



Matrimonial Proceedings (Polygamous Marriages) Act 1972

1972 CHAPTER 38

An Act to enable matrimonial relief to be granted, and declarations concerning the validity of a marriage to be made, notwithstanding that the marriage in question was entered into under a law which permits polygamy, and to make a consequential amendment in the Nullity of Marriage Act 1971. [29th June 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Matrimonial relief and declarations of validity in respect of polygamous marriages: England and Wales.

- (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) a decree of divorce, nullity of marriage or judicial separation;
 - (b) a decree under section 14 of the Matrimonial Causes Act 1965 (presumption of death and dissolution of marriage);
 - (c) an order under section 6 of the Matrimonial Proceedings and Property Act 1970 (wilful neglect to maintain);
 - (d) an order under section 14 of the said Act of 1970 (alteration of maintenance agreements);
 - (e) an order under any provision of the said Acts of 1965 and 1970 or the Divorce Reform Act 1969 which confers a power exercisable in connection with, or in connection with proceedings for, any such decree or order as is mentioned in the foregoing paragraphs;
 - (f) an order under the Matrimonial Proceedings (Magistrates' Courts) Act 1960.

- (3) In this section " a declaration concerning the validity of a marriage " means—
- (a) a declaration that a marriage is valid or invalid; and
 - (b) any other declaration involving a determination as to the validity of a marriage,
- being a declaration in a decree granted under section 39 of the said Act of 1965 or a declaration made in proceedings brought by virtue of rules of court relating to declaratory judgments.
- (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 specified in the rules.

2 Matrimonial relief and declarations as to validity in respect of polygamous marriages: Scotland.

- (1) A court in Scotland shall not be precluded from entertaining proceedings for, or granting, any such decree as is mentioned in subsection (2) below by reason only that the marriage to which the proceedings relate was entered into under a law which permits polygamy.
- (2) The decrees referred to in subsection (1) above are—
- (a) a decree of divorce;
 - (b) a decree of nullity of marriage;
 - (c) a decree of dissolution of marriage under section 5 of the Divorce (Scotland) Act 1938 (presumption of death and dissolution of marriage);
 - (d) a decree of judicial separation;
 - (e) a decree of separation and aliment, adherence and aliment, or interim aliment;
 - (f) a decree of declarator that a marriage is valid or invalid;
 - (g) any other decree involving a determination as to the validity of a marriage;
- and the reference in subsection (1) above to granting such a decree as aforesaid includes a reference to making any ancillary order which the court has power to make in proceedings for such a decree.
- (3) 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 specified in the rules.

3 Matrimonial relief and declarations of validity in respect of polygamous marriages: Northern Ireland.

- (1) A court in Northern Ireland 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) a decree of divorce, nullity of marriage or judicial separation;
 - (b) a decree under section 12 of the Matrimonial Causes Act (Northern Ireland) 1939 (dissolution of marriage on presumption of death);
 - (c) an order under section 4 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1951 (wilful neglect to maintain);
 - (d) an order made under any provision of the said Act of 1939, or under section 4 of the said Act of 1951, which confers a power exercisable in connection with, or in connection with any proceedings for, any such decree or order as is mentioned in the foregoing paragraphs;
 - (e) an order under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945.
- (3) In this section " a declaration concerning the validity of a marriage " means—
 - (a) a declaration that a marriage is valid or invalid; and
 - (b) any other declaration involving a determination as to the validity of a marriage,
being a declaration in a decree granted under the Legitimacy Declaration Act (Ireland) 1868 or a declaration made in proceedings brought by virtue of rules of court relating to declaratory judgments.
- (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 specified in the rules.

4 Amendment of s. 1 of Nullity of Marriage Act 1971.

In section 1 of the Nullity of Marriage Act 1971 (which states as respects England and Wales the grounds on which a marriage taking place after the commencement of that Act is void) after paragraph (c) there shall be added—

- “(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 section a marriage may be polygamous although at its inception neither party has any spouse additional to the other.”

5 Short title, interpretation and powers of Parliament of Northern Ireland.

- (1) This Act may be cited as the Matrimonial Proceedings (Polygamous Marriages) Act 1972.

Status: This is the original version (as it was originally enacted).

- (2) References in this Act to any enactment shall be construed as references to that enactment as amended, and as including references thereto as extended or applied, by any subsequent enactment.
- (3) In subsection (2) of this section "enactment" includes an enactment of the Parliament of Northern Ireland; and for the purposes of section 6 of the Government of Ireland Act 1920 this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.