

No. , 1957.

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## A BILL

To amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SHEAHAN;—20 November, 1957.]

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**B**E it enacted by the Queen'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  
5 the same, as follows:—

**1.** (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1957".

99969 93—A

(2) Short title,  
citation and  
commence-  
ment.

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*Matrimonial Causes (Amendment).*

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(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1957.

(3) The Deserted Wives and Children Act, 1901,  
5 as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1957.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

10 **2.** The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended— Amendment  
of Act No.  
14, 1899.

(a) by inserting in section three before the definition of "The Court" the following new definitions:— Sec. 3.  
(Interpre-  
tation.)

"Alimony" includes maintenance.

15 "Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

20 (b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,"; Sec. 5.  
(Court to  
act on  
principles  
of Ecclesias-  
tical  
Courts.)

25 (c) by omitting section eight, subsection two of section nine and section ten; Secs. 8,  
9 (2) and  
10.

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and"; (Repeal.)  
Sec. 23.  
(Application  
by re-  
spondent.)

(e)

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*Matrimonial Causes (Amendment).*

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(e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

5           39. (1) In any proceedings under this Act Alimony.  
(other than proceedings for jactitation of  
marriage), the Court may make such order as it  
deems just and proper, having regard to the  
10           means and conduct of the parties to the  
marriage and all other relevant circumstances,  
for the payment of alimony to one party to the  
marriage by the other party, or for the mainten-  
ance of the children the marriage of whose  
15           parents is the subject of the proceedings,  
including an order in favour of a party against  
whom a decree in the proceedings is made.

(2) An order for alimony—

- (a) pending the hearing of a petition for  
restitution of conjugal rights; and
- 20           (b) made before or after the commence-  
ment of the Matrimonial Causes  
(Amendment) Act, 1957,

shall, if a decree is made in favour of the  
party in whose favour the order was made, but  
25           subject to any special terms of the order, con-  
tinue in force after the time in that behalf  
limited by the Court for compliance with the  
decree until varied or revoked:

30           Provided that in the case of any such order  
made before the commencement of the Matri-  
monial Causes (Amendment) Act, 1957, this  
subsection applies only where the time so limited  
expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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(3) An order for alimony—

(a) pending the hearing of a petition for judicial separation; and

5 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or  
10 revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this  
15 subsection applies only where the decree in the suit is made after that commencement.

(4) An order for alimony—

(a) pending the hearing of a petition for dissolution of marriage; and

20 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the  
25 order, continue in force after the decree absolute until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this  
30 subsection applies only where the decree *nisi* is made absolute after that commencement.

(5) An order for the maintenance of a child—

35 (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

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*Matrimonial Causes (Amendment).*

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(b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

5 shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

(i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;

(ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this subsection applies only where—

(i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;

(ii) in any other case—the final decree or decree absolute is made after that commencement.

25 Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

Specific powers of Court.

30 (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a periodic payment;

35

(b)

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*Matrimonial Causes (Amendment).*

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- 5 (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- 10 (c) settle and approve any deed or instrument so ordered to be executed;
- (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- 15 (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- 20 (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- 25 (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- 30 (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order;
- 35 (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- 40 (m) deal with any two or more matters mentioned in this subsection in the same order; (n)

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*Matrimonial Causes (Amendment).*

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5 (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.

(2) Notwithstanding anything contained in this Part—

(a) where no alimony was payable—

10 (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or

15 (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or

20 (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,

25 the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time after, the pronouncement of the decree absolute or final decree.

30 (3) The Court may exercise the powers conferred by this Part—

35 (a) in relation to an order for alimony or maintenance pursuant to which a gross or periodic sum is secured as well as in relation to any other order for alimony or maintenance; and

(b)

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*Matrimonial Causes (Amendment).*

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5 (b) in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, as well as in relation to an order for alimony or maintenance made after that commencement.

10 41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

Execution of instruments by order of Court.  
cf. Act No. 24, 1901, s. 90.

15 (2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

20 (3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

25 42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1957, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

Pending proceedings.

(f)



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*Matrimonial Causes (Amendment).*


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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- 5 (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- 10 (ii) by omitting from the same subsection the words "and any sum due under the order is unpaid, any justice, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that the wife or child is unable through lack of means to have the order enforced by attachment, may" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
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- 20
- (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- 25
- (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";
- 30
- 93—B (v)

*Matrimonial Causes (Amendment).*

(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

5 (8) In this section “husband” includes a male person against whom the court has made an order for payment in respect of alimony and “wife” includes a female person in whose favour the court has made such an order, and “justice” means justice of the peace.

10 (j) by inserting in Part XVIII next after section 90A <sup>New sec. 90B.</sup> the following new section:—

15 90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957, for the payment by any person of alimony or maintenance to any other person. <sup>Enforcement of order by means of certificate of amount due and judgment thereon.</sup>

20 (2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section. <sup>cf. Act No. 17, 1901, s. 13A.</sup>

25 (3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the application to be given to that person.

(4)

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*Matrimonial Causes (Amendment).*

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5 (4) The person entitled to receive the money ordered to be paid may file or cause to be filed the certificate in the Supreme Court or in any District Court having jurisdiction within the district wherein the person against whom the order was made resides or wherein any real property of the last-mentioned person is situated, and the Prothonotary or the registrar of the District Court in which the certificate is so filed, as the case may be, shall enter judgment for the person so entitled for the amount stated to be due in the certificate together with the fees paid therefor and for filing the certificate and entering the judgment.

10  
15 The judgment may be enforced in any manner in which a final judgment in an action may be enforced.

20 Rules of court may prescribe the practice and procedure in the Supreme Court and in District Courts to be observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

25 (k) (i) by omitting from section one all matter relating to Part VIII and by inserting in lieu thereof the following matter :— Sec. 1. (Consequential.)

PART VIII.—ALIMONY—ss. 39-42.

30 (ii) by omitting from the matter relating to Part XIII in the same section the words "AND MAINTENANCE".

*Matrimonial Causes (Amendment).*

**3.** The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by inserting in Part II next after section 13B the following new section:—

Amendment  
of Act No.  
17, 1901.

New sec.  
13c.

5           13c. An order made under section seven of this Act shall not be taken to be discharged or cancelled by reason only of the dissolution after the commencement of the Matrimonial Causes (Amendment) Act, 1957, of the marriage between the husband and the wife, and for the purposes of enforcing, varying, suspending or discharging the order a reference in this Act to "husband" includes a reference to the person who before the marriage was dissolved was the husband and a reference in this Act to "wife" includes a reference to the person who before the marriage was dissolved was the wife.

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Dissolution  
of marriage  
not to  
affect main-  
tenance  
order.

**4.** The Supreme Court Procedure Act, 1957, is amended—

Amendment  
of Act No.  
13, 1957.

- 20           (a) by omitting from the First Column of the Second Schedule the words and figures "Matrimonial Causes Act 1899.";           Second  
Schedule.  
(Conse-  
quential.)
- (b) by omitting from the Second Column of the same Schedule the words and figures "Matrimonial Causes Act, 1899-1957."
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## MATRIMONIAL CAUSES (AMENDMENT) BILL, 1957.

### EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to redefine the powers of the Supreme Court in its matrimonial causes jurisdiction to make orders for alimony or for the maintenance of children, principally to ensure—
  - (i) that permanent alimony granted on dissolution of marriage can afterwards be increased. (At present it can only be decreased, although permanent alimony in cases of judicial separation and restitution of conjugal rights can at present be increased as well as decreased);
  - (ii) that in proceedings for nullity of marriage an order for permanent alimony can be made against a party to the marriage in favour of the other party and that an order for maintenance can be made in favour of their children;
  - (iii) that in proceedings for dissolution of marriage, judicial separation, restitution of conjugal rights or nullity of marriage, an order for alimony or maintenance can, where the circumstances so warrant, be made against a wife in favour of her husband or child;
  - (iv) that in certain cases an order for alimony or maintenance made pending the disposal of a suit is to continue beyond the time when the suit is disposed of (that is to say, beyond the time limited for complying with the decree in the case of restitution of conjugal rights, and beyond the final decree or decree absolute in any other case) until varied or revoked;
  - (v) the execution of all instruments necessary to give effect to an order for secured alimony;
- (b) to remove from the provisions relating to the summary enforcement of orders made by the Supreme Court for alimony or maintenance the requirement that those provisions can only be used where the wife or child concerned is unable through lack of means to have the order enforced by attachment;
- (c) to provide that any order for alimony or maintenance may be enforced in the manner set out hereinafter in this paragraph and that that manner is the only method of enforcing an order for alimony or maintenance made against a wife in favour of her husband or child—

A certificate of the amount due under the order is filed in the Supreme Court or a District Court whereupon judgment is entered in the Court in which it is filed for the amount set out in the certificate and the judgment can then be enforced in any manner in which a final judgment in an action can be enforced.

- (d) to provide that an order for maintenance made under the Deserted Wives and Children Act, 1901, is not to be discharged or cancelled by reason only of the dissolution of the marriage between the husband and the wife.

MATRIOMIAL TABLES, 1950-1959

TABLE 1

THE STATES OF INDIA

(a) The number of marriages registered in the States of India during the years 1950-1959

(b) The number of marriages registered in the States of India during the years 1950-1959, by type of marriage

(c) The number of marriages registered in the States of India during the years 1950-1959, by religious community

(d) The number of marriages registered in the States of India during the years 1950-1959, by age of bride and groom

(e) The number of marriages registered in the States of India during the years 1950-1959, by duration of marriage

(f) The number of marriages registered in the States of India during the years 1950-1959, by sex ratio

(g) The number of marriages registered in the States of India during the years 1950-1959, by literacy rate

(h) The number of marriages registered in the States of India during the years 1950-1959, by economic status

(i) The number of marriages registered in the States of India during the years 1950-1959, by social class

(j) The number of marriages registered in the States of India during the years 1950-1959, by caste

No. , 1957.

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## A BILL

To amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SHEAHAN;—20 November, 1957.]

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**B**E it enacted by the Queen'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  
5 the same, as follows:—

**1.** (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1957".

Short title,  
citation and  
commence-  
ment.

99969 93—A

(2)

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*Matrimonial Causes (Amendment).*

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(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1957.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1957.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

10 **2.** The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

Amendment  
of Act No.  
14, 1899.

(a) by inserting in section three before the definition of "The Court" the following new definitions:—

Sec. 3.  
(Interpre-  
tation.)

"Alimony" includes maintenance.

15 "Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

20 (b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,";

Sec. 5.  
(Court to  
act on  
principles  
of Ecclesias-  
tical  
Courts.)

25 (c) by omitting section eight, subsection two of section nine and section ten;

Secs. 8,  
9 (2) and  
10.

(Repeal.)

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and";

Sec. 23.  
(Application  
by re-  
spondent.)

(e)



---

*Matrimonial Causes (Amendment).*

---

(e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

5           39. (1) In any proceedings under this Act Alimony.  
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marriage), the Court may make such order as it  
deems just and proper, having regard to the  
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marriage and all other relevant circumstances,  
for the payment of alimony to one party to the  
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ance of the children the marriage of whose  
15           parents is the subject of the proceedings,  
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(2) An order for alimony—

(a) pending the hearing of a petition for  
restitution of conjugal rights; and

20           (b) made before or after the commence-  
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shall, if a decree is made in favour of the  
party in whose favour the order was made, but  
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tinue in force after the time in that behalf  
limited by the Court for compliance with the  
decree until varied or revoked:

30           Provided that in the case of any such order  
made before the commencement of the Matri-  
monial Causes (Amendment) Act, 1957, this  
subsection applies only where the time so limited  
expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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(3) An order for alimony—

(a) pending the hearing of a petition for judicial separation; and

5 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or revoked:

10 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this subsection applies only where the decree in the suit is made after that commencement.

15 (4) An order for alimony—

(a) pending the hearing of a petition for dissolution of marriage; and

20 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:

25 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this subsection applies only where the decree *nisi* is made absolute after that commencement.

(5) An order for the maintenance of a child—

35 (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

---

*Matrimonial Causes (Amendment).*

---

(b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957,

5 shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

10 (i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;

(ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, this subsection applies only where—

20 (i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;

(ii) in any other case—the final decree or decree absolute is made after that commencement.

25 Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

30 (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a  
35 periodic payment;

(b)

Specific powers of Court.

---

*Matrimonial Causes (Amendment).*

---

- 5 (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- 10 (c) settle and approve any deed or instrument so ordered to be executed;
- (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- 15 (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- 20 (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- 25 (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- 30 (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order;
- 35 (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- 40 (m) deal with any two or more matters mentioned in this subsection in the same order; (n)

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*Matrimonial Causes (Amendment).*

---

5 (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.

(2) Notwithstanding anything contained in this Part—

(a) where no alimony was payable—

10 (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or

15 (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or

20 (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,

25 the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time after, the pronouncement of the decree absolute or final decree.

30 (3) The Court may exercise the powers conferred by this Part—

35 (a) in relation to an order for alimony or maintenance pursuant to which a gross or periodic sum is secured as well as in relation to any other order for alimony or maintenance; and

(b)

*Matrimonial Causes (Amendment).*

5 (b) in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1957, as well as in relation to an order for alimony or maintenance made after that commencement.

10 41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

Execution of instruments by order of Court.  
cf. Act No. 24, 1901, s. 90.

20 (2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

25 (3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

30 42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1957, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

Pending proceedings.

(f)

---

*Matrimonial Causes (Amendment).*


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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- 5 (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- 10 (ii) by omitting from the same subsection the words "and any sum due under the order is unpaid, any justice, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that the wife or child is unable through lack of means to have the order enforced by attachment, may" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- 15
- 20
- (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- 25
- (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";
- 30

*Matrimonial Causes (Amendment).*

(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

5 (8) In this section "husband" includes a male person against whom the court has made an order for payment in respect of alimony and "wife" includes a female person in whose favour the court has made such an order, and "justice" means justice  
10 of the peace.

(j) by inserting in Part XVIII next after section 90A <sup>New sec. 90B.</sup> the following new section:—

15 90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957, for the payment by any person of alimony or maintenance to any other person. <sup>Enforcement of order by means of certificate of amount due and judgment thereon.</sup>

20 (2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section. <sup>cf. Act No. 17, 1901, s. 13A.</sup>

25 (3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1957, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the application to be given to that person.

30

35

(4)



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*Matrimonial Causes (Amendment).*

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5 (4) The person entitled to receive the money ordered to be paid may file or cause to be filed the certificate in the Supreme Court or in any District Court having jurisdiction within the district wherein the person against whom the order was made resides or wherein any real property of the last-mentioned person is situated, and the Prothonotary or the registrar of the District Court in which the certificate is so filed, as the case may be, shall enter judgment for the person so entitled for the amount stated to be due in the certificate together with the fees paid therefor and for filing the certificate and entering the judgment.

15 The judgment may be enforced in any manner in which a final judgment in an action may be enforced.

20 Rules of court may prescribe the practice and procedure in the Supreme Court and in District Courts to be observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

25 (k) (i) by omitting from section one all matter relating to Part VIII and by inserting in lieu thereof the following matter:— Sec. 1. (Consequential.)

PART VIII.—ALIMONY—ss. 39-42.

30 (ii) by omitting from the matter relating to Part XIII in the same section the words "AND MAINTENANCE".

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*Matrimonial Causes (Amendment).*

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**3.** The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by inserting in Part II next after section 13B the following new section:—

Amendment  
of Act No.  
17, 1901.  
New sec.  
13c.

5           13c. An order made under section seven of  
this Act shall not be taken to be discharged or  
cancelled by reason only of the dissolution after  
the commencement of the Matrimonial Causes  
10           (Amendment) Act, 1957, of the marriage  
between the husband and the wife, and for the  
purposes of enforcing, varying, suspending or  
discharging the order a reference in this Act to  
"husband" includes a reference to the person  
15           who before the marriage was dissolved was the  
husband and a reference in this Act to "wife"  
includes a reference to the person who before  
the marriage was dissolved was the wife.

Dissolution  
of marriage  
not to  
affect main-  
tenance  
order.

**4.** The Supreme Court Procedure Act, 1957, is amended—

Amendment  
of Act No.  
13, 1957.

- 20           (a) by omitting from the First Column of the  
Second Schedule the words and figures "Matri-  
monial Causes Act 1899.";
- (b) by omitting from the Second Column of the  
25           same Schedule the words and figures "Matri-  
monial Causes Act, 1899-1957."

Second  
Schedule.  
(Conse-  
quential.)