

**SPECIAL
MARRIAGE ACT,
1954
RULES 1964,
NOTIFICATIONS,
G.R.'S
AND
DEPARTMENTAL
INSTRUCTIONS**

**RULES MADE BY THE GOVERNMENT OF MAHARASHTRA
UNDER SPECIAL MARRIAGE ACT, 1954.
URBAN DEVELOPMENT AND PUBLIC HEALTH DEPARTMENT
Sachivalaya, Bombay 27th April 1964.**

No. **SPM.** 1159 (a) Unification. – In exercise of the powers conferred by section 50 of the Special Marriage Act, 1954 (XLIII of 1954) and in supersession of all the rules made by the State Government under that section and in force in any part of the State of Maharashtra, the Government of Maharashtra hereby makes the following rules, namely :-

1. Short title and commencement. — (1) These rules may be called the Maharashtra Special Marriage Rules, 1964.

(2) They shall come into force with effect from 1st June, 1964.

2. Definitions. – In these rules, unless the context otherwise requires –

(1) ‘Act’ means the Special Marriage Act, 1954 (XLII of 1954).

(2) ‘Section’ means a section of the act; and

(3) ‘Schedule’ means a schedule appended to these rules.

3. Marriage notice book. — (1) There shall be maintained by each Marriage Officer a bound volume of blank forms of notices (with intervening blank leaves between two printed forms), known as the Marriage Notice Book, containing 200 pages numbered consecutively. A true copy of all notice of marriage shall be entered in the Marriage Notice Book as required under section 6.

(2) The copies of notices entered in the Marriage Notice book shall be numbered consecutively, terminating the series at the close of each year.

4. Marriage certificate books. – (1) There shall be maintained two separate Marriage Certificate Books under section 13 and 16 each containing 100 consecutively numbered blank forms as specified in the Fourth and Fifth Schedules to the Act, respectively.

(2) The entries made in the Marriage Certificate Book shall be numbered serially in the respective books, terminating the number at the close of each year.

5. Paste books for notices, declarations, application and decrees.—Four separate paste books each baring 200 butts serially numbered, shall be opened for the following purposes, namely :-

(i) for pasting notices and copies of notices received under section 5 and sub-section (3) of section 6 respectively;

- (ii) for pasting declarations under Section 11 :
- (iii) for pasting applications received under Section 16 and
- (iv) for filing copies of decrees for divorce or nullity or dissolution of marriage received from the Courts under rule (22) of the Rules framed by the High Court in exercise of the powers conferred by Section 41.

6. Manner of using Paste Books. — (1) the notices received under Section 5 shall be pasted in the Paste Book opened under the last preceding rule after entering copies thereof in the Marriage Notice Book.

(2) A Copy of the notice received under sub-section (3) of section 6 shall be pasted on the next available page of the same Paste Book.

(3) The declarations under Section 11 shall be pasted in a separate Paste Book opened under the said rule.

(4) Applications received under Section 16 shall be pasted in a separate Paste Book opened under the said rule.

(5) Copies of decrees for divorce or nullity or dissolution of marriages sent by the Court shall be filed in a separate Paste Book opened under the said rule.

7. Numbering of books and correctness of pages to be certified. — All books maintained by the Marriage Officer shall be numbered consecutively without terminating the series at the close of each year. The Marriage Officer shall endorse a certificate of the correctness of the page on front page, before he uses any book.

8. Cross references in relevant books.—Cross references shall be given on the relevant entries in the Marriage Certificate Book and the Paste Book for filing copies of decrees for divorce or nullity or dissolution of marriages maintained under sub-rule (5) of rule 6, indicating the Book number and the page numbers at which the relevant entries appear.

9. Manner of sending notice of marriage.—(1) The notice of intended marriage may be sent to the Marriage Officer by a messenger or by registered post, together with fees prescribed therefore under these rules.

(2) No notice shall be entered and published, unless the prescribed fees are received.

10. When copy of notice of marriage to be transmitted under Section 6 (3).—The copy of the notice of intended marriage required to be transmitted to the other marriage officer under sub-section (3) of Section 6, shall be forwarded by the Marriage Officer receiving the notice as far as possible on the day of receipt of such notice but in any case not later than the day following the day of receipt.

11. Entertainment of objection to marriage.—No objection under sub-section (1) of section 7 or under section 16 shall be entertained after the expiration of the period of thirty days from the date of publication of the notice, or receipt of the application as the case may be, even if the marriage is not solemnized or registered.

12 (1) Manner on in which inquires may be held and procedure therefore –

(1) (a) Where an objection to the solemnization of an intended marriage together with the fee prescribed therefore has been received and recorded by the Marriage Officer, he shall, unless by an order in writing he rejects the objection summarily on the ground that the objection is not based on contravention of any of the conditions specified in section 4, inquire into the objection on a day to be fixed by him. The day so fixed shall not be later than thirty days from the date of objection.

(b) The Marriage Officer shall, at the time of recording the objection, ascertain from the objector whether he has any documents on which he relies or whether he desires any witness or witnesses to be examined on his behalf and whether such documents or witnesses can be produced by him on the date fixed by the Marriage Officer. If the objector states in the affirmative, the Marriage Officer shall require the objector to produce the documents or the witnesses on the day fixed for the inquiry. If the objector desires that summonses shall be issued to the witnesses to appear and give evidence or to produce any document the Marriage Officer shall issue such summonses to the witnesses cited, on payment of the prescribed process fee and reasonable expenses of traveling and subsistence of the witnesses.

The inquiry relating to objection including the production of documents and the examination of witnesses shall be completed and the decision of the Marriage Officer arrived at within the period of thirty days specified in section 8. If within the prescribed period, the documents are not produced and the witnesses do not appear before the Marriage Officer, the Marriage Officer shall take a decision without waiting for the production of such documents or the appearance of such witnesses.

(c) The Marriage Officer shall also give notice of the date and time fixed for the inquiry to the parties to the intended marriage.

(d) The notice or summons to any party or witness under this rule shall be in the general form used by the Civil Court for such purposes and shall be sent by registered post.

(e) On the conclusion of the inquiry, the Marriage Officer shall record in his own hand.—

(i) his decision on the objection in brief below the nature of objection recorded under sub-section (3) of section 7 in Marriage Notice Book;

(ii) the evidence given in the course of the inquiry and the reasons for his decision on the objection, in a separate file, along with the proceedings of the enquiry, cross references being given in the Marriage Notice Book to the relevant pages of the file and *vice-versa*.

(2) Where an appeal is preferred to the District Court under sub-section (2) of section 8 against the decision of the Marriage Officer under the said section 8, the decision of the District Court on such appeal shall also be recorded in brief in the Marriage Notice Book below the decision of the Marriage Officer recorded under sub-rule (1),

13. Further procedure for inquiry. — Save as otherwise provided under the last preceding rule, for the purpose of the inquiry to be made under the Act, the Marriage Officer shall, so far as may be, follow the procedure laid down in Order XVIII of the First Schedule of the Code of Civil Procedure, 1908.

14. Proof of age. — The Marriage Officer may, for the purpose of satisfying himself that the parties to the intended marriage have completed the age specified in clause (c) of section 4 require them to produce Birth Certificates or any other satisfactory evidence to prove their age.

15. Proof of divorce. — Where a party to the intended marriage is a divorcee the Marriage Officer shall, before solemnizing the Marriage, satisfy himself that the party is eligible to marry again in accordance with the provisions of section 30 and for that purpose, may require the party to produce a certified copy of the decree for divorce or any other satisfactory evidence in that behalf.

16. Form of Application under Section 15 and notice thereof. — An application under section 15 shall be made in the form prescribed in schedule A, or as near there to as circumstances may require. The Marriage Officer shall give public notice thereof by affixing a copy of such application to some conspicuous place in his office.

17 Solemnization of marriage at places outside office. — (1) When the marriage is to be solemnized or registered at a place other than the office of the Marriage Officer, the Marriage Officer may, on the written application and at the cost of parties to the marriage for the journey to and for attend at the place for the purpose.

(2) (i) The Marriage Officer shall not remain absent from his office for more than 3 hours when the Marriage is to be solemnized at any place in the town or city where his office is located.

(ii) The Marriage Officer shall not be required to go to a place more than 30 miles distance from his office for solemnizing a marriage:

Provided that these restrictions shall not preclude the Marriage Officer from visiting any taluka place within his jurisdiction for the purpose if the visit does not involve absence from his head-quarter more than 2 days at a time including the time required for the journey and no other marriage is fixed during his absence:

Provided further that, these restrictions shall not apply to visits made out of office hours or on Sunday or public holidays.

18. Seal on certified copies.—The Marriage Officer shall affix his seal to all certified copies granted under the Act or these rules.

19. Quarterly Returns. — (1) The Marriage Officer shall as required by section 48 send to the Registrar General of Births, Deaths and Marriages separately, true copies of the entries recorded by him in the Marriage certificate Books maintained under sections 13 and 16 at the end of each quarter.

(2) The true copy certificate required to be endorsed on such returns, shall be given below the last entry, in the Form prescribed in Schedule B.

(3) If there be no entry recorded in the either of the Marriage Certificate Books a “Nil” report shall be submitted.

20. fees. — The following is the scale of fees to be levied by the Marriage Officer for the performance of the duties imposed upon him, namely:-

For entering and publishing a notice under section 6.	:	0.50
Additional fee for every copy of notice required to be sent under section 6 (3).	:	0.50
For an application under section 15.	:	1.00
For recording an objection in writing under section 7 of 16.	:	5.00
For solemnization or registration of a marriage at the office of the Marriage Officer.	:	5.00
For solemnization or registration of a marriage at a place within a radius of six miles form the office of the Marriage Officer.	:	15.00
For solemnization or registration of marriage at a place beyond the radius of six miles.	:	30.00
For copy of an application made under section 15 for copy of any declaration, For copy of a Certificate of Marriage.	:	1.00
For copy of a notice under section 5 Search fee, for searching the records maintained at the office of the Marriage Officer (except search of the Marriage notice Book).	:	0.50
For the first year.	:	0.50
For every additional year subject to the maximum fee of Rs.2.	:	0.25
For issue of commission.	:	5.00
For copy of any decree for divorce or nullity or dissolution of marriage filed under rule 6 (3).	:	2.00
For every other application which may be necessary under the Act.	:	1.00

The fees shall be credited to Government under the Head “XXL miscellaneous Departments” Miscellaneous “now” “0030 Stamps and Registration Fees” When the Marriage is solemnized or registered at a place other than the office of the Marriage Officer, only Rs.5, out of the fees received shall be credited to Government. The remainder may be retained by the Marriage Officer as his perquisite.

21. Receipt. — The Marriage Officer shall pass a receipt in the form prescribed in Schedule C, in receipt of all fees received by him under the Act and these Rules.

22. Cash book. — (1) In every office of the Marriage Officer, there shall be kept a Cash Book in the form prescribed in Schedule D. All fees received under the Act shall be brought to account in the cash book every day; and the Marriage Officer shall sign the same token of the correctness and collection of the day's total fees.

(2) The Marriage Officer shall keep in his custody the fees received by him each day, and shall credit the same, on the day following into the nearest treasury or the Bank as the case may be as soon as, it is opened.

23. Preservation of Record.—The Books and papers listed below shall be preserved for the periods specified against them:-

(1)	Marriage Certificate Book under section 13	:	Permanent
(2)	Marriage Certificate Book under section 16	:	-do-
(3)	Paste Book of declaration	:	-do-
(4)	Paste Book for copies of decrees for divorce or nullity or dissolution of marriage filed under these rules.	:	-do-
(5)	Marriage Notice Book.	:	30 years
(6)	Paste Book for notices.	:	-do-
(7)	Application received under section 16	:	-do-
(8)	Enquiry Papers	:	-do-
(9)	Application for private attendance	:	5 years
(10)	Application for certified copy.	:	-do-
(11)	Receipt Book	:	10 years
(12)	Application for issue of commissions	:	5 years
(13)	Cash Book	:	10 years
(14)	Office copies of commissions issued	:	5 years
(15)	Application for summons	:	-do-
(16)	Office copies of summons	:	1 years

Modified as per Government Notification dated the 7th September 1970 published in Maharashtra Government Gazette, Part IV-A, dated 17th September 1970.

SCHEDULE A

(Rule 16)

FORM OF APPLICATION

To,

The Marriage Officer, for the district of

Having fulfilled the following conditions, we A. B. C. D. hereby apply to you for the registration of our marriage under section 15 of the Special Marriage Act, 1954 (XLIII of 1954) :-

- (a) A ceremony of marriage has been performed between us, on and we are living together as husband and wife ever since.
- (b) Neither of us has more than one spouse living.
- (c) Neither of us is an idiot or a lunatic.
- (d) Both of us have completed the age of 21 years.
- (e) We are not within the degree of prohibited relationship.
- (f) We are residing at (place)..... from (date).....

We hereby declare that what is stated above is true to the best of our knowledge and belief.

Date: (Signed) A. B.

Place: (Signed) C. D.

SCHEDULE B

Rule 19 (2)

FORM OF CERTIFICATE OF TRUE COPY OF THE ENTRIES IN THE MARRIAGE CERTIFICATE BOOK.

Certified that the above return which contains entries from No..... to No..... regarding the marriage solemnized/ Registered is a true copy of entries in the Marriage Certificate Book maintained under Section 13/16 of the Special Marriage Act, 1954 (XLIII of 1954), kept by me for the three months ending day of.....19

Date

Place

Signature..... (Marriage Officer)

SCHEDULE C

(Rule 21)

FORM OF RECEIPT

Date

By whom paid

In the marriage between.....and

.....

Fees Received as follows: -

Rs. Ps.

Total

Marriage Officer.

SCHEDULE D

(Rule 22)

FORM OF CASH BOOK

Receipt No	Amount Realised	Amount credited to Government	Signature of Marriage Officer	Signature of the Treasury Officer and date of credit in the Treasury.

MINISTRY OF EXTERNAL AFFAIRS**Notification**New Delhi, the 20th October 1955

No. I-SRO-3449 (SMA-S3) –

In exercise of the power conferred by clause (b) of sub-section (2) of section 3 of the Special Marriage Act, 1954 (43 of 1954) the Central Government hereby appoints the Diplomatic or Consular Officers specified in column (2) of the Table below to be Marriage Officers for the Countries, Places or Areas, as the case may be, specified in the corresponding entries in the column (1) of the said Table:-

TABLE

Country, Place or Area (1)	Designation of Officers. (2)
Aden ..	Commissioner for the Government of India Aden.
Afghanistan including Kandhar and Jalalabad.	Ambassador, Embassy of India, Kabul.
do.	First Secretary, Embassy of India, Kabul.
do.	Vice-Consul, India Vice-Consulate, Kandhar.
do.	Vice-Consul, Indian Vice-Consulate, Jalalabad.
Argentina and Chile ..	Ambassador, Embassy of India, Buneos Aires.
do.	Charged Affairs, Embassy of India, Buneos Aires.
do.	First Secretary, Embassy of India, Buneos Aires.
Australia and New- Zealand ..	High Commissioner of India, Canberra.
do.	First Secretary, High Commissioner of India, Canberra.
do.	First Secretary (Commercial), High Commissioner of India, Wellington.
Austria ..	Minister, Legation of India, Vienna.
do.	First Secretary, Legation of India, Vienna.
Belgium, Luxembourg And Antwerp	Ambassador, Embassy of India, Brussels.
do.	First Secretary, Embassy of India, Brussels.
do.	Vice Consul, Antwerp.
Brazil ..	Ambassador, Embassy of India, Rio De Janeiro.
do.	First Secretary, Embassy of India, Rio DE Janeiro.

TABLE—*contd*

(1)	(2)
Burma	Ambassador, Embassy of India, Rangoon.
do	First Secretary (Consular), Embassy of India, Rangoon.
do	Vice-Consul, Embassy of India, Rangoon.
Cambodia	Minister, Legation of India, Phnom penh
do	Second Secretary, Legation of India, Phnom penh
Canada	High Commissioner of India, Ottawa.
do	First Secretary, High Commissioner of India, Ottawa.
Ceylon	High Commissioner of India, Colombo.
do	First Secretary, High Commissioner of India, Colombo.
China, Shanghai and Lhasa	Counselor, Embassy of India, Peking.
do	First Secretary, Embassy of India, Peking.
do	Consul-General, Consulate-General, Shanghai.
do	Consul, Consulate-General, Shanghai.
do	Consul-General, Consulate General, Lhasa.
Czechoslovakia ..	Ambassador, Embassy of India, Prague.
do	Third Secretary, Embassy of India, Prague.
East Africa (British) ..	Commissioner for the Government of India, Nairobi Jiven Bharati Coronation Avenue. P.B. No. 30074.
Belgium Congo, Northern & Southern Rhodesia, Nysaland & Ruanda Urundi	
do	First Secretary, Officer of Commissioner for the Government of India, Nairobi.
Egypt, Lebanon Libya & Alexandria	Ambassador, Embassy of India, Cairo.
do	First Secretary, Embassy of India, Cairo.
do	Consul-General, Consulate-General of India, Alexandria.
Ethiopia	Ambassador, Embassy of India, Addis Ababa.
do	First Secretary, Embassy of India, Addis Ababa.
do	*Second Secretary, Embassy of India, Addis Ababa.
Ababa.	
Fiji Islands	Commissioner for the Government of India, Suva.
France	Ambassador, Embassy of India, Paris.
do	First Secretary, Embassy of India, Paris.
do	Second Secretary, mbassy of India, Paris.

* Deleted *Vide* Notification No, SRO, dated 26th December 1957, Government of India' Ministry of External Affairs.

TABLE—*contd.*

(1)	(2)
Germany including West Berlin	Ambassador, Embassy of India, Bonn.
do	First Secretary, Embassy of India, Bonn.
do	Second Secretary, India Military mission, Berlin.
do	Consul, Indian Consulate, Hamburg.
Gold Coast & Nigeria * ..	*High Commissioner for the Government of India, Accra.
do	Second Secretary, Office of the Commission for the Government of India, Accra.
Hong Kong	Commissioner for the Government of India, Hong Kong.
Indonesia	Ambassador, Embassy of India, Djakarta.
do	First Secretary, Embassy of India, Djakarta.
do	Vice-Consul, Embassy of India, Djakarta.
do	Consul, Indian Consulate, Medan.**
Iran	Ambassador, Embassy of India, Tehran.
do	First Secretary, Embassy of India, Tehran.
do	Second Secretary, Embassy of India, Tehran.
do	Consul-General, Consulate-General of India, Meshed.
do	Vice-Consul, Vice-Consulate of India, Zahidan.
Iraq	Ambassador, Embassy of India, Baghdad.
do	First Secretary, Embassy of India, Baghdad.
Italy	Ambassador, Embassy of India, Rome.
do	First Secretary, Embassy of India, Rome.
Japan	Ambassador, Embassy of India, Tokyo.
do	First Secretary, Embassy of India, Tokyo.
do	Second Secretary, Embassy of India, Tokyo.
do	Consul, Consulate of India, Kobe.
Laos	Consul-General, Consulate-General of India, Vientiane.
Federation of Malaya including Singapore.. ..	Commissioner for the Government of India, Singapore.
do	First Secretary, Office of the Commissioner for Government of India, Singapore.
do	Assistant Commissioner for the Government of India, Kuala-Lumpur.

* Substituted by Ghana and Nigeria *Vide* Notification, dated 30th September 1957, from Government of India, Ministry of External Affairs.

** Ex-Consul, Indian Consulate, Surabaya.

TABLE—*contd.*

(1)	(2)
Madagascar	Consul-General of India, Tananerive.
Mexico	Ambassador, Embassy of India, Mexico.
do	First Secretary, Embassy of India, Mexico.
Mauritius	Commissioner for the Government of India, Port Louis.
Muscat	Consul, Indian Consulate, Muscat.
Nepal	First Secretary, Embassy of India, Kathmandu.
do	Vice-Consul, Embassy of India, Kathmandu.
Netherlands	Ambassador, Embassy of India, the Hague.
do	First Secretary, Embassy of India, the Hague.
Norway*	Ambassador, Embassy of India, Oslo (Norway)
do	Second Secretary, Ambassador, Embassy of India, Oslo (Norway).
Pakistan	Deputy High Commissioner for India, in Pakistan Karachi.
do	First Secretary, Office of the Deputy High Commissioner for India in Pakistan, Karachi.
do	Administrative Attaché, Office of the Deputy High Commissioner for India in Pakistan, Lahore.
do	Deputy High Commissioner for India in Pakistan, Dacca.
do	First Secretary, Office of the Deputy High Commissioner for India in Pakistan, Dacca.
Philippines	Envoy Extraordinary and Minister Plenipotentiary, Legation of India, Manila.
Saudi Arabia.. .. .	Minister, Legation of India, Jeda.
Sikkim	Political Officer, Gangtok.
Sudan	Liaison Office, Khartoum.
Sweden, Denmark.. .. .	Minister, Legation of India, Stockholm.
And Finland.	
do	First Secretary, Legation of India, Stockholm.
Switzerland, Geneva	Ambassador, Embassy of India, Berne.
& Vatican.	
do	First Secretary, Embassy of India, Berne.
do	Second Secretary, Embassy of India, Berne.
do	Consul-General, Consulate-General of India, Geneva.
do	Vice-Consul, Consulate-General of India, Geneva.

* *Vide* Notification No, SRO, dated 26th December 1957, Government of India' Ministry of External Affairs.

TABLE—*contd.*

(1)	(2)
Syria	Minister, Legation of India, Damascus.
do	Second Secretary, Legation of India, Damascus.
Thailand	Ambassador, Embassy of India, Bangkok.
do	First Secretary, Embassy of India, Bangkok.
do	Vice-Consul, Embassy of India, Bangkok.
Turkey	Ambassador, Embassy of India, Ankara.
do	First Secretary, Embassy of India, Ankara.
do	Third Secretary, Embassy of India, Ankara.
United Kingdom.. ..	Secretary(Consular), High Commissioner of India, London.
do	Secretary(Establishment), High Commissioner of India, London.
United States of	Minister, Embassy of India, Washington.
America.	
do	First Secretary, Embassy of India, Washington.
do	Consul-General, Consulate-General of India, New York.
do	Vice-Consul, Consulate-General of India, New York.
United States of	Consul-General, Consulate-General of India, San Francisco.
America.	
Union of Soviet	Ambassador, Embassy of India, Moscow.
Socialist Republic,.. ..	First Secretary, Embassy of India, Moscow.
Poland and Hungary.. ..	Third Secretary, Embassy of India, Moscow.
Viet Nam (North).. ..	Consul-General, Consulate-General of India, Hanoi
Viet Nam (South).. ..	Consul-General, Consulate-General of India, Saigaon.
do	Vice-Consul, Consulate-General of India, Saigaon.
West Indies	Commissioner for the Government of India, Port of Spain.
do	First Secretary, Office of the Commissioner for the Government of India, Port of Spain.
Yugoslavia, Rumania.. ..	Ambassador, Embassy of India, Belgrade.
and Bulgaria	
do	First Secretary, Embassy of India, Belgrade.

Government Notifications and Resolutions

II No. SPM. 1159 (b) *UNIFICATION*.—In exercise of the powers conferred by subsection (1) of section 3 of the Special Marriage Act, 1954 (XLIII of 1954) and in supersession of all previous notifications issued by the State Government of Maharashtra hereby appoint with effect from 1st June 1964 the Sub-Registrars or Joint Sub-Registrars appointed under the Registration Act, 1908 (XVI of 1908), in its application to the State of Maharashtra, as specified in column (1) of the Schedule hereto appended, to be the *ex-officio* Marriage officers for the area respectively shown against them in column (2) of the said Schedule.

SCHEDULE

Sub-Registrars or Joint Sub-Registrars Appointed under the Registration Act, 1908.	Area
(1)	(2)
1. Sub-Registrar, Bombay	City of Bombay as defined in Bombay General Clauses Act, 1904.
2. Joint Sub-Registrar, Bombay.	
3. Joint Sub-Registrar, Bombay at Bandra.	Bombay Suburban District.
4. Sub-Registrar, Alibag.	Kolaba District.
5. Sub-Registrar, Ratnagiri	Ratnagiri District.
6. Sub-Registrar, Thane	Thane District.
7. Sub-Registrar, Ahmednagar	Ahmednagar District.
8. Sub-Registrar, Jalgaon	Jalgaon District.
9. Sub-Registrar, Dhulia	Dhulia District.
10. Sub-Registrar, Nashik	Nashik District.
11. Sub-Registrar, Haveli	Poona District.
12. Sub-Registrar, Satara	Satara District.
13. Joint Sub-Registrar, Sholapur	Sholapur District.
14. Joint Sub-Registrar, Miraj	Sangli District.
15. Sub-Registrar, Karvir	Kolhapur District.
16. Sub-Registrar, Buldana	Buldana District.
17. Sub-Registrar, Akola	Akola District.
18. Sub-Registrar, Amravati Camp	Amravati District.
19. Sub-Registrar, Yeotmal	Yeotmal District.
20. Sub-Registrar, Wardha	Wardha District.
21. Sub-Registrar, Nagpur	Nagpur District.

SCHEDULE—contd.

(1)	(2)
22. Sub-Registrar, Bhandara	Bhandara District.
23. Sub-Registrar, Chanda	Chanda District.
24. Sub-Registrar, Aurangabad	Aurangabad District.
25. Sub-Registrar, Bhir	Bhir District.
26. Sub-Registrar, Nanded	Nanded District.
27. Sub-Registrar, Osmanabad	Osmanabad District.
28. Sub-Registrar, Parbhani	Parbhani District.
29.* Sub-Registrar, Rajura	Rajura District.

† 2 (1) The Sub-Registrar, Bombay and the Joint Sub-Registrars, Bombay shall exercise the powers and perform the duties of Marriage Officer by rotation in such manner as may be determined by the State Government.

(2) The Joint Sub-Registrars at the District Headquarter places (not being joint Sub-Registrars selected by the District Registrars as Headquarter Sub-Registrars) shall exercise and perform the duties of Marriage officer only in the absence of the Headquarter Sub-Registrar:

Provided, that, where there are more than one Joint Sub-Registrars available for performing the duties of a Marriage Officer in the absence of the Headquarter Sub-Registrar, the Senior Joint Sub-Registrar, shall exercise and perform the duties as aforesaid.

III. In pursuance of paragraph 2(1) of Government Notification Urban Development and Public Health Department No.SMA.-1363-0018-N dated 28th September, 1964, the Government of Maharashtra hereby directs that with effect from 1st October 1964, the functions of the Marriage Officer in Bombay in respect of marriages shall be performed by the Sub-Registrar, Bombay and the three Joint Sub-Registrars, Bombay, by rotation in the following order:-

- (1) Sub-Registrar,
- (2) The Senior most Joint Sub-Registrar,
- (3) The Joint Sub-Registrar next senior,
- (4) The Joint Sub-Registrar, next senior.

(G.R.U.D. and P.H.D. No.SMA-1963/100/8-N, dated 28th September 1964).

* Deleted as per Notification U.D., P.H. and H.D. No. SMA 1071/62483-C, dated 8th January 1973.

† (Substituted as per Notification U.D. and P.H.D., dated 18th September, 1964, published in M.G.G., Part IV—A, dated 8th October 1964).

**URBAN DEVELOPMENT, PUBLIC HEALTH AND HOUSING
DEPARTMENT**

Sachivalaya, Bombay,-32 dated 17th March 1973.

No. IGM. 1073/18161-C.- In exercise of the powers conferred by sub-section (1) of section 3 of the special Marriage Act, 1954 (43 of 1954), the Government of Maharashtra hereby amends with effect from 20th March, 1973, Government Notification, Urban Development and Public Health Department No. SPM. 1159(b) Unification, dated the 27th April, 1964 as follows, namely-

In the Schedule to the said notification,-

(1) in column 2, against entries 1 and 2 in column 1, for the words and figures "District of Bombay as formed under the Indian Registration Act, 1908" the following shall be substituted:-

"City of Bombay as defined in the Bombay General Clauses Act, 1904";

(2) in column 1, for the entry 3, the following shall be substituted, namely:-

"3 Joint Sub-Registrar, Bombay, at Bandra."

IV. In pursuance of paragraph 2(1) of the Government Notification, Urban Development and Public Health Department, No.SMA-1363/10018-N, dated 28th September 1964, Government is pleased to amend the orders contained in Government Resolution, Urban Development and Public Health Department No.SMA.1363-10018-N, dated 28th September 1964, read with Government Resolution, Urban Development, Public Health and Housing Department, No.SMA.1363/23383-N, dated 13th June 1966 so that with effect from 1st October 1967 the functions of the Marriage Officer in Bombay in respect of the marriages shall be performed by the Sub-Registrar, Bombay and Joint Sub-Registrar, Bombay, by quarterly rotation in the following order:-

- (1) Sub-Registrar, Bombay-October to December.
- (2) Joint Sub-Registrar, Bombay III-January to March
- (3) Joint Sub Registrar, Bombay II-April to June
- (4) Joint Sub Registrar, Bombay I-July to September

3. Thereafter the above rotation should be continued in the same order.

(G. R. U. D. P. H. and H. D. No. SMA-1363/41378-C, dated 30-6-1970 No. SMA.1083/752-FW-III- In exercise of the powers conferred by sub-section (1) of section 3 of the Special Marriage Act, 1954 (XLIII of 1954), in its application to the State of Maharashtra, the Government of Maharashtra has now decided that the Sub-Registrar, Bombay, and Joint Sub-Registrars, Bombay, shall with effect from the 1st January, 1984, exercise the powers and perform the duties of the Marriage Officer by rotation in such manner as may determined by the Inspector-General of Registration, Maharashtra State, and for that purpose amends Government Notification, Urban Development and public Health Department No. SPM 1159(b) Unification, dated the 27th April, 1964, as follows, namely:-

In this said notification, in paragraph 2, in sub-paragraph (1), after the words "Inspector-General of Registration, Maharashtra State, Pune" the words letters and figures "with effect from the 1st January 1984" shall be added.

SPECIAL MARRIAGE ACT, 1954.

(Act 43 of 1954)

DEPARTMENTAL INSTRUCTIONS.

1. A marriage can be solemnized under the Act between any two persons irrespective of their Nationality, provided the conditions mentioned in section 4 are fulfilled. (R.G's No. B.D. 227, dated 11th April, 1955).

2. The notice may be sent with a messenger or by post or in any other way. It is not necessary for any of the party to be presented in person for the purpose.

3. When one of the parties to the marriage is a foreigner a copy of the notice of an intended marriage should be sent direct to the marriage officer concerned appointed outside India so that they have sufficient time for its affixation in accordance with the above Act and for sending report if any within the specified time.

(G.L.L.S.G. and P.U.D. No. SMA-1455/50784 dated 17th August, 1955)

(and Government of India's letter No. 435/14/64, dated 24th September, 1964).

4. The copies of notices of an intended marriages required to be forwarded to the Marriage Officer outside India should be sent by Air Mail without charging any additional amount of postage (R.G.s. No. B.D. 227, dated 29th April 1955).

5. The words "from the date on which notice of the intended Marriage has been Published etc." in Section 7(2) of the Act denote that the day of action (Publishing of the notice) is to be excluded while computing the period of 30 days mentioned in the section (Section 9(1) of the General Clauses Act, 1897) clear 30 days are therefore, to be allowed to elapse, after the notice is published and before, the marriage is solemnized. (G.L., L.S.G. and P.H.D., No. SMA. 1955/16211-M, dated 15th March, 1955). If the notice is given on the 1st of April the day on which marriage can be solemnized, will be 2nd of May and not the 1st May.

6. The information in the notice may be taken to be true unless there are *prima-facie* reasons to believe otherwise. No Affidavit is necessary.

7. The words "immediately preceding" in section 5 of the Act make it clear that, on the date of notice at least one of the parties to the intended marriage must have resided for more than 30 days within the jurisdiction of the Marriage Officer to whom the notice of an intended marriage is given. The absence of such continuous stay from the place of permanent residence for the 30 days immediately preceding the notice, the notice cannot be given to the Marriage Officer where the parties are said to be permanently residing. In other words, even temporary absence of the parties from the native place during the 30 days immediately preceding the notice would taken them out of the jurisdiction of Marriage Officer. (G.L.L.S.G. and P.H.D. No. SMA.1655/66045-C, dated 11th October, 1955).

8. The Marriage Officer should refuse to countersign any declaration which in any way modifies or adds to the statutory form of declaration.
9. The Marriage Officer should accept the declarations made by the parties except when they are obviously incorrect. The parties should in all cases be informed by a general notice that incorrect or false declaration might not only invalidate the marriage but also expose the parties to the risk of criminal prosecution.
10. In view of para 4 of the Declaration form (Third Schedule) there is no necessity of any further affidavit before a Magistrate to satisfy whether statements made in declaration by the parties are correct. However, if necessary, there is no objection to ask for the medical certificate in respect of a person who appears *prima-facie* to be lunatic or an idiot. (G.L.L., S.G. and P. H. D. No. SMA.1255/29213-C, dated 25th May, 1955).
11. Copy can be given of the declaration made by the parties. When the grant of copies of any papers is not forbidden by the Act, they may be give.
12. Neither is a Marriage Officer a Court, nor is the procedure followed in the Solemnization of the Marriage under the Special Marriage Act, 1954 a procedure in relation to the preceding in a Court except any enquiry held under Section 8 of the Act. (R.G's/No. B. D. 227, dated 15th October, 1955).
13. The place where the marriage is solemnized should invariably be shown in the certificate of marriage (Section 13) after the words "in my presence". The certificate should be prepared either in English or in Marathi as the parties desire.
14. Even any other law prohibits a marriage between the parties, either on account of the difference of religion or any other cause, it will be no bar to solemnize marriage between them under this Act, if they fulfill the conditions laid down in this Act.
15. The expression "neither party has a spouse living" cover the case of a marriage with a maiden, widow or a wife whose marriage has been dissolved or bachelor, widower or a husband whose marriage has been dissolved. It further indicates that the previous marriage either of the bride or of the bridegroom; or of both with another man or woman should have been terminated either by death or by divorce. A decree of conditional judicial separation has not the effect of dissolving the marriage, and either party to such decree has the spouse "living". The prier marriage may be dissolved privately by mutual consent, for instance according to the custom permitting divorce under the Hindu Law or by any other mode permitted by the Mohamedan law; or by the decree of the divorcé passed by the Court under any of the Divorce Acts, applicable to the parties.

16. When the marriage is not solemnized within three months from the date of notice or within three months from the decision of the appeal or of the Central Government, all proceedings shall be deemed to have lapsed and a new notice must be given under Section 5. As the proceedings started by the first notice have lapsed, the procedure laid down in Section 6 and where necessary of Sections 7, 8 and 10 will have to be followed. It is only thereafter, and within the time-limit laid down in Section 14, the marriage may be solemnized by the Marriage Officer.

17. According to sub-section (1) of Section 7, valid objection to the intended marriage must satisfy the following conditions:

(i) The objection may be taken by any person and not necessarily by relation of either party to the marriage,

(ii) The ground of the objection shall be that the intended marriage would contravene one or more conditions specified in Section 4. The marriage cannot be objected to on any other ground,

(iii) The objection must be lodged within 30 days from the date of publication of notice under Section 6 of sub-section (2) with the Marriage Officer to whom the said notice is given by the parties under Section 5. The use of expression “unless it has been previously objected to under sub-section (1)” in sub-section (2) of Section 7 shows that objection lodged after the expiry of 30 days from the date of publication of notice, is not valid. The use of the word ‘may’ in sub-section 2 of Section 7 does not give any discretion to the Marriage Officer; it only means that the parties may solemnize the marriage. No doubt the word, ‘may’ is sometimes construed as, ‘shall’ but obviously its *Prima-facie* effect is merely permissive and not obligatory.

18. When the objection to the intended marriage has been taken, the Marriage Officer shall record it in Marriage Notice Book and shall read it over and explain it to the objector. The objector or somebody on his behalf shall sign the entry of the objection in the Marriage Notice Book.

19. Once the objection to the intended marriage is received under Section 7 within 30 days of the publication of the notice, the Marriage Officer shall not solemnize the marriage. It is his duty to inquire into and decide the objection within **30 days** from its receipt. Section 9 deals with the powers of Marriage Officer in making such enquiry. It is essential that the Marriage should not be solemnized before the objection is decided or rejected.

20. Postponement of dates cannot be granted to parties in case of enquiry under section 8, if the period of enquiry would thereby exceed 30 days. (G.L.L.S.G. and P.H.D. No. SMA.1255/29213-C, dated 25th May, 1955).

21. It is open to the person making objection to the Marriage to withdraw the objection before it is inquired into the Marriage may be solemnized after the objection is withdrawn or rejected on inquiry.

- 22.** Although a declaration to be made under Section 11 of the Act contains a statement that the declarant knows that he would be criminally liable for making a false statement, it is not required to be made on oath or affirmation. It would not, therefore, fall under Article 4 of Schedule I of the Bombay Stamp Act and would not require to be stamped thereunder.
- 23.** Sections 11, 12 and 13 of the Act require the same three witnesses to be present in all the three stages, i.e. declaration, solemnization and certificate of marriage. The marriage solemnized contrary to these requirements will mean the marriage illegal. If any of the three witnesses, who appear at the previous stage, is unable to present at the subsequent stage, the second declaration is permissible, but in that case the procedure commencing from the first stage will have to be followed over again.
- 24.** Although the Act does not provide that all the stages must take place on the same day, in order to avoid difficulty arising in consequence of the lapse of period between the three stages, it is desirable that all the three stages should be performed on the same day or that they should be carried out in such a manner as to see that the same three witnesses would be present at all the stages.
- 25.** The former marriage may have been dissolved by the decree of the court or privately according to the personal law governing the party. A marriage celebrated under the Hindu law or contracted under Mohamedan law, may in some cases be dissolved privately. A marriage contracted under the Parsee Marriage and Divorce Act, 1936; the Christian Marriage Act 1972; Special Marriage Act, 1872 and 1954 can only be dissolved by the decree of the Court.
- 26.** Where former marriage under Hindu Law was dissolved privately then the parties are at liberty to marry again immediately.
- 27.** In the case of dissolution of former marriage under Mohamedan Law, parties are not in all cases at liberty to marry immediately; it depends upon the mode of *Talak*. It is only when the divorce has become irrevocable that parties are at liberty to marry again.
- 28.** Where the former marriage was dissolved under any law, and that law lays down a period after expiry of which parties are at liberty to marry again, then till the expiry of that period their former marriage subsists. This period can be ascertained from the provisions of the law under which the former marriage was dissolved and whether it has expired or not can be ascertained from the copy of the decree dissolving the marriage.
- 29.** The conditions mentioned in Section 13 are to be fulfilled at the time of application for the registration of the marriage and it is not necessary that they were also fulfilled at the time of the marriage.

30. The meaning of the words “one spouse living” used in Section 15 means that a Hindu or Mohamedan husband, who has more than one wife living, cannot apply for registration of his marriage with any of his wife, until his other wives are either dead or divorced and he is left with only one wife.

31. *Hearing of objection under Section 16:-* The marriage Officer is not required to inquire into the objection, but simply to hear it. As the marriage is already celebrated, it is not necessary to make any elaborate inquiry. However, if the Marriage Officer finds that there is a breach of any condition specified in Section 15, he is to uphold the objection and refuse to register the marriage. If the objection is rejected by the Marriage Officer, there is no appeal against the order.

32. As the Marriage Officer is not a “Court” his order is not open to revision by High Court under Section 115 of C.P. Code, 1908.

33. Since amendment to the Act, (i.e. from 1976) there is no distinction between decrees for dissolution of marriage and decrees annulling a marriage. Now there are no restriction of the time-limit within which the marriage can be solemnized after such decree.

34. There are three kinds of decrees, viz.-

- (1) Where there is no right to appeal against the decree of divorce,
- (2) Where the decree of divorce is appealable but the period of appealing has expired without an appeal having been presented,
- (3) Where the appeal presented against the decree of divorce has been dismissed.

Section 39 provides for appeals against the decree of divorce. A decree granting or refusing divorce is appealable. Case under clause (1) above arises when the decree of divorce is passed by mutual consent under Section 28, or was passed for the first time by the final appellate Court.

The case in which there is no right of appeal and the one in which there is a right of appeal but no appeal is presented, are alike and are included in the same clause and there is no comma between them.

Where the appeal has been presented from the decree of divorce and is dismissed comes under category 3 above.

Where the appeal is allowed, no question of remarriage arises as the decree of divorce is set aside in appeal.

35. A right to remarry is given to divorced persons by Section 30. Such right accrues to them immediately from the date of decree of divorce or from the date of dismissal of appeal against such decree as the case may be. For the purpose of remarriage, the former marriage is deemed not to be dissolved till the appeal period is over if the decree of divorce is appealable. Therefore, remarriage by the divorced person before the expiry of appeal period is not allowed, and is, therefore, void.

36. A conditional decree of divorce, like ordinary decree of divorce appealable.

37. In the case of conditional decree the period of 3 years from the date of marriage must have expired, before the party to such decree can remarry.

Example:- A marriage under this Act, was solemnized on the 1st of June 1985. The conditional decree under Section 29 was passed on the 1st June 1986. The decree, therefore, dissolve the marriage on the 2nd June 1988 if no appeal is preferred against such decree then the party can remarry only after the appeal is decided or dismissed. If the appeal is dismissed on the 3rd of September 1988, then the parties can remarry immediately. However, if the appeal is dismissed on the 3rd of March 1988, and then the parties can remarry after the 2nd June 1988.

38. Section 30 of the refers to the decrees of divorce granted under Special Marriage Act, 1954. (The decree should be the final decree or decree absolute and not decreenisi). The marriage cannot be solemnized in such case until decree absolute is obtained.

39. The parties desiring registration of their marriage under Section 16 of the Act are required to have resided as husband and wife within the jurisdiction of the Marriage Officer for not less than 30 days, immediately preceeding the date of application for the registration of marriage (R.G's D.O. dated 3rd February 1955).

40. In view of last sentence in the Application Form (Schedule A to Rules) there is no necessity to get any other affidavit or evidence from the parties concerned to satisfy whether the statements made by the parties are correct. However, if necessary there is no objection to ask for medical certificate in respect of person, who appears *Prima- facie* to be lunatic or an idiot.

41. There is no time-limit within which the marriage under Chapter III can be registered.

42. The original application received under Section 16, for registration of marriage should be filed in paste book prescribed under *Rule 5 (iii)* of the Maharashtra Special Marriage Rules, 1964.

43. There is no necessity to copy the application for registration of marriage in any book and/or to sent its copy to another district.

44. There is no time-limit within which objection against an application for registration of marriage has to be disposed of.

45. There is no authority to impose cost in case of enquiry of objection made against the registration of marriages.

46. The objection should be recorded on the application.

47. There is no objection to record the corrections referred to in Section 49, in the presence of two credible witnesses and one of the parties to the marriage if the other party is dead.

48. The words "certificate thereof" used in section 49(1) means the certificate of marriage issued in the form prescribed in the Fourth Schedule to the Act or in the Form prescribed in the Fifty Schedule.

49. The term "witnesses" referred in Section 49 includes the persons married (They are witnesses to the corrections made).

50. Section 9(2) of the Act provides that any order for costs made by the Marriage Officer may be executed in the same manner as a decree passed by the District Court, within the local limits of whose jurisdiction the Marriage Officer has his office. If the cost is not recovered, the Marriage Officer will send the order of costs made by him to the District Court with an application for the execution of the order. The application in this behalf should be made in accordance with the relevant provisions of the Code of Civil Procedure, which relate to the execution of a decree. (G.L.S.L.S.G. & P.H.D. No. SMA.1255/29213-C,

dated 15th May 1955) (No. 1 to 22 issued under R.G.'s and No. B.D. 227-9875-9902, dated 15th May 1964).

51. The true copy certificate must be recorded below the copy of the entry while sending copies of marriage certificates under sections 13 and 16 at the end of each quarter (R.G.'s C.R. No. BIM-SPIM-11764-91, dated 8th April 1968).

52. If the bride and/or bridegroom to the intended marriage are/is deaf and dumb and found literate, Marriage Officer should administer the prescribed oath in writing instead of saying it orally in the presence of Marriage Officer and three witnesses. In addition, one of the persons who is said to be deaf but not mute (dumb) should take the oath. (G.L.U.D. & P.H.D. No. SMA-1263/2227-C, dated 16th January 1963).

53. Marriages celebrated in other forms (Chapter III) include marriages solemnized/registered under any Act other than Special Marriage Act, 1872 or Special Marriage Act, 1954. Such marriages can be registered if the parties so desire (on analogy of R.G.'s No. BD 227, dated 7th July 1955).

54. The prescribed age limit of the parties of the intend marriage under the Act should be seen and ascertained by Marriage Officer at the time of marriage and not at the time of notice. (R.G.'s No. B.D. 227/18415, dated 23rd July 1957).

55. Clarification of section 4 and section 16 of the Act as under:-

Section 4:- Section 4 of the Special Marriage Act, 1954, provides *inter alia*, that a marriage between any two persons may be solemnized under this Act if at the time of the marriage the conditions specified there are fulfilled. It is clear from these provisions that any two persons, whatever their religious faith, domicile or nationality can, if they choose to do so apply to have their marriage solemnized India under this Act provided the conditions specified for the same are satisfied.

Section 16:- Section 16 of the Act provides for the procedure for registration of marriages celebrated in other forms, under section 16, the Marriage Officer shall if satisfied that all the conditions mentioned in section 15 are fulfilled, enter a certificate of the marriage in the Marriage Certificate Book in the form specified in the fifth schedule. Section 16 provides that where a certificate of marriage shall, as from the date of such entry, be deemed to be a marriage solemnized under this Act. The date to be date of entry, of the certificate contained in the fifth schedule after the words having effect as from would be the date of entry of the certificate in the Marriage Certificate Book and not the date of the ceremony of marriage performed between the parties. (G.L., U.D. PHD, No. SMA-1071-16561-C, dated 6th May 1972).

