



# THE PARSI MARRIAGE AND DIVORCE ACT, 1936



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# THE PARSI MARRIAGE AND DIVORCE ACT, 1936

<sup>1</sup>ACT NO. III OF 1936

[23rd April, 1936]

## 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 Parsis; It is hereby enacted as follows :—

### I. PRELIMINARY

**1. Short title, extent and commencement.**— (1) This Act may be called the Parsi Marriage and Divorce Act, 1936.

<sup>2</sup>[(2) It extends to the whole of Pakistan.]

(3) It shall come into force on such date<sup>3</sup> as the <sup>4</sup>[Federal Government] may, by notification in the <sup>5</sup>[Official Gazette], appoint

**2. Definitions.** 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 ;

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<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 221; and for Report of Select Committee, see *ibid.*, 1935, Pt. V, pp. 108-109.

The Act has been applied to Baluchistan by British Baluchistan Laws Regulation, 1913 (II of 1913), s. 3, as amended.

The Act has been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950); and also applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

<sup>2</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for the original sub-section (2), as amended by A. O. 1937 and A. O., 1949.

<sup>3</sup>The 22nd June, 1936, see Gazette of India, 1936, Pt. I, p. 621.

<sup>4</sup>Subs. by F. A. O. 1975, Art. 2 and Table, for “Central Government” which was subs. by A.O., 1937, for “G. G. in C”.

<sup>5</sup>Subs. by A.O., 1937, for “Gazette of India”.

(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.— MARRIAGES BETWEEN PARSIS

**3. Requisites to validity of Parsi marriages.** 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.

**4. Remarriage when unlawful.**— (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<sup>1</sup> (XV of 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.

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<sup>1</sup>Rep. by this Act.

**5. Punishment of bigamy.** 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 sections 494 and 495 of the Pakistan Penal Code ([XLV of 1860](#)) for the offence of marrying again during the lifetime of a husband or wife.

**6. Certificate and registry of marriage.** 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 rupees 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 him for that purpose and shall be entitled to retain the fee.

**7. Appointment of Registrar.** For the purposes of this Act a Registrar shall be appointed within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the <sup>1</sup>[Provincial Government]. Every Registrar so appointed may be removed by the Chief Justice or <sup>1</sup>[Provincial Government] appointing him.

**8. Marriage registers to be open for public inspection.** 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 of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

**9. Copy of certificate to be sent to Registrar-General of Births, Deaths and Marriages.** Every Registrar, <sup>2</sup>\* \* \*, shall, at such intervals as the <sup>1</sup>[Provincial Government] by which he was appointed from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by such <sup>1</sup>[Provincial Government] a true copy certified by him in such form as such <sup>1</sup>[Provincial Government] from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

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<sup>1</sup>Subs. by A. O., 1937, for "L. G."

<sup>2</sup>The words "except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay" omitted by A. O., 1949.