

Introduction: a Guide to a Happy Marriage

In the Shari‘ah, marriage (*nikah*) is a relationship of mutual love, mercy and kindness (*muwaddah, sukun, rahmah*). In Islamic law marriage is a civil contract between parties which allows them mutually to agree upon the terms and conditions of their future together. Like any other contract, the free consent of the parties to the agreement to marry is essential.

Many Muslim couples in the UK prefer to have a *nikah* (marriage contract). In order to avoid any potential for confusion it is best that the agreed terms and conditions of the contract be put down in writing. The document titled “Muslim Marriage Certificate” is designed to inform and when necessary enable the parties to secure their rights under the mutually agreed contract.

The document has been drafted after prolonged consultation with religious scholars, community leaders, national and regional Muslim organisations, including organisations of Muslim women. The initiative, although led by the Muslim Institute, I am delighted to say, has had the support and full engagement of the most important national Muslim organisations.

The document reflects a consensus effort of Islamic scholars and experts in family matters to lay down and protect the rights of both parties to a *nikah* (non-registry marriage) guaranteed under the Shari‘ah. The document consists of a Certificate of Marriage explaining the rights and responsibilities of the parties to the marriage and recording the terms upon which the parties have agreed to enter into the relationship, with guidelines to facilitate its implementation.

The guidelines accompanying the “Muslim Marriage Certificate” entitled “Explanatory Notes” emphasise mutual consultation, the financial independence of the husband and wife and their shared obligation to support the family. Setting down these matters in writing will allow an intending couple to agree upon many important matters related to their future lives, together with the future of any children, and thus the new document should contribute to a harmonious and happy marriage and family.

The “Certificate of Marriage” provides the parties entering into a Muslim marriage with written evidence of their marriage and of the terms and conditions agreed between the spouses. In the absence of such evidence, parties to a Muslim marriage, and in particular women, have till now faced huge difficulties in securing the financial rights guaranteed to them under the Shari‘ah upon divorce.

In launching this important document we, the Muslim Institute and its partners in this effort, undertake to do everything to ensure that the document is used in all Muslim marriages. We are also pursuing a campaign to encourage more mosques to become places registered for the solemnisation of marriage under the 1948 Marriage Act. This will ensure that mosques are able to conduct marriages recognised under English or Scottish law. Thus Muslims married in Britain will be able to access the British courts regarding marital issues whilst at the same time enabling British courts to enforce the rights of parties to a Muslim marriage in accordance with the Shari‘ah.

The project to develop a model Muslim marriage contract was initiated by the Muslim Parliament of Great Britain in February, 2004, and was subsequently taken up by the Muslim Institute.

Mufti Barakatullah of the Islamic Shari‘ah Council, who prepared the original draft of the marriage contract, continued to lend his full support to the project for its entire duration. Cassandra Balchin, Muslim Women’s Network-UK, drafted the ‘Explanatory Notes’ and kept updating the entire document after each consultation, which was frequent, and worked tirelessly throughout. Judge Khurshid Drabu of the Muslim Council of Britain proposed many useful amendments and suggestions for the improvement of the document. Thanks are also due to scholars, professionals and others who were happy to make their valuable time available to us.

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Muslim Marriage Contract

Explanatory Notes

For a Muslim marriage to be valid under the laws of England & Wales the marriage must be solemnised either at a mosque registered for the solemnisation of marriages or a civil wedding at a registry office must precede the *nikah* (Muslim marriage).

Completion of this Marriage Contract allows an intending couple to agree upon many important matters related to their future lives together and thus contributes to marital harmony. As these matters can have lifelong effects upon both spouses and any children, it is important that they be properly discussed beforehand and that both parties read this document carefully.

These notes should be read before completing the Marriage Certificate. They explain the information required in each section.

The Marriage Certificate must be completed and signed in triplicate: one copy should be given to the bride, one to the bridegroom, and remaining one must remain deposited with the Registrar (Imam/Qadi) who countersigns the certificate.

1. **Personal Details of bride and bridegroom**

Name, Date, and Place of Birth: These should be written in full and as entered on official documents, e.g., passport, driving licence. Please ensure spellings are consistent.

Example: Nasir Ahmed Malik, July 20, 1990, Jhelum, Pakistan

Nationality: Indicate all citizenship documents and passports held at the time of completion of the marriage contract.

Address: Include full permanent address with UK postcode as written in official documents, e.g., passport, driving licence, bank statements. If the groom and/or bride are not permanently resident in the UK at the time of completing the Marriage Contract, enter full permanent address abroad.

2. **Status of bride and bridegroom**

Accurate completion of this section ensures that the rights of children from any previous marital relationship are protected and that the spouses are mutually aware of any existing financial obligations in relation to children born of any previous marital relationship.

3. **Mahr**

Mahr is the consideration for the contract of marriage between the parties. It may be in the form of money and/or goods given by the Bridegroom to the Bride in consideration for the marriage. It is an essential element of Muslim marriage and is exclusively reserved for the use of the female partner. Payment of *Mahr* could be immediate (prompt), or deferred.

Full Amount of Mahr: Record the total value of the agreed *Mahr*, e.g., £5,000 in cash, or xyz weight in gold.

- a) Mu'ajjal (Immediate/Prompt): This means the total amount of *Mahr* payable by the Husband at the time of signing of marriage contract.
- b) Mu'wajjal (Deferred): This means the portion of the *Mahr* which is payable to the wife at a specified point in the marriage or at the time of dissolution of the marriage through divorce or death of the husband. Any deferred *Mahr* that remains unpaid at the time of dissolution becomes a debt against the former husband's assets.

Portion of the *Mahr* paid at the time of marriage: Enter the details of the amount of money and/or goods received as *Mahr* at the time of marriage. This does not include general gifts to the bride from the bridegroom and/or his family unless these be expressly included in (a) above as part of the amount of *Mahr*.

Property given in lieu of Mahr: If any immovable property (land, building, share in a house, flat, etc.) is given by the bridegroom to the bride in lieu of any portion of the *Mahr*, enter the full address, details of the property (size, or precise portion of the share). Relevant supporting legal documents such as copy of title deeds or appropriate entry in the Land Register must be attached.

4. Property Brought into the Marriage, Dowry (*Jehez*), and Customary gifts

- a) Any property the bride brings to the marriage through her own efforts or through inheritance remains the property of the bride and should be written down;
- b) Any customary gifts given by the bride's family (dowry/*jehez*) at the time of marriage remains the property of the bride and should be written down;
- c) Any customary gifts given by the bridegroom and/or his family to the bride at the time of marriage and which are not expressly mentioned as part of the *Mahr* remains the property of the bride and should be written down;

5. Witnesses

According to Islamic law, a witness should be sane, adult and reliable. This requirement is gender/faith neutral. Hence, the Muslim Marriage Certificate requires to be witnessed by 'two adult witnesses of good character'.

It is preferable that the witnesses are normally resident in the UK. Personal details should be written in full and as entered on official documents, e.g., passport, driving licence. Please ensure spellings are consistent. Include full permanent address with UK postcode as written in official documents, e.g., passport, driving licence, bank statements.

6. Wali

Parents are responsible for the upbringing of their children. Out of respect and courtesy it is important that young people involve their parents or guardians throughout the process of marriage. However, parental or guardian's legal role finishes when children reach adulthood. Thereafter their role is optional and complementary. Hence the Muslim Marriage Certificate does not require the approval of the parents.

7. Divorce

According to Islamic law, marriage is the most sacred commitment in life between two adults of opposite sex. It attempts to save it wherever possible. As a consequence divorce is regarded by Allah as the most 'hated thing'. However, breakdown in marriage does take place for a variety of reasons. If the divorce is initiated by husband he has to pay the woman any *Mahr* that remains unpaid. If the divorce is initiated by the wife, and the husband is found to be at fault by the arbiters she does not lose her *Mahr*. But if she cannot prove his fault, she has to return to her husband whatever *Mahr* amount she has already received. If the wife initiates the divorce without any grounds, this is called 'khula' and she must return whatever the husband has given her in consideration for the marriage.

Talaq-e-tafwid is delegated right to divorce given by husband to his wife. If and when the wife exercises this delegated right she does not lose her *Mahr* amount.

8. Place of Nikah-(Muslim Marriage)

Enter the full name and address of the mosque or place of marriage.

9. Signatures

Use the same signature as on official documents (e.g., passport, driving-licence, documents for banking purposes, etc.). The Marriage Certificate is not valid unless signed by two witnesses as well as the bride and bridegroom.

In the name of Allah, the most Beneficent, the most Merciful

'The stipulations that deserve the highest priority that you fulfil are those through which you make marital relations lawful' (Bukhari)

Muslim Marriage Certificate

Serial No.:

Praise be to Allah, the Lord of the Worlds and salutations be upon His messenger Muhammad (peace and blessings be upon him), his family and his Companions.

With help and success granted by Allah, after confirming that neither contracting party has no legal or other impediments and with *ijab* (proposal) and *qabul* (acceptance):

The *nikah* (Muslim marriage) contract has been concluded between the bridegroom and bride, as per terms and conditions listed overleaf:

Bridegroom's full name:.....

Date of birth: Nationality/ies:.....

Place of birth:

Address:

Status of Bridegroom: *unmarried / divorced / widowed*

Bride's full name:.....

Date of birth:Nationality/ies:

Place of birth:

Address:

Status of Bride: *unmarried / divorced / widowed*

Amount of *mahr*:

The *mu'ajjal* (immediate/prompt) amount:/ The *mu'wajjal* (deferred) amount:.....

Whether any property was given in lieu of the whole or any portion of the *mahr* with specification of the same and its valuation agreed between the parties:.....

In the presence of two witnesses:

• First witness's name and address:

Date of birth:Nationality: Relationship with bride/groom:.....

• Second witness's name and address:

Date of birth:Nationality: Relationship with bride/groom:.....

The bride and bridegroom undertake to act properly toward each other in their marital life and in particular as per terms and conditions listed overleaf. Praise and thanks be to Allah.

The *nikah* (Muslim Marriage) ceremony was held aton:

Theday of14..... (Hijri). coinciding with200.....

We, the undersigned, put our signature to this contract, being of sound mind and without compulsion or duress.

Bridegroom's signature

Bride's signature

First witness

Second witness

Signature of Imam/Qadi & stamp

Name of Imam/Qadi

Address of associated organisation

Note: For a Muslim marriage to be recognised in British law it must be held at a mosque registered as a place for the solemnisation of marriage, otherwise the civil ceremony must take place at a registry office first before the *nikah* (Muslim marriage) ceremony

Terms and conditions of the Muslim marriage contract:

Definitions:

Nikah - The Muslim contract of marriage;

Mahr - prescribed amount (cash/kind, immediate or deferred) given by the bridegroom to the bride in consideration of the marriage;

Witness – two adult witnesses of good character;

Ijab/Qabul - formal marriage proposal and acceptance;

Husband/wife – bridegroom/bride after marriage contract;

Talaq al-tafwid – delegation of the husband's power of *talaq* (divorce) to the wife.

Preamble to Contract:

The marriage agreement involves some obligations and rights toward each other sanctified by Allah and His messenger, Muhammad (peace and blessings be upon him). Fulfilling the terms of this contract is a religious obligation and duty rewarded in this world and hereafter. Violation of these agreed terms constitutes a sin.

Apart from a formal contractual obligation marriage is also a relationship between two human beings, a man and a woman, that is ideally based on love, mercy and kindness. The partners are therefore expected to base their behaviour not just on legal rights and duties but on the spirit of goodwill, generosity, consideration and sympathy, taking into account each other's individual likes and dislikes. They are expected to conduct all family affairs through mutual consultation in the spirit of giving more than less (Q: 83 : 1-3).

All the rights and obligations expressed or implied hereunder are according to the Shari'ah derived from the Qur'an, Sunnah, Qiyas and Ijma' as codified by prominent Muslim Jurists. Since a marriage contract is a social contract entered into willingly, it recognises and upholds all prevailing social norms, etiquettes and local customs (implicit or explicit), including the law of the land, which are not in direct contradiction of the Shari'ah.

Mutual Rights and Obligations:

Marriage is a union for life having mutually inclusive benefits and fulfilment for the contracting parties including the following:

- Preservation of chastity and security of gaze
- Companionship inside and outside home
- Emotional and sexual gratification
- Procreation and raising of any children by mutual consultation
- Agreement to live together in a mutually agreed country and establish their matrimonial home therein
- Working collectively towards the socio-economic welfare and stability of the family
- Maintaining their individual property rights but contributing to the welfare of the family according to their capacity
- Maintaining social contacts with family and friends mutually beneficial for the family
- Managing their individual activities/roles inside and outside the home by mutual consultation

Obligations of the husband:

In addition to the mutual duties and obligations, the husband undertakes not to:

- abuse his wife/child(ren) verbally, emotionally, physically, or sexually
- desert/be absent from the marital home for more than 60 days unless by mutual agreement
- withhold economic contribution towards his wife/family
- sexually transmit disease or other transmissible diseases
- misuse /interfere with the wife's property

Obligations of the Wife:

In addition to the mutual duties and obligations the wife undertakes not to:

- abuse her husband/child(ren) verbally, emotionally, physically, or sexually
- desert/be absent from the marital home for more than 60 days unless by mutual agreement
- sexually transmit disease or other transmissible diseases
- misuse/interfere with the husband's property

Special Conditions

- Both parties reserve the right to amend/alter the contract through mutual written agreement.
- Both parties undertake to stay loyal to each other and never to engage in extra-marital affairs with the opposite or same sex.
- The husband is not to enter into formal or informal *nikah* (Muslim marriage) contract in the UK or abroad with another woman, as it is unlawful under the laws of England and Wales as well as the Scottish legal system.
- The husband is to procure separate/independent accommodation from shared or parental abode.
- The husband delegates his power of divorce (*talaq al-tafwid*) to his wife.
- Details of any additional special conditions mutually agreed upon by bride (Name).....
and groom: (Name).....

Arbitration and adjudication

- All differences between husband and wife pertaining to this contract, its interpretation and implementation should be amicably resolved between themselves.
- However, failing satisfactory resolution of differences, both parties undertake to settle their differences through family consultation and/or community leaders.
- Before resorting to legal redress through British civil courts parties undertake to seek arbitration/reconciliation through a reputable UK-based Shari'ah panel/body/council whose decision shall be morally binding on both parties.
- In matters of child(ren), custody and property possession/division the decision of a British courts will be acceptable to both parties.

Termination of Marriage contract

- Parties to this contract undertake to endeavour to do their best to uphold the terms of this contract
- Neither party will end this contract unilaterally without recourse to arbitration/reconciliation by an independent Muslim professional body.
- Failing to resolve differences through arbitration/reconciliation they seek legal redress through UK-based Shari'ah body and/or a British civil court depending on their circumstances *i.e.*, if the marriage be conducted at a mosque registered for civil marriage, and arbitration fails to resolve the dispute, the marriage must be dissolved through British court first.
If the marriage was not conducted at a mosque registered for the purpose of the solemnisation of civil marriage and arbitration fails to resolve the dispute, the marriage can be dissolved without recourse to a British court, but the parties must agree that this process must take place through a reputable UK-based Shari'ah/body/council.