



Jersey

MATRIMONIAL CAUSES (JERSEY) LAW 1949

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Jersey

MATRIMONIAL CAUSES (JERSEY) LAW 1949

A LAW to empower the Royal Court to grant decrees of dissolution and nullity of marriage and of judicial separation, and to make provision for matters incidental thereto¹

Commencement [[see endnotes](#)]

1 General definitions²

In this Law, unless the context otherwise requires –

“cause” and “suit” include any proceedings in which there is an applicant, petitioner or plaintiff;

“child of the family” has the same meaning as in the [Children \(Jersey\) Law 2002](#);

“court” has the meaning assigned by Article 3;

“habitual drunkard” means a person who habitually and intemperately drinks intoxicating liquor, or habitually takes or uses, otherwise than in accordance with medical advice, opium or any other dangerous drug;

“mental disorder” has the meaning given by Article 1(1) of the [Mental Health \(Jersey\) Law 2016](#);

“prescribed” means prescribed by rules of court.

2 Insanity definition³

For the purposes of Article 7, a person of unsound mind shall be deemed to be under care and treatment while, and only while –

- (a) the person is liable to be detained in an approved establishment or other place of safety under the [Mental Health \(Jersey\) Law 2016](#), or is subject to a significant restriction on his or her liberty under Part 5 of the [Capacity and Self-Determination \(Jersey\) Law 2016](#);
- (b) the person is liable to be detained in a hospital, mental nursing home or place of safety under the Mental Health Act 1983 or in a hospital or place of safety under the Mental Health (Care and Treatment) (Scotland)

Act 2003, being Acts of the Parliament of the United Kingdom, as amended until the date of commencement of the [Mental Health \(Jersey\) Law 2016](#);

- (c) the person is detained in pursuance of an order for the person's detention or treatment as a person of unsound mind or a person suffering from mental illness made under any enactment for the time being in force in Northern Ireland, the Bailiwick of Guernsey or the Isle of Man (including any such enactment relating to criminal lunatics), or is receiving treatment as a voluntary patient under any such enactment; or
- (d) the person is receiving treatment for mental illness as a resident in –
 - (i) a hospital or other institution provided, approved, licensed, registered or exempted from registration by any Minister or other authority in the United Kingdom, the Bailiwick of Guernsey or the Isle of Man, or
 - (ii) a hospital or other institution in any other country, being a hospital or institution in which the person's treatment is comparable with the treatment provided in any such hospital or institution as is mentioned in clause (i),

and in determining for the purposes of Article 7 whether any period of care and treatment has been continuous, any interruption of the period for 28 days or less shall be disregarded.⁴

3 Jurisdiction of the Royal Court in matrimonial causes

- (1) Subject to the provisions of Article 44, jurisdiction shall be vested in and exercised by a division of the Royal Court to be called the Matrimonial Causes Division (in this Law referred to as the "court") in all suits for divorce, suits for judicial separation, suits for nullity of marriage, applications by a husband or wife for a decree of presumption of death of the other spouse and dissolution of marriage thereupon, and all other matrimonial causes, suits and matters triable under this Law or otherwise in Jersey.⁵
- (2) The court shall also have the power to grant such injunctions and other relief as may, in all matrimonial causes, suits and matters, be granted by the Samedi Division of the Royal Court.⁶
- (3) In the authentication of decrees, orders and other instruments and copies thereof, the Judicial Greffier may describe himself or herself as Registrar.
- (4) Rules of court may make provision authorizing the Judicial Greffier to exercise such powers or to discharge such functions of the court under this Law or under the proviso to Article 3 of the [Separation and Maintenance Orders \(Jersey\) Law 1953](#), as may be prescribed in relation to such proceedings as may be prescribed.⁷
- (5) Any order made or direction given by the Judicial Greffier in pursuance of rules of court made under paragraph (3) shall be subject to appeal in the first instance to the court.⁸

4 The Bailiff, Jurats and officers of the court

- (1) Subject to the provisions of this Law and to rules of court, the Bailiff, Jurats, Attorney General, Viscount, Solicitor General and Judicial Greffier shall perform duties in the court analogous to those performed by them respectively in the Samedi division of the Royal Court immediately before the commencement of this Law.
- (2) If the office of Bailiff, Attorney General, Viscount, Solicitor General or Judicial Greffier be vacant, or if the holder of any such office be prevented by absence from Jersey, illness or other lawful cause, from performing the duties of the office holder's office, then the duties under this Law of the holder of such office shall be performed by the person who is for the time being discharging the duties of such office.

5 Seal of the court

- (1) The Superior Number of the Royal Court shall cause a seal to be made for the court and may cause the same to be from time to time broken, altered and renewed at its discretion.
- (2) All decrees, orders and other instruments, and copies thereof, respectively, purporting to be sealed with the seal of the court shall be received in evidence without further proof thereof.

6 Jurisdiction⁹

- (1) The court shall have jurisdiction to entertain proceedings for divorce or judicial separation if (and only if) –
 - (a) the parties to the marriage are domiciled in Jersey on the date when the proceedings are begun; or
 - (b) either of the parties to the marriage was habitually resident in Jersey throughout the period of one year ending with that date.
- (2) The court shall have jurisdiction to entertain proceedings for nullity of marriage if (and only if) –
 - (a) the parties to the marriage are domiciled in Jersey on the date when the proceedings are begun; or
 - (b) either of the parties to the marriage –
 - (i) was habitually resident in Jersey throughout the period of one year ending with that date, or
 - (ii) died before that date and either was at death domiciled in Jersey, or had been habitually resident in Jersey through the period of one year ending with the date of death.
- (3) The court shall have jurisdiction to entertain proceedings for death to be presumed and a marriage to be dissolved if (and only if) the petitioner –
 - (a) is domiciled in Jersey on the date when the proceedings are begun; or

- (b) was habitually resident in Jersey throughout the period of one year ending with that date.
- (4) The court shall, at any time when proceedings are pending in respect of which it has jurisdiction by virtue of paragraph (1) or (2) (or by virtue of this paragraph), also have jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, notwithstanding that jurisdiction would not be exercisable under paragraph (1) or (2).

7 Grounds of petition for divorce

- (1) A petition for divorce may be presented to the court by either spouse on the ground that the respondent –
 - (a) has since the celebration of the marriage committed adultery and the petitioner finds it intolerable to live with the respondent;
 - (b) has deserted the petitioner without cause for a period of at least 2 years immediately preceding the presentation of the petition;
 - (c) has since the celebration of the marriage behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent;
 - (d) is incurably of unsound mind and has been continuously under care and treatment for a period of at least 5 years immediately preceding the presentation of the petition; or
 - (e) is serving a sentence of imprisonment for life or for a term of not less than 15 years.¹⁰
- (2) A petition for divorce may also be presented to the court by either spouse on the ground that the parties to the marriage –
 - (a) have lived apart for a continuous period of at least one year immediately preceding the presentation of the petition (in this Law referred to as “one year’s separation”) and the respondent consents to a decree being granted; or
 - (b) have lived apart for a continuous period of at least 2 years immediately preceding the presentation of the petition (in this Law referred to as “2 years’ separation”).¹¹
- (3) For the purposes of this Article, only conduct between the respondent and a person of the opposite sex may constitute adultery.¹²

8 Restrictions on petitions for divorce during first 3 years after marriage

- (1) No petition for divorce shall be presented to the court unless at the date of the presentation of the petition 3 years have passed since the date of the marriage:

Provided that the court may, upon application being made to it in accordance with rules of court, allow a petition to be presented before 3 years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part

of the respondent, but, if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree nisi, do so subject to the condition that no application to make the decree absolute shall be made until after the expiration of 3 years from the date of the marriage, or may dismiss the petition, without prejudice to any petition which may be brought after the expiration of the said 3 years upon the same, or substantially the same, facts as those proved in support of the petition so dismissed.

- (2) In determining any application under this Article for leave to present a petition before the expiration of 3 years from the date of the marriage, the court shall have regard to the interests of any children of the family and to the question whether there is reasonable probability of a reconciliation between the parties before the expiration of the said 3 years.¹³
- (3) Nothing in this Article shall be deemed to prohibit the presentation of a petition based upon matters which have occurred before the expiration of 3 years from the date of the marriage.

9 Duty of court on presentation of petition for divorce

- (1) On a petition for divorce, it shall be the duty of the court to inquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties and also to inquire into any counter-charge which is made against the petitioner.
- (2) Subject to the provisions of paragraphs (3), (4), (5) and (6) and to Article 10, if the court is satisfied on the evidence that –
 - (a) the case for the petition has been proved;
 - (b) ¹⁴ and
 - (c) except in the case of a petition presented on either of the grounds specified in Article 7(2) the petition is not presented or prosecuted in collusion with the respondent or any co-respondent,the court shall pronounce a decree of divorce.¹⁵
- (3) If the court is not satisfied that the case for the petition has been proved, it shall dismiss the petition.¹⁶
- (4) If the court is not satisfied as to any matter arising under paragraph (2)(c), it may in its discretion either pronounce a decree of divorce or dismiss the petition.¹⁷
- (5) Except in the case of a petition presented on either of the grounds specified in Article 7(2), the court shall not be bound to pronounce a decree of divorce and may dismiss the petition if, in the opinion of the court, the petitioner has been guilty –
 - (a) of unreasonable delay in presenting or prosecuting the petition;
 - (b) ¹⁸
 - (c) ¹⁹ or

- (d) where the ground of the petition is unsoundness of mind or desertion, of such wilful neglect or misconduct as has conduced to the unsoundness of mind or desertion.²⁰
- (6) Where the ground of a petition for divorce is that the respondent is serving a sentence of imprisonment for life or for a term of not less than 15 years, the court shall not pronounce a decree unless –
 - (a) the petition was presented more than 2 years, and less than 10 years, after the date of the sentence; and
 - (b) the respondent is, at the time of the decree, in confinement under or by reason of the sentence.²¹
- (7) ²²

10 Refusal of decree of divorce in 2 years' separation cases in certain circumstances²³

- (1) The respondent to a petition for divorce in which the petitioner alleges 2 years' separation may oppose the grant of a decree on the ground that the dissolution of the marriage would result in grave financial or other hardship to the respondent and that it would in all the circumstances be wrong to dissolve the marriage.²⁴
- (2) Where the grant of a decree is opposed by virtue of this Article, then –
 - (a) if the court finds that the petitioner is entitled to rely in support of his or her petition on the petitioner's allegation of 2 years' separation and makes no such finding as to any other ground specified in Article 7; and
 - (b) if apart from this Article the court would grant a decree on the petition,

the court shall consider all the circumstances, including the conduct of the parties to the marriage and the interests of those parties and of any children or other persons concerned and, if of opinion that the dissolution of the marriage would result in grave financial or other hardship to the respondent and that it would, in all the circumstances, be wrong to dissolve the marriage, it shall dismiss the petition.²⁵
- (3) For the purposes of this Article, hardship shall include the loss of the chance of acquiring any benefit which the respondent might acquire if the marriage were not dissolved.

11 Special protection for respondent in separation cases²⁶

- (1) Provision shall be made by rules of court for the purpose of ensuring that where, in pursuance of Article 7(2)(a), the petition alleges that the respondent consents to a decree being granted, the respondent has been given such information as will enable the respondent to understand the consequences to the respondent of his or her consenting to a decree being granted and the steps which the respondent must take to indicate that he or she consents to the grant of a decree.

- (2) Where in any case the court has granted a decree of divorce solely on the ground of one year's separation coupled with the respondent's consent, the court may, on an application made by the respondent at any time before the decree is made absolute, rescind the decree if it is satisfied that the petitioner misled the respondent (whether intentionally or unintentionally about any matter which the respondent took into account in deciding to give his or her consent.²⁷
- (3) The following provisions of this Article apply where –
 - (a) the respondent to a petition for divorce in which the petitioner alleged one year's or 2 years' separation coupled, in the former case, with the respondent's consent to a decree being granted, has applied to the court for consideration under paragraph (4) of the respondent's financial position after the divorce; and
 - (b) the court has granted a decree on the petition solely on the ground of one year's separation coupled with the respondent's consent, or solely on the ground of 2 years' separation, as the case may be.²⁸
- (4) The court hearing an application by the respondent under paragraph (3) shall consider all the circumstances, including the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties, and the financial position of the respondent as, having regard to the divorce, it is likely to be after the death of the petitioner should the petitioner die first; and, subject to paragraph (5), the court shall not make the decree absolute unless it is satisfied –
 - (a) that the petitioner should not be required to make any financial provision for the respondent; or
 - (b) that the financial provision made by the petitioner for the respondent is reasonable and fair or the best that can be made in the circumstances.
- (5) The court may if it thinks fit make the decree absolute notwithstanding the requirements of paragraph (4) if –
 - (a) it appears that there are circumstances making it desirable that the decree should be made absolute without delay; and
 - (b) the court has obtained a satisfactory undertaking from the petitioner that the petitioner will make such financial provision for the respondent as the court may approve.

12 Decree for judicial separation

- (1) A petition for judicial separation may be presented to the court by a party to the marriage on any ground on which a petition for divorce might have been presented or on the ground that the respondent is an habitual drunkard or on any ground on which divorce *a mensa et thoro* may be granted by the Ecclesiastical Court, and the foregoing provisions of this Law relating to the duty of the court on the presentation of a petition for divorce, and the circumstances in which such a petition shall or may be granted or dismissed, shall apply in like manner to a petition for judicial separation.²⁹

- (2) Where the court in accordance with the said provisions grants a decree of judicial separation, it shall no longer be obligatory for the petitioner to cohabit with the respondent.
- (3) The court may, on the application by petition of the spouse against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application, or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.³⁰
- (4) The reversal of a decree for judicial separation shall not affect the rights or remedies which any other person would have had if the decree had not been reversed in respect of any debts, agreements or acts of the wife incurred, entered into or done between the date of the decree and of the reversal thereof.
- (5) Paragraph (4) only applies in relation to the judicial separation of spouses who are of the opposite sex.³¹

13 Liability of husband in respect of wife's acts on grant of judicial separation

In the case of a marriage of 2 persons of the opposite sex, so long as a separation under a decree subsists, the husband shall not be liable in respect of any engagement or agreement into which the wife may enter after the separation begins or for any wrongful act or omission by her or for any costs which she may incur as plaintiff or defendant:

Provided that where the court has ordered the husband to pay any sum for the maintenance of the wife or of any children of the family, and the husband has not duly paid such sum, the husband shall be liable for necessaries supplied for the use of the wife or of any such children.³²

14 Decree of judicial separation revoked *ipso facto* by continued residence or resumption of cohabitation and suspended during periods of residence

- (1) No decree of judicial separation shall be enforceable and no liability shall accrue thereunder whilst the party to the marriage with respect to whom the decree was made resides with his or her spouse, and any such decree shall cease to have effect if, for a period of 3 months after it is made, the parties to the marriage continue to live with each other.³³
- (2) Where a party to the marriage with respect to whom a decree of judicial separation has been made resumes cohabitation with his or her spouse after living apart from him or her, the decree shall cease to have effect on the resumption of such cohabitation.³⁴

15 Divorce proceedings after grant of judicial separation

- (1) A person shall not be prevented from presenting a petition for divorce, or the court from pronouncing a decree of divorce, by reason only that the petitioner has at any time been granted a judicial separation or an order under the [Separation and Maintenance Orders \(Jersey\) Law 1953](#), upon the same or substantially the same facts as those alleged in the petition for divorce or proved in support thereof.³⁵
- (2) On any such petition for divorce, the court may treat the decree of judicial separation or the said order as sufficient proof of the ground on which it was granted, but the court shall not pronounce a decree of divorce without receiving the evidence of the petitioner.³⁶
- (3) For the purposes of any such petition for divorce, a period of desertion immediately preceding the institution of proceedings for a decree of judicial separation or an order under the said Law having the effect of such a decree shall, if the parties have not resumed cohabitation and the decree or order has been continuously in force since the granting thereof, be deemed immediately to precede the presentation of the petition for divorce.³⁷

16 Relief to respondent on petition for divorce or judicial separation

If, in any proceedings for divorce or judicial separation, the respondent in his or her answer opposes the relief sought on a ground mentioned in Article 7(1)(a), (b) or (c) and, in such answer, prays for relief on any such ground, the court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition for divorce or judicial separation, as the case may be, seeking such relief.³⁸

17 Provisions as to making adulterer co-respondent

- (1) On a petition for divorce or judicial separation alleging adultery presented by a spouse or if, in the answer to the petition the spouse prays for divorce or judicial separation alleging adultery, the petitioner or respondent, as the case may be, shall cause the alleged adulterer to be cited as a co-respondent, unless he or she is excused by the court on special grounds from so doing.³⁹
- (2) In any case in which, on a petition or cross-petition for divorce or judicial separation, the alleged adulterer is made a co-respondent, the court may, after the close of the evidence on the part of the petitioner or the respondent, as the case may be, direct the co-respondent to be dismissed from the proceedings if the court is of opinion that there is not sufficient evidence against him or her.

18 Decree of nullity

- (1) The court may decree the nullity of a marriage on any ground on which a marriage is by law void or voidable or on any of the following grounds, that is to say –

- (a) the continuing impotency of one party or of both parties to the marriage since the celebration thereof;
- (b) that the marriage was celebrated through fraud, threats or duress by the respondent upon or to the petitioner;
- (c) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage;
- (d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner, unless the pregnancy resulted from intercourse which occurred between the respondent and a former husband during the subsistence of their marriage;
- (e) that the respondent was at the time of the marriage suffering from a venereal disease in a communicable form;
- (f) that either party to the marriage was at the time of the marriage of unsound mind or was then suffering from mental disorder of such a kind or to such an extent as to be unfitted for marriage or subject to recurrent attacks of insanity or epilepsy;
- (g) that a gender recognition certificate has, after the time of the marriage, been issued to either party to the marriage;
- (h) that either party to the marriage satisfies such conditions and has taken such steps, in an approved jurisdiction, for the recognition of his or her change of gender by that jurisdiction as –
 - (i) are prescribed, in respect of that jurisdiction, by Order made by the Chief Minister, or
 - (ii) if no conditions and steps are prescribed under clause (i) in respect of that jurisdiction, satisfy the Court that, but for the fact that the parties are still married, the change of gender would be recognized by that jurisdiction;
- (i) that the respondent is a person whose gender at the time of the marriage had become the acquired gender:

Provided that, in the cases specified in sub-paragraphs (d), (e), (f) or (g), the court shall not grant a decree unless it is satisfied –

- (i) that the petitioner was at the time of the marriage ignorant of the facts alleged,
 - (ii) that proceedings were instituted within a year from the date of the marriage, and
 - (iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree.⁴⁰
- (2) Any child born of a marriage avoided pursuant to paragraph (1)(b), (c), (e), (f), (g) or (h) shall be a legitimate child of the parties thereto notwithstanding that the marriage is so avoided.⁴¹
- (2A) Without prejudice to paragraph (1), the court shall not grant a decree of nullity under Article 18(1) on the ground mentioned in sub-paragraph (g) of that paragraph unless it is satisfied that proceedings were instituted within 6 months of the date of issue of the interim certificate.⁴²

- (3) In any proceedings for nullity of marriage, evidence of the question of sexual capacity or gender shall be heard *in camera* unless, in any case, the court is satisfied that in the interests of justice any such evidence ought to be heard in open court.⁴³
- (4) In this Article “approved jurisdiction”, “a gender recognition certificate” and a reference to a person’s acquired gender have the same respective meanings as in Article 1 of the [Gender Recognition \(Jersey\) Law 2010](#).⁴⁴
- (5) Paragraphs (1)(a) and (c) do not apply to the marriage between persons of the same sex.⁴⁵

18A Grounds on which a marriage converted from a civil partnership is void or voidable⁴⁶

- (1) This Article applies to a marriage which has been converted, or is purported to have been converted, from a civil partnership under Article 22 of the [Marriage and Civil Status \(Jersey\) Law 2001](#).
- (2) A marriage which results from the purported conversion of a void civil partnership is void.
- (3) A marriage which results from the conversion of a civil partnership is voidable if any of sub-paragraphs (b), (d), (e), (f), (g), (h) or (i) of Article 18(1) applied at the date from which the marriage is treated as having subsisted in accordance with Article 22(15) of the [Marriage and Civil Status \(Jersey\) Law 2001](#).

19 Proceedings for decree of presumption of death and dissolution of marriage

- (1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the court to have it presumed that the other party is dead and to have the marriage dissolved, and the court, if satisfied that such reasonable grounds exist, may make a decree of presumption of death and of dissolution of the marriage.
- (2) In any such proceedings, the fact that for a period of 7 years or more the other party to the marriage has been continually absent from the petitioner and the petitioner has no reason to believe that the other party has been living within that time shall be evidence that he or she is dead, until the contrary is proved.

20 Decree nisi for divorce or nullity of marriage or presumption of death

- (1) Every decree for a divorce, for nullity of marriage or of presumption of death shall, in the first instance, be a decree nisi not to be made absolute until after the expiration of such period, not exceeding 6 months, from the pronouncing thereof, as may be prescribed:

Provided that the court may, in any particular case, fix a shorter time where it considers it proper to do so and, in the case of a decree under Article 18(1)(g) or (h), the decree shall be absolute on pronouncement.⁴⁷

- (2) After the pronouncing of the decree nisi, and before the decree is made absolute, any person (including the Attorney General) may, in the prescribed manner, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the court, and in any such case the court may make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the court thinks fit.
- (3) Where a decree nisi has been obtained and no application for the decree to be made absolute has been made by the party who obtained the decree then, at any time after the expiration of 3 months from the earliest date on which that party could have made such an application, the party against whom the decree nisi has been granted shall be at liberty to apply to the court and the court shall, on such application, have power to make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the court thinks fit.

21 Duties of Attorney General

In the case of any petition for divorce or for nullity of marriage or for the presumption of death –

- (a) the court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Attorney General who shall argue before the court any question in relation to the matter which the court deems to be necessary or expedient to have fully argued, and the Attorney General shall be entitled to charge the costs of the proceedings as part of the expenses of the Attorney General's office;
- (b) any person may at any time during the progress of the proceedings or before the decree nisi is made absolute give information to the Attorney General of any matter material to the due decision of the case, and the Attorney General may thereupon take such steps as the Attorney General considers necessary or expedient;
- (c) if, in consequence of any such information or otherwise, the Attorney General suspects –
 - (i) that the decree may be obtained contrary to the justice of the case, or
 - (ii) that material facts are not before the court,the Attorney General may, after obtaining the leave of the court, intervene and summon witnesses to prove any allegations which the Attorney General may think fit to make.

22 Provisions as to costs where Attorney General intervenes or shows cause

- (1) Where the Attorney General intervenes or shows cause against a decree nisi in any proceedings for divorce or for nullity of marriage or of presumption of death, the court may make such order as to the payment by other parties to the proceedings of the costs incurred by the Attorney

General in so doing or as to the payment by the Attorney General of any costs incurred by any of the said parties by reason of the Attorney General's so doing, as may seem just.

- (2) So far as the reasonable costs incurred by the Attorney General in so intervening or showing cause are not fully satisfied by any order made under this Article for the payment of the Attorney General's costs, the Attorney General shall be entitled to charge the difference as part of the expenses of the Attorney General's office, and any costs which under any order made by the court under this Article the Attorney General pays to any parties shall be deemed to be part of the expenses of the Attorney General's office.
- (3) ⁴⁸

23 Power to allow intervention on terms

In every case in which any person is charged with adultery with any party to a suit or in which the court considers, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the court may, if it thinks fit, allow that person to intervene upon such terms, if any, as the court thinks just.

24 Abatement of proceedings

Without prejudice to the operation of any rule of law governing the abatement of any other proceedings under this Law, where a decree nisi has been pronounced in a suit for divorce or nullity of marriage, the suit shall be abated if the petitioner or the respondent dies before the decree nisi is made absolute.⁴⁹

25 Provision for children

- (1) In any proceedings for divorce or nullity of marriage or judicial separation, the court may from time to time, either before or after the final decree, make such provision as appears just with respect to the maintenance of any children of the family in relation to the parties to the marriage which is the subject of the proceedings.
- (2) Subject to paragraph (3), on pronouncing a decree nisi of divorce, judicial separation or nullity of marriage or at any time thereafter, whether before or after the decree has been made absolute, the court shall have power to order either party to the marriage to secure for the benefit of any children of the family such gross sum of money or annual sum of money as the court may deem reasonable, and the court may for that purpose settle and approve a proper deed or instrument to be executed by all necessary parties.
- (3) The term for which any sum of money is secured for the benefit of a child under paragraph (2) shall not extend beyond the date when the child will attain the age of 21.⁵⁰

25A Restrictions on decrees for dissolution, annulment or separation affecting children

- (1) In any proceedings for a decree of divorce or nullity of marriage, or a decree of judicial separation, the court shall consider -
 - (a) whether there are any children of the family to whom this Article applies; and
 - (b) where there are any such children, whether (in the light of the arrangements which have been made, or are proposed to be, made for their upbringing and welfare) it should exercise any of its powers under the [Children \(Jersey\) Law 2002](#) with respect to any of them.
- (2) Where, in any case to which this Article applies, it appears to the court that -
 - (a) the circumstances of the case require it, or are likely to require it, to exercise any of its powers under the [Children \(Jersey\) Law 2002](#) with respect to any such child;
 - (b) it is not in a position to exercise that power or (as the case may be) those powers, without giving further consideration to the case; and
 - (c) there are exceptional circumstances which make it desirable in the interests of the child that the court should give a direction under this Article,it may direct that the decree of divorce or nullity is not to be made absolute, or that the decree of judicial separation is not to be granted, until the court orders otherwise.
- (3) This Article applies to -
 - (a) any child of the family who has not yet reached the age of 16 at the date when the court considers the case in accordance with the requirements of this Article; and
 - (b) any child of the family who has reached that age at that date and in relation to whom the court directs that this Article shall apply.⁵¹

26 Cessation of successorial rights and interests on dissolution of marriage

Where a marriage has been dissolved by divorce or has been annulled, neither of the parties to the marriage shall be entitled, upon the death of the other, to any share or interest in the personal estate of the deceased person, or to any rights of *franc veuvage* in the real estate of the deceased person or to any rights of dower in the real estate of the deceased or any other person.

27 Power of court to vary settlements, etc.

- (1) Where a decree of divorce or of nullity of marriage has been made, the court may, upon the application of either party to the marriage which is the subject of such decree, or upon the application of any person beneficially interested, cancel, vary or modify, or terminate the trusts of, any marriage contract, marriage settlement, post-nuptial settlement, or

terms of separation subsisting, between the parties to the marriage, in any manner which, having regard to the means of the parties, the conduct of either of them insofar as it may be inequitable to disregard it or the interests of any children of the family, appears to the court to be just.⁵²

- (2) The court may exercise the powers conferred by this Article notwithstanding that the marriage was contracted, or the marriage contract, marriage settlement, post-nuptial settlement or terms of separation was made or entered into, in an extraneous jurisdiction.

28 Power of court to order transfer or settlement of property⁵³

- (1) Where a decree of divorce or nullity of marriage or judicial separation has been made, the court may, having regard to all the circumstances of the case including the conduct of the parties to the marriage insofar as it may be inequitable to disregard it and to their actual and potential financial circumstances and notwithstanding the provisions of Article 26, order –
 - (a) that one party to the marriage transfer to the other party to the marriage, or to any child or children of the family, or to such person as may be specified in the order for the benefit of such child or children, any property whether real or personal to which the first mentioned party is entitled;
 - (b) that a settlement of any property whether real or personal to which one party to the marriage is entitled be made to the satisfaction of the court for the benefit of the other party to the marriage or of any child or children of the family.⁵⁴
- (2) An order made under this Article, in so far as such order relates to a judicial separation, shall be deemed to be part of the terms of separation between the parties within the meaning of this Law.

29 Financial provision for party to a marriage in cases of divorce etc.⁵⁵

- (1) Where a decree of divorce, nullity of marriage or judicial separation has been made, the court may, having regard to all the circumstances of the case including the conduct of the parties to the marriage insofar as it may be inequitable to disregard it and to their actual and potential financial circumstances, order –
 - (a) that one party to the marriage shall pay to the other party to the marriage during their joint lives or for such other term as may be specified in the order such annual or other periodic sum for the maintenance and support of that other party as the court may think reasonable;
 - (b) that one party to the marriage shall pay to the other party to the marriage such lump sum or sums as the court may think reasonable whether or not any sum is ordered to be paid under sub-paragraph (a);
 - (c) that security be given for the payment of any sum or sums ordered to be paid under sub-paragraphs (a) and (b).⁵⁶

- (2) Without prejudice to the generality of paragraph (1)(b), an order under this Article that one party to the marriage shall pay a lump sum to the other party to the marriage –
 - (a) may be made for the purpose of enabling that other party to meet any liabilities or expenses reasonably incurred by him or her in maintaining himself or herself or any child of the family before the making of an application for an order under this Article;
 - (b) may provide for the payment of that sum by instalments of such amount as may be specified in the order.⁵⁷

30 Power of court to order sale of property⁵⁸

- (1) Subject to the provisions of paragraph (7), where the court makes an order under Article 27, 28 or 29, then, on making that order or at any time thereafter, the court may make a further order for 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 parties to the marriage has or have a beneficial interest, either in possession or reversion.
- (2) Any order made under paragraph (1) may contain such consequential or supplementary provisions as the court thinks fit and, without prejudice to the generality of the foregoing provision, may include –
 - (a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates; and
 - (b) provision requiring any such property to be offered for sale to a person, or class of persons, specified in the order.
- (3) Where an order is made under paragraph (1) on or after the grant of a decree of divorce or nullity of marriage, the order shall not take effect unless the decree has been made absolute.
- (4) Where an order is made under paragraph (1), the court may direct that the order, or such provision thereof as the court may specify, shall not take effect until the occurrence of an event specified by the court or the expiration of a period so specified.
- (5) Where an order under paragraph (1) contains a provision requiring the proceeds of sale of the property to which the order relates to be used to secure periodical payments to a party to the marriage, the order shall cease to have effect on the death or re-marriage of that person.
- (6) Where a party to a marriage has a beneficial interest in any property, or in the proceeds of sale thereof, and some other person who is not a party to the marriage also has a beneficial interest in that property or in the proceeds of sale thereof, then, before deciding whether to make an order under paragraph (1) in relation to that property, it shall be the duty of the court to give that other person an opportunity to make representations with respect to the order.
- (7) The provisions of paragraph (1) shall not apply in the case of an order made under Article 29(1)(a) unless in such case an order is also made under Article 29(1)(c).

- (8) In this Article a reference to property shall be construed as a reference to property whether real or personal.

31 Contributions for support; interim orders⁵⁹

On any petition for divorce, judicial separation or nullity of marriage, the court may, if it thinks fit, by interim order direct one party to the marriage to pay to the other party to the marriage such sums for the maintenance and support of that other party as the court thinks just, and any such interim order shall remain in force until it is rescinded by the court or until the court makes a definitive order in respect thereof or until the relief sought in the petition is refused.

32 Payment of contributions for support to persons having charge of mentally afflicted respondent

Where a decree of divorce or judicial separation or nullity of marriage is granted on the ground of the unsoundness of mind or mental deficiency or disorder of the respondent, the court may direct that any payments of contributions for support which, under Article 29 or 31, it orders to be made shall be made to such persons having charge of the respondent as the court directs.⁶⁰

33 Power to vary orders

- (1) The court may from time to time discharge or vary any order made under Article 25, 27, 28, 29, 30 or 31 or suspend any of the provisions thereof temporarily or revive the operation of any of the provisions so suspended.⁶¹
- (2) In exercising the powers conferred by this Article, the court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage.

34 Ascertainment of assets and liabilities of parties

- (1) For the purposes of Article 25, 27, 28, 29, 31 or 33, the court may require each of the parties to a suit to file a sworn detailed declaration of his or her assets and liabilities and of particulars of all charges against such assets.⁶²
- (2) The court may sit in private for the verification of the assets and liabilities of the parties and for the purpose of deciding upon the nature and extent of the order or orders, if any, proper to be made in the case.

35 Court to have regard to benefits accruing to party

In making any order under Article 29, the court shall have regard to the benefits accruing to the party in whose favour such order is made under any other order made in pursuance of this Law.⁶³

36 Execution of instruments by order of the court

Where any person neglects or refuses to comply with an order of the court directing the person to execute or make any conveyance, assignment, or other document or instrument or indorsement, for giving effect to any order of the court under Article 25, 27, 28, 29, 30 or 33, the court may, on such terms and conditions, if any, as may be just, order that the conveyance, assignment, or other document or instrument or indorsement, shall be executed, made or done by such person as the court nominates for the purpose, at the cost of the person in default, or otherwise, as the court directs, and a conveyance, assignment, document, instrument or indorsement so executed, made or done shall operate and be for all purposes available as if it had been executed, made or done by the person originally directed to execute, make or do it.⁶⁴

37 Death of party after decree absolute

- (1) In the event of the death of either of the parties to a suit for divorce or nullity of marriage after the decree has been made absolute but before any definitive order under Article 27, 28 or 29 has been made, the court may make any such order as aforesaid which it could lawfully have made if such death had not occurred, and the said order shall take effect as if it had been made immediately before the death.⁶⁵
- (2) The court may make an order under this Article on the application of any person who is, in the opinion of the court, an interested person, if the court is satisfied that notice of the proceedings has been given to every person whose interests may be affected by the order or to the attorneys of such persons.

38 Re-marriage or civil partnership after divorce or presumption of death⁶⁶

- (1) As soon as any decree of divorce or presumption of death is made absolute, either of the parties to the marriage may, if there is no right of appeal against the decree absolute, marry again or enter into a civil partnership as if the prior marriage had been dissolved by death or, if there is such a right of appeal, may so marry again or enter into a civil partnership, if no appeal is presented against the decree, as soon as the time for appealing has expired, or, if an appeal is so presented, as soon as the appeal has been dismissed.⁶⁷
- (2) No clergyman of the Church of England shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on any ground and whose former husband or wife is still living or to permit the marriage of any such person to be solemnized in the church or chapel of which the clergyman is the minister.

39 Regulation of reports

- (1) It shall not be lawful to print or publish, or cause or procure to be printed or published –

- (a) in relation to any judicial proceedings for dissolution of marriage, or the separation of married persons, on the ground of the respondent's incurable unsoundness of mind, any particulars whatsoever;
- (b) in relation to any judicial proceedings for nullity of marriage on the ground of the respondent's unsoundness of mind at the time of the marriage, any particulars whatsoever;
- (c) in relation to any judicial proceedings for dissolution of marriage, the separation of married persons, or nullity of marriage, on any other ground any particulars other than the following –
 - (i) the names, addresses and occupations of the parties and witnesses,
 - (ii) a concise statement of the charges, defences and counter-charges in support of which evidence has been given,
 - (iii) submissions on any point of law arising in the course of the proceedings and the decision of the court thereon,
 - (iv) the judgment of the court and observations made by members of the court in giving judgment:

Provided that nothing in this sub-paragraph shall be held to permit the publication of any details or special matter likely to injure public morals.⁶⁸

- (2) If any person acts in contravention of the provisions of this Article, the person shall be liable in respect of each offence to a fine:

Provided that no person, other than a proprietor, editor, master printer or publisher of a newspaper or other vehicle of publication of the matter in respect of which the prosecution is instituted shall be liable to be convicted under this Article.⁶⁹

- (3) Nothing in this Article shall apply to the printing of any pleadings, transcript of evidence or other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any copies or report in pursuance of directions of the court or of Her Majesty or of the Lords of Her Privy Council, or to the printing or publication of any matter in any separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character bona fide intended for circulation among members of the legal or medical professions.

40 Service of petition

In any proceedings under this Law, any petition, summons, notice or other document may be served on the party to be affected thereby, either within or without Jersey, in such manner as may be prescribed.

41 Evidence

The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings.⁷⁰

42 Indecent evidence

In any proceedings under this Law in which any evidence of an indecent character is about to be tendered, the court may, if it thinks it necessary in the interest of the administration of justice or of public decency, direct that all or any persons, not being members or officers of the court or the parties to the proceedings or other persons directly concerned in the proceedings, shall be excluded from the court during the taking of that evidence.

43 Rules of court

The power to make rules of court under the [Royal Court \(Jersey\) Law 1948](#), shall include a power to make rules for the purposes of this Law and proceedings thereunder, and such rules may make provision for enabling persons to take proceedings under this Law *in forma pauperis*, and for the hearing in vacation of all such applications as may require to be immediately or promptly heard.

44 Savings

- (1) Nothing in this Law shall be construed as derogating in any way from any rights or powers of the Ecclesiastical Court in existence immediately before the coming into force of this Law.
- (2) The amendments made to this Law by the Matrimonial Causes (Amendment No. 11) (Jersey) Law 2003 shall not affect the rights of any party to any proceedings instituted in the Family Division of the Royal Court before the coming into force of that Law.

45 Citation

This Law may be cited as the Matrimonial Causes (Jersey) Law 1949.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Matrimonial Causes (Jersey) Law 1949	L.22/1949	15 March 1950 (R&O.2594), (Articles 1, 2, 4, 5(1), 43, 44 and 47 in force 17 January 1950 (R&O.2576))	
Separation and Maintenance Orders (Jersey) Law 1953	L.6/1953	1 October 1953 (R&O.3361)	
Court of Appeal (Jersey) Law 1961	L.17/1961	15 June 1964 (R&O.4531)	
Matrimonial Causes (Amendment) (Jersey) Law 1961	L.27/1961	15 July 1961	
Matrimonial Causes (Amendment No. 2) (Jersey) Law 1964	L.1/1964	10 April 1964	
Mental Health (Jersey) Law 1969	L.18/1969	1 January 1972 (R&O.5596)	
Matrimonial Causes (Amendment No. 3) (Jersey) Law 1973	L.26/1973	21 December 1973	
Matrimonial Causes (Amendment No. 4) (Jersey) Law 1974	L.29/1974	13 December 1974	
Matrimonial Causes (Amendment No. 5) (Jersey) Law 1978	L.1/1979	1 April 1979 (R&O.6620)	
Matrimonial Causes (Amendment No. 6) (Jersey) Law 1983	L.13/1983	19 August 1983	
Matrimonial Causes (Amendment No. 7) (Jersey) Law 1986	L.4/1986	1 July 1986 (R&O.7510)	
Matrimonial Causes (Amendment No. 8) (Jersey) Law 1995	L.37/1995	15 December 1995	
Matrimonial Causes (Amendment No. 9) (Jersey) Law 1996	L.32/1996	1 April 1997 (R&O.9053)	
Stamp Duties and Fees (Jersey) Law 1998	L.8/1998	1 June 1998 (R&O.9236)	

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Matrimonial Causes (Amendment No. 10) (Jersey) Law 2000	L.33/2000	15 November 2001 (R&O.137/2001)	P.28/2000
Marriage and Civil Status (Jersey) Law 2001	L.31/2001	1 May 2002	P.89/2001
Children (Jersey) Law 2002	L.50/2002	1 August 2005 (R&O.74/2005)	P.200/2001
Matrimonial Causes (Amendment No. 11) (Jersey) Law 2003	L.43/2003	1 August 2005 (R&O.69/2005)	P.65/2003
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	R&O.126/2005	9 December 2005	P.203/2005
Gender Recognition (Jersey) Law 2010	L.1/2010	21 May 2010 (R&O.38/2010)	P.174/2008
Civil Partnership (Jersey) Law 2012	L.4/2012	2 April 2012	P.85/2011
Maintenance Orders (Enforcement) (Amendment No. 3) (Jersey) Law 2018	L.6/2018	23 February 2018	P.89/2017
Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018	L.19/2018	1 July 2018 (R&O.68/2018)	P.91/2017
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

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3(1A)	3(2)
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(3)	(4)
(4)	(5)
9(2A)	9(3)
(2B)	(4)
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(4)	(6)
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(4)	repealed by L.32/1996
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25(3)	25(2)
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29A	30
30	repealed by L.26/1973 ; former Article substituted by L.27/1961 , amended by L.1/1964
30A(1)	31
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38	repealed by L.1/1979
44	repealed by L.8/1998
45	44(1)
Article 10 of the Matrimonial Causes (Amendment No. 11) (Jersey) Law 2003	44(2)
46	repealed by L.17/1961
47	45

Table of Endnote References

- ¹ Long title amended by [L.32/1996](#)
- ² Article 1 amended by [L.18/1969](#), [L.50/2002](#), [R&O.48/2018](#)
- ³ Article 2 substituted by [L.18/1969](#)
- ⁴ Article 2 amended by [R&O.49/2018](#)
- ⁵ Article 3(1) amended by [L.32/1996](#)
- ⁶ Article 3(2) inserted by [L.1/1979](#)
- ⁷ Article 3(4) inserted by [L.29/1974](#), amended by [L.1/1979](#), [L.4/1986](#), [L.32/1996](#), substituted by [L.33/2000](#)
- ⁸ Article 3(5) inserted by [L.29/1974](#), substituted by [L.33/2000](#)
- ⁹ Article 6 amended by [L.13/1983](#), substituted by [L.43/2003](#)
- ¹⁰ Article 7(1) amended by [L.18/1969](#), [L.1/1979](#), [L.43/2003](#), [L.19/2018](#)
- ¹¹ Article 7(2) inserted by [L.1/1979](#), amended by [L.32/1996](#), [L.19/2018](#)

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- ¹² Article 7(3) inserted by L.19/2018
- ¹³ Article 8(2) amended by L.50/2002
- ¹⁴ Article 9(2)(b) repealed by L.43/2003
- ¹⁵ Article 9(2) amended by L.1/1979, L.37/1995, L.43/2003
- ¹⁶ Article 9(3) inserted by L.37/1995
- ¹⁷ Article 9(4) inserted by L.37/1995, L.43/2003
- ¹⁸ Article 9(5)(b) repealed by L.43/2005
- ¹⁹ Article 9(5)(c) repealed by L.43/2005
- ²⁰ Article 9(5) amended by L.1/1979, L.32/1996
- ²¹ Article 9(6) amended by L.18/1969
- ²² Article 9(7) repealed by L.43/2003
- ²³ Article 10 inserted by L.1/1979, heading amended by L.32/1996
- ²⁴ Article 10(1) amended by L.32/1996
- ²⁵ Article 10(2) amended by L.32/1996
- ²⁶ Article 11 inserted by L.1/1979
- ²⁷ Article 11(2) amended by L.32/1996
- ²⁸ Article 11(3) amended by L.32/1996
- ²⁹ Article 12(1) amended by L.32/1996, L.19/2018
- ³⁰ Article 12(3) amended by L.19/2018
- ³¹ Article 12(5) inserted by L.19/2018
- ³² Article 13 amended by L.50/2002, L.19/2018
- ³³ Article 14(1) substituted by L.19/2018
- ³⁴ Article 14(2) substituted by L.19/2018
- ³⁵ Article 15(1) amended by L.6/1953
- ³⁶ Article 15(2) amended by L.6/1953, L.43/2003
- ³⁷ Article 15(3) amended by L.6/1953
- ³⁸ Article 16 amended by L.43/2003
- ³⁹ Article 17(1) amended by L.43/2003, L.19/2018
- ⁴⁰ Article 18(1) amended by L.18/1969, L.1/2010, L.19/2018
- ⁴¹ Article 18(2) amended by L.1/2010
- ⁴² Article 18(2A) inserted by L.1/2010
- ⁴³ Article 18(3) amended by L.1/2010
- ⁴⁴ Article 18(4) added by L.1/2010, amended by L.19/2018
- ⁴⁵ Article 18(5) inserted by L.19/2018
- ⁴⁶ Article 18A inserted by L.19/2018
- ⁴⁷ Article 20(1) amended by L.1/2010
- ⁴⁸ Article 22(3) repealed by R&O.126/2005
- ⁴⁹ Article 24 amended by L.32/1996
- ⁵⁰ Article 25 amended by L.1/1964, L.1/1979, substituted by L.50/2002
- ⁵¹ Article 25A inserted by L.50/2002
- ⁵² Article 27(1) amended by L.37/1995, L.50/2002
- ⁵³ Article 28 substituted by L.26/1973
- ⁵⁴ Article 28(1) amended by L.1/1979, L.37/1995, L.50/2002
- ⁵⁵ Article 29 substituted by L.27/1961, amended by L.1/1964, substituted by L.26/1973
- ⁵⁶ Article 29(1) amended by L.1/1979, L.37/1995, L.32/1996, L.6/2018
- ⁵⁷ Article 29(2) amended by L.50/2002
- ⁵⁸ Article 30 inserted by L.4/1986
- ⁵⁹ Article 31 inserted by L.27/1961, amended by L.13/1983, L.32/1996
- ⁶⁰ Article 32 amended by L.27/1961, L.18/1969, L.26/1973
- ⁶¹ Article 33(1) amended by L.27/1961, L.26/1973, L.4/1986, L.32/1996

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- ⁶² *Article 34(1)* amended by L.27/1961, L.26/1973, L.4/1986
⁶³ *Article 35* amended by L.26/1973
⁶⁴ *Article 36* amended by L.26/1973, L.4/1986, L.32/1996
⁶⁵ *Article 37(1)* amended by L.27/1961
⁶⁶ *Article 38* heading amended by L.4/2012
⁶⁷ *Article 38(1)* amended by L.4/2012
⁶⁸ *Article 39(1)* substituted by L.26/1973, amended by L.32/1996
⁶⁹ *Article 39(2)* amended by L.4/2012
⁷⁰ *Article 41* amended by L.43/2003