

GUIDELINES FOR ISSUANCE OF MARRIAGE CERTIFICATE BETWEEN A BHUTANESE AND A FOREIGNER SPOUSE

Marriage Certificate recognizes and legalizes marriage between two people. It establishes interpersonal relationships. It can be recognized by a State, an organisation or a religious authority etc. It is often viewed as a civil contract between two people, evidenced by a Marriage Certificate obtained from the competent authority or solemnized in a religious setting. It is necessary to create normative or legal obligations between the individuals involved, or to recognize and legalize the marriage between two people.

In Bhutan, parties desiring to obtain a Marriage Certificate must abide by the provisions of the Marriage Act of Bhutan, 1980 and other relevant laws. The Marriage Act clearly enshrines the requirements and procedure to obtain Marriage Certificate. The legal age of marriage in Bhutan for both male and female is eighteen years. The applicants should present themselves in formal attire before the Court along with their respective sureties.

A Bhutanese marrying a foreigner and desiring to obtain marriage certificate must comply with the followings:

(A) Petition to the High Court:

The parties must submit a petition to the High Court along with the following documents:

- (1) A petition signed by two Bhutanese sureties, who may not be present at the time of the submission of petition, but should be present at the respective Dzongkhag Court during the issuance of the Marriage Certificate.
- (2) Citizenship identity card/passport/visa copy.
- (3) One passport size photograph each of the applicants.
- (4) Single status certificate issued by the respective Dzongkhag Court, where the census of the person applying for single status is registered. In case of the foreigner, a certificate of single status issued by his/her respective Public Notary Office.

- (5) Copy of divorce agreement/final decree of divorce, if previously married and divorced evidencing a lapse of one year.
- (6) A copy of the death certificate of the spouse, if the party have been previously married and widowed.
- (7) Birth certificate of the child/children if any or declaration if otherwise.
- (8) Facts establishing to the satisfaction of the court that they had been associated with each other for atleast a minimum of one year.
- (9) Proof of one year lapsed after the application for the Marriage Certificate if it has been denied by the Court.
- (10) Proof of exiting Bhutan within one month from the date of divorce with the previous Bhutanese spouse if any.
- (11) In addition to the above requirements **a foreinger spouse** shall also submit the following documents:
 - (a) A certified copy of a certificate of consent and certificate stating the marital status signed by the parents. A relationship certificate/documentary evidence/s duly issued by the competent authority of the respective country of the foreigner to establish the relationship.
 - (b) In the event of the death of both the parents, a certified copy of a certificate of consent and certificate stating the marital status must be obtained from atleast two persons of first, second or third degree consuiguinity of the person applying for a certificate of single status. In such case, a certified death certificate of the deceased parents issued by competent authority and a certified relationship certificate/documentary evidence/s duly issued by the competent authority of the home country of the foreigner to establish the relationship.
 - (c) In the event where a foster/adopted parents are the legal guardian/s of the person desiring to obtain a certificate of single status, a certified copy of a certificate of consent and certificate stating the marital status must be obtained from a foster/adopted

parents. In this case, a person must furnish evidence/s to the satisfaction of the court issuing the certificate of single status to affirm such relationship.

- (d) In the event of demise of both the foster parents, a certified copy of a certificate of consent and certificate stating the marital status must be obtained from atleast two persons of first, second or third degree consuigine of the person applying for a certificate of single status. In such case, a certified copy of death certificate of the deceased foster parents issued by competent authority and a certified relationship certificate/documentary evidence/s duly issued by the competent authority of the home country of the foreigner must be submitted to establish the relationship.
- (e) If the parents, foster/adopted parents, relatives, or legal guardians deny giving the certificate of consent and the certificate stating the marital status, then such cetificate shall be obtained from the respective court or the public notary office.
- (f) Copy of the passport or any other document of such nature of the natural/foster/adopted parents or of any person from whom a certificate of consent and certificate stating the marital status is obtained as the case may be.
- (g) Any other certified legal document/s to prove his/her marital status may be submitted for review by the Registry of the Court.
- (h) A certified copy of clearance certificate from competent authority stating that he or she is not convicted of criminal offence.

Upon the submission of the petition (Form 7 Ka), the High Court shall verify the documents and conduct the interview. Thereafter, the High Court shall issue an order to the respective Dzongkhag Court where the census of the prospective Bhutanese spouse is recorded. The respective Dzongkhag Court shall then verify the documents, take affidavit and issue the Marriage Certificate in accordance with the Marriage Act.

(B) Single Status Certificate for:

- (1) A Bhutanese spouse:** A Bhutanese marrying a foreigner and desiring to obtain Marriage Certificate must produce single status certificate from his/her respective Dzongkhag Court, where the prospective Bhutanese spouse census is recorded. The single status certificate must be obtained by submitting an application to the Registry of the Court of the respective Dzongkhag. The application must be made in person with the following documents:

 - (a) Authentication Certificate from the Gup stating the marital status of the spouse. However, whose census are with Thromdes/Municipals, a certificate of authentication of marital status must be obtained from the respective Thrompons/Mayors.
 - (b) A certified copy of the certificate of consent and certificate stating the marital status signed by parents along with a relationship certificate (family tree/census) duly issued by the Ministry of Home and Cultural Affairs to establish the parent-children relationship.
 - (c) In the event of death of both the parents, a certificate of consent and certificate stating the marital status must be obtained from the head of the family and two other relatives of first, second or third degree consanguinity of the person applying for a certificate of single status. In such case, a death certificate of the deceased parents issued by competent authority and a relationship certificate (family tree/census) duly issued by the Ministry of Home and Cultural Affairs to establish the relationship of the person applying for a certificate of single status and his/her first, second or third degree consanguinity must be submitted.
 - (d) In the event where a foster/adopted parents are the legal guardian/s of the person desiring to obtain a certificate of single status, a certificate of consent and certificate stating the marital status must be obtained from such foster/adopted parents. In this case, the person must furnish evidence/s to the satisfaction

of the court issuing the certificate of single status to affirm such relationship.

- (e) In the event of death of both the foster parents, a certificate of consent and certificate stating the marital status must be obtained from the head of the family and two other relatives of first, second or third degree consanguinity of the person applying for a certificate of single status. In such case, a death certificate of the deceased foster parents issued by competent authority and a relationship certificate duly issued by the Ministry of Home and Cultural Affairs to establish the relationship of the person applying for a certificate of single status and his/her first, second or third degree consanguinity must be submitted.
 - (f) If the parents, foster/adopted parents, relatives, or legal guardians deny giving the certificate of consent and the certificate stating the marital status, then such certificate shall be obtained from the respective courts or the public notary office, where his/her census is recorded.
 - (g) Copy of the Citizenship Identity Card.
 - (h) Copy of the Citizenship Identity Card of the parents/foster/adopted parents/ and of any person except from the respective courts whom a certificate of consent and certificate stating the marital status is obtained as the case may be.
 - (i) Two recent passport size photographs in proper national dress.
 - (j) A copy of divorce agreement/Judgment, which ever is appropriate, if previously married and divorced evidencing lapse of one year.
 - (k) A copy of death certificate of the deceased spouse, if previously married and widowed.
- (2) **A Foreigner spouse:** A foreigner marrying a Bhutanese and desiring to obtain Marriage Certificate must produce a certificate of single

status issued by the Notary Public Office of his/her respective country.

(C) Issuance of the Marriage Certificate by the respective Dzongkhag Court:

Upon receiving the order from the High Court, the respective Dzongkhag Court where the prospective Bhutanese census is recorded shall further verify the documents and obtain an affidavit from the parties before issuing the Marriage Certificate.

- (1) The parties shall:
 - (a) Submit the copy of an order from the High Court which has not lapsed three months.
 - (b) Submit single status certificates and the certificate of consent.
 - (c) Present two sureties, a male surety for the bridegroom and a female surety for the bride. Of the two sureties, one must be a Bhutanese citizen and acceptable by the Court and should be well acquainted with the couple in accordance with Section Kha 2-1 of the Marriage Act 1980.
 - (d) Present themselves before the Court in person in accordance with Sections Kha 1-5 & Kha 2-1 of the Marriage Act 1980.
 - (e) Submit three recent passport size photographs each.
 - (f) Submit a copy of divorce agreement/final decree of divorce, if previously married and divorced evidencing lapse of one year.
 - (g) Submit a copy of death certificate of the deceased spouse, if previously married and widowed.
 - (h) Submit a copy of birth certificate of the child/children if any or declaration otherwise.

- (i) Make a declaration/ affidavit before the Court as prescribed in the judicial forms 7 and 8(KA) and affix their signatures or thumb impressions therein.
- (j) Put their signature or thumb impression on the legal stamp (it should be half on the stamp and half outside) and a separate signature or thumb impression on the application/form.
- (k) Submit all the documents in support of Form 7 and 8(KA), and other necessary document as deemed necessary by the Court.
- (l) Declare that he/she shall not propagate any religion or introduce any new religion in accordance with Section Kha 2-9 of the Marriage Act.
- (m) Adopt the existing traditions and customs, and comply with the Constitution and other relevant Bhutanese laws.
- (n) Establish a fact to the satisfaction of the court that they had been associated with each other for atleast a minimum of one year.
- (o) **A Bhutanese marrying a foreigner shall:**
 - (i) Submit an affidavit that he/she shall not stand for any elected office in accordance with Article 23, Section 4 of the Constitution.
 - (ii) Submit an affidavit in accordance with Sections Kha 2-6 and 2-7 of the Marriage Act 1980, mentioning that he/she shall:
 - (a) Not seek employment in the defence or Ministry of Foreign Affairs of the Government of Bhutan;
 - (b) Not apply for land or any other kidus;
 - (c) Not apply for loans; and
 - (d) Other benefits restricted under the laws.

- (iii) Be restricted from enjoying the privileges and benefits in accordance with Section Kha 2-8 of the Marriage Act as mentioned herein below:
 - (a) From receiving any aid from the government to pursue or undergo training in foreign countries.
 - (b) From the date of contracting such a marriage, the Government aided expenses given for studies and training shall be withdrawn forthwith.
 - (c) The expenditure given by the government for pursuing studies or undergoing training up till date of such a marriage shall have to be refunded.
 - (d) The Government of Bhutan shall send intimation to the country sponsoring the student to withdraw all the expenses provided for studies or training to a Bhutanese national who is marriage is contracted with a foreigner.
 - (iv) Declare that he/she shall not apply for any further promotions in accordance with Sections Kha 2-4 and 2-5 of the Marriage Act.
 - (v) Submit a declaration before the Court to surrender his/her citizenship, if he/she holds citizenship of other countries in accordance with the Constitution and Marriage Act.
- (2) A foreigner marrying a Bhutanese shall be interviewed by a panel comprising of the Chief Justice and other two justices of the High Court on Bhutanese customs, culture, tradition and history and any other questions as it deems necessary.
 - (3) In the event, if parties fail to process marriage certificate from the respective Court within three months from the date of order issued by the High Court, then such order shall stand automatically annulled and shall require the couple to process the documents afresh.
 - (4) A person whose Marriage (Certificate) application is dismissed or denied by the court, it shall be barred from re-application until a period of one year has lapsed from the date of such denial.

- (5) In case of divorce, the foreign spouse should exit Bhutan within one month. If he/she re-marries, he/she shall be eligible for new marriage certificate only after one year.
- (6) The Court may ask the parties to submit any additional documents and statements if the dealing Court deems necessary.
- (7) The Department of Immigration while renewing the Marriage Certificate card/visa annually must confirm that the Marriage between the parties still subsists.
- (8) According to Section Kha 1-5 of the Marriage Act 1980, it shall be incumbent upon the person standing as surety to thoroughly enquire whether or not the intending bride or bridegroom has contracted any prior marriage and whether or not any provisions laid down in the Marriage Act will be contravened by contracting such a marriage. If any provisions laid down in the Marriage Act are found to have been contravened, then they shall be liable to be punished with the penalties and fines as prescribed by the Act. The parties should submit an undertaking affirming the truth of all the informations submitted and if proven false shall be liable for perjury in accordance with Sections 369 of the Penal Code.
- (9) If any parties submit fraudulent or forged documents he/she shall be subject to criminal proceedings under the Bhutan Penal Code or any other relevant laws.