

The Muslim Family Laws Ordinance, 1961

(Ordinance NO. VIII OF 1961)

An Ordinance to give effect to certain recommendations of the Commission on Marriage and Family Laws.

WHEREAS it is expedient to give effect to certain recommendations of the Commission on Marriage and Family Laws;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

**Short title,
extent,
application
and
commencement**

1. (1) This Ordinance may be called the Muslim Family Laws Ordinance, 1961.

(2) It extends to the whole of ¹[Bangladesh], and applies to all Muslim citizens of ²[Bangladesh], wherever they may be.

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

Definitions

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

(a) "Arbitration Council" means a body consisting of the Chairman and a representative of each of the parties to a matter dealt with in this Ordinance:

Provided that where any party fails to nominate a representative within the prescribed time, the body formed without such representative shall be the Arbitration Council;

(b) "Chairman" means-

(i) the Chairman of the Union Parishad;

(ii) the Chairman of the Paurashava;

(iii) the Mayor or Administrator of the Municipal Corporation;

(iv) the person appointed by the Government in the Cantonment areas to discharge the functions of Chairman under this Ordinance;

(v) where the union Parishad, Paurashava or Municipal Corporation is superseded, the person discharging the functions of such Parishad, Paurashava or Corporation or as the case may be, appointed by the Government to discharge the functions of Chairman under this Ordinance:

Provided that where the Chairman of the Union Parishad or Paurashava or the Mayor of the Municipal Corporation is a non-Muslim, or he himself wishes to make an application to the Arbitration Council, or is, owing to illness or an other reason, unable to discharge the functions of Chairman the Union Parishad, Paurashava or Municipal Corporation shall elect one of its Muslim members or Commissioner as Chairman for the purposes of this ordinance;

(c) "Municipal Corporation" means the Municipal Corporation constituted under the Chittagong Municipal Corporation Ordinance, 1982 (XXXV of 1982), or the Dhaka Municipal Corporation Ordinance, 1983 (XL of 1983), or the Khulna Municipal Ordinance, 1984 (LXXII of 1984), and having in the matter jurisdiction as prescribed;

(d) "Paurashava" means the Paurashava constituted under the Paurashava Ordinance, 1977 (XXVI of 1977), and having the matter jurisdiction as prescribed;

(e) "Prescribed" means prescribed by rules made under section 11;

(f) "Union Parishad" means the Union Parishad constituted under the Local Government (Union Parishads) Ordinance, 1983 (LI of 1983), and having in the matter jurisdiction as prescribed.]

Ordinance to override

3. (1) The provisions of this Ordinance shall have effect notwithstanding any law, custom or usage ⁵[* * *].

(2) For the removal of doubt, it is hereby declared that the provisions of the Arbitration Act, 1940, the Code of Civil Procedure, 1908 and any other law regulating the procedure of Courts shall not apply to any Arbitration Council.

Succession

4. In the event of the death of any son or daughter of the propositus before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall per stirpes receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive.

Registration of marriages

5. [Registration of marriages.- Omitted by section 15 of the Muslim Marriages and Divorces (Registration) Act, 1974 (Act No. LII of 1974).]

Polygamy

6. (1) No man, during the subsistence of an existing marriage, shall, except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered ⁶[under the Muslim Marriages and Divorces (Registration) Act, 1974 (LII of 1974)].

(2) An application for permission under sub-section (1) shall be submitted to the Chairman in the prescribed manner, together with the prescribed fee, and shall state the reasons for the proposed marriage, and whether the consent of the existing wife or wives has been obtained thereto.

(3) On receipt of the application under sub-section (2), the Chairman shall ask the applicant and his existing wife or wives each to nominate a representative, and the Arbitration Council so constituted may, if satisfied that the proposed marriage is necessary and just, grant, subject to such conditions, if any, as may be deemed fit, the permission applied for.

(4) In deciding the application the Arbitration Council shall record its reasons for the decision, and any party may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer

an application for revision ⁷[* *] to the ⁸[Assistant Judge] concerned and his decision shall be final and shall not be called in question in any Court.

(5) Any man who contracts another marriage without the permission of the Arbitration Council shall-

(a) pay immediately the entire amount of the dower, whether prompt or deferred, due to the existing wife or wives, which amount, if not so paid, shall be recoverable as arrears of land revenue; and

(b) on conviction upon complaint be punishable with simple imprisonment which may extend to one year, or with fine which may extend to ⁹[ten thousand taka], or with both.

Talaq

7. (1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of talaq in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for term which may extend to one year or with fine which may extend to ¹⁰[ten thousand taka] or with both.

(3) Save as provided in sub-section (5), a talaq unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of ninety days from the day on which notice under sub-section (1) is delivered to the Chairman.

(4) Within thirty days of the receipt of notice under sub-section (1), the Chairman shall constitute an Arbitration Council for the purpose of bringing about a reconciliation between the parties, and the Arbitration Council shall take all steps necessary to bring about such reconciliation.

(5) If the wife be pregnant at the time talaq is pronounced, talaq shall not be effective until the period mentioned in sub-section (3) or the pregnancy, whichever be later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by talaq effective under this section from re-marrying the same husband,