

LAWS OF BRUNEI

CHAPTER 126
CHINESE MARRIAGE

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CHAPTER 126

CHINESE MARRIAGE

ARRANGEMENT OF SECTIONS

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SCHEDULE — FORMS

CHINESE MARRIAGE ACT

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

Commencement: 31st July 1955

Citation.

1. (1) This Act may be cited as the Chinese Marriage Act.

(2) This Act shall not apply to marriages solemnised under the Marriage Act (Chapter 76).

Interpretation.

2. In this Act and any rules made thereunder —

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

Registrars.

3. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint Registrars of Chinese Marriages, hereinafter referred to as Registrars, for such Districts as His Majesty the Sultan and Yang Di-Pertuan 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 District Officer in charge of the District.

(3) If a Registrar intends to be absent for a period of more than 3 months he shall notify His Majesty the Sultan and Yang Di-Pertuan, who shall appoint a new Registrar if he deems fit.

Chinese marriages to be registered.

4. (1) Every Chinese marriage contracted within Brunei Darussalam 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 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 Court of a Magistrate 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 Brunei Darussalam before the commencement of this Act, or contracted outside Brunei Darussalam either before or after the commencement of this Act, may be registered on the application of either party.

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

Formalities on registration.

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.

(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 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.

(5) Such magistrate shall summon before him the party who refuses or withholds his consent to the registration and may, if he is satisfied that the marriage is valid, 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 against a decision of a Registrar.

Female shall be over 15 years of age.

6. (1) No Chinese marriage shall be registered, nor shall it be valid, until the female is 15 years of age by English computation.

(2) Any person who has carnal connection with a female under 15 years of age by English computation shall be deemed to be guilty of an offence under section 2 of the Unlawful Carnal Knowledge Act (Chapter 29), notwithstanding that a marriage ceremony by Chinese law or custom has been performed.

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 Act 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 Brunei Darussalam 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 guilty of an offence: Penalty, a fine of \$1,000.

Matrimonial offences.

10. Any person who —

(a) commits adultery;

(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 guilty of an offence: Penalty, imprisonment for 6 months and fine of \$800:

Provided that no person shall be liable to be convicted under paragraph (c) on the ground only that he or she refuses to have sexual intercourse.

Copies of entries in register to be sent to District Officer.

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

Appeals.

12. A decision by a magistrate under section 4 or 5 shall be subject to further appeal and review under the provisions of section 18 of the Subordinate Courts Act (Chapter 6), in like manner as if it had been a decision taken in a civil matter or proceeding before such magistrate within the meaning of that Act.

Power to make rules.

13. His Majesty the Sultan and Yang Di-Pertuan in Council may by notification published in the *Gazette* —

- (a) make rules for carrying out the provisions of this Act;
- (b) prescribe the fees to be charged for registration; and
- (c) add to or vary the Schedule.

Dissolution of marriages. [S 44/89]

14. (1) The High Court shall, subject to the provisions of this section, have the same jurisdiction in matrimonial proceedings, in relation to a Chinese marriage, if it has been registered under section 4, as if it were a civil marriage duly registered as such under the Marriage Act (Chapter 76).

(2) For the purposes of subsection (1), a Chinese marriage registered under this Act shall be deemed to be a monogamous marriage.

(3) The High Court shall have jurisdiction under this section if, at the date of the petition, either party to the Chinese marriage —

(a) had a substantial connection with Brunei Darussalam; or

(b) had been ordinarily resident within Brunei Darussalam for at least 12 months immediately preceding the petition.

SCHEDULE

FORMS

FORM 1

(section 7)

BRUNEI CHINESE MARRIAGE CERTIFICATE

This is to certify that
 Brunei Darussalam NRIC No. of
 aged years and
 Brunei Darussalam NRIC No.
 of aged years,
 have this day been married according to Chinese custom in Brunei Darussalam.

Place

Registered Parties

{
 {

Date

Dowry

Go-between

Registration Free \$

Witness of Marriage

.....
Registrar of Chinese Marriage

SCHEDULE — (continued)

FORM 2

(section 11)

REGISTER OF CHINESE MARRIAGES

| Name of Husband | Age | Place of Birth | Place of Residence | Name of Parents of Husband | Name of Wife | Age | Place of Birth | Place of Residence | Name of Parents of Wife | Amount of Dowry | No. of Marriage Certificates | Date of Marriage | Registered by |
|-----------------|-----|----------------|--------------------|----------------------------|--------------|-----|----------------|--------------------|-------------------------|-----------------|------------------------------|------------------|---------------|
| | | | | | | | | | | | | | |