

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Family Property

Section 198: Abolition of husband's duty to maintain wife

Effect

621. This section abolishes the common law duty of a husband to maintain his wife.

Background

622. The husband's common law duty to provide his wife with the necessities of life was a consequence of now obsolete rules of law which prevented the wife from having capacity to hold property and to enter into contracts. There is no equivalent common law duty for a wife to maintain her husband. There are, however, now adequate statutory provisions requiring both spouses to maintain each other. The common law duty to maintain has little if any practical application.

Example

- Either party to a marriage can apply to the court for a financial provision order against the other party under the Domestic Proceedings and Magistrates' Courts Act 1978 or the Matrimonial Causes Act 1973 on the grounds that his or her spouse has failed to provide reasonable maintenance for them or for any child of the family. There will no longer be any additional common law requirement for a husband to maintain his wife.