

Nullity of Marriage Act 1971

1971 CHAPTER 44

An Act to restate, with certain alterations, the grounds on which a marriage is void or voidable and the bars to the grant of a decree of nullity on the ground that a marriage is voidable; to alter the effect of decrees of nullity in respect of voidable marriages; and to abolish certain remaining bars to the grant of matrimonial relief.

[1st July 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Grounds on which a marriage is void.

1. A marriage which takes place after the commencement of this Act shall be void on the following grounds only, that is to say—

(*a*) that it is not a valid marriage under the provisions of the Marriages Acts 1949 to 1970 (that is to say where—

(i) the parties are within the prohibited degrees of relationship;

(ii) either party is under the age of sixteen; or

(iii) the parties have intermarried in disregard of certain requirements as to the formation of marriage);

(*b*) that at the time of the marriage either party was already lawfully married;

(*c*) that the parties are not respectively male and female.

Grounds on which a marriage is voidable.

2. A marriage which takes place after the commencement of this Act shall be voidable on the following grounds only, that is to say—

(*a*) that the marriage has not been consummated owing to the incapacity of either party to consummate it;

(*b*) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it;

(*c*) that either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;

(*d*) that at the time of the marriage either party, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder within the meaning of the Mental Health Act 1959 of such a kind or to such an extent as to be unfitted for marriage;

1959 c. 72.

(*e*) that at the time of the marriage the respondent was suffering from venereal disease in a communicable form;

(*f*) that at the time of the marriage the respondent was pregnant by some person other than the petitioner.

Bars to relief where marriage is voidable.

3.—(1) The court shall not, in proceedings instituted after the commencement of this Act, grant a decree of nullity on the ground that a marriage is voidable (whether the marriage took place before or after the commencement of this Act) if the respondent satisfies the court—

(*a*) that the petitioner, with knowledge that it was open to him to have the marriage avoided, so conducted himself in relation to the respondent as to lead the respondent reasonably to believe that he would not seek to do so; and

(*b*) that it would be unjust to the respondent to grant the decree.

(2) Without prejudice to subsection (1) of this section, the court shall not grant a decree of nullity by virtue of section 2 of this Act on the grounds mentioned in paragraph (*c*), (*d*), (*e*) or (*f*) of that section unless it is satisfied that proceedings were instituted within three years from the date of the marriage.

(3) Without prejudice to subsections (1) and (2) of this section, the court shall not grant a decree of nullity by virtue of section 2 of this Act on the grounds mentioned in paragraph (*e*) or (*f*) of that section unless it is satisfied that the petitioner was at the time of the marriage ignorant of the facts alleged.

(4) Subsection (1) of this section replaces, in relation to any decree to which it applies, any rule of law whereby a decree may be refused by reason of approbation, ratification or lack of sincerity on the part of the petitioner or on similar grounds, but, in relation to a marriage which took place before the commencement of this Act, is without prejudice to section 9(2) of the Matrimonial Causes Act 1965.

1965 c. 72.

(5) In this section "the court" has the same meaning as in the Matrimonial Causes Act 1965.

Marriages governed by foreign law or celebrated abroad under English law.

4.—(1) Where, apart from this Act, any matter affecting the validity of a marriage would fall to be determined (in accordance with the rules of private international law) by reference to the law of a country outside England and Wales, nothing in section 1, 2 or 3(1) of this Act shall—

(*a*) preclude the determination of that matter as aforesaid; or

(*b*) require the application to the marriage of the grounds or bar there mentioned except so far as applicable in accordance with those rules.

(2) In the case of a marriage which purports to have been celebrated under the Foreign Marriages Acts 1892 to 1947 or has taken place outside England and Wales and purports to be a marriage under common law, section 1 of this Act is without prejudice to any ground on which the marriage may be void under those Acts or, as the case may be, by virtue of the rules governing the celebration of marriages outside England and Wales under common law.

Effect of decree of nullity in case of voidable marriage.

5. A decree of nullity granted after the commencement of this Act on the ground that a marriage is voidable shall operate to annul the marriage only as respects any time after the decree has been made absolute, and the marriage shall, notwithstanding the decree, be treated as if it had existed up to that time.

Collusion etc., not to be bar to relief in cases of nullity or under s. 14 of Act of 1965.

6.—(1) Collusion shall not be a bar to the granting of a decree of nullity whether the marriage took place, or the proceedings were instituted, before or after the commencement of this Act.

(2) It is hereby declared that neither collusion nor any other conduct on the part of the petitioner which has at any time been a bar to relief in matrimonial proceedings constitutes a bar to the grant of a decree under section 14 of the Matrimonial Causes Act 1965 (presumption of death and dissolution of marriage).

1965 c. 72.

Short title, consequential amendments and repeals, saving, commencement and extent.

7.—(1) This Act may be cited as the Nullity of Marriage Act 1971.

(2) In section 40(1)(*a*) of the Matrimonial Causes Act 1965 (additional jurisdiction in proceedings under that Act by wife) after the words in brackets there shall be inserted the words " or under the Nullity of Marriage Act 1971 "; and in section 2 of the Limitation (Enemies and War Prisoners) Act 1945, at the end of the definition of " statute of limitation ", there shall be added the words " section 3(2) of the Nullity of Marriage Act 1971 ".

1945 c. 16.

(3) The following provisions of the said Act of 1965 are hereby repealed, that is to say—

section 6(1)(*c*) as applied by sections 10 and 14;

in section 7, as applied by sections 10 and 14, the words from " either " to " collusion or ";

section 9, except in relation to marriages taking place before the commencement of this Act.

(4) Nothing in this Act affects any law or custom relating to the marriage of members of the Royal Family.

(5) This Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.

(6) This Act does not extend to Scotland or Northern Ireland.