



Domicile and Matrimonial Proceedings Act 1973

1973 CHAPTER 45

PART II

JURISDICTION IN MATRIMONIAL PROCEEDINGS (ENGLAND AND WALES)

5 Jurisdiction of High Court and county courts

- (1) Subsections (2) to (5) below shall have effect, subject to section 6(3) and (4) of this Act, with respect to the jurisdiction of the court to entertain—
 - (a) proceedings for divorce, judicial separation or nullity of marriage; and
 - (b) proceedings for death to be presumed and a marriage to be dissolved in pursuance of section 19 of the Matrimonial Causes Act 1973 ;and in this Part of this Act " the court" means the High Court and a divorce county court within the meaning of the Matrimonial Causes Act 1967.
- (2) The court shall have jurisdiction to entertain proceedings for divorce or judicial separation if (and only if) either of the parties to the marriage—
 - (a) is domiciled in England and Wales on the date when the proceedings are begun ; or
 - (b) was habitually resident in England and Wales through out the period of one year ending with that date.
- (3) The court shall have jurisdiction to entertain proceedings for nullity of marriage if (and only if) either of the parties to the marriage—
 - (a) is domiciled in England and Wales on the date when the proceedings are begun ; or
 - (b) was habitually resident in England and Wales through out 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

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- (ii) had been habitually resident in England and Wales throughout the period of one year ending with the date of death.
- (4) The court shall have jurisdiction to entertain proceedings for death to be presumed and a marriage to be dissolved if (and only if) the petitioner—
 - (a) is domiciled in England and Wales on the date when the proceedings are begun ; or
 - (b) was habitually resident in England and Wales through out the period of one year ending with that date.
- (5) The court shall, at any time when proceedings are pending in respect of which it has jurisdiction by virtue of subsection (2) or (3) above (or of this subsection), also have jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, notwithstanding that jurisdiction would not be exercisable under subsection (2) or (3).
- (6) Schedule 1 to this Act shall have effect as to the cases in which matrimonial proceedings in England and Wales are to be, or may be, stayed by the court where there are concurrent proceedings elsewhere in respect of the same marriage, and as to the other matters dealt with in that Schedule; but nothing in the Schedule—
 - (a) requires or authorises a stay of proceedings which are pending when this section comes into force; or
 - (b) prejudices any power to stay proceedings which is exercisable by the court apart from the Schedule.

6 Miscellaneous amendments, transitional provision and savings

- (1) In section 27(2) of the Matrimonial Causes Act 1973 (which excludes the court's jurisdiction on a maintenance application unless it would have jurisdiction to decree judicial separation), for the words from " unless" onwards there shall be substituted the words "unless—
 - (a) the applicant or the respondent is domiciled in England and Wales on the date of the application ; or
 - (b) the applicant has been habitually resident there through out the period of one year ending with that date; or
 - (c) the respondent is resident there on that date."
- (2) In subsection (1) of section 50 of the Matrimonial Causes Act 1973 (scope of the Matrimonial Causes Rules), the word " or " at the end of paragraph (c) shall be omitted and after paragraph (d) there shall be inserted the following words "or
 - (e) any enactment contained in Part II of or Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 which does not fall within paragraph (d) above".
- (3) No proceedings for divorce shall be entertained by the court by virtue of section 5(2) or (5) of this Act while proceedings for divorce or nullity of marriage, begun before the commencement of this Act, are pending (in respect of the same marriage) in Scotland, Northern Ireland, the Channel Islands or the Isle of Man ; and provision may be made by rules of court as to when for the purposes of this subsection proceedings are to be treated as begun or pending in any of those places.
- (4) Nothing in this Part of this Act—

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- (a) shall be construed to remove any limitation imposed on the jurisdiction of a county court by section 1 of the Matrimonial Causes Act 1967 ;
- (b) affects the court's jurisdiction to entertain any proceedings begun before the commencement of this Act.