



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F1 S. 45 repealed by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(2), 69, [Sch. 2](#)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F2 S. 46 repealed by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 17(2), [Sch. 6](#)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.

F6⁵⁰

Textual Amendments

F6 S. 50 repealed (14.10.1991) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(3), [Sch. 3](#); S.I. 1991/1211, [art. 2](#)

F7⁵¹

Textual Amendments

F7 S. 51 repealed (14.10.1991) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), s. 46(3), [Sch. 3](#); S.I. 1991/1211, [art.2](#)

52 Interpretation.

(1) In this Act—

F8

“child”, in relation to one or both of the parties to a marriage, includes an illegitimate ^{F9} . . . 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 [^{F10}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 [^{F11}Part V of the Matrimonial and Family Proceedings Act 1984], a county court;

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F12 . . .

“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 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

- F8** Definition repealed by [Children Act 1975 \(c. 72\)](#), **Sch. 4 Pt. I** as respects things done, or events occurring, after 31.12.1975
- F9** Words repealed by [Children Act 1975 \(c. 72\)](#), **Sch. 4 Pt. I** as respects things done, or events occurring, after 31.12.1975
- F10** Words in [s. 52\(1\)](#) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch. 12 para.33** (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, **art. 3(2)**
- F11** 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
- F12** Definition in [s. 52\(1\)](#) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, **Sch.15** (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, **art. 3(2)**

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 ^{M2}Matrimonial Causes Act 1965.

Marginal Citations

- M2** [1965 c. 72.](#)

54 Consequential amendments and repeals.

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

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- (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
- ^{F13}(b)
- (2) The amendment of any enactment by Schedule 2 to this Act shall not be taken as prejudicing the operation of [^{F14}sections 16(1) and 17(2)(a) of the ^{M3}Interpretation Act 1978] (which relates to the effect of repeals).

Textual Amendments

F13 S. 54(1)(b) repealed by Statute Law (Repeals) Act 1977 (c. 18), Sch. 1 Pt. VII

F14 Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 25(2)

Marginal Citations

M3 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) ^{F15}. . . of Schedule 2 below, this Act does not extend to Scotland or Northern Ireland.

Textual Amendments

F15 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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