Changes to Legislation: as of 5 April 2024, this Act is up to date with all changes known to be in force.

Number 26 *of* 1995

FAMILY LAW ACT 1995

REVISED

Updated to 1 August 2022

This Revised Act is an administrative consolidation of the *Family Law Act 1995*. 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 the *Electoral Reform Act 2022* (30/2022), enacted 25 July 2022, and all statutory instruments up to and including the *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), made 31 July 2022, 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.

Number 26 *of* 1995

FAMILY LAW ACT 1995

REVISED

Updated to 1 August 2022

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY AND GENERAL

Section

1. Short title and commencement.
2. Interpretation.
3. Repeals.
4. Expenses.

PART II

PRELIMINARY AND ANCILLARY ORDERS IN OR AFTER PROCEEDINGS FOR JUDICIAL SEPARATION

5. Application (*sections 6* to *14*).
6. Preliminary orders in proceedings for judicial separation.
7. Maintenance pending suit orders.
8. Periodical payments and lump sum orders.
9. Property adjustment orders.
10. Miscellaneous ancillary orders.
11. Financial compensation orders.
12. Pension adjustment orders.
13. Preservation of pension entitlements after judicial separation.
14. Orders extinguishing succession rights on judicial separation.
15. Orders for sale of property.
15A. Orders for provision for spouse out of estate of other spouse.
16. Provisions relating to certain orders under *sections 7* to *13* and *18*.
17. Retrospective periodical payments orders.
18. Variation, etc., of certain orders under this Part.
19. Restriction in relation to orders for benefit of dependent members of the family.

20. Transmission of periodical payments through District Court clerk.
21. Application of maintenance pending suit and periodical payment orders to certain members of Defence Forces.
22. Amendment of Enforcement of Court Orders Act, 1940.

PART III

Relief after Divorce or Separation Outside State

23. Relief orders where marriage dissolved, or spouses legally separated outside State.
24. Maintenance pending relief orders.
25. Orders for provision for spouse out of estate of other spouse.
26. Appropriateness of making relief orders in State.
27. Jurisdiction of court to make relief orders.
28. Restriction of jurisdiction of court to make relief orders.

PART IV

Declarations as to Marital Status

29. Declarations as to marital status.
30. Provisions supplementary to *section 29*.

PART V

Marriage

31. Age of marriage.
32. Notification of intention to marry.
33. Exemption of certain marriages from *sections 31(1)* and *32(1)*. *(Repealed)*
34. Abolition of right to petition for jactitation of marriage.

PART VI

Miscellaneous

35. Powers of court in relation to transactions intended to prevent or reduce relief.
36. Determination of questions between spouses in relation to property.
37. Payments to be made without deduction of income tax.
38. Jurisdiction of courts and venue.
39. Exercise of jurisdiction by court in relation to nullity.
40. Notice of proceedings under Act.
41. Secured maintenance orders.
42. Lump sum maintenance orders.
43. Amendment of Act of 1976.
44. Discharge of orders under Act of 1976.

45. Amendment of Maintenance Act, 1994.
46. Custody of dependent members of the family after decree of nullity.
47. Social reports in family law proceedings.
48. Property of engaged couples.
49. Income tax treatment of persons divorced outside State.
50. Exemption of certain transfers from stamp duty.
51. Exemption of certain transfers from capital acquisitions tax.
52. Capital gains tax treatment of certain disposals by spouses.
53. Abatement and postponement of probate tax on property the subject of an order under *section 25*.
54. Amendment of Family Home Protection Act, 1976, and Act of 1989.
55. Amendment of Child Abduction and Enforcement of Custody Orders Act, 1991.

SCHEDULE

ENACTMENTS REPEALED

Number 26 *of* 1995

FAMILY LAW ACT 1995

REVISED

Updated to 1 August 2022

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE JURISDICTION OF THE COURTS TO MAKE PRELIMINARY AND ANCILLARY ORDERS IN OR AFTER PROCEEDINGS FOR JUDICIAL SEPARATION, TO ENABLE SUCH ORDERS TO BE MADE IN CERTAIN CASES WHERE MARRIAGES ARE DISSOLVED, OR AS RESPECTS WHICH THE SPOUSES BECOME JUDICIALLY SEPARATED, UNDER THE LAW OF ANOTHER STATE, TO MAKE FURTHER PROVISION IN RELATION TO MAINTENANCE UNDER THE FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT, 1976, AND IN RELATION TO MARRIAGE AND TO PROVIDE FOR CONNECTED MATTERS. [2*nd October*, 1995]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Certain functions in relation to Act transferred (1.01.2014, establisment day) by *Child and Family Agency Act 2013*, ss. 6, 82 and sch. 1, S.I. Nos. 502 and 503 of 2013.

Transfer of certain functions of Health Service Executive

82. —(1) The administration and business in connection with the performance of any of the functions transferred by subsection (2) are transferred, on the establishment day, to the Agency.

(2) The functions vested in the Health Service Executive by or under the enactments specified in Schedule 1 shall, on the establishment day, stand transferred to the Agency.

...

SCHEDULE 1

Functions of Health Service Executive Transferred to Agency

...

Family Law Act 1995

...

C2 Functions transferred and references to "Department of Equality and Law Reform" and "Minister for Equality and Law Reform" construed (8.07.1997) by *Equality and Law Reform (Transfer of Departmental Administration and Ministerial Functions) Order 1997* (S.I. No. 297 of 1997), arts. 3, 4 and sch., in effect as per art. 1(2).

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are hereby transferred to the Department of Justice.

(2) References to the Department of Equality and Law Reform contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Justice.

4. (1) The functions vested in the Minister for Equality and Law Reform

(*a*) by or under any of the Acts mentioned in the Schedule to this Order, and

(*b*) by virtue of the Justice (Transfer of Departmental Administration and Ministerial Functions) Order, 1993 (S.I. No. 34 of 1993).

are hereby transferred to the Minister for Justice.

(2) References to the Minister for Equality and Law Reform contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Justice.

...

SCHEDULE

Acts, functions under which are transferred from the Minister for Equality and Law Reform to the Minister for Justice.

...

Family Law Act 1995 (No. 26 of 1995)

...

Editorial Notes:

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

E2 Rights and incumbrances, for purposes of *Land and Conveyancing Law Reform Act 2009* (27/2009), s. 117, confirmed to include claims under Act (1.12.2009) by *Land and Conveyancing Law Reform Act 2009* (27/2009), s. 117(4)(a), S.I. No. 356 of 2009.

E3 Central Authority authorised to act on behalf of a maintenance creditor under Act by *Maintenance Act 1994* (28/1994), s. 4(2)(a); as substituted (1.12.1999) by *Jurisdiction of Courts and Enforcement of Judgments Act 1998* (52/1998), s. 22(2), S.I. No. 353 of 1999; and substituted (10.03.2012) by *Jurisdiction of Courts and Enforcement of Judgments (Amendment) Act 2012* (7/2012), s. 2(1)(b), commenced on enactment.

E4 Certain disposals made by virtue or in consequence of certain orders made under Act confirmed exempt from capital gains tax (1997-1998 onwards) by *Taxes Consolidation Act 1997* (39/1997), s. 1030, commenced as per s. 1097(1)(c); as amended (10.02.2000) by *Finance Act 2000* (3/2000), s. 88(1), commenced as per s. 88(2); and as amended (7.12.2005) by *Finance Act 2006* (6/2006), s. 75(1)(b), commenced as per s. 75(2).

E5 Exemption from deduction of income tax for payments made pursuant to an order under Act (other than under s. 12) provided (from year 1997-1998) by *Taxes Consolidation Act 1997* (39/1997), s. 1027, commenced as per s. 1097.

PART I

PRELIMINARY AND GENERAL

Short title and commencement.

1.—(1) This Act may be cited as the Family Law Act, 1995.

(2) (*a*) This Act shall come into operation on such day or days as, by order or orders made by the Minister for Equality and Law Reform under this section, may be fixed therefor either generally or with reference to any particular purpose

or provision and different days may be so fixed for different purposes and different provisions.

(*b*) An order under *paragraph (a)* relating to, or in so far as it relates to, *section 32* shall not be made without the consent of the Minister for Health.

Annotations

Editorial Notes:

E6 Power pursuant to section exercised (1.08.1996) by *Order Entitled Family Law Act 1995 (Commencement) Order 1996* (S.I. No. 46 of 1996).

2. The 1st day of August, 1996 is hereby fixed as the day on which the Family Law Act, 1995 (No. 26 of 1995), shall come into operation.

Interpretation.

2.—(1) In this Act, save where the context otherwise requires—

"the Act of 1964" means the Guardianship of Infants Act, 1964;

"the Act of 1965" means the Succession Act, 1965;

"the Act of 1976" means the Family Law (Maintenance of Spouses and Children) Act, 1976;

F1**[**...**]**

"the Act of 1989" means the Judicial Separation and Family Law Reform Act, 1989;

F2**[**...**]**

F3**[**"Act of 2018" means the Domestic Violence Act 2018;**]**

F4**[**"civil partnership" has the meaning assigned to it by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; **]**

F5**[**"cohabitant" shall be construed in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and includes a former cohabitant;**]**

"conveyance" includes a mortgage, lease, assent, transfer, disclaimer, release and any other disposition of property otherwise than by a will or a *donatio mortis causa* and also includes an enforceable agreement (whether conditional or unconditional) to make any such disposition;

"the court" shall be construed in accordance with *section 38*;

"decree of judicial separation" means a decree under section 3 of the Act of 1989;

"decree of nullity" means a decree granted by a court declaring a marriage to be null and void;

"dependent member of the family", in relation to a spouse, or the spouses, concerned, means any child—

(*a*) of both spouses or adopted by both spouses under the Adoption Acts, 1952 to 1991, or in relation to whom both spouses are in *loco parentis*, or

(*b*) of either spouse or adopted by either spouse under those Acts or in relation to whom either spouse is *in loco parentis*, where the other spouse, being aware that he or she is not the parent of the child, has treated the child as a member of the family,

who is under the age of 18 years or if the child has attained that age—

(i) is or will be or, if an order were made under this Act providing for periodical payments for the benefit of the child or for the provision of a lump sum for the child, would be receiving full-time education or instruction at any university, college, school or other educational establishment and is under the age of 23 years, or

(ii) has a mental or physical disability to such extent that it is not reasonably possible for the child to maintain himself or herself fully;

"family home" has the meaning assigned to it by section 2 of the Family Home Protection Act, 1976, with the modification that the references to a spouse in that section shall be construed as references to a spouse within the meaning of this Act;

"financial compensation order" has the meaning assigned to it by *section 11*;

"Land Registry" and "Registry of Deeds" have the meanings assigned to them by the Registration of Title Act, 1964;

"lump sum order" means an order under *section 8 (1) (c)*;

"maintenance pending suit order" means an order under *section 7*;

"maintenance pending relief order" means an order under *section 24*;

"member", in relation to a pension scheme, means any person who, having been admitted to membership of the scheme under its rules, remains entitled to any benefit under the scheme;

"pension adjustment order" means an order under *section 12*;

"pension scheme" means—

(*a*) an occupational pension scheme (within the meaning of the Pensions Act, 1990), or

(*b*) (i) an annuity contract approved by the Revenue Commissioners under section 235 of the Income Tax Act, 1967, or a contract so approved under section 235A of that Act,

(ii) a trust scheme, or part of a trust scheme, so approved under subsection (4) of the said section 235 or subsection (5) of the said section 235A, or

(iii) a policy or contract of assurance approved by the Revenue Commissioners under Chapter II of Part I of the Finance Act, 1972, or

F6**[**(*bb*) a PRSA contract within the meaning of Part X of the Pensions Act, 1990, or**]**

(*c*) any other scheme or arrangement (including a personal pension plan and a scheme or arrangement established by or pursuant to statute or instrument made under statute other than under the Social Welfare Acts) that provides or is intended to provide either or both of the following, that is to say:

(i) benefits for a person who is a member of the scheme or arrangement ("the member") upon retirement at normal pensionable age or upon earlier or later retirement or upon leaving, or upon the ceasing of, the relevant employment,

(ii) benefits for the widow, widower or dependants of the member, or for any other persons, on the death of the member;

"periodical payments order" and "secured periodical payments order" have the meanings assigned to them by *section 8 (1)*;

"property adjustment order" has the meaning assigned to it by *section 9*;

F4**[**"registration", with respect to a civil partnership, includes entering into a relationship of a class of legal relationships that is the subject of an order made under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;**]**

"relief order" means an order under *Part II* made by virtue of *section 23*;

"trustees", in relation to a scheme that is established under a trust, means the trustees of the pension scheme and, in relation to a pension scheme not so established, means the persons who administer the scheme.

(2) In this Act, where the context so requires—

(*a*) a reference to a marriage includes a reference to a marriage that has been dissolved under the law of a country or jurisdiction other than the State,

(*b*) a reference to a remarriage includes a reference to a marriage that takes place after a marriage that has been dissolved under the law of a country or jurisdiction other than the State,

(*c*) a reference to a spouse includes a reference to a person who is a party to a marriage that has been dissolved under the law of a country or jurisdiction other than the State,

(*d*) a reference to a family includes a reference to a family as respects which the marriage of the spouses concerned has been dissolved under the law of a country or jurisdiction other than the State,

(*e*) a reference to an application to a court by a person on behalf of a dependent member of the family includes a reference to such an application by such a member and a reference to a payment, the securing of a payment, or the assignment of an interest, to a person for the benefit of a dependent member of the family includes a reference to a payment, the securing of a payment, or the assignment of an interest, to such a member,

and cognate words shall be construed accordingly.

(3) In this Act—

(*a*) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,

(*b*) a reference to a Part or section is a reference to a Part or section of this Act unless it is indicated that reference to some other enactment is intended,

(*c*) a reference to a subsection, paragraph, subparagraph or clause is a reference to the subsection, paragraph, subparagraph or clause of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Annotations

Amendments:

F1 Deleted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 21(a), commenced as per s. 25(1).

F2 Deleted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(a)(i), S.I. No. 532 of 2018.

F3 Inserted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(a)(ii), S.I. No. 532 of 2018.

F4 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 159, S.I. No. 648 of 2010.

F5 Inserted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 89, S.I. No. 12 of 2016.

F6 Inserted (7.11.2002) by *Pensions (Amendment) Act 2002* (18/2002), s. 57(1), S.I. No. 502 of 2002.

Modifications (not altering text):

C3 References to adoptions and adopted persons under *Adoption Acts 1952 to 1998* to be read as referring to adoptions and adopted persons made under *Adoption Act 2010* as provided (1.11.2010) by *Adoption Act 2010* (21/2010), s. 156(1), S.I. No. 511 of 2010.

References to adoptions, etc.

156.—(1) Every reference in any Act or in any instrument made under any Act, however expressed, to adoptions or adoption orders or adopted persons under any or all of the Adoption Acts 1952 to 1998 shall be read as a reference to adoptions or adoption orders made under this Act, or persons adopted under an adoption order made under this Act, as the case may be.

...

Editorial Notes:

E7 Previous affecting provision: definition of "Act of 1996" inserted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 21(a), commenced as per s. 25(1); deleted as per F-note above.

Repeals.

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

(2) Notwithstanding *subsection (1)*—

(*a*) orders made before the commencement of *Part II* under a provision of the Act of 1989 repealed by *subsection (1)* shall continue in force and be treated after such commencement as if made under the corresponding provision of this Act,

(*b*) (i) orders or decrees made or exceptions granted under section 1 of the Legitimacy Declaration Act (Ireland), 1868, section 1 of the Marriages Act, 1972, or section 12 of the Married Women's Status Act, 1957, before such commencement shall continue in force after such commencement,

(ii) proceedings instituted under any of those sections before such commencement may be continued and determined after such commencement, and

(iii) orders or decrees made or exceptions granted after such commencement in those proceedings shall be in force,

(*c*) proceedings instituted before such commencement under a provision of the Act of 1989 repealed by *subsection (1)* may be continued and determined as if instituted under the corresponding provision of this Act and orders made in those proceedings after such commencement shall be in force and be treated as if made under the corresponding provision of this Act.

Expenses.

4.—The expenses incurred by the Minister for Equality and Law Reform, the Minister for Health or the Minister for Justice in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

Preliminary and Ancillary Orders in or after Proceedings for Judicial Separation

Application (*sections 6* to *14*).

5.—Each of the following sections, that is to say, *sections 6* to *14*, applies to a case in which proceedings for the grant of a decree of judicial separation are instituted after the commencement of that section.

Preliminary orders in proceedings for judicial separation.

6.—Where an application is made to the court for the grant of a decree of judicial separation, the court, before deciding whether to grant or refuse to grant the decree, may, in the same proceedings and without the institution of proceedings under the Act concerned, if it appears to the court to be proper to do so, make one or more of the following orders—

F7**[**(*a*) an order under section 6, 7, 8 or 10 of the Act of 2018,**]**

(*b*) an order under section 11 of the Act of 1964,

(*c*) an order under section 5 or 9 of the Family Home Protection Act, 1976.

Annotations

Amendments:

F7 Substituted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(b), S.I. No. 532 of 2018.

Editorial Notes:

E8 Previous affecting provision: para. (a) substituted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 21(b), commenced as per s. 25(1); substituted as per F-note above.

Maintenance pending suit orders.

7.—(1) Where an application is made to the court for the grant of a decree of judicial separation, the court may make an order for maintenance pending suit, that is to say, an order requiring either of the spouses concerned to make to the other spouse such periodical payments or lump sum payments for his or her support and, where appropriate, to make to such person as may be specified in the order such periodical payments for the benefit of such (if any) dependent member of the family and, as respects periodical payments, for such period beginning not earlier than the date of the application and ending not later than the date of its determination, as the court considers proper and specifies in the order.

(2) The court may provide that payments under an order under this section shall be subject to such terms and conditions as it considers appropriate and specifies in the order.

Periodical payments and lump sum orders.

8.—(1) On granting a decree of judicial separation F8**[**or at any time thereafter**]**, the court, on application to it in that behalf by either of the spouses concerned or by a person on behalf of a dependent member of the family, may, during the lifetime of the other spouse or, as the case may be, the spouse concerned, make one or more of the following orders, that is to say:

(*a*) a periodical payments order, that is to say—

(i) an order that either of the spouses shall make to the other spouse such periodical payments of such amount, during such periods and at such times as may be specified in the order, or

(ii) an order that either of the spouses shall make to such person as may be so specified for the benefit of such (if any) dependent member of the family such periodical payments of such amount, during such period and at such times as may be so specified,

(*b*) a secured periodical payments order, that is to say—

(i) an order that either of the spouses shall secure, to the satisfaction of the court, to the other spouse such periodical payments of such amounts during such period and at such times as may be so specified, or

(ii) an order that either of the spouses shall secure, to the satisfaction of the court, to such person as may be so specified for the benefit of such (if any) dependent member of the family such periodical payments of such amounts, during such period and at such times as may be so specified,

(*c*) (i) an order that either of the spouses shall make to the other spouse a lump sum payment or lump sum payments of such amount or amounts and at such time or times as may be so specified F8**[**or**]**,

(ii) an order that either of the spouses shall make to such person as may be so specified for the benefit of such (if any) dependent member of the family a lump sum payment or lump sum payments of such amount or amounts and at such time or times as may be so specified.

(2) The court may—

(*a*) order a spouse to pay a lump sum to the other spouse to meet any liabilities or expenses reasonably incurred by that other spouse before the making of an application by that other spouse for an order under *subsection (1)* in maintaining himself or herself or any dependent member of the family, or

(*b*) order a spouse to pay a lump sum to such person as may be specified to meet any liabilities or expenses reasonably incurred by or for the benefit of a dependent member of the family before the making of an application on behalf of the member for an order under *subsection (1)*.

(3) An order under this section for the payment of a lump sum may provide for the payment of the lump sum by instalments of such amounts as may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

(4) The period specified in an order under *paragraph (a)* or *(b)* of *subsection (1)* shall begin not earlier than the date of the application for the order and shall end not later than the death of F9**[**the spouse, or any dependent member of the family, in whose favour the order is made or the other spouse concerned**]**.

(5) (*a*) Upon the remarriage F10**[**or registration in a civil partnership**]** of the spouse in whose favour an order is made under *paragraph (a)* or *(b)* of *subsection (1)*, the order shall, to the extent that it applies to that spouse, cease to have effect, except as respects payments due under it on the date of the remarriage F10**[**or civil partnership registration**]**.

(*b*) If, after the grant of a decree of judicial separation, either of the spouses concerned remarries F10**[**or registers in a civil partnership**]**, the court shall not, by reference to that decree, make an order under *subsection (1)* in favour of that spouse.

(6) (*a*) Where a court makes an order under *subsection (1) (a)*, it shall in the same proceedings, subject to *paragraph (b)*, make an attachment of earnings order (within the meaning of the Act of 1976) to secure payments under the first-mentioned order if it is satisfied that the person against whom the order is made is a person to whom earnings (within the meaning aforesaid) fall to be paid.

(*b*) Before deciding whether to make or refuse to make an attachment of earnings order by virtue of *paragraph (a)*, the court shall give the spouse concerned an opportunity to make the representations specified in *paragraph (c)* in relation to the matter and shall have regard to any such representations made by that spouse.

(*c*) The representations referred to in *paragraph (b)* are representations relating to the questions—

(i) whether the spouse concerned is a person to whom such earnings as aforesaid fall to be paid, and

(ii) whether he or she would make the payments to which the relevant order under *subsection (1) (a)* relates.

(*d*) References in this subsection to an order under *subsection (1) (a)* include references to such an order as varied or affirmed on appeal from the court concerned or varied under *section 18*.

Annotations

Amendments:

F8 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(a)(i) and (ii), commenced as per s. 1(2).

F9 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(a)(iii), commenced as per s. 1(2).

F10 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 160, S.I. No. 648 of 2010.

Editorial Notes:

E9 Form of application for cancellation of Property Adjustment Order pursuant to section prescribed (1.02.2013) by *Land Registration Rules 2012* (S.I. No. 483 of 2012), rule 103, in effect as per rule 1.

Property adjustment orders.

9.—(1) On granting a decree of judicial separation F11**[**or at any time thereafter**]**, the court, on application to it in that behalf by either of the spouses concerned or by a person on behalf of a dependent member of the family, may, during the lifetime of the other spouse or, as the case may be, the spouse concerned, make a property adjustment order, that is to say, an order providing for one or more of the following matters:

(*a*) the transfer by either of the spouses to the other spouse, to any dependent member of the family or to any other specified person for the benefit of such a member of specified property, being property to which the first-mentioned spouse is entitled either in possession or reversion;

(*b*) the settlement to the satisfaction of the court of specified property, being property to which either of the spouses is so entitled as aforesaid, for the benefit of the other spouse and of any dependent member of the family or of any or all of those persons;

(*c*) the variation for the benefit of either of the spouses and of any dependent member of the family or of any or all of those persons of any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the spouses;

(*d*) the extinguishment or reduction of the interest of either of the spouses under any such settlement.

(2) An order under *paragraph (b)*, *(c)* or *(d)* may restrict to a specified extent or exclude the application of *section 18* in relation to the order.

(3) If, after the grant of a decree of judicial separation, either of the spouses concerned remarries F12**[**or registers in a civil partnership**]**, the court shall not, by reference to that decree, make a property adjustment order in favour of that spouse.

(4) Where a property adjustment order is made in relation to land, a copy of the order certified to be a true copy by the registrar or clerk of the court concerned shall, as appropriate, be lodged by him or her in the Land Registry for registration pursuant to section 69 (1) (*h*) of the Registration of Title Act, 1964, in a register maintained under that Act or be registered in the Registry of Deeds.

F13**[**(4A) Where a property adjustment order lodged under subsection (4) and registered pursuant to section 69(1)(*h*) of the Registration of Title Act 1964 or in the Registry of Deeds has been complied with, the Property Registration Authority shall, on being satisfied that the order has been complied with—

(*a*) cancel the entry made in the register under the Registration of Title Act 1964, or

(*b*) note compliance with the order in the Registry of Deeds.**]**

(5) Where—

(*a*) a person is directed by an order under this section to execute a deed or other instrument in relation to land, and

(*b*) the person refuses or neglects to comply with the direction or, for any other reason, the court considers it necessary to do so,

the court may order another person to execute the deed or instrument in the name of the first-mentioned person; and a deed or other instrument executed by a person in the name of another person pursuant to an order under this subsection shall be as valid as if it had been executed by that other person.

(6) Any costs incurred in complying with a property adjustment order shall be borne, as the court may determine, by either of the spouses concerned, or by both of them in such proportions as the court may determine, and shall be so borne in such manner as the court may determine.

(7) This section shall not apply in relation to a family home in which, following the grant of a decree of judicial separation either of the spouses concerned, having remarried, ordinarily resides with his or her spouse.

Annotations

Amendments:

F11 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(b), commenced as per s. 1(2).

F12 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 161, S.I. No. 648 of 2010.

F13 Inserted (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 74(a), S.I. No. 274 of 2008.

Editorial Notes:

E10 Form of application for cancellation of Property Adjustment Order pursuant to section prescribed (1.02.2013) by *Land Registration Rules 2012* (S.I. No. 483 of 2012), rule 103, in effect as per rule 1.

E11 Form of application for cancellation of Property Adjustment Order pursuant to section prescribed (1.11.2009) by *Registration of Deeds Rules 2009* (S.I. No. 350 of 2009), rule 3, in effect as per rule 2.

E12 Procedure for application for registration of an order of Court pursuant to section prescribed (1.05.2008) by *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008), rule 14(2), in effect as per rule 1.

E13 Previous affecting provisions: form of application for cancellation of Property Adjustment Order pursuant to section prescribed (1.11.2009) by *Land Registration Rules 2009* (S.I. No. 349 of 2009), rule 5, in effect as per rule 2; rescinded (1.02.2013) by *Land Registration Rules 2012* (S.I. No. 483 of 2012), rule 1.

Miscellaneous ancillary orders.

10.—(1) On granting a decree of judicial separation F14**[**or at any time thereafter**]**, the court, on application to it in that behalf by either of the spouses concerned or by a person on behalf of a dependent member of the family, may, during the lifetime of the other spouse or, as the case may be, the spouse concerned, make one or more of the following orders:

(*a*) an order—

(i) providing for the conferral on one spouse either for life or for such other period (whether definite or contingent) as the court may specify the right to occupy the family home to the exclusion of the other spouse, or

(ii) directing the sale of the family home subject to such conditions (if any) as the court considers proper and providing for the disposal of the proceeds of the sale between the spouses and any other person having an interest therein,

(*b*) an order under *section 36*,

(*c*) an order under section 4, 5, 7 or 9 of the Family Home Protection Act, 1976,

F15**[**(*d*) an order under section 6, 7, 8 or 10 of the Act of 2018,**]**

(*e*) an order F16**[**under section 31 of the Land and Conveyancing Law Reform Act 2009**]**,

(*f*) an order under section 11 of the Act of 1964.

(2) The court, in exercising its jurisdiction under *subsection (1) (a)*, shall have regard to the welfare of the spouses and any dependent member of the family and, in particular, shall take into consideration—

(*a*) that, where a decree of judicial separation is granted, it is not possible for the spouses concerned to continue to reside together, and

(*b*) that proper and secure accommodation should, where practicable, be provided for a spouse who is wholly or mainly dependent on the other spouse and for any dependent member of the family.

F14**[**(3) *Subsection (1)(a)* shall not apply in relation to a family home in which, following the grant of a decree of judicial separation, either of the spouses concerned, having remarried, ordinarily resides with his or her spouse.**]**

Annotations

Amendments:

F14 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(c), commenced as per s. 1(2).

F15 Substituted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(c), S.I. No. 532 of 2018.

F16 Substituted (1.12.2009) by *Land And Conveyancing Law Reform Act 2009* (27/2009), s. 8(1) and sch. 1, S.I. No. 356 of 2009.

Editorial Notes:

E14 Previous affecting provision: subs. (1)(d) substituted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 21(c), commenced as per s. 25(1); substituted as per F-note above.

Financial compensation orders.

11.—(1) Subject to the provisions of this section, on granting a decree of judicial separation or at any time thereafter, the court, on application to it in that behalf by either of the spouses concerned or by a person on behalf of a dependent member of the family, may, during the lifetime of the other spouse or, as the case may be, the spouse concerned, if it considers—

(*a*) that the financial security of the spouse making the application ("the applicant") or the dependent member of the family ("the member") can be provided for either wholly or in part by so doing, or

(*b*) that the forfeiture, by reason of the decree of judicial separation, by the applicant or the dependent, as the case may be, of the opportunity or possibility of acquiring a benefit (for example, a benefit under a pension scheme) can be compensated for wholly or in part by so doing,

make a financial compensation order, that is to say, an order requiring either or both of the spouses to do one or more of the following:

(i) to effect such a policy of life insurance for the benefit of the applicant or the member as may be specified in the order,

(ii) to assign the whole or a specified part of the interest of either or both of the spouses in a policy of life insurance effected by either or both of the spouses to the applicant or to such person as may be specified in the order for the benefit of the member,

(iii) to make or to continue to make to the person by whom a policy of life insurance is or was issued the payments which either or both of the spouses is or are required to make under the terms of the policy.

(2) (*a*) The court may make a financial compensation order in addition to or in substitution in whole or in part for orders under *sections 8* to *10* and *12* and in deciding whether or not to make such an order it shall have regard to whether F17**[**proper provision, having regard to the circumstances,**]** exists or can be made for the spouse concerned or the dependent member of the family concerned by orders under those sections.

(*b*) An order under this section shall cease to have effect on the remarriageF18**[**, registration in a civil partnership**]** or death of the applicant in so far as it relates to the applicant.

(*c*) The court shall not make an order under this section if the spouse who is applying for the order has remarried F18**[**or registered in a civil partnership**]**.

(*d*) An order under *section 18* in relation to an order under *paragraph (i)* or *(ii)* of *subsection (1)* may make such provision (if any) as the court considers appropriate in relation to the disposal of—

(i) an amount representing any accumulated value of the insurance policy effected pursuant to the order under the said *paragraph (i)*, or

(ii) the interest or the part of the interest to which the order under the said *paragraph (ii)* relates.

Annotations

Amendments:

F17 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(d), commenced as per s. 1(2).

F18 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 162, S.I. No. 648 of 2010.

Pension adjustment orders.

12.—(1) In this section, save where the context otherwise requires—

"the Act of 1990" means the Pensions Act, 1990;

"active member", in relation to a scheme, means a member of the scheme who is in reckonable service;

"actuarial value" means the equivalent cash value of a benefit (including, where appropriate, provision for any revaluation of such benefit) under a scheme calculated by reference to appropriate financial assumptions and making due allowance for the probability of survival to normal pensionable age and thereafter in accordance with normal life expectancy on the assumption that the member concerned of the scheme, at the effective date of calculation, is in a normal state of health having regard to his or her age;

"approved arrangement", in relation to the trustees of a scheme, means an arrangement whereby the trustees, on behalf of the person for whom the arrangement is made, effect policies or contracts of insurance that are approved of by the Revenue Commissioners with, and make the appropriate payments under the policies or contracts to, one or more undertakings;

"contingent benefit" means a benefit payable under a scheme, other than a payment under *subsection (7)* to or for one or more of the following, that is to say, the widow or the widower and any dependants of the member spouse concerned and the personal representative of the member spouse, if the member spouse dies while in relevant employment and before attaining any normal pensionable age provided for under the rules of the scheme;

F19**[**"defined contribution scheme" has the same meaning as in the Pensions Act 1990;**]**

"designated benefit", in relation to a pension adjustment order, means an amount determined by the trustees of the scheme concerned, in accordance with relevant guidelines, and by reference to the period and the percentage of the retirement benefit specified in the order concerned under *subsection (2)*;

"member spouse", in relation to a scheme, means a spouse who is a member of the scheme;

"normal pensionable age" means the earliest age at which a member of a scheme is entitled to receive benefits under the rules of the scheme on retirement from relevant

employment, disregarding any such rules providing for early retirement on grounds of ill health or otherwise;

"occupational pension scheme" has the meaning assigned to it by section 2 (1) of the Act of 1990;

"reckonable service" means service in relevant employment during membership of any scheme;

"relevant guidelines" means any relevant guidelines for the time being in force under F20**[**paragraph (*c*) or (*cc*) of section 10 (1)**]** of the Act of 1990;

"relevant employment", in relation to a scheme, means any employment (or any period treated as employment) or any period of self employment to which a scheme applies;

"retirement benefit", in relation to a scheme, means all benefits (other than contingent benefits) payable under the scheme;

"rules", in relation to a scheme, means the provisions of the scheme, by whatever name called;

"scheme" means a pension scheme;

"transfer amount" shall be construed in accordance with *subsection (4)*;

"undertaking" has the meaning assigned to it by the Insurance Act, 1989.

(2) Subject to the provisions of this section, where a decree of judicial separation ("the decree") has been granted, the court, if it so thinks fit, may, in relation to retirement benefit under a scheme of which one of the spouses concerned is a member, on application to it in that behalf at the time of the making of the order for the decree or at any time thereafter during the lifetime of the member spouse by either of the spouses or by a person on behalf of a dependent member of the family, make an order providing for the payment, in accordance with the provisions of this section, to either of the following, as the court may determine, that is to say:

(*a*) the other spouse and, in the case of the death of that spouse, his or her personal representative, and

(*b*) such person as may be specified in the order for the benefit of a person who is, and for so long only as he or she remains, a dependent member of the family,

of a benefit consisting, either, as the court may determine, of the whole, or such part as the court considers appropriate, of that part of the retirement benefit that is payable (or which, but for the making of the order for the decree, would have been payable) under the scheme and has accrued at the time of the making of the order for the decree and, for the purpose of determining the benefit, the order shall specify—

(i) the period of reckonable service of the member spouse prior to the granting of the decree to be taken into account, and

(ii) the percentage of the retirement benefit accrued during that period to be paid to the person referred to in *paragraph (a)* or *(b)*, as the case may be.

(3) Subject to the provisions of this section, where a decree of judicial separation ("the decree") has been granted, the court, if it so thinks fit, may, in relation to a contingent benefit under a scheme of which one of the spouses concerned is a member, on application to it in that behalf not more than one year after the making of the order for the decree by either of the spouses or by a person on behalf of a dependent member of the family concerned, make an order providing for the payment, upon the death of the member spouse, to either of the following, or to both of them in such proportions as the court may determine, that is to say:

(*a*) the other spouse, and

(*b*) such person as may be specified in the order for the benefit of a dependent member of the family,

of, either, as the court may determine, the whole, or such part (expressed as a percentage) as the court considers appropriate, of that part of any contingent benefit that is payable (or which, but for the making of the order for the decree, would have been payable) under the scheme.

(4) Where the court makes an order under *subsection (2)* in favour of a spouse and payment of the designated benefit concerned has not commenced, the spouse in whose favour the order is made shall be entitled to the application in accordance with *subsection (5)* of an amount of money from the scheme concerned (in this section referred to as a "transfer amount") equal to the value of the designated benefit, such amount being determined by the trustees of the scheme in accordance with relevant guidelines.

(5) Subject to *subsection (17)*, where the court makes an order under *subsection (2)* in favour of a spouse and payment of the designated benefit concerned has not commenced, the trustees of the scheme concerned shall, for the purpose of giving effect to the order—

(*a*) on application to them in that behalf at the time of the making of the order or at any time thereafter by the spouse in whose favour the order was made ("the spouse"), and

(*b*) on the furnishing to them by the spouse of such information as they may reasonably require,

apply in accordance with relevant guidelines the transfer amount calculated in accordance with those guidelines either—

(i) if the trustees and the spouse so agree, in providing a benefit for or in respect of the spouse under the scheme aforesaid that is of the same actuarial value as the transfer amount concerned, or

(ii) in making a payment either to—

(I) such other occupational pension scheme, being a scheme the trustees of which agree to accept the payment, or

(II) in the discharge of any payment falling to be made by the trustees under any such other approved arrangement,

as may be determined by the spouse.

(6) Subject to *subsection (17)*, where the court makes an order under *subsection (2)* in relation to a defined contribution scheme and an application has not been brought under *subsection (5)*, the trustees of the scheme may, for the purpose of giving effect to the order, if they so think fit, apply in accordance with relevant guidelines the transfer amount calculated in accordance with those guidelines in making a payment to—

(*a*) such other occupational pension scheme, being a scheme the trustees of which agree to accept the payment, or

(*b*) in the discharge of any payment falling to be made by the trustees under such other approved arrangement,

as may be determined by the trustees.

(7) Subject to *subsection (17)*, where—

(*a*) the court makes an order under *subsection (2)*, and

(*b*) the member spouse concerned dies before payment of the designated benefit concerned has commenced,

the trustees shall, for the purpose of giving effect to the order, within 3 months of the death of the member spouse, provide for the payment to the person in whose favour the order is made of an amount that is equal to the transfer amount calculated in accordance with relevant guidelines.

(8) Subject to *subsection (17)*, where—

(*a*) the court makes an order under *subsection (2)*, and

(*b*) the member spouse concerned ceases to be a member of the scheme otherwise than on death,

the trustees may, for the purpose of giving effect to the order, if they so think fit, apply, in accordance with relevant guidelines, the transfer amount calculated in accordance with those guidelines either, as the trustees may determine—

(i) if the trustees and the person in whose favour the order is made ("the person") so agree, in providing a benefit for or in respect of the person under the scheme aforesaid that is of the same actuarial value as the transfer amount concerned, or

(ii) in making a payment, either to—

(I) such other occupational pension scheme, being a scheme the trustees of which agree to accept the payment, or

(II) in the discharge of any payment falling to be made under such other approved arrangement,

as may be determined by the trustees.

(9) Subject to *subsection (17)*, where—

(*a*) the court makes an order under *subsection (2)* in favour of a spouse ("the spouse"), and

(*b*) the spouse dies before payment of the designated benefit has commenced,

the trustees shall, within 3 months of the death of the spouse, provide for the payment to the personal representative of the spouse of an amount equal to the transfer amount calculated in accordance with relevant guidelines.

(10) Subject to *subsection (17)*, where—

(*a*) the court makes an order under *subsection (2)* in favour of a spouse ("the spouse"), and

(*b*) the spouse dies after payment of the designated benefit has commenced,

the trustees shall, within 3 months of the death of the spouse, provide for the payment to the personal representative of the spouse of an amount equal to the actuarial value, calculated in accordance with relevant guidelines, of the part of the designated benefit which, but for the death of the spouse, would have been payable to the spouse during the lifetime of the member spouse.

(11) Where—

(*a*) the court makes an order under *subsection (2)* for the benefit of a dependent member of the family ("the person"), and

(*b*) the person dies before payment of the designated benefit has commenced,

the order shall cease to have effect in so far as it relates to that person.

(12) Where—

(*a*) the court makes an order under *subsection (2)* or *(3)* in relation to an occupational pension scheme, and

(*b*) the trustees of the scheme concerned have not applied the transfer amount concerned in accordance with *subsection (5)*, *(6)*, *(7)*, *(8)* or *(9)*, and

(*c*) after the making of the order, the member spouse ceases to be an active member of the scheme,

the trustees shall, within 12 months of the cessation, notify the registrar or clerk of the court concerned and the other spouse of the cessation.

(13) Where the trustees of a scheme apply a transfer amount under *subsection (6)* or *(8)*, they shall notify the spouse (not being the spouse who is the member spouse) or other person concerned and the registrar or clerk of the court concerned of the application and shall give to that spouse or other person concerned particulars of the scheme or undertaking concerned and of the transfer amount.

(14) Where the court makes an order under *subsection (2)* or *(3)* for the payment of a designated benefit or a contingent benefit, as the case may be, the benefit shall be payable or the transfer amount concerned applied out of the resources of the scheme concerned and, unless otherwise provided for in the order or relevant guidelines, shall be payable in accordance with the rules of the scheme or, as the case may be, applied in accordance with relevant guidelines.

(15) Where the court makes an order under *subsection (2)*, the amount of the retirement benefit payable, in accordance with the rules of the scheme concerned to, or to or in respect of, the member spouse shall be reduced by the amount of the designated benefit payable pursuant to the order.

(16) (*a*) Where the court makes an order under *subsection (3)*, the amount of the contingent benefit payable, in accordance with the rules of the scheme concerned in respect of the member spouse shall be reduced by an amount equal to the contingent benefit payable pursuant to the order.

(*b*) Where the court makes an order under *subsection (2)* and the member spouse concerned dies before payment of the designated benefit concerned has commenced, the amount of the contingent benefit payable in respect of the member spouse in accordance with the rules of the scheme concerned shall be reduced by the amount of the payment made under *subsection (7)*.

(17) Where, pursuant to an order under *subsection (2)*, the trustees of a scheme make a payment or apply a transfer amount under *subsections (5), (6), (7), (8), (9)* or *(10)*, they shall be discharged from any obligation to make any further payment or apply any transfer amount under any other of those subsections in respect of the benefit payable pursuant to the order.

(18) A person who makes an application under *subsection (2)* or *(3)* or an application for an order under *section 18 (2)* in relation to an order under *subsection (2)* shall give notice thereof to the trustees of the scheme concerned and, in deciding whether to make the order concerned and in determining the provisions of the order, the court shall have regard to any representations made by any person to whom notice of the application has been given under this section or section F20**[**40**]**.

(19) An order under *subsection (3)*, shall cease to have effect on the death or remarriage F21**[**or registration in a civil partnership**]** of the person in whose favour it was made in so far as it relates to that person.

(20) The court may, in a pension adjustment order or by order made under this subsection after the making of a pension adjustment order, give to the trustees of the scheme concerned such directions as it considers appropriate for the purposes of the pension adjustment order including directions compliance with which occasions

non-compliance with the rules of the scheme concerned or the Act of 1990; and a trustee of a scheme shall not be liable in any court or other tribunal for any loss or damage caused by his or her non-compliance with the rules of the scheme or with the Act of 1990 if the non-compliance was occasioned by his or her compliance with a direction of the court under this section.

(21) The registrar or clerk of the court concerned shall cause a copy of a pension adjustment order to be served on the trustees of the scheme concerned.

(22) (*a*) Any costs incurred by the trustees of a scheme under *subsection (18)* or in complying with a pension adjustment order or a direction under *subsection (20)* or *(25)* shall be borne, as the court may determine, by the member spouse or by the other person concerned or by both of them in such proportion as the court may determine and, in the absence of such determination, those costs shall be borne by them equally.

(*b*) Where a person fails to pay an amount in accordance with *paragraph (a)* to the trustees of the scheme concerned, the court may, on application to it in that behalf by the trustees, order that the amount be deducted from the amount of any benefit payable to the person under the scheme or pursuant to an order under *subsection (2)* or *(3)* and be paid to the trustees.

(23) (*a*) The court shall not make a pension adjustment order if the spouse who applies for the order has remarried F21**[**or registered in a civil partnership**]**.

(*b*) The court may make a pension adjustment order in addition to or in substitution in whole or in part for an order or orders under *section 8*, *9*, *10* or *11* and, in deciding whether or not to make a pension adjustment order, the court shall have regard to the question whether F22**[**proper provision, having regard to the circumstances,**]** exists or can be made for the spouse concerned or the dependent member of the family concerned by an order or orders under any of those sections.

(24) Section 54 of the Act of 1990 and any regulations under that section shall apply with any necessary modifications to a scheme if proceedings for the grant of a decree of judicial separation to which a member spouse is a party have been instituted and shall continue to apply notwithstanding the grant of a decree of judicial separation in the proceedings.

(25) For the purposes of this Act, the court may, of its own motion, and shall, if so requested by either of the spouses concerned or any other person concerned, direct the trustees of the scheme concerned to provide the spouses or that other person and the court, within a specified period of time—

(*a*) with a calculation of the value and the amount, determined in accordance with relevant guidelines, of the retirement benefit, or contingent benefit, concerned that is payable (or which, but for the making of the order for the decree of judicial separation concerned, would have been payable) under the scheme and has accrued at the time of the making of that order, and

(*b*) with a calculation of the amount of the contingent benefit concerned that is payable (or which, but for the making of the order for the decree of judicial separation concerned, would have been payable) under the scheme.

(26) An order under this section may restrict to a specified extent or exclude the application of *section 18* in relation to the order.

Annotations

Amendments:

F19 Substituted (14.04.2008) by *Social Welfare and Pensions Act 2008* (2/2008), s. 30, S.I. No. 84 of 2008.

F20 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(e), commenced as per s. 1(2).

F21 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 163, S.I. No. 648 of 2010.

F22 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(d), commenced as per s. 1(2).

Editorial Notes:

E15 Information to be furnished in relation to pension adjustment orders prescribed (27.04.2007) by *Trust Racs (Disclosure of Information) Regulations 2007* (S.I. No. 182 of 2007), reg. 14, in effect as per reg. 1(2).

E16 Information to be furnished in relation to pension adjustment orders prescribed (1.01.2007) by *Occupational Pension Schemes (Disclosure Of Information) Regulations 2006* (S.I. No. 301 of 2006), reg. 17, in effect as per reg. 1(2)(c), as amended (12.06.2012) by *Occupational Pension Schemes (Disclosure of Information) (Amendment) (No. 3) Regulations 2012* (S.I. No. 203 of 2012), reg. 3(h).

E17 Minister granted power to make regulations specifying guidelines for the purposes of section by *Pensions Act 1990* (25/1990), s. 5(4), as inserted (2.07.1996) by *Pensions (Amendment) Act 1996* (18/1996), s. 4, commenced on enactment, and amended (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 47(a) and (b), commenced as per s. 1(2), and amended (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 148, S.I. No. 648 of 2010. Power to make regulations under *Pensions Act 1990* (25/1990), s. 5, as amended, was exercised (18.07.2012) by *Pension Schemes (Family Law) (Amendment) Regulations 2012* (S.I. No. 254 of 2012) and (27.02.1997) by *Pension Schemes (Family Law) Regulations 1997* (S.I. No. 107 of 1997).

E18 Pensions Board allocated function to issue guidelines or guidance notes generally on the operation of *Pensions Act 1990* (25/1990) and on the provisions of this Act relating to pension schemes (within the meaning of s. 2) by *Pensions Act 1990* (25/1990), s. 10(1)(cc), as inserted (2.07.1996) by *Pensions (Amendment) Act 1996* (18/1996), s. 5, commenced on enactment, and substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 47(c), commenced as per s. 1(2), and amended (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 148, S.I. No. 648 of 2010.

E19 Previous affecting provision: information to be furnished in relation to pension adjustment orders prescribed (1.01.2007) by *Occupational Pension Schemes (Disclosure Of Information) Regulations 2005* (S.I. No. 633 of 2005), reg. 17, in effect as per reg. 1(2)(d); revoked (1.06.2006) by *Occupational Pension Schemes (Disclosure Of Information) Regulations 2006* (S.I. No. 301 of 2006), reg. 2(2), in effect as per reg. 1(2)(b).

E20 Previous affecting provision: guidelines for calculating actuarial values and amounts referred to in section prescribed (30.01.1997) by *Occupational Pension Scheme (Family Law Act 1995) Regulations 1997* (S.I. No. 64 of 1997), in effect as per reg. 2; revoked (27.02.1997) by *Pension Schemes (Family Law) Regulations 1997* (S.I. No. 107 of 1997), reg. 2, in effect as per reg. 1(2).

E21 Previous affecting provision: information to be furnished in relation to pension adjustment orders prescribed (1.10.1998) by *Occupational Pension Schemes (Disclosure of Information) (No. 2) Regulations 1998* (S.I. No. 349 of 1998), reg. 15, in effect as per reg. 1(2)(a); revoked (1.01.2007) by *Occupational Pension Schemes (Disclosure Of Information) Regulations 2006* (S.I. No. 301 of 2006), reg. 2(1)(c), in effect as per reg. 2(1)(c).

Preservation of pension entitlements after judicial separation.

13.—(1) Subject to the provisions of this section, on granting a decree of judicial separation or at any time thereafter, the court may, in relation to a pension scheme, on application to it in that behalf by either of the spouses concerned, make during the lifetime of the spouse who is a member of the scheme ("the member spouse") an order directing the trustees of the scheme not to regard the separation of the spouses resulting from the decree as a ground for disqualifying the other spouse for the receipt of a benefit under the scheme a condition for the receipt of which is that the spouses should be residing together at the time the benefit becomes payable.

(2) Notice of an application under *subsection (1)* shall be given by the spouse concerned to the trustees of the pension scheme concerned and, in deciding whether to make an order under *subsection (1)*, the court shall have regard to any representations made by any person to whom notice of the application has been given under this section or *section 40*.

(3) Any costs incurred by the trustees of a pension scheme under *subsection (2)* or in complying with an order under *subsection (1)* shall be borne, as the court may determine, by either of the spouses concerned or by both of the spouses and in such proportion and manner as the court may determine.

(4) The court may make an order under this section in addition to or in substitution in whole or in part for orders under *sections 8* to *11* and, in deciding whether or not to make such an order, it shall have regard to the question whether adequate and reasonable financial provision exists or can be made for the spouse concerned by orders under those sections.

Orders extinguishing succession rights on judicial separation.

14.—On granting a decree of judicial separation or at any time thereafter, the court may, on application to it in that behalf by either of the spouses concerned, make an order extinguishing the share that either of the spouses would otherwise be entitled to in the estate of the other spouse as a legal right or on intestacy under the Act of 1965 if—

(*a*) it is satisfied that adequate and reasonable financial provision exists or can be made under *section 8*, *9*, *10 (1) (a)*, *11*, *12* or *13* for the spouse whose succession rights are in question ("the spouse concerned"),

(*b*) the spouse concerned is a spouse for the support of whom the court refused to make an order under *section 8*, *9*, *10 (1) (a)*, *11*, *12* or *13*, or

(*c*) it is satisfied that the spouse concerned is not a spouse for whose benefit the court would, if an application were made to it in that behalf, make an order under *section 8*, *9*, *10 (1) (a)*, *11*, *12* or *13*.

Orders for sale of property.

15.—(1) Where the court makes a secured periodical payments order, a lump sum order or a property adjustment order, thereupon, or at any time thereafter, it may make an order directing the sale of such property as may be specified in the order, being property in which, or in the proceeds of sale of which, either or both of the spouses concerned has or have a beneficial interest, either in possession or reversion.

(2) The jurisdiction conferred on the court by *subsection (1)* shall not be so exercised as to affect a right to occupy the family home of the spouse concerned that is enjoyed by virtue of an order under this Part.

(3) (*a*) An order under *subsection (1)* may contain such consequential or supplementary provisions as the court considers appropriate.

(*b*) Without prejudice to the generality of *paragraph (a)*, an order under *subsection (1)* may contain—

(i) a provision specifying the manner of sale and some or all of the conditions applying to the sale of the property to which the order relates,

(ii) a provision requiring any such property to be offered for sale to a person, or a class of persons, specified in the order,

(iii) a provision directing that the order, or a specified part of it, shall not take effect until the occurrence of a specified event or the expiration of a specified period,

(iv) a provision requiring the making of a payment or payments (whether periodical payments or lump sum payments) to a specified person or persons out of the proceeds of the sale of the property to which the order relates, and

(v) a provision specifying the manner in which the proceeds of the sale of the property concerned shall be disposed of between the following persons or such of them as the court considers appropriate, that is to say, the spouses concerned and any other person having an interest therein.

(4) A provision in an order under *subsection (1)* providing for the making of periodical payments to one of the spouses concerned out of the proceeds of the sale of property shall, on the death or remarriage F23**[**or registration in a civil partnership**]** of that spouse, cease to have effect except as respects payments due on the date of the death or remarriage F23**[**or civil partnership registration**]**.

(5) Where a spouse has a beneficial interest in any property, or in the proceeds of the sale of any property, and a person (not being the other spouse) also has a beneficial interest in that property or those proceeds, then, in considering whether to make an order under this section or *section 9* or F24**[**10 (1) (*a*)**]** in relation to that property or those proceeds, the court shall give to that person an opportunity to make representations with respect to the making of the order and the contents thereof, and any representations made by such a person shall be deemed to be included among the matters to which the court is required to have regard under *section 16* in any relevant proceedings under a provision referred to in that section after the making of those representations.

F25**[**(6) This section shall not apply in relation to a family home in which, following the grant of a decree of judicial separation, either of the spouses concerned, having remarried, ordinarily resides with his or her spouse.**]**

Annotations

Amendments:

F23 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 164, S.I. No. 648 of 2010.

F24 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(f)(i), commenced as per s. 1(2).

F25 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(f)(ii), commenced as per s. 1(2).

F26**[**Orders for provision for spouse out of estate of other spouse.

15A.—(1) Subject to the provisions of this section, where, following the grant of a decree of judicial separation, a court makes an order under section 14 in relation to the spouses concerned and one of the spouses dies, the court, on application to it in that behalf by the other spouse ("the applicant") not more than 6 months after representation is first granted under the Act of 1965 in respect of the estate of the deceased spouse, may by order make such provision for the applicant out of the estate of the deceased spouse as it considers appropriate having regard to the rights of any other person having an interest in the matter and specifies in the order if it is satisfied that proper provision in the circumstances was not made for the applicant during the lifetime of the deceased spouse under *section 8*, *9*, *10 (1) (a)*, *11* or *12* for any reason (other than conduct referred to in *subsection (2) (i)* of *section 16* of the applicant).

(2) The court shall not make an order under this section if the applicant concerned has remarried F27**[**or registered in a civil partnership**]** since the granting of the decree of judicial separation concerned.

(3) In considering whether to make an order under this section the court shall have regard to all the circumstances of the case including—

(*a*) any order under *paragraph (c)* of *section 8 (1)* or a property adjustment order in favour of the applicant, and

(*b*) any devise or bequest made by the deceased spouse to the applicant.

(4) The provision made for the applicant concerned by an order under this section together with any provision made for the applicant by an order referred to in *subsection (3) (a)* (the value of which for the purposes of this subsection shall be its value on the date of the order) shall not exceed in total the share (if any) of the applicant in the estate of the deceased spouse to which the applicant was entitled or (if the deceased spouse died intestate as to the whole or part of his or her estate) would have been entitled under the Act of 1965 if the court had not made an order under *section 14*.

(5) Notice of an application under this section shall be given by the applicant to the spouse (if any) of the deceased spouse concerned and to such (if any) other persons as the court may direct and, in deciding whether to make the order concerned and in determining the provisions of the order, the court shall have regard to any representations made by the spouse of the deceased spouse and any other such persons as aforesaid.

(6) The personal representative of a deceased spouse in respect of whom a decree of judicial separation has been granted shall make a reasonable attempt to ensure that notice of his or her death is brought to the attention of the other spouse concerned and, where an application is made under this section, the personal representative of the deceased spouse shall not, without the leave of the court, distribute any of the estate of that spouse until the court makes or refuses to make an order under this section.

(7) Where the personal representative of a deceased spouse in respect of whom a decree of judicial separation has been granted gives notice of his or her death to the other spouse concerned ("the spouse") and—

(*a*) the spouse intends to apply to the court for an order under this section,

(*b*) the spouse has applied for such an order and the application is pending, or

(*c*) an order has been made under this section in favour of the spouse,

the spouse shall, not later than one month after the receipt of the notice, notify the personal representative of such intention, application or order, as the case may be, and, if he or she does not do so, the personal representative shall be at liberty to distribute the assets of the deceased spouse, or any part thereof, amongst the parties entitled thereto.

(8) The personal representative shall not be liable to the spouse for the assets or any part thereof so distributed unless, at the time of such distribution, he or she had notice of the intention, application or order aforesaid.

(9) Nothing in *subsection (7)* or *(8)* shall prejudice the right of the spouse to follow any such assets into the hands of any person who may have received them.

(10) On granting a decree of judicial separation or at any time thereafter, the court, on application to it in that behalf by either of the spouses concerned, may, during the lifetime of the other spouse or, as the case may be, the spouse concerned, if it considers it just to do so, make an order that either or both spouses shall not, on the death of either of them, be entitled to apply for an order under this section.**]**

Annotations

Amendments:

F26 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(g), commenced as per s. 1(2).

F27 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 165, S.I. No. 648 of 2010.

Provisions relating to certain orders under *sections 7* to *13* and *18*.

16.—(1) In deciding whether to make an order under *section 7*, *8*, *9*, *10 (1) (a)*, *11*, *12*, *13*, *14*, F28**[***15A*,**]** *18* or *25* and in determining the provisions of such an order, the court shall endeavour to ensure that such provision F29**[**exists or will be made**]** for each spouse concerned and for any dependent member of the family concerned as is F29**[**proper**]** having regard to all the circumstances of the case.

(2) Without prejudice to the generality of *subsection (1)*, in deciding whether to make such an order as aforesaid and in determining the provisions of such an order, the court shall, in particular, have regard to the following matters—

(*a*) the income, earning capacity, property and other financial resources which each of the spouses concerned has or is likely to have in the foreseeable future,

(*b*) the financial needs, obligations and responsibilities which each of the spouses has or is likely to have in the foreseeable future (whether in the case of the remarriage of the spouse or otherwise),

(*c*) the standard of living enjoyed by the family concerned before the proceedings were instituted or before the spouses separated, as the case may be,

(*d*) the age of each of the spouses and the length of time during which the spouses lived together,

(*e*) any physical or mental disability of either of the spouses,

(*f*) the contributions which each of the spouses has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution made by each of them to the income, earning capacity, property and financial resources of the other spouse and any contribution made by either of them by looking after the home or caring for the family,

(*g*) the effect on the earning capacity of each of the spouses of the marital responsibilities assumed by each during the period when they lived together and, in particular, the degree to which the future earning capacity of a spouse is impaired by reason of that spouse having relinquished or foregone the opportunity of remunerative activity in order to look after the home or care for the family,

(*h*) any income or benefits to which either of the spouses is entitled by or under statute,

(*i*) the conduct of each of the spouses, if that conduct is such that in the opinion of the court it would in all the circumstances of the case be unjust to disregard it,

(*j*) the acommodation needs of either of the spouses,

(*k*) the value to each of the spouses of any benefit (for example, a benefit under a pension scheme) which by reason of the decree of judicial separation concerned that spouse will forfeit the opportunity or possibility of acquiring,

(*l*) the rights of any person other than the spouses but including a person to whom either spouse is remarried.

(3) (*a*) The court shall not make an order under a provision referred to in *subsection (1)* for the support of a spouse if the spouse had deserted the other spouse before the institution of proceedings for the decree or, as the case may be, a decree, specified in that provision and had continued such desertion up to the time of the institution of such proceedings unless, having regard to all the circumstances of the case (including the conduct of the other spouse), the court is of opinion that it would be unjust not to make the order.

(*b*) A spouse who, with just cause, leaves and lives apart from the other spouse because of conduct on the part of that other spouse shall not be regarded for the purposes of *paragraph (a)* as having deserted that spouse.

(4) Without prejudice to the generality of *subsection (1)*, in deciding whether to make an order referred to in that subsection in favour of a dependent member of the family concerned and in determining the provisions of such an order, the court shall, in particular, have regard to the following matters:

(*a*) the financial needs of the member,

(*b*) the income, earning capacity (if any), property and other financial resources of the member,

(*c*) any physical or mental disability of the member,

(*d*) any income or benefits to which the member is entitled by or under statute,

(*e*) the manner in which the member was being and in which the spouses concerned anticipated that the member would be educated or trained,

(*f*) the matters specified in *paragraphs (a), (b)* and *(c)* of *subsection (2)*,

(*g*) the accommodation needs of the member.

(5) The court shall not make an order under a provision referred to in *subsection (1)* unless it would be in the interests of justice to do so.

(6) In this section "desertion" includes conduct on the part of one of the spouses concerned that results in the other spouse, with just cause, leaving and living apart from the first-mentioned spouse.

Annotations

Amendments:

F28 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(h)(i), commenced as per s. 1(2).

F29 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(h)(ii) and (iii), commenced as per s. 1(2).

Retrospective periodical payments orders.

17.—(1) Where, having regard to all the circumstances of the case, the court considers it appropriate to do so, it may, in a periodical payments order, direct that—

(*a*) the period in respect of which payments under the order shall be made shall begin on such date before the date of the order, not being earlier than the time of the institution of the proceedings concerned for the grant of a decree of judicial separation, as may be specified in the order,

(*b*) any payments under the order in respect of a period before the date of the order be paid in one sum and before a specified date, and

(*c*) there be deducted from any payments referred to in *paragraph (b)* made to the spouse concerned an amount equal to the amount of such (if any) payments made to that spouse by the other spouse as the court may determine, being payments made during the period between the making of the order for the grant of the decree aforesaid and the institution of the proceedings aforesaid.

(2) The jurisdiction conferred on the court by *subsection (1) (b)* is without prejudice to the generality of *section 8 (1) (c)*.

Variation, etc., of certain orders under this Part.

18.—(1) This section applies to the following orders—

(*a*) a maintenance pending suit order,

(*b*) a periodical payments order,

(*c*) a secured periodical payments order,

(*d*) a lump sum order if and in so far as it provides for the payment of the lump sum concerned by instalments or requires the payment of any such instalments to be secured,

(*e*) an order under *paragraph (b)*, *(c)* or *(d)* of *section 9 (1)* in so far as such application is not restricted or excluded pursuant to *section 9 (2)*,

(*f*) an order under *subparagraph (i)* or *(ii)* of *section 10 (1) (a)*,

(*g*) a financial compensation order,

(*h*) an order under *subsection (2)* of *section 12* F30**[**insofar as such application is not restricted or excluded by *section 12 (26)***]**,

(*i*) an order under *section 13*,

(*j*) an order under this section.

(2) Subject to the provisions of this section and *section 16* and any restriction pursuant to *section 9 (2)* and without prejudice to *section 11 (2) (d)*, the court may, on application to it in that behalf by either of the spouses concerned or, in the case of the death of either of the spouses, by any other person who, in the opinion of the court, has a sufficient interest in the matter or by a person on behalf of a dependent member of the family concerned, if it considers it proper to do so having regard to any change in the circumstances of the case and to any new evidence, by order vary or discharge an order to which this section applies, suspend any provision of such an order or any provision of such an order temporarily, revive the operation of such an order or provision so suspended, further vary an order previously varied under this section or further suspend or revive the operation of an order or provision previously suspended or revived under this section; and, without prejudice to the generality of the foregoing, an order under this section may require the divesting of any property vested in a person under or by virtue of an order to which this section applies.

(3) Without prejudice to the generality of *section 7* or *8*, that part of an order to which this section applies which provides for the making of payments for the support of a dependent member of the family shall stand discharged if the member ceases to be a dependent member of the family by reason of his or her attainment of the age of 18 years or 23 years, as may be appropriate, and shall be discharged by the court, on application to it under *subsection (2)*, if it is satisfied that the member has for any reason ceased to be a dependent member of the family.

(4) The power of the court under *subsection (2)* to make an order varying, discharging or suspending an order referred to in *subsection (1) (e)* shall be subject to any restriction or exclusion specified in that order and shall (subject to the limitation aforesaid) be a power—

(*a*) to vary the settlement to which the order relates in any person's favour or to extinguish or reduce any person's interest under that settlement, and

(*b*) to make such supplemental provision (including a further property adjustment order or a lump sum order) as the court thinks appropriate in consequence of any variation, extinguishment or reduction made pursuant to *paragraph (a)*,

and *section 15* shall apply to a case where the court makes such an order as aforesaid under *subsection (2)* as it applies to a case where the court makes a property adjustment order with any necessary modifications.

(5) The court shall not make an order under *subsection (2)* in relation to an order referred to in *subsection (1) (e)* unless it appears to it that the order will not prejudice the interests of any person who—

(*a*) has acquired any right or interest in consequence of the order referred to in *subsection (1) (e)*, and

(*b*) is not a party to the marriage concerned or a dependent member of the family concerned.

(6) This section shall apply, with any necessary modifications, to instruments executed pursuant to orders to which this section applies as it applies to those orders.

(7) Where the court makes an order under *subsection (2)* in relation to a property adjustment order relating to land a copy of the order under *subsection (2)* certified to be a true copy by the registrar or clerk of the court concerned shall, as appropriate, be lodged by him or her in the Land Registry for registration pursuant to section 69 (1) (*h*) of the Registration of Title Act, 1964, in a register maintained under that Act or be registered in the Registry of Deeds.

F31**[**(8) Where a property adjustment order lodged under *section 9(4)* and duly registered pursuant to section 69(1)(*h*) of the Registration of Title Act 1964 is varied, discharged, suspended or revived by an order under *subsection (2)* and the second-mentioned order has been duly lodged for such registration pursuant to *subsection (7)*, the Property Registration Authority shall—

(*a*) amend or cancel the entry made in the register, pursuant to *section 9(4)*, under the Registration of Title Act 1964 accordingly, or

(*b*) note the position in the Registry of Deeds. **]**

Annotations

Amendments:

F30 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(i), commenced as per s. 1(2).

F31 Inserted (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 74(b), S.I. No. 274 of 2008.

Editorial Notes:

E22 Procedure for application for registration of an order of Court pursuant to section prescribed (1.05.2008) by *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008), rule 14(2), in effect as per rule 1.

Restriction in relation to orders for benefit of dependent members of the family.

19.—In deciding whether—

(*a*) to include in an order under *section 7* a provision requiring the making of periodical payments for the benefit of a dependent member of the family,

(*b*) to make an order under *paragraph (a)(ii), (b)(ii)* or *(c)(ii)* of *section 8(1)*,

(*c*) to make an order under *section 18* varying, discharging or suspending a provision referred to in *paragraph (a)* or an order referred to in *paragraph (b)*,

the court shall not have regard to conduct by the spouse or spouses concerned of the kind specified in *subsection (2)(i)* of *section 16* or desertion referred to in *subsection (3)* of that section.

Transmission of periodical payments through District Court clerk.

20.—Notwithstanding anything in this Act, section 9 of the Act of 1976 shall apply in relation to an order ("the relevant order"), being a maintenance pending suit order, a periodical payments order or a secured periodical payments order or any such order as aforesaid as affected by an order under *section 18*, with the modifications that—

(*a*) the reference in subsection (4) of the said section 9 to the maintenance creditor shall be construed as a reference to the person to whom payments under the relevant order concerned are required to be made,

(*b*) the other references in the said section 9 to the maintenance creditor shall be construed as references to the person on whose application the relevant order was made, and

(*c*) the reference in subsection (3) of the said section 9 to the maintenance debtor shall be construed as a reference to the person to whom payments under the relevant order are required by that order to be made,

and with any other necessary modifications.

Application of maintenance pending suit and periodical payment orders to certain members of Defence Forces.

21.—The reference in section 98(1)(*h*) of the Defence Act, 1954, to an order for payment of alimony shall be construed as including a reference to a maintenance pending suit order, a periodical payments order and a secured periodical payments order.

Amendment of Enforcement of Court Orders Act, 1940.

22.—The references in subsections (1) and (7) of section 8 of the Enforcement of Court Orders Act, 1940 (as amended by section 29 of the Act of 1976), to an order shall be construed as including references to a maintenance pending suit order and a periodical payments order.

Annotations

Editorial Notes:

E23 Previous affecting provision: references in *Enforcement of Court Orders Act 1940* (23/1940), s. 8(1) and (7) (as previously amended by *Family Law (Maintenance of Spouses and Children) Act 1976*, s. 29, this section and *Family Law (Divorce) Act 1996*, s. 30) to an order was required to be construed as including references to an antecedent order (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 65, S.I. No. 648 of 2010. The 1940 Act, s. 8 is now substituted (2.0.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 63, commenced on enactment.

PART III

Relief after Divorce or Separation Outside State

Relief orders where marriage dissolved, or spouses legally separated outside State.

23.—(1) This section applies to a marriage that has been dissolved, or as respects which the spouses have been legally separated, after the commencement of this section under the law of a country or jurisdiction other than the State, being a divorce or legal separation that is entitled to be recognised as valid in the State.

(2) (*a*) Subject to the provisions of this Part, the court may, in relation to a marriage to which this section applies, on application to it in that behalf by either of the spouses concerned or by a person on behalf of a dependent member of the family concerned, make any order under *Part II* (other than an order under *section 6* or a maintenance pending suit order) (in this Act referred to as a relief order) that it could have made if the court had granted a decree of judicial separation in relation to the marriage.

(*b*) *Part II* shall apply and have effect in relation to relief orders and applications therefor as it applies and has effect in relation to orders under *Part II* and applications therefor with the modifications that—

(i) *subsections (4)* and *(5)* of *section 8*, *section 10 (1) (c)* and *section 13* shall not apply in relation to a marriage that has been dissolved under the law of a country or jurisdiction other than the State,

(ii) *section 15* shall not apply in relation to a family home in which, following the dissolution of the marriage under such a law, either spouse, having remarried, ordinarily resides with his or her spouse, and

(iii) the modifications specified in *paragraph (c)* and any other necessary modifications.

(*c*) *Section 16* shall apply in relation to a relief order subject to the modifications that—

(i) it shall be construed as including a requirement that the court should have regard to the duration of the marriage,

(ii) the reference in *subsection (2) (k)* to the forfeiture of the opportunity or possibility of acquiring any benefit shall be construed as a reference to such forfeiture by reason of the divorce or legal separation concerned, and

(iii) the reference in *subsection (3)* to proceedings shall be construed as a reference to the proceedings for the divorce concerned or, as the case may be, for the legal separation concerned.

(*d*) F32**[**Where a person**]** whose marriage has been dissolved in a country or jurisdiction other than the State has remarried F33**[**or registered in a civil partnership**]**, the court may not make a relief order in favour F32**[**of that person**]** in relation to a previous marriage F32**[**of that person**]**.

(3) (*a*) An application shall not be made to the court by a person for a relief order unless, prior to the application, the court, on application to it *ex parte* in that behalf by that person, has by order granted leave for the making of the first-mentioned application and the court shall not grant such leave unless it considers that there is a substantial ground for so doing and a requirement specified in *section 27* is satisfied.

(*b*) The court may make the grant of leave under this subsection subject to such (if any) terms and conditions as it considers appropriate and specifies in its order.

(*c*) The court may grant leave under this subsection to a person notwithstanding that an order has been made by a court of a country or jurisdiction other than the State requiring the spouse concerned to make a payment or transfer property to the person.

(*d*) This subsection does not apply to an application for a relief order made pursuant to a request under section 14 of the Maintenance Act, 1994.

(4) In determining, for the purposes of this section, the financial resources of a spouse or a dependent member of the family in a case in which payments are required to be made or property is required to be transferred to the spouse or to the member by the other spouse under an order of a court of a country or jurisdiction other than the State or an agreement in writing, the court shall have regard to the extent to which the order or agreement has been complied with or, if payments are required to be made, or property is required to be transferred, after the date of the order made by virtue of this section under *Part II*, is likely to be complied with.

(5) The period specified in a periodical payments order made by virtue of this section under *paragraph (a)* or *(b)* of *section 8 (1)* shall begin not earlier than the date of the application for the order and shall end not later than the death of either of the spouses concerned or, if the order is made on or after the dissolution of the marriage, the remarriage F34**[**or registration in a civil partnership**]** of the spouse in whose favour the order was made.

(6) (*a*) Where, by virtue of this section, the court makes a periodical payments order or a secured periodical payments order on or after the dissolution of the marriage concerned, it may direct that the person in whose favour the order is made shall not apply for an order under *section 18* extending the period specified in the order and, if the court so directs, such an order under *section 18* shall not be made.

(*b*) Where, by virtue of this section, the court makes a periodical payments order or a secured periodical payments order in favour of a spouse other than on or after the dissolution of the marriage of the spouse and the marriage is dissolved subsequently, the order, if then in force, shall cease to have effect on the remarriage F35**[**or registration in a civil partnership**]** of that spouse, except as respects payments due under it on the date of the remarriage F35**[**or registration in a civil partnership**]**.

(*c*) If, after the dissolution of a marriage to which this section applies, either of the spouses concerned remarries F36**[**or registers in a civil partnership**]**, the court shall not, by reference to that dissolution, make by virtue of this section such an order as aforesaid, or a property adjustment order, in favour of that spouse.

Annotations

Amendments:

F32 Substituted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 166(a), S.I. No. 648 of 2010.

F33 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 166(a), S.I. No. 648 of 2010.

F34 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 166(b), S.I. No. 648 of 2010.

F35 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 166(c)(i), S.I. No. 648 of 2010.

F36 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 166(c)(ii), S.I. No. 648 of 2010.

Editorial Notes:

E24 Certain gifts or inheritances taken by virtue or in consequence of maintenance pending relief orders made following the granting of leave under subs. (3) exempted from capital acquisitions tax (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(b), commenced on enactment, as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

E25 Certain property transfers between spouses and civil partners pursuant to a relief order within the meaning of section exempted from stamp duty (15.12.1999) by *Stamp Duties Consolidation Act 1999* (31/1999), s. 97, commenced on enactment, as amended (10.02.2000) by *Finance Act 2000* (3/2000), s. 131, commenced as per s. 131(2), and as amended (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 2 and sch. 2 items 7-11, commenced as per s. 5(8)(d).

E26 Previous affecting provision: maintenance pending relief order made following the granting of leave under subs. (3) exempted from capital acquisitions tax (10.05.1997) by *Finance Act 1997* (22/1997), s. 142(1) and (2)(b), commenced on enactment; superseded (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(b), commenced on enactment, as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

Maintenance pending relief orders.

24.—(1) Where leave is granted to a person under *section 23 (3)* for the making of an application for a relief order, the court may, subject to *subsection (3)*, on application to it in that behalf by the person, if it appears to it that a spouse, or a dependent member of the family, concerned is in immediate need of financial assistance, make an order for maintenance pending relief, that is to say, an order requiring the other spouse or either of the spouses, as may be appropriate, to make to the person such periodical payments or lump sum payments for his or her support or, as may be appropriate, for the benefit of the dependent member of the family as it considers proper and, as respects any periodical payments, for such period beginning not earlier than the date of such grant and ending not later than the date of the determination of the application as it considers proper.

(2) The court may, on application to it in that behalf, provide that payments under an order under this section shall be subject to such terms and conditions as it considers appropriate and specifies in the order.

(3) The court shall not make an order under this section in a case where neither of the requirements specified in *paragraphs (a)* and *(b)* of *section 27 (1)* is satisfied.

Orders for provision for spouse out of estate of other spouse.

25.—(1) Subject to the provisions of this section, where a spouse whose marriage has been dissolved in a country or jurisdiction other than the State dies, the court, on application to it in that behalf by the other spouse ("the applicant") not more than F37**[**6 months**]** after representation is first granted under the Act of 1965 in respect of the estate of the deceased spouse, may by order make such provision for the applicant out of the estate of the deceased spouse as it considers appropriate having regard to the rights of any other person having an interest in the matter and specifies in the order if it is satisfied that it was not possible to provide F38**[**proper provision, having regard to the circumstances,**]** for the applicant during the lifetime of the deceased spouse under *sections 8* to *12* for any reason (other than conduct referred to in *subsection (2) (i)* of *section 16* or desertion referred to in *subsection (3)* of that section by the applicant).

(2) The court shall not make an order under this section if the applicant concerned has remarried F39**[**or registered in a civil partnership**]** since the granting of the decree of divorce concerned.

(3) In considering whether to make an order under this section, the court shall have regard to all the circumstances of the case including—

(*a*) any order under *paragraph (c)* of *section 8 (1)* or a property adjustment order in favour of the applicant, and

(*b*) any devise or bequest made by the deceased spouse to the applicant.

(4) The provision made for the applicant concerned by an order under this section together with any provision made for the applicant by an order referred to in *subsection (3) (a)* (the value of which for the purposes of this subsection shall be its value on the date of the order) shall not exceed in total the share (if any) of the applicant in the estate of the deceased spouse to which the applicant was entitled or (if the deceased spouse died intestate as to the whole or part of his or her estate) would have been entitled under the Act of 1965 if the marriage had not been dissolved.

(5) Section 121 of the Act of 1965 shall apply with any necessary modifications to a disposition referred to in subsection (1) of that section in respect of which the court is satisfied that it was made for the purpose of defeating or substantially diminishing the provision which the court would make for the applicant concerned under this section if the disposition had not been made.

(6) Notice of an application under this section shall be given by the applicant to the spouse (if any) F39**[**, or civil partner (if any)**]** of the deceased spouse concerned and to such (if any) other persons as the court may direct and, in deciding whether to make the order concerned and in determining the provisions of the order, the court shall have regard to any representations made by the spouse F39**[**or civil partner**]** of the deceased spouse and any other such persons as aforesaid.

F40**[**(7) The personal representative of a deceased spouse in respect of whom a decree of divorce has been granted in a country or jurisdiction other than the State shall make a reasonable attempt to ensure that notice of his or her death is brought to the attention of the other spouse concerned and, where an application is made under this section, the personal representative of the deceased spouse shall not, without the leave of the court, distribute any of the estate of that spouse until the court makes or refuses to make an order under this section.

(8) Where the personal representative of a deceased spouse in respect of whom a decree of divorce has been granted in a country or jurisdiction other than the State gives notice of his or her death to the other spouse concerned ("the spouse") and—

(*a*) the spouse intends to apply to the court for an order under this section,

(*b*) the spouse has applied for such an order and the application is pending, or

(*c*) an order has been made under this section in favour of the spouse,

the spouse shall, not later than one month after the receipt of the notice, notify the personal representative of such intention, application or order, as the case may be, and, if he or she does not do so, the personal representative shall be at liberty to distribute the assets of the deceased spouse, or any part thereof, amongst the parties entitled thereto.

(9) The personal representative shall not be liable to the spouse for the assets or any part thereof so distributed unless, at the time of such distribution, he or she had notice of the intention, application or order aforesaid.

(10) Nothing in *subsection (8)* or *(9)* shall prejudice the right of the spouse to follow any such assets into the hands of any person who may have received them.**]**

Annotations

Amendments:

F37 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(j)(i), commenced as per s. 1(2).

F38 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(d), commenced as per s. 1(2).

F39 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 167, S.I. No. 648 of 2010.

F40 Substituted and inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(j)(ii), commenced as per s. 1(2).

Editorial Notes:

E27 Certain gifts or inheritances taken by virtue or in consequence of orders made under section are exempted from capital acquisitions tax (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(a), commenced on enactment, as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

E28 Previous affecting provision: certain gifts or inheritances taken under orders made under section exempted from capital acquisitions tax (10.05.1997) by *Finance Act 1997* (22/1997), s. 142(1) and (2)(a), commenced on enactment; superseded (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(a), commenced on enactment, as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

Appropriateness of making relief orders in State.

26.—The court shall not make a relief order unless it is satisfied that in all the circumstances of the particular case it is appropriate that such an order should be made by a court in the State and, without prejudice to the generality of the foregoing, in deciding whether to make a relief order, the court shall, in particular, have regard to the following matters:

(*a*) the connection which the spouses concerned have with the State,

(*b*) the connection which the spouses have with the country or jurisdiction other than the State in which the marriage concerned was dissolved or in which they were legally separated,

(*c*) the connection which the spouses have with any country or jurisdiction other than the State,

(*d*) any financial benefit which the spouse applying for the making of the order ("the applicant") or a dependent member of the family has received, or is likely to receive, in consequence of the divorce or legal separation concerned or by virtue of any agreement or the operation of the law of a country or jurisdiction other than the State,

(*e*) in a case where an order has been made by a court in a country or jurisdiction other than the State requiring a spouse, or the spouses, concerned to make any payment or transfer any property for the benefit of the applicant or a dependent member of the family, the financial relief given by the order and the extent to which the order has been complied with or is likely to be complied with,

(*f*) any right which the applicant or a dependent member of the family has, or has had, to apply for financial relief from a spouse or the spouses under the law of any country or jurisdiction other than the State and, if the applicant or dependent member of the family has omitted to exercise any such right, the reason for that omission,

(*g*) the availability in the State of any property in respect of which a relief order in favour of the applicant or dependent member of the family could be made,

(*h*) the extent to which the relief order is likely to be enforceable,

(*i*) the length of time which has elapsed since the date of the divorce or legal separation concerned.

Jurisdiction of court to make relief orders.

27.—(1) Subject to *subsection (2)*, the court may make a relief order if, but only if, at least one of the following requirements is satisfied:

(*a*) either of the spouses concerned was domiciled in the State on the date of the application for an order under *section 23 (3)* in relation to the relief order or was so domiciled on the date on which the divorce or judicial separation concerned took effect in the country or jurisdiction in which it was obtained,

(*b*) either of the spouses was ordinarily resident in the State throughout the period of one year ending on either of the dates aforesaid,

(*c*) on the date of the institution of the proceedings aforesaid either or both of the spouses had a beneficial interest in land situated in the State.

(2) *Subsection (1)* does not apply in relation to a case to which the Jurisdiction of Courts and Enforcement of Judgments Acts, 1988 and 1993, apply or to a relief order that is the subject of a request under section 14 of the Maintenance Act, 1994.

Annotations

Editorial Notes:

E29 *Jurisdiction of Courts and Enforcement of Judgments Acts 1988 and 1993* were repealed (1.12.1999) by *Jurisdiction of Courts and Enforcement of Judgments Act 1998* (52/1998), s. 23(a) and (b), S.I. No. 353 of 1999.

Restriction of jurisdiction of court to make relief orders.

28.—(1) Where the jurisdiction of the court to make a relief order is conferred by virtue only of *section 27 (1) (c)*, the court may make any of the following relief orders, but no others:

(*a*) a lump sum order,

(*b*) a property adjustment order providing for one or more of the matters specified in *paragraphs (b), (c)* and *(d)* of *section 9 (1)*,

(*c*) an order under *section 14*,

(*d*) an order under *section 25*,

(*e*) an order directing the sale of the interest of either of the spouses concerned in the family home concerned.

(2) Where, in the circumstances referred to in *subsection (1)*, the court makes one or more lump sum orders, the amount or aggregate amount of the sum or sums to which the order or orders relate shall not exceed—

(*a*) in case the interest of the spouse liable to make the payment or payments under the order or orders in the family home concerned is sold whether in pursuance of an order of the court or otherwise, the amount of the proceeds of the sale after deduction therefrom of the costs thereof, or

(*b*) in any other case, such amount as, in the opinion of the court, represents the value of that interest.

(3) The reference in *subsection (1) (e)* to the interest of either of the spouses concerned shall, in relation to a case where the interest of a spouse in the family home concerned is held under a joint tenancy or a tenancy in common with another person or other persons, be construed as including a reference to the interest of the other person or persons in the home.

PART IV

Declarations as to Marital Status

Declarations as to marital status.

29.—(1) The court may, on application to it in that behalf by either of the spouses concerned or by any other person who, in the opinion of the court, has a sufficient interest in the matter, by order make one or more of the following declarations in relation to a marriage, that is to say:

(*a*) a declaration that the marriage was at its inception a valid marriage,

(*b*) a declaration that the marriage subsisted on a date specified in the application,

(*c*) a declaration that the marriage did not subsist on a date so specified, not being the date of the inception of the marriage,

(*d*) a declaration that the validity of a divorce, annulment or legal separation obtained under the civil law of any other country or jurisdiction in respect of the marriage is entitled to recognition in the State,

(*e*) a declaration that the validity of a divorce, annulment or legal separation so obtained in respect of the marriage is not entitled to recognition in the State.

(2) The court may grant an order under *subsection (1)* if, but only if, either of the spouses concerned—

(*a*) is domiciled in the State on the date of the application,

(*b*) has been ordinarily resident in the State throughout the period of one year ending on that date, or

(*c*) died before that date and either—

(i) was at the time of death domiciled in the State, or

(ii) had been ordinarily resident in the State throughout the period of one year ending on that date.

(3) The other spouse or the spouses concerned or the personal representative of the spouse or each spouse, within the meaning of the Act of 1965, shall be joined in proceedings under this section.

(4) The court may, at any stage of proceedings under this section of its own motion or on application to it in that behalf by a party thereto, order that notice of the proceedings be given to the Attorney General or any other person and that such documents relating to the proceedings as may be necessary for the purposes of his or her functions shall be given to the Attorney General.

(5) The court shall, on application to it in that behalf by the Attorney General, order that he or she be added as a party to any proceedings under this section and, in any such proceedings, he or she shall, if so requested by the court, whether or not he or she is so added to the proceedings, argue any question arising in the proceedings specified by the court.

(6) Where notice of proceedings under this section is given to a person (other than the Attorney General), the court may, of its own motion or on application to it in that behalf by the person or a party to the proceedings, order that the person be added as a party to the proceedings.

(7) Where a party to proceedings under this section alleges that the marriage concerned is or was void, or that it is voidable, and should be annulled, the court may treat the application under *subsection (1)* as an application for a decree of nullity of marriage and may forthwith proceed to determine the matter accordingly and may postpone the determination of the application under *subsection (1)*.

(8) A declaration under this section shall be binding on the parties to the proceedings concerned and on any person claiming through such a party and, if the Attorney General is a party to the proceedings, the declaration shall also be binding on the State.

(9) A declaration under this section shall not prejudice any person if it is subsequently proved to have been obtained by fraud or collusion.

(10) Where proceedings under this section, and proceedings in another jurisdiction, in relation to the same marriage have been instituted but have not been finally determined, the court may stay the first-mentioned proceedings until the other proceedings have been finally determined.

F41**[**(11) In this section a reference to a spouse includes a reference to a person who is a party to a marriage that has been dissolved under the Family Law (Divorce) Act, 1996.**]**

Annotations

Amendments:

F41 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(k), commenced as per s. 1(2).

Modifications (not altering text):

C4 Application of subs. (4) restricted (1.09.2022) by *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), reg. 7(c), in effect as per reg. 1(2).

Non-applicability of certain statutory provisions.

7. The following provisions shall not have effect in relation to proceedings to which the Council Regulation (other than Article 6) applies:

...

(*c*) sections 29 and 39(1) of the Family Law Act 1995 (No. 26 of 1995);

...

C5 Application of section restricted (1.03.2005) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 7, in effect as per reg. 1.

Non-applicability of certain statutory provisions.

7. The following provisions shall not have effect in relation to proceedings to which the Council Regulation (other than Article 7) applies:

...

(*c*) sections 29 and 39(1) of the Family Law Act 1995,

...

Editorial Notes:

E30 Previous affecting provision: application of section restricted (23.10.2001) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2001* (S.I. No. 472 of 2001), reg. 3; revoked (1.03.2005) by *European Communities (judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 11, in effect as per reg. 1(2).

Provisions supplementary to *section 29*.

30.—(1) Rules of court may make provision as to the information to be given in an application under *section 29 (1)* including particulars of any previous or pending proceedings in relation to any marriage concerned or to the matrimonial status of a party to any such marriage.

(2) The court may make such order (if any) as it considers just for the payment of all or part of any costs incurred by the Attorney General in proceedings under this section by other parties to the proceedings.

(3) Without prejudice to the law governing the recognition of decrees of divorce granted by courts outside the State, a declaration under *section 29* conflicting with a previous final judgment or decree of a court of competent jurisdiction of a country or jurisdiction other than the State shall not be made unless the judgment or decree was obtained by fraud or collusion.

(4) Notification of a declaration under *section 29* (other than a declaration relating to a legal separation) shall be given by the registrar of the court to an tArd Chláraitheoir.

PART V

Marriage

Age of marriage.

31.—(1) (*a*) (i) A marriage solemnised, after the commencement of this section, between persons either of whom is under the age of 18 years shall not be valid in law.

(ii) *Subparagraph (i)* applies to any marriage solemnised—

(I) in the State, irrespective of where the spouses or either of them are or is ordinarily resident, or

(II) outside the State, if at the time of the solemnisation of the marriage, the spouses or either of them are or is ordinarily resident in the State.

(*b*) F42**[**...**]**

(*c*) The requirement in relation to marriage arising by virtue of *paragraph (a)* is hereby declared to be a substantive requirement for marriage.

(2) Any person to whom application is made in relation to the solemnisation of an intended marriage may, if he or she so thinks fit, request the production of evidence of age with respect to either or both of the parties concerned.

(3) Where a request is made under *subsection (2)*—

(*a*) refusal or failure to comply with the request shall be a proper reason for refusal of the application concerned, and

(*b*) if the request is complied with and the evidence shows that either or both of the parties is or are under the age of 18 years, the application shall be refused.

(4) Where a person knowingly—

(*a*) solemnises or permits the solemnisation of a marriage which, consequent on the provisions of this section, is not valid in law, or

(*b*) is a party to such a marriage,

the person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

Annotations

Amendments:

F42 Deleted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(1)(d), S.I. No. 532 of 2018, subject to transitional provisions in subss. (2), (3).

Modifications (not altering text):

C6 Validity of certain marriages confirmed (5.05.1997) by *Family Law (Miscellaneous Provisions) Act 1997* (18/1997), s. 3(2), commenced on enactment.

Validity in law of certain marriages.

3. — ...

(2) Where, in relation to a marriage, exemption from section 31 (1) (a) or 32 (1) (a) of the Act of 1995, or both of those provisions, was granted, before the passing of this Act, by a judge of the Circuit Family Court who, in relation to the application concerned, was not the appropriate judge having regard to section 38 (4) of the Act of 1995, the marriage shall be and shall be deemed always to have been valid in law if it would have been so valid if the exemption aforesaid had been granted by the judge who, in relation to the application, was the appropriate judge having regard to the said section 38 (4).

Editorial Notes:

E31 A fine of £500 converted (1.01.1999) to €634.86. This translates into a class D fine, not greater than €1,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 7(2) and table ref. no. 2, S.I. No. 662 of 2010.

E32 Party to proposed marriage being under 18 and absence of exemption from the application of subs. (1)(a) stated to be an impediment to marriage for purposes of *Civil Registration Act 2004* (3/2004) (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 2(2)(c), S.I. No. 764 of 2005.

Notification of intention to marry.

32.—F43**[**...**]**

Annotations

Amendments:

F43 Repealed (5.11.2007) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 736 of 2007, subject to transitional provisions in ss. 5, 46(9), 47(3) and 48(4)(a)(i).

Editorial Notes:

E33 Previous affecting provision: subs. (5) substituted and subs. (6) inserted (1.08.1996) by *Family Law (Miscellaneous Provisions) Act 1997* (18/1997), s. 2(1), commenced as per s. 2(3).

E34 Previous affecting provision: validity of marriages not meeting requirements of section confirmed (5.05.1997) by *Family Law (Miscellaneous Provisions) Act 1997* (18/1997), s. 3, commenced on enactment.

Exemption of certain marriages from *sections 31 (1)* and *32 (1)*.

33.—(1) F44**[**...**]**

Annotations

Amendments:

F44 Repealed (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(1)(e), S.I. No. 532 of 2018, subject to transitional provisions in subss. (2), (3).

Editorial Notes:

E35 Party to proposed marriage being under 18 and absence of exemption under section stated to be an impediment to marriage for purposes of *Civil Registration Act 2004* (3/2004) (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 2(2)(c), S.I. No. 764 of 2005.

E36 Previous affecting provision: subs. (1) amended (5.11.2007) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 736 of 2007, subject to transitional provisions in ss. 5 and 47(3).

E37 Previous affecting provision: application of section affected (31.03.2005) by *Civil Liability and Courts Act 2004* (31/2004), s. 40, S.I. No. 544 of 2004, as amended (1.08.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 31, S.I. No. 274 of 2008; and as amended (11.01.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 5, S.I. No. 5 of 2014; section repealed as per F-note above.

Abolition of right to petition for jactitation of marriage.

34.—No person shall after the commencement of this Act be entitled to petition a court for jactitation of marriage.

PART VI

MISCELLANEOUS

Powers of court in relation to transactions intended to prevent or reduce relief.

35.—(1) In this section—

"disposition" means any disposition of property howsoever made other than a disposition made by a will or codicil;

"relief" means the financial or other material benefits conferred by—

(*a*) an order under *section 7*, *8* or *9*, *paragraph (a)* or *(b)* of *section 10 (1)* or *section 11*, *12*, *13*, *F45***[***15A,***]** *17*, *18* (other than an order affecting an order referred to in *subsection (1) (e)* thereof), *24* or *25*, or

F45**[**(*aa*) an order under section 11 (2) (*b*) of the Act of 1964 or section 5, 5A or 7 of the Act of 1976, or**]**

(*b*) a relief order (other than an order under *section 18* affecting an order referred to in *subsection (1) (e)* thereof),

and references to defeating a claim for relief are references to—

(i) preventing relief being granted to the person concerned, whether for the benefit of the person or a dependent member of the family concerned,

(ii) limiting the relief granted, or

(iii) frustrating or impeding the enforcement of an order granting relief;

"reviewable disposition", in relation to proceedings for the grant of relief brought by a spouse, means a disposition made by the other spouse concerned or any other person but does not include such a disposition made for valuable consideration (other than marriage) to a person who, at the time of the disposition acted in good faith

and without notice of an intention on the part of the respondent to defeat the claim for relief.

(2) (*a*) The court, on the application of a person ("the applicant") who—

(i) has instituted proceedings that have not been determined for the grant of relief,

(ii) has been granted leave under *section 23 (3)* to institute such proceedings, or

(iii) intends to apply for such leave upon the completion of one year's ordinary residence in the State—

may—

(I) if it is satisfied that the other spouse concerned or any other person, with the intention of defeating the claim for relief, proposes to make any disposition of or to transfer out of the jurisdiction or otherwise deal with any property, make such order as it thinks fit for the purpose of restraining that other spouse or other person from so doing or otherwise for protecting the claim,

(II) if it is satisfied that that other spouse or other person has, with that intention, made a reviewable disposition and that, if the disposition were set aside, relief or different relief would be granted to the applicant, make an order setting aside the disposition.

(*b*) Where relief has been granted by the court and the court is satisfied that the other spouse concerned or another person has, with the intention aforesaid, made a reviewable disposition, it may make an order setting aside the disposition.

(*c*) An application under *paragraph (a)* shall, in a case in which proceedings for relief have been instituted, be made in those proceedings.

(3) Where the court makes an order under *paragraph (a)* or *(b)* of *subsection (2)*, it shall include in the order such provisions (if any) as it considers necessary for its implementation (including provisions requiring the making of any payments or the disposal of any property).

(4) In a case where neither of the conditions specified in *paragraphs (a)* and *(b)* of *section 27 (1)* is satisfied, the court shall not make an order under *subsection (2)* in respect of any property other than the family home concerned.

(5) Where an application is made under *subsection (2)* with respect to a disposition that took place less than 3 years before the date of the application or with respect to a disposition or other dealing with property that the other spouse concerned or any other person proposes to make and the court is satisfied—

(*a*) in case the application is for an order under *subsection (2) (a) (I)*, that the disposition or other dealing concerned would (apart from this section) have the consequence, or

(*b*) in case the application is for an order under *paragraph (a) (II)* or *(b)* of *subsection (2)*, that the disposition has had the consequence,

of defeating the applicant's claim for relief, it shall be presumed, unless the contrary is shown, that that other spouse or other person disposed of or otherwise dealt with the property concerned, or, as the case may be, proposes to do so, with the intention of defeating the applicant's claim for relief.

F46**[**(6) An application shall not be made for an order setting aside a disposition by reason only of subsection (2)(*a*)(II) or (*b*) after the expiration of 6 years from the date of the disposition. **]**

Annotations

Amendments:

F45 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(l), commenced as per s. 1(2).

F46 Inserted (20.07.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 74(c), S.I. No. 274 of 2008.

Determination of questions between spouses in relation to property.

36.—(1) Either spouse may apply to the court in a summary manner to determine any question arising between them as to the title to or possession of any property.

(2) On application to it under *subsection (1)*, the court may—

(*a*) make such order with respect to the property in dispute (including an order that it be sold or partitioned) and as to the costs consequent upon the application, and

(*b*) direct such inquiries, and give such other directions, in relation to the application,

as the court considers proper.

(3) Either spouse or a child of a deceased spouse (in this section referred to subsequently as "the plaintiff spouse") may make an application specified in *subsection (1)* where it is claimed that the other spouse (in this section referred to subsequently as "the defendant spouse") has had in his or her possession or under his or her control—

(*a*) money to which, or to a share of which, the plaintiff spouse was beneficially entitled whether by reason of the fact that it represented the proceeds of property to which, or to an interest in which, the plaintiff spouse was beneficially entitled or for any other reason, or

(*b*) property (other than money) to which, or to an interest in which, the plaintiff spouse was beneficially entitled,

and that either that money or other property has ceased to be in the possession or under the control of the defendant spouse or that the plaintiff spouse does not know whether it is still in the possession or under the control of the defendant spouse.

(4) Where an application under *subsection (1)* is made by virtue of *subsection (3)* and the court is satisfied that—

(*a*) (i) the defendant spouse concerned has had in his or her possession or under his or her control money or other property to which *paragraph (a)* or *(b)* of *subsection (3)* relates, or

(ii) the defendant spouse has in his or her possession or under his or her control property that represents the whole or part of the money or other property aforesaid,

and

(*b*) the defendant spouse has not made to the plaintiff spouse concerned such payment or disposition (not being a testamentary disposition) as would have been appropriate in all the circumstances,

the court may make an order under *subsection (2)* in relation to the application and may, in addition to or in lieu of such an order, make an order requiring the defendant spouse to pay to the plaintiff spouse either, as the case may be—

(i) such sum in respect of the money to which the application relates, or the plaintiff spouse's share thereof, or

(ii) such sum in respect of the value of the property (other than money) referred to in *paragraph (a)*, or the plaintiff spouse's interest therein,

as the court considers proper.

(5) In any proceedings under this section, a person (other than the plaintiff spouse concerned or the defendant spouse concerned) who is a party thereto shall, for the purposes of costs or any other matter, be treated as a stakeholder only.

(6) This section is without prejudice to section 2 (which prescribes the legal capacity of married women) of the Married Women's Status Act, 1957.

(7) (*a*) Where a marriage—

(i) has been annulled F47**[**or dissolved**]** under the law of the State, or

(ii) has been annulled or dissolved under the law of a country or jurisdiction other than the State and is, by reason of that annulment or divorce, not or no longer a subsisting valid marriage under the law of the State,

an application under this section shall not be made by either of the spouses more than 3 years after the date of the annulment or divorce.

(*b*) Where a marriage is void but has not been so declared under the law of the State or another state, an application shall not be made under this section by either of the spouses more than 3 years after the parties have ceased to be ordinarily resident together.

(8) In this section references to a spouse include references to—

(*a*) a personal representative of a deceased spouse,

(*b*) either of the parties to a void marriage, whether or not it has been declared to be void under the law of the State or a country or jurisdiction other than the State,

(*c*) either of the parties to a voidable marriage that has been annulled under the law of the State,

F47**[**(*cc*) either of the parties to a marriage that has been dissolved under the law of the State,**]**

(*d*) either of the parties to a marriage that has been annulled under the law of another state and that is, by reason of the annulment, not a subsisting valid marriage under the law of the State, and

(*e*) either of the parties to a marriage that has been dissolved under the law of another state and that is, by reason of the divorce, no longer a subsisting valid marriage under the law of the State.

Annotations

Amendments:

F47 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(m), commenced as per s. 1(2).

Modifications (not altering text):

C7 Application of section extended with modifications (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 44, commenced as per s. 1(2).

Determination of questions between persons formerly engaged to each other in relation to property.

44.—Where an agreement to marry is terminated, section 36 of the Act of 1995 shall apply, as if the parties to the agreement were married to each other, to any dispute between them, or claim by one of them, in relation to property in which either or both of them had a beneficial interest while the agreement was in force.

Payments to be made without deduction of income tax.

37.—F48**[**...**]**

Annotations

Amendments:

F48 Repealed (6.04.1997) by *Taxes Consolidation Act 1997* (39/1997), s. 1098 and sch. 30, commenced as per s. 1098(1) for periods mentioned in subs. (2) and subject to s. 1097.

Editorial Notes:

E38 Exemption for payments made under Act (other than under s. 12) from deduction of income tax provided (from year 1997-1998) by *Taxes Consolidation Act 1997* (39/1997), s. 1027, commenced as per s. 1097.

Jurisdiction of courts and venue.

38.—(1) Subject to the provisions of this section, the Circuit Court shall, concurrently with the High Court, have jurisdiction to hear and determine proceedings under this Act and shall, in relation to that jurisdiction, be known as the Circuit Family Court.

(2) Subject to the other provisions of this section, the Circuit Family Court shall, concurrently with the High Court, have jurisdiction to hear and determine proceedings for a decree of nullity.

(3) Where the F49**[**market value**]** of any land to which proceedings in the Circuit Family Court under this Act relate exceeds F49**[**€3,000,000**]** that Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by the High Court by order.

F50**[**(4) The jurisdiction conferred on the Circuit Family Court by this Act may be exercised—

(*a*) F51**[**...**]**

(*b*) F51**[**...**]** by the judge of the circuit in which any of the parties to the proceedings ordinarily resides or carries on any business, profession or occupation.**]**

(5) F52**[**...**]**

(6) Section 32 of the Act of 1989 shall apply to proceedings under this Act in the Circuit Family Court and sections 33 to 36 of that Act shall apply to proceedings under this Act in that Court and in the High Court.

(7) In proceedings under *section 8*, *9*, *10 (1) (a)*, *11*, *12*, *13*, *14*, *F53***[***15A,***]** *18*, *23* or *25*—

(*a*) each of the spouses concerned shall give to the other spouse and to, or to a person acting on behalf of, any dependent member of the family concerned, and

(*b*) any dependent member of the family concerned shall give to, or to a person acting on behalf of, any other such member and to each of the spouses concerned,

such particulars of his or her property and income as may reasonably be required for the purposes of the proceedings.

(8) Where a person fails or refuses to comply with *subsection (7)*, the court, on application to it in that behalf by a person having an interest in the matter, may direct the person to comply with that subsection.

F54**[**(9) In this section "market value" means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.**]**

Annotations

Amendments:

F49 Substituted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 51(a), S.I. No. 2 of 2017.

F50 Substituted (5.05.1997) by *Family Law (Miscellaneous Provisions) Act 1997* (18/1997), s. 2(2), commenced on enactment.

F51 Deleted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(1)(f), S.I. No. 532 of 2018, subject to transitional provision in subs. (2).

F52 Repealed (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 51(b), S.I. No. 2 of 2017.

F53 Inserted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(n), commenced as per s. 1(2).

F54 Inserted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 51(c), S.I. No. 2 of 2017.

Modifications (not altering text):

C8 Application of section affected (31.03.2005) by *Civil Liability and Courts Act 2004* (31/2004), s. 40, S.I. 544 of 2004; as amended (1.08.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 31, S.I. No. 274 of 2008; and as amended (11.01.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 5, S.I. No. 5 of 2014.

Proceedings heard otherwise than in public.

40. —

(2) For the purposes of this section each of the following shall be a "relevant enactment"—

...

(i) section 38 of the Act of 1995;

...

(3) Nothing contained in a relevant enactment shall operate to prohibit—

(*a*) the preparation by a barrister at law or a solicitor or a person falling within any other class of persons specified in regulations made by the Minister and publication of a report of proceedings to which the relevant enactment relates, or

(*b*) the publication of the decision of the court in such proceedings, in accordance with rules of court, provided that the report or decision does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in *paragraph (a)* may, for the purposes of preparing **[**such a report—

(i) attend the proceedings, and

(ii) have access to any relevant documents,

subject to any directions the court may give in that behalf.**]**

[(3A) (*a*) Subject to *paragraph (b)*, nothing contained in a relevant enactment shall operate to prohibit bona fide representatives of the Press from attending proceedings to which the relevant enactment relates.

(*b*) Subject to *paragraphs (c)* and *(d)*, where, in proceedings under a relevant enactment, a court is satisfied that it is necessary to do so—

(i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,

(ii) by reason of the nature or circumstances of the case, or

(iii) as it is otherwise necessary in the interests of justice,

the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—

(I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or

(II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,

and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.

(*c*) In determining whether or not to make an order under *paragraph (b)*, a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

(v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;

(vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;

(vii) whether information given or likely to be given in evidence is commercially sensitive information; and

(viii) whether information of the type referred to in *subparagraphs (iii)*, *(vi)* and *(vii)* when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

(*d*) In considering the views of a child referred to in *clause (II)* of *paragraph (c)(ii)*, a court shall take account of the age and level of maturity of the child concerned.

(*e*) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in *subparagraph (vi)* of *paragraph (c)*, an application under *paragraph (b)* may be made by or on behalf of the Director of Public Prosecutions.

(*f*) In this subsection—

"commercially sensitive information" means—

(i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or

(ii) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

"party to the proceedings" includes a witness in the proceedings;

"sensitive personal information" means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—

(i) information relating to the medical, psychiatric or psychological history of the person,

(ii) information relating to the tax affairs of the person,

(iii) information relating to the sexual conduct or sexual orientation of the person.**]**

(4) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from supplying copies of, or extracts from, orders made in the proceedings to such persons and in accordance with such conditions (if any) as may be prescribed by order of the Minister.

(5) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from being accompanied, in such proceedings, in court by another person subject to the approval of the court and any directions it may give in that behalf.

(6) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the production of a document prepared for the purposes or in contemplation of such proceedings or given in evidence in such proceedings, to—

(*a*) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(*b*) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(7) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to—

(*a*) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(*b*) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(8) A court hearing proceedings under a relevant enactment shall, on its own motion or on the application of one of the parties to the proceedings, have discretion to order disclosure of documents, information or evidence connected with or arising in the course of the proceedings to third parties if such disclosure is required to protect the legitimate interests of a party or other person affected by the proceedings.

(9) A hearing, inquiry or investigation referred to in *subsection (6)* or *(7)* shall, in so far as it relates to a document referred to in subsection (6) or information or evidence referred to in *subsection (7)*, be conducted otherwise than in public and no such document, information or evidence shall be published.

(10) This section shall apply to proceedings brought, and decisions of a court made, whether before or after the commencement of this section.

[(11) In *subsection (3)*, "relevant documents", in relation to any proceedings referred to in that subsection—

(*a*) subject to *paragraph (b)*, means—

(i) the petition, summons or other originating document in the proceedings,

(ii) pleadings and other documents (including the terms of settlement, if any) produced to or lodged with the court, or included in the book of pleadings, in the course of the proceedings, and

(iii) any order made by the court in the proceedings,

(*b*) does not include any document the contents of which are expressed to be without prejudice or in terms having a like effect.**]**

Exercise of jurisdiction by court in relation to nullity.

39.—(1) The court may grant a decree of nullity if, but only if, one of the following requirements is satisfied:

(*a*) either of the spouses concerned was domiciled in the State on the date of the institution of the proceedings concerned,

(*b*) either of the spouses was ordinarily resident in the State throughout the period of one year ending on that date,

(*c*) either of the spouses died before that date and—

(i) was at the time of death domiciled in the State, or

(ii) had been ordinarily resident in the State throughout the period of one year ending on that date.

(2) Where proceedings are pending in a court in respect of an application for the grant of a decree of nullity or in respect of an appeal from the determination of such an application and the court has or had, by virtue of *subsection (1)*, jurisdiction to determine the application, the court, notwithstanding section 31 (4) of the Act of 1989, shall have jurisdiction to determine an application for the grant of a decree of judicial separation in respect of the marriage concerned.

Annotations

Modifications (not altering text):

C9 Application of subs. (1) restricted (1.08.2022) by *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), reg. 7(c), in effect as per reg. 1(2).

Non-applicability of certain statutory provisions.

7. The following provisions shall not have effect in relation to proceedings to which the Council Regulation (other than Article 6) applies:

...

(*c*) sections 29 and 39(1) of the Family Law Act 1995 (No. 26 of 1995);

...

C10 Application of subs. (1) restricted (1.03.2005) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 7(c), in effect as per reg. 1(2).

Non-applicability of certain statutory provisions.

7. The following provisions shall not have effect in relation to proceedings to which the Council Regulation (other than Article 7) applies:

...

(*c*) sections 29 and 39(1) of the Family Law Act 1995;

...

C11 Application of section restricted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 39(2) and (3), commenced as per s. 1(2).

Exercise of jurisdiction by court in relation to divorce.

39. — ...

(2) Where proceedings are pending in a court in respect of an application for the grant of a decree of divorce or in respect of an appeal from the determination of such an application and the court has or had, by virtue of subsection (1), jurisdiction to determine the application, the court shall, notwithstanding section 31(4) of the Act of 1989 or section 39 of the Act of 1995, as the case may be, have jurisdiction to determine an application for the grant of a decree of judicial separation or a decree of nullity in respect of the marriage concerned.

(3) Where proceedings are pending in a court in respect of an application for the grant of a decree of nullity or in respect of an appeal from the determination of such an application and the court has or had, by virtue of section 39 of the Act of 1995, jurisdiction to determine the application, the court shall, notwithstanding subsection (1), have jurisdiction to determine an application for the grant of a decree of divorce in respect of the marriage concerned.

...

Editorial Notes:

E39 Previous affecting provision: application of subs. (1) restricted (23.10.2001) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2001* (S.I. No. 472 of 2001), reg. 3; revoked (1.03.2005) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 11, in effect as per reg. 1(2).

Notice of proceedings under Act.

40.—Notice of any proceedings under this Act shall be given by the person bringing the proceedings to—

(*a*) the other spouse concerned or, as the case may be, the spouses concerned, and

(*b*) any other person specified by the court.

Secured maintenance orders.

41.—Where, in proceedings under any other Act, the court or the District Court makes or has made an order providing for the payment—

(*a*) by a spouse to the other spouse of periodical payments for the support or maintenance of F55**[**that other spouse,**]**

(*b*) by a parent to the other parent or to another person specified in the order of periodical payments for the support or maintenance of a child—

(i) of both parents or adopted by both parents under the Adoption Acts, 1952 to 1991, or in relation to whom both parents are *in loco parentis*, or

(ii) of either parent or adopted by either parent under those Acts or in relation to whom either parent is *in loco parentis* where the other parent being aware that he or she is not the parent of the child has treated the child as a member F55**[**of the family, or**]**

F56**[**(*c*) by a cohabitant to a parent of the child, or to another person specified in the order, of periodical payments for the support of a child,**]**

the court by which the order was made may in those proceedings or subsequently, on application to it by any person having an interest in the proceedings, F55**[**order the person liable**]** to make the payments under the order to secure them to the other spouse or parent or the other person specified in the order to the satisfaction of the court.

Annotations

Amendments:

F55 Substituted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 90(a), (b) and (d), S.I. No. 12 of 2016.

F56 Inserted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 90(c), S.I. No. 12 of 2016.

Modifications (not altering text):

C12 References to adoptions etc. under the *Adoption Acts 1952 to 1998* to be read as referring to adoptions etc. made under the *Adoption Act 2010* as provided (1.11.2010) by *Adoption Act 2010* (21/2010), s. 156(1), S.I. No. 511 of 2010.

References to adoptions, etc.

156.—(1) Every reference in any Act or in any instrument made under any Act, however expressed, to adoptions or adoption orders or adopted persons under any or all of the Adoption Acts 1952 to 1998 shall be read as a reference to adoptions or adoption orders made under this Act, or persons adopted under an adoption order made under this Act, as the case may be.

...

Editorial Notes:

E40 Certain gifts or inheritances taken by virtue or in consequence of orders referred to in subs. (a) are exempted from capital acquisitions tax (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(c), commenced on enactment; as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

E41 Previous affecting provision: certain gifts or inheritances taken by virtue or in consequence of orders referred to in subs. (a) are exempted from capital acquisitions tax (10.05.1997) by *Finance Act 1997* (22/1997), s. 142(1) and (2)(c), commenced on enactment; superseded (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(c), commenced on enactment; as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

Lump sum maintenance orders.

42.—(1) Where, in proceedings under any other Act, an order providing for the periodical payments referred to in F57**[***paragraph (a), (b)* or *(c)* of *section 41***]** would, apart from this section, fall to be made, the court may in addition to, or instead of such an order, make an order providing for the making by the person concerned to the person concerned of a lump sum payment or lump sum payments of such amount or amounts and at such time or times as may be specified in the order.

(2) The amount or aggregate amount of a lump sum payment or of lump sum payments to a person under an order under this section shall be—

(*a*) if the order is instead of an order for the making of periodical payments to the person, such amount as the court considers appropriate having regard to the amount of the periodical payments that would have been made, and the periods during which and the times at which they would have been made, but for this section, and

(*b*) if the first-mentioned order is in addition to an order for the making of periodical payments to the person, such amount as the court considers appropriate having regard to the amount of the periodical payments and the periods during which and the times at which they will be made.

F58**[**(2A) Where the court makes an order under *subsection (1)* that is for the benefit of a child, the court may specify in the order the manner in which, or purpose for which, the payment or payments referred to in that subsection are to be applied, including in providing suitable accommodation for the child to whom the order relates.**]**

(3) In this section "the court" includes the District Court.

(4) The amount or aggregate amount of a lump sum payment or of lump sum payments provided for in an order of the District Court under this section shall not exceed F59**[**€15,000.**]**

Annotations

Amendments:

F57 Substituted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 91(a), S.I. No. 12 of 2016.

F58 Inserted (18.01.2016) by *Children and Family Relationships Act 2015* (9/2015), s. 91(b), S.I. No. 12 of 2016.

F59 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 15 and sch. pt. 2 item 10, S.I. No. 566 of 2013.

Editorial Notes:

E42 Certain gifts or inheritances taken by virtue or in consequence of orders made under subs. (1) exempted from capital acquisitions tax (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(c), commenced on enactment; as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

E43 Previous affecting provision: subs. (4) amended by *Courts and Court Officers Act 2002* (15/2002), s. 14 and sch. 2 part 2, not commenced; repealed (23.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 2(1), S.I. No. 566 of 2013.

E44 Previous affecting provision: certain gifts or inheritances taken by virtue or in consequence of orders made under subs. (1) exempted from capital acquisitions tax (10.05.1997) by *Finance Act 1997* (22/1997), s. 142(1) and (2)(c), commenced on enactment; superseded (21.02.2003) by *Capital Acquisitions Tax Consolidation Act 2003* (1/2003), s. 88(1) and (2)(c), commenced on enactment; as substituted (1.01.2011) by *Finance (No. 3) Act 2011* (18/2011), s. 3 and sch. 3 item 21, commenced as per s. 5(8)(e).

Amendment of Act of 1976.

43.—The Act of 1976 is hereby amended by—

(*a*) in section 3—

(i) in the definition of "antecedent order", the substitution of the following paragraphs for paragraph (*j*):

"(*j*) an order for maintenance pending suit under the Judicial Separation and Family Law Reform Act, 1989, or a periodical payments order under that Act,

(*k*) a maintenance pending suit order under the *Family Law Act, 1995*, or a periodical payments order under that Act;",

and

F60**[**(ii) in the definition of "dependent child" the substitution of "18" for "sixteen" and "23" for "twenty-one", and**]**

(*b*) in section 6 (3), the substitution of "18" for "sixteen" and "23" for "twenty-one",

(*c*) the insertion of the following section after section 8A (inserted by the Status of Children Act, 1987):

"Preservation of pension entitlements in separation agreements.

8B.—(1) Subject to the provisions of this section, on an application to the High Court or the Circuit Court under section 8 of this Act, the Court may, on application to it in that behalf by either of the spouses concerned, make an order directing the trustees of a pension scheme of which either or both of the spouses are members, not to regard the separation of the spouses by agreement as a ground for disqualifying either of them for the receipt of a benefit under the scheme a condition for the receipt of which is that the spouses should be residing together at the time when the benefit becomes payable.

(2) Notice of an application under subsection (1) shall be given by the spouse concerned to the trustees of the pension scheme concerned and, in deciding whether to make an order under subsection (1), the Court shall have regard to any order made, or proposed to be made, by it in relation to the application by the spouse or spouses concerned under section 8 of this Act and any representations made by those trustees in relation to the matter.

(3) Any costs incurred by the trustees of a pension scheme under subsection (2) or in complying with an order under subsection (1) shall be borne, as the court may determine, by either of the spouses concerned or by both of the spouses and in such proportions and such manner as the Court may determine.

(4) In this section 'pension scheme' has the meaning assigned to it by the *Family Law Act, 1995*.",

(*d*) in section 10—

(i) the insertion of the following subsection after subsection (1):

"(1A) (*a*) Where a court has made an antecedent order, it shall in the same proceedings, subject to subsection (3), make an attachment of earnings order in order to secure payments under the antecedent order if it is satisfied that the maintenance debtor is a person to whom earnings fall to be paid.

(*b*) References in this subsection to an antecedent order made by a court include references to such an order made, varied or affirmed on appeal from that court.",

and

(ii) in subsection (2), the insertion, after "employment" of "or is a trustee (within the meaning of the *Family Law Act, 1995*) of a pension scheme

(within the meaning aforesaid) under which the maintenance debtor is receiving periodical pension benefits", and

(iii) the substitution for subsection (3) of the following subsection:

"(3) (*a*) Before deciding whether to make or refuse to make an attachment of earnings order, the court shall give the maintenance debtor concerned an opportunity to make the representations specified in paragraph (*b*) in relation to the matter and shall have regard to any such representations made by the maintenance debtor.

(*b*) The representations referred to in paragraph (*a*) are representations relating to the questions—

(i) whether the spouse concerned is a person to whom such earnings as aforesaid fall to be paid, and

(ii) whether he or she would make the payments to which the relevant order relates.",

and

F61**[**(*e*) in section 23, after subsection (2), the insertion of the following subsections:

"(3) In proceedings under this Act—

(*a*) each of the spouses concerned shall give to the other spouse and to, or to a person acting on behalf of, any dependent member of the family concerned, and

(*b*) any dependent member of the family concerned shall give to, or to a person acting on behalf of, any other such member and to each of the spouses concerned,

such particulars of his or her property and income as may reasonably be required for the purpose of the proceedings.

(4) Where a person fails or refuses to comply with subsection (3), the Court, on application to it in that behalf by a person having an interest in the matter, may direct the person to comply with that subsection.".**]**

Annotations

Amendments:

F60 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(o)(i), commenced as per s. 1(2).

F61 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(o)(ii), commenced as per s. 1(2).

Discharge of orders under Act of 1976.

44.—Where, while a maintenance order, an order varying a maintenance order, or an interim order, under the Act of 1976 is in force, an application is made to the court by a spouse to whom the order aforesaid relates for an order granting a decree of judicial separation or an order under *Part II* or *III*, the court may by order discharge the order aforesaid under the Act of 1976 as on and from such date as may be specified in the order.

Amendment of Maintenance Act, 1994.

45.—The Maintenance Act, 1994, is hereby amended—

(*a*) in section 3, in subsection (1), by the insertion of the following definition:

"'the Act of 1995' means the *Family Law Act, 1995*",

(*b*) in section 4, in subsection (2) (*a*), by the insertion of ", 1995" after "(as amended by this Act)",

(*c*) in section 14—

(i) in subsection (1) (*c*), by the substitution of the following subparagraph for subparagraph (i):

"(i) if the amount of maintenance sought to be recovered exceeds the maximum amount which the District Court has jurisdiction to award under the Act of 1976 or, if the request is for a relief order within the meaning of the Act of 1995, make an application to the Circuit Court,",

(ii) in subsection (3), by the insertion after "1976" of "or a relief order within the meaning of the Act of 1995, as may be appropriate", and

(iii) in subsection (4), by the substitution of the following paragraph for paragraph (*e*):

"(*e*) pending the final determination of the application, make an interim order under section 7 of the Act of 1976 or an order under *section 24* of the Act of 1995.".

Custody of dependent members of the family after decree of nullity.

46.—Where the court makes an order for the grant of a decree of nullity, it may declare either of the spouses concerned to be unfit to have custody of any dependent member of the family who is a minor and, if it does so and the spouse to whom the declaration relates is a parent of any dependent member of the family who is a minor, that spouse shall not, on the death of the other spouse, be entitled as of right to the custody of that minor.

Social reports in family law proceedings.

47.—(1) In proceedings to which this section applies, the court may, of its own motion or on application to it in that behalf by a party to the proceedings, by order give such directions as it thinks proper for the purpose of procuring a report in writing on any question affecting the welfare of a party to the proceedings or any other person to whom they relate from—

(*a*) such probation and welfare officer (within the meaning of the Child Abduction and Enforcement of Custody Orders Act, 1991) as the Minister for Justice may nominate,

F62**[**(*b*) such person nominated by the F63**[**Child and Family Agency**]** specified in the order as the F63**[**Child and Family Agency**]** may nominate, being a person who in its opinion is suitably qualified for the purpose, or**]**

(*c*) any other person specified in the order.

(2) In deciding whether or not to make an order under subsection (1), the court shall have regard to any submission made to it in relation to the matter by or on behalf of a party to the proceedings concerned or any other person to whom they relate.

(3) A copy of a report under *subsection (1)* shall be given to the parties to the proceedings concerned and (if he or she is not a party to the proceedings) to the person to whom it relates and may be received in evidence in the proceedings.

(4) The fees and expenses incurred in the preparation of a report under *subsection (1)* shall be paid by such parties to the proceedings concerned and in such proportions, or by such party to the proceedings, as the court may determine.

(5) The court or a party to proceedings to which this section applies may call as a witness in the proceedings a person who prepared a report under *subsection (1)* pursuant to an order under that subsection in those proceedings.

(6) F64**[**This section**]** applies to proceedings—

(*a*) under the Act of 1964,

(*b*) under the Act of 1976,

(*c*) under the Family Home Protection Act, 1976,

F65**[**(*d*) under the Act of 2018,**]**

(*e*) under the Status of Children Act, 1987,

(*f*) under the Act of 1989,

(*g*) under the Child Abduction and Enforcement of Custody Orders Act, 1991,

(*h*) in relation to an application for a decree of nullity, and

(*i*) under this Act.

(7) F66**[**...**]**

Annotations

Amendments:

F62 Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 13, S.I. No. 887 of 2004.

F63 Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 92 and sch. 2 part 6 item 1, S.I. No. 502 of 2013.

F64 Substituted (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(p)(a), commenced as per s. 1(2).

F65 Substituted (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 45(1)(g), S.I. No. 532 of 2018.

F66 Deleted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 13, S.I. No. 887 of 2004.

Modifications (not altering text):

C13 Application of section extended (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 42, commenced as per s. 1(2).

Social reports in family law proceedings

42.—Section 47 of the Act of 1995 shall apply to proceedings under this Act.

Editorial Notes:

E45 Previous affecting provision: subs. (7) amended (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 52(p)(b), commenced as per s. 1(2); deleted as per F-note above.

E46 Previous affecting provision: subs. (6)(d) substituted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 21(d), commenced as per s. 25(1); substituted as per F-note above.

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.

Income tax treatment of persons divorced outside State.

49.—F67**[...]**

Annotations

Amendments:

F67 Repealed (6.04.1997) by *Finance Act 1997* (22/1997), s. 5(b), commenced as per s. 166(9).

Exemption of certain transfers from stamp duty.

50.—F68**[...]**

Annotations

Amendments:

F68 Repealed (10.05.1997) by *Finance Act 1997* (22/1997), s. 127(4), commenced on enactment.

Exemption of certain transfers from capital acquisitions tax.

51.—F69**[...]**

Annotations

Amendments:

F69 Repealed (10.05.1997) by *Finance Act 1997* (22/1997), s. 142(3), commenced on enactment.

Capital gains tax treatment of certain disposals by spouses.

52.—F70**[...]**

Annotations

Amendments:

F70 Repealed (1.08.1996) by *Finance Act 1997* (22/1997), s. 72(4), commenced as per s. 72(5).

Abatement and postponement of probate tax on property the subject of an order under *section 25*.

53.—F71**[...]**

Annotations

Amendments:

F71 Repealed (10.05.1997) by *Finance Act 1997* (22/1997), s. 143(2), commenced on enactment.

Amendment of Family Home Protection Act, 1976, and Act of 1989.

54.—(1) The Family Home Protection Act, 1976, is hereby amended—

(*a*) in section 2, by the substitution of the following subsection for subsection (2):

"(2) In subsection (1), 'dwelling' means any building or part of a building occupied as a separate dwelling and includes any garden or other land usually occupied with the dwelling, being land that is subsidiary and ancillary to it, is required for amenity or convenience and is not being used or developed primarily for commercial purposes, and includes a structure that is not permanently attached to the ground and a vehicle, or vessel, whether mobile or not, occupied as a separate dwelling.",

(*b*) in section 3—

(i) by the substitution in subsection (1) of "subsections (2), (3) and (8)" for "subsections (2) and (3)", and

(ii) by the insertion of the following subsections after subsection (7):

"(8) (*a*) (i) Proceedings shall not be instituted to have a conveyance declared void by reason only of subsection (1) after the expiration of 6 years from the date of the conveyance.

(ii) Subparagraph (i) does not apply to any such proceedings instituted by a spouse who has been in actual occupation of the land concerned from immediately before the expiration of 6 years from the date of the conveyance concerned until the institution of the proceedings.

(iii) Subparagraph (i) is without prejudice to any right of the other spouse referred to in subsection (1) to seek redress for a contravention of that subsection otherwise than by proceedings referred to in that subparagraph.

(*b*) A conveyance shall be deemed not to be and never to have been void by reason of subsection (1) unless—

(i) it has been declared void by a court by reason of subsection (1) in proceedings instituted—

(I) before the passing of the *Family Law Act, 1995*, or

(II) on or after such passing and complying with paragraph (*a*),

or

(ii) subject to the rights of any other person concerned, it is void by reason of subsection (1) and the parties to the conveyance or their successors in title so state in writing before the expiration of 6 years from the date of the conveyance.

(*c*) A copy of a statement made for the purpose of subparagraph (ii) of paragraph (*b*) and certified by, or by the successor or successors in title of, the party or parties concerned ('the person or persons') to be a true copy shall, before the expiration of the period referred to in that subparagraph, as appropriate, be lodged by the person or persons in the Land Registry for registration pursuant to section 69 (1) of the Registration of Title Act, 1964, as if statements so made had been prescribed under paragraph (*s*) of the said section 69 (1) or be registered by them in the Registry of Deeds.

(*d*) Rules of court shall provide that a person who institutes proceedings to have a conveyance declared void by reason of subsection (1) shall, as soon as may be, cause relevant particulars of the proceedings to be entered as a *lis pendens* under and in accordance with the Judgments (Ireland) Act, 1844.

(9) If, whether before or after the passing of the *Family Law Act, 1995*, a spouse gives a general consent in writing to any future conveyance of any interest in a dwelling that is or was the family home of that spouse and the deed for any such conveyance is executed after the date of that consent, the consent shall be deemed, for the purposes of subsection (1), to be a prior consent in writing of the spouse to that conveyance.", and

(*c*) in section 10, by the substitution of the following subsection for subsection (5)—

"(5) (*a*) The District Court shall, subject to subsection (3), have all the jurisdiction of the High Court to hear and determine proceedings under this Act where the rateable valuation of the land to which the proceedings relate does not exceed £20.

(*b*) The District Court shall, subject to subsection (3), have jurisdiction to deal with a question arising under section 9 where the value of the household chattels intended to be disposed of or removed or actually disposed of or removed, as the case may be, does not exceed £5,000 or where such chattels are or immediately before such disposal or removal, were in a family home the rateable valuation of which does not exceed £20.

(*c*) The District Court may, for the purpose of determining whether it has jurisdiction in proceedings under this Act in relation to a family home that has not been given a rateable valuation or is the subject with other land of a rateable valuation, determine that its rateable valuation would exceed, or would not exceed, £20.".

(2) The amendment effected by *subsection (1) (a)* does not apply in relation to—

(*a*) any conveyances referred to in section 3 of the Family Home Protection Act, 1976, the dates of which are,

(*b*) any proceedings under or referred to in that Act which are instituted,

(*c*) any thing referred to in section 6 of that Act which is done, and

(*d*) any transactions referred to in section 14 of that Act which occur,

before the commencement of this section.

(3) Where a court, when granting a decree of judicial separation under the Act of 1989, orders that the ownership of the family home shall be vested in one of the spouses, it shall, unless it sees reason to the contrary, order that section 3 (1) (prior consent of spouse to conveyance of interest in family home) of the Family Home Protection Act, 1976, shall not apply to any conveyance by that spouse of an interest

in the home and, if the court so orders, the said section 3 (1) shall have effect accordingly.

Amendment of Child Abduction and Enforcement of Custody Orders Act, 1991.

55.—Section 2 of the Child Abduction and Enforcement of Custody Orders Act, 1991, shall be amended as follows:

(*a*) "'the Minister' means the Minister for Equality and Law Reform" shall be substituted for the definition of "the Minister", and

(*b*) "the Minister for Justice" shall be substituted for "the Minister" in the definition of "probation and welfare officer".

Section 3.

SCHEDULE

Enactments Repealed

Year & Chapter or Number & Year	Short Title	Extent of Repeal
1844, c.81	Marriages (Ireland) Act,1844	In section 9, ", and that they are both of the full age of twenty-one years, or, when either of the parties shall be under the age of twenty-one years, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is no person having authority to give such consent, or that such party is a widower or widow, as the case may be"
		Sections 19 and 25 In section 22, ", and that they are both of the full age of twenty-one years, or, where either of the parties shall be under the age of twenty-one years, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is no person having authority to give such consent, or that such party is a widower or widow, as the case may be"
1868, c.20	Legitimacy Declaration Act, (Ireland), 1868	Section 1
1863, c. 27	Marriage Law (Ireland) Amendment Act, 1863	In section 4, the words from "and when either of the Parties intending marriage" to "whose consent to such Marriage is by Law required;" In Schedule (B), the fourth paragraph

1870, c.110	Matrimonial Causes and Marriage Law (Ireland) Amendment Act, 1870	In section 35, the words "Whenever a marriage shall not be had within three calendar months after the notice shall have been so given to the person so appointed as aforesaid, the notice, and any licence which may have been granted thereupon, shall be utterly void." and the words ", and that they are both of the full age of twenty-one years, or, where either of the parties shall be under the age of twenty-one years, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is no person having authority to give such consent, or that such person is a widower or widow, as the case may be" Section 41
No. 5 of 1957	Married Women's Status Act, 1957	Section 12
No. 30 of 1972	Marriages Act, 1972	Sections 1 and 18
No. 6 of 1989	Judicial Separation and Family Law Reform Act, 1989	Part II (other than section 25) and sections 39 and 40

ACTS REFERRED TO

Adoption Acts, 1952 to 1991	
Capital Acquisitions Tax Act, 1976	1976, No. 8
Child Abduction and Enforcement of Custody Orders Act, 1991	1991, No. 6
Defence Act, 1954	1954, No. 18
Enforcement of Court Orders Act, 1940	1940, No. 23
Family Home Protection Act, 1976	1976, No. 27
Family Law Act, 1981	1981, No. 22
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 11
Family Law (Protection of Spouses and Children) Act, 1981	1981, No. 21
Finance (1909-10) Act, 1910	10 Edw. 7, c. 8

Finance Act, 1972	1972, No. 19
Finance Act, 1983	1983, No. 15
Finance Act, 1993	1993, No. 13
Finance Act, 1994	1994, No. 13
Guardianship of Infants Act, 1964	1964, No. 7
Income Tax Act, 1967	1967, No. 6
Insurance Act, 1989	1989, No. 3
Judgments (Ireland) Act, 1844	1844, c. 90
Judicial Separation and Family Law Reform Act, 1989	1989, No. 6
Jurisdiction of Courts and Enforcement of Judgments Acts, 1988 and 1993	
Legitimacy Declaration Act, (Ireland), 1868	1868, c. 20
Maintenance Act, 1994	1994, No. 28
Marriages Act, 1972	1972, No. 30
Marriages (Ireland) Act, 1844	1844, c. 81
Marriage Law (Ireland) Amendment Act, 1863	1863, c. 27
Married Women's Status Act, 1957	1957, No. 5
Matrimonial Causes and Marriage Law (Ireland) Amendment Act, 1870	1870, c. 110
Partition Act, 1868	1868, c. 40
Partition Act, 1876	1876, c. 17
Pensions Act, 1990	1990, No. 25
Registration of Marriages (Ireland) Act, 1863	1863, c. 90
Registration of Title Act, 1964	1964, No. 16
Status of Children Act, 1987	1987, No. 26
Succession Act, 1965	1965, No. 27

Number 26 *of* 1995

FAMILY LAW ACT 1995

REVISED

Updated to 1 August 2022

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

- *Domestic Violence Act 2018* (6/2018)
- *Mediation Act 2017* (27/2017)
- *Children and Family Relationships Act 2015* (9/2015)
- *Child and Family Agency Act 2013* (40/2013)
- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013)
- *Finance (No. 3) Act 2011* (18/2011)

- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Adoption Act 2010* (21/2010)
- *Fines Act 2010* (8/2010)
- *Land and Conveyancing Law Reform Act 2009* (27/2009)
- *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008)
- *Social Welfare and Pensions Act 2008* (2/2008)
- *Finance Act 2006* (6/2006)
- *Health Act 2004* (42/2004)
- *Civil Liability and Courts Act 2004* (31/2004)
- *Civil Registration Act 2004* (3/2004)
- *Capital Acquisitions Tax Consolidation Act 2003* (1/2003)
- *Pensions (Amendment) Act 2002* (18/2002)
- *Courts and Courts Officers Act 2002* (15/2002)
- *Finance Act 2000* (3/2000)
- *Stamp Duties Consolidation Act 1999* (31/1999)
- *Taxes Consolidation Act 1997* (39/1997)
- *Finance Act 1997* (22/1997)
- *Family Law (Miscellaneous Provisions) Act 1997* (18/1997)
- *Family Law (Divorce) Act 1996* (33/1996)
- *Pensions (Amendment) Act 1996* (18/1996)
- *Domestic Violence Act 1996* (1/1996)
- *Pensions Act 1990* (25/1990)

All Acts up to and including *Electoral Reform Act 2022* (30/2022), enacted 25 July 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022)
- *Land Registration Rules 2012* (S.I. No. 483 of 2012)
- *Pension Schemes (Family Law) (Amendment) Regulations 2012* (S.I. No. 254 of 2012)
- *Occupational Pension Schemes (Disclosure of Information) (Amendment) (No. 3) Regulations 2012* (S.I. No. 203 of 2012)
- *Registration of Deeds Rules 2009* (S.I. No. 350 of 2009)
- *Land Registration Rules 2009* (S.I. No. 349 of 2009)
- *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008)
- *Trust Racs (Disclosure of Information) Regulations 2007* (S.I. No. 182 of 2007)
- *Occupational Pension Schemes (Disclosure Of Information) Regulations 2006* (S.I. No. 301 of 2006)
- *Occupational Pension Schemes (Disclosure Of Information) Regulations 2005* (S.I. No. 633 of 2005)
- *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005)
- *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2001* (S.I. No. 472 of 2001)
- *Occupational Pension Schemes (Disclosure of Information) (No. 2) Regulations 1998* (S.I. No. 349 of 1998)
- *Equality and Law Reform (Transfer of Departmental Administration and Ministerial Functions) Order 1997* (S.I. No. 297 of 1997)
- *Pension Schemes (Family Law)Regulations 1997* (S.I. No. 107 of 1997)
- *Occupational Pension Scheme (Family Law Act, 1995) Regulations 1997* (S.I. No. 64 of 1997)
- *Order Entitled Family Law Act 1995 (Commencement) Order 1996* (S.I. No. 46 of 1996)

All statutory instruments up to and including *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), made 31 July 2022, were considered in the preparation of this revision.