The
Majority Act, 1875

(XI OF 1875)

An Act to amend the Law respecting the age of majority

Preamble:

Whereas, in the case of persons domiciled in Pakistan, it is expedient to prolong the period of non-age, and to attain more uniformity and certainty respecting the age of majority than now exits:

It is hereby enacted as follows:

1. Short title: -- This Act may be called The Majority Act, 1875.
Local extent: -- It extends to the whole of Pakistan.
Commencement and operation: -- And it shall come into force and have effect only on the expiration of three months from the passing thereof.

2. Savings. : -- Nothing herein contained shall effect:

(a) the capacity of any person to act in the following matters (namely), marriage, dower, divorce and adoption;

(b) the religion or religious rites and usages of any class of citizens of Pakistan; or

(c) Omitted by the Federal Laws (Revision & Declaration) Ordinance, XXVII of 1981.

Court Decisions

A Muslim father is competent to apply for restoration of custody of his minor child under section 25 (1), Guardians and Wards Act, 1890. A Muslim father is the legal and the natural guardian of his children until they attain the age of majority under the general law of the land, namely, Majority Act, 1875 i.e., 18 year. The mother has the right of custody or Hizanat up to the age of seven years in the case of male child, and up to the age of puberty, i.e., 15 years, in the case of a female child. Even during this period, the right of Hizanat or custody is to be exercised under the supervision and control of the father, who is responsible for the maintenance of the children. The father has always to be regarded as having the constructive custody of his children, although the actual or physical custody may be with the mother or some other female relative, or some other person nominated by the father. P L D 1963 (W. P.) Lahore 534

The words "to act" in section 2 clause (a) of the Majority i Act include capacity to sue. A minor Muslim girl therefore can sue for dissolution of her marriage, without a next friend required by rule 1 of O. XXXII, C. P. C. P L D 1956 Sind 201
Muslim on attaining puberty, though under 18 years, earn bring suit without next friend relating to marriage, dower, divorce and adoption. It is significant that in section 2 of the Majority Act the Legislature has used the expression "to act in the following matters" and not to enter into a contract in the following matters " and it appears that when the Legislature used this expression they intended the section to apply to all matters including the institution of a suit. Section 2 (a) of the Majority Act (Act IX of 1875) confers not only the power to enter into contracts with regard to the matters mentioned therein but also the right to bring suits with respect to those matters. P. L. D. 1951 Lahore 408

Divorce includes right of option of puberty. The word "divorce" in clause (a) of Section 2 of Majority Act means the termination of marital ties between two living persons brought about by any means recognised by law including dissolution of marriage by the exercise of option of puberty. No doubt the word " talaq " of the Muslim Law, which almost invariably connotes the termination of marital ties by the unilateral act of the husband, has almost universally been translated as " divorce " but that restricted meaning cannot be given to the word " divorce " occurring in section 2 of Act IX of 1875. The Majority Act was intended to apply to all persons residing in the territories to which the Act was applicable and no expression used in the Act could therefore have been intended to have a meaning attached to that expression by only one community. P. L. D. 1951 Lahore 408

3. Age of majority of persons domiciled in Pakistan. Subject as aforesaid, every minor of whose person or property, or both a guardian, other than a guardian for a suit within the meaning of Order 32 of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908) has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age shall, notwithstanding anything contained in the Succession Act, 1925 (XXXIX of 1925) or in any other enactment, his majority when he shall have completed his age of twenty-one years and not before.

Subject as aforesaid, every other person domiciled in Pakistan shall be deemed to have attained his majority when he shall have completed his age of eighteen years, and not before.

Court Decisions

Age of majority of a person--- Court had not appointed any guardian of the minor plaintiff regarding his person or property and as such the age of majority under S.3 of Majority Act, 1875, was 18 years---Where at the relevant time the plaintiff was minor as such any transaction on his behalf regarding his property was not legally binding on him without appointment of a guardian---Showing of the plaintiff as major was based on fraud and misrepresentation, appeal was dismissed in circumstances. 2001 Y L R 1419

Educational institutions .Admission. Provision in prospectus for production of father's domicile where candidate applying for admission was below twenty-one years of age, whether conflicts with provisions of Majority Act, 1875..domicile Certificate has to be issued under provisions of Pakistan Citizenship Act, 1951 which provides that any person who has not completed age of twenty-one years is to be treated as minor. For purpose of Pakistan Citizenship Act, 1951, provision of Majority Act, 1875 which provides that a person becomes major on attaining age of eighteen years cannot be pressed into service. Any person who has
not attained age of twenty-one years, would be treated as minor for the purpose of Domicile Certificate Where a petitioner was required to submit Domicile Certificate of his father, then in view of provisions of Pakistan Citizenship Act, such requirement would not be in conflict with provisions of Majority Act, 1989 C L C 497 PLD1979SC1;1979SCMR34;1981SCMR1002andPLD1980 Quetta 1 ref.

Majority. Age of majority for purposes of entering into and finalizing a contract of sale, Eighteen years and not one at which one attains puberty-- 1982 C L C 395 A I R 1937 Sind 310 and P L D 1959 Dacca 625 ref.

4. Age of majority how computed. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority, if he falls within the first paragraph of Section 3, at the beginning of the twenty-first anniversary of that day, and if he halls within the second paragraph of Section 3, at the beginning of the eighteenth anniversary of that day.

Illustrations

(a) Z is born in Pakistan on the first day of January, 1949 and has a Pakistani domicile. A guardian of his person is appointed by a Court of Justice, Z attains majority at the first moment on the first day of January, 1970.

(b) Z is born in Pakistan on the twenty-ninth day of February, 1948, and has a Pakistani domicile. A guardian of his property is appointed by a Court of Justice. Z attains majority at the first moment of the twenty-eight day of February, 1970.

(c) Z is born on the first day of January, 1941. He acquires a domicile in Pakistan. No guardian is appointed of his person or property by any Court of Justice, nor is he under the jurisdiction of any Court of Wards. Z attains majority at the first moment of the first day of January, 1960.