



## THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856



### CONTENTS

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#### SECTIONS:

1. Marriage of Hindu widows legalized.
2. Rights of widow in deceased husband's property to cease on her re-marriage.
3. Guardianship of children of deceased husband on the re-marriage of his widow.
4. Nothing in this Act to render any childless widow capable of inheriting.
5. Saving of rights of widow marrying, except as provided in sections 2 to 4.
6. Ceremonies constituting valid marriage to have same effect on widow's marriage.
7. Consent to re-marriage of minor widow.  
Punishment for abetting marriage made contrary to this section.  
Effect of such marriage.  
Proviso.  
Consent to re-marriage of major widow.

# <sup>1</sup>[THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856]

## ACT No. XV OF 1856

[25th July, 1856]

### **An Act to remove all legal obstacles to the marriage of Hindu Widows.**

**Preamble.** WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the Government of the East India Company, Hindu widows with certain exceptions are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property;

AND WHEREAS many Hindus believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience ;

AND WHEREAS it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare ; it is enacted as follows :-

**1. Marriage of Hindu widows legalized.** No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

**2. Rights of widow in deceased husband's property to cease on her re-marriage.** All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

**3. Guardianship of children of deceased husband on the re-marriage of his widow.** On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother of paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court,

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<sup>1</sup>Short title given by the Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces and the Capital of the Federation, except the Scheduled Districts, by the Law Local Extent Act, 1874 (15 of 1874), s. 3. It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874(14 of 1874), to be in force in the following Scheduled Districts, namely- Sind . . . . See Gazette of India, 1880, Pt. I, p. 672.

The District of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. [Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the N.W.F.P., see Gazette of India, 1901, Pt. I, p. 857, and *ibid.*, 1902, Pt. I, p. 575; but its application to that part of the Hazara District known as Upper Tanawal has been barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900)]-see Gazette of India, 1886, Pt. I, p. 48.