



## THE CHILD MARRIAGE RESTRAINT ACT, 1929



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# THE CHILD MARRIAGE RESTRAINT ACT 1929

<sup>1</sup>ACT NO. XIX OF 1929.

[1<sup>st</sup> October, 1929]

## An Act to restrain the solemnisation of child marriages

WHEREAS it is expedient to restrain the solemnisation of child marriages ; It is hereby enacted as follows:—

**1.Short title, extent and commencement.**— (1) This Act may be called the Child Marriage Restraint Act, <sup>2</sup>[1929].

<sup>3</sup>[(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan wherever they may be.]

(3) It shall come into force on the 1<sup>st</sup> day of April , 1930.

**42. Definitions.** In this Act, unless there is anything repugnant in the subject or context,—

(a) “child” means a person who, if a male, is under 18 years of age, and if a female, is under <sup>5</sup>[sixteen] years of age;

(b) “child marriage” means a marriage to which either of the contracting parties is a child;

(c) “contracting party” to a marriage means either of the parties whose marriage is <sup>6</sup>[or is about to be] thereby solemnized; \*<sup>7</sup>

(d) “minor” means a person of either sex who is under eighteen years of age [;] <sup>8</sup>

<sup>9</sup>[(e) “Union Council” means Union Council or Town Committee constituted under the law relating to local government for the time being in force.]

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<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1927, Pt.v, p.28; for Reports of Select Committees, see *ibid.* 1928, Pt.v, pp.111 and 165. The Act has been applied to phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., and extended to the Excluded Area of Upper Tanawal (N.W.F.P) other than phulera with effect from such date and subject to such modifications, as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950. It has also been extended to the Leased Areas of Baluchistan, see the leased Areas (Laws) Order, 1950 (G.G.O.3 of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt.I, p.1499.

<sup>2</sup>Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s.2 and 1st Sch., for “1928”

<sup>3</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 the Child Marriage Restraint (Amdt.) Act, 1938 (7 of 1938), s.2, A.O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s.8.

<sup>4</sup>The Section, in so far as it applies to the Muslim citizens of Pakistan, has been amended by the Muslim Family Laws Ordinance, 1961. (8 of 1961), s.12 (with effect from the 15th July, 1961).

<sup>5</sup>Subs. by the Muslim Family laws ordinance, 1961 (8 of 1961) s.12, for “Fourteen”, (with effect from the 15th July, 1861).

<sup>6</sup>Ins. by the Child Marriage Restraint (Second Amdt.) Act, 1938 (19 of 1938), s.2.

<sup>7</sup>The words “and” omitted *ibid.*, (with effect from 15th July, 1961).

<sup>8</sup>Subs. *ibid.*, for full-stop.

<sup>9</sup>Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Sch.,II, for clause (e), which was previously amended by Ord.8 of 1961, s.12.

3.[Punishment for male adult below twenty-one years of age marrying a child] Omitted by the Muslim Family Laws Ordinance, 1961 (VIII of 1961), s.12.

**14. Punishment for male adult above twenty-one years of age marrying a Child.** Whoever, being a male above <sup>2</sup>[eighteen] years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

**5. Punishment for Solemnising a child marriage.** Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage.

**6. Punishment for parent or guardian concerned in a child carriage.**— (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

**7. Imprisonment not to be awarded for offences under section 3.** Notwithstanding anything contained in section 25 of the General Clauses Act 1897 (X of 1897), or section 64 of the Pakistan Penal Code 1860 (XLV of 1860), a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

**8. Jurisdiction under this Act.** Notwithstanding anything contained in section 190 of the Code of Criminal Procedure 1898 (V of 1898), no Court other than that of <sup>3</sup>\* \* \* a <sup>4</sup>[Magistrate of the first class] shall take cognizance of, or try, any offence under this Act.

<sup>5</sup>[**9. Mode of taking cognizance of offences.** No Court shall take cognizance of any offence under this Act, <sup>6</sup>[except on a complaint made by the Union Council, or if there is no Union Council in the area, by such authority as the Provincial Government may in this behalf prescribed, and such cognizance shall in no case be taken] after the expiry of one year from the date on which the offence is alleged to have been committed.]

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<sup>1</sup>The Section, in so far as it applies to the Muslim citizens of Pakistan, has been amended by the Muslim Family Laws Ordinance, 1961. (8 of 1961), s.12 (with effect from the 15th July, 1961).

<sup>2</sup>Subs. by Ord.8 of 1961, s.12, for "Twenty-one". (with effect from 15th July, 1961).

<sup>3</sup>The words "a Presidency Magistrate or" omitted by A.O., 1949.

<sup>4</sup>Subs. by the Child Marriage Restraint (Second Amdt.) Act, 1938 (19 of 1938), s.3, for "District Magistrate".

<sup>5</sup>Subs. *ibid.*, s.4, for original s.9.

The section, in so far as it applies to the Muslim citizens of Pakistan, has been amended by the Muslim Family Laws Ordinance, 1961 (8 of 1961), s.12 (with effect from the 15<sup>th</sup> July, 1961).

<sup>6</sup>Ins. by the Muslim Laws Ordinance, 1961 (8 of 1961), s.12, (with effect from 15<sup>th</sup> July, 1961).

**10. Preliminary inquiries into offences under this Act.** The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure 1898 (V of 1898), either itself make an inquiry under section 202 of that Code, or direct a Magistrate of the first class subordinate to it to make such inquiry.

<sup>1</sup>**11.** *[Power to take security from Complainant.] Omitted, by the Muslim Family Laws Ordinance, 1961 (VIII of 1961) s.12 (w.e.f 15<sup>th</sup> July, 1961).*

<sup>2</sup>**[12. Power to issue injunction Prohibiting marriage in contravention of this Act.—** (1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in sections 3, 4, 5, and 6 of this Act prohibiting such marriage.

(2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1).

(4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.]

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<sup>1</sup>The section, in so far as it applies to the Muslim citizens of Pakistan, has been omitted by the Muslim Family Laws Ordinance, 1961 (8 of 1961), s.12 (with effect from the 15<sup>th</sup> July, 1961).

<sup>2</sup>Subs. by the Child Marriage Restraint (Second Amdt.) Act, 1938 (19 of 1938), s.5, for the original sub-section (1).

