

**MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT,
1937**

26 of 1937

[7th October, 1937]

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STATEMENT OF OBJECTS AND REASONS "For several years past it has been the cherished desire of the Muslims of British India that Customary law should in no case take the place of Muslim Personal Law, The matter has been repeatedly agitated in the press as well as on the platform, The Jamiat-ul-Ulema-i-Hind, the greatest Moslem religious body has supported the demand and invited the attention of all concerned to the urgent necessity of introducing a measure to this effect. Customary Law is a misnomer inasmuch as it has not any sound basis to stand upon and is very much liable to frequent changes and cannot be expected to attain at any time in the future that certainty and definiteness which must be the characteristic of all laws. The status of Muslim women under the so-called Customary Law is simply disgraceful. All the Muslim Women Organisations have therefore condemned the Customary Law as it adversely affects their rights. They demand that the Muslim Personal Law (Shariat) should be made applicable to them. The introduction of Muslim Personal Law will automatically raise them to the position to which they are naturally entitled. In addition to this present measure, if enacted, would have very salutary effect on

society because it would ensure certainty and definiteness in the mutual rights and obligations of the public. Muslim Personal Law (Shariat) exists in the form of a veritable code and is too well known to admit of any doubt or to entail any great labour in the shape of research, which is the chief feature of Customary Law."- Gazette of India, 1935, Part V, page 136. ACT HOW AFFECTED BY SUBSEQUENT LEGISLATION -Amended by Acts 16 of 1948, 48 of 1959, 26 of 1968, 20 of 1983. -Amended in Madras by Mad. Act 18 of 1949. -Amended in Kerala by Ker. Act 42 of 1963. -Adapted by A.C.A.O., 1948; A.L.O., 1950; 3 A.L.O., 1956. -Extended by Acts 59 of 1949, 30 of 1950, 67 of 1950, 26 of 1968, Regns. 6 of 1963, 8 of 1965. -Extended in Bombay (Gujarat and Maharashtra) by Born. Act 4 of 1950. -Extended in Tamil Nadu by T. N. Act 23 of 1960. -Adopted in Madhya Bharat by M. B. Act 23 of 1953. - Repealed in part by Act 8 of 1939.

1. Short title and extent :-

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

(2) It extends to the whole of India ¹[except the State of Jammu and Kashmir] ² [* * *].

1. Substituted for the words "except the territories which, immediately before the 1st November, 1956, were comprised in Part B States", by the Miscellaneous Personal Laws (Extension) Act, 1959 (48 of 1959), S. 3 and Sch. I (1-2-1960).

2. The words "excluding the North-West Frontier Province" were omitted by A.C.A.O., 1948.

2. Application of Personal Law to Muslims :-

Notwithstanding any customs 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, ulla, 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 Contract Act, 1872 and

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

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. Substituted for the words "a Part A State or a Part C State", by 3 A.L.O., 1956.

2. Substituted for the words "this Act", by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943 (16 of 1943). S. 2 (7-4-1943).

4. Rule-making power :-

(1) The ¹[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 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 ²[Official Gazette] and shall thereupon have effect as if enacted in this Act.

3 [(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. Substituted for the words "Provincial Government" by A.L.O., 1950.

2. Substituted for the words "Gazette of India" by A.O., 1937.

3. Inserted by the Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983), S. 2 and Sch. (15-3-1984).

5. Dissolution of marriage by Court in certain circumstances

:-

Repealed by the Dissolution of Muslim Marriages Act, 1939 (8 of 1939), S. 6 (17-3-1939).]

6. Repeals :-

¹[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) S.26 of the Bombay Regulation 4 of 1827;

(2) S.16 of the Madras Civil Courts Act, 1873;² [* * * *]

(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) S.4 of the Ajmer Laws Regulation, 1877.

1. Substituted for the word "Provisions" by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943 (16 of 1943), S. 3.

2. The words. Figures and brackets "(3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887" were omitted, by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943.