

The Parsi Marriage and Divorce Act, 1936

(ACT NO. III OF 1936)

¹♣An Act to amend the law relating to marriage and divorce among Parsis.

WHEREAS it is expedient to amend the law relating to marriage and divorce among Paris;

It is hereby enacted as follows:-

I. PRELIMINARY

Short title, extend and commencement

1.(1) This Act may be called the Parsi Marriage and Divorce Act, 1936.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification, in the official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(1) "Chief Justice" includes senior Judge;

(2) "Court" means a Court constituted under this Act;

(3) to "desert", together with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent, or against the will of such party;

(4) "grievous hurt" means-

(a) emasculation;

(b) permanent privation of the sight of either eye;

(c) permanent privation of the hearing of either ear;

(d) privation of any member or joint;

(e) destruction or permanent impairing of the powers of any member or joint;

(f) permanent disfiguration of the head or face; or

(g) any hurt which endangers life;

(5) "husband " means a Parsi husband;

(6) "marriage" means a marriage between Parsis whether contracted before or after the commencement of this Act;

(7) a "Parsi" means a Parsi Zoroastrian;

(8) "priest" means a Parsi priest and includes Dastur and Mobed; and

(9) "wife" means a Parsi wife.

II. MARRIAGE BETWEEN PARSIS

Requisites to validity of Parsi marriages

3. No marriage shall be valid if-

(a) the contracting parties are related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I; or

(b) such marriage is not solemnized according to the Parsi form of ceremony called "Ashirvad" by a priest in the presence of two Parsi witnesses other than such priest; or

(c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who has not completed the age of twenty-one years, the consent of his or her father or guardian has not been previously given to such marriage.

Remarriage when unlawful

4.(1) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not, except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorce Act, 1865, or under this Act, except after a divorce, declaration or dissolution as aforesaid under either of the said Acts.

(2) Every marriage contracted contrary to the provisions of sub-section (1) shall be void.

Punishment of bigamy

5. Every Parsi who during the lifetime of his or her wife or husband, whether a Parsi or not, contracts a marriage without having been lawfully divorced from such wife or husband or without his or her marriage with such wife or husband having legally been declared null and void or dissolved, shall be subject to the penalties provided in section 494 and 495 of the Penal Code for the offence of marrying again during the lifetime of a husband or wife.

Certificate and registry of marriage

6. Every marriage contracted under this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty one years and two witnesses present at the marriage and the said priest shall thereupon send such certificate together with a fee of two Taka to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by his for that purpose and shall be entitled to retain the fee.

Appointment of Registrar

²[7. For the purposes of this Act, the Government shall appoint such Registrar or Registrars as it may deem fit].

Marriage register to be open for public inspection

8. The register of marriages mentioned in section 6 shall, at all reasonable times be open for inspection and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant two of Taka for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Copy of certificate to be sent to Registrar- General of Births,

9. ³[The Registrar shall, at such intervals as the Government] from time to time directs send to the Registrar-General of Births, Deaths and Marriages ⁴[* * *] a true copy certified by him in such form ⁵[as the Government] from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

Deaths and Marriages

Registration of divorces

10. When a Court passes a decree for divorce, nullity or dissolution, the Court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7; the Registrar shall enter the same in a register to be kept by him for the purpose, and the provisions of Part II applicable to the Registrars and registers of marriages shall be applicable, so far as may be, to the Registrars and registers of divorces and decrees of nullity and dissolution.

Penalty for solemnizing marriage contrary to section 4

11. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred Taka, or with both.

Penalty for priest's neglect of requirements of section 6

12. Any priest neglecting to comply with any of the requisitions affecting him contained in section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Taka, or with both.

Penalty for omitting to subscribe and attest certificate

13. Every other person required by section 6 to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Taka.

Penalty for making, etc., false certificate

14. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Taka, or with both; and if the act amounts to forgery as defined in the Penal Code, then such person shall also be liable, on conviction thereof, to the penalties provided in section 466 of the said Code.

Penalty for failing to register certificate

15. ⁶[The] Registrar failing to enter the said certificate pursuant to section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Taka, or with both.

Penalty for secreting, destroying or altering register

16. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Penal Code for a term which may extend to two years, or if he be ⁷[the Registrar], for a term which may extend to five years and shall also be liable to fine which may extend to five hundred Taka.

Formal irregularity not to invalidate marriage

17. No marriage contracted under this Act shall be deemed to be invalid solely by reason of the fact that it was not certified under section 6, or that the certificate was not sent to the Registrar, or that the certificate was defective, irregular or incorrect.

III. PARSI MATRIMONIAL COURTS

Constitution of Special Courts under the Act

18. For the purpose of hearing suits under this Act, a special Court shall be constituted in such places ⁸[as the Government may] think fit.

[Omitted]

19. [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949.]

Parsi District Matrimonial Courts

20. Every Court so constituted shall be entitled the Parsi District Matrimonial Court of the place at which it is constituted. Subject to the provisions contained in section 21, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the district in which it is held. This judge of the principal Court of original civil jurisdiction at such place shall be the judge of such Matrimonial Court, and in the trial of cases under this Act he shall be aided by ⁹[* * *] delegates.

Power to alter