

The Majority Act, 1875

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Act 6 of 1875

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The Majority Act, 1875(6 of 1875)Last Updated 30th December, 2019Statement of Objects and Reasons.-The mass of persons domiciled in this country may roughly be divided into (1) Hindus, (2) Muhammadans, (3) European British subjects, (4) persons to whom the Indian Succession Act applies.In the present state of law, the ages at which persons belonging to these classes respectively attain their majority may be stated as follows:-1. By the Hindu sastras, except those prevailing in Bengal, the end of the sixteenth year is the limit of minority, in Bengal the end of the fifteenth year is deemed to be the limit of minority, according to the Hindu law as understood there.By Bengal Regulation XXVI of 1793 and Madras Regulation V of 1804, the minority of Hindu proprietors of estates paying revenue to Government was extended, in case of such persons in each presidency respectively, to the end of the eighteenth year.By Acts XL of 1858 and XX of 1864, for the care of the persons and property of minors in the Presidency of Fort William in Bengal and in the Presidency of Bombay, respectively, it was enacted that, for the purposes of those Acts, every person should be deemed to be a minor who had not attained the age of eighteen years. European British subjects are excluded from the purview of the Acts. The effect of those Acts clearly was, for the purposes of those Acts, to alter the Hindu law as to the age of majority in the cases of persons to whom the Acts applied, and in course of time the question was raised in the Calcutta High Court as to whether the Acts did not similarly affect the age of majority of Hindus subject to the ordinary original jurisdiction of that Court, and was decided in the affirmative. This opinion was not, however, accepted by other Judges of the same Court before whom the question arose and the matter having been by one of them expressed to be in a complicated and unsatisfactory state was the other day referred to a Full Bench of the Court, which decided that a Hindu resident in Calcutta, who had no property in the mofussil, attained his age of majority on the completion of his fifteen year, and refrained from deciding what was the effect of the Acts upon persons resident in Calcutta and possessed of property in the mofussil.In Bombay it has been decided that, notwithstanding Act XX of 1864, a Hindu resident in the mofussil came of age on attaining sixteen years, so as to be able to prosecute a claim by suit.In a case which came before the late Sadr Diwani Adalat of Bengal, it was held that, according to the Jain law, majority begins on the completion of sixteen years.2. By Muhammadan law, the end of the fifteenth year, or the attainment of puberty, is the age of majority; but Muhammadans are, equally with Hindus and other British subjects in this country not being

Europeans affected by the Regulations and Acts already noticed.³ European British subjects not domiciled in this country come of age at twenty-one, and it has been held that they and their legitimate descendants, even though domiciled in this country, do the same, so far as regards their capacity to contract. This opinion has been questioned in a recent case.⁴ The class of persons to whom the Indian Succession Act applies includes Europeans by birth or descent domiciled in British India, East Indians or Eurasians, Jews, Armenians, Parsis and Native Christians. The Indian Succession Act defines a minor to be a person who has not completed the age of eighteen years, and defines 'majority' to be the status of such a person. In the case of *Rollo v. Smith*, [(1867) 1 Beng LR (OC) 10], already referred to, Mr. Justice Markby said that it would be carrying implication much too far to suppose that this definition was intended by the Legislature as an alteration of the age of majority for all purposes; and held that a person of one of the classes to whom the Act applies did not attain his majority, so as to have the full capacity to contract, until he attained the age of twenty one. In the later case of *Archur v. Watkins* [(1872) 8 Beng LR 372], Mr. Justice Phear treated the question as still an open one, and held that, by the provisions of Act XL of 1858, a person of one of the classes to whom the Indian Succession Act applies attained the age of majority, for all purposes of contract, at eighteen years. The ground of this decision so far as regards the effect of Act XL of 1858, was overruled in the subsequent decision of the Full Bench in *Mullick v. Mullick*; and the law respecting the age of majority of persons in this class, is, perhaps, in a more unsatisfactory state than even that relating to persons in the other classes. Such being, briefly, the present state of the law, it is obvious that, in the highly important matter of the age at which persons can enter into binding contracts with others and undertake responsibilities as majors; the law of this country is most confused and uncertain. To remedy this the present Bill has been drawn. The alteration proposed by it in the Hindu and Muhammadan laws, in cases now governed on this point by those laws, is not one which affects any principle of those laws touching the religion or conscience of those persons who are subject to them. The change has, already, in part, been made by the Regulations and Acts above mentioned; and no objection has ever been made to the change thus effected. To avoid, however, the possibility of any mistake on this point, it is expressly provided in the Bill that it is not to affect the capacity of any person to act in matters connected with marriage, dower, divorce and adoption. By their own laws Muhammadans and Hindus are empowered to act in these matters at an earlier age than that here fixed as the age of majority, and it is not intended to interfere with their capacity in these respects. The Bill also provides that it shall not affect the religion or religious rites and usages of any class of Her Majesty's subjects or the capacity of any person who, before the commencement of the proposed Act, shall have attained majority under the law applicable to him. It has been thought advisable to extend the Act to all persons, including European British subjects domiciled in British India. Were European British subjects excluded in all cases, it would be necessary for all persons dealing with them to ascertain whether they came within the legal definition of the term, an enquiry often difficult, and which would be most embarrassing were the exception extended, as in *Rollo v. Smith* [(1867) 1 Beng LR (OQ 10)], to all legitimate descendants, however remote, domiciled in British India, of European British subjects. The fourth section states the law as it now stands. Amendment Act 33 of 1999-Statement of Objects and Reasons.-The Indian Majority Act, 1875 which is a Central Act of general application and importance has been on the statute book for more than a century and the same needed review.² The Government of India has received representations against the prescription of different ages for attaining the age of majority in respect of minors under guardians appointed or declared by a Court of justice, etc., at 21 years and

others at 18 years. Section 3 of the Indian Majority Act, 1875, inter alia, provides that the age of majority in respect of minors whose person or property, or both, a guardian, other than a guardian for a suit, has been or shall be appointed or declared by any Court of justice before the minor has attained the age of eighteen years or in respect of minors whose property the superintendence of which has been or shall be assumed by any Court of Wards before the minor has attained the age of eighteen years shall be twenty-one years. The representations have been examined by the Government and it is found that there is no justification in discriminating the minors under the guardians appointed or declared by a Court of justice, etc., as stated above from the other minors. It is, accordingly, proposed to amend section 3 of the Act prescribing a uniform age of majority of eighteen years for all minors. The Act has also been reviewed and certain archaic and redundant expressions and provisions are proposed to be omitted.³ The Bill seeks to achieve the above objects.[2nd March, 1875]An Act to amend the law respecting the age of majority. Whereas, in the case of persons domiciled in [India] [Substituted by Act 3 of 1951, Section 3 and Sch., for " Part A States and Part C States" .], it is expedient [to specify the age of majority] [Substituted by Act 33 of 1999, Section 2, for certain words (w.e.f. 16.12.1999).]; It is hereby enacted as follows:-

1. Short title.

- This Act may be called The [* * *] [The word " Indian" omitted by Act 33 of 1999, Section 3 (w.e.f. 16.12.1999).] Majority Act, 1875. Local extent. - [It extends to the whole of India] [Substituted by A.O.1950.] [***] [The words 'except the State of Jammu and Kashmir' omitted by Act No. 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019)]; 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 affect (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 India] [Substituted by A.O.1950.]; or (c) the capacity of any person who before this Act comes into force has attained majority under the law applicable to him.

3. Age of majority of persons domiciled in India.

(1) Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before. (2) 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 at the beginning of the eighteenth anniversary of that day.