

(Legislative Supplement No. 91)

LEGAL NOTICE NO. 288

THE MARRIAGE ACT

(No. 4 of 2014)

IN EXERCISE of the powers conferred by sections 93 and 94 of the Marriage Act, 2014, the Attorney-General makes the following Rules:—

THE MARRIAGE (MUSLIM MARRIAGE) RULES, 2017

1. These Rules may be cited as the Marriage (Muslim Marriage) Rules, 2017. Citation.

2. These Rules shall apply only to Muslim marriages where both parties profess the Islamic faith and submit to these Rules: Application.

Provided that marriages conducted by members from any of the respective Muslim schools of jurisprudence in these Rules are accepted to marry a *kitabiyah*.

3. In these Rules, unless the context otherwise requires— Interpretation.

“Act” refers to the Marriage Act, 2014; No.4 of 2014.

“Constitution” means the Constitution of Kenya 2010;

“Committee” means Muslim Marriage Committee established under rule 5 of these Rules;

“Court” means the Kadhis court established under Article 169(1) of the Constitution;

“*kitabiyah*” means a Christian or Jewish woman;

“*mahr*” means a sum of money or other property given or agreed to be given to, or a right conferred upon the wife by the husband in consideration of marriage or a token of appreciation;

“*mahr al mithl*” means equivalent *mahr* paid to the bride agemate; during their own marriages;

“Muslim marriage officer” means a *Sheikh, Mufti* or *Imam* authorised by the Registrar to officiate over a muslim marriage;

“Muslim schools of jurisprudence” means Muslims from the Sunni, Shia Ithna Asheri, Shia Imami Ismaili and Daudi Bohra Community (Fatimi Dawat);

“Muslim marriage” means a contract between a Muslim man and a woman who is lawfully eligible to be his wife and which is conducted in accordance with Islamic law;

“Registrar” means the Registrar appointed under section 50 of the Act;

“reverttee” means a person who has converted to Islam;

“*waliyy*” means a person recognised by any of the Muslim schools of jurisprudence as a guardian of the bride for purposes of contracting a Muslim marriage;

“*wakil*” means a person recognised by any of the Muslim schools of jurisprudence as a proxy of either of the parties to a marriage for purposes of contracting a Muslim marriage.

4.(1) The parties to a Muslim marriage shall after the marriage is conducted, make an application for registration of their marriage to a Muslim marriage officer or a Kadhi.

Registration of
Muslim marriage.

(2) The application under sub rule (1) shall be in Form MM1 set out in the First Schedule.

5. For the purpose of these Rules, there shall be a Committee to be known as the Muslim Marriage Committee, which shall consist of—

Muslim Marriage
Committee.

- (a) the Chief Kadhi, who shall be the Chairman of the Committee; and
- (b) one representatives from each of the following—
 - (i) the Supreme Council of Kenya Muslims;
 - (ii) the Federation of the *Khoja Shia Ithna Asheri Jamaat* of Africa;
 - (iii) His Highness Prince Aga khan *Shia Imami Ismaili* Council of Kenya; and
 - (iv) the *Daudi Bohra* Community (*Fatimi Dawat*); and
- (c) an eminent Muslim scholar nominated by the Chief Kadhi.

6.(1) The function of the Committee shall be to—

Functions of the
Muslim Marriage
Committee.

- (a) recommend suitable persons to the Registrar for appointment as Muslim marriage officers for purposes of these Rules; and
- (b) advise the Registrar on all such matters relating to or connected with the administration of these Rules referred to it by the Registrar.

7.(1) The Registrar shall issue a licence to conduct marriages to a Muslim marriage officer upon recommendation by the Committee.

Gazettement of
Muslim marriage
officers.

(2) A licence granted under sub-rule (1) shall be in Form MM2 set out in the First Schedule and shall be issued upon payment of the fee specified in the Second Schedule.

(3) The Committee may at any time make a recommendation to the Registrar for the cancellation and recall of a licence to conduct marriages issued under this rule.

(4) Before making a recommendation under sub rule (3) the committee shall furnish the concerned marriage officer with reasons for its recommendation and afford him an opportunity to be heard.

(5) A person aggrieved by the decision of the committee under sub rule (4) may appeal to the Registrar within fourteen days of notification of the decision.

8. The Registrar shall upon application by a Muslim marriage officer issue marriage certificate books necessary for officiating and registration of Muslim marriages upon payment of the fee specified in the Second Schedule.

Issuance of marriage Certificate books.

9. The marriage certificate to be issued in respect of a Muslim marriage shall be in Form MM3 set out in the First Schedule.

Form of marriage certificate.

10.(1) The Registrar shall establish and maintain a register of Muslim marriages into which shall be entered the details of the marriages in respect of which certificates are issued under these Rules.

Marriage Register.

(2) The register referred to in sub-rule (1) shall be in Form MM4 set out in the First Schedule.

(3) Every Muslim marriage officer shall, within two weeks of officiating a marriage, send a copy of the Certificate of marriage to the Registrar.

(4) The Registrar shall, within two weeks upon receipt of the Marriage certificate from the Muslim Marriage Officer, make an entry in the marriage register.

11.(1) An application for a certified copy of a marriage certificate and a certified copy of the entry in the marriage register shall be made to the Registrar and shall be in Form MM5 set out in the First Schedule.

Certified copy of entry in marriage register.

(2) A certified copy of an entry in the marriage register shall be in Form MM6 set out in the First Schedule.

12.(1) A marriage registered under these Rules shall not be invalid by reason only that—

Absence of mahr not to affect marriage.

(a) no *mahr* has been agreed upon; or

(b) there is uncertainty or ambiguity relating to *mahr*.

(2) In cases contemplated under sub-rule (1)(a) or (b), the wife shall be entitled to equal *mahr al mithl*.

13. Where—

Reference to and action by Court.

- (a) a marriage involves a woman who has no waliyy in a situation where a *waliyy* is required under her respective Muslim school of jurisprudence; or
- (b) the consent to marriage by the *waliyy* of the woman to the intended marriage is denied,

the Muslim marriage officer shall refer the matter to the Court nearest to the place where the woman resides and the Court shall issue the appropriate directions.

14. (1) Upon a request to officiate a marriage, the marriage officer shall confirm the following particulars in respect of parties intending to register their marriage—

Verification of particulars of persons intending to marry.

- (a) the age of the bride and bridegroom;
- (b) the consent of the bride and bridegroom;
- (c) the consent of the *waliyy* of the bride, provided that such consent shall not override the consent of the bride and bridegroom;
- (d) the consent of the bride or groom as the case may be, in writing in case of marriage through a *wakil*;
- (e) the identity of the parties and the *waliyy*; and
- (f) certificate and affidavit of confession where the bride or bridegroom are revertees.

(2) At least one of the parties to the marriage shall be present at the wedding.

15. Nothing contained in these Rules shall be construed to render valid or invalid, by reason only of registration or non-registration, any Muslim marriage which is otherwise invalid or valid, as the case may be, according to the law governing the respective Muslim school of jurisprudence to which parties to such marriage belong.

Validity or invalidity of Muslim marriages.

16. In all matters relating to any Muslim marriage, the status and the mutual rights and obligations of the parties shall be determined according to the law governing the respective Muslim school of jurisprudence to which the parties belong.

Determination of the status, mutual rights and obligations of the parties.

17. Where a Kenyan citizen has contracted a valid Muslim marriage outside Kenya, not being a marriage registered under section 57 of the Act, the person shall upon return to Kenya appear before the nearest Court to have the marriage registered under these Rules.

Registration of marriages contracted by a Kenyan citizen abroad.

18. All Muslim marriages registered under the Mohammedan Marriage and Divorce Registration Act Cap.155 (repealed) shall be deemed to be registered under these Rules.

Marriages performed under Cap 156 (Repealed)

19. The fees payable under these Rules shall be as set out in the Second Schedule.

Fees.

FIRST SCHEDULE



FORM MM1 r. 4(2)

REPUBLIC OF KENYA

MARRIAGE ACT, 2014

APPLICATION FOR REGISTRATION OF MUSLIM MARRIAGE

طلب لتسجيل الزواج الإيسلامي

Date:التاريخ

I, of P.O.Box..... apply for registration of marriage and to be issued with a Muslim marriage certificate. أنا أطلب إصدار شهادة الزواج الإيسلامي

Name of Husband..... إسم الزوج

Nationality..... الجنسية

ID. No./ Passport رقم البطاقة الشخصية / الجواز

Email address..... البريد الإلكتروني

Phone No..... رقم الهاتف

Name of Wife..... إسم الزوجة

Nationality..... الجنسية

Wife waliy's Name إسم وليّ الزوجة

Relationship of Waliyy with the wife..... قرابة الوليّ بالزوجة

County and place where marriage was officiated..... المحافظة ومكان انعقاد الزواج

Mahr agreed..... مهر المتفق عليّ هالم

Mahr given..... المهر المسلمّ

Date of marriage تاريخ الزواج..... Hijri..... الهجري

Witnesses: أسماء الشهود

1. NameI.D No.....

2. Name.....I.D No.....

Name of Muslim Marriage Officer who officiated the marriage.. إسم المأذون الشرعي الذي عقد النكاح

.....

Oath

I,.....and.....
take oath that the averments herein are true and correct to the best of knowledge and that the marriage was conducted and fulfilled all requirements of marriage under Islamic Sharia.

موقّعون أدناه نشهد بأن البيانات أعلاه صحيحة وأنه تمّ عقد النكاح طبقاً لجمع ميّع نحن ال
أركان النكاح بحسب الشريعة الإسلاميّة.

Husband تزوج الزوج Wife تزوجت الزوجة

Signature.....Signature:

FOR OFFICIAL USE ONLY

The application is granted/ not granted [Reasons]

.....

Name of Muslim Marriage Officer

Signature

Date.....

FORM MM2r. 7(2)



REPUBLIC OF KENYA

THE MARRIAGE ACT, 2014

LICENCE TO CONDUCT MARRIAGES

IN EXERCISE of the powers conferred on me by section 52 of the Marriage Act 2014, I hereby license the Muslim Marriage Officer-

.....

named in the Schedule hereto to celebrate marriages under the provisions of these Rules and the Act.

SCHEDULE

Name of marriage officer.....

Dated the 20.....

Registrar of Marriages

FORM MM3 r. 9



Serial No.

REPUBLIC OF KENYA
THE MARRIAGE ACT, 2014
MUSLIM MARRIAGE CERTIFICATE
شهادة الزواج الاسلامي

| | | | |
|-------------------------------------|----------------|---------------------|----------------------------|
| Marriage Entry No. | | | رقم التسجيل |
| Date of Marriage | | | تاريخ الزواج |
| Husband's Name | | | اسم الزوج |
| Age | | | عمر الزوج |
| Marital Status | | | الحالة الزوجية للزوج |
| Occupation | | | وظيفة الزوج |
| Residence إقامة الزوج | County الإقليم | Sub-County المحافظة | |
| Wife's Name | | | اسم الزوجة |
| Age | | | عمر الزوجة |
| Marital Status | | | الحالة الزوجية للزوجة |
| Occupation | | | وظيفة الزوجة |
| Residence وظيفة الزوجة | County الإقليم | Sub-County المحافظة | |
| Wife's Waliyy and relationship | | | اسم ولي الزوجة والقربان |
| Agreed Mahr | | | المهر المتفق عليه |
| Paid Mahr and Deferred Mahr | | | المهر المسلم والمهر المؤجل |
| Particulars of gifts | | | تفاصيل الهدايا |
| Place of Marriage | | | المكان الذي عقد فيه الزواج |
| County of Marriage | | | مكان عقد الزواج |
| Husband's Signature or His Attorney | | | توقيع الزوج أو وكيله |
| Wife / Guardian's Signature | | | توقيع الزوجة أو وليها |
| Name of 1 st Witness, | | | اسم الشاهد الأول ورقم |

| | | |
|--|--|---|
| Identity Card No. and Signature | | بطاقته الشخصية وتوقيعه |
| Name of 2nd Witness, Identity Card No. and Signature | | إسم الشاهد الثاني ورقم بطاقته الشخصية وتوقيعه |
| Name and Signature of Muslim Marriage Officer | | إسم المأذون الشرعي الذي عقد النكاح |
| Date of Issuance | | تاريخ إصدار عقد النكاح |

FORM MM4 r. 10(2)

Serial
No.

REPUBLIC OF KENYA

MARRIAGE ACT, 2014

REGISTER OF MUSLIM MARRIAGE

Marriage Certificate issued at in sub-county,
..... county in the Republic of Kenya.

| | | |
|---|---|-----------------|
| Date of Marriage Ceremony: | Serial No. of the Marriage Certificate: | |
| Date of Issuance of Marriage Certificate: | | |
| Husband's name: | Age: | Marital Status: |
| Occupation: | | |
| Residence at time of marriage: | County: | Sub-county: |
| Wife's name: | Age: | Marital Status: |
| Occupation: | | |
| Residence at time of marriage: | County: | Sub-county: |
| Certificate Issued to | | |
| By..... | | |
| (in the presence of) | | |
| | | |
| | | |

Entered this day of 20..... at.....the County
Registry of Marriage at

.....
REGISTRAR

FORM MM5 r. 11(1)



REPUBLIC OF KENYA

THE MARRIAGE ACT, 2014

APPLICATION FOR CERTIFIED COPY OF REGISTER OF MUSLIM MARRIAGE

General Search Form

(Please complete this Form in BLOCK LETTERS)

| | | |
|---|-----------|--|
| Details of Applicant | Name | |
| | Phone No. | |
| | Address. | |
| Full Name of Husband | | |
| Full Name of Wife | | |
| Date of Issuance of Marriage Certificate | | |
| Place of Issuance of Marriage Certificate | | |
| Officiated By: (Kadhi or Muslim Marriage Officer) | | |
| Name and Address of Registry Office/Place of Issuance Of Marriage Certificate | | |
| Entry Number of Certificate or Register | | |
| Other Particulars which would help to trace the Entry: | | |
| COMMENTS. | | |

FORM MM6r. 11(2)



REPUBLIC OF KENYA

THE MARRIAGE ACT, 2014

CERTIFIED COPY OF REGISTER OF MUSLIM MARRIAGE

Marriage Certificate issued at in sub-county,
 county in the Republic of Kenya.

| | | |
|---|--|-----------------|
| Date of Marriage Ceremony: | Serial No. of the Marriage Certificate | |
| Date of Issuance of Marriage Certificate: | Age: | Marital Status: |
| Occupation: | | |
| Residence at time of marriage: | County: | Sub-county: |
| Wife's name: | Age: | Marital Status: |
| Occupation: | | |
| Residence at time of marriage: | County: | Sub-county: |
| Certificate Issued to | | |
| By..... | | |
| (in the presence of) | | |
| | | |
| | | |

Entered this day of 20..... at.....the County
 Registry of Marriage at

.....

REGISTRAR

Certified to be a true copy of an entry of marriage in the Muslim Marriage Register.

Given under the seal of the Registrar on theday of 20.....

NOTES

Any person who (a) falsifies any of the particulars of the certificate, or (b) uses a falsified certificate as true copy knowing it to be false, is liable to prosecution.

Typed by:

Checked by:

SECOND SCHEDULE

FEES



REPUBLIC OF KENYA

THE MARRIAGE ACT, 2014

| <i>Item</i> | <i>KSh.</i> |
|---|-------------|
| 1. Application for marriage form | 600 |
| 2. Issuance of marriage certificate | 500 |
| 3. Issuance of a certified copy of register of marriage | 600 |
| 4. Search of marriage register | 500 |
| 5. Amendment of marriage record | 200 |
| 6. Issuance of a marriage license | 2,000 |

Dated the 16th November, 2017.

GITHU MUIGAI,
Attorney-General.