

THE LAWS
OF THE
STATE OF BRUNEI
1906-1930



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1931

ENACTMENT NO. I OF 1912.

AN Enactment to provide for the punishment of certain offences by Muhammadans.

[10th December, 1911.]

HARVEY CHEVALLIER,
Acting British Resident.

It is hereby enacted by His Highness the Sultan in Council as follows:—

1. This Enactment may be cited "The Muhammadan Laws Enactment" and shall come into force on the first day of July, 1912. Short title.

2. All persons professing the Muhammadan religion shall be subject to this Enactment, and no other person shall be subject thereto. Applica-
tion.

3. Any male person of sufficient age who resides within such limit as may be prescribed by His Highness the Sultan in any district, not exceeding three miles, of a Mosque presided over by a Priest of his own Muzahaf who without reasonable excuse, to be communicated to and allowed by the Kathi or Trustee of the Mosque, shall fail to attend prayer at such Mosque on every Friday or after Saalam shall fail, except with the permission of the Kathi to remain for at least one hour in the Mosque to hear the teaching of the Imam or Ulama shall be cautioned by the Kathi in the first instance but if, after having been so cautioned intentionally neglects to attend on two more Fridays in succession shall be liable to a fine not exceeding fifty cents for every such offence. Attendance
at Mosque.

4. Any person who shall take or entice any girl as yet unmarried, who is subject to this Enactment out of the keeping of her parents or guardians or of any persons having the care of her on their behalf shall, on conviction before a competent Court, be liable to imprisonment of either description for a term not exceeding six months, and shall also be liable to a fine which may extend to twice the amount of Mas kawin usually paid on the marriage of a girl of her class. Enticing
away
unmarried
girl.

5. Any girl, as yet unmarried, who shall abscond from lawful guardianship in order to lead an immoral life shall for the first offence of this nature, be liable on conviction before a competent court to simple imprisonment for a Unmarried
girl
leaving
lawful
guardians.

term not exceeding one month or find security for good behaviour and for any subsequent offence of the same nature to simple imprisonment for a term not exceeding three months.

6. Any person who has sexual intercourse with a person subject to this Enactment who is, and whom he knows or has reason to believe to be, the wife of another man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be liable, on conviction before a competent Court to imprisonment of either description for a term not exceeding one year and shall also be liable to a fine not exceeding two hundred and fifty dollars. Any person convicted before a competent Court of being a participator in an offence under this section shall be liable to simple imprisonment for a term not exceeding six months. Adultery.

Moreover it shall not be lawful for the parties to an offence of this nature to be subsequently married together.

7. Any person who has sexual intercourse with a person whom he is, and whom he knows or has reason to believe that he is, forbidden by the Muhammadan law to marry is guilty of the offence of incest and any male person who commits incest shall be liable, on conviction before a competent Court, to imprisonment of either description for a term not exceeding five years. Any person convicted before a competent Court of being a participator in an offence under this section shall be liable to imprisonment of either description for a term not exceeding one year. Incest.

8. Any person who, having either verbally or in writing entered into a contract of betrothal before a Mosque official or Penghulu or village headman subsequently refuses to marry the other party to the contract, shall, upon suit by the said other party being willing to fulfil the contract, be liable to be adjudged to pay to such other party the value of the Mas kawin which would have been paid if the marriage had taken place. In any such case each party shall return all gifts made by the other. Betrothal.

9. Any person who shall abet a breach of contract betrothal as defined in section 8 hereof shall be liable to pay to the other party the value of the gifts which have been made by that party and shall also be liable to a fine not exceeding \$10 or to imprisonment not exceeding 14 days. Abetment of breach of betrothal contract.

10. No person shall, except in his own house and in the presence of members of his own family only, teach any religious doctrine, unless he shall previously have obtained written permission to do so from His Highness the Sultan:— Religious teaching.

and any person who shall teach any religious doctrine without having obtained such permission, or who, having obtained such permission, shall teach any false doctrine shall be liable, on conviction before a competent Court, to a fine not exceeding twenty-five dollars.

11. Any married woman, not having been deserted by her husband, who shall leave her husband without the sanction of the Kathi first had and obtained and subject to payment of such redemption as the Kathi may order, shall be liable on conviction before a competent Court to a fine of ten dollars. Desertion.

12. Any person who shall neglect to maintain his wife, or if more than one wife any one or more of them, and, or, offspring if any, shall be bound to make such money allowance for maintenance in proportion to his means as the Kathi shall after due enquiry order, any such person wilfully neglecting to comply with such order shall be liable on conviction before a competent Court to imprisonment not exceeding ten days and to a fine not exceeding ten dollars. Maintenance.

13. It shall be lawful for a Kathi to summon before him any woman who is known to practice prostitution and warn her to desist. Any woman who after such warning shall continue to practice prostitution shall be liable on conviction before a competent Court to imprisonment not exceeding three months and for a second offence to banishment from the State. Prostitution.

14. Whenever it shall come to the knowledge of a Kathi that two persons are cohabiting under one roof without being lawfully married the Kathi may order the said persons to marry according to Muhammadan law and any person who shall neglect or refuse to comply with such order shall be liable on conviction before a competent Court to a fine not exceeding ten dollars. Cohabitation.

15. Offences under sections 3, 8, 9, 11, 12 and 14 hereof shall be triable before the Court of the Kathi who may summons two or more Muhammadans of standing to sit with the Court as Assessors. Offences under sections 4, 5, 6, 7, 10 and 13 shall be triable before the Court of a Magistrate who shall cause a Kathi or two or more Muhammadans of standing to be summoned from a list of persons nominated in their behalf by the ruler of the State to sit with the Court as Assessors. The provisions of sections 208, 209 and 210 of the Criminal Procedure Code *mutatis mutandis* shall apply to such assessors. Offences and how triable.

16. When in a case tried with the aid of assessors under this Enactment the cases for the prosecution and the defence and the prosecutors reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence and shall then require each of the Assessors to state his opinion orally, and shall record such opinion. The Court shall then give judgment; but in doing so shall not be bound to conform to the opinion of the assessors. If the accused is convicted the Court shall pass sentence according to law. Judgment.

17. An appeal shall lie to His Highness the Sultan in Council from any decision whereby any person has been convicted and sentenced under sections 8, 9, 11, 12 and 14 and an appeal shall lie to the Court of the Resident from any sentence under sections 4, 5, 6, 7, 10 and 13. The Resident may consult the Sultan with reference to such appeal. Appeal.

The appellant shall give notice of appeal within 14 days from the date of judgment and shall at the same time deposit such a sum as security for costs as the Court shall deem sufficient.

18. All fines imposed under this Enactment shall on being recovered from the offenders be paid into the District Treasury to the credit of a fund to be termed "The Muhammadan Religious Fund". Disposal of fines.
