Changes to Legislation: as of 12 March 2024, this Act is up to date with all changes known to be in force.

Number 22 *of* 1981

FAMILY LAW ACT 1981

REVISED

Updated to 28 May 2019

This Revised Act is an administrative consolidation of the *Family Law Act 1981*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Greyhound Racing Act 2019* (15/2019), enacted 28 May 2019, and all statutory instruments up to and including *European Communities (Sheep Identification) (Amendment) Regulations 2019* (S.I. No. 243 of 2019), made 28 May 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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ARRANGEMENT OF SECTIONS

Section

1. Abolition of actions for criminal conversation, enticement and harbouring of spouse.
2. Engagements to marry not enforceable at law.
3. Gifts to engaged couples by other persons.
4. Gifts between engaged couples.
5. Property of engaged couples.
6. Application to the court in case of substantial benefit to a party to a broken engagement.
7. Application to the court in case of substantial expenditure incurred by or on behalf of a party to a broken engagement.
8. Jurisdiction (*sections 6* and *7*).
9. Limitation period for proceedings under this Act.
10. Consent by minor spouse to disposal of family home, etc.
11. Short title.

ACTS REFERRED TO

Married Women's Status Act, 1957	1957, No. 5
Courts (Supplemental Provisions) Act, 1961	1961, No. 39
Family Home Protection Act, 1976	1976, No. 27

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REVISED

Updated to 28 May 2019

AN ACT TO ABOLISH ACTIONS FOR CRIMINAL CONVERSATION, ENTICEMENT AND HARBOURING OF A SPOUSE AND BREACH OF PROMISE OF MARRIAGE, TO MAKE PROVISION IN RELATION TO THE PROPERTY OF, AND GIFTS TO AND BETWEEN, PERSONS WHO HAVE BEEN ENGAGED TO BE MARRIED AND IN RELATION TO THE VALIDITY OF THE CONSENT OF A MINOR SPOUSE FOR THE PURPOSES OF THE FAMILY HOME PROTECTION ACT, 1976, AND TO PROVIDE FOR RELATED MATTERS. [23*rd June,* 1981]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

E1 Proceedings under Act included in definition of "family law proceedings" (1.01.2018) by *Mediation Act 2017* (27/2017), s. 2, S.I. No. 591 of 2019.

E2 Discretion to grant legal aid in respect of proceedings under Act provided (11.10.1996) by *Civil Legal Aid Act 1995* (32/1995), s. 28(9)(c)(i), S.I. No. 272 of 1996.

E3 Circuit Court to be known as "Circuit Family Court" when exercising its jurisdiction to hear and determine proceedings under Act as provided (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), ss. 30 and 31, commenced as per s. 46(2).

E4 Circuit Family Court to hear and determine proceedings instituted under Act in a different place, or at different times or on different days, from the ordinary Circuit Court as provided (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), ss. 30 and 32, commenced as per s. 46(2).

E5 Conduct of family proceedings before Circuit Family Court and High Court to be as informal as practicable as provided (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), ss. 30 and 33, commenced as per s. 46(2).

Abolition of actions for criminal conversation, enticement and harbouring of spouse.

1.—(1) After the passing of this Act, no action shall lie for criminal conversation, for inducing a spouse to leave or remain apart from the other spouse or for harbouring a spouse.

(2) *Subsection (1)* shall not have effect in relation to any action that has been commenced before the passing of this Act.

Engagements to marry not enforceable at law.

2.—(1) An agreement between two persons to marry one another, whether entered into before or after the passing of this Act, shall not under the law of the State have effect as a contract and no action shall be brought in the State for breach of such an agreement, whatever the law applicable to the agreement.

(2) *Subsection (1)* shall not have effect in relation to any action that has been commenced before the passing of this Act.

Gifts to engaged couples by other persons.

3.—Where two persons have agreed to marry one another and any property is given as a wedding gift to either or both of them by any other person, it shall be presumed, in the absence of evidence to the contrary, that the property so given was given—

(*a*) to both of them as joint owners, and

(*b*) subject to the condition that it should be returned at the request of the donor or his personal representative if the marriage for whatever reason does not take place.

Gifts between engaged couples.

4.—Where a party to an agreement to marry makes a gift of property (including an engagement ring) to the other party, it shall be presumed, in the absence of evidence to the contrary, that the gift—

(*a*) was given subject to the condition that it should be returned at the request of the donor or his personal representative if the marriage does not take place for any reason other than the death of the donor, or

(*b*) was given unconditionally, if the marriage does not take place on account of the death of the donor.

Property of engaged couples.

5.—(1) Where an agreement to marry is terminated, the rules of law relating to the rights of spouses in relation to property in which either or both of them has or have a beneficial interest shall apply in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force as they apply in relation to property in which either or both spouses has or have a beneficial interest.

(2) Where an agreement to marry is terminated, section 12 of the Married Women's Status Act, 1957 (which relates to the determination of questions between husband and wife as to property) shall apply, as if the parties to the agreement were married, to any dispute between them, or claim by one of them, in relation to property in which either or both had a beneficial interest while the agreement was in force.

Annotations

Modifications (not altering text):

C1 Application of subs. (1) clarified (1.08.1996) by *Family Law Act 1995* (26/1995), s. 48, S.I. No. 46 of 1996.

Property of engaged couples.

48.—For the avoidance of doubt, it is hereby declared that the reference in section 5 (1) of the Family Law Act, 1981, to the rules of law relating to the rights of spouses in relation to property in which either or both of them has or have a beneficial interest shall relate and be deemed always to have related only to the rules of law for the determination of disputes between spouses, or a claim by one of them, in relation to the beneficial ownership of property in which either or both of them has or have a beneficial interest and, in particular, does not relate, and shall be deemed never to have related, to the rules of law relating to the rights of spouses under the Act of 1965, the Family Home Protection Act, 1976, the Act of 1989 or this Act.

Editorial Notes:

E6 *Married Women's Status Act 1957* (5/1957), s. 12 mentioned in subs. (2) above was repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provisions in subs. (2).

Application to the court in case of substantial benefit to a party to a broken engagement.

6.—Where an agreement to marry is terminated and it appears to the court, on application made to it in a summary manner by a person other than a party to the agreement, that a party to the agreement has received a benefit of a substantial nature (not being a gift to which *section 3* applies) from the applicant in consequence of the agreement, the court may make such order (including an order for compensation) as appears to it just and equitable in the circumstances.

Application to the court in case of substantial expenditure incurred by or on behalf of a party to a broken engagement.

7.—Where an agreement to marry is terminated and it appears to the court, on application made to it in a summary manner by a party to the agreement or another person, that, by reason of the agreement—

(*a*) in the case of the party to the agreement, expenditure of a substantial nature has been incurred by him, or

(*b*) in the case of the other person, expenditure of a substantial nature has been incurred by him on behalf of a party to the agreement,

and that the party by whom or on whose behalf the expenditure was incurred has not benefited in respect of the expenditure, the court may make such order (including an order for the recovery of the expenditure) as appears to it just and equitable in the circumstances.

Jurisdiction (*sections 6 and 7*).

8.—(1) The Circuit Court shall, concurrently with the High Court, have jurisdiction to hear and determine proceedings under *section 6* or *7* subject, in the case of a claim exceeding F1**[**€75,000**]**, to the like consents as are required for the purposes of section 22 of the Courts (Supplemental Provisions) Act, 1961.

(2) The District Court shall have jurisdiction to hear and determine proceedings under *section 6* or *7* where the amount claimed does not exceed F2**[**€15,000**]**.

Annotations

Amendments:

F1 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 14 and sch. pt. 1 item 3, S.I. No. 566 of 2013.

F2 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 15 and sch. pt. 2 item 6, S.I. No. 566 of 2015.

Editorial Notes:

E7 Previous affecting provision: section amended by *Courts and Court Officers Act 2002* (15/2002), ss. 13 and 14 and sch. 2, not commenced; repealed (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 2(1), S.I. No. 566 of 2013.

E8 Previous affecting provision: section amended (15.08.1991) by *Courts Act 1991* (20/1991), s. 13, commenced as per s. 23(3); further amended as per F-note above.

Limitation period for proceedings under this Act.

9.—Proceedings to enforce a right conferred by this Act arising out of the termination for whatever reason of an agreement to marry shall not be brought after the expiration of three years from the date of the termination of the agreement.

Annotations

Editorial Notes:

E9 Conduct of District Court family proceedings under section required to be as informal as practicable (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 45, commenced as per s. 46(2).

Consent by minor spouse to disposal of family home, etc.

10.—(1) No consent given by a spouse, whether before or after the passing of this Act, for the purposes of section 3 (1) of the Family Home Protection Act, 1976 (which provides that a conveyance by one spouse of an interest in the family home without the written consent of the other spouse shall be void) or of section 9 (2) of that Act (which restricts the right of a spouse to dispose of household chattels without the consent of the other spouse) shall be, or shall be taken to have been, invalid by reason only that it is or was given by a spouse who has not or had not attained the age of majority.

(2) *Subsection (1)* shall apply to a consent given for the aforesaid purposes before the passing of this Act by a guardian or a court on behalf of a spouse who had not attained the age of majority as if the consent had been given by the spouse.

Short title.

11.—This Act may be cited as the Family Law Act, 1981.

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REVISED

Updated to 28 May 2019

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Mediation Act 2017* (27/2017)
- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013)
- *Courts and Court Officers Act 2002* (15/2002)
- *Family Law Act 1995* (26/1995)
- *Civil Legal Aid Act 1995* (32/1995)
- *Courts Act 1991* (20/1991)

• *Judicial Separation and Family Law Reform Act 1989* (6/1989)
• *Married Women's Status Act 1957* (5/1957)

All Acts up to and including *Greyhound Racing Act 2019* (15/2019), enacted 28 May 2019, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

None.

All statutory instruments up to and including *European Communities (Sheep Identification) (Amendment) Regulations 2019* (S.I. No. 243 of 2019), made 28 May 2019, were considered in the preparation of this revision.