



# Family Law Act 1986

## 1986 CHAPTER 55

### PART III

#### DECLARATIONS OF STATUS

#### **55 Declarations as to marital status.**

- (1) Subject to the following provisions of this section, any person may apply to [<sup>F1</sup> the High Court or a county court] for one or more of the following declarations in relation to a marriage specified in the application, that is to say—
  - (a) a declaration that the marriage was at its inception a valid marriage;
  - (b) a declaration that the marriage subsisted on a date specified in the application;
  - (c) a declaration that the marriage did not subsist on a date so specified;
  - (d) a declaration that the validity of a divorce, annulment or legal separation obtained in any country outside England and Wales in respect of the marriage is entitled to recognition in England and Wales;
  - (e) a declaration that the validity of a divorce, annulment or legal separation so obtained in respect of the marriage is not entitled to recognition in England and Wales.
- (2) A court shall have jurisdiction to entertain an application under subsection (1) above if, and only if, either of the parties to the marriage to which the application relates—
  - (a) is domiciled in England and Wales on the date of the application, or
  - (b) has been habitually resident in England and Wales throughout the period of one year ending with that date, or
  - (c) died before that date and either—
    - (i) was at death domiciled in England and Wales, or
    - (ii) had been habitually resident in England and Wales throughout the period of one year ending with the date of death.
- (3) Where an application under subsection (1) above is made [<sup>F2</sup>to a court] by any person other than a party to the marriage to which the application relates, the court shall

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refuse to hear the application if it considers that the applicant does not have a sufficient interest in the determination of that application.

#### Textual Amendments

- F1** Words in s. 55(1) substituted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 4(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F2** Words in s. 55(3) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 4(b)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

### [<sup>F3</sup>55A Declarations of parentage.

- (1) Subject to the following provisions of this section, any person may apply to the High Court, a county court or a magistrates' court for a declaration as to whether or not a person named in the application is or was the parent of another person so named.
- (2) A court shall have jurisdiction to entertain an application under subsection (1) above if, and only if, either of the persons named in it for the purposes of that subsection—
  - (a) is domiciled in England and Wales on the date of the application, or
  - (b) has been habitually resident in England and Wales throughout the period of one year ending with that date, or
  - (c) died before that date and either—
    - (i) was at death domiciled in England and Wales, or
    - (ii) had been habitually resident in England and Wales throughout the period of one year ending with the date of death.
- (3) Except in a case falling within subsection (4) below, the court shall refuse to hear an application under subsection (1) above unless it considers that the applicant has a sufficient personal interest in the determination of the application (but this is subject to section 27 of the <sup>M1</sup>Child Support Act 1991).
- (4) The excepted cases are where the declaration sought is as to whether or not—
  - (a) the applicant is the parent of a named person;
  - (b) a named person is the parent of the applicant; or
  - (c) a named person is the other parent of a named child of the applicant.
- (5) Where an application under subsection (1) above is made and one of the persons named in it for the purposes of that subsection is a child, the court may refuse to hear the application if it considers that the determination of the application would not be in the best interests of the child.
- (6) Where a court refuses to hear an application under subsection (1) above it may order that the applicant may not apply again for the same declaration without leave of the court.
- (7) Where a declaration is made by a court on an application under subsection (1) above, the prescribed officer of the court shall notify the Registrar General, in such a manner and within such period as may be prescribed, of the making of that declaration.]

#### Textual Amendments

- F3** S. 55A inserted (1.4.2001) by 2000 c. 19, s. 83(2) (with s. 83(6)); S.I. 2001/774, **art. 2(b)**

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### Marginal Citations

**M1** 1991 c. 48.

## [<sup>F4</sup>56] **Declarations as to parentage, legitimacy or legitimation.**

- (1) Any person may apply to [<sup>F5</sup>the High Court or a county court] for a declaration—
  - <sup>F6</sup>(a) .....
  - (b) that he is the legitimate child of his parents.
- (2) Any person may apply to [<sup>F5</sup>the High Court or a county court] for one (or for one or, in the alternative, the other) of the following declarations, that is to say—
  - (a) a declaration that he has become a legitimated person;
  - (b) a declaration that he has not become a legitimated person.
- (3) A court shall have jurisdiction to entertain an application under this section if, and only if, the applicant—
  - (a) is domiciled in England and Wales on the date of the application; or
  - (b) has been habitually resident in England and Wales throughout the period of one year ending with that date.
- (4) Where a declaration is made [by a court] on an application under subsection (1) above, the prescribed officer of the court shall notify the Registrar General, in such a manner and within such period as may be prescribed, of the making of that declaration.
- (5) In this section “legitimated person” means a person legitimated or recognised as legitimated—
  - (a) under section 2 or 3 of the Legitimacy Act <sup>M2</sup>1976;
  - (b) under section 1 or 8 of the Legitimacy Act <sup>M3</sup>1926; or
  - (c) by a legitimation (whether or not by virtue of the subsequent marriage of his parents) recognised by the law of England and Wales and effected under the law of another country.]

### Textual Amendments

- F4** S. 56 substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), **ss. 22, 34(5)**
- F5** Words in S. 56(1)(2) substituted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 5(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F6** S. 56(1)(a) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

### Modifications etc. (not altering text)

- C1** Words in S. 56(4) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 5(b)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

### Marginal Citations

- M2** 1976 c.31(49:7).
- M3** 1926 c.60(49:7).

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## 57 Declarations as to adoptions effected overseas.

- (1) Any person whose status as an adopted child of any person depends on whether he has been adopted by that person by either—
- [<sup>F7</sup>(a) a Convention adoption, or an overseas adoption, within the meaning of the Adoption and Children Act 2002, or]
  - (b) an adoption recognised by the law of England and Wales and effected under the law of any country outside the British Islands,
- may apply to [<sup>F8</sup>the High Court or a county court] for one (or for one or, in the alternative, the other) of the declarations mentioned in subsection (2) below.
- (2) The said declarations are—
- (a) a declaration that the applicant is for the purposes of section 39 of the Adoption Act 1976 [<sup>F9</sup>or section 67 of the Adoption and Children Act 2002] the adopted child of that person;
  - (b) a declaration that the applicant is not for the purposes of that section the adopted child of that person.
- (3) A court shall have jurisdiction to entertain an application under subsection (1) above if, and only if, the applicant—
- (a) is domiciled in England and Wales on the date of the application, or
  - (b) has been habitually resident in England and Wales throughout the period of one year ending with that date.
- (4) Until the Adoption Act 1976 comes into force—
- (a) subsection (1) above shall have effect as if for the reference to section 72(2) of that Act there were substituted a reference to section 4(3) of the <sup>M4</sup>Adoption Act 1968; and
  - (b) subsection (2) above shall have effect as if for the reference to section 39 of that Act there were substituted a reference to Part II of Schedule I to the <sup>M5</sup>Children Act 1975.

### Textual Amendments

- F7** S. 57(1)(a) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 49(a)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F8** Words in s. 57(1) substituted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 6** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F9** Words in s. 57(2)(a) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), s. 148(1), **Sch. 3 para. 49(b)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

### Marginal Citations

- M4** 1968 c. 53.  
**M5** 1975 c. 72.

## 58 General provisions as to the making and effect of declarations.

- (1) Where on an application [<sup>F10</sup>to a court] for a declaration under this Part the truth of the proposition to be declared is proved to the satisfaction of the court, the court shall make that declaration unless to do so would manifestly be contrary to public policy.

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- (2) Any declaration made under this Part shall be binding on Her Majesty and all other persons.
- (3) <sup>F11</sup>A] court, on the dismissal of an application for a declaration under this Part, shall not have power to make any declaration for which an application has not been made.
- (4) No declaration which may be applied for under this Part may be made otherwise than under this Part by any court.
- (5) No declaration may be made by any court, whether under this Part or otherwise—
  - (a) that a marriage was at its inception void;
  - <sup>F12</sup>(b) .....
- (6) Nothing in this section shall effect the powers of any court to grant a decree of nullity of marriage.

#### Textual Amendments

- F10** Words in s. 58(1) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 7(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F11** Word in s. 58(3) substituted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 7(b)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F12** S. 58(5)(b) repealed (1.4.2001) by 2000 c. 19, ss. 83(3), 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(b)-(d)**

## 59 Provisions relating to the Attorney-General.

- (1) On an application [<sup>F13</sup>to a court] for a declaration under this Part the court may at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the Attorney-General.
- (2) The Attorney-General, whether or not he is sent papers in relation to an application [<sup>F13</sup>to a court] for a declaration under this Part, may—
  - (a) intervene in the proceedings on that application in such manner as he thinks necessary or expedient, and
  - (b) argue before the court any question in relation to the application which the court considers it necessary to have fully argued.
- (3) Where any costs are incurred by the Attorney-General in connection with any application [<sup>F14</sup>to a court] for a declaration under this Part, the court may make such order as it considers just as to the payment of those costs by parties to the proceedings.

#### Textual Amendments

- F13** Words in s. 59(1)(2) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 8(a)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**
- F14** Words in s. 59(3) inserted (1.4.2001) by 2000 c. 19, s. 83, **Sch. 8 para. 8(b)** (with s. 83(6)); S.I. 2001/774, **art. 2(b)(c)**

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#### Modifications etc. (not altering text)

- C2** S. 59 extended (prosp.) by 1976 c. 36, s. 39(3B) (as inserted (prosp.) by 1999 c. 18, ss. 4(3), 18(3) (with s. 17(1))  
S. 59 applied (prosp.) by Adoption and Children Act 2002 (c. 38), s. 88(4) (with Sch. 4 paras. 1, 6-8)
- C3** S. 59 applied by 1976 c. 36, s. 39(3B) (as inserted (1.6.2003 for E.W.) by Adoption (Intercountry Aspects) Act 1999 (c. 18), ss. 4(3), 18(3) (with s. 17); S.I. 2003/189, art. 2(2)(c))
- C4** S. 59 applied (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 88(4), 148(1) (with Sch. 4 paras. 1, 6-8); S.I. 2005/2213, art. 2(f)

## 60 Supplementary provisions as to declarations.

- (1) Any declaration made under this Part, and any application for such a declaration, shall be in the form prescribed by rules of court.
- (2) Rules of court may make provision—
- as to the information required to be given by any applicant for a declaration under this Part;
  - as to the persons who are to be parties to proceedings on an application under this Part;
  - requiring notice of an application under this Part to be served on the Attorney-General <sup>[F15]</sup> and on persons who may be affected by any declaration applied for].
- (3) No proceedings under this Part shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.
- (4) The court hearing an application under this Part may direct that the whole or any part of the proceedings shall be heard in camera, and an application for a direction under this subsection shall be heard in camera unless the court otherwise directs.
- <sup>[F16]</sup>(5) An appeal shall lie to the High Court against—
- the making by a magistrates' court of a declaration under section 55A above,
  - any refusal by a magistrates' court to make such a declaration, or
  - any order under subsection (6) of that section made on such a refusal.]

#### Textual Amendments

- F15** Words added by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(1), 34(2)(5), Sch. 2 para. 96
- F16** S. 60(5) inserted (1.4.2001) by 2000 c. 19, s. 83(4) (with s. 83(6); S.I. 2001/774, art. 2(b))

#### Modifications etc. (not altering text)

- C5** S. 60 extended (prosp.) by 1976 c. 36, s. 39(3B) (as inserted (prosp.) by 1999 c. 18, ss. 4(3), 18(3) (with s. 17(1)))  
S. 60 applied (prosp.) by Adoption and Children Act 2002 (c. 38), s. 88(4) (with Sch. 4 paras. 1, 6-8)
- C6** S. 60 applied by 1976 c. 36, s. 39(3B) (as inserted (1.6.2003 for E.W.) by Adoption (Intercountry Aspects) Act 1999 (c. 18), ss. 4(3), 18(3) (with s. 17); S.I. 2003/189, art. 2(2)(c))
- C7** S. 60 applied (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 88(4), 148(1) (with Sch. 4 paras. 1, 6-8); S.I. 2005/2213, art. 2(f)

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**61 Abolition of right to petition for jactitation of marriage.**

No person shall after the commencement of this Part be entitled to petition the High Court or a county court for jactitation of marriage.

**62 Repeal of Greek Marriages Act 1884.**

- (1) The Greek Marriages Act 1884 shall cease to have effect.
- (2) Any marriage in respect of which a declaration that it was a valid marriage could before the commencement of this Part have been made under the <sup>M6</sup>Greek Marriages Act 1884 is hereby declared to have been a valid marriage; but nothing in this subsection shall affect any status or right which would not have been affected by a declaration under that Act.

**Marginal Citations**

**M6** 1884 c. 20.

<sup>F17</sup>**63** .....

**Textual Amendments**

**F17** S. 63 repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**

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