



Matrimonial Causes Act 1973

1973 CHAPTER 18

PART III

PROTECTION, CUSTODY, ETC., OF CHILDREN

42 Orders for custody and education of children in cases of divorce, etc., and for custody in cases of neglect

- (1) The court may make such order as it thinks fit for the custody and education of any child of the family who is under the age of eighteen—
 - (a) in any proceedings for divorce, nullity of marriage or judicial separation, before or on granting a decree or at any time thereafter (whether, in the case of a decree of divorce or nullity of marriage, before or after the decree is made absolute);
 - (b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal;and in any case in which the court has power by virtue of this subsection to make an order in respect of a child it may instead, if it thinks fit, direct that proper proceedings be taken for making the child a ward of court.
- (2) Where the court makes an order under section 27 above, the court shall also have power to make such order as it thinks fit with respect to the custody of any child of the family who is for the time being under the age of eighteen; but the power conferred by this subsection and any order made in exercise of that power shall have effect only as respects any period when an order is in force under that section and the child is under that age.
- (3) Where the court grants or makes absolute a decree of divorce or grants a decree of judicial separation, it may include in the decree a declaration that either party to the marriage in question is unfit to have the custody of the children of the family.
- (4) Where a decree of divorce or of judicial separation contains such a declaration as is mentioned in subsection (3) above, then, if the party to whom the declaration relates

Status: This is the original version (as it was originally enacted).

is a parent of any child of the family, that party shall not, on the death of the other parent, be entitled as of right to the custody or the guardianship of that child.

- (5) Where an order in respect of a child is made under this section, the order shall not affect the rights over or with respect to the child of any person, other than a party to the marriage in question, unless the child is the child of one or both of the parties to that marriage and that person was a party to the proceedings on the application for an order under this section.
- (6) The power of the court under subsection (1)(a) or (2) above to make an order with respect to a child shall be exercisable from time to time ; and where the court makes an order under subsection (1)(b) above with respect to a child it may from time to time until that child attains the age of eighteen make a further order with respect to his custody and education.
- (7) The court shall have power to vary or discharge an order made under this section or to suspend any provision thereof temporarily and to revive the operation of any provision so suspended.