

## **The Myanmar Buddhist Women's Special Marriage Law (draft)**

(2014, Pyidaungsu Hluttaw Law No.     )  
date           month 1376 ME  
date           month 2014

### **Preamble**

In order to enable the enjoyment of equal rights by Myanmar Buddhist Women and non- Buddhist men with respect to marriage, divorce, partition<sup>1</sup> and guardianship of children and to give effective protection, the Pyidaungsu Hluttaw hereby enacts this law.

### **Chapter I Title, Application and Definition**

1. This Law shall be called the Myanmar Buddhist Women's Special Marriage Law.
2. (a) This Law shall be applicable to Myanmar Buddhist Women and non-Buddhist men.  
(b) Disputes concerning marriage, divorce, partition, succession and guardianship of children of Myanmar Buddhist women and non-Buddhist men shall be decided in accordance with this Law, subject to the provisions of the Law Relating to the Practice of Monogamy System.
3. The following terms contained in this Law shall mean as follows:
  - (a) "Citizen" means Myanmar citizen as defined by the Myanmar Citizenship Law.
  - (b) "Buddhist Woman" means a woman who is a citizen of the Republic of the Union of Myanmar, and a woman who professes the Buddhist faith or born of parents who profess the Buddhist faith. However, if the woman conspicuously converted from Buddhism to another religion and professes the other religion officially, it cannot be assumed that she is a Buddhist only by the reason that she was born of parents who profess the Buddhist faith.
  - (c) "Registrar" means a Registrar of Marriages under this Law.

### **Chapter II Persons not concerned with this Law**

4. This Law shall not be applicable to marriages contracted between Buddhists; and between non-Buddhists.
5. Myanmar Customary Law and the Law Relating to the Practice of Monogamy System shall be applicable to marriages contracted between Buddhist women and Buddhist men.
6. Disputes concerning marriage, divorce, partition, succession and guardianship of children of Buddhist Women and Buddhist men shall be decided in accordance with Myanmar Customary Law and the Law Relating to Practice of Monogamy System.

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<sup>1</sup> Translator's Note: the use of "partition" throughout this Bill refers to partition of both property and monies.

7. The marriage between a non-Buddhist woman and a non-Buddhist man shall be subject to relevant existing law, religion, and custom, and to the Law Relating to Practice of Monogamy System.
8. Disputes concerning marriage, divorce, partition, succession and guardianship of children of non-Buddhist Women and non-Buddhist men shall be decided in accordance with their relevant existing law, religion, custom, and the Law Relating to the Practice of Monogamy System.

**Chapter III**  
**Persons who can marry under this Law**

9. A non-Buddhist man, who has attained the age of 18, and a Buddhist woman, who has attained the age of 18, may contract a valid marriage under this Act if the following facts are fulfilled:
  - (a) both parties shall not be of unsound mind;
  - (b) consent to marry shall be voluntary and free from seduction, inducement, coercion, undue influence, fraud or misrepresentation;
  - (c) if the woman has not attained the age of twenty, the consent of parents, or if they are dead, of the guardian *de facto* or of the guardian *de jure*, if any, shall be obtained;
  - (d) in the case of a woman, no valid marriage shall subsist;
  - (e) in the case of a man, no valid marriage shall subsist.

**Chapter IV**  
**Marriage under this Law**

10. Township Administrative Officers of the Township General Administration Department shall be Registrars of Marriages under this Law.
11. Whenever a non-Buddhist man and a Buddhist woman intend to contract a marriage, one of them shall apply in writing in the prescribed form to the Registrar within the jurisdiction where one of them is residing.
12. The application shall be accompanied by an affidavit, admitting that the facts provided under section 9 of Chapter 3 are fulfilled.
13. The non-Buddhist man shall sign in the presence of the Registrar and two witnesses that the facts stated in the application are true.
14. (a) The Registrar shall –
  - (1) affix a copy of the application at a conspicuous place in his office; and
  - (2) serve a notice, in accordance with the manner of service of summons or notices under the Code of Civil Procedure –
    - (aa) if the woman to be married is under 20 years of age, on the parent or guardian;
    - (bb) if the woman had already married a man, on such man;

- (cc) if the man had already married a woman, on such woman.
- (b) If the residence of any person to be served with a copy of the notice is beyond the limits of his jurisdiction, send a copy to him by registered post or by a messenger.
15. Fourteen days after notice of an intended marriage has been given under section 14, such marriage may be solemnized by the Registrar unless it has been previously objected to under sections 16 and 18.
16. Any person may, in writing addressed to the Registrar, object to the intended marriage on the ground that the persons, who submitted application for marriage under section 11, did not comply with one or more of the conditions prescribed in section 9.
17. (a) On receipt of the objection, the Registrar shall refer the objector to a Court of competent jurisdiction and shall postpone the solemnization of marriage until the order of the Court is obtained.
- (b) The Court of competent jurisdiction under sub-section (a) shall be the Township Court within which the Office of the Registrar is situated.
18. (a) The objector may file an application before a Court of competent jurisdiction on the ground that the persons who submitted an application for marriage under section 11 did not comply with one or more of the conditions prescribed in section 9.
- (b) The Court shall issue a certificate to the objector that such an application has been received.
- (c) The Registrar shall –
- (i) not solemnize the marriage of the applicants unless and until an order from the Court is received that the persons have the right to contract a valid marriage, if the certificate issued by the Court under sub-section (b) is lodged by the objector within the specified time;
- (ii) solemnize the marriage of the applicants if the certificate is not lodged within the specified time;
- (d) The Court shall, after examining the allegations contained in the application and hearing the evidence produced by the parties in a summary way, decide whether the parties to the intended marriage have the right to contract a valid marriage, and shall pass an order accordingly. Such order shall be final.
- (e) The Court shall forthwith send a copy of its order to the Registrar.
- (f) (i) If the Court orders that the parties to the intended marriage have the right to contract a valid marriage, the Registrar shall solemnize the marriage.
- (ii) If the Court orders that the parties to the intended marriage do not have the right to contract a valid marriage, the Registrar shall not solemnize the marriage.
19. When the Registrar solemnizes a marriage under section 15 or 18, it shall be solemnized in the presence of two witnesses. Both parties shall declare, in the presence of the Registrar and witnesses, that "we are going to live together as lawful husband and wife".
20. When the marriage has been solemnized under section 19, the Registrar shall enter the relevant particulars in "The Marriage Certificate Register". Such register shall be signed by the parties to the marriage, the witnesses and the Registrar.
21. The Registrar shall arrange "The Marriage Certificate" in quadruplicate, and shall deliver one each to both parties. If the wife is under 20 years of age, to her parent or guardian. The third copy shall be kept permanently at the office of District Administrative Officer. The fourth copy and the documents relating

to the marriage shall be attached to the Book of Marriage Registration at the Township General Administration Department.

22. The register of marriages and other documents appertaining thereto shall at all reasonable time be open for inspection, and certified copies thereof shall, on application, be supplied by the Registrar on payment to him by the applicant a fixed rate.
23. Certified copies of documents relating to marriages under this Act shall be received in evidence without further proof.

**Chapter V**  
**Provisions to be observed by non-Buddhist man**

24. A non-Buddhist man, who has contracted or deemed to have contracted a marriage under this Act, shall observe the following provisions relating to the religious faith of the Buddhist woman –
  - (a) to allow the Buddhist woman to profess the religion freely according to her faith;
  - (b) to allow the children born from the marriage with the Buddhist woman to profess their religion freely according to their faith;
  - (c) to allow the Buddhist woman to keep Buddha statues and images at their home;
  - (d) to allow the Buddhist woman to donate according to religion, to worship, to recite to ward off evil (Payeik), to tell (one's) beads, to listen to religious sermons, to practise religious meditation, to visit Pagoda and Monasteries, to fast, to read and study literature relating to Buddhism;
  - (e) not to cause the Buddhist woman to relinquish the Buddhist faith by using various means, and to convert her to his religion;
  - (f) not to destroy or damage or to defile the place of worship or the thing which is sacred with an intent to insult Buddhism;
  - (g) not to insult, in words or in writing or through visible representation or gesture, with bad intention to cause bitter feeling to the Buddhist.
25. Notwithstanding any provision contained in law and custom, if a non-Buddhist man, who has contracted a marriage under this law, violates any provision under section 24, the Buddhist woman can divorce the non-Buddhist man. If the woman would divorce the man due to that reason –
  - (a) the man shall waive the portion that he is entitled to from the property owned by both, and pay compensation to the Buddhist woman;
  - (b) the guardianship of all children shall be with the Buddhist woman;
  - (c) the man shall pay maintenance for children who are minors.

**Chapter VI**  
**Marriage Deemed to be Contracted Under This Act**

26. In case of cohabitation between a non-Buddhist man and a Buddhist woman, as if they were both Buddhists and Myanmar, and if the said cohabitation could be assumed to be a valid marriage according to Myanmar Customary Law –
- (a) They are deemed to have contracted a marriage from the beginning of such cohabitation, and shall be presumed to be married under this Act;
  - (b) Such husband and wife may lodge an application to the Registrar, at any time from the day that cohabitation started, for registration under this Act. Then, the Registrar shall perform according to the provisions of sections 20 and 21 as if they were solemnized by him under section 19.

**Chapter VII**  
**Marriage Solemnized by the Registrar**

27. (a) When a Buddhist woman and a non-Buddhist man have been cohabiting without registering their marriage under this Act, the woman or her parents, guardian, relatives may give such information to a Registrar within whose jurisdiction she resides. The Registrar shall record the information, and it shall be signed by the informant.
- (b) The Registrar shall –
- (i) upon receiving the information under sub-section (a), record the information; request the informant to sign it; then summon both the Buddhist woman and the non-Buddhist man, who are cohabiting without being registered, to appear before him on a date fixed by him;
  - (ii) if both parties who are summoned under sub-section (i) wish to contract a marriage, the Registrar shall proceed in accordance with the requirements of section 19, and shall perform according to the provisions of sections 20 and 21.
  - (iii) If either party or both, who are summoned under sub-section (i), are unwilling to contract a marriage or fail to appear, the Registrar shall send a report to the Court that has jurisdiction under section 16 together with the written information.
- (c) Notwithstanding any provision contained in other existing laws, upon receiving the report, the Court shall treat the case as if a civil suit has been properly prosecuted, examine both parties and the evidence submitted by them, hear the case summarily, and decide whether the man and woman are husband and wife under section 26 sub-section (a). The Court may pass an order on the costs as it considers appropriate.
- (d) In a case where the parties are cohabiting under sub-section (a) –
- (i) the party who wishes to register the marriage shall be deemed plaintiff; and the other party who does not wish to register the marriage shall be deemed defendant.
  - (ii) if both parties have no wish to register the marriage, the person who gave the information shall be deemed plaintiff, and both persons who do not wish to register the marriage shall be deemed defendants.
- (e) The Court shall forthwith send a copy of its order to the Registrar.
- (f) If the Court decides that the man and woman are husband and wife under the section 26 sub-section (a), the Registrar shall, in accordance with the order of the Court, enter the particulars in the Marriage Certificate Register, and shall sign in the register book. The Registrar shall then perform according to the stipulations of section 21.

- (g) The order passed by the Township Court can be appealed to the District Court which has competent jurisdiction. The order passed by the District Court shall be final.

### **Chapter VIII**

#### **A Promise for Marriage deemed to have been made under this Law**

28. A promise to marry a Buddhist woman made by a non-Buddhist man shall be deemed to be a promise to marry her under this Act.
29. Where any member of an undivided family who professes the Hindu, Sikh or Jaina religion marries or is deemed to have married under this Act to a Buddhist woman, he shall be deemed to effect his severance from such family. Besides, in case of his death before partition, his vested right shall devolve on his wife and children.

### **Chapter IX**

#### **Issues Relating To Property Ownership and Matrimony shall be decided under Myanmar Customary Law**

30. All issues concerning the right to property ownership and inheritance relating to persons who have contracted, or deemed to have contracted, a marriage under this Act, and their lawful husbands, lawful wives and all lawful children, shall be decided according to Myanmar Customary Law as if they and their families were Buddhist.
31. The provisions of Myanmar Customary Law relating to matters of divorce, partition, guardianship of children, shall have effect on persons who contracted marriages under this Act or persons who are deemed to have contracted a marriage under this Act, as if they all were Myanmar Buddhists.
32. However, due to any religion, custom or any law that has effect on such religion or custom, and that does not allow the marriage between a non-Buddhist man and a Buddhist woman, the man can divorce the woman if he wishes. Due to such a reason, if the man divorces the woman, or forsakes, or behaves cruelly and causes mental harm, whether or not it amounts physical violence, notwithstanding the provision of the said custom or law –
- (a) the man shall waive the portion entitled to him from property owned by both parties,<sup>2</sup> and pay compensation to the Buddhist woman;
  - (b) the guardianship of all children shall be with the Buddhist woman;
  - (c) the man shall pay maintenance for children who are minors.
33. While a non-Buddhist woman, who is a citizen of the Union of Myanmar, was cohabiting with a non-Buddhist man as husband and wife, and the woman converted to the Buddhist religion; they shall be treated as though they contracted a marriage under this Act, and the provisions under sections 30 and 31 shall be applicable to them.
34. However, when the woman converted to the Buddhist religion, due to the reason that any religious custom that has legal effect, or to any law that has effect on custom, that does not allow the marriage between a non-Buddhist man and a Buddhist woman, if there is wish to divorce, the man or the woman can divorce within an appropriate period with effect from the date that the woman converted to the Buddhist religion. Due to that reason –
- (a) If the man would divorce the woman –

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<sup>2</sup> Translator's Note: It is not clear from the Myanmar text as to when such property might have been acquired.

- (i) The man shall pay monthly maintenance that is sufficient to continue a standard of living not lower than the standard of the woman prior to the conversion of the religion, until the woman contracts another marriage.
  - (ii) The woman shall be entitled to all properties that the woman owned solely prior to the conversion of religion by the woman. However, the woman shall not be entitled to any property owned solely by the man prior to conversion of the religion.
  - (iii) The woman shall hold the right of guardianship on all the children who are minors.
  - (iv) The man shall pay maintenance to all the children who are minors.
- (b) If the woman would divorce the man –
- (aa) The woman shall not be entitled to any property solely owned by the man prior to conversion of religion to Buddhism by the woman except the property solely owned by the woman.
  - (bb) The woman shall hold the right of guardianship on all the children who are minors.
  - (cc) The man shall pay maintenance to all the children who are minors.
35. The provisions stipulated from sections 30 to 34 shall be applicable to all matters between a Buddhist woman and a non-Buddhist man relating to divorce, or abandonment of the Buddhist woman by a non-Buddhist husband, or cruel behaviour by the non-Buddhist husband causing mental harm whether or not it amounts physical violence.
36. If the marriage is contracted, or deemed to be contracted under this Act, the children who are born of those parties shall be presumed as lawful children.

## **Chapter X**

### **Offences and Penalties**

37. If the Court is of the opinion that the objection made under sections 16 and 18 was not lodged in good faith, the Court may pass an order that the objector shall pay compensation of not more than Kyats 50,000 to the persons who intend to get married.
38. If a non-Buddhist man violates any provision under sub-sections (a), (b), (c) and (d) of section 24, he shall be punished with imprisonment for a term which may extend to 6 months, or with fine not more than Kyats 500,000, or with both.
39. If a non-Buddhist man violates the provision under sub-section (e) of section 24, he shall be punished with imprisonment which may extend to 3 years, and shall also be liable to a fine.
40. If a non-Buddhist man violates the provision under sub-section (f) of section 24, he shall be deemed to have committed an offence under section 295 of the Penal Code.
41. If a non-Buddhist man violates the provision under sub-section (g) of section 24, he shall be deemed to have committed an offence under section 295 (a) of the Penal Code.
42. Any person making, signing or attesting any declaration or certificate (prescribed by this Act) containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be deemed to have committed an offence under section 199 of the Penal Code.
43. Any Registrar who solemnizes a marriage against any provision stipulated in sections 13, 14, sub-section (a) of section 16, sub-section (c)(i) of section 17, sub-section (f)(ii) of section 17 shall be punished with imprisonment which may extend to one year or shall also be liable to fine not more than Kyats 50,000.
44. The Buddhist Women's Special Marriage and Succession Act, 1954 is revoked by this Law.

THE SCHEDULE.  
Form A (for man)  
(See section 11)  
FORM OF NOTICE OF MARRIAGE

\_\_\_\_\_ District  
\_\_\_\_\_ Township

To the Registrar of Marriage

I hereby give notice that a Marriage under the Myanmar Buddhist Women's Special Marriage Law is intended to be solemnized between me and the other party herein named and described:—

Statements of the person giving the notice:—

Part (1)

- (a) Name
- (b) Occupation
- (c) Nationality
- (d) Religion
- (e) Age
- (f) Residence (residing prior to the date of notice)
- (g) Names of the parents -
  - (1)
  - (2)
- (h) Occupation of the parents
- (i) Residence of the parents
- (j) Name of the guardian (if no parents are living)
- (k) Occupation and address of the guardian.
- (l) Whether he has been married before; and if so, whether the marriage is subsisting at this date.
- (m) If the former wife is still alive, her name and address.

Part (2)

- (a) The name (of the other party).
- (b) Occupation.
- (c) Nationality
- (d) Religion.
- (e) Age.
- (f) Residence (during the last 14 days prior to the date of notice).
- (g) Names of the parents -
  - (1)
  - (2)
- (h) Occupation of the parents.
- (i) Residence of the parents.
- (j). Name of the guardian (if no parents are living).
- (k) Occupation and address of the guardian.
- (l) If under the age of 20, whether consent of the parents or of the guardian has been obtained.
- (m) The name, address and occupation of the parents or of the guardian giving consent.
- (n) Whether she has been married before; and if so, whether the marriage is subsisting at this date.

(Signed)

DECLARATION BEFORE THE REGISTRAR

I, \_\_\_\_\_ hereby declare that what is stated in Part (1) in the above notice is true to my own knowledge, and what is stated in Part (2) is true to the best of my information and belief. I am aware that, if any statement in the above notice is false to my knowledge, and if in making such statement, I either know or believe it to be false, or do not believe it to be true, I am liable to be prosecuted under section 199 of the Penal Code.

(Signed.)

In the presence of :-

- (1) (Signed.)  
(Name, occupation and address.)
  
- (2) (Signed.)  
(Name, occupation and address.)

The above statements have been read over and explained to the declarant who acknowledges the contents to be correct and has signed this declaration to that effect in the presence of myself and two witnesses who have signed above.

(Signed.)  
Registrar of Marriages

I hereby certify that I have published the above notice by affixing the copy thereof in a conspicuous place in my office on the \_\_\_\_\_ and have served/sent copies of the same to \_\_\_\_\_ on the following dates \_\_\_\_\_

(Signed.)  
Registrar of Marriages

Form B (for woman)  
(See section 11)  
FORM OF NOTICE OF MARRIAGE

\_\_\_\_\_District  
\_\_\_\_\_Township

To the Registrar of Marriage

I hereby give notice that a Marriage under the Myanmar Buddhist Women's Special Marriage Law is intended to be solemnized between me and the other party herein named and described:—

Statements of the person giving the notice :—

Part (1)

- (a) Name
- (b) Occupation
- (c) Nationality
- (d) Religion
- (e) Age
- (f) Residence (during the last 14 days prior to the date of notice)
- (g) Names of the parents—
  - (1)
  - (2)
- (h) Occupation of the parents
- (i) Residence of the parents
- (j) Name of the guardian (if no parents are living)
- (k) Occupation and address of the guardian.
- (l) If under the age of 20, whether consent of the parents or of the guardian has been obtained.
- (m) The name, address and occupation of the parents or of the guardian giving consent.
- (n) Whether he has been married before; and if so, whether the marriage is subsisting at this date.
- (o) If the former husband is still alive, his name and address.

Part (2)

- (a) The name (of the other party)
- (b) Occupation
- (c) Nationality
- (d) Religion
- (e) Age
- (f) Residence (residing prior to the date of notice).
- (g) Names of the parents—
  - (1)
  - (2)
- (h) Occupation of the parents.
- (i) Residence of the parents.
- (j) Name of the guardian (if no parents are living).
- (k) Occupation and address of the guardian.
- (l) Whether he has been married before; and if so, whether the marriage is subsisting at this date.

(Signed)

DECLARATION BEFORE THE REGISTRAR

I, \_\_\_\_\_ hereby declare that what is stated in Part (1) in the above notice is true to my own knowledge, and what is stated in Part (2) is true to the best of my information and belief. I am aware that, if any statement in the above notice is false to my knowledge, and if in making such statement, I either know or believe it to be false, or do not believe *it* to be true, I am liable to be prosecuted under section 199 of the Penal Code.

(Signed.)

In the presence of :-

(1) (Signed.)  
(Name, occupation and address.)

(2) (Signed.)  
(Name, occupation and address.)

The above statements have been read over and explained to the declarant who acknowledges the contents to be correct and has signed this declaration to that effect in the presence of myself and two witnesses who have signed above.

(Signed.)  
Registrar of Marriages

I hereby certify that I have published the above notice by affixing the copy thereof in a conspicuous place in my office on the \_\_\_\_\_ and have served/sent copies of the same to \_\_\_\_\_ on the following dates \_\_\_\_\_

(Signed.)  
Registrar of Marriages

**Form C**

(To be in quadruplicate.)

(See section 20)

FORM OF THE MARRIAGE CERTIFICATE REGISTER

No.

Date of marriage

Place of marriage

(a) Name of husband

(b) Age

(c) Nationality

(d) Religion

(e) Occupation

(f) Address

(g) Name of parents, occupation and address

(h) Name of the guardian, occupation and address (if no parents are living)

(a) Name of wife

(b) Age

(c) Nationality

(d) Religion

(e) Occupation

(f) Address

(g) Name of parents, occupation and address

(h) Name of the guardian, occupation and address (if no parents are living)

(i) If under the age of 20, the name, address and occupation of the parents or of the guardian giving consent.

\*[This marriage has been solemnized between \_\_\_\_\_ and \_\_\_\_\_ in the presence of the witnesses mentioned below.

Signature of husband

Signature of wife

at the presence of us -

Mr./Mrs. Name \_\_\_\_\_  
Occupation \_\_\_\_\_  
Address \_\_\_\_\_

Mr./Mrs. Name \_\_\_\_\_  
Occupation \_\_\_\_\_  
Address \_\_\_\_\_

Signature of the person who give consent to the solemnization

The solemnization of above-mentioned persons is held at my presence on \_\_\_\_\_ 20 ]

Registrar of Marriages

\* Remark: If the persons refuse for solemnization, this paragraph shall be deleted according to sub-section (2) of section 21 of the Act.