



Isle of Man

Ellan Vannin

AT 3 of 1991

FAMILY LAW ACT 1991



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**Isle of Man***Ellan Vannin*

FAMILY LAW ACT 1991

Received Royal Assent: 19 March 1991
Passed: 19 March 1991
Commenced: See section 36

AN ACT to make new provision with respect to parental responsibility for and guardianship of minors; to make new provision as to the custody and maintenance of minors; to amend the law relating to declarations of status; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

PARTS I AND II

1 to 16 [Repealed]¹

PART III – DECLARATIONS OF STATUS

17 [Repealed]²

18 [Inserts section 49A in the *Adoption Act 1984*.]

19 **Amendments**

- (1) [Inserts section 10A in the *Legitimacy Act 1985*.]
- (2) [Inserts section 17A in the *Civil Registration Act 1984*.]

PART IV – MISCELLANEOUS AND SUPPLEMENTAL

20 [Repealed]³

Evidence

21 **Amends Family Law Reform (Isle of Man) Act 1971**

- (1) [Amends section 12 of the *Family Law Reform (Isle of Man) Act 1971*.]
- (2) [Substitutes section 17 of the *Family Law Reform (Isle of Man) Act 1971*.]

22 to 26 [Repealed]⁴

27 and 28 [Repealed]⁵

Amendments relating to status etc.

29 [Amends section 1 of the *Adoption Act 1984*.]

30 [Repealed]⁶

31 **Registration of births**

For sections 12 and 13 of the *Civil Registration Act 1984* there are substituted the provisions set out in Schedule 3.

32 **Validity of marriages solemnized abroad**

[P1892/23/1, 13 and 22(1) and (5); P1947/33/2; P1988/44/1]

- (1) A marriage between parties of whom at least one is a British national solemnized in accordance with the Foreign Marriage Act 1892 (an Act of Parliament) shall be as valid in law as if it had been solemnized in the Island with a due observance of all forms required by law.
- (2) It shall not be necessary in support of a marriage solemnized under that Act to give any proof of —
 - (a) the residence before the marriage for the time required by or under the Act of either of the parties, or
 - (b) the consent of any person whose consent thereto is required by law,and no evidence to prove the contrary shall be given in any legal proceedings touching the validity of the marriage.
- (3) Where a marriage purports to have been solemnized and registered under that Act in the official house of a British ambassador or consul —

- (a) it shall not be necessary in support of the marriage to give any proof of the authority of the marriage officer by or before whom the marriage was solemnized and registered; and
 - (b) no evidence shall be given in any legal proceedings touching the validity of the marriage to prove his want of authority (whether by reason of his not being a duly authorised marriage officer or of any prohibitions or restrictions under regulations under section 21 of that Act or otherwise).
- (4) A marriage solemnized in accordance with section 22 of that Act (marriage by chaplain of H.M. forces abroad) shall be as valid in law as if it had been solemnized in the Island with a due observance of all forms required by law, and where a marriage purports to have been solemnized under that section —
 - (a) it shall not be necessary in support of the marriage to give any proof of the authority of the person by or before whom it was solemnized; and
 - (b) no evidence shall be given in any legal proceedings touching the validity of the marriage to prove his want of authority.
- (5) In this section “British national” means a person who is —
 - (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas); or
 - (b) a British subject under the British Nationality Act 1981 (an Act of Parliament); or
 - (c) a British protected person within the meaning of that Act.
- (6) This section applies to any marriage, whether solemnized before or after the commencement of this section.

33 Artificial insemination

[P1987/42/27 and 28]

- (1) Where after the passing of this Act a child is born in the Island as the result of the artificial insemination of a woman who —
 - (a) was at the time of the insemination a party to a marriage which had not at that time been dissolved or annulled; and
 - (b) was artificially inseminated with the semen of some person other than the other party to the marriage,

then, unless it is proved to the satisfaction of any court by which the matter has to be determined that the other party to that marriage did not consent to the insemination, the child shall be treated in law as the child of the parties to that marriage and shall not be treated as the child of any person other than the parties to that marriage.

- (2) Any reference in this section to a marriage includes a reference to a void marriage if at the time of the insemination resulting in the birth of the child both or either of the parties reasonably believed that the marriage was valid; and for the purposes of this section it shall be presumed, unless the contrary is shown, that one of the parties so believed at that time that the marriage was valid.
- (3) Nothing in subsection (1) affects the succession to any dignity or title of honour or renders any person capable of succeeding to or transmitting a right to succeed to any such dignity or title.
- (4) A reference in any enactment (whenever passed) to the act of intercourse resulting in the birth of a child shall be construed, in relation to the birth of a child after the passing of this Act as the result of the artificial insemination of a woman, as a reference to the insemination.
- (5) This section does not have effect in relation to a child carried by a woman as the result of her artificial insemination after the commencement of sections 86 to 88 of the *Children and Young Persons Act 2001*.⁷

Supplemental

34 [Repealed]⁸

35 Transitional provisions, amendments and repeals

- (1) The transitional provisions in Schedule 4 shall have effect.
- (2) The enactments specified in Schedule 5 are amended in accordance with that Schedule.
- (3) The enactments specified in Schedule 6 are repealed to the extent specified in column 3 of that Schedule.

36 Short title and commencement

- (1) This Act may be cited as the Family Law Act 1991.
- (2) This Act (except section 33) shall come into operation on such day or days as the Governor in Council may by order appoint.⁹
- (3) An order under subsection (2) may contain such transitional, consequential, incidental and supplemental provisions as appear to the Governor in Council to be necessary or expedient for the purposes of the order.

SCHEDULES 1 AND 2¹⁰**SCHEDULE 3****SUBSTITUTED SECTIONS 12 AND 13 OF THE CIVIL
REGISTRATION ACT 1984**

Section 31

12. [Substitutes sections 12 and 13 of the *Civil Registration Act 1984*.]

SCHEDULE 4**TRANSITIONAL PROVISIONS**

Section 35(1)

Pending applications

1. This Act does not affect any application made under —
- (a) an enactment repealed or amended by this Act, or
 - (b) any provision applied by any such enactment,
- which is pending when the provision repealing or amending that enactment comes into operation.

Existing custody orders, maintenance orders etc.

2. (1) This paragraph applies to an order in force immediately before the commencement of Part II in any of the following proceedings, or so made after such commencement by virtue of paragraph 1 —
- (a) proceedings under any inherent jurisdiction of the High Court in relation to wardship, maintenance or the upbringing of children, or
 - (b) proceedings under any of the following enactments —
 - (i) the *Guardianship of Infants Act 1953*;
 - (ii) the *Matrimonial Proceedings (Magistrates' Courts) Act 1962*;
 - (iii) the *Affiliation Proceedings Act 1966*;
 - (iv) the *Family Law Reform (Isle of Man) Act 1971*;
 - (v) the *Judicature (Matrimonial Causes) Act 1976*;
 - (vi) Part I or II of the *Domestic Proceedings Act 1983*;
 - (vii) Schedule 1 to the *Adoption Act 1984*;
 - (viii) Part III of the *Matrimonial Proceedings Act 1986*.

(2) An order to which this paragraph applies which awards custody, legal custody or care and control of a minor to any person shall have effect as a residence order in favour of that person.

(3) Sub-paragraph (2) does not apply to an order in so far as it awards custody or legal custody of a minor to any person (whether alone or jointly with another person), if it awards care and control of the minor to another person.

(4) An order to which this paragraph applies which requires access to a minor to be given to any person has effect as a contact order requiring that person and the minor to have contact with each other in accordance with the terms of the order.

(5) An order to which this paragraph applies which does not fall within sub-paragraph (2) or (4), and which could (apart from section 12(3)) have been made after the commencement of Part II under section 9(1)(c) or (d), shall have effect as an order so made.

(6) An order to which this paragraph applies which provides that a minor shall be under the supervision of the Department or of a probation officer, or commits the care of the minor to the Department, shall have effect as a supervision order or a care order, as the case may be.

(7) An order to which this paragraph applies which makes financial provision for or in respect of a minor shall have effect as an order under Schedule 1, or under paragraph 4 of Schedule 2, as the case may be.

(8) Sub-paragraph (7) does not apply to an order made in proceedings under —

- (a) the *Matrimonial Proceedings (Magistrates Courts) Act 1962* (except an order under section 2(1)(h));
- (b) the *Judicature (Matrimonial Causes) Act 1976* (except an order under section 23(1)(d) with respect to a child the subject of a care order);
- (c) Part I of the *Domestic Proceedings Act 1983* (except an order under section 11(4), or an order made by virtue of any provision of Part II); or
- (d) Part III of the *Matrimonial Proceedings Act 1986*.

Affiliation orders

3. (1) Any affiliation order under an enactment repealed by this Act (other than an order to which paragraph 2 applies), which is in force immediately before that repeal takes effect or is made thereafter by virtue of paragraph 1, shall continue in force notwithstanding such repeal, and may be enforced, or varied or revoked under Schedule 1, in like manner as a periodical payments order.

(2) In this paragraph “affiliation order” means any order under an enactment specified in section 49(2) of the *Summary Jurisdiction Act 1989* (as it had effect at the passing of this Act), and any order made in relation to such an order.

Guardianship

4. (1) An appointment of a guardian of a minor by a parent of the minor or by the High Court under any provision of the *Guardianship of Infants Act 1953* which has effect immediately before the commencement of Part I, whether or not it could have taken effect under that Part, shall continue in effect, subject to the powers of the court under section 8(1) and sub-paragraph (2).

(2) Where by virtue of sub-paragraph (1) the appointment of a guardian has effect, but any other person has parental responsibility for the child concerned jointly with the guardian, the High Court may, on an application made by the guardian or that person, by order suspend or revoke the appointment, which (if suspended) shall take effect in accordance with section 7.

(3) An appointment of a guardian of a minor made by deed or will before the commencement of Part I which has not taken effect at such commencement shall take effect in accordance with section 7.

Declarations of status etc.

5. Without prejudice to paragraph 1, nothing in Part III affects any proceedings —
- (a) under section 45 of the *Judicature (Matrimonial Causes) Act 1976*, as it had effect at the commencement of that Part, or
 - (b) for jactitation of marriage, or
 - (c) for a declaration,
- begun before the commencement of that Part.
6. [Repealed]¹¹

SCHEDULE 5**AMENDMENT OF ENACTMENTS**

Section 35(2)

[Sch 5 amended by GC155/91, by Sexual Offences Act 1992 Sch 4, by Maintenance Orders (Reciprocal Enforcement) Act 1995 Sch 3, by Mental Health Act 1998 Sch 6, by Matrimonial Proceedings Act 2001 Sch 2 by Children and Young Persons Act 2001 Sch 13 and by Matrimonial Proceedings Act 2003 Sch 6, and amends the following Acts —

Children and Young Persons Act 1966 q.v.

Family Law Reform (Isle of Man) Act 1971 q.v.

Civil Evidence Act 1973 q.v.

Church (Ecclesiastical Jurisdiction) Act 1978 q.v.

Civil Registration Act 1984 q.v.

Marriage Act 1984 q.v.]
Adoption Act 1984 q.v.
Child Custody Act 1987 q.v.
Summary Jurisdiction Act 1989 q.v.

ORDERS

[Sch 5 amends the following Order - Social Security Legislation
(Application) (No 2) Order 1980 (GC248/80).]

SCHEDULE 6**ENACTMENTS REPEALED****Section 35(3)**

[Sch 6 repeals the following Acts wholly —

Guardianship of Infants Act 1953
Legitimacy Act 1962
Affiliation Proceedings Act 1966
Judicature (Wardship) Act 1977

and the following Acts in part —

Children and Young Persons Act 1966
Children and Young Persons Act 1969
Family Law Reform (Isle of Man) Act 1971
Domicile and Matrimonial Proceedings Act 1974
Administration of Justice Act 1981
Civil Registration Act 1984
Marriage Act 1984
Adoption Act 1984
Fines Act 1986
Statute Law Revision Act 1986
Matrimonial Proceedings Act 1986
Child Custody Act 1987
Summary Jurisdiction Act 1989
Children and Young Persons Act 1990.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Parts I and II (ss 1 to 16) repealed by Children and Young Persons Act 2001 Sch 13.

² S 17 repealed by Matrimonial Proceedings Act 2003 Sch 6.

³ S 20 repealed by Children and Young Persons Act 2001 Sch 13.

⁴ Ss 22 to 26 repealed by Children and Young Persons Act 2001 Sch 13.

⁵ Ss 27 and 28 repealed by Matrimonial Proceedings Act 2003 Sch 6.

⁶ S 30 repealed by Children and Young Persons Act 2001 Sch 13.

⁷ Subs (5) added by Children and Young Persons Act 2001 Sch 12.

⁸ S 34 repealed by Children and Young Persons Act 2001 Sch 13.

⁹ ADO (s 35(2) and (3) so far as it relates to the provisions of Schs 5 and 6, specified below; s 36; para 10(1) of Sch 5; in Sch 6, in column 3 of the entry relating to the Maintenance Orders (Reciprocal Enforcement) Act 1978, the entries relating to ss 1, 22, 35 and 42); immediately before 1/12/1991; (rest of the Act, except s 33): 1 April 1992 (GC396/91).

¹⁰ Schs 1 and 2 repealed by Children and Young Persons Act 2001 Sch 13.

¹¹ Para 6 repealed by Children and Young Persons Act 2001 Sch 13.