

West Pakistan Muslim Personal Law (Shariat) Act, 1962

5 of 1962

[31 December 1962]

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An Act to consolidate and amend the provisions for the application of Muslim Personal Law (Shariat) in the Province of West Pakistan
Preamble.- WHEREAS it is expedient to consolidate and amend the provisions for the application of Muslim Personal Law (Shariat) in the Province of West Pakistan; It is hereby enacted as follows:-

1. Short Title And Extent :-

- (1) This Act may be called the West Pakistan Muslim Personal Law (Shariat) Application Act, 1962.
- (2) It extends to the whole of [2][Pakistan].

2. Application Of The Muslim Personal Law :-

Notwithstanding any custom or usage, in all questions regarding succession (whether testate or intestate), special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, legitimacy or bastardy, family relations,

wills, legacies, gifts, religious usages or institutions, including waqfs, trusts and trust properties, the rule of decision, subject to the provisions of any enactment for the time being in force, shall be the Muslim Personal Law (Shariat) in case where the parties are Muslims.

2A. Succession Prior To Act IX Of 1948 :-

Notwithstanding anything to the contrary contained in section 2 or any other law for the time being in force, or any custom or usage or decree, judgment or order of any Court, where before the commencement of the Punjab Muslim Personal Law (Shariat) Application Act, 1948, a male heir had acquired any agricultural land under custom from the person who at the time of such acquisition was a Muslim:-

(a) he shall be deemed to have become, upon such acquisition, an absolute owner of such land, as if such land had devolved on him under the Muslim Personal Law (Shariat);

(b) any decree, judgment or order of any Court affirming the right of any reversioner under custom or usage, to call in question such an alienation or directing delivery or possession of agricultural land on such basis shall be void, inexecutable and of no legal effect to the extent it is contrary to the Muslim Personal Law (Shariat) Act;

(c) all suits or other proceedings of such a nature pending in any Court and all execution proceedings seeking possession of land under such decree shall abate forthwith:

Provided that nothing herein contained shall be applicable to transactions past and closed where possession of such land has already been delivered under such decrees.

3. Termination Of Limited Estate Under Customary Law :-

The limited estates in respect of immovable property held by Muslim females under the Customary Law are hereby terminated:

Provided that nothing herein contained shall apply to any such estate saved by any enactment, repealed by this Act, and the estates so excepted shall continue to be governed by that enactment, notwithstanding its repeal by this Act.

4. Further Operation Of Certain Wills Shall Cease On The Death Of Legatee-In-Enjoyment :-

Where a will providing for more than one legatee succeeding to the testators property one after the other is operative at the commencement of this Act, its further operation shall cease upon the death of the legatee-in-enjoyment.

5. Devolution Of Property On The Termination Of Life Estate And Certain Wills :-

The life estate terminated under section 3 or the property in

respect of which the further operation of a will has ceased under section 4 shall devolve upon such persons as would have been entitled to succeed under the Muslim Personal Law (Shariat) upon the death of the last full owner or the testator as though he had died intestate; and if any such heir has died in the meantime, his share shall devolve in accordance with Shariat on such persons as would have succeeded him, if he had died immediately after the termination of the life estate or the death of the said legatee: Provided that the share to which a Muslim female holding limited estate under Customary Law would have been entitled under the Muslim Personal Law (Shariat) upon the death of the last full owner shall devolve on her.

6. Sections 3, 4 And 5 Only To Be Retrospective :-

Save as expressly provided by the provisions of sections 3,4 and 5, this Act shall have no retrospective operation.

7. Repeal And Savings :-

(1) The following enactments are hereby repealed-

- (a) The Punjab Limitation (Custom) Act, 1920[5];
- (b) The Punjab Custom (Power to Contest) Act, 1920[6];
- (c) The Muslim Personal Law (Shariat) Application Act, 1937[7], in its application to West Pakistan;
- (d) The North-West Frontier Province Muslim Personal Law (Shariat) Application Act, 1935[8];
- (e) The Punjab Muslim Personal Law (Shariat) Application Act, 1948[9];
- (f) The Muslim Personal Law (Shariat) Application (Sind Amendment) Act, 1950[10];
- (g) The Bahawalpur State Shariat (Muslim Personal Law) Application Act, 1951[11];
- (h) The Khairpur State Muslim Female Inheritance (Removal of Customs) Act, 1952[12].

(2) [xxx]