

No. S 30—THE CHINESE MARRIAGE ENACTMENT, 1955.

The following Enactment by His Highness the Sultan in Council is published for general information.

STATE OF BRUNEI.**Enactment No. 3 of 1955.**

An Enactment to provide for the control and registration of marriages contracted according to established Chinese law or custom.

J. O GILBERT,
British Resident,
Brunei.

Short title.

1. (1) This Enactment may be cited as the Chinese Marriage Enactment, 1955.

(2) This Enactment shall not apply to marriages solemnized under the Marriage Enactment. *Cap. 76.*

Interpretation.

2. In this Enactment and any rules made thereunder—

“Chinese marriage” means a marriage contracted according to established Chinese law or custom and includes a marriage constituted by the marital intercourse of persons betrothed according to such law or custom.

Registrars.

3. (1) The Resident shall appoint Registrars of Chinese marriages, hereinafter referred to as Registrars, for such Districts as the Resident may consider necessary.

(2) If a Registrar intends to be absent at any time for a period of more than one week he shall appoint a deputy to take over his duties, who must be approved by the Assistant Resident in charge of the District.

(3) If a Registrar intends to be absent for a period of more than three months he shall notify the Resident, who shall appoint a new Registrar if he deems fit.

Chinese marriages to be registered.

4. (1) Every Chinese marriage contracted within the State shall be registered within one month with the Registrar of the district in which the husband resides: Provided that if application for registration is made within one month the period for registration shall be extended by such additional period as may be necessary finally to dispose of such application and to carry out any registration ordered.

(2) No such marriage shall be valid unless so registered: Provided that the Court of a First Class Magistrate may, on the application of either party or of any person interested, declare that the marriage is valid if satisfied that it is otherwise valid by established Chinese law or custom.

(3) If a First Class Magistrate's Court declares an unregistered marriage to be valid, the marriage, on payment of the prescribed fee, shall be registered forthwith.

(4) Subject to the provisions of section 5 a Chinese marriage contracted within the State before the commencement of this Enactment, or contracted outside the State either before or after the commencement of this Enactment, may be registered on the application of either party.

(5) The validity of an unregistered Chinese marriage contracted within the State before the commencement of this Enactment, or contracted outside the State either before or after the commencement of this Enactment, shall be decided by application to the Court of a First Class Magistrate, which may order such marriage to be registered forthwith.

5. (1) The Registrar shall not register any marriage until he is satisfied that the ceremonies required by established Chinese law or custom have been duly performed and that the marriage is valid according to such law and custom and that neither of the parties is precluded by his or her personal law from contracting a marriage in such form. Formalities on registration.

(2) Except as provided by subsections (3), (4) and (5) the Registrar shall not register a marriage unless both parties are present and consent to the registration.

(3) If one of the parties is unable to be present at the registration the Registrar may, if he is satisfied that such party is absent for a good and sufficient reason, refer the matter to a Magistrate not lower than a Magistrate of the Second Class and such Magistrate may, if he thinks fit and on proof that the absent party consents, order that such marriage be registered.

(4) If one of the parties refuses or withholds his consent the Registrar shall not register the marriage but shall refer the matter to a Magistrate not lower than a Magistrate of the Second Class.

(5) Such Magistrate shall summon before him the party who refuses or withholds his consent to the registration and if he is satisfied that the marriage is valid may order that it shall be registered.

(6) When a Magistrate orders the registration of a marriage under subsection (4) or (5) he shall indorse the certificate under his hand and seal with the words "Registration approved".

(7) When a marriage has been registered it shall be presumed to be a valid marriage until it is proved to be invalid.

(8) A party to a marriage, or any person interested, may appeal to a Magistrate not lower than a Magistrate of the Second Class against a decision of a Registrar.

Female
must be
fifteen years
of age.

6. (1) No Chinese marriage shall be registered, nor shall it be valid, until the female is fifteen years of age by English computation.

(2) Any person who has carnal connection with a female under fifteen years of age by English computation shall be deemed to be guilty of an offence under section 2 of the Unlawful Carnal Knowledge Enactment, notwithstanding that a marriage ceremony by Chinese law or custom has been performed. *Cap. 29.*

Marriage
certificate.

7. The Registrar shall, on payment of the prescribed fee, and provided that he is satisfied that the requirements of sections 5 and 6 have been complied with, register the marriage and shall issue a certificate in the form prescribed in the Schedule.

Betrothals.

8. (1) Nothing in this Enactment shall affect the validity of a betrothal contracted according to established Chinese law or custom.

(2) No such betrothal shall be registered: Provided that if by subsequent marital intercourse a betrothal has been constituted a marriage as defined in section 2, the Registrar shall register the marriage and shall issue a certificate as provided by section 7.

Penalty for
failure to
register.

9. Any person who marries in the State according to Chinese law or custom and, the marriage not having been registered, fails within one month of the marriage to apply for such marriage to be registered shall be liable on conviction to a fine not exceeding one hundred dollars.

Matrimo-
nial offen-
ces.

10. Any person who—

(a) commits adultery; or

(b) treats the other party to the marriage cruelly and by such cruelty causes substantial physical or mental suffering; or

(c) deserts the other party to the marriage or his or her children without reasonable excuse;

shall be liable on conviction to imprisonment for a term which may extend to six months or to a fine not exceeding one hundred dollars or to both fine and imprisonment: Provided that no person shall be liable to be convicted under paragraph (c) of this section on the ground only that he or she refuses to have sexual intercourse.

11. The Registrar shall on the 30th day of June and on the 31st day of December of each year forward to the Assistant Resident the counterfoil of every certificate of marriage contracted within the District, and the Assistant Resident shall compile and keep a record of such marriages in the form prescribed in the Schedule.

Copies of entries in register to be sent to Assistant Resident.

12. A decision by a Magistrate under section 4 or section 5 shall be subject to further appeal and review under the provisions of the Courts Enactment, 1951, and the Sarawak, North Borneo and Brunei (Courts) Order in Council, 1951, in like manner as if it had been a decision taken in a civil matter or proceeding before such Magistrates within the meaning of the said Enactments.

Appeals.

Cap. 6.

13. The Resident may from time to time by notification in the *Government Gazette*—

Power to make rules.

(a) make rules for carrying out the provisions of this Enactment;

(b) prescribe the fees to be charged for registration; and

(c) add to or vary the Schedule to this Enactment.

Passed this 1st day of June, 1955.

MOHAMED TAIB,
Clerk of Council.

THE SCHEDULE.

BRUNEI CHINESE MARRIAGE

CERTIFICATE.

This is to certify that

a native of aged years,

and a native of

aged years, have this day been married

according to Chinese custom in Brunei.

Place	Registered Parties {
Date

Brian Go-between

Registration Fee \$ Witness of Marriage

.....
Chinese Registrar.

REGISTER OF CHINESE MARRIAGES.

Name of Husband *	Age	Place of Birth	Place of Residence	Names of Parents of Husband *	Name of Wife *	Age	Place of Birth	Place of Residence	Names of Parents of Wife *	Amount of Bribe	No. of Marriage Certificates	Date of Marriage	Registered by

*Romanized and Chinese characters.