

Bill No. XXII of 2012

THE REGISTRATION OF BIRTHS AND DEATHS
(AMENDMENT) BILL, 2012

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BILL

further to amend the Registration of Births and Deaths Act, 1969.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Registration of Births and Deaths (Amendment) Act, 2012.

Short title
and
commence-
ment.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

18 of 1969. 2. In the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the principal Act), in the long title, for the words “Births and Deaths”, the words “Births, Marriages and Deaths” shall be substituted.

Amendment
of long title.

10 3. In section 1 of the principal Act, in sub-section (1), for the words “Births and Deaths”, the words “Births, Marriages and Deaths” shall be substituted.

Amendment
of section 1.

Substitution of reference to certain expressions by certain other expressions.	<p>4. Throughout the principal Act (except sections 8, 9, 10, and 20), for the words “births and deaths”, “births or deaths”, “every birth and of every death” wherever they occur, the words “births, marriages and deaths”, “births or marriages or deaths” and “every birth, every marriage and of every death”, as the case may be, shall respectively be substituted; and such other consequential amendments as the rules of grammar may require shall also be made.</p>	5
Insertion of new section 1A.	<p>5. After section 1 of the principal Act, the following section shall be inserted, namely:—</p>	
Application of provisions relating to registration of marriages under this Act.	<p>“1A. (1) Every person shall get his marriage registered under this Act or the Anand Marriage Act, 1909 or under any other law for the time being in force (including State Act).</p> <p>(2) The parties to the marriage, whose marriage has been registered under this Act, shall not be required to get their marriage registered under the Anand Marriage Act, 1909 or any other law for the time being in force (including State Act).</p> <p>(3) The provisions of this Act shall not apply to any person who has registered his marriage under any other law for the time being in force including a State Act providing for registration of marriages or with any other authority under that law and nothing contained in this Act shall affect the validity of the marriages registered under that law.”.</p>	7 of 1909. 10 7 of 1909. 15
Amendment of section 2.	<p>6. In section, 2 of the principal Act, in sub-section (1), after clause (d), the following clause shall be inserted, namely:—</p> <p>‘(da) “marriage” means and includes a marriage solemnized between a male and a female belonging to any caste or religion or tribe under any law for the time being in force and includes marriages solemnized under any custom or usage in any form or manner recognised by law or the marriage registered under any law for the time being in force and also includes remarriage;’.</p>	20 25
Amendment of section 7.	<p>7. In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely: —</p> <p>“(2A) Every Registrar shall, on payment of prescribed fees, enter in the register maintained for the purpose, all information given to him under section 8 or section 8A or section 9 and shall also take steps to inform himself carefully of every marriage which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.”.</p>	30
Insertion of new sections 8A and 8B.	<p>8. After section 8 of the principal Act, the following section shall be inserted, namely:—</p>	
Persons required to register marriages.	<p>“8A. (1) For the purposes of facilitating the proof of marriages, the parties to the marriages, who intend to get their marriage registered under this Act shall, either themselves, or from the persons specified below, give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, information and requisite documents and fees to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16, —</p> <p>(a) in respect of marriage in a house, whether residential or non-residential, not being any place referred to in clauses (b) and (c), the head of the house, and in the absence of any such person, the oldest adult male person present therein during the said period;</p> <p>(b) in respect of marriage in a temple, church, mosque, synagogue or such other religious place, the priest or such other person, by whatever name called, officiating such marriage or the trustee or any other person in charge thereof;</p>	35 40 45

(c) in respect of marriage in a place specifically used for conducting marriages, including marriage halls, choultry, chattram, hotels or such other place, the person in charge thereof;

5 (d) in respect of marriage in an open place or field or ground, the headman or other corresponding officer in the case of a village and the officer in charge of the local police station elsewhere;

(e) in any other place, such person as may be prescribed.

10 (2) Notwithstanding anything contained in sub-section (1), the State Government, having regard to the conditions obtaining in a registration division, may, by order, require that for such period as may be specified in the order, any person specified by the State Government by designation in this behalf, shall give or cause to be given information regarding marriages in a house referred to in clause (a) of sub-section (1) instead of the persons specified in that clause.

15 (3) Without prejudice to the provisions contained in this Act, the State Government may make rules providing that the parties to a marriage may have particulars relating to their marriage entered in such manner and subject to such conditions as may be prescribed.

20 8B. The Registrar shall not refuse to register any marriage for which a duly filled up and signed form has been received by him except on such grounds as may be prescribed:

Refusal to register marriage.

Provided that different grounds may be specified by rules for different class or classes of persons to marriage. ”.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 10A.

25 “10A. (1) Upon the request made by parties to the marriage who intend to get their marriage registered under this Act, it shall be the duty of the persons referred to in clauses (a) to (e) of sub section (1) of section 8A to give necessary information and documents relating to such marriage to the Registrar within such time and in such manner as may be prescribed.

Duty of certain persons to inform marriages.

30 (2) In any area, the State Government, having regard to the facilities available therein in this behalf, may require that a certificate as to marriage shall be obtained by the Registrar from such person and in such form as may be prescribed.”.

10. For section 13 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 13.

35 “13. (1) Any birth or marriage or death, as the case may be, of which information is given to the Registrar after the expiry of the period specified therefor, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

Delayed registration of births' Marriages or deaths.

40 (2) Any birth or marriage or death, as the case may be, of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

45 (3) Any birth or marriage or death, as the case may be, which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class after verifying the correctness of the birth or marriage or death and on payment of the prescribed fee.

50 (4) The provisions of this section shall be without prejudice to any action that may be taken against a person for failure on his part to register any birth or marriage or death within the time specified therefor and any such birth or marriage or death, as the case may be, may be registered during the pendency of any such action.”.

Substitution of new section for section 15. **11.** For section 15 of the principal Act, the following section shall be substituted, namely: —

Correction or cancellation of entry in the register of births or marriages or deaths. “15. If it is proved to the satisfaction of the Registrar that any entry of a birth or marriage or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.”.

Substitution of new section for section 17. **12.** For section 17 of the principal Act, the following section shall be substituted, namely: —

Search of births, marriages and deaths register. “17. (1) Subject to any rules made in this behalf by the State Government, including rules relating to the payment of fees and postal charges, any person may —
 (a) cause a search to be made by the Registrar for any entry in a register of births, marriages and deaths; and
 (b) obtain an extract from such register relating to any birth or marriage or death:

Provided that no extract relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.

(2) All extracts given under this section shall be certified by the Registrar or any other officer authorised by the State Government to give such extracts as provided in section 76 of the Indian Evidence Act, 1872, and shall be admissible in evidence for the purpose of proving the birth or marriage or death to which the entry relates.”.

Substitution of new section for section 21. **13.** For section 21 of the principal Act, the following section shall be substituted, namely: —

Power of Registrar to obtain information regarding birth or marriage or death. “21. The Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or marriage or death in the locality within which such person resides and that person shall be bound to comply with such requisition.”.

Amendment of section 23. **14.** In section 23 of the principal Act, —

(i) in sub-section (1), in clause (a), for the word and figures “sections 8 and 9”, the words, figure and letter “section 8 or section 8A or section 9” shall be substituted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Any person who contravenes the provisions of sub-section (1) of section 10A, shall be punishable with fine which may extend to fifty rupees.”.

Insertion of new section 29A. **15.** After section 29 of the principal Act, the following section shall inserted, namely:—

Registration of marriages not to affect rights of parties to marriage. “29A. The provisions of this Act relating to registration of marriage shall be in addition to, and not in derogation of, any other law for the time being in force and the registration of marriages of the parties under this Act shall not be deemed to affect any right recognised or acquired by any such party under any law, custom or usage.

16. In section 30 of the principal Act,—

Amendment
of section 30.

(i) after clause (a), the following clauses shall be inserted, namely:—

(aa) the fees under sub-section (2A) of section 7;

(ii) after clause (b), the following clauses shall be inserted, namely:—

5 “(ba) the period within which information should be given to the Registrar under sub-section (1) of section 8 A;

(bb) the persons under clause (e) of sub-section (1) of section 8 A;

(bc) the manner and the conditions under sub-section (3) of section 8A;

(bd) the grounds under section 8B;”;

10 (iii) after clause (c), the following clauses shall be inserted, namely:—

“(ca) the time and the manner for giving information under sub-section (1) of section 10A;

(cb) the persons from whom and the form in which certificate shall be obtained.”.

15 **17.** After section 30 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
30A.

“30A. (1) The Central Government may, by notification in the Official Gazette, make such provisions for implementation of the provisions of this Act and for carrying out the purposes of this Act.

Power of
Central
Government
to make rules.

20 (2) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act specified in the notification—

(a) shall not apply to any marriages solemnised under any Act for the time being in force or any customs or usage recognised in law;

25 (b) shall apply to any marriages solemnised under any Act for the time being in force or any customs or usage recognised in law,

with such exceptions, modifications and adaptations as may be specified in the notification.”.

18. In section 31 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment
of section 31.

30 “(3) Nothing contained in sub-sections (1) and (2) shall apply to any matter or law relating to marriages including the Anand Marriage Act, 1909 or any State law or to any rules or notification or order making provisions for registration of marriages in any State.”.

STATEMENT OF OBJECTS AND REASONS

The Registration of Births and Deaths (Amendment) Bill, 2012 seeks to amend the Registration of Births and Deaths Act, 1969 (18 of 1969) so as to provide for registration of marriages irrespective of religion professed and practiced by the parties to the marriage. At present the Registration of Births and Deaths Act, 1969 provides only for the regulation of registration of births and deaths and for matters connected therewith.

2. The Hon'ble Supreme Court in *Seema Vs. Ashwani Kumar* (AIR 2006 SC 1158) in its judgment dated 14-02-2006 has directed the Government that marriages of all persons who are citizens of India belonging to various religious denominations should be made compulsorily registrable in their respective States where such marriages are solemnised and, *inter alia*, directed that as and when the Central Government enacts a comprehensive statute, the same shall be placed before that Court for scrutiny.

3. The Committee on Empowerment of Women (2006-2007) in its Twelfth Report (Fourteenth Lok Sabha) on Plight of Indian Women Deserted by Non Resident Indian (NRI) Husbands presented to Lok Sabha on the 13th August, 2007, has, *inter alia*, expressed the view that all marriages, irrespective of religion should be compulsorily registered and desired that the Government to make registration of all marriages mandatory, making the procedure simpler, affordable and accessible.

4. The 18th Law Commission of India in its 205th Report titled "Proposal to Amend the Prohibition of Child Marriage Act, 2006 and other Allied Laws", *inter alia*, recommended that "registration of marriages within a stipulated period, of all the communities, viz. Hindu, Muslim, Christian, etc., should be made mandatory by the Government". Further, the 18th Law Commission in its 211th Report titled "Laws on Registration of Marriage and Divorce — A proposal for Consolidation and Reform", has recommended for Parliamentary legislation on compulsory registration of marriages which will bring country-wide uniformity in the substantive law relating to registration and will be helpful in achieving the desired goal.

5. The Registration of Births and Deaths Act, 1969, *inter alia*, provides for Registration establishments consisting of Registrar-General, Chief Registrar and registration division, District Registrars and Registrars. It also provides procedures for registration of births and deaths and for maintenance of records and statistics. Further, by virtue of the powers conferred under section 30 of the aforesaid Act, rules for compulsory registration of births and deaths have been framed by the State Governments and Union territory Administrations. Therefore, it is proposed to amend the aforesaid Act suitably to include registration of marriages as well within its scope so that the existing administrative machinery would also be able to carry out registration of marriages in accordance with the specified procedures and be able to maintain necessary records and statistics for registration of marriages also.

6. Having regard to the aforesaid directions of the Supreme Court, report of the Committee on Empowerment of Women and recommendations of the Law Commission referred to in the foregoing paragraphs, it is proposed to amend the Registration of Births and Deaths Act, 1969 to provide for compulsory registration of marriages without affecting in any manner the State law making provisions for compulsory registration of marriages in their respective States. For this purpose, suitable provisions are incorporated in the Bill to avoid any duplication of registration of marriages under the proposed Central law and the State law. It is also proposed to provide in the Bill that the Registration of Births and Deaths Act, 1969 (after the enactment of proposed amendments) shall not apply to any person who has registered his marriage under any other law for the time being in force including a State Act providing for registration of marriages or with any other authority under that law and nothing contained in this Act shall affect the validity of the marriages registered under that law. Further, the parties to the marriage, whose marriage has been registered under this Act shall

not be required to get their marriage registered under the Anand Marriage Act, 1909 or any other law for the time being in force. Moreover, the registration of marriages thereunder shall not affect any right recognised or acquired by any party to marriage under any law, custom or usage.

7. The proposed Bill will provide for registration of marriages of all persons who are citizens of India belonging to various religious denominations and be beneficial to women, as the registration certificate would provide evidentiary value in matrimonial and maintenance cases and prevent unnecessary harassment meted out to them. It will also provide evidentiary value in the matters of age of parties, custody of children and the right of children born out of such marriages.

8. The Bill seeks to achieve the above objects.

NEW DELHI;
The 26th April, 2012.

SALMAN KHURSHID

ANNEXURE

EXTRACTS FROM THE REGISTRATION OF BIRTHS AND DEATHS ACT, 1969

(18 OF 1969)

* * * * *

An Act to provide for the regulation of registration of births and deaths and for matters connected therewith.

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CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Registration of Births and Deaths Act, 1969.

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Definitions.

2. (1) In this Act, unless the context otherwise requires,—

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Delayed registration of births and deaths.

13. (1) Any birth or death of which information is given to the Registrar after the expiry of the period specified therefor, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall be without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action.

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Correction or cancellation of entry in the register of births and deaths.

15. If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction of cancellation.

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Search of births and deaths register.

17. (1) Subject to any rules made in this behalf by the State Government, including rules relating to the payment of fees and postal charges, any person may—

(a) cause a search to be made by the Registrar for any entry in a register of births and deaths; and

(b) obtain an extract from such register relating to any birth or death:

Provided that no extract relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.

1 of 1872.

(2) All extracts given under this section shall be certified by the Registrar or any other officer authorised by the State Government to give such extracts as provided in section 76 of the Indian Evidence Act, 1872, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

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21. The Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition.

Power of Registrar to obtain information regarding births or deaths.

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23. (1) Any person who—

Penalties.

(a) fails without reasonable cause to give any information which it is his duty to give under any of the provisions of sections 8 and 9; or

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further to amend the Registration of Births and Deaths Act, 1969.

(Shri Salman Khurshid, Minister of Law and Justice)