

Muslims Personal Law (Shariat) Application Act, 1937

26 of 1937

[07 October 1937]

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Muslims Personal Law (Shariat) Application Act, 1937

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An Act to make provision for the application of the Muslim Personal Law (Shariat) to Muslims ²[* * *];

Whereas it is expedient to make provision for the application of the Muslim Personal Law (Shariat) to Muslims ²[* * *]; It is hereby enacted as follows :

1. For Statement of Objects and Reasons, see Gazette of India, 1935 Pt. V, p. 136; and for Report of Select Committee, see Gazette of India, 1937, Pt. V, p. 235.

This Act has been amended in Madras by Madras Act 18 of 1949.

2. The words "in the Provinces of India" omitted by the Adaptation of Laws Order, 1950.

1. Short title and extent :-

(1) This Act may be called the Muslim Personal Law (Shariat) Application Act, 1937.

(2) It extends³to the whole of India⁴[except the State of Jammu and Kashmir] ⁵[* * *].

STATE AMENDMENT

Pondicherry :-In Section 1 after Sub-section (2) insert the following Proviso, namely :

"Provided that nothing contained in this Act shall apply to the Renoncants of the Union Territory of Pondicherry-Act XXXVI of 1968, Section 3 and Schedule.

3. Extended to the Pondicherry by Act 26 of 1968, sec. 3 and Part I, subject to the following modifications :--

"Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry."

4. Subs, by the Act (48 of 1959), sec. 3 and Sch. I. for certain words (w.e.f. 1-2-1960).

5. The words "excluding the North-West Frontier Province" omitted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

2. Application of Personal Law to Muslims :-

Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate successions, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including talaq, ila, zihar, lian, khula and mubarat, maintenance, dower, guardianship, gift trusts and trust properties and wakfs (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in case where the parties are Muslims shall be the Muslim Personal Law (Shariat).

STATE AMENDMENTS

Andhra Pradesh

Same as that of Tamil Nadu.

Kerala

Same as that of Tamil Nadu except that in Kerala, between the words "trust properties and wakfs" and "the rule of decision in cases", and the words, brackets etc. "(other than charities and charitable institutions and charitable and religious endowments)".- Ker. Act 42 of 1963, Section 3 (12-11-1963).

Tamil Nadu

For Section 2 substitute the following section, namely:-

"2. Application of Personal Law to Muslims :-Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate successions, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal

Law, marriage, dissolution of marriage, including talaq, ila, zihar, likan, khula and mubarat, maintenance the rule of decision in case where the parties are Muslims shall be the Muslim Personal Law (Shariat)-T.N. Act XVIII of 1949, Section 2 (12-1-1949).

3. Power to make a declaration :-

(1) Any person who satisfies the prescribed authority-

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of Section 11 of the Indian Contract Act, 1872 (9 of 1872), and

(c) that he is a resident of ¹[the territories to which this Act extends],

may by declaration in the prescribed form and filed before the prescribed authority declare that he desire to obtain the benefit ²[the provisions of this section], and thereafter the provisions of Section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, Wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the State Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

1. Subs, by the Adaptation of Laws (No. 3) Order, 1956 for "a Part A State or a Part C State".

2. Subs, by Act 16 of 1943; sec. 2, for "this Act"

4. Rule-making power :-

(1) The State Government may make rules to carry into effect to the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely-

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they

shall be levied.

(3) Rules made under the provisions of this Section shall be published in the Official Gazette and shall thereupon have effect as if enacted in this Act.

¹[(4) Every rule made by the State Government under this Act shall be laid, as soon as it is made, before the State Legislature].

1. Ins. by Act 20 of 1983, sec. 2 and Sch. (w.e.f. 15-3-1984).

5. Dissolution of marriage by Court in certain circumstances :-

[Repealed by the Dissolution of Muslim Marriage Act, 1939 (8 of 1939), Sec. 6].

6. Repeals :-

²[The under mentioned provisions] of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely-

(1) Section 26 of the Bombay Regulation IV of 1827 ;

(2) Section 16 of the Madras Civil Courts Act, 1873 (3 of 1873);

(3) ³[* * *]

(4) Section 3 of the Oudh Laws Act, 1876 {18 of 1876};

(5) Section 5 of the Punjab Laws Act, 1872 (5 of 1872);

(6) Section 5 of the Central Provinces Laws Act, 1875 (20 of 1875);
and

(7) Section 4 of the Ajmere Laws Regulation, 1877 (Reg. 3 of 1877).

2. Subs, by Act 16 of 1943, sec. 3, for "Provinsions".

3. The brackets, figures and words " (3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887" omitted by Act 16 of 1943 sec. 3. This omission has the effect of reviving the operation of section 37 of that Act.