MUSLIM MARRIAGES AND DIVORCES
(REGISTRATION) ACT, 1974

(An Act to consolidate and amend the law relating to Registration of Muslim Marriages and Divorces)

Whereas it is expedient to consolidate and amend the law relating to registration of Muslim marriages and divorces.

It is hereby enacted as follows:—

1. Short title and application.—(1) This Act may be called the Muslim Marriages and Divorces (Registration) Act, 1974.
   
2. Definitions.—(a) "Inspection-General of Registration" and "Registrar" respectively mean the officers so designated and appointed under the Registration Act, 1908 (XVI of 1908);
   
3. Registration of marriages.—Notwithstanding anything contained in any law, custom or usage, every marriage solemnized under Muslim Law shall be registered in accordance with the provisions of this Act.

COMMENTS: This section has been introduced to facilitate the mode of divorce by the wife. Previously, under the Shariat Application Act, 1937, and the Dissolution of Muslim Marriages Act, 1939, a married woman could divorce her husband only through the court under the nine conditions enacted in section 2 of the said Act of 1939. But this section 6 provides that if the power of delegation is given to the wife, she can register the divorce before a Nikah Registrar and she needs not sue for the same. If the registration is refused by the Nikah Registrar, she can prefer an appeal under section 6 (4) of the present Act to the District Registrar as provided under the Registration Act, 1908, read with Rule 21 of the Muslim Marriages and Divorces (Registration) Rules, 1975, made hereunder. By the present statute, the Dissolution of Muslim Marriages Act, 1939, has not been repealed. Hence, a suit in an appropriate case, will also lie before a Family Court.

4. Nikah Registrars—For the purpose of Registration of marriages under this Act, the Government shall grant licenses to such number of persons, to be called Nikah Registrars, as it may deem necessary for such areas as it may specify;

Provided that not more than one Nikah Registrar shall be licensed for any one area.

Provided further that the Government may, whenever it deems fit so to do, extend, curtail or otherwise alter the limits of any area for which a Nikah registrar has been licensed (3).

COMMENTS: License granted to another person during the subsistence of one Nikha Registrar for the same area illegal (4). When more than one Nikah Registrars are appointed for one union, their works should be divided yard wise (5). A Nikha Registrars Jurisdiction cannot be less than 5(five) unions (6). But the jurisdiction of a Nikah Registrar has further been reduced to the minimum of 3 unions by the amendment of Rule 10 by SRO No. 12- Ain 93 dated 19.1. 1993. A Nikha Registrar is a public servant (7), but his services are not government service (8). [Vide Rule 16].

5. Marriages not solemnized by Nikah Registrars to be reported to them—

(1) Every marriage not solemnized by the Nikah Registrar shall, for the purpose of registration under this Act, be reported to him by the person who has solemnized such marriage.

Whoever contravenes the provision of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both.

(2) An application for registration of a divorce shall be made orally by the persons who has or have effected the divorce.

Provided that if the woman be a parda-nashin, such application may be made by her duly authorized vakil.

The Nikah Registrar shall not register a divorce of the kind known as talaq-i-tafweez except on the production of a document registered under the Registration Act, 1908 (XVI of 1908), by which the husband delegated the power of divorce to the wife or of an attested copy of an entry in the register of marriages showing that such delegation has been made.

Where the Nikah Registrar refuses to register a divorce, the person or persons who applied for such registration may, within thirty days of such refusal, prefer an appeal to the Registrar and the order passed by the Registrar on such appeal shall be final.

COMMENTS: This section has been introduced to facilitate the mode of divorce by the wife. Previously, under the Shariat Application Act, 1937, and then the Dissolution of Muslim Marriages Act, 1939, a married woman could divorce her husband only through the court under the nine conditions enacted in section 2 of the said Act of 1939. But this section 6 provides that if the power of delegation is given to the wife, she can register the divorce before a Nikah Registrar and she needs not sue for the same. If the registration is refused by the Nikah Registrar, she can prefer an appeal under section 6 (4) of the present Act to the District Registrar as provided under the Registration Act, 1908, read with Rule 21 of the Muslim Marriages and Divorces (Registration) Rules, 1975, made hereunder. By the present statute, the Dissolution of Muslim Marriages Act, 1939, has not been repealed. Hence, a suit in an appropriate case, will also lie before a Family Court.

6. Registration of divorces—(1) A Nikah Registrar may register divorce effected under Muslim Law within his jurisdiction on application being made to him for such registration.

(2) An application for registration of a divorce shall be made orally by the persons who has or have effected the divorce;

Provided that if the woman be a parda-nashin, such application may be made by her duly authorized vakil.

The Nikah Registrar shall not register a divorce of the kind known as talaq-i-tafweez except on the production of a document registered under the Registration Act, 1908 (XVI of 1908), by which the husband delegated the power of divorce to the wife or of an attested copy of an entry in the register of marriages showing that such delegation has been made.

Where the Nikah Registrar refuses to register a divorce, the person or persons who applied for such registration may, within thirty days of such refusal, prefer an appeal to the Registrar and the order passed by the Registrar on such appeal shall be final.

7. Manner of registration.—The Nikah Registrar shall register a marriage or divorce in such manner as may be prescribed.

8. Registers.—Every Nikah Registrar shall maintain separate registers of marriages and divorces in such forms as may be prescribed and all entries in such register shall be numbered in a consecutive series, a fresh series being commenced at the beginning of each year.

9. Superintendence and control.—(1) Every Nikah Registrar shall perform the duties of his office under the superintendence and control of the Registrar.

10. (2) The Inspector-General of Registration shall exercise a general superintendence over offices of all Nikah Registrars.

11. Revocation or suspension of a license.—If the Government is of the opinion that a Nikah Registrar is guilty of any misconduct in the discharge of his duties or has become unfit or physically incapable to discharge his duties, it may, by order in writing, revoke his
license, or, suspend his license for such period, not exceeding two years as may be specified in the order.

Provided that no such order shall be made unless the Nikah Registrar has been given a reasonable opportunity of showing cause why that order should not be made.

**Custody of registers.**—Every Nikah Registrar shall keep safely each register maintained by him under section 8 until the same is filled and shall then or earlier if he leaves the district of ceases to hold a license, make over the same to the Registrar for safe custody.

**Inspection of registers.**—Any person may, on payment of the prescribed fee, if any, inspect at the office of the Nikah Registrar or of the Registrar any register kept in such office or obtain a copy of any entry therein.

**Power to make rules.**—(1) The Government may, by notification in the official Gazette, make rules to carry into effect, the purposes of this Act. —

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) qualifications to be required from persons to whom licenses under section 4 may be granted;

(b) fees payable to a Nikah Registrar for registration of a marriage or divorce.

(c) any other matter for which rules are required to be made.

**Amendment of Muslim Family Laws Ordinance, 1961 (VIII of 1961),**—the Muslim Family Laws Ordinance, 1961 (VIII of 1961),

(a) in section 3, in sub-section (1), the comma and words, "and the registration of Muslim marriages shall take place only in accordance with those provisions" shall be omitted;

(b) section 5 shall be omitted;

(c) in section 6, in sub section (1), for the words "under this Ordinance" the words, comma, figures and brackets" under the Muslim Marriages and Divorces (Registration) Act, 1974 (...) of 1974)" shall be substituted,

**Repeal.**—The Muslim Divorces Registration Act, 1876 (Being. Act I of 1876), is hereby repealed.

**Provision relating to existing Nikah Registrars.**—All Nikah Registrars licensed under the Muslim Family Laws Ordinance, 1961 before the commencement of this Act, shall be deemed to have been licensed as Nikah Registrars under this Act.

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(1) Published in the Bangladesh Gazette (Part v) Extra on 24.7. 1984, Page 5349.
(2) Abdullah - vs- Rokeya Khatun, 21 DLR 213.
(3) Proviso added by Ord. 49 of 1982 w.e.f 25. 11. 1982.
(5) Md. Shamsul Alam-vs- Prov. E. Pak, 22 DLR 513; 19 DLR 802.
(7) Md. Anif -vs- Kausar Ali, 21 DLR SC 330; [Contra 19 DLR 862].
(8) Vide Rule 16 of the Muslim Marriages and Divorces Rules, 1975.