

THE ORISA MARRIAGE BILL, 1999

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SCHEDULE

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No. 10 of 1999

**Fourth Session Fifth Parliament Republic of Trinidad
and Tobago**

HOUSE OF REPRESENTATIVES

BILL

**AN ACT to make provision for the solemnisation and
registration of Orisa Marriages**

THE ORISA MARRIAGE ACT, 1999

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The purpose of this Bill is to give legal effect to marriages performed according to Orisa Rites and is drafted in response to the fact that the Orisa faith has been advocating such legislation for many years.

The clauses of the Bill are highlighted as follows:

Clauses 1 and 2 contain the short title and interpretation provisions.

By clause 3 of the Bill, the President would be empowered by Order to divide Trinidad and Tobago into Orisa Marriage districts and by clause 4 of the Bill, the President have the power to designate the Registrar General as Registrar of Orisa Marriages for Trinidad and Tobago and Revenue Officers as District Registrars of Orisa Marriages for each district.

Clause 5 of the Bill provides for the issue and application of licences. Licences shall be issued to Marriage Officers who shall be priests or priestesses of the Orisa faith or such other person as the President may authorise.

Clause 6 makes provision for persons to apply for a licence to function as a Marriage Officer. By virtue of clause 7, District Registrars are required to keep lists of all Marriage Officers licensed under the Act.

Clause 8 outlines the requisites of a valid Orisa marriage and clause 9 deals with the issue of the age and consent of parties to the marriage.

Clause 10 provides that the parties to the marriage shall give notice to the District Registrar of the district in which they reside and that the parties must have resided in the said district for at least seven days prior to the notice.

Clause 11 requires the District Registrar to send to the Registrar, copies of marriage notices lodged with him.

Clause 12 empowers the District Registrar to issue a certificate, in relation to the notice of marriage, under certain circumstances.

Clause 13 provides for the parties to the marriage to give notice to the Marriage Officer who must then publish banns of marriage.

Clause 14 requires that the Marriage Officer send copies of such notices to the District Registrar.

Clause 15 provides for the issue of a certificate by the Marriage Officer.

Clauses 16, 17, and 18 provide for the entering of caveats, referral of such matters to the High Court and the removal of caveats respectively.

Clauses 19 and 20 provide for the solemnisation of marriages by Marriage Officers.

By clause 21, where a marriage does not take place within six months of the entry of the notice, a Marriage Officer is not permitted to proceed to solemnise the marriage to which the notice referred.

Clause 22 requires that all manner of applications, certificates, forms, etc, be in the English language.

Clause 23 provides that the proof of certain matters is not required once the marriage has been solemnised or contracted.

By clause 24, under certain prescribed conditions, a Marriage Officer shall not be compelled to accept a notice of Marriage from, enter or publish banns of or solemnise a marriage between persons.

Clauses 25 and 26 describe the administrative requirements that must be fulfilled by Marriage Officers and Registrars respectively subsequent to the solemnisation of a marriage.

Clause 27 describes the situations in which marriages may be null and void.

Clauses 28 and 29 provide for the correction of clerical errors and searches respectively.

Clauses 30 to 35 provide for penalties in respect of a number of prescribed offences.

Clause 36 provides that the Director of Public Prosecutions is required to give his consent to the prosecution of offences where the commission of the offence occurred three years previously.

Clause 37 requires a Marriage Officer to transmit copies of entries, in respect of the solemnisation of marriages, to the District Registrar who must then transmit them to the Registrar.

By clause 38 all fees are to be paid into public funds.

By clause 39 the President is empowered to make regulations and by clause 36 civil marriages remain permissible to members of the Orisa faith.

BILL

AN ACT to make provision for the solemnisation and
registration of Orisa Marriages

[, 1999]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Orisa Marriage Act, Short title
1999.

- Interpretation **2. In this Act—**
 “district” means an Orisa marriage district constituted under section 3;
 “Marriage Officer” means a person licensed as such under section 5;
 “Minister” means the Minister to whom responsibility for the administration of Legal Affairs is assigned.
- Orisa Marriage Districts **3. The President may by Order divide Trinidad and Tobago into Orisa marriage districts for the purposes of this Act and may from time to time by like Order alter the districts either by change of boundaries or by union or sub-division of districts or by the formation of new districts.**
- Designation of Registrar and District Registrar **4. The President may designate—**
 (a) the Registrar General as the Registrar of Orisa Marriages for Trinidad and Tobago; and
 (b) a Revenue Officer in charge of a District Revenue Office as District Registrar of Orisa Marriages for each district.
- Orisa Marriage Officers **5. (1) The President, or any person duly authorised by him, may grant a licence to be a Marriage Officer to such a person, being a Priest or Priestess of the Orisa religion, or such authorised person as the President may, in his discretion, think fit.**
 (2) The President may cancel a licence provided for in subsection (1) without assigning a reason for so doing.
 (3) Any Marriage Officer may act as such in any district.
 (4) A licence under this section shall be in the form set out in Part 2 in Form A of the Schedule.
- Form A Schedule

(5) The grant or cancellation of a licence shall be notified in the *Gazette* and shall take effect from the date of the publication.

6. (1) Any Orisa Priest or Priestess who desires to be licensed as a Marriage Officer shall make an application in writing to the Minister.

Application for
licences as Marriage
Officers

(2) An application made under subsection (1) shall state the dwelling place of the applicant, the place of public worship at which the applicant acts as Priest or Priestess and shall be accompanied by a certificate from the Head of a recognised Orisa organisation to the effect that the applicant is a fit and proper person to be licensed as a Marriage Officer.

(3) If an application under subsection (1) is received from any organisation, notice of the application shall be advertised in the *Gazette* and any one who wishes to object to the application shall do so in writing to the Minister within one month of the publication of the notice.

7. Every District Registrar shall keep affixed in a conspicuous place in his office a list containing the names and addresses of all Marriage Officers licensed under this Act.

District Registrars to
keep list of Marriage
Officers

8. The requisites of a valid Orisa marriage under this Act are that—

Requisites of valid
marriage

- (a) at least one of the parties shall belong to and profess the Orisa faith or religion;
- (b) both parties shall, as regards age, mental capacity and otherwise, be capable of contracting a valid marriage;
- (c) the parties shall not be within the prohibited degrees of consanguinity and affinity according to the Orisa customary law relating to marriage;

(d) the parties understanding the nature of the contract, shall freely consent to marry one another in the presence of the Marriage Officer who solemnises the marriage.

Age limit and
consent of parents

9. (1) The age at which a person, being a member of the Orisa faith or religion, is capable of contracting marriage shall be eighteen years in the case of males and sixteen years in the case of females.

(2) A marriage shall not be solemnised by a Marriage Officer if the intended husband is under eighteen years of age or the intended wife is under sixteen years of age unless the consent of the minor has been given in accordance with the following provisions of this section.

(3) Notwithstanding subsection (2), where the parties are minors the marriage may be solemnised without the requisite consent being established in keeping with this section, if the intended husband is a widower or the intended wife is a widow.

(4) The required consent to marriage by a minor shall be given by the father of the under age party, and if the father is dead, by the guardian or guardians appointed for the purpose by the President.

(5) Where there is no guardian by whom consent may be given, then the mother of the minor may consent, and if the mother is dead then any such other person as may be appointed for the purpose by the President may consent.

(6) Where a party whose consent to a marriage is required under subsection (4) is absent from Trinidad and Tobago or is unable or refuses to give the consent or is not of sound mind, the minor in whose case consent is required may apply to the President to appoint a person, being a member of the Orisa

community, to investigate the circumstances of the intended marriage and if after the investigation it appears to that person that there are no reasonable objections to the intended marriage, such person shall so formally declare in writing and the declaration shall, for the purposes of this Act, be deemed equivalent to the consent provided for by subsection (4).

(7) A consent shall, when not given in the presence of a Marriage Officer, be signed by the person giving such consent and the Marriage Officer by whom the marriage is solemnised shall record—

(a) the fact that the required consent has been given; and

(b) the name of the person by whom the consent has been given.

10. (1) Each of the parties shall give notice of the intended marriage to the District Registrar of the district within which he or she has respectively resided for not less than seven days immediately preceding the date of such notice.

(2) Notwithstanding subsection (1), when each of the parties to the intended marriage has resided for the required period in the same district, a single notice shall be sufficient.

(3) Notice of the intended marriage shall be given in the appropriate form set out in the Schedule.

(4) On the receipt of a notice of an intended marriage, the District Registrar shall forthwith enter the particulars set forth in the notice and also the date of the receipt of the notice, in a book to be called the “Marriage Notice Book”, and shall place a copy of such notice in a conspicuous place in his office for a period of not less than seven days from the time of its receipt.

(5) For every entry made in the Marriage Notice Book, the District Registrar shall be entitled to be paid

Notice to District
Registrar

Form B
Form C
Schedule

the prescribed fee and such Marriage Notice Book shall be opened at all reasonable times, without fee, to all persons desirous of inspecting the same.

District Registrar to
send copies to
Registrar

11. Every District Registrar shall forthwith transmit to the Registrar a copy of every entry made by him as provided in section 10 and the Registrar shall on the receipt of such entry, file and preserve the same among the records of his office.

Issue of District
Registrar's
Certificate

12. (1) Where—

(a) no lawful impediment to the issue of the certificate is shown to the satisfaction of the District Registrar; or

(b) no caveat is entered against the issue of the certificate in accordance with section 16,

the District Registrar may, at any time not more than six months or less than seven days after the entry of the notice, upon being requested to do so, by or on behalf of the party who gave notice, issue a certificate in the form set out as Form D of the Schedule.

Form D

(2) A certificate issued under subsection (1) shall state—

(a) the particulars set forth in the notice;

(b) the date on which the notice was entered;

(c) the fact of the absence of any caveat against the issue of such certificate; and

(d) the fact of the passage of seven days since the entering of the notice in the Marriage Notice Book.

(3) A fee of fifty cents shall be charged for the issuance of a certificate.

Notice to Marriage
Officer

13. (1) In every case of marriage intended to be solemnised under the authority of a Marriage Officer's

certificate, each of the parties shall give notice of the intended marriage, in the form set out in Form E ^{Form E} (making the declaration therein contained), to the Marriage Officer of the congregation to which he or she respectively belongs or is considered to be attached, or if not belonging or not considered to be attached to any congregation then to any Marriage Officer in the district in which he or she has respectively resided for not less than seven days next preceding the date of such notice.

(2) On receipt of a notice of an intended marriage, the Marriage Officer shall forthwith enter the particulars set forth in the notice, and also the date of the receipt of the notice, in a book to be kept by him and to be called "Marriage Banns Book," and shall place a copy of such notice for a period extending over two weeks from the date of its receipt on a notice board to be kept affixed on the outside of the principle door of the place of worship at which he acts as an Orisa priest or priestess.

(3) Where each of the parties to the intended marriage belongs to the same congregation, a single notice shall be submitted to the Marriage Officer.

(4) The Marriage Officer shall also, by himself or by some other person duly authorised, by him, publish the banns of marriage between the parties named in the notice in the place of public worship at which he acts as Orisa priest or priestess. The publication shall be made in an audible manner sometime during a meeting on any day and shall be as nearly as may be in the form set out in Form F, and shall be made for two ^{Form F} weeks during meetings.

14. (1) Every Marriage Officer shall forthwith ^{Marriage Officer to send copies of entries to District Registrar} transmit to the District Registrar of Marriages a copy of every entry which is made by him as provided in section 13, and the District Registrar of Marriages

shall, on the receipt of such entry, file and preserve the same among the records of his office.

(2) Any Marriage Officer who, without reasonable cause or excuse, fails to transmit to the District Registrar of Marriages a copy of any entry in accordance with this section is liable on summary conviction for every such offence to a fine of two hundred dollars.

Issue of Marriage
Officer's Certificate

15. At any time after publication of banns is complete and before the expiration of six months from the entry of notice, the Marriage Officer, upon being requested so to do by or on behalf of the party by whom the notice was given, and in case no lawful impediment is shown to the satisfaction of such Marriage Officer why the certificate should not issue, and in case no caveat has been entered against the issue of such certificate in the manner hereinafter mentioned, shall issue under his hand a certificate according to the form given in Form G, and every such certificate shall state the particulars set forth in the notice, and the date on which the notice was entered, and that no caveat has been entered against the issue of such certificate, and that the banns have been published in the manner required by this Act; and for every such certificate the Marriage officer shall be entitled to a fee of fifty cents.

Form G

Objections to
marriage

16. (1) Any person whose consent to a marriage is hereby required, or who may know of any just cause why the marriage should not take place, may on payment of the prescribed fee enter a caveat against the issue of a certificate by the District Registrar.

(2) A caveat may be entered at any time before the issue of the District Registrar's certificate by—

(a) the writing of the word "Forbidden" opposite to the entry of the notice in the Marriage Notice Board; and

(b) the inclusion of a statement of the name, address and grounds upon which the caveat is lodged in the Marriage Notice Book.

(3) No District Registrar shall issue a certificate until any caveat has been removed in the manner prescribed in section 16.

17. (1) Where a caveat is entered against the issue of a District Registrar's Certificate, the District Registrar shall inform the Registrar and the Registrar shall refer the matter to the High Court. When caveat entered, matter to be referred to Chief Justice

(2) Where the High Court is of opinion that no legal ground has been disclosed in the caveat for forbidding the issue of the certificate, it may remove the caveat in the manner hereinafter provided.

(3) Where legal grounds for the caveat have been disclosed, the High Court shall summon the parties to the intended marriage and the person by whom the caveat has been entered, and shall require such person to show cause why the District Registrar, as the case may be, should not in due course issue his certificate.

(4) Every such matter shall be heard and determined in a summary manner, and the High Court may award compensation and costs to the party against whom a caveat was entered on insufficient grounds.

18. (1) The Court may by order direct the Registrar Removal of caveat to cause the caveat to be removed.

(2) On the removal of the caveat, the District Registrar, may issue his certificate in due course, and the marriage may proceed as if the caveat had not been entered but the time which has lapsed between the entering and removal of the caveat shall not be computed in the period of six months specified in section 15.

Marriages before
Marriage Officer

19. (1) On the delivery of the certificate of a District Registrar, or in case the parties have given notice to the District Registrars of different districts, then on the delivery of the certificate of each such District Registrar to any Marriage Officer, the Marriage Officer may solemnise a marriage between the parties named in the certificate or certificates.

(2) A marriage shall be solemnised with open doors between the hours of six o'clock in the forenoon and six o'clock in the afternoon of the same day, and in the presence of two or more credible witnesses and the said Marriage Officer.

Solemnisation

20. (1) An Orisa marriage shall be solemnised by a Marriage Officer in accordance with the rites of the Orisa religion and under the authority of a District Registrar's Certificate.

(2) The parties to the marriage shall sign or mark the marriage certificate drawn up by the said officer in accordance with section 25.

Notice of void unless
marriage takes place
within six weeks

21. Where a marriage has not taken place within six months after the entry of the notice in the Marriage Notice Book, the notice and all other proceedings shall thereupon be void, and no Marriage Officer shall proceed to solemnise the marriage, nor shall the marriage be contracted before a District Registrar, until a new notice has been given and a certificate issued in the manner aforesaid.

Use of English
Language

22. All prescribed applications, certificates, forms, declarations and entries in the appropriate Registers shall be in the English Language.

Proof of certain
matters not required
after marriage

23. After any marriage has been solemnised or contracted in the manner provided in this Act it shall not be necessary in support of the marriage that any

proof of the actual dwelling or period of dwelling of either of the marriage parties in the district mentioned in a notice of marriage previous to the giving of the notice, nor of the consent of any person whose consent thereunto is required by law nor of any evidence, be given to prove the contrary.

24. (1) No Marriage Officer shall be compelled to accept notice of marriage from, or to enter or publish the banns of, or to solemnise marriage between persons, neither of whom is a member of the Orisa faith or religion, nor otherwise than according to the rules or custom of such faith or religion nor unless he is satisfied by the declaration of the parties or otherwise that the proposed marriage is consistent with such rules or custom.

When marriage
Officer not
compellable to marry

(2) No Marriage Officer shall be compelled—

(a) to publish the banns of marriage or to solemnise the marriage of any person whose former marriage has been dissolved by a judicial decree, where the other party to the former marriage is still living; and

(b) to permit the use of any place of worship under his control for publishing any such banns or solemnising the marriage of any such person.

(3) No Marriage Officer shall be liable to any suit, proceeding or penalty for refusing to publish any such banns or for refusing to solemnise any such marriage or for refusing to permit the use of any such place of worship for any such purposes aforesaid.

(4) No Marriage Officer is liable to any suit, proceeding or penalty for the publication of any such banns or solemnising the marriage of any such person as mentioned above or for permitting the use of any such place of worship for any of those purposes.

Completion of
Marriage Certificate
by Marriage Officer

Form H
Schedule

25. (1) Immediately after an Orisa marriage has been solemnised by a Marriage Officer, the officer shall enter in English in a book to be supplied by the District Registrar and kept by the Marriage Officer for that purpose, a certificate in the Form set out as Form H of the Schedule.

(2) The book in which the certificate is kept shall be referred to as the Orisa Marriage Certificate Book.

(3) The Certificate entered in the Orisa Marriage Certificate Book shall be signed by the parties to the marriage, by two witnesses and by the Marriage Officer who shall enter in the counterfoil of the Book the prescribed particulars and sign the Book.

(4) Where a party to the marriage is unable to sign the certificate, he shall affix his mark in the presence of the Marriage Officer and of the two witnesses.

(5) A Marriage Officer shall, within seven days of an Orisa marriage being solemnised by him, transmit to the District Registrar a duplicate of the certificate referred to in subsection (1) and such duplicate certificate shall be filed by the District Registrar and remain among the records of his office.

(6) A Marriage Officer who—

(a) fails to comply with subsection (1);

(b) without reasonable cause or excuse, fails to transmit to the District Registrar of Orisa Marriages any certificate in accordance with this section;

(c) solemnises an Orisa marriage without proof that the persons whose consent is required by this Act have given due consent,

is liable on summary conviction to a fine of three hundred dollars.

26. (1) The District Registrar shall file in his office Filing of certificate of marriage by District Registrar all certificates and declarations of Orisa marriages which shall be transmitted to him in accordance with the provisions of this Act and shall forthwith register in a form set out as Form I of the Schedule Form I Schedule the particulars of every such certificate and every entry shall be dated on the day on which it is so made and shall be signed by the District Registrar.

(2) All entries shall be kept in the Orisa Marriage Register Book.

(3) Upon the registration by the District Registrar and upon payment of the prescribed fee, the District Registrar shall issue and transmit to the parties to the marriage a Certificate of registration of the marriage in the form set out as Form J of the Form J Schedule Schedule.

(4) Where a marriage is solemnised after the commencement of this Act, the District Registrar shall send a notification of the fact and date of registration to the Marriage Officer by whom the marriage was solemnised, and the Officer shall thereupon enter such particulars in the space provided for the purpose on the counterfoil of the Orisa Marriage Certificate Book.

27. (1) If any person knowingly and willfully marries Marriage which may not be registered under the provisions of this Act, without—

- (a) due notice given in accordance with section 10; or
- (b) a certificate under section 12 having been duly issued, or without a licence issued under this Act,

the marriage of such person shall be null and void.

(2) If any parties to any marriage are within the prohibited degrees of consanguinity or affinity according to the laws of Trinidad and Tobago the marriage of such persons shall not be registered under this Act.

Correction of clerical errors in Registers

28. The District Registrar may correct any clerical error in any Certificate or declaration of Orisa marriage filed in his office and the Orisa Marriage Register Book and shall authenticate every such correction by his signature and the date of the correction.

Searches in Registers and copies of entries

29. (1) Upon payment of the prescribed fees, the Registrar shall at all reasonable times allow searches to be made in the Orisa Marriage Register Book and shall give certified copies therefrom.

(2) Any copy certified under the hand of the Registrar to be a correct copy of any entry in the Orisa Marriage Register Book shall be admissible as evidence of the registration of the marriage to which it relates in all courts or before any person now or hereafter having by law or consent of parties authority to hear, receive and examine evidence.

False declarations

30. Any person who knowingly and wilfully makes any false declaration or signs or marks any false application, notice or certificate, required by this Act, for the purpose of the registration of any marriage and any person who wilfully makes, or causes to be made, for the purpose of being inserted in any register of marriages any false statement with regard to any of the particulars required by this Act to be known and registered, is liable to the same penalties as if he were guilty of perjury.

Forging or altering register book, notice

31. Any person who knowingly and wilfully forges or alters or falsely makes, or procures to be forged or altered or falsely made, or offers, utters or disposes of, knowing the same to have been forged or altered or falsely made, any register book or any notice, certificate, entry or statement mentioned in this Act, or any certified copy thereof respectively, or willfully inserts or causes to be inserted in any register book or

certified copy thereof any false entry of marriage or willfully gives any false certificate, or certifies any writing to be a copy or extract of any Register, knowing the same to be false in any part thereof, or forges or counterfeits the seal of the Registrar is liable to imprisonment for seven years.

32. Any person who unlawfully and maliciously destroys or damages, or causes to be destroyed or damaged, any register or any licence, certificate, declaration, entry or statement mentioned in this Act, or any certified copy or translation thereof, respectively is liable on conviction on indictment to imprisonment for five years.

33. Any person having the custody of any register book or certified copy thereof or of any part thereof, who carelessly loses or damages the same or carelessly allows the same to be damaged or lost whilst in his keeping, is liable to a fine of two thousand dollars on summary conviction.

34. A District Registrar or Marriage Officer who knowingly and wilfully issues a certificate for the marriage of any persons being within the prohibited degrees of consanguinity or affinity according to the law of Trinidad and Tobago is liable on conviction on indictment to imprisonment for three years.

35. A person who, without being duly licensed as a Marriage Officer—

- (a) knowingly or wilfully solemnises any marriage purporting to be a marriage under this Act; or
- (b) knowingly and wilfully makes or signs any certificate or signs any declaration required by this Act to be made or signed by a Marriage Officer,

is liable on conviction on indictment to imprisonment for three years.

Prosecution of
Offences

36. No prosecution for any offence under this Act shall be commenced after the expiration of three years from the commission of the offence without the written consent of the Director of Public Prosecutions.

Marriage Officer to
send copies of entries
to District Registrar

37. (1) Every Marriage Officer shall immediately after solemnising a marriage transmit to the District Registrar a copy of every entry which is made by him as provided in section 25, and the District Registrar shall, on the receipt of such entry transmit it to the Registrar who shall file it among the records of his office.

(2) A Marriage Officer or District Registrar who, without reasonable cause or excuse, fails to transmit to the District Registrar or Registrar, as the case may be, a copy of any entry in accordance with this section is liable on summary conviction to a fine of two hundred dollars.

Disposal of fees

38. All fees received by the Registrar and District Registrar under this Act shall be paid into public funds.

Regulations

39. (1) The President may make such regulations as may be necessary for the proper carrying out of this Act and more especially may prescribe—

- (a) the place or places at which shall be situated the offices of the several District Registrars;
- (b) the form of any certificate, declaration, register or other document required for the purposes of this Act;
- (c) the conditions under which registers or other documents may be inspected;

(d) the fees to be paid in respect of anything required or permitted to be done under this Act, and provision for their remission on account of the poverty of the parties or for other good reason.

40. Nothing contained in this Act shall be construed ^{Civil marriage permissible} to prevent or disable any Orisa adherent from contracting a civil marriage before the Registrar according to the provisions of the Marriage Act.

SCHEDULE

ORISA MARRIAGE REGULATIONS

TRINIDAD AND TOBAGO

PART II—FORMS

FORM A

(Section 5)

ORISA MARRIAGE ACT

LICENCE TO BE A MARRIAGE OFFICER

A.B., being a priest/priestess of the Orisa Religion residing at _____ and acting as priest/priestess at _____, is hereby licensed as a Marriage Officer for the purposes of the Orisa Marriage Act.

above-mentioned

Wife's Name,

above-mentioned

,

above-mentioned

above-mentioned

No. 10 of 1999

FOURTH SESSION

FIFTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to make provision for the
solemnisation and registration of Orisa
Marriages

Received and read the

First time.....

Second time.....

Third time.....

REPUBLIC OF TRINIDAD AND TOBAGO

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