

The Muslim Personal Law (Shariat) Application Act, 1937

[Act No. 26 of 1937 dated 7th. October, 1937]¹

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. Short Title and Extent

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

(2) It extends to ³[the whole of India ⁴[except the State of Jammu and Kashmir]] ⁵[***] ⁶

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 succession, 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 mubaraat, maintenance, dower guardianship, gifts, trusts and trust properties, and wakfs (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal law (Shariat).

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, and

(c) that he is a resident of ⁶[the territories to which this Act extends]

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of ⁷[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 ⁸[State] Government may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4. Rule-Making Power

(1) The ⁸[State] Government may make rules to carry into effect 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 declaration 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.

[5. Dissolution of marriage by Court in certain circumstances- Repealed by the Dissolution of Muslim Marriages Act, 1939]

6. Repeals

⁹[The undermentioned 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;

¹⁰[***]

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

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

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

(7) Section 4 of the Ajmer Laws Regulation, 1877.

Foot Notes

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

2. The words "in the Provinces of India" omitted by the A.O. 1950.

3. Substituted by the A.O. 1950, for the words "all the Provinces of India".

4. Substituted by the Miscellaneous Personal Laws, (Extension) Act, 1959, w.e.f. 1st. February, 1960.

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

In its application to Pondicherry, in section 1, after sub-section (2), the following shall be inserted-

Provided that nothing contained in this Act shall apply to the Renoncants of the Union territory of Pondicherry."-(Vide Act 26 of 1968).

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

7. Substituted by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943 (16 of 1943), for the words "this Act".

8. Substituted by the Adaptation of Laws Order 1950, for the words "Provincial".

9. Substituted by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943, for the words "Provisions".

10. The brackets, figures and words "(3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887" omitted by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943. This omission has the effect of reviving the operation of section 37 of that Act.