

Ordinance Summary

The Muslim Women (Protection of Rights on Marriage) Ordinance, 2019

- The Muslim Women (Protection of Rights on Marriage) Ordinance, 2019 was promulgated on January 12, 2019. It replaces the Muslim Women (Protection of Rights on Marriage) Ordinance, 2018 promulgated on September 19, 2018. Note that the Muslim Women (Protection of Rights on Marriage) Bill, 2018 (to replace the 2018 Ordinance) was passed by Lok Sabha on December 27, 2018 and is currently pending in Rajya Sabha.
- The Ordinance makes all declaration of talaq, including in written or electronic form, to be void (i.e. not enforceable in law) and illegal. It defines talaq as talaq-e-biddat or any other similar form of talaq pronounced by a Muslim man resulting in instant and irrevocable divorce. Talaq-e-biddat refers to the practice under Muslim personal laws where pronouncement of the word ‘talaq’ thrice in one sitting by a Muslim man to his wife results in an instant and irrevocable divorce.
- **Offence and penalty:** The Ordinance makes declaration of talaq a cognizable offence, attracting up to three years imprisonment with a fine. (A cognizable offence is one for which a police officer may arrest an accused person without warrant.) The offence will be cognizable only if information relating to the offence is given by: (i) the married woman (against whom talaq has been declared), or (ii) any person related to her by blood or marriage.
- The Ordinance provides that the Magistrate may grant bail to the accused. The bail may be granted only after hearing the woman (against whom talaq has been pronounced), and if the Magistrate is satisfied that there are reasonable grounds for granting bail.
- The offence may be compounded by the Magistrate upon the request of the woman (against whom talaq has been declared). Compounding refers to the procedure where the two sides agree to stop legal proceedings, and settle the dispute. The terms and conditions of the compounding of the offence will be determined by the Magistrate.
- **Allowance:** A Muslim woman against whom talaq has been declared, is entitled to seek subsistence allowance from her husband for herself and for her dependent children. The amount of the allowance will be determined by the Magistrate.
- **Custody:** A Muslim woman against whom such talaq has been declared, is entitled to seek custody of her minor children. The manner of custody will be determined by the Magistrate.

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