

UNITED KINGDOM

Matrimonial Causes Act, 1950

ARRANGEMENT OF SECTIONS

Divorce and Nullity of Marriage

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SCHEDULE.—Enactments repealed.

An Act to consolidate certain enactments relating to matrimonial causes in the High Court in England and to declarations of legitimacy and of validity of marriage and of British nationality, with such corrections and improvements as may be authorised by the Consolidation of Enactments (Procedure) Act, 1949.

[28th July 1950.]

BE it enacted by the King'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:—

Divorce and Nullity of Marriage

Grounds for petition for divorce

1.-(1) Subject to the provisions of the next following section, a petition for divorce may be presented to the court either by the husband or the wife on the ground that the respondent –

- (a) has since the celebration of the marriage committed adultery; or
- (b) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition; or
- (c) has since the celebration of the marriage treated the petitioner with cruelty; or
- (d) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition;

and by the wife on the ground that her husband has, since the celebration of the marriage, been guilty of rape, sodomy or bestiality.

(2) For the purposes of this section a person of unsound mind shall be deemed to be under care and treatment –

- (a) while he is detained in pursuance of any order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1930, or of any order or warrant under the Army Act, the Air Force Act, the Naval Discipline Act, the Naval Enlistment Act, 1884, or the Yarmouth Naval Hospital Act, 1931, or is being detained as a Broadmoor patient or in pursuance of an order made under the Criminal Lunatics Act, 1884;
- (b) while he is detained in pursuance of any order or warrant for his detention or custody as a lunatic under the Lunacy (Scotland) Acts, 1857 to 1919;
- (c) while he is detained in pursuance of any order for his detention or treatment as a person of unsound mind or a person suffering from mental illness made under any law for the time being in force in Northern Ireland, the Isle of Man or any of the Channel Islands (including any such law relating to criminal lunatics);
- (d) while he is receiving treatment as a voluntary patient under the Mental Treatment Act, 1930, or under any such law as is mentioned

in paragraph (c) of this sub-section, being treatment which follows without any interval a period during which he was detained as mentioned in paragraph (a), paragraph (b) or paragraph (c) of this subsection;

and not otherwise.

Restriction on petitions for divorce during first three years after marriage.

2.—(1) No petition for divorce shall be presented to the court unless at the date of the presentation of the petition three years have passed since the date of the marriage:

Provided that a judge of the court may, upon application being made to him in accordance with rules of court, allow a petition to be presented before three years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree nisi, do so subject to the condition that no application to make the decree absolute shall be made until after the expiration of three years from the date of the marriage, or may dismiss the petition, without prejudice to any petition which may be brought after the expiration of the said three years upon the same, or substantially the same, facts as those proved in support of the petition so dismissed.

(2) In determining any application under this section for leave to present a petition before the expiration of three years from the date of the marriage, the judge shall have regard to the interests of any children of the marriage and to the question whether there is reasonable probability of a reconciliation between the parties before the expiration of the said three years.

(3) Nothing in this section shall be deemed to prohibit the presentation of a petition based upon matters which have occurred before the expiration of three years from the date of the marriage.

(4) This section shall not apply in the case of marriages to which section one of the Matrimonial Causes (War Marriages) Act, 1944, applies (being certain marriages celebrated on or after the third day of September, nineteen hundred and thirty-nine, and before the first day of June, nineteen hundred and fifty).

Provision as to making adulterer co-respondent.

3.—(1) On a petition for divorce presented by the husband on the ground of adultery or in the answer of a husband praying for divorce on the said ground, the petitioner or respondent, as the case may be, shall make the alleged adulterer a co-respondent unless he is excused by the court on special grounds from so doing.

(2) On a petition for divorce presented by the wife on the ground of adultery the court may, if it thinks fit, direct that the person with whom the husband is alleged to have committed adultery be made a respondent.

Duty of court on presentation of petition.

4.—(1) On a petition for divorce it shall be the duty of the court to inquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties, and also to inquire into any countercharge which is made against the petitioner.

(2) If the court is satisfied on the evidence that –

- (a) the case for the petition has been proved; and
- (b) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to, or connived at, or condoned, the adultery, or, where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty; and
- (c) the petition is not presented or prosecuted in collusion with the respondent or either of the respondents;

the court shall pronounce a decree of divorce, but if the court is not satisfied with respect to any of the aforesaid matters, it shall dismiss the petition:

Provided that the court shall not be bound to pronounce a decree of divorce and may dismiss the petition if it finds that the petitioner has during the marriage been guilty of adultery or if, in the opinion of the court, the petitioner has been guilty –

- (i) of unreasonable delay in presenting or prosecuting the petition; or
- (ii) of cruelty towards the other party to the marriage; or
- (iii) where the ground of the petition is adultery or cruelty, of having without reasonable excuse deserted, or having without reasonable excuse wilfully separated himself or herself from, the other party before the adultery or cruelty complained of; or
- (iv) where the ground of the petition is adultery or unsoundness of mind or desertion, of such wilful neglect or misconduct as has conduced to the adultery or unsoundness of mind or desertion.

Dismissal of respondent or co-respondent from proceedings.

5. In any case in which, on the petition of a husband for divorce on the ground of adultery, the alleged adulterer is made a co-respondent or in which, on the petition of a wife for divorce on the ground of adultery, the person with whom the husband is alleged to have committed adultery is made a respondent, the court may, after the close of the evidence on the part of the petitioner, direct the co-respondent or the respondent, as the case may be, to be dismissed from the proceedings if the court is of opinion that there is not sufficient evidence against him or her.

Relief to respondent on petition for divorce.

6. If in any proceedings for divorce the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

Divorce proceedings after grant of judicial separation or other relief.

7.—(1) A person shall not be prevented from presenting a petition for divorce, or the court from pronouncing a decree of divorce, by reason only that the petitioner has at any time been granted a judicial separation or an order under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, upon the same or substantially the same facts as those proved in support of the petition for divorce.

(2) On any such petition for divorce, the court may treat the decree of judicial separation or the said order as sufficient proof of the adultery, desertion, or other ground on which it was granted, but the court shall not pronounce a decree of divorce without receiving evidence from the petitioner.

(3) For the purposes of any such petition for divorce, a period of desertion immediately preceding the institution of proceedings for a decree of judicial separation or an order under the said Acts having the effect of such a decree shall, if the parties have not resumed cohabitation and the decree or order has been continuously in force since the granting thereof, be deemed immediately to precede the presentation of the petition for divorce.

Additional grounds for decree of nullity.

8.—(1) in addition to any other grounds on which a marriage is by law void or voidable, a marriage shall be voidable on the ground—

- (a) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage; or
- (b) that either party to the marriage was at the time of the marriage of unsound mind or a mental defective within the meaning of the

Mental Deficiency Acts, 1913 to 1938, or subject to recurrent fits of insanity or epilepsy; or

- (c) that the respondent was at the time of the marriage suffering from venereal disease in a communicable form; or
- (d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner:

Provided that, in the cases specified in paragraphs (b), (c) and (d) of this subsection, the court shall not grant a decree unless it is satisfied-

- (i) that the petitioner was at the time of the marriage ignorant of the facts alleged;
- (ii) that proceedings were instituted within a year from the date of the marriage; and
- (iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree.

(2) Nothing in this section shall be construed as validating any marriage which is by law void, but with respect to which a decree of nullity has not been granted.

Legitimacy of children of voidable marriages.

9. Where a decree of nullity is granted in respect of a voidable marriage, any child who would have been the legitimate child of the parties to the marriage if it had been dissolved, instead of being annulled, at the date of the decree shall be deemed to be their legitimate child notwithstanding the annulment.

Duties of King's Proctor.

10. In the case of any petition for divorce or for nullity of marriage-

- (1) the court may, if it thinks fit, direct all necessary papers in the matter to be sent to His Majesty's Proctor, who shall under the directions of the Attorney-General instruct counsel to argue before the court any question in relation to the matter which the court deems to be necessary or expedient to have fully argued, and His Majesty's Proctor shall be entitled to charge the costs of the proceedings as part of the expenses of his office;
- (2) any person may at any time during the progress of the proceedings or before the decree nisi is made absolute give information to His Majesty's Proctor of any matter material to the due decision of the case, and His Majesty's Proctor may thereupon take such steps as the Attorney-General considers necessary or expedient;

(3) if in consequence of any such information or otherwise His Majesty's Proctor suspects that any parties to the petition are or have been acting in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, under the direction the Attorney-General, after obtaining the leave of the court, intervene and retain counsel and subpoena witnesses to prove the alleged collusion.

Provisions as to costs where King's Proctor intervenes or shows cause.

11.—(1) Where His Majesty's Proctor intervenes or shows cause against a decree nisi in any proceedings for divorce or for nullity of marriage, the court may make such order as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing, as may seem just.

(2) So far as the reasonable costs incurred by His Majesty's Proctor in so intervening or showing cause are not fully satisfied by any order made under this section for the payment of his costs, he shall be entitled to charge the difference as part of the expenses of his office, and the Treasury may, if they think fit, order that any costs which under any order made by the court under this section His Majesty's Proctor pays to any parties shall be deemed to be part of the expenses of his office.

Decree nisi for divorce or nullity of marriage.

12.—(1) Every decree for a divorce or for nullity of marriage shall, in the first instance, be a decree nisi not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the court by general or special order from time to time fixes a shorter time.

(2) After the pronouncing of the decree nisi and before the decree is made absolute, any person may, in the prescribed manner, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the court, and in any such case the court may make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the court thinks fit.

(3) Where a decree nisi has been obtained and no application for the decree to be made absolute has been made by the party who obtained the decree, then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, the party against whom the decree nisi has been granted shall be at liberty to apply to the court and the court shall, on such application, have power to make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the court thinks fit.

Re-marriage of divorced persons.

13. — (1) Where a decree of divorce has been made absolute and either there is no right of appeal against the decree absolute or, if there is such a right of appeal, the time for

appealing has expired without an appeal having been presented or an appeal has been presented but has been dismissed, either party to the marriage may marry again.

(2) No clergyman of the Church of England or of the Church in Wales shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on any ground and whose former husband or wife is still living, or to permit the marriage of any such person to be solemnized in the Church or Chapel of which he is the minister.

Judicial Separation and Restitution of Conjugal Rights.

Decree for judicial separation.

14. — (1) A petition for judicial separation may be presented to the court either by the husband or the wife on any grounds on which a petition for divorce might have been presented, or on the ground of failure to comply with a decree for restitution of conjugal rights, or on any ground on which a decree for divorce a mensa et thoro might have been pronounced immediately before the commencement of the Matrimonial Causes Act, 1857, and the foregoing provisions of this Act relating to the duty of the court on the presentation of a petition for divorce, and the circumstances in which such a petition shall or may be granted or dismissed, shall apply in like manner to a petition for judicial separation.

(2) Where the court in accordance with the said provisions grants a decree for judicial separation, it shall no longer be obligatory for the petitioner to cohabit with the respondent.

(3) The court may, on the application by petition of the husband or wife against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application, or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

Decree for restitution of conjugal rights.

15.—(1) A petition for restitution of conjugal rights may be presented to the court either by the husband or the wife, and the court, on being satisfied that the allegations contained in the petition are true, and that there is no legal ground why a decree for restitution of conjugal rights should not be granted, may make the decree accordingly.

(2) A decree for restitution of conjugal rights shall not be enforced by attachment.

Presumption of death and dissolution of marriage

Proceedings for decree of presumption of death and dissolution of marriage.

16.— (1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may, if he is domiciled in England, present a

petition to the court to have it presumed that the other party is dead and to have the marriage dissolved, and the court, if satisfied that such reasonable grounds exist, may make a decree of presumption of death and of dissolution of the marriage.

(2) In any such proceedings the fact that for a period of seven years or upwards the other party to the marriage has been continually absent from the petitioner, and the petitioner has no reason to believe that the other party has been living within that time, shall be evidence that he or she is dead until the contrary is proved.

(3) Sections ten to thirteen of this Act shall apply to a petition and a decree under this section as they apply to a petition for divorce and a decree of divorce respectively.

(4) In determining for the purposes of this section whether a woman is domiciled in England, her husband shall be treated as having died immediately after the last occasion on which she knew or had reason to believe him to be living.

Declaration of Legitimacy, &c.

Declaration of Legitimacy, &c.

17. — (1) Any person who is a British subject, or whose right to be deemed a British subject depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in England or Northern Ireland or claims any real or personal estate situate in England, apply by petition to the court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.

(2) Any person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may apply by petition to the court for a decree declaring that he or his parent or remoter ancestor, as the case may be, became or has become a legitimated person.

In this subsection the expression " legitimated person " means a person legitimated by the Legitimacy Act, 1926, and includes a person recognised under section eight of that Act as legitimated.

(3) A petition under the last foregoing subsection may be presented to a county court instead of to the High Court:

Provided that, where a petition is presented to a county court, the county court, if it considers that the case is one which owing to the value of the property involved or otherwise ought to be dealt with by the High Court, may, and if so ordered by the High Court shall, transfer the matter to the High Court, and on such transfer the proceeding shall be continued in the High Court as if it had been originally commenced therein.

(4) Any person who is domiciled in England or Northern Ireland or claims any real or personal estate situate in England may apply to the court for a decree declaring his right to be deemed a British subject.

(5) Applications to the court (but not to a county court) under the foregoing provisions of this section may be included in the same petition, and on any application under the foregoing provisions of this section (including an application to a county court) the court shall make such decree as the court thinks just, and the decree shall be binding on His Majesty and all other persons whatsoever:

Provided that the decree of the court shall not prejudice any person –

- (a) if it is subsequently proved to have been obtained by fraud or collusion; or
- (b) unless that person has been cited or made a party to the proceedings or claims through a person so cited or made a party.

(6) A copy of every petition under this section and of any affidavit accompanying the petition shall be delivered to the Attorney-General at least one month before the petition is presented, and the Attorney-General shall be a respondent on the hearing of the petition and on any subsequent proceedings relating thereto.

(7) In any application under this section such persons shall, subject to rules of court, be cited to see proceedings or otherwise summoned as the court shall think fit, and any such persons may be permitted to become parties to the proceedings and to oppose the application.

(8) No proceedings under this section shall affect any final judgment or decree already pronounced by any court of competent jurisdiction.

Additional jurisdiction in proceedings by a wife

Additional jurisdiction in proceedings by a wife

18.—(1) Without prejudice to any jurisdiction exercisable by the court apart from this section, the court shall by virtue of this section have jurisdiction to entertain proceedings by a wife in any of the following cases, notwithstanding that the husband is not domiciled in England, that is to say:—

- (a) in the case of any proceedings under this Act other than proceedings for presumption of death and dissolution of marriage, if the wife has been deserted by her husband, or the husband has been deported from the United Kingdom under any law for the time being in force relating to the deportation of aliens, and the husband was immediately before the desertion or deportation domiciled in England;

- (b) in the case of proceedings for divorce or nullity of marriage, if the wife is resident in England and has been ordinarily resident there for a period of three years immediately preceding the commencement of the proceedings, and the husband is not domiciled in any other part of the United Kingdom or in the Channel Islands or the Isle of Man.

(2) Without prejudice to the jurisdiction of the court to entertain proceedings under section sixteen of this Act in cases where the petitioner is domiciled in England, the court shall by virtue of this section have jurisdiction to entertain any such proceedings brought by a wife, if the wife is resident in England and has been ordinarily resident there for three years immediately preceding the commencement of the proceedings.

(3) In any proceedings in which the court has jurisdiction by virtue of this section, the issues shall be determined in accordance with the law which would be applicable thereto if both parties were domiciled in England at the time of the proceedings.

Alimony, Maintenance and Custody of Children

Alimony and maintenance in case of divorce and nullity of marriage.

19. — (1) On any petition for divorce or nullity of marriage, the court may make such interim orders for the payment of alimony to the wife as the court thinks just.

(2) On any decree for divorce or marriage, the court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure to the wife such gross sum of money or annual sum of money for any term, not exceeding her life, as, having regard to her fortune, if any, to the ability of her husband and to the conduct of the parties, the court may deem to be reasonable; and the court may for that purpose order that it shall be referred to one of the conveyancing counsel of the court to settle and approve a proper deed or instrument to be executed by all the necessary parties, and may, if it thinks fit, suspend the pronouncing of the decree until the deed or instrument has been duly executed.

(3) On any decree for divorce or nullity of marriage, the court may, if it thinks fit, by order direct the husband to pay to the wife during their joint lives, such monthly or weekly sum for the maintenance and support of the wife as the court may think reasonable, and any such order may either be in addition to or be instead of an order made under the last foregoing subsection.

(4) The foregoing provisions of this section shall have effect, in any case where a petition for divorce is presented by a wife on the ground of her husband's insanity, as if for the references to the husband there were substituted references to the wife, and for the references to the wife there were substituted references to the husband.

Alimony in case of judicial separation.

20.—(1) On any petition for judicial separation, the court may make such interim orders for the payment of alimony to the wife as the court thinks just.

(2) On any decree for judicial separation, the court may make such order for the payment of alimony to the wife as the court thinks just.

(3) The foregoing provisions of this section shall have effect, in any case where a petition for judicial separation is presented by a wife on the ground of her husband's insanity, as if for the references to the wife there were substituted references to the husband.

Wife's property and necessities supplied to wife in case of judicial separation.

21.—(1) In every case of judicial separation –

- (a) any property which is acquired by or devolves upon the wife on or after the date of the decree whilst the separation continues shall, if she dies intestate, devolve as if her husband had been then dead;
- (b) if alimony has been ordered to be paid and has not been duly paid by the husband, he shall be liable for necessities supplied for the use of the wife.

(2) In any case where the decree for judicial separation is obtained by the wife, any property to which she is entitled for an estate in remainder or reversion at the date of the decree shall be deemed to be property to which this section applies.

Alimony and periodical payments in case of restitution of conjugal rights.

22.—(1) On any petition for restitution of conjugal rights, the court may make such interim order for the payment of alimony to the wife as the court thinks just.

(2) Where any decree for restitution of conjugal rights is made on the application of the wife, the court may make such order for the payment of alimony to the wife as the court thinks just.

(3) Where any decree for restitution of conjugal rights is made on the application of the wife, the court, at the time of the making of the decree or at any time afterwards may, in the event of the decree not being complied with within any time limited in that behalf by the court, order the respondent to make to the petitioner such periodical payments as the court thinks just, and the order may be enforced in the same manner as an order for alimony.

(4) Where the court makes an order under the last foregoing subsection, the court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure to the wife the periodical payments, and for that purpose may direct that it shall be referred to one of

the conveyancing counsel of the court to settle and approve a proper deed or instrument to be executed by all the necessary parties.

Additional power of court to make orders for maintenance.

23.—(1) Where a husband has been guilty of wilful neglect to provide reasonable maintenance for his wife or the infant children of the marriage, the court, if it would have jurisdiction to entertain proceedings by the wife for judicial separation, may, on the application of the wife, order the husband to make to her such periodical payments as may be just; and the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation.

(2) Where the court makes an order under this section for periodical payments it may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure to the wife the periodical payments, and for that purpose may direct that a proper deed or instrument to be executed by all necessary parties shall be settled and approved by one of the conveyancing counsel of the court.

Power of court to order settlement of wife's property.

24.—(1) If it appears to the court in any case in which the court pronounces a decree for divorce or for judicial separation by reason of the adultery, desertion or cruelty of the wife that the wife is entitled to any property either in possession or reversion, the court may, if it thinks fit, order such settlement as it thinks reasonable to be made of the property, or any part thereof, for the benefit of the innocent party, and of the children of the marriage or either or any of them.

(2) Where a decree for restitution of conjugal rights is made on the application of the husband, and it appears to the court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the court may, if it thinks fit, order a settlement to be made to the satisfaction of the court of the property or any part thereof for the benefit of the petitioner and of the children of the marriage or either or any of them, or may order such part of the profits of trade or earnings as the court thinks reasonable to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the children of the marriage or either or any of them.

Power of court to make orders as to application of settled property.

25. The court may after pronouncing a decree for divorce or for nullity of marriage enquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders with reference to the application of the whole or any part of the property settled either for the benefit of the children of the marriage or of the parties to the marriage, as the court thinks fit, and the court may exercise the powers conferred by this section withstanding that there are no children of the marriage.

Custody and maintenance of children.

26.—(1) In any proceedings for divorce or nullity of marriage or judicial separation, the court may from time to time, either before or by or after the final decree, make such provision as appears just with respect to the custody, maintenance and education of the children the marriage of whose parents is the subject of the proceedings, or, if it thinks fit, direct proper proceedings to be taken for placing the children under the protection of the court.

(2) On an application made in that behalf, the court may, in any proceedings for restitution of conjugal rights, at any time before final decree, or, if the respondent fails to comply therewith, after final decree, make from time to time all such orders and provisions with respect to the custody, maintenance and education of the children of the petitioner and respondent as might have been made by interim orders if proceedings for judicial separation had been pending between the same parties.

(3) On any decree of divorce or nullity of marriage, the court shall have power to order the husband, and on a decree of divorce made on the ground of the husband's insanity, shall also have power to order the wife, to secure for the benefit of the children such gross sum of money or annual sum of money as the court may deem reasonable, and the court may for that purpose order that it shall be referred to one of the conveyancing counsel of the court to settle and approve a proper deed or instrument to be executed by all necessary parties:

Provided that the term for which any sum of money is secured for the benefit of a child shall not extend beyond the date when the child will attain twenty-one years of age.

Payment of alimony and maintenance to trustees and persons having charge of respondent.

27.—(1) In any case where the court makes an order for alimony, the court may direct the alimony to be paid either to the wife or the husband, as the case may be, or to a trustee approved by the court on her or his behalf, and may impose such terms or restrictions as the court thinks expedient, and may from time to time appoint a new trustee if for any reason it appears to the court expedient so to do.

(2) In any case where—

- (a) a petition for divorce or judicial separation is presented by a wife on the ground of her husband's insanity; or
- (b) a petition for divorce, nullity or judicial separation is presented by a husband on the ground of his wife's insanity or mental deficiency,

and the court orders payments of alimony or maintenance under section nineteen or section twenty of this Act in favour of the respondent, the court may order the payments to be made to such persons having charge of the respondent as the court may direct.

Variation and discharge of orders for alimony and maintenance.

28.—(1) Where the court has made an order under section nineteen, section twenty, section twenty-two, section twenty-three or subsection (2) of section twenty-four of this Act, the court shall have power to discharge or vary the order or to suspend any provision thereof temporarily and to revive the operation of any provisions so suspended:

Provided that in relation to an order made before the sixteenth day of December, nineteen hundred and forty-nine, being an order which, by virtue of subsection (2) of section thirty-four of this Act, is deemed to have been made under subsection (2) of section nineteen of this Act, the powers conferred by this section shall not be exercised unless the court is satisfied that the case is one of exceptional hardship which cannot be met by the discharge, variation or suspension of any order made, or deemed as aforesaid to have been made, under subsection (3) of the said section nineteen.

(2) The powers exercisable by the court under this section in relation to any order shall be exercisable also in relation to any deed or other instrument executed in pursuance of the order.

(3) In exercising the powers conferred by this section, the court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage.

Commencement of proceedings for maintenance, settlement of property, &c.

29. When a petition for divorce or nullity of marriage has been presented, proceedings under section nineteen, twenty-four, twenty-five or subsection (3) of section twenty-six of this Act may, subject to and in accordance with rules of court, be commenced at any time after the presentation of the petition:

Provided that no order under any of the said sections or under the said subsection (other than an interim order for the payment of alimony under section nineteen) shall be made unless and until a decree nisi has been pronounced, and no such order, save in so far as it relates to the preparation, execution, or approval of a deed or instrument, and no settlement made in pursuance of any such order, shall take effect unless and until the decree is made absolute.

Miscellaneous

Damages for adultery.

30.—(1) A husband may, on a petition for divorce or for judicial separation or for damages only, claim damages from any person on the ground of adultery with the wife of the petitioner.

(2) A claim for damages on the ground of adultery shall, subject to the provisions of any enactment relating to trial by jury in the court, be tried on the same principles and in the same manner as actions for criminal conversation were tried immediately before the

commencement of the Matrimonial Causes Act, 1857, and the provisions of this Act with reference to the hearing and decision of petitions shall so far as may be necessary apply to the hearing and decision of petitions on which damages are claimed.

(3) The court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife.

Power to allow intervention on terms.

31. In every case in which any person is charged with adultery with any party to a suit or in which the court may consider, 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.

Evidence.

32.—(1) Notwithstanding any rule of law, 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) Notwithstanding anything in this section or any rule of law, a husband or wife shall not be compellable in any proceedings to give evidence of the matters aforesaid.

(3) The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings, but no witness in any such proceedings, whether a party thereto or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.

(4) 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.

Interpretation, Repeal and Short Title

Interpretation.

33. In this Act the expression " the court " means the High Court, except that in section seventeen, where the context so requires, it means or includes a county court, and the expression " prescribed " means prescribed by rules of court.

Repeal and savings.

34.—(1) The enactments set out in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889-

- (a) nothing in this repeal shall affect any order made, direction given or thing done, under any enactment repealed by this Act or the Supreme Court of Judicature (Consolidation) Act, 1925, or deemed to have been made, given or done respectively under any such enactment, and every such order, direction or thing shall if in force at the commencement of this Act continue in force, and, so far as it could have been made, given or done under this Act, shall be deemed to have been made, given or done under the corresponding provision of this Act;
- (b) any other order in force at the commencement of this Act which could have been made under any provision of this Act shall be deemed to have been so made;
- (c) any document referring to any Act or enactment repealed by this Act or the said Act of 1925 shall be construed as referring to this Act or to the corresponding enactment in this Act;
- (d) for the purposes of the India (Consequential Provision) Act, 1949 this Act shall be deemed to have been in force on the twenty-sixth day of January, nineteen hundred and fifty.

Short title, commencement and extent.

35. (1) This Act may be cited as the Matrimonial Causes Act, 1950.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty-one.

(3) This Act shall not extend to Scotland or Northern Ireland.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	Sections one hundred and seventy-six to one hundred and ninety-eight A.
16 & 17 Geo. 5. c. 60.	The Legitimacy Act, 1926.	Section two.

18 & 19 Geo. 5. c. 26.	The Administration of Justice Act, 1928.	Subsection (3) of section nineteen, and Part III of the First Schedule.
21 & 22 Geo. 5. c. 31.	The Marriage (Prohibited Degrees of Relationship) Act, 1931.	The whole Act.
25 & 26 Geo. 5. c. 2.	The Supreme Court of Judicature (Amendment) Act, 1935.	Section four.
25 & 26 Geo. 5. c. 30.	The Law Reform (Married Women and Tortfeasors) Act, 1935.	The First Schedule, so far as it relates to the Supreme Court of Judicature (Consolidation) Act, 1925.
1 Edw. 8. & 1 Geo. 6. c. 57	The Matrimonial Causes Act, 1937.	The whole Act, except section eleven.
1 & 2 Geo. 6. c. 63.	The Administration of Justice (Miscellaneous Provisions) Act, 1938.	Section fourteen.
7 & 8 Geo. 6. c. 43.	The Matrimonial Causes (War Marriages) Act, 1944.	In section one, paragraph (b) of subsection (1).
12, 13 & 14 Geo. 6. c. 78	The Married Women (Restraint upon Anticipation) Act, 1949.	The First Schedule, so far as it relates to the Supreme Court of Judicature (Consolidation) Act, 1925.

12, 13 & 14 Geo. 6. c. 100.	The Law Reform (Miscellaneous Provisions) Act, 1949.	Section one, except so much of subsection (4) as relates to the Matrimonial Causes (War Marriages) Act, 1944; sections three to seven.
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Table of Statutes referred to in this Act

Short Title	Session and Chapter
Matrimonial Causes Act, 1857	20 & 21 Vict. c 85
Naval Enlistment Act, 1884	47 & 48 Vict. c. 46
Criminal Lunatics Act, 1884	47 & 48 Vict. c. 64.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Supreme Court of Judicature (Consolidation) Act, 1925	15 & 16 Geo. 5. c. 49
Legitimacy Act, 1926	16 & 17 Geo. 5. c. 60.
Administration of Justice Act, 1928	18 & 19 Geo. 5. c. 26.
Mental Treatment Act, 1930	20 & 21 Geo. 5. c. 23.
Marriage (Prohibited Degrees of Relationship) Act, 1931	21 & 22 Geo. 5. c. 31.
Supreme Court of Judicature (Amendment) Act, 1935	25 & 26 Geo. 5. c. 2.
Law Reform (Married Women and Tortfeasors) Act, 1935	25 & 26 Geo. 5. c. 30.
Matrimonial Causes Act, 1937	1 Edw. 8 & 1 Geo. 6. c. 57.
Administration of Justice (Miscellaneous Provisions) Act, 1938	1 & 2 Geo. 6. c. 63.
Matrimonial Causes (War Marriages) Act, 1944	7 & 8 Geo. 6. c. 43.
Consolidation of Enactments (Procedure) Act, 1949	12 & 13 Geo. 6. c. 33.
Married Women (Restraint upon Anticipation) Act, 1949	12, 13 & 14 Geo. 6. c. 78.
Law Reform (Miscellaneous Provisions) Act, 1949	12, 13 & 14 Geo. 6 c. 100.