriage Registrar fails to satisfy himself as to the identify of the persons appearing before him and alleging that the marriage has been effected.
 - (7) In the case of any person appearing as the representative of the man or woman (whether he appears as guardian or as (Vakil), if the Moslem Marriage Registrar is not satisfied as to the right of such person to arrear.
 - (8) If one of the parties applying for registration of marriage, or if the man applying for the divorce, appear to be of unsound mind.
35. In case (2), (4) and (8) referred to in Rule 34, the refusal order shall ordinarily be deferred till one month has elapsed from the date on which the marriage was effected; but if the parties declare their inability to comply with the requirements of the law, or for any other reason wish that registration should at once be refused, this may be done.

36. The reasons for refusal to register to be recorded under Section 19 of the Act shall be concisely and clearly stated in each particular case. When registration is refused under clauses 5, 6 or 7 of the Rule 34, the Moslem Marriage Registrar will record the grounds of his decision.
37. Fees under section 9 of the Act shall not be refunded unless registration is refused for one of the reasons numbered (1),
attendance of Moslem Marriage Registrar at the celebration of marriages shall be refunded only in cases where the Moslem Marriage Registrar does not attend. Fees paid for searches in the registers and indexes or for copies of entries shall be refunded only when the searches are not made or the copies not given.
38. The refund of fees paid to a Moslem Marriage Registrar shall be made by him at once on application and he shall take and file a receipt for the amount of such repayment from the person to whom it is made.
39. When a Register book is closed, a certificate to that effect shall be appended at the close of the written portion, and a certificate showing the number of pages written upon shall be entered on the first page.
40. The Registers and Indexes shall be kept in English, Mizo, Bengali or Assamese. Copies under Sections 11, 14 and 21 of the Act should be prepared in the language in which the registers are kept.
41. The "year" referred to in the Act shall be a year of the Christian era, commencing on the 1st of January and ending on the 31st December.
42. The index to Marriages shall be prepared from the Registers A, B and C, and shall contain the following particulars: -
 1. Name of party.
 2. Father's Name
 3. Residence
 4. Place of Registration
 5. Date of Registration
 6. Serial number for the year
 7. Book
 8. Volume
 9. Page
43. Name shall be indexed according to their first letter and shall be arranged in order of the English, Mizo or Bengali or Assamese alphabet. A mere title or designation or race shall not be taken as the index word. -
For example: Sheik Rehman will be indexed as Rehman Sheik, Mir Aulad Ali as Aulad Ali, Mir, and the like
44. A catalogue in the form given below shall be kept and permanently preserved in every Moslem Marriage Registrar's office and on the occasion of every transfer of records, the Officer receiving

charge of the records shall compare them with the Catalogue and certify therein that he has found them correct. Whenever any of the records are transferred to the district officer, the fact shall be noted in the column of remarks, together with the date of transfer :-

FORM OF CATALOGUE

Serial No.	District or Sub-District to which the book relates	Year	Title of the book	Volume	Number of entries in each	Number of pages written on	Remarks
1	2	3	4	5	6	7	8

45. The following records shall be preserved in perpetuity: -
- All register books A, B and C and their Indexes;
 - The Catalogue;
 - Reports of the destruction of records and lists of papers destroyed; and
 - Fee book
46. The following records shall be preserved for the period noted against each, after which they will be destroyed: -
- Register of refusals 12 years
 - Register of appeals Ditto
 - Inspection Reports Ditto
 - Annual Reports Ditto
 - Counter foils of receipt granted under the Rules Ditto
 - Application for registration or for attendance at The Celebration of marriages under the Rule . 3 years
 - Application for search of copies of extracts 3 years
 - All correspondences, whether in the vernacular or in English, which is of an ordinary routine character and which the District Registrar considers may be destroyed 3 years
 - Requisition for forms and stationery 3 years
 - Applications for the post of Marriage Registrar 3 years
 - All other records not specified in the above Rules 3 years

Provided that in case of any conflict with any provisions in this regard of the Right to Information Act, 2005, then the provisions of the Right to information Act shall prevail.

47. Monthly returns submitted to the Registrar of the district under section 21 of the Act which are copies of entries in the registers, and Index books may be destroyed as soon as the completed volume of Register or Index to which such returns relate is received in the Sadar Office.

48. (a) No records or papers whatever shall be destroyed without the previous sanction of the Inspector General of Registration.
(b) Subject to such sanction the records in the offices of Registrars and Moslem Marriage Registrar may be destroyed after the expiration of the period of their retention as specified in Rule 46, the said period being computed from the 1st January next following the date of record.
49. Application for search in the records or for copies of extracts therefrom shall be made in writing; no stamps are required on such applications. Applications made to the District Registrar shall be entered in the register kept by him for that purpose. Applications made to the Moslem Marriage Registrar shall be filed by him, the date of application and the date on which a search was made, or a copy delivered, being noted on the back of the application. If the register from which an extract is required has been transferred to the district Registrar or other person under Section 22 of the Act, the application together with the prescribed fee, shall be forwarded by the Moslem Marriage Registrar to such District Registrar or other person at the expense of the applicant
50. A call for information from any Court, shall, if it necessitates search in the registers, be accompanied by the necessary fee for search. Officers of the state or the central Government, as the case may be, shall be permitted to inspect the registers without fee; but if the production of a register in any Court is required, it shall be produced by the Moslem Marriage Registrar or other officer whom the District Registrar may depute for the purpose, who will be entitled to claim payment of his expenses like any other witness.
51. Besides the fees leviable under Section 15 of the Act, a fee of Rs. 5/- may be charged for extracts and copies of orders and records not otherwise provided for in the law.
52. The Inspector General of Registration should send an Annual Report on the working of the Act to the Government by the 15th July of each year. The body of the report should contain a table in the following form showing the principal features of the working of Act IX OF 1935 during the preceding two years :-

Year	No. of districts in which Act IX of 1935 was in force	No. of offices open at the close of the year	No. of marriages registered	Total No. of ceremonies registered
1	2	3	4	5

The text should go on to indicate the total number of offices opened and closed during the year under review, the total number of ceremonies registered the average number of registrations in each office and the total and average income of Moslem Marriage Registrars. Attention should be directed to any notable fluctuations and a brief indication should be given in a few general remarks of the estimation in which the provision they are in force. The report should not exceed 1 page.

A table in the following form should be appended showing district-wise operations under Act IX of 1935 during the year under review.

Name of district	No. of offices on 31st March	No. of Marriages registered	Total Number of ceremonies registered	Total receipt on account of fees
1	2	3	4	5
TOTAL				

The district Registrar should send in the materials for the compilation of the report by the 15th May of each year, to the office of the Inspection General of Registration and the Moslem Marriage Registrars should submit their returns to the District Registrar not later than 15th April of each year.

53. For the supervision of Moslem Marriage Registrars and Kazis there will be a permanent committee, consisting of 6 (Six) members of which the Inspector General of Registration shall be ex-officio Chairman. The following rules are prescribed for the guidance of the committee :-
- (1) The committee shall consist of six members. The Inspector General of Registration for the time being shall be the Chairman, and Persian and Arabic Professor of a Government College, if any, shall be a member. The remaining members shall be appointed by the Law and Judicial Department by Notification in the official gazette. They should hold office for a term of three years, and shall be eligible for reappointment on the expiry of the term. Member shall be liable to removal for habitual failure to attend the meeting of the committee.
 - (2) The jurisdiction of the Committee shall extend to all districts of the State in which the Act IX of 1935 in force.
 - (3) The Committee shall meet as often as may be found necessary for transaction of business at such place as may, on each occasion, be convenient. The chairman shall ordinarily fix the time and place of such meetings and shall be bound to call a meeting within one month on the requisition of any three members. Three members shall form a quorum for the transaction of business.
 - (4) The Committee shall deal with the following matters : -
 - i. The consideration of all nomination to the post of Moslem Marriage Registrar or Kazi
 - ii. Recommendations for the dismissal and removal of Moslem Marriage Registrars and Kazis
 - iii. The examination of Moslem Marriage Registrars and Kazis.
 - iv. The inspection of the offices of Moslem Registrars.
54. Effect of non-registration of marriage - Consequent upon the notification of these rules, applications or petitions in respect of custody of children, right of children born from the wedlock etc. of parties to marriages which have not been registered will be treated as applications or petitions without any evidentiary value and disposed of as such. Applications for nominations of spouse of children born from the wedlock in respect of pension, gratuity, bank accounts, inheritance to assets and liabilities etc. shall, with effect from the notification of these rules in the Official Gazette, be disposed of with reference of these rules.

Sd/-

P. Chakraborty,
Secretary to the Law and Judicial Department,
Government of Mizoram.