



# Matrimonial Causes Act 1973

## 1973 CHAPTER 18

### PART I

#### DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

##### *Nullity*

#### 11 Grounds on which a marriage is void.

A marriage celebrated after 31st July 1971<sup>[F1]</sup>, other than a marriage to which section 12A applies,] shall be void on the following grounds only, that is to say—

- (a) that it is not a valid marriage under the provisions of <sup>[F2]</sup>the <sup>[F3]</sup>Marriage Acts 1949 to 1986] (that is to say where—
  - (i) the parties are within the prohibited degrees of relationship;
  - (ii) either party is under the age of sixteen; or
  - (iii) the parties have intermarried in disregard of certain requirements as to the formation of marriage);
- (b) that at the time of the marriage either party was already lawfully married <sup>[F4]</sup>or a civil partner];
- <sup>F5</sup>(c) .....
- (d) in the case of a polygamous marriage entered into outside England and Wales, that either party was at the time of the marriage domiciled in England and Wales.

For the purposes of paragraph (d) of this subsection a marriage <sup>[F6]</sup>is not polygamous if] at its inception neither party has any spouse additional to the other.

#### Textual Amendments

- F1** Words in s. 11 inserted (10.12.2014) by The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014 (S.I. 2014/3168), art. 1(2)(3), **Sch. para. 6(2)**
- F2** Words substituted by virtue of Marriage Act 1983 (c. 32, SIF 49:1), **s. 12(1)**

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- F3** Words substituted by [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c. 16, SIF 49:1\)](#), **s. 6(4)**
- F4** Words in s. 11(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 40**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F5** S. 11(c) omitted (13.3.2014) by virtue of [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 7 para. 27**; S.I. 2014/93, **art. 3(k)(ii)**
- F6** Words in s. 11 substituted (8.1.1996) by 1995 c. 42, ss. 8(2), 16(2), **Sch. para. 2(2)** (with s. 8(1)(3))

## 12 Grounds on which a marriage is voidable.

[<sup>F7</sup>(1) A marriage celebrated after 31st July 1971<sup>[F8]</sup>, other than a marriage to which section 12A applies,] shall be voidable on the following grounds only, that is to say—

- (a) that the marriage has not been consummated owing to the incapacity of either party to consummate it;
- (b) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it;
- (c) that either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;
- (d) that at the time of the marriage either party, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder within the meaning of [<sup>F9</sup>the Mental Health Act 1983] of such a kind or to such an extent as to be unfitted for marriage;
- (e) that at the time of the marriage the respondent was suffering from venereal disease in a communicable form;
- (f) that at the time of the marriage the respondent was pregnant by some person other than the petitioner.
- [<sup>F10</sup>(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;]
- [<sup>F11</sup>(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004.]]

[<sup>F12</sup>(2) Paragraphs (a) and (b) of subsection (1) do not apply to the marriage of a same sex couple.]

### Textual Amendments

- F7** S. 12 renumbered as s. 12(1) (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 4 para. 4(2)**; S.I. 2014/93, **art. 3(j)(i)**
- F8** Words in s. 12 inserted (10.12.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2014 \(S.I. 2014/3168\)](#), **art. 1(2)(3)**, **Sch. para. 6(3)**
- F9** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), ss. 146, 147, 148, **Sch. 4 para. 34**
- F10** S. 12(g) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 4(4), 26, **Sch. 2 para. 2**; S.I. 2005/54, **art. 2**
- F11** S. 12(h) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 11, 26, **Sch. 4 para. 5**; S.I. 2005/54, **art. 2**
- F12** S. 12(2) inserted (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 4 para. 4(3)**; S.I. 2014/93, **art. 3(j)(i)**

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### **[<sup>F13</sup>12A. Grounds on which a marriage converted from a civil partnership is void or voidable**

- (1) This section applies to a marriage which has been converted, or is purported to have been converted, from a civil partnership under section 9 of the 2013 Act and regulations made under that section.
- (2) A marriage which results from the purported conversion of a void civil partnership is void.
- (3) A marriage which results from the conversion of a civil partnership is voidable if any of paragraphs (c) to (h) of section 12(1) applied at the date from which the marriage is treated as having subsisted in accordance with section 9(6) of the 2013 Act.
- (4) In this section, the “2013 Act” means the Marriage (Same Sex Couples) Act 2013.]

#### **Textual Amendments**

- F13** S. 12A inserted (10.12.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\)](#) and [Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2014 \(S.I. 2014/3168\)](#), art. 1(2)(3), [Sch. para. 6\(4\)](#)

### **13 Bars to relief where marriage is voidable.**

- (1) The court shall not, in proceedings instituted after 31st July 1971, grant a decree of nullity on the ground that a marriage is voidable if the respondent satisfies the court—
  - (a) that the petitioner, with knowledge that it was open to him to have the marriage avoided, so conducted himself in relation to the respondent as to lead the respondent reasonably to believe that he would not seek to do so; and
  - (b) that it would be unjust to the respondent to grant the decree.
- [<sup>F14</sup>(2) Without prejudice to subsection (1) above, the court shall not grant a decree of nullity by virtue of section 12 above on the grounds mentioned in paragraph ( c ), ( d ), ( e ) [<sup>F15</sup>, (f) or (h) ] of that section unless—
  - (a) it is satisfied that proceedings were instituted within the period of three years from the date of the marriage, or
  - (b) leave for the institution of proceedings after the expiration of that period has been granted under subsection (4) below.]
- [<sup>F16</sup>(2A) Without prejudice to subsection (1) above, the court shall not grant a decree of nullity by virtue of section 12 above on the ground mentioned in paragraph (g) of that section unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.]
- (3) Without prejudice to subsections (1) and (2) above, the court shall not grant a decree of nullity by virtue of section 12 above on the grounds mentioned in paragraph (e) [<sup>F15</sup>, (f) or (h)] of that section unless it is satisfied that the petitioner was at the time of the marriage ignorant of the facts alleged.
- [<sup>F17</sup>(4) In the case of proceedings for the grant of a decree of nullity by virtue of section 12 above on the grounds mentioned in paragraph ( c ), ( d ), ( e ) [<sup>F15</sup>, (f) or (h) ] of that section, a judge of the court may, on an application made to him, grant leave for the institution of proceedings after the expiration of the period of three years from the date of the marriage if—

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- (a) he is satisfied that the petitioner has at some time during that period suffered from mental disorder within the meaning of the Mental Health Act 1983, and
  - (b) he considers that in all the circumstances of the case it would be just to grant leave for the institution of proceedings.
- (5) An application for leave under subsection (4) above may be made after the expiration of the period of three years from the date of the marriage.]

#### Textual Amendments

- F14** S. 13(2) substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 2(2)**, 48(2)
- F15** Words in s. 13(2)(3)(4) substituted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 11, 26, **Sch. 4 para. 6**; S.I. 2005/54, **art. 2**
- F16** S. 13(2A) inserted (4.4.2005) by [Gender Recognition Act 2004 \(c. 7\)](#), ss. 4(4), 26, **Sch. 2 para. 3**; S.I. 2005/54, **art. 2**
- F17** S. 13(4)(5) added by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 2(3)**, 48(2)

#### Modifications etc. (not altering text)

- C1** S. 13(4) modified by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(2), 47(1), 48(2), **Sch. 2 para. 2**

## 14 Marriages governed by foreign law or celebrated abroad under English law.

- (1) [<sup>F18</sup>Subject to subsection (3)] where, apart from this Act, any matter affecting the validity of a marriage would fall to be determined (in accordance with the rules of private international law) by reference to the law of a country outside England and Wales, nothing in section 11, 12 or 13(1) above shall—
- (a) preclude the determination of that matter as aforesaid; or
  - (b) require the application to the marriage of the grounds or bar there mentioned except so far as applicable in accordance with those rules.
- (2) In the case of a marriage which purports to have been celebrated under the Foreign Marriage Acts 1892 to 1947 or has taken place outside England and Wales and purports to be a marriage under common law, section 11 above is without prejudice to any ground on which the marriage may be void under those Acts or, as the case may be, by virtue of the rules governing the celebration of marriages outside England and Wales under common law.
- [<sup>F19</sup>(3) No marriage is to be treated as valid by virtue of subsection (1) if, at the time when it purports to have been celebrated, either party was already a civil partner.]

#### Textual Amendments

- F18** Words in s. 14(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 41(2)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F19** S. 14(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(1), 263, **Sch. 27 para. 41(3)**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))

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**15 Application of ss. 1(5), 8 and 9 to nullity proceedings.**

Sections 1(5), 8 and 9 above shall apply in relation to proceedings for nullity of marriage as if for any reference in those provisions to divorce there were substituted a reference to nullity of marriage.

**16 Effect of decree of nullity in case of voidable marriage.**

A decree of nullity granted after 31st July 1971 in respect of a voidable marriage shall operate to annul the marriage only as respects any time after the decree has been made absolute, and the marriage shall, notwithstanding the decree, be treated as if it had existed up to that time.

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