



# FAMILY

---

## LEGAL CLINIC

---

### **FAMILY ACT**

*Act number: 4/2000*

*Date: 25-09-1421 H*

*21-12-2000 M*

Act number: 4/2000

Date: 25-9-1421 H

21-12-2000 M

## **FAMILY ACT**

*Introduction and short title*      1. (a) This Act provides the guidelines to be followed in the Maldives about marriage, divorce, payment of maintenance, custody, guardianship, attribution of legitimacy of children, proof of paternity and other matters relating to family life.

(b) This Act may be cited as the “Family Act”.

## **MARRIAGE**

*Marriage*      2. A marriage between a Maldivian national and another Maldivian national, or a Maldivian national and a foreign national shall be solemnized in accordance with the provisions of this Act.

*Solemnization of Marriage*      3. (a) A marriage in the Maldives may be solemnized only by a Judicial *Mauzun*, upon an offer of marriage by one party to the other party, and that offer having been accepted by the other party, and in the presence of the judicial guardian of the bride and two witnesses, with the *wali* of the judicial guardian of the bride, and having fulfilled all the requirements and formalities stipulated in this Act for solemnization of a marriage.

(b) For the purposes of subsection (a) of this section, the judicial guardian of the bride shall be deemed to be present at the solemnization of the marriage where judicial consent under circumstances provided in section 9(b) of this Act is received by the Judicial *Mauzun* in accordance with section 9(c), or where the *wali*

has been delegated to another person, then by the presence of that person.

*Minimum age  
of marriage*

4. (a) With the exception of the circumstances provided in subsection (b) of this section, a marriage under this Act may only be solemnized if both the parties desirous of contracting the marriage has reached 18 years of age in accordance with the Gregorian Calendar.

(b) Where a person who has not reached 18 years of age in accordance with the Gregorian Calendar makes an application for marriage, the Registrar of Marriages has the discretion to grant approval for solemnization of that marriage, if that person has attained puberty, and upon having considered the person's physical well-being, financial capabilities, and his reasons for contracting the marriage.

*Permissible  
marriages*

5. Marriage shall only be contracted with a person who is not prohibited from marrying him according to the principles of Islamic *shariah*.

*Marriage of a  
woman during  
subsistence of  
her marriage*

6. (a) A person's wife, or a woman to whom marital rights of a man may be attributed (a woman under the *ismath* of a man), shall not contract a marriage with another man.

(b) A woman observing the period of *iddah* following a revocable divorce shall not contract any marriage except with her erstwhile husband.

(c) A woman who has been divorced three times by the same husband shall not contract marriage with her erstwhile husband except after being divorced and observing the period of *iddah* of a

marriage contracted with another man, and that marriage having been consummated.

- (d) A widow of a man shall not contract a new marriage except after having observed a period of 4 months and 10 days according to the *hijri* calendar, from the date of her husband's death.

*Number of simultaneous marriages a man can contract*

7. A man shall not contract marriages with more than 4 women simultaneously. For the purpose of this section, a woman shall be deemed to be a woman in simultaneous marriage with a man, if she is observing a period of *iddah* in respect of such a man.

*Marriage with non-Muslims*

8. (a) A Maldivian woman may not contract a marriage with a non-Muslim man.
- (b) If any Maldivian man wishes to contract a marriage with a non-Muslim woman, that marriage may only be solemnized if the non-Muslim woman is permitted by Islamic *shairah* to contract a marriage with a Muslim man.

*Consent and wali*

9. (a) A marriage may only be observed and registered under this Act where both parties to the marriage have given their consent to contract the marriage. In addition, *wali* of the bride's judicial guardian or Judicial Consent in accordance with subsection (b) of this section should be obtained.
- (b) Where it is not possible to obtain *wali* of the bride's judicial guardian due to any of the following circumstances, the marriage may be solemnized with Judicial Consent:

- (1) no judicial guardian is alive who inherits the *wali* by lineage;
- (2) *wali* is withheld by the judicial guardian without reasonable cause;
- (3) whereabouts of the judicial guardian is unknown;
- (4) judicial guardian lacks the requirements to grant *wali*.

(c) Where Judicial Consent is required for solemnization of marriage, and it is established before the Court that one of the circumstances stipulated in subsection (b) of this section exists, such Judicial Consent shall be entrusted in accordance with the Rules made under this Act to the Judicial *Mauzun* responsible for solemnizing that marriage.

*Dowry*

- 10.** (a) The woman contracting a marriage shall be entitled to the dowry upon solemnization of the marriage in accordance with the principles of Islamic *shariah*. It shall be an obligation on the man contracting the marriage to give the dowry in accordance with the principles of Islamic *shariah*.
- (b) It is the right of the woman contracting a marriage to determine the nature and amount of dowry, and to receive it. No other person shall have any right to make any decisions in respect of the foregoing.
- (c) Any item of value or any benefit or work which is permissible under Islamic *shariah* shall suffice as dowry.

*Observing a  
nuptial  
agreement*

- 11.** (a) This Act does not prevent parties to a marriage from forming a nuptial agreement in writing, including in the agreement, the basic principles to be observed in the marital relationship between the parties to a marriage, and complying with such an agreement.
- (b) The agreement stated in subsection (a) of this section shall be formed in accordance with the principles of Islamic *shariah*.

*Polygamous  
marriage*

- 12.** (a) Polygamous marriage may be solemnized only upon being approved by the Registrar of Marriages subsequent to an application being made to the Registrar of Marriages in accordance with this Act and Regulations made under it by a man desirous of contracting such a marriage.
- (b) Polygamous marriage may be approved after having considered the financial competence of the man to maintain his wives and other dependents under his care and if the reasons for contracting the marriage based on principles of Islamic *shariah* are acceptable to the Registrar of Marriages.

*Void marriages*

- 13.** Any marriage that does not fulfil the conditions required under Islamic *shariah* for a valid marriage shall be void.

*Approval for  
solemnization*

- 14.** (a) Registrar of Marriages shall grant the approval to solemnize marriages. No marriage may be solemnized without the approval of the Registrar of Marriages.

- (b) Approval to solemnize a marriage is only granted if the proposed marriage meets the conditions required to be fulfilled under Islamic *shariah* and the law.

*Application for marriage*     **15.** An application for solemnization approval shall, in accordance with this Act and Regulations made under it, be filed with the Registrar of Marriages by the two parties wishing to contract that marriage, at least 7 days prior to the date proposed for solemnization of the marriage.

*Marriage between Maldivians and foreigners*     **16.** A marriage between a Maldivian national and a foreign national may only be solemnized upon fulfillment of following conditions:

- (a) the man and the woman proposing to contract the marriage satisfy the conditions required for a valid marriage under Islamic *shariah*.

- (b) the man is financially competent in accordance with the principles held by the competent Court of Law in the Maldives and Islamic *shariah* to bear the expenses of maintaining a family, where a man of foreign nationality proposes to contract a marriage with a Maldivian woman.

*Declaration by a man of foreign nationality*     **17.** Where a marriage is to be contracted between a man of a foreign nationality and a Maldivian woman, the foreign national shall, prior to contracting the marriage, sign a declaration accepting the obligations on him under this Act and Regulations made under it.

*Marriage between Maldivians and foreigners*     **18.** The principles stipulated in section 33 and 34 of this Act shall apply in respect of marriages solemnized between Maldivians and foreigners prior to the commencement of this Act as well.

### REGISTRATION OF MARRIAGES

- Registration of marriage*    **19.** (a) Marriages solemnized in the Maldives; marriages between Maldivian citizens solemnized abroad, and marriages solemnized between Maldivian citizens and foreign nationals, shall be registered in accordance with the provisions of this Act.
- (b) Any marriage solemnized in contravention of this Act shall not be registered under this Act.
- (c) A marriage stated in subsection (a) of this section may be registered under this Act upon payment to the Registrar of Marriages a fee stipulated in the Regulations made under this Act.
- Marriage Register*        **20.** (a) A Marriage Register shall be kept to record the particulars of all marriages registered under this Act.
- (b) The Registrar of Marriages shall keep and maintain the Marriage Register and record the particulars of marriages solemnized in accordance with this Act and the Regulations made under it.
- Rectification of errors in the Marriage Register*    **21.** If any particulars entered in the Marriage Register in respect of a marriage is proved to be untrue, the Registrar of Marriages shall, in the presence of the two parties to that marriage; or if they are deceased, in the presence of two witnesses, rectify the untrue entry by striking-off that entry, and entering the correct particulars and placing his signature.

*Marriages  
solemnized  
abroad*

- 22.** Where a Maldivian contracts marriage in a country where there is an official representative office of the Maldives, he shall within two months from the date of contracting the marriage make an application to that office to register the marriage in accordance with the provisions of this Act and Regulations made under it. If the marriage was contracted in a country where there is no official representative office of the Maldives, an application to register the marriage in the Maldives in accordance with this section shall be made within 6 months from the date of contracting such marriage.

**DIVORCE AND DISSOLUTION OF MARRIAGE**

*Application to  
divorce*

- 23.** (a) Where a husband is desirous of divorcing his wife, he may only do so with the leave of the Judge after the husband has submitted to the relevant court, an application containing particulars, as may be required by Regulations made under this Act.
- (b) Where an application is made to the court in accordance with subsection (a) of this section by a husband to the effect that he is desirous of divorcing his wife, and where both parties have been summoned to the court and the wife does not object to being divorced, the husband may then divorce his wife in court with leave of the Judge.
- (c) Where an application is made to the court in accordance with subsection (a) of this section by a husband to the effect that he is desirous of divorcing his wife, and the wife expresses her desire to remain in that marriage with the husband, the Judge shall then

refer the matter to the conciliation division for family matters of the relevant court. Where the matter arose in an island where its court lacks such a division, the Judge shall in accordance with section 25 of this Act work towards conciliation between the couple.

- (d) Where the conciliation division for family matters informs the Judge that efforts towards reconciliation between the couple in accordance with section 25 of this Act was unsuccessful, and where the Judge is satisfied that the parties to the marriage may not be able to peacefully continue in that marriage, the Judge shall then grant leave to the husband to divorce his wife.
- (e) Where the conciliation division for family matters informs the Judge that efforts towards reconciliation between the couple in accordance with section 25 of this Act was successful, or where the couple themselves communicate to the court of their reconciliation by any other means, applications for divorce made to the court by the husband shall be revoked.

- Application for divorce*     **24.** (a) A wife may, in accordance with the Regulations made under this Act, make an application to the competent court for divorce on any of the following grounds:
- (1) commission of an act by the husband that damages the reputation of the wife;
  - (2) cruelty by husband towards wife;
  - (3) compulsion by husband towards the wife to commit an act deemed unlawful by religion;

- (4) abstinence by husband, without just cause, from performing sexual intercourse with the wife for a period exceeding 4 months.
- (b) Where an application is made to the court in accordance with subsection (a) of this section by a wife seeking a divorce, and where on examination of the matter it is found that the grounds of application for dissolution does not fall within the grounds provided in section 28 of this Act, the Judge shall then refer the matter to the conciliation division for family matters of the competent court. Where the matter arose in an island where its court lacks such a division, the Judge shall, in accordance with section 25 of this Act work towards conciliation between the couple.
- (c) Where the conciliation division for family matters informs the Judge that efforts towards reconciliation between the couple in accordance with section 25 of this Act was unsuccessful, and where the Judge is satisfied that the parties to the marriage may not be able to peacefully continue in that marriage, the court shall then dissolve the marriage between the couple by a *baayin* divorce.
- (d) Where the conciliation division for family matters informs the Judge that efforts towards reconciliation between the couple in accordance with section 25 of this Act was successful, or where the couple themselves communicate to the court of their reconciliation by any other means, applications for divorce made to the court by the wife shall be revoked.



25. (a) When a matter is referred to the conciliation division for family matters for conciliation, pursuant to sections 23 and 24 of this Act, or upon submission of a similar matter to the court in islands where such a division is not available, the conciliation division or the court shall as soon as practicable, begin the process of conciliation between the couple. Conciliation process shall be completed in all such cases within 3 months of the matter being referred or submitted.
- (b) Conciliation process as provided for in subsection (a) of this section shall be conducted in accordance with this Act and Regulations made under it.
- (c) In conducting the conciliation process as provided for in subsections (a) and (b) of this section, priority shall be given to summon the couple and those relatives of theirs who possess knowledge in respect of the dispute.

Revival of  
marriage

26. (a) Revival of a marriage shall be by way of an application to the court and in accordance with the principles of Islamic *shariah*, where the divorce is a revocable or *raj'ee* divorce and the revocation is made in the Maldives. However, the court may not revive their marriage if the woman objects to the revival, and if her reasons for so doing is acceptable under Islamic *shariah*.
- (b) The Court shall send to the Registrar of Marriages the particulars of the marriage so revived, where a marriage is revived in court as provided in subsection (a) of this section.

- (c) Where the court has decreed a divorce under sections 24, 27, or 28 of this Act, or made an order for dissolution of the marriage by *faskh*, such marriage shall not be capable of revival.

*Khul'u divorce*     **27.** This Act does not prevent an application being made to the court for a *khul'u* divorce by agreement, where the parties to the marriage agree that the wife may seek a divorce from her husband by giving him something of value.

*Faskh*                 **28.** Where a woman makes an application to the court for divorce on account of any of the following grounds; the court shall dissolve that marriage without referring the matter to the conciliation division for family matters stated in section 25 of this Act.

- (1) lapse of a period exceeding one year during which time whereabouts of the husband is unknown;
- (2) failure on the part of the husband to provide the wife with maintenance for three consecutive months, which matter was filed in the court twice and order for payment of maintenance was made each such time and the husband continues to be in default of those orders;
- (3) ignorance on the part of the wife at the time of marriage of the husband's impotence and the court having been satisfied that sufficient evidence exists as to the impotence of the husband subsequent to the claim made by wife after contracting that marriage;
- (4) insanity of the husband for a period of 2 years;
- (5) the husband suffering from a communicable and dangerous disease for which a cure is yet to be found;

(6) occurrence of any other event under Islamic *shariah*, which permits the marriage to be dissolved by *faskh*.

*No triple  
divorce in a  
single  
pronouncement*

**29.** A husband may not divorce his wife by a triple divorce uttered in a single pronouncement. The act of a husband divorcing his wife will be deemed a single act of divorce, irrespective of words used or number of times they are uttered in the pronouncement for effecting the divorce.

*Presumption of  
death*

**30.** Under circumstances which lead to inference of the husband's death, and the husband has not been heard of for a period of 4 years, the contract of marriage shall come to an end from the date the court pronounces the death of the husband after examining the matter.

*Registration of  
divorce and  
Divorce Register*

**31.** The Registrar of Marriages shall register in and enter the particulars of divorces decreed in accordance with this Act and Regulations made under it in the divorce register and keep and maintain that register.

*Equitable  
distribution of  
matrimonial  
property prior  
to divorce*

**32.** (a) Prior to granting leave to divorce, or dissolving the marriage, or registration of the divorce, the court shall have the power to distribute equitably between the married couple in accordance with the provisions of this section, the matrimonial property acquired by them during the subsistence of their marriage, where a nuptial agreement had been made between them which makes provision for dealing with the matrimonial property acquired during the subsistence of their marriage in case of dissolution of marriage.

(b) Notwithstanding subsection (a) of this section, each party among the married couple shall be afforded all rights due to them under

Islamic *shariah* fully, irrespective of whether the married couple had made a nuptial agreement between them or not.

- (c) The court may move for an equitable distribution of property pursuant to subsection (a) of this section where a dispute arises between the married couple as regards the agreement made pursuant to section 11 of this Act, in dealing with the matrimonial property acquired during the subsistence of their marriage.
  
- (d) In addition to giving priority to the provisions stipulated in the agreement made pursuant to section 11 of this Act for dealing with the matrimonial property acquired during the subsistence of the married couple's marriage in case of dissolution of marriage, the following procedures shall be followed for equitable distribution of property by the court pursuant to subsection (a) of this section, for resolution of disputes between the couple in this regard:
  - (1) determination of the property or the amount of money, if there are matrimonial property or money acquired by the married couple during the subsistence of their marriage; and
  - (2) determination of the portion or amount due to the husband and wife from the property or money.
  
- (e) The court shall have regard to the following in deciding as to the matrimonial property or money acquired by the married couple during the subsistence of their marriage pursuant to subsection (d) of this section:
  - (1) of the property or money which was individually acquired by the parties prior to the marriage, the portion of the property or money, which was utilized during the subsistence of the

marriage, and which had achieved increments during that period may be deemed as matrimonial property jointly acquired during the subsistence of their marriage;

- (2) the title of the matrimonial property acquired during the subsistence of the marriage being registered in the name of or such money being in the possession of any one party shall not be conclusive proof of ownership attributable to that party.

- (f) The court shall have regard to the following in deciding as to the rightful portion due to the husband and wife as regards the matrimonial property or money acquired by the married couple during the subsistence of their marriage pursuant to subsection (d)

(1) of this section:

- (1) the extent of expenditure or effort put in by the parties individually to acquire the property or money;
- (2) the duration of the marriage;
- (3) the extent of contribution made by the woman as the wife or as the mother of the children during subsistence of the marriage towards its betterment, notwithstanding the fact that she may not have made any active physical or financial contribution towards acquisition of the property or money;
- (4) any debts owing by either party which may be attributable to that property or money.

- (g) In dividing a matrimonial property equitably, instead of division of the property, the court has the power to order valuation of the property based on its current market value to determine its monetary value, and order that a portion of it be given to one of

the parties among the married couple, and the property be retained by the other, where the property by its nature is not capable of being divided.

- (h) A determination as to which party will retain the property after paying a portion of its value pursuant to subsection (g) of this section, shall be made by agreement of both parties.
- (i) Where the parties are unable to reach an agreement as stipulated in subsection (h) of this section, a determination as to which party will retain the property after paying a portion of its value shall be made by the court in accordance with the Regulations made under this Act.
- (j) For the purpose of this section, “jointly acquired matrimonial property” shall mean the movable property, immovable property, cash and other property and money stipulated in subsection (e)(1) of this section and the Regulations made under this Act, acquired jointly and individually by the parties to the marriage, during the subsistence of that marriage.
- (k) With the exception of the circumstance stipulated in subsection (l) of this section, property and money individually acquired by the parties, property and money in their individual names and, property and money they received by way of probate, gift or will prior to the marriage shall be interpreted as property and money individually acquired by the parties.

- (l) The property and money stated in subsection (k) of this section shall be classified as matrimonial property jointly acquired during the subsistence of the marriage as stipulated in subsection (j) of this section, only under the circumstances stipulated in subsection (e)(1) of this section.
  
- (m) The Ministry shall make Regulations within 6 (six) months from the date this Act is passed, ratified and published in the gazette of the government of Maldives, and shall include in the Regulations the following:
  - (1) guidelines on determination of property individually acquired by the parties, and the property in their individual names prior to the marriage;
  - (2) guidelines on determination of property and money jointly acquired by the parties during subsistence of the marriage;
  - (3) guidelines on determination of the extent of individual effort and financial contribution by the parties towards acquisition of the property or money;
  - (4) guidelines on determination of the rightful portions due to the husband and wife in relation to the duration of marriage;
  - (5) guidelines on valuation of matrimonial property jointly acquired by the parties during subsistence of the marriage;
  - (6) guidelines on determining whether the property individually acquired by the parties, and the property in their individual names prior to the marriage was utilized during the subsistence of the marriage, and whether it had achieved increments during that period;

- (7) guidelines on equitable division of matrimonial property acquired during subsistence of the marriage, where the property is by its nature, incapable of being divided.

- Foreign nationals to observe this Act in divorcing and being divorced*
- 33.** Foreign nationals married to Maldivian citizens shall also carry out the process of divorcing and being divorced in accordance with this Act.
- Maintenance to wife of foreign nationality by a Maldivian husband*
- 34.** Where a Maldivian husband divorces his wife, who is a foreign national, he shall arrange for her travel to her country of domicile and bear all its expenses in addition to other expenses as may be required this Act.

#### **MAINTENANCE**

- Attribution of maintenance*
- 35.** Where the parties have not been able to reach an agreement as to the maintenance of the wife and children in a manner which is not inconsistency with principles of Islamic *shariah*, prior to granting leave to divorce, or dissolving the marriage, or registration of the divorce, the court shall make a determination as to the quantum and period of maintenance in accordance with this Act and principles of Islamic *shariah* and order the husband or the former husband to make the payment to the effect.
- Determining the amount of maintenance*
- 36.** The court shall determine the amount to be paid as maintenance and the period for such payment to the wife, children or divorced wife in accordance with Regulations made under this Act.

- Payment of provisional maintenance*      **37.** The court has the discretion to make an order for payment of provisional maintenance until the court has decided on the payment of maintenance.
- Right to be given an accommodation*      **38.** Unless she is provided with alternate accommodation by her former husband, a divorced wife shall not be removed from the residence of her former husband against her will during the *iddah* period or for as long as she has custody of their children, if the divorced wife had lived at the residence of the husband during their marriage or where custody of their children is vested with the divorced wife.
- Manner in which payment of maintenance may be effected*      **39.** In making an order for payment of maintenance to his wife, children or his divorced wife, the court has the discretion to take steps to ensure payment will be made by the person liable to it, by entrusting another person to take care of a certain property belonging to him and to direct use of its proceeds towards payment of maintenance, or by directing a guarantor or assignee to make payment on behalf of the person liable to payment of maintenance or by directing that an apportioned part of the income of the person liable to payment of maintenance be paid as maintenance.

### CUSTODY

- Right to custody*      **40.** (a) The mother of a child shall have the first priority right to be entrusted with the child's custody in accordance with the provisions of this Act.
- (b) Where the Judge is of the opinion that the mother of the child is in want of the qualifications stipulated in section 41 of this Act to be entrusted with custody of the child, the person to whom the

custody of the child may be entrusted shall be determined by the court from amongst persons provided in the Regulations made under this Act and according to the order in which they are provided in those Regulations.

- (c) Where custody of a female child is entrusted to a man, he shall be a person within prohibited degrees of marriage in respect of that child.
- (d) Where there is more than one person to whom custody of the child may be entrusted, and they are in equal degree of relations with the child, the custody of the child shall be entrusted to person who appears to be most compassionate towards the child and who bears the most virtuous of character.
- (e) Best interests of the child shall be the paramount consideration in entrusting custody of the child according to the provisions of this section.

*Qualifications  
to be eligible  
for custody*

**41.** The person to whom custody of a child is entrusted shall possess the following qualifications:

- (a) being a Muslim;
- (b) being of sound mind;
- (c) being capable of providing compassion and care necessary for the child's upbringing;
- (d) not being involved in the commission of vice acts prohibited in Islamic *shariah*.

In addition to the presence of qualifications mentioned in subsections (a), (b), (c) and (d) of this section, the person's place of residence shall not be one that may subject the child to any undue physical or immoral influence.

*Losing the right to custody* **42.** The right to custody shall be lost upon occurrence of any of the events stated below:

- (a) marriage of the child's mother to a person who is not within prohibited degrees of marriage in respect of the child, where custody of the child is entrusted to the mother;
- (b) commission of vice acts prohibited in Islamic *shariah* openly, by the person entrusted with custody of the child;
- (c) where custody of the child is entrusted to the mother of the child, change of her residence to a different island, with the exception of returning to her native island, without the consent of the father or legal guardian of the child or change of her residence to a different one in manner that injures the visitation rights of the father of the child;
- (d) apostacy;
- (e) the person to whom custody of the child is entrusted neglects the child or treats the child with cruelty.

*Custody being reinstated* **43.** Custody of the child shall be reinstated to the mother of the child where it is established that the provisions in subsection (a) of section 42 of this Act is inapplicable in respect of the mother of the child.

*Period of custody* **44.** (a) Custody of the child shall remain with the person to whom custody is entrusted until the child completes 7 years of age according to the *hijri* calendar. Provided however, the court may, upon application by the person to whom custody is entrusted, grant the custody of a female child until she completes 11 years of age according to the *hijri* calendar and that of male child until he completes 9 years of age according to the *hijri* calendar.

- (b) Upon expiry of the period of custody, or completion of the requisite age of custody, the child shall have the right to live with either of the parents the child may choose, unless the court has ordered otherwise.

*Conditional custody*

- 45.** The court shall have the discretion to attach in accordance with the Regulations made under this Act conditions in granting custody of a child.

*Custodian taking the child abroad*

- 46.** Upon application being made by the father or mother of the child, the Court shall have the power to make an order restraining the custodian from taking the child abroad, where a matter in respect of the marriage of the person to whom custody of a child is entrusted is pending in court.

#### **GUARDIANSHIP AND PROPERTY OF THE CHILD**

*Division of guardianship*

- 47.** Guardians of the child is divided as stated below into Principal Judicial Guardian, Judicial Guardians, and Guardians-in-law. In this Act:
- (a) Principal Judicial Guardian is the father of the child.
- (b) Judicial Guardians are those to whom guardianship is transmitted in accordance with the principles of Islamic *shariah* based upon paternal relations of the child.
- (c) Guardians-in-law are those who may be appointed by court as the guardian of the child in accordance with this Act and the Regulations made under it, in circumstances where neither the Principal Judicial Guardian nor Judicial Guardians are available.

*Transmission of  
guardianship*

- 48.** (a) The principal judicial guardian of the child and the child's property until the child completes 18 years of age shall be the child's father, irrespective of who is entrusted with custody of the child.
- (b) In case the Principal Judicial Guardian of the child has deceased, the judicial guardianship of the child shall be transmitted to persons provided in the Regulations made under this Act and in the order provided in therein.
- (c) Where there is neither the Principal Judicial Guardian nor any of the Judicial Guardians of the child, the court shall have the power to appoint or remove Guardians-in-law of the child after having considered various matters provided in Regulations made under this Act and giving consideration to the best interests of the child and with or without attaching any conditions to such appointment.

*Qualifications  
for  
guardianship*

- 49.** A person appointed by the Court as guardian of a child shall possess the following qualifications:
- (1) being a Muslim;
  - (2) having attained puberty;
  - (3) being of sound mind;
  - (4) being a trustworthy person.

*Discretion of  
guardians in  
respect of the  
child's property*

- 50.** (a) The Judicial Guardians of the child shall have no authority to sell any property of the child except as provided in subsection (b) of this section. And no guardians-in-law of the child shall have the power to deal with any property of the child except as provided in subsection (d) of this section.

- (b) Immovable property of the child may be sold by a Judicial Guardian of the child under the following circumstances:
  - (1) it is possible to obtain at least twice the value of the property by selling it;
  - (2) there is no other property belonging to the child and there are no other means to obtain money to provide food for the child except through sale of the immovable property;
  - (3) likelihood of deterioration of the property.
  
- (c) Movable property of the child may be sold or mortgaged by a Judicial Guardian of the child under the following circumstances:
  - (1) to cater for the need of money for food, medical needs, clothing, and education of the child;
  - (2) possibility of obtaining a reasonable price for the property.
  
- (d) Any property of a child under a person's guardianship may be gifted, sold, mortgaged, exchanged or leased for a period exceeding one year, with the leave of court. The court shall not grant leave for such a transaction except in the interests of the welfare of the child and safeguarding money and property of the child.
  
- (e) Every transaction entered into by the child's guardian-in-law without leave of the court as provided in subsection (d) of this section shall be void. The court shall have the power to reinstate such property back into the property of the child.

*Entrusting the child's mother to safeguard and deal with the property*

- 51.** This Act does not prevent entrusting of the child's property and the power to deal with it to the mother of that child so as to ensure continued welfare of the child, irrespective of whether the guardianship of the child is entrusted to a third party. The mother may deal with the property of the child under this section only in the same manner as it is provided in section 50 of this Act in respect of the child's guardians-in-law.

#### **ASCRPTION OF LEGITIMACY AND PROOF OF PATERNITY**

*Attribution of legitimacy*

- 52.** (a) The minimum period for attributing legitimacy to a child shall be 6 months from the date of marriage according to the *hijri* calendar.
- (b) The maximum period for attributing legitimacy to a child shall be 1 year from the date of divorce or death of the husband, according to the *hijri* calendar.
- (c) This section does not prohibit the right to disavow a child's paternity by way of *li'an* in accordance with manner prescribed in Islamic *shariah*.

*Children from void marriages*

- 53.** Where a marriage is dissolved on grounds of nullity which is established at a later stage, the paternity of children of that marriage shall be attributed to the man in such marriage.

*Proof of paternity*

- 54.** A man may make an application to the court if he wishes to prove by judicial means that a certain child is his legitimate child. Ascription of paternity in such matters may only be established by adducing evidence

to the extent acceptable to the court in respect of matters provided in Regulations made under this Act.

### **CARE AND MAINTENANCE OF CHILDREN**

*Care of children whose father is financially challenged*    **55.** (a) Where it is established that father of children who have not yet attained the age of 18 years according to the Gregorian calendar and have no financial means to support themselves, is himself unable to provide financially towards their upbringing, the court shall discuss the matter with relatives of the children and where a person or persons among the relatives of those children agree, appoint such relative or relatives to be responsible for the upbringing of those children and bear the costs associated with their maintenance.

(b) The court shall in determining the amount of maintenance mentioned in subsection (a) of this section, take into account the basic needs of the children requiring maintenance, the financial competence of the person or persons who agreed to take over responsibility for the maintenance of the children in accordance with subsection (a) of this section, and the extent to which such person or persons shall share in the estate of the children.

*Fostering children pro bono and for a consideration*    **56.** (a) Priority shall be given to such person who shall bear responsibility towards upbringing and costs of maintenance as required under this Act *pro bono*, provided he is capable of undertaking the task.

(b) Although there may be a person who is willing to bear responsibility towards upbringing and costs of maintenance as required under this Act *pro bono*, upbringing of a child may be

entrusted to a person willing to bear that responsibility for a consideration where the person to whom costs of maintenance is attributed has no objection in providing those costs of maintenance.

- (c) Where the person to whom costs of maintenance is attributed has the financial competence towards payment of costs associated with the upbringing of the child, he shall have no right to object to entrusting the upbringing of the child to another person with payment of costs of maintenance as required under this Act.

#### **CARE AND MAINTENANCE OF PARENTS**

*Children to fulfil basic needs of parents*    **57.** (a) In order to comply in a manner equal with the position ordained to parents by the religion of Islam, and to the extent it is financially possible, every person shall provide their parents with adequate food shelter and clothing, attend to the parents' medical needs, meet any other basic needs they may have, and extend other conveniences and amenities they may require in their daily lives.

- (b) No person may treat his parents with cruelty or act in a manner injurious to their reputation.

*Obligation of children*    **58.** (a) It is an obligation of every male child who has completed 18 years of age to provide his parents with adequate shelter and other matters that require financial expenses, from amongst matters provided in section 57 of this Act.

- (b) Except for provision of adequate shelter for parents and other to matters that require financial expenses as provided in subsection (a) of this section, male and female children shall be deemed to be equal for the purposes of the rights of parents as regards the provision of any other amenities.

*Entrusting a third party to provide care for parents*

- 59.** The person who bears responsibility of providing care for the parents may entrust his responsibilities to a party acceptable to the court, where he is required to be ordinarily resident out of the island for long periods of time for the purpose of earning income or due to other reasons.

*Appointment of a third party to provide care for parents by the court*

- 60.** (a) Where the court appoints a certain person from amongst the children of the parents to be responsible for the cost of their care, due regard shall be had to the basic needs of the parents, financial competence of the person taking responsibility for their care and the extent of such person's share in the estate of the parents.

- (b) Where there is no agreement amongst the children in regard to bearing responsibility for the cost of providing care for their parents and the provision of other amenities, the extent of responsibility in respect of the foregoing shall be determined by the court by taking into account the matters provided in subsection (a) of this section and in a manner commensurate with their position in life.

*Interim orders*

- 61.** The court shall have the power to make interim an order in respect of provision of care for the parents and bearing responsibility for the cost of their care, where the court is of the opinion that a provisional arrangement should be made as regards the provision of care for the

parents and bearing responsibility for the cost of their care pending the conclusion of a matter before the court.

### **PENALTIES**

- Failure to register the marriage*      **62.** Failure to make an application for registration of marriage in accordance with sections 19 and 22 of this Act shall be an offence. The offender shall be subject to a fine of MRF 1,000.00.
- Coercion to marry*      **63.** It shall be an offence to coerce a person to contract a marriage against their will. The offender shall be subject to a fine of not less than MRF 1,000.00 and not exceeding MRF 5,000.00 or be exiled for a period not exceeding 6 months.
- False information*      **64.** It shall be an offence to furnish false information to contract a marriage or to register it. The offender shall be subject to a fine of not less than MRF 1,000.00 and not exceeding MRF 10,000.00, or exiled or placed under house arrest for period not less than 1 year and not exceeding 2 years.
- Contracting a polygamous marriage without leave of court*      **65.** It shall be an offence for a man to contract a polygamous marriage without obtaining leave in accordance with this Act, while his marriage with another woman is subsistent. The woman who has contracted such a marriage shall also have committed an offence if she has knowledge of the already existing marriage. Such an offender shall be subject to a fine not exceeding MRF 5,000.00.
- Marriage contracted to remove the bar*      **66.** It shall be an offence for a woman who is divorced three times by the same husband to contract a marriage with another man with the sole intent of removing the bar on her remarriage with the erstwhile husband

*on remarriage  
with the same  
spouse*

or for a person to contract a marriage at the request of another or for gift or reward with the sole intent of facilitating the removal of a bar on remarriage between two erstwhile parties to a marriage. Such an offender shall be subject to a fine not exceeding MRF 5,000.00 or exiled for a period not exceeding 6 months.

*Divorce without  
leave and out of  
court*

**67.** It shall be an offence to affect a divorce in contravention of this Act. The offender shall be subject to a fine not exceeding MRF 5,000.00 or exiled or placed under house arrest for a period not exceeding 6 months.

*Failure to notify  
commission of  
an offence*

**68.** Failure to notify proper authorities regarding commission of an offence prescribed by this Act or commission of an act in contravention of the manner prescribed in this Act, shall be an offence. The offender shall be subjected to a fine not exceeding MRF 1,000.00 or exiled or placed under house arrest for a period not exceeding 3 months.

*Continuing  
conjugal  
relations after  
divorce, without  
revival of  
marriage*

**69.** It shall be an offence for a person to continue living in conjugal relations with his wife after having divorced her and without reviving the marriage in accordance with this Act. The divorced wife who lives in conjugal relations with her divorced husband is also in violation of the regulations of this Act. The offender shall be subjected to a fine not exceeding MRF 1,000.00 or exiled or placed under house arrest for a period not exceeding 6 months.

*Contravention  
with this Act*

**70.** Except for offences for which specific penalties have been prescribed in this Act, a person who acts in contravention of a directive or prohibitive provision of this Act shall be subjected to a fine not exceeding MRF 1,000.00 or exiled for a period not exceeding 6 months.

## MISCELLANEOUS

*Valid marriages subsisting at the time of this Act*    **71.** (a) This Act shall not affect the validity of marriages that had been solemnized in accordance with the principles of Islamic *shariah* and duly registered in the Maldives prior to the commencement of this Act.

(b) Upon commencement of this Act, the marriages stated in subsection (a) of this section shall be deemed registered under this Act.

(c) Provisions of this Act shall apply in respect of the marriages mentioned in subsection (a) of this of this section and other matters relating to marriage and divorce, once those marriages are registered in accordance with subsection (b) of this section.

*Power to make Regulations*    **72.** The Ministry shall have the power to make and enforce Regulations that are required to be made under this Act, and other Regulations that may be needed to perform the functions stipulated in this Act.

*Interpretation*    **73.** Unless the context stipulates otherwise, in this Act:

(a) “**Judicial Mauzun**” shall mean person appointed by the competent authority to solemnize marriages.

(b) “**Registrar of Marriages**” shall mean every person appointed by the President to carry out all functions specified in this act to be carried out by the Registrar of Marriages.

- (c) “**Judge**” shall every person from amongst judges who are assigned the task of carrying out functions specified in this Act to be carried out by the Judge.
- (d) “**Ministry**” shall mean the ministry mandated with regulating matters relating to families, and formulating policies relating to it.

*Entry into force*    **74.** This Act shall come into force from 1 July 2001.

*Repealed law*    **75.** Act Number 3/80 (Law on Marriages and Divorces involving Maldivian and foreign nationals) is repealed upon commencement of this Act.