

## MATRIMONIAL CAUSES (AMENDMENT) ACT.

### Act No. 43, 1951.

An Act to amend the Matrimonial Causes Act 1899, the District Courts Act, 1912, and certain other Acts in certain respects; to remove doubts as to the validity of certain proceedings in the matrimonial causes jurisdiction of the Supreme Court and of certain decrees and orders pronounced and made by the said Court; to validate certain matters: and for purposes connected therewith. [Assented to, 10th December, 1951.]

George VI.  
No. 43, 1951.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1951."

Short title  
and  
citation.

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1951.

(3)

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(3) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Acts, 1912-1951.

**Amendment  
of Act No.  
23, 1912.**

**2.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended—

**Sec. 132.**  
(Issues of  
fact remitted  
to District  
Court for  
trial.)

(a) by omitting from section one hundred and thirty-two the words “of fact”;

**Sec. 133A.**  
(Questions  
of fact in  
undefended  
matrimonial  
cases.)

(b) (i) by omitting subsection one of section 133A and by inserting in lieu thereof the following subsection:—

(1) The questions reduced into writing upon settlement of the issues in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, where—

- (a) no appearance has been entered;
- (b) the registered office of the solicitor for the petitioner is situated outside the County of Cumberland; and
- (c) it does not appear on the record that the petitioner has committed adultery,

shall, unless it appears that there is sufficient cause to the contrary, be remitted by the Supreme Court to be tried by a judge of a District Court without a jury.

(ii) by inserting at the end of subsection three of the same section the words—

Any such endorsement may be amended, varied or revoked by such registrar or other officer;

(iii) by omitting paragraph (c) of subsection six of the same section.

**Amendment  
of Act No.  
14, 1899.**

**Sec. 3.**  
(Interpre-  
tation.)

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

(a) by inserting in section three at the end of the definition of “The Court” the following new paragraph:—

(3) in the case of any proceeding to which section 93A of this Act applies the registrar or any deputy registrar. (b).

- (b) by omitting section 93A and by inserting in lieu thereof the following section:—

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Subst.  
sec. 93A.

93A. Where questions in any suit have been remitted for trial pursuant to section 133A of the District Courts Act, 1912, as amended by subsequent Acts, the power, authority and jurisdiction in or in respect of such suit (including power, authority and jurisdiction in matters of costs, custody and access) which, but for this section, would be exercisable by the Judge appointed to exercise jurisdiction under this Act or by any Judge acting in his place or having co-ordinate jurisdiction with him, shall be exercisable by the registrar or any deputy registrar.

Decrees in certain cases to be pronounced by registrar.

3. The Matrimonial Causes Act 1899, as amended by subsequent Acts, is further amended by inserting next after section 93A the following new section:—

Further amendment of Act No. 14, 1899.  
New sec. 93B.

93B. (1) Notwithstanding anything contained in section 93A of this Act, where in any matter coming before the registrar or any deputy registrar after the commencement of the Matrimonial Causes (Amendment) Act, 1951, pursuant to section 93A of this Act, it appears to him—

Registrar to refer certain matters to Judge.

- (a) that any respondent party is desirous of being let in to defend the suit;
- (b) that there is ground on which a finding that the petitioner has been an accessory to or has connived at or condoned the matrimonial offence alleged or that the petition is presented or prosecuted in collusion with a respondent might be made;
- (c) that there is ground on which a decree might not be pronounced or the petition might be dismissed pursuant to section nineteen or subsection one of section twenty of this Act;
- (d)

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(d) that the making of any order for costs, custody or access is opposed by any party to the suit appearing before him; or

(e) that a special order under subsection two of section twenty-one upon the pronouncement of a decree *nisi*, is sought by any party,

the registrar or deputy registrar shall not deal with the matter but shall refer the same to the Judge appointed to exercise jurisdiction under this Act or to any Judge acting in his place or having co-ordinate jurisdiction with him.

(2) The power to make general rules conferred by subsection one of section ninety-one of this Act shall, without limiting the generality thereof, extend to include power to make general rules for the purpose of carrying out or giving effect to the provisions of this section and of section 93A of this Act.

Removal of doubts and validation.

4. (1) No remission of questions of fact arising in any suit under the Matrimonial Causes Act 1899, as amended by subsequent Acts, for trial by a judge of a District Court made on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act, pursuant to section 133A (as enacted immediately before the commencement of this Act) of the District Courts Act, 1912, as amended by subsequent Acts, shall be or be deemed ever to have been invalid by reason only of some but not all of the questions of fact arising in the suit having been so remitted.

(2) All proceedings had in the matrimonial causes jurisdiction of the Supreme Court on or after the thirteenth day of February, one thousand nine hundred and fifty, and before the commencement of this Act pursuant to section 93A (as enacted immediately before the commencement of this Act) of the Matrimonial Causes Act 1899, as amended by subsequent Acts, all decrees and orders pronounced or made in the period aforesaid by the registrar or any deputy registrar pursuant to that section and all proceedings subsequent to the pronouncement or making of any such decree or order shall be and be

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be deemed always to have been as valid as if this Act, No. 43, 1951.  
other than section three, had been in force at the date of  
the proceeding, the date of pronouncing or making the  
decree or order, or the date of the subsequent proceeding,  
as the case may be.

(3) No marriage celebrated in New South Wales on  
or after the thirteenth day of February, one thousand  
nine hundred and fifty, shall be deemed or declared  
invalid or be deemed ever to have been invalid by reason  
only of the fact that the marriage was celebrated after  
the making in divorce proceedings of a decree absolute  
which might, but for this Act, have been invalid.

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