

The Marriage Laws (Amendment) Bill, 2010 was introduced in the Rajya Sabha on August 4, 2010. It seeks to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954. The Standing Committee submitted its report on the Bill on March 1, 2011. During the ongoing Monsoon Session, the government circulated amendments to the 2010 Amendment Bill. The table below compares the provisions in the Hindu Marriage Act/Special Marriage Act, the amendments made to them by the Marriage Laws (Amendment) Bill, 2010 and the 2013 amendments to the 2010 Amendment Bill circulated by the government.

Hindu Marriage Act / Special Marriage Act	Amendment Bill 2010	2013 Amendments to the 2010 Bill
<b>Divorce on the ground of irretrievable breakdown of marriage</b>		
No provision	Either party can file for divorce on the ground of irretrievable breakdown of marriage. Court shall not hold a marriage to have broken down irretrievably unless it is satisfied that the parties to the marriage have lived apart for a continuous period of at least three years before filing for such a petition. <i>(Clause 3 inserting section 13C/ Clause 7 inserting section 28A)</i>	No provision
<b>Wife's right to oppose petition on ground of hardship</b>		
No provision	The wife has the right to oppose the grant of a divorce due to irretrievable breakdown of marriage, on the ground that the dissolution shall result in grave financial hardship and that it would in all the circumstances be wrong to dissolve the marriage. But for the wife's right to oppose the divorce petition on this ground, the court would grant the divorce, the court shall consider all circumstances including conduct of parties, their interests and those of any children or other persons concerned. If the court is of the opinion that the dissolution of the marriage shall result in grave financial hardship to the wife and would in all the circumstances be wrong to dissolve the marriage, it shall dismiss the petition or stay the proceedings until arrangements have been made to eliminate the hardship. <i>(Clause 3 inserting section 13D/Clause 7 inserting section 28B)</i>	No provision
<b>Restriction on divorce affecting children</b>		
No provision	The court will not pass a decree of divorce on ground of irretrievable breakdown of marriage unless the court is satisfied that adequate provision for the maintenance of children born out of the marriage has been made consistently with the financial capacity of the parties to the marriage.  "Children" has been defined to mean: minor children; unmarried or widowed daughters without the financial resources to support themselves; and children who because of special condition of their	This amendment includes adopted children within the ambit of minor children in the definition of "children" under the 2010 amendment Act. <i>(Clause 3/Clause 7)</i>

Hindu Marriage Act / Special Marriage Act	Amendment Bill 2010	2013 Amendments to the 2010 Bill
	physical or mental health, need looking after and do not have the financial resources to support themselves. <i>(Clause 3 inserting section 13 E/Clause 7 inserting section 28C)</i>	
<b>Share in immovable and movable property in divorce on ground of irretrievable breakdown of marriage</b>		
No provision	No provision	At the time of passing of the decree for divorce on ground of irretrievable breakdown of marriage, on a petition made by the wife, the court may order that the husband shall give her and the children, certain compensation. This compensation shall include: (i) a share in his share of the immovable property (other than inherited or inheritable immovable property), and (ii) a share in movable property, towards the settlement of her claim, as the court may deem just and equitable. While determining such compensation the court shall take into account the value of inherited or inheritable property of the husband. This settlement made by the court shall be secured, if necessary, by a charge on the immovable property of the husband. <i>(Clause 3 inserting section 13F/Clause 7 inserting section 28D)</i>
<b>Process for divorce by mutual consent</b>		
At present, both parties to a marriage present a petition for divorce by mutual consent to a district court. Subsequently, the couple is required to file a joint application to the court between six to 18 months of the petition for divorce being filed (if the petition is not withdrawn in the meantime). The court after hearing the parties and making the necessary inquiries shall pass a decree of divorce. <i>(Section 13B (2), HMA/Section 28(2), SMA)</i>	The amendment does away with the requirement of a joint application to the court between six to 18 months of the petition for divorce being filed. The court proceeds with the hearing and its inquiries on submission of the petition for divorce. <i>(Clause 2/Clause 6)</i>	This substitutes the 2010 amendment: On an application made by both the parties, the court can reduce the six to 18 month period to a lesser period and waive the requirement for moving the motion by both the parties. The court has to be satisfied that the parties to the marriage are not in a position to reconcile their differences. Further, if one of the parties fails to appear before the court within a period of 3 years from the date of presentation of the petition for divorce, the court may, on an application made by the other party, waive the requirement of moving the motion by both the parties. <i>(Clause 2/Clause 6)</i>

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