THE DOWRY PROHIBITION ACT, 1961

(Act No. 28 of 1961)

(20th May, 1961)

An Act to prohibit the giving or taking of dowry

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

1. Short title, extent and commencement.-(1) This Act may be called the Dowry Prohibition Act, 1961.

It extends to the whole of India except the State of Jammu and Kashmir.

**2. Definition of `dowry'.-**In this act, `dowry' means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

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Explanation II.-The expression `valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

3. Penalty for giving or taking dowry.-(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen

thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

* * * Explanation I omitted by Sec.2 w.e.f 2nd October, 1985

(2)Nothing in sub-section (1) shall apply to or, in relation to,-

presents which are given at the time of a marriage to the bride (without nay demand having been made in that behalf):

Provided that such presents are entered in list maintained in accordance with rule made under this Act;

presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act;

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

4. Penalty for demanding dowry.- If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

4-A. Ban on advertisement.- If any person-

(a) offers, through any advertisement in any newspaper, periodical, journal or through any other media any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative,

(b) prints or publishes or circulates any advertisement referred to Cl. (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years , or with fine which may extend to fifteen thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in

the judgment, impose a sentence of imprisonment for a term of less than six months.

5. Agreement for giving or taking dowry to be void.- Any agreement for the giving or taking of dowry shall be void.

6. Dowry to be for the benefit of the wife or heirs.- (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman –

(a) if the dowry was received before marriage, within three months after the date of marriage; or

(b) if the dowry was received at the time of or after the marriage within three months after the date of its receipt; or

(c) if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor or as required by sub-section(3), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend two years or with fine which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being:

Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall-

if she has no children, be

transferred to her parents, or if she has children, be transferred to such children and pending such transfer, be held in trust for such children.

(3-A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1)or sub-section (3) has not, before his conviction under that sub-section, transferred such property to the women entitled thereto or, as the case may be, her heirs, parents or children, the Court

shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman, or as the case may be, her heirs, parents or children within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman, as the case may be, her heirs, parents or children.

(4)Nothing contained in this section shall affect provisions of Sec. 3 or Sec. 4.

7. Cognisance of offences.- (1) Notwithstanding anything contained in the Code of CriminalProcedure, 1973 (2of 1974),-

no Court inferior to that of a Metropolitan magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

no Court shall take cognizance of an offence under this Act except upon –

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by offence or a parent or other relative of such person, or by any recognized welfare institution or organization:

it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act.

Explanation.- For the purposes of this sub-section, "recognised welfare institution or organization" means a social welfare institution or organization recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2of 1974), shall apply to any offence punishable under this Act.)

Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.

8. Offences to be congnizable for certain purposes and to be bailable and non-compoundable.- (1) The Code of Criminal Procedure,

1973 (2 of 1974) shall apply to offences under this Act as of they were cognizable offences-

(a) for the purpose of investigation of such offences; and

(b) for the purpose of matters other than-

(i) matters referred to i

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(2) Every offence under this Act shall be non-bailable and non-compoundable.

8-A. Burden of proof in certain cases.- Where any person is prosecuted for taking or abetting the taking of any dowry under Sec. 3, or the demanding of dowry under Sec.4, the burden of proving that he had not committed an offence under those sections shall be on him.

8-B. Dowry Prohibition Officers.-(1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

(2) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely, -

(a) to see that the provisions of this Act are complied with;

(b) to prevent, as far as possible, the taking or abetting the taking of, of the demanding of, dowry;

(c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act;and

(d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.

powers of a police officer as may be specified in the notification, the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.

(4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).

9. Power to make rules.- (1) The Central Government may, by notification in the official Gazettee, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of Sec. 3 shall be maintained and all other matters connected therewith; and

(b) the better co-ordination of policy and action with respect to the administration of this Act.

(3)Every rules made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be; of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Power of the State Government to make rules.- The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the additional functions to be performed by the Dowry Prohibition Officers under sub-section(2) of Sec. 8-B;

(b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of Sec. 8-B.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

THE DOWRY PROHIBITION (MAINTENANCE OF LISTS OF PRESENTS TO THE BRIDE AND BRIDEGROOM) RULES, 1985

G.S.R. 664 (E), dated 19th August, 1985.- In exercise of the powers conferred by Sec.9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.-(1) These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.

(2) They shall come into force on the 2nd day of October, 1985, being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

2. Rules in accordance with which lists of presents are to be maintained.-(1) The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.

(2) The list of present which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.

Every list of presents referred to in sub-rule (1) or sub-rule (2),-

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage:

(b) shall be in writing;

(c) shall contain,-

(i) a brief description of each present;

(ii) the approximate value of the present;

(iii)the name of the person who has given the present; and

(iv)where the person giving the present is related to the bride or bridegroom, a description of such relationship;

(d) shall be signed by both the bride and the bridegroom.

Explanation. 1.- Where the bride is unable to sign, she may affix her thumb impression in lieu of her signature after having the list read out to her and obtaining the signature on the list, of the person who has so read out the particulars contained in the list.

Explanation 2.- Where the bridegroom is unable to sign he may affix his thumb-impression in lieu of his signature after having the list read out to him and obtaining the signature on the list of the person who has so read out the particulars contained in the list.

(4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom or of any other person or persons present at the time of the marriage.