



Jersey

L.43/2003

MATRIMONIAL CAUSES (AMENDMENT No. 11) (JERSEY) LAW 2003

A LAW to amend further the Matrimonial Causes (Jersey) Law 1949.¹

Adopted by the States

1st July 2003

Sanctioned by Order of Her Majesty in Council

13th November 2003

Registered by the Royal Court

5th December 2003

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1

In this Law, “the principal Law” means the Matrimonial Causes (Jersey) Law 1949.²

2

For Article 6 of the principal Law³ there shall be substituted the following Article –

“6 Jurisdiction

- (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) of this Article (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) of this Article.”.

3

In Article 7(1) of the principal Law⁴ –

- (a) in sub-paragraph (a) after the word “adultery” there shall be added the words “and the petitioner finds it intolerable to live with the respondent”;
- (b) in sub-paragraph (c) for the words “treated the petitioner with cruelty” there shall be substituted the words “behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent”;
- (c) sub-paragraph (f) shall be repealed; and
- (d) the words “and by the wife on the ground that the husband has since the celebration of the marriage been guilty of rape” shall be repealed.

4

In Article 9 of the principal Law⁵ –

- (a) in paragraph (2) –
 - (i) for the words “Subject to the provisions of paragraphs (2A), (2B), (3), (4) and (5) of this Article” there shall be substituted the words “Subject to the provisions of paragraphs (2A), (2B), (3) and (4) of this Article”, and

- (ii) sub-paragraph (b) shall be repealed;
- (b) in paragraph (2B) the words “(b) or” shall be repealed;
- (c) in paragraph (3) –
 - (i) sub-paragraphs (b) and (c) shall be repealed, and
 - (ii) in sub-paragraph (d) the words “adultery or”, in both places where they appear, shall be repealed; and
- (d) paragraph (5) shall be repealed.

5

In Article 13 of the principal Law⁶ –

- (a) in paragraph (1) after the expression “1953” there shall be inserted the words “, as amended”; and
- (b) in paragraph (2) the words “adultery, desertion or other” shall be repealed.

6

In Article 14 of the principal Law⁷ for the words “on the ground of the adultery, cruelty or desertion of the petitioner” there shall be substituted the words “on a ground mentioned in Article 7(1)(a), (b) or (c) of this Law”.

7

In Article 15(1) of the principal Law⁸ for the words “on the ground of adultery” on both occasions where they appear there shall be substituted the words “alleging adultery”.

8

In Article 29(1)(d) of the principal Law⁹ after the word “foncière” there shall be inserted the words “, as amended”.

9

In Article 41 of the principal Law¹⁰ the words “but no witness in any such proceedings, whether a party thereto or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery” shall be repealed.

10

This Law shall not affect the rights of any party to any proceeding instituted in the Family Division of the Royal Court before the coming into force of this Law.

11

This Law may be cited as the Matrimonial Causes (Amendment No. 11) (Jersey) Law 2003 and shall come into force on such day as the States may by Act appoint.

A.H. HARRIS

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¹ *Tome VII, page 580, Tome VIII, page 207, Volume 1961-1962, page 125, Volume 1968-1969, page 424, Volume 1979-1981, page 1, Volume 1982-1983, page 155, Volume 1986-1987, page 21, Volume 1994-1995, page 611, Volume 1996-1997, page 313, Volume 1998, page 185, Volume 2000, page 819 and Volume 2001, page 295.*

² *Tome VII, page 580, Tome VIII, page 207, Volume 1961-1962, page 125, Volume 1968-1969, page 424, Volume 1979-1981, page 1, Volume 1982-1983, page 155, Volume 1986-1987, page 21, Volume 1994-1995, page 611, Volume 1996-1997, page 313, Volume 1998, page 185, Volume 2000, page 819 and Volume 2001, page 295.*

³ *Tome VII, page 583, Volume 1982-1983, page 155 and Volume 1996-1997, page 314.*

⁴ *Tome VII, page 584 and Volume 1979-1981, page 1.*

⁵ *Tome VII, page 585, Volume 1979-1981, page 2, Volume 1994-1995, page 611 and Volume 1996-1997, page 314.*

⁶ *Tome VII, page 587.*

⁷ *Tome VII, page 588.*

⁸ *Tome VII, page 588.*

⁹ *Tome VII, page 595.*

¹⁰ *Tome VII, page 600.*