

THE INDIAN MATRIMONIAL CAUSES (WAR MARRIAGES) ACT, 1948

ACT No. 40 OF 1948¹

[3rd September, 1948.]

An Act to confer upon Courts temporary jurisdiction in certain matrimonial causes.

WHEREAS it is expedient to confer upon Courts² * * * temporary jurisdiction in certain matrimonial causes;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Matrimonial Causes (War Marriages) Act, 1948.

(2) It extends to the whole of India, except³ [the territories which, immediately before the 1st November, 1956, were comprised in Part B States.]

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

(a) “High Court” shall have the same meaning as in the Indian Divorce Act, 1869 (4 of 1969);

(b) “marriage” includes a purported marriage which was void *ab initio*, and “husband” and “wife” shall be construed accordingly;

(c) “war period “ means the period commencing on the 3rd day of September, 1939, and ending on the 31st day of March, 1946.

3. Application of Act.—The marriages to which this Act applies are marriages solemnized during the war period, where the husband was, at the time of the marriage, domiciled outside India, and the wife was immediately before the marriage, domiciled in India;

Provided that this Act shall not apply to any marriage if, since the solemnization thereof, the parties thereto have resided together in the country in which the husband was domiciled at the time of the residence.

Explanation.—For the purposes of the above proviso the whole of the United States of America, the whole of the United Kingdom and the whole of any British possession⁴ * * * shall each be treated as one country.

4. Temporary extension of jurisdiction of High Courts.—In the case of any marriage to which this Act applies, the High Court shall have jurisdiction in and in relation to any proceedings for divorce or for nullity of marriage as if both parties were at all material times domiciled in India; and subject to the provisions of this Act, the provisions of the Indian Divorce Act, 1869 (4 of 1969), shall apply, so far as may be, in relation to any such proceedings instituted under this Act as if they were proceedings instituted under that Act:

Provided that this section shall not apply in relation to any proceedings for divorce or for nullity of marriage unless—

(a) the petitioner of the respondent professes the Christian religion, and

(b) the proceedings for divorce or for nullity of marriage are commenced not later than three years from the commencement of this Act.

1. The Act has been extended to and brought into force in Dadra and Nagar Haveli (w.e.f. 1-7-1965) by Reg. 6 of 1963, s. 2 and the Schedule I.

2. The words “in the Provinces of India” omitted by the A.O. 1950.

3. Subs. by the Adaptation of Laws (No. 3) Order, 1956, for “Part B States”.

4. The words “outside India” omitted by the A.O. 1950.

5. Saving.—Nothing in this Act shall be deemed to extend or alter the jurisdiction of the High Court in, or in relation to, any proceedings for divorce or for nullity of marriage, where at the commencement of those proceedings the parties are domiciled anywhere in India.

6. Certain decrees and orders to be recognised.—The validity of any decree or order made in the United Kingdom by virtue of the Matrimonial Causes (War Marriages) Act, 1944 (7 and 8 Geo.6, e. 43), shall, by virtue of this Act, be recognised in all Courts in the States of India.

7. Power to make rules.—The High Court may make such rules as may be necessary for the purpose of carrying out the objects of this Act.