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MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937

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

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ARRANGEMENT OF SECTIONS

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SECTIONS

1. Short title and extent.
2. Application of Personal Law to Muslims.
3. Power to make a declaration.
4. Rule-making power.
5. [*Repealed*].
6. Repeals.

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

ACT NO. 26 OF 1937

[7*th October*, 1937.]

An Act to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims. [1]***

WHEREAS it is expedient to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims [1]***; 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 the whole of India [2] [[3]***]. [4]*** [5]

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 properly 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*).

STATE AMENDMENTS

Kerala.

Substitution of a new section for section 2, Central Act 26 of 1937.—For section 2 of the said Act, the following section shall be substituted, namely:—

"2. Application of personal law to Muslims.—Notwithstanding any custom or usage to the contrary, in all questions regarding intestate succession, special property of females including personal property inherited or obtained under contract or gift or any other provision of personal laws, 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 rules of decision in cases where the parties are Muslims, shall be the Muslim Personal Law (Shariat)."

[*Vide* kerala Act 42 of 1963, s. 3.]

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1. The words "in the Provinces of India" omitted by the Adaptation of Laws Order, 1950.
2. Subs. by Act 48 of 1959, s. 3 and the First Schedule for "except the territories which, immediately before the 1st November, 1956, were comprised in Part B States" (w.e.f. 1-2-1960).
3. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).
4. The words "excluding the North-West Frontier Province" omitted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
5. 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.)
The Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I and to the whole of the Union territory of Lakshadweep by Reg. 8 of 1965, s. 3 and Sch.

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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 desires to obtain the benefit of [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 office 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.

4. Rule-making power.—(*1*) The 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 declaration 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.

[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.]

5. [Dissolution of marriage by Court in certain circumstances.**]—***Rep. by the Dissolution of Muslim Marriages Act*, 1939 (8 *of* 1939), *s*. 6 (*w.e.f.* 17-3-1939).

6. Repeals.—[4][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);

[5]* * * * *

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

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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, s. 2, for "this Act" (w.e.f. 7-4-1943).
3. Ins. by Act 20 of 1983, s. 2 and the Schedule (w.e.f. 15-3-1984).
4. Subs. by Act 16 of 1943, s. 3, for "Provisions" (w.e.f. 7-4-1943).
5. Entry (*3*) omitted by s. 3, *ibid.* (w.e.f. 7-4-1943).

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(*5*) Section 5 of the Punjab Laws Act, 1872 (4 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 (3 of 1877).

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