

Unannotated Statutes of Malaysia - Principal Acts/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 Act 263/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 ACT 263

Incorporating all amendments up to 1 January 2007

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**ACT 263
MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950**

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An Act to provide for the maintenance of wives and children.

[*West Malaysia--4 July 1950; Sarawak--24 July 1992, P.U.(A) 271/1992; Federal Territory of Labuan--24 July 1992, P.U.(A) 274/1992*]

Unannotated Statutes of Malaysia - Principal Acts/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 Act 263/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 ACT 263,,/1.Short title

1. Short title

- (1) This Act may be cited as the Married Women and Children (Maintenance) Act 1950.
- (2) This Act shall apply to West Malaysia and the State of Sarawak.
- (3) This Act shall also apply to the Federal Territory of Labuan.

Unannotated Statutes of Malaysia - Principal Acts/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 Act 263/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 ACT 263,/,2.Interpretation

2. Interpretation

In this Act, unless the context otherwise requires--

"Court"

means a Sessions Court or a Court of a First Class Magistrate;

***"West Malaysia"**

has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [Act 388], and includes the Federal Territory.

Unannotated Statutes of Malaysia - Principal Acts/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 Act 263/MARRIED WOMEN AND CHILDREN (MAINTENANCE) ACT 1950 ACT 263/3.Court may make order for maintenance of wife and children

3. Court may make order for maintenance of wife and children

- (1) If any person neglects or refuses to maintain his wife or a legitimate child of his which is unable to maintain itself, a court, upon due proof thereof, may order such person to make a monthly allowance for the maintenance of his wife or such child, in proportion to the means of such person, as to the court seems reasonable.
- (2) If any person neglects or refuses to maintain an illegitimate child of his which is unable to maintain itself, a court, upon due proof thereof, may order such person to make such monthly allowance, as to the court seems reasonable.
- (3) Such allowance shall be payable from the date of such neglect or refusal or from such later date as may be specified in the order.

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4. Levy of amount

If any person wilfully neglects to comply with any order made under this Act, the court, which made such order may, for every breach thereof, by warrant, direct the amount due to be levied in the manner by law provided for levying fines imposed by such court, or may sentence him to imprisonment for a term which may extend to one month for each month's allowance remaining unpaid.

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5. Wife living separate from husband

(1) If any person, against whom an order has been applied for or made for the maintenance of his wife, offers to maintain his wife on condition of her living with him, and his wife refuses to do so, the court shall consider any grounds of refusal stated by such wife, and may make or enforce the order aforesaid, notwithstanding such offer, if it is satisfied that such person is living in adultery or for any other reason it is just so to do.

(2) No wife shall be entitled to receive an allowance from her husband under this Act if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband.

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6. Rescission and variation of order

(1) On the application of any person receiving or ordered to pay a monthly allowance under this Act, and on proof of a change in the circumstances of such person, his wife or child, or for other good cause being shown to the satisfaction of the court, the court by which such order was made, may rescind the order or may vary it as to it seems reasonable.

(2) Without prejudice to the extent of the discretion conferred upon the court by subsection (1), the court may, in considering any application made under this section, take into consideration any change in the general cost of living which may have occurred between the date of the making of the order sought to be varied and the date of the hearing of the application.

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7. Application of Act to orders made under previous Enactments

(1) All orders, made by a court under any of the Enactments set out in the Schedule hereto, and in force at the commencement of this Act, shall be deemed to have been made by such court under this Act, and this Act shall apply to the same accordingly.

(2) Upon an application to vary any order referred to in subsection(1), made in respect of the maintenance of an illegitimate child, the court may make, under section6, any order which it could have made upon an application under subsection 3(2).

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8. Power of court to refuse order where High Court proceeding more convenient

If in the opinion of the court the matters in question between the parties or any of them could be more conveniently dealt with by the High Court, the court may refuse to make an order and in such case there shall be no appeal from its decision:

Provided always that the High Court or a Judge thereof shall have power, by order in any proceeding in the High Court relating to or comprising the same subject matter as the application refused as aforesaid or any part thereof, to direct the court or rehear or determine the same.

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9. Jurisdiction of High Court

The High Court shall have the jurisdiction and powers which belong to and are exercisable by any court under this Act.

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10. Procedure

All applications to a court under this Act shall be made and heard substantially in the same manner and in accordance with the same procedure as applications under any of the Enactments set out in the Schedule hereto were made and heard by such court immediately before the commencement of this Act.

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11. Enforceable by any court

A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person, and payment shall be enforced by any court within whose local limits of jurisdiction the person to whom the order is addressed may be found, on production of the copy of the order, and on the court being satisfied as to the identity of the parties and the non-payment of the sum claimed.

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12. Repeal and saving

The Ordinance and Enactments set out in the Schedule hereto are hereby repealed to the extent specified in the third column of the said Schedule.

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***13. Exempt cases between persons professing the religion of Islam**

This Act shall not apply to any person professing the religion of Islam and whose wife or whose legitimate or

illegitimate child, as the case may be, professes the religion of Islam, if under the law in force in such State there is provision for

* Each of the States of West Malaysia has enacted that this Act shall not apply in the case of any claim for maintenance made by a Muslim against a Muslim, vide--

Johore--Subsection 132(1) Joh. En. 14/1978.

Kedah--Subsection 133(1) Kd. En. 9/1962.

Kelantan--Subsection 82(1) Kel. En. 1/1966.

Malacca--Subsection 131(1) Mal. En. 1/1959.

Negeri Sembilan--Subsection 132(1) N.S. En. 15/1960.

Pahang--Subsection 137(1) Phg. En. 5/1956.

Penang--Subsection 133(1) Pg. En. 3/1959.

Perak--Subsection 137(1) Pk. En. 11/1965.

Perlis--Subsection 103(2) Ps. En. 3/1964.

Selangor--Subsection 138(1) Sel. En. 3/1952.

Terengganu--Subsection 116(1) Tr. En. 4/1955.

Federal Territory--Subsection 138(1) Sel. En. 3/1952 (P.U.(A) 44/1974).

the making of orders for the maintenance of wives and of children, legitimate and illegitimate, and for the enforcement of such orders against such persons professing the religion of Islam.

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Schedule

[Section12]

ORDINANCE AND ENACTMENTS REPEALED

(1) No.	(2) Short title	(3) Extent of repeal
Kedah Enactment No. 61	Enactment No. 61 (Maintenance of Wives and Children)	The whole
Johore Enactment No. 79	The Maintenance of Wives Enactment	The whole
F.M.S. Cap. 6	The Criminal Procedure Code	Sections 360, 361, 362, 363 and 364
S.S. Cap. 24	The Minor Offences Ordinance	Section 37

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 164	Law Reform (Marriage and Divorce) Act 1976	01-03-1982
P.U.(A) 271/1992	Modification of Laws (Married Women and Children (Maintenance) Act) (Extension to the State of Sarawak) Order 1992	24-07-1992
P.U.(A) 274/1992	Modification of Laws (Married Women and Children (Maintenance) Act) (Extension to the Federal Territory of Labuan) Order 1992	24-07-1992