



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART I **E+W**

DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

Divorce

[^{F1}1] **Divorce on breakdown of marriage. **E+W****

- (1) Subject to section 3, either or both parties to a marriage may apply to the court for an order (a “divorce order”) which dissolves the marriage on the ground that the marriage has broken down irretrievably.
- (2) An application under subsection (1) must be accompanied by a statement by the applicant or applicants that the marriage has broken down irretrievably.
- (3) The court dealing with an application under subsection (1) must—
 - (a) take the statement to be conclusive evidence that the marriage has broken down irretrievably, and
 - (b) make a divorce order.
- (4) A divorce order—
 - (a) is, in the first instance, a conditional order, and
 - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order.
- (5) The court may not make a conditional order unless—
 - (a) in the case of an application that is to proceed as an application by one party to the marriage only, that party has confirmed to the court that they wish the application to continue, or
 - (b) in the case of an application that is to proceed as an application by both parties to the marriage, those parties have confirmed to the court that they wish the application to continue;

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and a party may not give confirmation for the purposes of this subsection before the end of the period of 20 weeks from the start of proceedings.

- (6) The Lord Chancellor may by order made by statutory instrument amend this section so as to shorten or lengthen the period for the purposes of subsection (4)(b) or (5).
- (7) But the Lord Chancellor may not under subsection (6) provide for a period which would result in the total number of days in the periods for the purposes of subsections (4)(b) and (5) (taken together) exceeding 26 weeks.
- (8) In a particular case the court dealing with the case may by order shorten the period that would otherwise be applicable for the purposes of subsection (4)(b) or (5).
- (9) A statutory instrument containing an order under subsection (6) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (10) Without prejudice to the generality of section 75 of the Courts Act 2003, Family Procedure Rules may make provision as to the procedure for an application under subsection (1) by both parties to a marriage to become an application by one party to the marriage only (including provision for a statement made under subsection (2) in connection with the application to be treated as made by one party to the marriage only).]

Textual Amendments

F1 S. 1 substituted (25.6.2020 for specified purposes, 6.4.2022 in so far as not already in force) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), **ss. 1, 8(3)(a)** (with s. 8(4)); S.I. 2022/283, reg. 2

F22 Supplemental provisions as to facts raising presumption of breakdown. E+W

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Textual Amendments

F2 S. 2 omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 2** (with s. 8(4)); S.I. 2022/283, reg. 2

F43 Bar on [F3 applying for a divorce order] within one year of marriage. E+W

(1) [F5 An application for a divorce order may not be made] before the expiration of the period of one year from the date of the marriage.

F6(2)]

Textual Amendments

F3 Words in s. 3 heading substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 3(a)** (with s. 8(4)); S.I. 2022/283, reg. 2

F4 S. 3 substituted (with saving) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 1, 46(1), 48(2), **Sch. 2**

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- F5** Words in s. 3(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 3(b)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F6** S. 3(2) omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 3(c)** (with s. 8(4)); S.I. 2022/283, reg. 2

F74 Divorce not precluded by previous judicial separation. E+W

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Textual Amendments

- F7** S. 4 omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 4** (with s. 8(4)); S.I. 2022/283, reg. 2

F85 Refusal of decree in five year separation cases on grounds of grave hardship to respondent. E+W

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Textual Amendments

- F8** S. 5 omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 5** (with s. 8(4)); S.I. 2022/283, reg. 2

6 Attempts at reconciliation of parties to marriage. E+W

- (1) Provision shall be made by rules of court for requiring the [^{F9}legal representative] acting for [^{F10}an applicant for a divorce order to certify whether the representative has discussed with the applicant the possibility of reconciliation and given the applicant] the names and addresses of persons qualified to help effect a reconciliation between parties to a marriage who have become estranged.
- (2) If at any stage of proceedings for [^{F11}a divorce order] it appears to the court that there is a reasonable possibility of a reconciliation between the parties to the marriage, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a reconciliation.

The power conferred by the foregoing provision is additional to any other power of the court to adjourn proceedings.

Textual Amendments

- F9** Words in s. 6(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 29** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F10** Words in s. 6(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 6(a)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F11** Words in s. 6(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 6(b)** (with s. 8(4)); S.I. 2022/283, reg. 2

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Part I. (See end of Document for details)

7 Consideration by the court of certain agreements or arrangements. **E+W**

Provision may be made by rules of court for enabling the parties to a marriage, or either of them, on application made [^{F12}when proceedings for a divorce order are contemplated or have begun,] to refer to the court any agreement or arrangement made or proposed to be made between them, being an agreement or arrangement which relates to, arises out of, or is connected with, the [^{F13}proceedings,] and for enabling the court to express an opinion, should it think it desirable to do so, as to the reasonableness of the agreement or arrangement and to give such directions, if any, in the matter as it thinks fit.

Textual Amendments

- F12** Words in s. 7 substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 7\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F13** Word in s. 7 substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 7\(b\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

8 Intervention of Queen's Proctor. **E+W**

- (1) In the case of [^{F14}an application for a divorce order] —
- (a) the court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Queen's Proctor, who shall under the directions of the Attorney-General instruct counsel to argue before the court any question in relation to the matter which the court considers it necessary or expedient to have fully argued;
 - (b) any person may at any time during the progress of the proceedings or before the [^{F15}divorce order is made final] give information to the Queen's Proctor on any matter material to the due decision of the case, and the Queen's Proctor may thereupon take such steps as the Attorney-General considers necessary or expedient.
- (2) Where the Queen's Proctor intervenes or shows cause against a [^{F16}conditional order in any proceedings for a divorce order,] the court may make such order as may be just as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of those parties by reason of his so doing.
- (3) The Queen's Proctor shall be entitled to charge as part of the expenses of his office—
- (a) the costs of any proceedings under subsection (1)(a) above;
 - (b) where his reasonable costs of intervening or showing cause as mentioned in subsection (2) above are not fully satisfied by any order under that subsection, the amount of the difference;
 - (c) if the Treasury so directs, any costs which he pays to any parties under an order made under subsection (2).

Textual Amendments

- F14** Words in s. 8(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 8\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F15** Words in s. 8(1)(b) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 8\(b\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

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F16 Words in s. 8(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 8(c)** (with s. 8(4)); S.I. 2022/283, reg. 2

9 Proceedings [F17] before divorce order has been made final]: general powers of court. **E+W**

- (1) Where a [F18]divorce order has been made but not made final], then, without prejudice to section 8 above, any person (excluding a party to the proceedings other than the Queen’s Proctor) may show cause why the [F19]order should not be made final] by reason of material facts not having been brought before the court; and in such a case the court may—
- (a) notwithstanding anything in [F20]section 1(4)] above (but subject to [F21]section] 10(2) to (4) [F22]... below) make the [F20]order final]; or
 - (b) rescind the [F23]order]; or
 - (c) require further inquiry; or
 - (d) otherwise deal with the case as it thinks fit.
- (2) [F24]Where a divorce order has been made on an application by one party to a marriage and that party has not applied for the order to be made final,] then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, [F25]the other party to the marriage] may make an application to the court, and on that application the court may exercise any of the powers mentioned in paragraphs (a) to (d) of subsection (1) above.

Textual Amendments

- F17** Words in s. 9 heading substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(a)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F18** Words in s. 9(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(b)(i)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F19** Words in s. 9(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(b)(ii)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F20** Words in s. 9(1)(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(c)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F21** Word in s. 9(1)(a) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 17(3)(a)**, 139(6); S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)
- F22** Words in s. 9(1)(a) omitted (22.4.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 17(3)(b)**, 139(6); S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)
- F23** Word in s. 9(1)(b) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(d)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F24** Words in s. 9(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(e)(i)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F25** Words in s. 9(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 9(e)(ii)** (with s. 8(4)); S.I. 2022/283, reg. 2

10 [F26]Proceedings before divorce order made final: special protection for respondent]. **E+W**

[F27](1)

[F28](2) The following provisions of this section apply where—

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- (a) on an application for a divorce order a conditional order has been made and—
 - (i) the conditional order is in favour of one party to a marriage, or
 - (ii) the conditional order is in favour of both parties to a marriage but one of the parties has since withdrawn from the application, and
 - (b) the respondent has applied to the court for consideration under subsection (3) of their financial position after the divorce.
- (3) Subject to subsection (4), the court hearing an application by the respondent under subsection (2) must not make the divorce order final unless it is satisfied—
- (a) that the applicant should not be required to make any financial provision for the respondent, or
 - (b) that the financial provision made by the applicant for the respondent is reasonable and fair or the best that can be made in the circumstances.
- (3A) In making a determination under subsection (3) the court must consider all the circumstances including—
- (a) the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties to the marriage, and
 - (b) the financial position of the respondent as, having regard to the divorce, it is likely to be after the death of the applicant should that person die first.]
- (4) The court may if it thinks fit makes the [F29 divorce order final] notwithstanding the requirements of subsection (3) above if—
- (a) it appears that there are circumstances making it desirable that the [F30 order should be made final] without delay, and
 - (b) the court has obtained a satisfactory undertaking from the [F31 applicant that they will make such financial provision] for the respondent as the court may approve.

Textual Amendments

- F26** S. 10 heading substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(a)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F27** S. 10(1) omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(b)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F28** S. 10(2)-(3A) substituted for s. 10(2) (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(c)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F29** Words in s. 10(4) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(d)(i)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F30** Words in s. 10(4)(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(d)(ii)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F31** Words in s. 10(4)(b) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 10(d)(iii)** (with s. 8(4)); S.I. 2022/283, reg. 2

[F32] 10A Proceedings [F33 before divorce order has been made final]: religious marriage **E** **+W**

- (1) This section applies if a [F34 divorce order has been made] but not made [F35 final] and the parties to the marriage concerned—
- (a) were married in accordance with—
 - (i) the usages of the Jews, or

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- (ii) any other prescribed religious usages; and
 - (b) must co-operate if the marriage is to be dissolved in accordance with those usages.
- (2) On the application of either party, the court may order that a [^{F36}divorce order] is not to be made [^{F37}final] until a declaration made by both parties that they have taken such steps as are required to dissolve the marriage in accordance with those usages is produced to the court.
- (3) An order under subsection (2)—
- (a) may be made only if the court is satisfied that in all the circumstances of the case it is just and reasonable to do so; and
 - (b) may be revoked at any time.
- (4) A declaration of a kind mentioned in subsection (2)—
- (a) must be in a specified form;
 - (b) must, in specified cases, be accompanied by such documents as may be specified; and
 - (c) must, in specified cases, satisfy such other requirements as may be specified.
- (5) The validity of a [^{F38}divorce order] made by reference to such a declaration is not to be affected by any inaccuracy in that declaration.
- (6) “Prescribed” means prescribed in an order made by the Lord Chancellor [^{F39}after consulting the Lord Chief Justice] and such an order—
- (a) must be made by statutory instrument;
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) “Specified” means specified in rules of court.
- [The Lord Chief Justice may nominate a judicial office holder (as defined in ^{F40}(8) section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]]

Textual Amendments

- F32** S. 10A inserted (24.2.2003) by [Divorce \(Religious Marriages\) Act 2002 \(c. 27\)](#), **ss. 1(1), 2(2)**; S.I. 2003/186, **art. 2**
- F33** Words in s. 10A heading substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(a)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F34** Words in s. 10A(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(b)(i)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F35** Word in s. 10A(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(b)(ii)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F36** Words in s. 10A(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(c)(i)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F37** Word in s. 10A(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(c)(ii)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F38** Words in s. 10A(5) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 11(d)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F39** Words in s. 10A(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 15, 148**, **Sch. 4 para. 76(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)

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F40 S. 10A(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 76(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)

Nullity

11 Grounds on which a marriage is void. **E+W**

A marriage celebrated after 31st July 1971^[F41], 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 ^[F42]the ^[F43]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 ^[F44]eighteen]; 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 ^[F45]or a civil partner];
- ^{F46}(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 ^[F47]is not polygamous if] at its inception neither party has any spouse additional to the other.

Textual Amendments

- F41** 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)**
- F42** Words substituted by virtue of Marriage Act 1983 (c. 32, SIF 49:1), **s. 12(1)**
- F43** Words substituted by Marriage (Prohibited Degrees of Relationship) Act 1986 (c. 16, SIF 49:1), **s. 6(4)**
- F44** Word in s. 11(a)(ii) substituted (27.2.2023) by Marriage and Civil Partnership (Minimum Age) Act 2022 (c. 28), s. 7(1), **Sch. para. 3** (with s. 8); S.I. 2023/88, reg. 2 (with regs. 3-17)
- F45** 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))
- F46** 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)
- F47** 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. **E+W**

^[F48](1) A marriage celebrated after 31st July 1971^[F49], 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;

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- (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 [^{F50}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.
- [^{F51}(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;]
- [^{F52}(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.]]

[^{F53}(2) Paragraphs (a) and (b) of subsection (1) do not apply to the marriage of a same sex couple.]

Textual Amendments

- F48** 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)
- F49** 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\(3\)](#)
- F50** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\), ss. 146, 147, 148, Sch. 4 para. 34](#)
- F51** 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
- F52** 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
- F53** 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)

[^{F54}12A. Grounds on which a marriage converted from a civil partnership is void or voidable **E+W**

- (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.]

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Part I. (See end of Document for details)

Textual Amendments

F54 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)**

[^{F55}12B The period before nullity of marriage orders may be made final **E+W**

- (1) An order that annuls a marriage which is void or voidable (a “nullity of marriage order”)—
 - (a) is, in the first instance, a conditional order, and
 - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order.
- (2) The Lord Chancellor may by order made by statutory instrument amend this section so as to shorten or lengthen the period for the purposes of subsection (1)(b).
- (3) But the Lord Chancellor may not under subsection (2) lengthen the period so that it exceeds 6 months.
- (4) In a particular case the court dealing with the case may by order shorten the period that would otherwise be applicable for the purposes of subsection (1)(b).
- (5) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F55 S. 12B inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 12** (with s. 8(4)); S.I. 2022/283, reg. 2

13 Bars to relief where marriage is voidable. **E+W**

- (1) The court shall [^{F56}not make a nullity of marriage order] on the ground that a marriage is voidable if the respondent satisfies the court—
 - (a) that the [^{F57}applicant], 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 [^{F58}make the order].
- [^{F59}(2) Without prejudice to subsection (1) above, the court shall not [^{F60}make a nullity of marriage order] by virtue of section 12 above on the grounds mentioned in paragraph (c), (d), (e) [^{F61}, (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.]
- [^{F62}(2A) Without prejudice to subsection (1) above, the court shall not [^{F63}make a nullity of marriage order] by virtue of section 12 above on the ground mentioned in paragraph (g)

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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 [^{F64}make a nullity of marriage order] by virtue of section 12 above on the grounds mentioned in paragraph (e) [^{F61}, (f) or (h)] of that section unless it is satisfied that the [^{F65}applicant] was at the time of the marriage ignorant of the facts alleged.

[^{F66}(4) In the case of proceedings for the [^{F67}making of a nullity of marriage order] by virtue of section 12 above on the grounds mentioned in paragraph (c), (d), (e) [^{F61}, (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—

- (a) he is satisfied that the [^{F68}applicant] 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

- F56** Words in s. 13(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(2)(a)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F57** Word in s. 13(1)(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(2)(b)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F58** Words in s. 13(1)(b) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(2)(c)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F59** S. 13(2) substituted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 2(2)**, 48(2)
- F60** Words in s. 13(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(3)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F61** 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**
- F62** 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**
- F63** Words in s. 13(2A) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(4)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F64** Words in s. 13(3) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(5)(a)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F65** Word in s. 13(3) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(5)(b)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F66** S. 13(4)(5) added by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), **ss. 2(3)**, 48(2)
- F67** Words in s. 13(4) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(6)(a)** (with s. 8(6)); S.I. 2022/283, reg. 2
- F68** Word in s. 13(4)(a) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 13(6)(b)** (with s. 8(6)); S.I. 2022/283, reg. 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**

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14 Marriages governed by foreign law or celebrated abroad under English law. E
+W

(1) [^{F69}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.

[^{F70}(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

F69 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\(3\)-\(5\)](#))

F70 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\(3\)-\(5\)](#))

[^{F71}15 Application of sections 8 and 9 to proceedings for a nullity of marriage order E
+W

Section 8 (intervention of Queen's Proctor) and section 9 (proceedings before divorce order has been made final: general powers of court) apply in relation to proceedings for a nullity of marriage order as if for any reference in those sections to a divorce order there were substituted a reference to a nullity of marriage order.]

Textual Amendments

F71 S. 15 substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 14](#) (with s. 8(6)); S.I. 2022/283, reg. 2

16 Effect of [^{F72}annulment] in case of voidable marriage. E+W

[^{F73}(1)] [^{F74}A nullity of marriage order granted] in respect of a voidable marriage shall operate to annul the marriage only as respects any time after the [^{F75}order has been made final,] and the marriage shall, [^{F76}notwithstanding the order,] be treated as if it had existed up to that time.

[^{F77}(2) Subsection (1) has effect in relation to a decree of nullity granted after 31 July 1971 as it has effect in relation to a nullity of marriage order, but with the substitution—

- (a) for “order has been made final,” of “decree has been made absolute,” and

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(b) for “notwithstanding the order,” of “notwithstanding the decree,]

Textual Amendments

- F72** Word in s. 16 heading substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(2)**; S.I. 2022/283, reg. 2
- F73** S. 16 renumbered as s. 16(1) (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(3)**; S.I. 2022/283, reg. 2
- F74** Words in s. 16(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(4)(a)**; S.I. 2022/283, reg. 2
- F75** Words in s. 16(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(4)(b)**; S.I. 2022/283, reg. 2
- F76** Words in s. 16(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(4)(c)**; S.I. 2022/283, reg. 2
- F77** S. 16(2) inserted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 15(5)**; S.I. 2022/283, reg. 2

Other matrimonial suits

17 Judicial separation. E+W

[^{F78}(1) Either or both parties to a marriage may apply to the court for an order (a “judicial separation order”) which provides for the separation of the parties to the marriage.

(1A) An application under subsection (1) must be accompanied by—

- (a) if the application is by one party to the marriage only, a statement by that person that they seek to be judicially separated from the other party to the marriage, or
- (b) if the application is by both parties to the marriage, a statement by them that they seek to be judicially separated from one another.

(1B) The court dealing with an application under subsection (1) must make a judicial separation order.]

^{F79}(2)

(3) Sections 6 and 7 above shall apply for the purpose of encouraging the reconciliation of parties to proceedings for [^{F80}a judicial separation order] and of enabling the parties to a marriage to refer to the court for its opinion an agreement or arrangement relevant to actual or contemplated proceedings for [^{F80}a judicial separation order], as they apply in relation to proceedings for [^{F81}a divorce order].

Textual Amendments

- F78** S. 17(1)-(1B) substituted for s. 17(1) (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), **ss. 2(2)**, 8(1)(8) (with s. 8(5)); S.I. 2022/283, reg. 2
- F79** S. 17(2) omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), **ss. 2(3)**, 8(1)(8) (with s. 8(5)); S.I. 2022/283, reg. 2
- F80** Words in s. 17(3) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), **ss. 2(4)(a)**, 8(1)(8) (with s. 8(5)); S.I. 2022/283, reg. 2

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F81 Words in s. 17(3) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), [ss. 2\(4\)\(b\)](#), [8\(1\)\(8\)](#) (with s. 8(5)); S.I. 2022/283, reg. 2

18 Effects of judicial separation. **E+W**

^{F82}(1)

(2) If while a decree of judicial separation [^{F83}or judicial separation order] is in force and the separation is continuing either of the parties to the marriage dies intestate as respects all or any of his or her real or personal property, the property as respects which he or she died intestate shall devolve as if the other party to the marriage had then been dead.

(3) Notwithstanding anything in section 2(1)(a) of the ^{M1}Matrimonial Proceedings (Magistrates' Courts) Act 1960, a provision in force under an order made, or having effect as if made, under that section exempting one party to a marriage from the obligation to cohabit with the other shall not have effect as a decree of judicial separation for the purposes of subsection (2) above.

Textual Amendments

F82 S. 18(1) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 16\(a\)](#) (with s. 8(5)); S.I. 2022/283, reg. 2

F83 Words in s. 18(2) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 16\(b\)](#) (with s. 8(5)); S.I. 2022/283, reg. 2

Marginal Citations

M1 1960 c. 48.

^{F84}19 Presumption of death and dissolution of marriage. **E+W**

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Textual Amendments

F84 S. 19 omitted (1.10.2014) by virtue of [Presumption of Death Act 2013 \(c. 13\)](#), s. 22(2), [Sch. 2 para. 1](#) (with s. 21); S.I. 2014/1810, art. 2 (with art. 3(1)(2))

^{F85} ...

Textual Amendments

F85 S. 20 and cross-heading omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 17](#) (with s. 8(4)); S.I. 2022/283, reg. 2

^{F85}20 Relief for respondent in divorce proceedings. **E+W**

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Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes Act 1973, Part I.