



Matrimonial Causes Act 1965

1965 CHAPTER 72

PART I

DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

Other matrimonial suits

12 Judicial separation

- (1) A petition for judicial separation may be presented to the court by the husband or the wife—
- (a) on any of the grounds specified in section 1 of this Act; or
 - (b) on the ground of failure to comply with a decree for restitution of conjugal rights; or
 - (c) on any ground on which a decree of divorce a mensa et thoro might have been pronounced immediately before the commencement of the Matrimonial Causes Act 1857;

and sections 1 and 5(1) to (4) of this Act and paragraphs 2 and 3 of Schedule 1 to this Act shall apply in relation to such a petition as they apply in relation to a petition for divorce but as if the reference in section 5(3) to section 5(5) were omitted.

- (2) Where the court grants a decree of judicial separation it shall no longer be obligatory for the petitioner to cohabit with the respondent.
- (3) The court may, on an application by petition of the spouse against whom a decree of judicial separation has been made and on being satisfied that the allegations in the petition are true, rescind the decree at any time on the ground that it was obtained in the absence of the applicant or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

13 Restitution of conjugal rights

- (1) A petition for restitution of conjugal rights may be presented to the court by the husband or the wife; and the court, on being satisfied that—
 - (a) the allegations contained in the petition are true; and
 - (b) there is no legal ground why a decree for restitution of conjugal rights should not be granted,may grant the decree accordingly.
- (2) A decree for restitution of conjugal rights shall not be enforced by imprisonment.

14 Presumption of death and dissolution of marriage

- (1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may, subject to the next following subsection, present a petition to the court to have it presumed that the other party is dead and to have the marriage dissolved, and the court may, if satisfied that such reasonable grounds exist, make a decree of presumption of death and dissolution of the marriage.
- (2) A petition may be presented in pursuance of the foregoing subsection—
 - (a) in any case, if the petitioner is domiciled in England; and
 - (b) in the case of a petition presented by a wife, if she is resident in England and has been ordinarily resident there for a period of three years immediately preceding the commencement of the proceedings.
- (3) In any proceedings under this section the fact that for a period of seven years or more the other party to the marriage has been continually absent from the petitioner and the petitioner has no reason to believe that the other party has been living within that time shall be evidence that the other party is dead until the contrary is proved.
- (4) Sections 5(7) and 6 to 8 of this Act shall apply to a petition and a decree under this section as they apply to a petition for divorce and a decree of divorce respectively.
- (5) In determining for the purposes of this section whether a woman is domiciled in England, her husband shall be treated as having died immediately after the last occasion on which she knew or had reason to believe him to be living; and in any proceedings brought in pursuance of subsection (2)(b) of this section the issues shall be determined in accordance with the law which would be applicable thereto if both parties to the marriage were domiciled in England at the time of the proceedings.