

1957.]

*Matrimonial Causes and  
Personal Status Code.*

[No. 73.]

## MATRIMONIAL CAUSES AND PERSONAL STATUS CODE.

6° Elizabeth II., No. LXXIII.

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No. 73 of 1957.

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**AN ACT to amend the Matrimonial Causes and  
Personal Status Code, 1948-1954 and for other  
purposes.**

*[Reserved 1st April, 1958.]*

*[Royal Assent Proclaimed 16th May, 1958.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Matrimonial Causes and Personal Status Code Amendment Act, 1957*, and shall come into force on a date to be fixed by proclamation.

Short title  
and citation.

(2) In this Act the Matrimonial Causes and Personal Status Code, 1948-1954,

Act No. 73 of 1948 as reprinted with amendments to and including Act No. 7 of 1954 incorporated pursuant to the Amendments Incorporation Act, 1938 and approved for reprint on the 13th June, 1956

is referred to as the principal Act.

(3) The principal Act, as amended by this Act, may be cited as the Matrimonial Causes and Personal Status Code, 1948-1957.

S. 51  
amended.

2. (1) Section fifty-one of the principal Act is amended by repealing subsection (1) and inserting in lieu thereof the following subsection:—

(1) Every order made by a Judge in the exercise of jurisdiction under this Code including orders made in interlocutory, intervention and ancillary proceedings may be appealed against on grounds of fact or law or both by any party bound by the order, within three calendar months of the date of the order, provided that there shall be no appeal from any final order for dissolution of marriage by any party who failed to appeal against any order *nisi* on which such order was founded unless such failure was due to such party having had no knowledge that the action had been taken, or if the fact of the action having been taken did come to his knowledge he did not have reasonable opportunity of appearing and defending his rights or contesting any fact in issue raised against him.

(2) The amendment made by subsection (1) of this section shall be deemed to have taken effect as from the coming into operation of the principal Act.

3. Section fifty-two of the principal Act is amended by deleting the word, "of" in line one. S. 52  
amended.

4. Where prior to the coming into operation of this Act the Full Court of the Supreme Court of Western Australia on the hearing or purported hearing of any appeal from an order refusing relief in any matrimonial cause or action or from any other order of a Judge exercising jurisdiction under the principal Act has given or purported to give any judgment or made or purported to make any order, Validation  
of appeals.

the Full Court shall be deemed to have had jurisdiction to hear and determine the appeal and give any such judgment or make any such order, and

any such judgment or order shall be deemed to be and at all times to have been as valid and effectual for all purposes

as if section fifty-one of the principal Act as amended by this Act had been in force as from the coming into operation of the principal Act.

5. Where either before or after the coming into operation of this Act proceedings have been commenced in the Supreme Court for an appeal from an order of a Judge exercising jurisdiction under the principal Act including an order in interlocutory, intervention or ancillary proceedings, the appeal may be heard and determined as fully and effectually for all purposes as if section fifty-one of the principal Act as amended by this Act had been in force at the time when the order had been made or the proceedings had been commenced. Validation of  
pending  
appeals.

6. All proceedings, matters, orders, acts and things taken or done or purporting to have been taken or done under the principal Act or under any Validation.

other Act in relation to or pursuant to or in reliance upon any judgment or order or purported judgment or order of the Full Court referred to in section four of this Act are by force of this section declared to have been for all purposes by virtue of the judgment or order or purported judgment or order as lawfully taken or done as if a valid judgment or order had been made, on that date, by the Full Court having jurisdiction in the terms in which the Full Court made or purported to make the judgment or order.

7. Nothing in this Act shall be deemed—

- (a) to have conferred jurisdiction on the Full Court to hear any appeal in any case in which, prior to the coming into operation of this Act, the High Court of Australia has on an appeal from the Full Court held that the Full Court had no such jurisdiction;
  - (b) to validate any judgment or order of the Full Court given or made in any such case.
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