



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

F145

Textual Amendments

F1 S. 45 repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(2), 69, [Sch. 2](#)

F246

Textual Amendments

F2 S. 46 repealed by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 17(2), [Sch. 6](#)

47 Matrimonial relief and declarations of validity in respect of polygamous marriages.

- (1) A court in England and Wales shall not be precluded from granting matrimonial relief or making a declaration concerning the validity of a marriage by reason only that the marriage in question was entered into under a law which permits polygamy.
- (2) In this section “matrimonial relief” means—
 - (a) any decree under Part I of this Act;
 - (b) a financial provision order under section 27 above;
 - (c) an order under section 35 above altering a maintenance agreement;

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- (d) an order under any provision of this Act which confers a power exercisable in connection with, or in connection with proceedings for, any such decree or order as is mentioned in paragraphs (a) to (c) above;
 - [^{F3}(dd) an order under Part III of the Matrimonial and Family Proceedings Act 1984;]
 - (e) an order under [^{F4}Part I of the ^{M1}Domestic Proceedings and Magistrates' Courts Act 1978].
- [^{F5}(3) In this section “a declaration concerning the validity of a marriage” means any declaration under Part III of the Family Law Act 1986 involving a determination as to the validity of a marriage]
- (4) This section has effect whether or not either party to the marriage in question has for the time being any spouse additional to the other party; and provision may be made by rules of court—
- (a) for requiring notice of proceedings brought by virtue of this section to be served on any such other spouse; and
 - (b) for conferring on any such other spouse the right to be heard in any such proceedings,
- in such cases as may be prescribed by the rules.

Textual Amendments

F3 S. 47(2)(dd) inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(1), 48(3), **Sch. 1 para. 15**

F4 Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), s. 89(2), **Sch. 2 para. 39**, with saving for an application made before 1.2.1981 under [Matrimonial Proceedings \(Magistrates' Courts\) Act 1960 \(c. 48\)](#): S.I. 1979/731, **Sch. 2 para. 8**

F5 S.47(3) substituted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(5), **Sch. 1 para. 14**

Marginal Citations

M1 1978 c. 22.

48 Evidence.

- (1) The evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period.
- (2) In any proceedings for nullity of marriage, evidence on the question of sexual capacity shall be heard in camera unless in any case the judge is satisfied that in the interests of justice any such evidence ought to be heard in open court.

49 Parties to proceedings under this Act.

- (1) Where in a petition for divorce or judicial separation, or in any other pleading praying for either form of relief, one party to a marriage alleges that the other has committed adultery, he or she shall make the person alleged to have committed adultery with the other party to the marriage a party to the proceedings unless excused by the court on special grounds from doing so.
- (2) Rules of court may, either generally or in such cases as may be prescribed by the rules, exclude the application of subsection (1) above where the person alleged to have

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committed adultery with the other party to the marriage is not named in the petition or other pleading.

- (3) Where in pursuance of subsection (1) above a person is made a party to proceedings for divorce or judicial separation, the court may, if after the close of the evidence on the part of the person making the allegation of adultery it is of opinion that there is not sufficient evidence against the person so made a party, dismiss him or her from the suit.
- (4) Rules of court may make provision, in cases not falling within subsection (1) above, with respect to the joinder as parties to proceedings under this Act of persons involved in allegations of adultery or other improper conduct made in those proceedings, and with respect to the dismissal from such proceedings of any parties so joined; and rules of court made by virtue of this subsection may make different provision for different cases.
- (5) In every case in which adultery with any party to a suit is alleged against any person not made a party to the suit or in which the court considers, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the court may if it thinks fit allow that person to intervene upon such terms, if any, as the court thinks just.

[^{F6}50 Matrimonial causes rules.

- (1) The authority having power to make rules of court for the purposes of—
 - (a) this Act, the ^{M2}Matrimonial Causes Act 1967 (which confers jurisdiction on county courts in certain matrimonial proceedings), section 45 of the ^{M3}Courts Act 1971 (transfer of matrimonial proceedings between High Court and county court, etc.) . . . ^{F7}[^{F8}and Part III of the Family Law Act 1986],
 - (b) proceedings in the High Court or a divorce county court for an order under [^{F9}Schedule 1 to the Matrimonial Homes Act 1983 (transfer of certain tenancies on divorce, etc.)];
 - (c) certain other proceedings in the High Court, that is to say—
 - (i) proceedings in the High Court under section 17 of the ^{M4}Married Women’s Property Act 1882, not being proceedings in the divorce registry treated by virtue of rules made under this section for the purposes of section 45 of the ^{M5}Courts Act 1971 as pending in a county court; in
 - (ii) proceedings in the High Court under section 1 of the [^{F10}Matrimonial Homes Act 1983] (rights of occupation of matrimonial home for spouse not otherwise entitled);
 - (iii) proceedings in which the only substantive relief sought is a declaration with respect to a person’s matrimonial status; . . . ^{F11}
 - (d) any enactment passed after this Act which relates to any matter dealt with in this Act, the ^{M6}Matrimonial Causes Act 1967 . . . ^{F7}; [^{F12}or
 - (e) any enactment contained in Part II of or Schedule 1 to the ^{M7}Domicile and Matrimonial Proceedings Act 1973 which does not fall within paragraph (d) above;]^{F13}or
 - (f) proceedings to which section 100(7)(d) of the ^{M8}Children Act 1975 applies (certain applications for revocation and variation of custodianship etc. orders),]

shall, subject to the exceptions listed in subsection (2) below, be the Lord Chancellor together with any four or more of the following persons, namely, the President of the

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Family Division, one puisne judge attached to that division, [^{F14}one district judge of the principal registry of the Family Division, two Circuit judges, one district judge appointed under the County Courts Act 1984, two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990), and two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.]

All the members of the authority, other than the Lord Chancellor himself and the President of the Family Division, shall be appointed by the Lord Chancellor for such time as he may think fit.

- (2) The following shall be excepted from the purposes mentioned in subsection (1) above—
- (a) proceedings in a county court in the exercise of a jurisdiction exercisable by any county court whether or not it is a divorce county court, that is to say, proceedings in a county court under section 32, 33, 36, [^{F15}or 38] . . . ^{F7};
 - (b) section 47 above, in so far as it relates to . . . ^{F16} proceedings for an order under [^{F17}Part I of the ^{M9}Domestic Proceedings and Magistrates' Courts Act 1978];
 - (c) any enactment passed after this Act in so far as it relates to proceedings in a county court in the exercise of any such jurisdiction as is mentioned in paragraph (a) above . . . ^{F18}.
- (3) Rules of court made under this section may apply, with or without modification, any rules of court made under the ^{M10}Supreme Court of Judicature (Consolidation) Act 1925, the County Courts Act [^{F19}1984] or any other enactment and—
- (a) may modify or exclude the application of any such rules or of any provision of the County Courts Act [^{F19}1984];
 - (b) may provide for the enforcement in the High Court of orders made in a divorce county court;
- and, without prejudice to the generality of the preceding provisions, may make with respect to proceedings in a divorce county court any provision regarding the Official Solicitor or any solicitor of the Supreme Court which could be made by rules of court with respect to proceedings in the High Court.
- (4) The power to make rules of court by virtue of subsection (1) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section “divorce county court” means a county court designated under section 1 of the ^{M11}Matrimonial Causes Act 1967 and “divorce registry” means the principal registry of the Family Division of the High Court.]

Textual Amendments

- F6** S. 50 repealed (*prosp.*) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 46(3), 48(2), [Sch. 3](#)
- F7** Words repealed by [Inheritance \(Provision for Family and Dependants\) Act 1975 \(c. 63\)](#), s. 26(3), [Sch.](#)
- F8** Words inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(5), [Sch. 1 para. 15\(a\)](#)
- F9** Words substituted by [Matrimonial Homes Act 1983 \(c. 19, SIF 49:5\)](#), ss. 12, 13(3), [Sch. 2](#)
- F10** Words substituted by [Matrimonial Homes Act 1983 \(c. 19, SIF 49:5\)](#), ss. 12, 13(3), [Sch. 2](#)
- F11** Word repealed by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), [s. 6\(2\)](#)
- F12** Words added by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), [s. 6\(2\)](#)

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- F13** Words inserted by [Children Act 1975 \(c. 72\)](#), s. 108(2), **Sch. 3 para. 79**
- F14** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(2), **Sch. 17 para. 3**
- F15** Words substituted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(5), **Sch. 1 para. 15(b)**
- F16** Words repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1)(2), 69(5), **Sch. 1 para. 15(b)**, Sch. 2
- F17** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), Sch. 1, **Sch. 2 para. 40**, S.I. 1979/731, Sch. 2 para. 8 with saving for an application made before 1.2.1981 under [Matrimonial Proceedings \(Magistrates' Courts\) Act 1960 \(c. 48\)](#): S.I. 1979/731, **Sch. 2 para. 8**
- F18** Words repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1)(2), 69(5), **Sch. 1 para. 15(b)**, Sch. 2
- F19** Year substituted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), ss. 148(1), 149, **Sch. 2 para. 44(b)**

Marginal Citations

- M2** 1967 c. 56.
M3 1971 c. 23.
M4 1882 c. 75.
M5 1971 c. 23.
M6 1967 c. 56.
M7 1973 c. 45.
M8 1975 c. 72.
M9 1978 c. 22.
M10 1925 c. 49.
M11 1967 c. 56.

51 Fees in matrimonial proceedings.

The fees to be taken in any proceedings to which rules under section 50 above apply shall be such as the Lord Chancellor with the concurrence of the Treasury may from time to time by order made by statutory instrument prescribe.

52 Interpretation.

(1) In this Act—

^{F20}
...

“child”, in relation to one or both of the parties to a marriage, includes an illegitimate . . . ^{F21}child of that party or, as the case may be, of both parties;

“child of the family”, in relation to the parties to a marriage, means—

- (a) a child of both of those parties; and
- (b) any other child, not being a child who [^{F22}has been boarded-out with those parties][^{F22}is placed with those parties as foster parents] by a local authority or voluntary organisation, who has been treated by both of those parties as a child of their family;

“the court” (except where the context otherwise requires) means the High Court or, where a county court has jurisdiction by virtue of [^{F23}Part V of the Matrimonial and Family Proceedings Act 1984], a county court;

[^{F24}“custody”, in relation to a child, includes access to the child;]

“education” includes training.

(2) In this Act—

- (a) references to financial provision orders, periodical payments and secured periodical payments orders and orders for the payment of a lump sum, and

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references to property adjustment orders, shall be construed in accordance with section 21 above; and

- (b) references to orders for maintenance pending suit and to interim orders for maintenance shall be construed respectively in accordance with section 22 and section 27(5) above.

(3) For the avoidance of doubt it is hereby declared that references in this Act to remarriage include references to a marriage which is by law void or voidable.

(4) Except where the contrary intention is indicated, references in this Act to any enactment include references to that enactment as amended, extended or applied by or under any subsequent enactment, including this Act.

Textual Amendments

- F20** Definition repealed by [Children Act 1975 \(c. 72\)](#), **Sch. 4 Pt. I** as respects things done, or events occurring, after 31.12.1975
- F21** Words repealed by [Children Act 1975 \(c. 72\)](#), **Sch. 4 Pt. I** as respects things done, or events occurring, after 31.12.1975
- F22** Words commencing “is placed” substituted (*prosp.*) for words commencing “has been boarded-out” by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch. 12 para. 33** (with **Sch. 14 paras. 1(1)**)
- F23** Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 46(1), 47(1)(e), 48(3)**, Sch. 1 para. 16
- F24** Definition repealed (*prosp.*) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch. 15** (with **Sch. 14 paras. 1(1), 27(4)**)

53 Transitional provisions and savings.

Schedule 1 to this Act shall have effect for the purpose of—

- (a) the transition to the provisions of this Act from the law in force before the commencement of this Act;
- (b) the preservation for limited purposes of certain provisions superseded by provisions of this Act or by enactments repealed and replaced by this Act; and
- (c) the assimilation in certain respects to orders under this Act of orders made, or deemed to have been made, under the ^{M12}Matrimonial Causes Act 1965.

Marginal Citations

M12 1965 c. 72.

54 Consequential amendments and repeals.

(1) Subject to the provisions of Schedule 1 to this Act—

- (a) the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act or on enactments repealed by this Act; and
- ^{F25}(b)

(2) The amendment of any enactment by Schedule 2 to this Act shall not be taken as prejudicing the operation of [^{F26}sections 16(1) and 17(2)(a) of the ^{M13}Interpretation Act 1978] (which relates to the effect of repeals).

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Textual Amendments

F25 S. 54(1)(b) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. VII](#)

F26 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 25\(2\)](#)

Marginal Citations

M13 [1978 c. 30](#).

55 Citation, commencement and extent.

- (1) This Act may be cited as the Matrimonial Causes Act 1973.
- (2) This Act shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument.
- (3) Subject to the provisions of paragraphs 3(2) ^{F27} . . . of Schedule 2 below, this Act does not extend to Scotland or Northern Ireland.

Textual Amendments

F27 Words repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. VII](#)

Modifications etc. (not altering text)

C1 Power of appointment conferred by s. 55(2) fully exercised: 1.1.1974 appointed by SI. 1973/1972, art. 2

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