

CODIFICATION COMMITTEE. SUB-SECTION 1 OF CIVIL LAW. VOLUME 1, BOOK 1.
DRAFT OF MARITAL LAW
ADOPTED BY THE CODIFICATION COMMITTEE
ON 28 MAY 1929. WARSAW – 1931.

MARITAL LAW

**Chapter 1.
Betrothal.**

Art. 1

Betrothal is formed by mutual and explicit promise of marriage. Only persons capable of contracting marriage may become betrothed.

[tags: betrothal, sponsalia, capacity to contract marriage]

Art. 2

Marriage cannot be pursued due to betrothal. Reservation of contractual penalty or any benefits due to withdrawal from betrothal is void.

[tags: inadmissibility of claim for marriage; inadmissibility of contractual penalty; breaking off betrothal]

Art. 3

Whoever withdraws from betrothal without a just cause or gives the other party a just cause for withdrawal, is liable to this party, his/her parents or persons acting in place of his/her parents for losses incurred on justified preparations to marriage, and is obliged to compensate the abandoned party adequately for moral harm.

[tags: liability for breaking off betrothal; compensation for material loss; compensation for moral harm]

Art. 4

If marriage is not effected each of the betrothed parties may demand return of betrothal gifts from the other party or its heirs. The party guilty of withdrawal without just cause has no such right.

[tags: return of betrothal gifts]

Art. 5

The prescription period for claims for compensation and return of gifts amounts to a year after the cessation or breaking off betrothal. The claim of the betrothed party is transferred to his/her heirs only if brought during this party's life.

[tags: deadlines for claims for compensation for material loss; deadlines for claims for compensation for moral harm]

Art. 6

If the fiancé with whom the woman got pregnant dies or withdraws from betrothal without just cause or gives her a just cause to withdraw the fiancée may demand property rights from the fiancé or his heirs equally to a wife separated by her husband's fault. The fiancée's claim is prescribed two years after the fiancé's death or breaking off the betrothal.

[tags: claims of a pregnant woman due to breaking off betrothal; claim prescription]

Chapter II. Legal capacity to contract marriage.

Art. 7

Marriage can be contracted by a man at least 20 years of age and a woman at least 17 years of age, provided they are capable of discernment.

[tags: capacity to contract marriage]

Chapter III. Obstacles to marriage.

Art. 8

Marriage cannot be contracted between:

- a) persons already married;
- b) blood line relatives and siblings and step-siblings – both from marital and non-marital relations;
- c) direct line relatives;

- d) persons in annulled marriage or concubinage with an ascendant or descendant of the other party;
- e) persons at least one of whom attacked the life of his/her spouse or the other party's spouse to facilitate common marriage;
- f) persons with mental disorders – even in the period of consciousness of mind.

[tags: obstacles to marriage; circumstances excluding contracting marriage; bigamy; blood line relation; direct line relation; mental disorder]

Art. 9

The spouse of an absent person cannot contract another marriage prior to declaring this person dead. The first marriage is dissolved upon contracting a new one.

[tags: declaring a person dead]

Art. 10

Marriage cannot be contracted:

- a) between a child and brother or sister of the child's parents and also between siblings' children if any of the betrothed parties or their parents was mentally disordered before his/her birth;
- b) between persons at least one of which is afflicted with open tuberculosis, venereal disease in a contagious state, or drug addiction;
- c) between an adoptee or the adoptee's descendant and the adopter and also between an adoptee or adopter and a spouse of one of them – as long as the adoption relation continues;
- d) with a minor without a marriage license prescribed by law.

[tags: obstacles to marriage; blood line relation; minority; adoption; lack of marriage license]

Art. 11

A minor should have permission to marriage from at least one of the parents. If the other parent has not given his/her permission before a registrar or in a deed with authenticated signature the marriage cannot be contracted before 30 days as of notification of this parent by the registrar that the minor has declared an intention to marry and has the permission of his/her parent. This provision is not applicable if incapacity to declare his/her will by the other parent is officially confirmed. Within 30 days as of receipt of notification the parent whose permission is lacking may file a request for an injunction against the marriage to court. In such case the court rules a temporary halt to marriage and gives the final decision about the injunction as soon as possible upon hearing both parents. Marriage cannot be contracted without the permission of the one of the parents who has parental care or custody.

[tags: minority; parental permission to contract marriage by a minor; lack of permission to contract marriage by a minor]

Art. 12

If the parents are dead or do not have parental care or custody the permission of the custodian is needed; in the custodian's absence or if the marriage is to be contracted with him/her or with his/her descendant, brother or sister, step-brother or step-sister from marital or non-marital relations or his/her direct line relations, the court designates a special custodian.

[tags: custodian's permission to contract marriage]

Art. 13

The lack of parent's permission for unknown reason is not an obstacle to contracting marriage if the minor, jointly with his/her other parent or custodian, makes a statement before the court that he/she has no knowledge of the other parent's domicile.

[tags: permission of the parent with unknown domicile to contracting marriage by a minor]

Art. 14

A minor who is either a consented minor or an incomplete minor does not need a marriage license. The same applies to a minor who has already been married.

[tags: no requirement of permission to contract marriage by a minor]

Art. 15

Adopter's permission replaces parental permission. If both spouses have adopted the provisions on parental permission apply to them respectively.

[tags: adopter's permission to contract marriage]

Art. 16

if the woman gets pregnant with a man before he or she become of age, and the parents of one of them or adopters refuse permission for marriage, the minor may apply to the court who, after summoning the parents or adopters and hearing them provided they appear, may authorize the minor to marry without their permission.

[tags: authorization of the court to contract marriage by a pregnant woman]

Art. 17

If the custodian refuses permission to marry, the minor may apply to the court for authorization to contract marriage without such permission.

[tags: authorization of the court to contract marriage by a minor; lack of custodian's permission to contract marriage by a minor]

Chapter IV. Premarital acts.

Art. 18

The betrothed parties, entering into marriage are obliged to submit the following to a respective registrar:

- a) legally required evidence of their legal capacity to contract marriage and the lack of obstacles;
- b) own statement of each of the betrothed parties that they have no knowledge of obstacles to the marriage listed in previous chapters of this law;
- c) an identical statement from their parents or custodians, and in the lack of them, from two ascendants or siblings of the each of the betrothed party who are not limited in their civil rights.

The party guilty of providing an untrue statement is subject to a penalty prescribed by law.

[tags: registrar; contracting marriage; evidence of legal capacity to contract marriage; statements of the lack of obstacles to marriage; liability for providing untrue statement]

Art. 19

The respective registrar is the registrar in whose district one of the betrothed party is domiciled or has been residing for at least four weeks.

[tags: registrar; local jurisdiction]

Art. 20

The intended marriage is announced:

- a) if one of the betrothed parties does not have Polish citizenship;
- b) if neither of the betrothed parties has domicile in Poland or has not been residing in Poland for at least 4 weeks;
- c) if not all legally required evidence of marital status or statements of no obstacles to marriage are submitted;
- d) if the registrar is in doubt whether the submitted evidence confirms the lack of obstacles to marriage sufficiently.

The announcement ceases to be effective void after 4 months as of its completion.

[tags: premarital announcement; lack of Polish citizenship; lack of domicile in the territory of the Republic of Poland; obstacles to marriage; validity of prenuptial announcement]

Art. 21

Everyone may object to marriage but only in respect of legal capacity of the betrothed parties to contract marriage or obstacles prescribed by law.

[tags: objections to marriage; capacity to contract marriage; obstacles to marriage]

Art. 22

If, neither based on the submitted documents, nor due to the completed announcement, or based on information otherwise possessed by the registrar, no obstacles to marriage exist, the betrothed parties shall immediately obtain a certificate of no obstacles. The certificate ceases to be effective after 4 months.

[tags: registrar, obstacles to marriage; certificate of no obstacles to marriage; validity of certificate]

Art. 23

In case of direct danger to the life of either of the betrothed parties or a sudden call to war the betrothed parties may perform premarital acts before any registrar independent from local jurisdiction. In such cases the registrar may issue a certificate of no obstacles with the omission of legally required announcement. In other sudden cases or if persons are deemed to be married, performing premarital acts before a registrar who is not competent and releasing the betrothed parties from the legally required announcement may be effected only with the consent of registry office inspector.

[tags: obstacles to marriage; certificate of no obstacles to marriage; premarital announcement; danger of loss of life]

Chapter V. The wedding.

Art. 24.

Upon completing premarital acts before the respective registrar the betrothed parties may contract marriage by a public submission, before a registrar or a clergyman, of a consensual declaration of entering into a life-long marital union in the presence of two witnesses.

[tags: registrar; contracting marriage; wedding; declaration of entering into marriage; clergyman; witnesses]

Art. 25

The marriage may be contracted before any registrar in the Republic of Poland or before a clergyman of any denomination legally recognized in Poland to which one of the betrothed parties belong. Marriage before a registrar before whom no premarital acts were completed or marriage before a clergyman may only be contracted after a previous submission of the original of the certificate of no obstacles to marriage issued by the respective registrar.

[tags: registrar; contracting marriage; wedding; clergyman; denomination legally recognized by the state; certificate of no obstacles to marriage]

Art. 26

Marriage contracted before a clergyman has a civil effect equal to a marriage contracted before a registrar provided it is properly confirmed by the clergyman with a wedding protocol prepared according to the Law on Civil Status Records and submitted to the registrar of the wedding location for the purpose of issuing the certificate of marriage.

[tags: registrar; contracting marriage; wedding; clergyman; ecclesiastical form of marriage, wedding protocol; certificate of marriage]

Art. 27

The betrothed party who is in an active army during a war or is a captive may for significant reasons and with the permission of respective military authorities submit a statement of marriage by a specifically authorized proxy. The power of attorney does not expire with the death of the principal. Marriage contracted by a representative after the death of the principal has retroactive effect in respect of the rights of common children and the spouse as of the day of the principal's death. The Regulation of the President of the Republic of Poland shall establish detailed provisions about contracting marriage by proxy in the cases prescribed by this Article.

[tags: war captivity; contracting marriage by proxy; per procura marriage; power of attorney; permission of military authority; Regulation of the President of the Republic of Poland]

Art. 28

In case of a direct danger to the life of one of the betrothed parties which does not allow putting off the wedding, marriage can be contracted before a registrar or clergyman without a prior submission of the certificate of no obstacles. In such case a statement of the betrothed parties is accepted to a book of protocols by the registrar or to the book of protocols of wedding by the clergyman. Each of the

betrothed parties has the right to apply to the respective registrar to complete premarital acts afterwards for the purpose of confirming the lack of obstacles to marriage. The initial wedding statements of the betrothed parties ceases to be effective and cannot constitute a basis for the certificate of marriage if:

- a) the danger threatening the life of one of the betrothed parties is not confirmed by a medical certificate submitted to a registrar within 3 days as of the date of the wedding or by a certificate of death;
- b) premarital acts result in an obstacle to marriage which justifies its annulment pursuant to the law;
- c) premarital acts have not been commenced within 3 days as of the date of the wedding;
- d) the certificate of marriage is not issued within a month as of the date of the wedding.

[tags: registrar; contracting marriage; wedding; clergyman; denomination legally recognized by the state; certificate of no obstacles to marriage; state of serious danger; medical certificate]

Art. 29.

In case of direct danger to the life of one of the betrothed parties, if the participation of a registrar or clergyman is impossible, marriage can be contracted without a prior completion of premarital acts by a public statement of one of the betrothed party to the other party in the presence of at least 2 witnesses that he or she is bound to him or her by a lifelong marriage bond. However, if the state of danger ceases to exist premarital acts must be completed immediately before a respective registrar who shall issue a certificate of marriage. Provided one of the betrothed parties dies beforehand or fails to appear to complete premarital acts or issue the certificate of marriage the other party may demand that the court in whose district the office of the respective registrar is located instruct to complete such premarital acts and issue a certificate of marriage. The initial wedding statement ceases to be effective and cannot constitute a basis for the certificate of marriage if:

- a) it proves to be an obstacle to marriage which justifies its annulment pursuant to the law;
- b) within a month as of cessation of the danger premarital acts are not commenced and neither party submits such a demand with the court;
- c) certificate of marriage is not issued within three months as of this date.

[tags: state of serious danger; statement of contracting marriage; witnesses; obstacles to marriage; certificate of marriage; registrar]

Art. 30

Marriage is deemed contracted on the date confirmed by the certificate of marriage. The evidence of marriage is the certificate of marriage issued by a registrar. It cannot be replaced by a protocol of wedding.

[tags: contracting marriage; certificate of marriage; registrar]

Chapter VI. Marital obligations.

Art. 31

Spouses are obliged to a common life; fidelity; assistance and collaboration for the welfare of the family established by their union.

[tags: obligations of the spouses; conjugal life; welfare of the family]

Art. 32.

Each of the spouses is obliged to contribute, to the best of his or her ability, to the burden of maintaining the family. Such burden consists of maintaining a common household, bringing up children and satisfying personal needs of each of the spouses.

[tags: maintaining the family; household; bringing up children; personal needs]

Art. 33.

The domicile of the spouses and minor children is the place of residence of the husband. The spouses can agree otherwise. In case of a dispute the decision belongs to the spouse incurring the major cost of maintaining the family. The provision above by no means changes regulations on jurisdiction.

[tags: domicile; minor children; jurisdiction]

Art. 34.

If the spouses have not agreed otherwise, the wife manages the household by herself.

[tags: household; household management]

Art. 35.

Spouses are jointly and severally responsible for liabilities incurred by each of them in ordinary affairs of the common household and bringing up children.

[tags: joint and several liability; household; bringing up children]

Art. 36.

Each of the spouses may apply to the court for depriving the other spouse of the right to incur liabilities on behalf of both spouses independently. In case of a change

in relations this limitation of rights may be cancelled by the court on the application of each of the spouses.

[tags: incurring liabilities]

Art. 37.

In case of a temporary absence or sickness of a spouse who has not a proxy the other spouse may replace him or her in urgent matters, and in particular, may collect income accruing to him or her.

[tags: absence of a spouse; sickness of a spouse; income of a spouse]

Art. 38.

If one of the spouses is incapacitated or limited in his or her capacity, the other spouse becomes his or her legal substitute unless the court decides otherwise.

[tags: legal capacity, limited legal capacity; legal substitution]

Art. 39.

By contracting marriage neither of the spouses is limited in his or her legal capacity.

[tags: contracting marriage; legal capacity]

Art. 40.

The wife shall acquire the surname of the husband. She adds this surname to her family surname if she declares to keep her family surname in the certificate of marriage.

[tags: surname of the spouse; family surname; certificate of marriage]

Art. 41.

The spouses have equal rights and obligations towards their children.

[tags: rights of the spouses; obligations of the spouses; children]

Art. 42.

The spouses exercise parental authority jointly. Each of the parents has the right of substitution of his or her minor children. If the parents are in disagreement and

if the law contains no separate provisions in this respect, the decision belongs to the court.

[tags: parental authority; legal substitution; court]

Art. 43.

Neither of the spouses can adopt without the consent of the other spouse.

[tags: adoption; consent of the spouse]

Art. 44.

If either of the spouses neglects his or her obligations to maintain the family, the other spouse may apply to the court to order the debtor of this spouse to pay the whole or a part of monies to the hands of the demanding spouse. If the debtor knew about the court's order, any payment made contrary to the order does not release the debtor from the payment to the hands of the spouse indicated by the court.

[tags: marital obligations; debtor; court order]

Art. 45.

For the duration of marriage, the prescription period for reciprocal claims of the spouses is suspended.

[tags: reciprocal claims of spouses; suspension of the statute of limitations]

Art. 46.

A spouse, during the period of marriage, cannot enforce his or her dues from the other spouse by coercive means, unless such means were used toward him or her by a third creditor, or in respect of statutory or judicial separation of property, or in respect of sums awarded to the other spouse for maintaining the family.

[tags: reciprocal claims of spouses; regime of property separation; creditor; maintaining the family]

Chapter VII. Annulment.

Art. 47.

Annulment of marriage may be applied for by a prosecutor and each of the spouses, and in substitution of a minor, each parent or custodian, provided the following legal provisions are not met upon contracting marriage:

- a) in respect of the difference of sex of the persons contracting marriage;
- b) in respect of legal capacity to contract marriage due to age and capability of discernment;
- c) in respect of obstacles to marriage due to bigamy, blood or direct relation, remaining in an annulled union or concubinage with a ascendant or descendant of the other party, attacking the life of own spouse or the spouse of the other party, and mental disorder;
- d) in respect of the obligation to provide a registrar or clergyman before whom the marriage is to be contracted with a certificate of no obstacles to marriage issued by a respective registrar.

[tags: annulment of marriage; prosecutor; capacity to contract marriage; bigamy; consanguinity; affinity; attacking the life of the spouse; mental disorder; registrar]

Art. 48.

The right to file a claim for annulment expires by cessation of marriage, and:

- a) in case of bigamy – upon cessation or annulment of the previous marriage;
- b) in case of the lack of age – upon reaching the age prescribed by law by the spouse or after 3 years as of the date of marriage, or in case the woman becomes pregnant;
- c) in case of the spouse's incapability of discernment or mental disorder – upon cessation of incapability or the disorder deemed to be healed or after 3 years as of the date of marriage, or in case the woman becomes pregnant.

The right to file a claim by the spouse under the age prescribed by law, incapable of discernment or mentally disordered is prolonged by 6 months. The duration of the 6 months' period is counted as of cessation of incapability of discernment or healing mental disorder. The prolongation shall not apply in case the woman gets pregnant.

[tags: claim for annulment of marriage; capability to contract marriage; bigamy; consanguinity; affinity; mental disorder]

Art. 49.

The court shall establish whether and which of the parties has contracted marriage in good faith. The spouse who, in good faith, contracted marriage which was later annulled is considered not guilty on an equal basis with the separated spouse.

[tags: contracting marriage; good faith; annulment of marriage; separated spouse]

Art. 50.

Children from an annulled marriage have the rights of marital children on an equal basis with children of separated parents.

[tags: annulment of marriage; separated spouse; children]

Art. 51.

After the death of a spouse, only his or her descendants may prosecute an annulment of marriage, provided the deceased filed the case while he or she was alive.

[tags: annulment of marriage; death of a spouse; descendants]

Art. 52.

When the verdict on annulment of marriage becomes final the court shall order making an additional note in the certificate of marriage.

[tags: annulment of marriage; certificate of marriage]

Art. 53.

Annulment of marriage cannot be invoked against a third person acting in good faith who, before the note about annulment was added to the certificate of marriage, had executed a legal act with one of the spouses or filed a court claim against him or her.

[tags: annulment of marriage; good faith; certificate of marriage; third person]

**Chapter VIII.
Separation and divorce.**

Art. 54.

Spouses over 25 years of age without common minor children, with legal capacity, may, by mutual consent, apply to the court for disconnection (separation) after 3 years of marriage without giving reasons.

[tags: separation; disconnection; legal capacity; lack of offspring]

Art. 55.

The court shall call the spouses to jointly appear in person at a hearing, and after explaining to the spouses the legal effects of the filed demand for separation, shall ask each of them separately whether he or she sustains the claim.

[tags: separation; disconnection; court hearing]

Art. 56.

If the spouses sustain their initial claim, the court shall decide about their temporary separation for 1 year and, upon hearing the motion of the spouses, shall decide about their residence and the burden of maintenance.

[tags: temporary disconnection; separation; court decision; residence; incurring the burden of maintenance]

Art. 57.

If, after a year, the spouses again, in a manner hereinabove prescribed, confirm their claim for separation, the court will pass a verdict on their separation for an infinite period without recognizing the fault of either spouse.

[tags: separation; disconnection; fault of spouses; court's verdict]

Art. 58.

At the request of one of the spouses the court shall pass a verdict on separation if it finds that the welfare of minor children is not an obstacle, and if it states irretrievable breakdown of conjugal life for the following reasons:

- a) act of adultery of the spouse, unless the claimant tolerated or forgave it or if 3 years have passed since the act of adultery, or 6 months have passed since the claimant obtained knowledge about the act of adultery;
- b) that the spouse attacks the life of the claimant or his or her child, or that he or she is guilty of grave insult, blasphemy or slander against the spouse, unless the spouse has given his or her forgiveness, or that 3 years have passed since the act or 6 months have passed since the claimant obtained knowledge about the act;
- c) that the spouse is judicially deprived of parental authority;
- d) that the spouse refuses funds for maintaining the family;
- e) that the spouse left the common domicile a year before without just cause or up to 5 years before with just cause, and when called by the court directly or, if infeasible, by public announcement, neither complied in the period of 3 months, nor proved an event of force majeure making it impossible for him or her to return within the determined period;

- f) that the spouse is subject to imprisonment for over 5 years or committed a dishonourable offence;
 - g) that the spouse is living a licentious or promiscuous life or induces the claimant or children to immoral life;
 - h) that the spouse practices a dishonourable occupation or draws income from it;
 - i) that the spouse compulsively indulges in drunkenness or drug addiction;
 - j) that the spouse suffers from a contagious venereal disease which is hazardous for the other spouse or the children;
 - k) that the spouse suffers from mental disorder lasting continuously for 3 years;
 - l) that the spouse is affected by sexual impotence, regardless of the time of its onset. Impotence of persons over 50 years of age and persons who have remained in marriage for 10 years cannot be invoked;
 - m) that, upon contracting marriage, the claimant was misled in respect of the spouse's person himself or herself or his or her marital status, citizenship or denomination or such significant properties of the spouse which constitute an obstacle to marriage or which endanger the health of the claimant and his or her future offspring or which are commonly considered detrimental to the honour of the spouse;
 - n) that the claimant was forced to contract marriage by a threat resulting in a justifiable fear for the life, honour or health of his or her own or those close to him or her.
- In both of the latter two cases, the claim shall be prescribed 6 months after the claimant learns of his or her mistake or the coercion ceases;
- o) that the spouse refuses to complete religious ceremony despite his or her promise given at the act of marriage and confirmed in the registrar's book of protocols.
- In such case the claim expires after 3 months as of issuing the certificate of marriage.

[tags: separation; disconnection; welfare of minor children; breakdown of conjugal life; adultery; attacking the life; insults; deprivation of parental authority; funds for maintaining the family; leaving the common domicile; imprisonment; licentious style of life; promiscuity; drunkenness; drug addiction; venereal disease; mental disorder; sexual impotence; mistake as to the person; threat; claim; prescription; religious ceremony]

Art. 59.

Upon filing a claim for separation each of the spouses is entitled to temporarily leave the common domicile.

[tags: separation, disconnection, common domicile]

Art. 60.

At the first date for the parties' appearance and at the request of one of them the court shall decide about separate residence of the spouses during the proceedings, about surrender of necessary belongings to the spouse leaving common domicile

and, additionally, about mutual spousal maintenance obligations, their property relations and custody of the children.

[tags: common domicile; spousal maintenance; property relations; custody of children]

Art. 61.

The court shall rule separation for indefinite period and establish whether and which of the parties is guilty. In case of sexual impotence and mental disorder the separation shall take place without determining the guilt of either party.

[tags: separation; disconnection; spouse's guilt; sexual impotence; mental disorder]

Art. 62.

The separated spouse cannot remarry during the lifespan of the former spouse.

[tags: separation; disconnection; remarriage]

Art. 63.

The spouses can any time resign from separation and return to the commonality of married life.

[tags: separation; disconnection; resignation from separation]

Art. 64.

Upon the verdict on separation becoming final mutual rights and obligations of the spouses expire. The following also expire: statutory right of inheritance of the surviving spouse and benefits derived for the spouses from the marital property contract or from the dispositions on the event of death made before the separation. Regardless of marital property contract each of the spouses takes back his or her own property, and profits and losses disclosed at the division of common property are divided proportionally to the share of each of the spouses.

[tags: separation; disconnection; rights of the spouses; obligations of the spouses; marital property contract; inheritance; property of the spouses]

Art. 65.

Spouses resigning from separation who have not entered into a new marital property contract are subject to the statutory marital property regime.

[tags: resignation from separation; marital property contract; statutory marital property regime]

Art. 66.

In the verdict on separation, the court may, from the spouse found guilty to the other spouse at his or her request, award respective damages due to the loss caused by separation, loss of benefits provided for in the marital property contract or acts being the basis of separation. The damages also cover moral harm.

[tags: separation; disconnection; damages; marital property contract; moral harm]

Art. 67.

At the request of the separated spouse who is not guilty and who cannot support himself or herself by his or her own efforts, the court shall award to him or her funds for living from the other spouse, even if he or she is also found not guilty, with regard to his or her financial status. In exceptional cases the court may also award assistance in maintenance to the guilty spouse, particularly if both spouses are guilty of separation.

[tags: separation; disconnection; spousal maintenance]

Art. 68.

The amount of spousal maintenance awarded may, at the request of the interested spouse, be altered by the court depending on changes in the financial situation of the person entitled or obliged to pay and on changes in the scope of burden of the maintenance of children and other members of the payer's family.

[tags: spousal maintenance; amount of benefit; financial status; entitled; obliged]

Art. 69.

The maintenance obligation is transferred to the heirs of the payer.

[tags: spousal maintenance; heirs]

Art. 70.

The right to further maintenance benefits ceases when the entitled person remarries.

[tags: spousal maintenance; marriage]

Art. 71.

Presumption of paternity is not applicable to a child conceived during separation of the spouses.

[tags: separation; disconnection; presumption of paternity]

Art. 72.

The court, when declaring separation, upon considering the motion of the spouses:

- a) shall entrust the child and the management of its property to one of the parents with the priority of the spouse who is not guilty or even to a third person if the interest of the child strongly requires it;
- b) shall determine the share of each parent in the burden of maintenance and bringing up the child;
- c) shall provide each parent to whom the child is not entrusted and who is not deprived of parental authority with possibilities of supervising the upbringing and education of the child, and keeping personal relations with the child under conditions determined by the court;
- d) may grant the right to see the child even to the spouse deprived of parental authority.

[tags: separation; disconnection; management of the child's property; child's interest; child maintenance; bringing up the child; parental authority; child's education; right to see the child]

Art. 73.

The management and use of the child's property is transferred to the parent to whom the court has entrusted the child. None of the parents has management and use if the child is entrusted to a third person.

[tags: property management; third person]

Art. 74.

Agreements concerning mutual relations of the spouses in case of separation and their rights and obligations resulting from their relation with the child are effective if confirmed in the verdict on separation.

[tags: separation; disconnection; rights of the spouses; obligation of the spouses; child]

Art. 75.

Orders of the court normalizing the relation between separated spouses and their child may be altered by the court according to circumstances.

[tags: rights of the spouses; obligations of the spouses; child]

Art. 76.

If the court has entrusted the child to a third person, the court shall, at the request of spouses resigning from separation and after hearing the person to whom the child has been entrusted, determine the date of returning the child to the parents.

[tags: third person; child; resignation from separation]

Art. 77.

Upon the expiry of 3 years after the marriage was recognized as separated the court, at the request of either spouse, pronounces a conversion of separation into divorce, by which the marriage shall cease. The court may, at the request of the other spouse, refuse to convert separation into divorce if it deems the welfare of minor children is an impediment. The court may, at the request of the party separated by a final verdict and due to the circumstances of the case, shorten the aforementioned period of 3 years at its discretion.

[tags: separation; disconnection; divorce; welfare of minor children]

Art. 78.

A divorced person may remarry during the lifetime of the former spouse; moreover, divorce has the same civil effects as separation.

[tags: divorce; separation; disconnection; legal effects]

Art. 79.

A divorced wife returns to the surname she had before contracting the dissolved marriage. Provided she has minor children of the same surname from marriage the court may, in the verdict on divorce, grant her the right to retain the surname obtained by marriage.

[tags: divorce; surname of the wife]

Art. 80.

After the verdict on separation or divorce becomes final the court orders to include an additional note in the certificate of marriage with a reservation that the divorced wife retains the right to the surname obtained by marriage if awarded to her. When resigning from separation the spouses make a statement in this respect before a registrar or notary public. An additional note about resignation from separation is made in the certificate of marriage. The spouses may invoke before other persons of

good faith the effect of separation, resignation from it or divorce only as of the date of introducing the additional note into the certificate of marriage.

[tags: divorce; separation; disconnection; certificate of marriage; resignation from separation; registrar; notary public]

Chapter IX.

Jurisdiction and proceedings.

Art. 81.

Matrimonial cases resulting from relations covered by this law belong to common courts. The jurisdiction of common courts is not affected by provisions which denominations legally recognized in the Republic of Poland apply to their adherents in respect to their internal self-government. To matrimonial cases the provisions of the system of common courts and the code of civil procedure are applicable with respect to the following provisions of this chapter.

[tags: common court; jurisdiction; matrimonial cases; legally recognized denomination; system of common courts; code of civil procedure]

Art. 82.

The court pronouncing separation also has jurisdiction to bring an action before it for a conversion of separation into divorce and an amendment of verdict awarding spousal maintenance. The competent court for the prosecutor to bring an action for annulment of marriage is, provided the spouses have no last common domicile in Poland which is the place of permanent residence of one of them, the court in whose jurisdiction the defendant resides or stays, and if this basis for calling him or her is lacking, the court in Warsaw. The competent court in a case for separation is also competent in a case of separation without giving reasons. Only the court before which the case is pending is competent to issue interim orders.

[tags: separation; disconnection; divorce; action for annulment of marriage; domicile; permanent residence; interim order]

Art. 83.

The competent municipal court shall hear non-contentious cases of deprivation of the right of a spouse to contract obligations on behalf of both spouses, as well as cases of payment of dues by the debtor of one spouse to the other spouse.

[tags: municipal court; non-contentious case; obligation; contract obligations]

Art. 84.

A spouse who is minor or otherwise limited in his or her legal capacity shall have the capacity to sue in cases brought under this law and may grant legal representation. A mentally disordered spouse cannot, during his or her sickness, demand divorce even by the statutory representative; he or she may demand annulment or separation only with the consent of the court of custody.

[tags: capacity to sue; mental disorder; annulment of marriage; separation; disconnection; court of custody]

Art. 85.

If a statutory representative appears in a case for annulment of marriage or separation the court also calls the spouse himself or herself to the hearing. In cases for property claims and separation, if the action brought by a minor includes no motion for compensation or maintenance, the court calls the statutory representative of the party with limited capacity for the purpose of hearing. The statutory representative is authorized to extend the property claims in the suit and even to bring an action for material claims, compensation or maintenance if such an action has not been brought by the spouse with limited capacity. In this respect the statutory representative is entitled to file remedies.

[tags: annulment of marriage; separation; disconnection; court; court hearing; property claims; action]

Art. 86.

The action of a spouse, his or her parents or custodian for annulment of marriage or divorce is served to the prosecutor in a copy. The prosecutor is called to the court hearing; he or she may provide facts and evidence on an equal basis as the parties, and file motions. The court passes a verdict after hearing the motions of the prosecutor; an extract from the verdict should be served to the prosecutor. The prosecutor may appeal a verdict passed in a case for annulment of marriage; a verdict passed in a case for divorce may be appealed only due to the welfare of minor children.

[tags: action; annulment of marriage; divorce; prosecutor; evidence; welfare of minor children; court verdict]

Art. 87.

Parties cannot apply for reimbursement of the litigation costs resulting from the prosecutor's appearance.

[tags: litigation costs; prosecutor]

Art. 88.

Substitution of a party by an attorney is not obligatory in proceedings before a district court. At the request of the party to whom the right of indigence has been granted appoints an attorney to protect this party's rights.

[tags: attorney; district court; legal representation; right of indigence]

Art. 89.

A general power of attorney is not sufficient to appear in cases brought under this law.

[tags: general power of attorney]

Art. 90.

In cases for annulment, separation or divorce:

- a) pleadings, summons and court decisions are served to the parties in closed envelopes;
- b) a party cannot be required to file a responsive pleading before the hearing;
- c) the hearing takes place regardless of the lack of appearance of either party. If a spouse who is summoned in person fails to appear without justified reasons the court may impose a fine on him or her pursuant to the provisions on infringing the witness obligations, but cannot order a compulsory appearance in court;
- d) court hearings are held in camera unless both parties demand openness and the court determines that openness does not threaten good morals;
- e) in the event of failure of the claimant to appear on the first court hearing the action is deemed non-existent unless the prosecutor support the request for annulment;
- f) the provisions on default verdicts shall not apply;
- g) a final verdict is also effective towards third persons.

[tags: annulment of marriage; separation; disconnection; divorce; pleadings; court hearing; non-appearance of the parties; fine; witness; compulsory appearance; prosecutor, default verdict; final verdict; third person]

Art. 91.

The claimant should attach an extract from the certificate of marriage to the suit for annulment. In the lack of the extract other evidence confirming the issuance and content of the certificate of marriage are admissible.

[tags: annulment of marriage; separation; disconnection; certificate of marriage; evidence]

Art. 92.

Property claims cannot be combined with:

- a) a suit for annulment of marriage or divorce;
- b) request for separation without giving reasons unless the motion concerns spousal maintenance.

[tags: suit; annulment of marriage; divorce; separation; disconnection; property claims]

Art. 93.

In a case for separation due to leaving by the spouse of the common domicile the court, prior to determining the date of hearing, shall call the spouse to return by a letter served to him or her jointly with the suit.

[tags: separation, disconnection, common domicile]

Art. 94.

During proceedings before a district court the suit may be altered until the case is close without the consent of the defendant.

[tags: district court; closing of the case; alteration of the suit; defendant]

Art. 95.

In a case for separation or divorce the presiding judge shall immediately summon the parties in person to the hearing for the purpose of providing explanations. Legal effects of separation or divorce must be explained to the parties at this hearing. In a case for conversion of separation into divorce the presiding judge may, based on the parties' explanations and prior to the hearing, verify the circumstances necessary to recognize the case, and in particular, whether the spouses have not returned to the commonality of marital life and whether the welfare of minor children is not an impediment to divorce.

[tags: divorce; separation; disconnection; court hearing; welfare of minor children]

Art. 96.

The minutes of a court hearing should contain a statement of the spouses about the number, age and sex of living children, property relations and income of both spouses, specific obligations concerning maintenance of persons who are not their common children and whether and what type of marital contract they have entered into.

[tags: court sitting; marital property contract; property relations of the spouses; maintenance obligation]

Art. 97.

A shortening of the 3 years' period for the conversion of separation into divorce may be required in the suit itself or in a separate motion. The court shall pass a verdict after summoning the other spouse to provide explanations. The lack of statement of the properly summoned spouse is not an obstacle to passing a verdict. Such a verdict cannot be appealed.

[tags: divorce, separation; disconnection; court verdict]

Art. 98.

When it is a question to determine the reason for annulment or separation or to examine the circumstances on which the conversion of separation into divorce is dependent the court shall not be bound by the acknowledgement of the claim of the claimant or the admission of facts; it may also admit evidence which the parties have waived or objected to, and may require a witness or expert to take an oath, even if the parties have exempted him or her from it.

[tags: divorce; separation; disconnection; evidence; suit; oath; witness; expert]

Art. 99.

In cases for annulment of marriage supported by the prosecutor the provisions on suspending proceedings at a consensual request of the parties or due to their failure to appear shall not apply.

[tags: annulment of marriage; prosecutor; suspension of proceedings; non-appearance of the parties]

Art. 100.

Proceedings in a case for annulment of marriage brought by a prosecutor shall be discontinued in case of death of either spouse; in a case brought by a spouse, parents or custodian the proceedings shall be discontinued only in case of death of the defendant; proceedings shall be suspended in case of death of the spouse who has brought the action. Proceedings shall be discontinued if the claimant's descendants file no motions for taking up the proceedings within six months as of his or her death.

[tags: annulment of marriage; prosecutor; discontinuation of proceedings; death of a spouse; death of the defendant; taking up proceedings]

Art. 101.

In case of death of one of the spouses a case for separation or divorce shall be discontinued.

[tags: discontinuation of proceedings; death of a spouse; divorce; separation; disconnection]

Art. 102.

In a case for separation without giving reasons the court passes a verdict in the form of a decision.

[tags: separation; disconnection; decision of the court]

Art. 103.

A complaint may be filed against a ruling on the relationship of separated spouses to children, even though it was issued in a verdict on separation.

[tags: children; complaint against a ruling; separation; disconnection]

Art. 104.

Filing an appeal or cassation against a ruling on non-property claims results in a stay of execution of the verdict also in respect of the ruling on other claims.

[tags: appeal; cassation; non-property claims; stay of execution of a verdict]

Art. 105.

There is no action for a resumption of proceedings if one of the parties entered into a new marital union after the verdict on annulment of marriage or divorce became final.

[tags: resumption of proceedings; annulment of marriage; divorce]

FINAL PROVISIONS

Art. 106.

The implementation of this law shall be entrusted to the Minister of Justice.

[tags: Minister of Justice]

Art. 107.

This Law comes into force on (1 January 193 . .).

[tags: coming of a law into force]

INTRODUCTORY AND TRANSITIONAL PROVISIONS.**Art. 108.**

As of the effective date of this Law, the previous regulations in the subjects covered by this Law shall be repealed. In particular, the following shall be repealed:

1. Regulation of the Council of Ministers of 14 September 1922 on extending the validity of certain laws to Spisz and Orawa: § 4, § 5 cl. 1 (Journal of Laws of the Republic of Poland, No. 90, item 833).

2. Provisions on the organization of Jewish religious communities of 14 October 1927: the last sentence of clause 1 of Art. 45 and the penultimate sentence of Article 46 (Journal of Laws of the Republic of Poland of 1928, No. 52, item 500).

3. Regulation of the President of the Republic of Poland of 29 November 1930 including provisions introducing the code of civil procedure (Journal of Laws of the Republic of Poland, No. 83, item 652) Article X; Article XVII, § 1 cl. 2 except for the words: “Article 29 (e) in non-contentious court cases”; Article XVII, § 1 cl. 8 except for the words: “Articles 1346-1354, 1356, 1623-1625 on proceedings for right of origin”; Article XXVII cl. 6; Article XXXI § 2 cl. 2; and in Article XVII § 1 cl. 12 the following numbers are changed: “1646-1758” to: “1646-1652, 1661-1758”;

4. Napoleon’s Civil Code: Article 1384 cl. 2 which is given the following wording: “Parents are liable for damage caused by their minor children who reside with them”;

5. The Civil Code of the Kingdom of Poland of 1825 (Journal of Laws X): Article 32 cl. 1; Article 42 which is given the following wording: “When one of the spouses disappears, then, even if he or she has left a proxy, until his or her return the other spouse has independent management and use of this of his or her property which was managed or used by the missing spouse; Article 43; Article 44 which is given the following wording: “If, within the period one of the parents is missing, the other parent has already been dead or died after disappearance, the children shall be subject to temporary custody”, Article 56 which is given the following wording: “Recognition of a missing person as dead results in all effects of actual death.”; Articles 182-190; 260-270; Article 292; Article 337; Article 341 which is given the following wording: “During marriage the parents jointly manage personal property of their minor children. Each of the parents may substitute them in all civil acts. They are jointly and severally responsible and should give an account as to the ownership of their property, and even as to income as long as use does not serve them.”; Article 342 – the words: “during marriage the father”, are replaced by the following words: “during marriage both parents”; Article 342 cl. 2; Article 348 – the words: “when the father is”, are replaced by the following words: “when one of the parents is”; the words “belongs by right to the mother only”, are replaced by the following words: “belongs by right to the other parent”; Article 350; Article 351; Articles 354-356; 358-360; Article 361 which is given the following wording: “If the father or mother exercising custody intend to remarry, he or she should, prior to entering into marriage, require summoning a family council to decide whether

custody should remain with him or her. If they neglect it they shall lose custody by right, and the new spouse shall be jointly and severally responsible for all events under the custody which the child's father or mother illegally retained.”; Article 362 which is given the following wording: “If the summoned family council maintains or restores custody to the father or mother it should necessarily add the new spouse as a co-custodian who, as of the time of entering into marriage, shall, with his or her spouse, become jointly and severally responsible.”; Article 363 – the clause: “also the mother excusing herself from custody”; Article 364 – cl. 2 which is given the following wording: “The parent who is excluded from custody cannot appoint his or her children's custodian.”; Article 365 which is given the following wording: “The appointment of a custodian cannot be made except: 1-mo. by the act of last will, or 2-do. by an act before any court or office in the presence of two witnesses, and moreover, with the following exceptions and limitations”; Article 367 which is given the following wording: “If the father or mother entering into marriage maintains custody or is restored to it, they shall appoint a custodian for children conceived prior to that marriage, and the appointment shall become valid when confirmed by the family council. The father or mother entering into marriage who does not maintain custody or is not restored to it cannot appoint a custodian for children conceived prior to that marriage.”; Article 442 – the first sentence of the second clause which is given the following wording: “Such limitation shall not apply to ascendants of the minor, except for the father or mother, when he or she enters into a new marriage.”; Article 468 – the first clause which is given the following wording: “A minor who is not a spouse may, upon reaching the age of 15, be consented by the parent who exercises parental authority.”; Article 468 – the third clause which is given the following wording: “Making the child consented by the father or mother who do not exercise custody shall be valid if authorized by the family council.”; Article 469 – the first clause which is given the following wording: “If the father and mother are dead or do not exercise parental authority, the minor may, but only having reached eighteen years of age, be consented if the family council recognizes him or her as such.”; Article 471 – the second sentence of the first clause which is given the following wording: “The father and mother are guardians by right.”; Article 471 – the second clause which is given the following wording: “However, if the father or mother enter into marriage the provisions of Articles 361 and 362 concerning custody shall also apply to guardianship.”; Article 471 – the words in the third clause: “or refuse to accept it”; Article 472 – the last sentence of the first clause which is given the following wording: “and the parents shall give an account pursuant to the provisions of Article 341.”; Article 480; Article 513 which is given the following wording: “If a person deprived of his or her own will dwells in matrimony, his or her spouse shall, for the duration of this obstacle, have rights equal to the right of the spouse of a missing person.”; Article 519;

6. The Law on marriages of 24 June 1836 (Journal of Laws XVIII, pp. 57-297);

7. Decree of 5 May/23 April 1840 on amendments to Art. 80 and 87 of the Law on marriages (Journal of Laws XXV, 107);

8. Laws of 8/20 February 1849 for the Evangelical Lutheran Church, § 133 cl. 29 and § 144 (Journal of Laws XLII, 11);
9. Provisions on the Management of the Evangelical Reformed Church of 8/20 February 1849, cl. 7 (Journal of Laws XLII, 239);
10. Opinion of the State Council of 5 July 1856 on changing the order of considering matrimonial cases (Journal of Laws L. 73);
11. Decision of the Administrative Council of 17/28 January 1861 on the organization of the Protestant-Augsburg consistory court (Journal of Laws LIX, 163);
12. Resolutions of the Committee for the Affairs of the Kingdom of Poland of 22 June 1870 on the organization of economic management of the City of Warsaw, Article II cl. 3 (Journal of Laws LXX, 262);
13. Opinion of the State Council of 14 March 1905 on the substitution of announcements by police certificates upon entering into marriage by Roman Catholics with Evangelicals (Collection of Laws of the Russian Empire No. 86, item 704);
14. Laws of 13/26 May 1913 on Improving the Fate of Illegitimate Children – the words in clause 2: “by virtue of respective canonical provisions” (Collection of Laws of the Russian Empire No. 114, item 998).
15. Collection of Laws of the Russian Empire, vol. X, part 1, Articles 1-108; 131²; 133; 231; Article 226 which is given the following wording: “Custody over property falling to minors belongs to parents.”; Article 2202 – the final clause: “and married women who reside with their husbands – without the consent of the husbands.”; Article 2203 – the words of the first sentence: “nor the husbands of the wives”; volume XI, part I, book I, Article 64 cl. II, remarks 1, 2, 3; Article 250 cl. II, item 1, 2; book II Articles 300- 305; 317-386 ; 553 cl. 9; 636 -690; 836; 845-854; 946 cl. 5; 949; 1033; book IV Article 1289 with remark 2; 1290; book V Article 1325 cl. 3 and the final sentence of remark 1; 1327; 1328; book VI Article 1347; 1399 cl.1 and item 1; 1401.
16. Court Decree of 28 June 1806 on the marriages of Israelites who have changed their religion (Collection of Court Statutes No. 771);
17. Decree of the Court Chancellery of 19 May 1808 on the jurisdiction of clergymen of civil and military authorities (Collection of Laws XXX, p. 213);
18. Common Civil Law of 1811; §§ 44-136; § 141 which is given the following wording: “It is a duty of the father and mother to care for the maintenance of their children until they can feed themselves. It is the parents’ duty to take care of their body and health.”; § 142; § 143, which is given the following wording: “If one of the parents is without resources the other parent must care for the maintenance of children and their upbringing in general if this parent dies. If there is no father and mother or the children are without resources this obligation falls onto parental grandparents and further onto maternal grandparents.”; § 147; and the headline to it which is given the following wording: “Parental authority”; § 148 which is given the following wording: “Parents may adopt their child who is still a minor to a position they deem fit, but if the child, upon reaching maturity, ineffectively presents his or her parent his or her will to change profession to a more suitable for his or her

inclinations and abilities, he or she may apply to the competent court which is to decide ex officio taking into account the position, property and objection of the parents.”; § 149 which is given the following wording: “Anything children acquire by statutes is their property, but until they are under parental authority, the management belongs to the parents. The court appoints another administrator only if the father and mother are incapable of management or if they are excluded from administration by persons from whom the children have obtained the property.”; § 150, the third and fourth sentences which are given the following wording: “Only if the surplus is small the parents may be released from giving an account, and the surplus is left to them to use at their discretion. If the person from whom the child has obtained the property allows the child’s father or mother to use it, the income therefrom is always to serve to cover the burden of the child’s maintenance according to the child’s status, and this parent’s creditors cannot seize the property with a detriment to the child.”; § 152 – the first and fourth sentences which are given the following wording: “Children under parental authority cannot validly incur liabilities without an explicit or even deemed permission of one of the parents. Each of the parents is also obliged to substitute his or her minor children.”; § 153, § 160 – the words: “obstacles listed in §§ 62-64 exist” are replaced by the following words: “the obstacle of bigamy exists”; § 172 and its headline which are given the following wording: “Expiry of parental authority over children”. § 172. Parental authority ceases immediately with the coming of age of the child unless the court, at the request on one of the parents, permits its continuity for just cause and announces it in public”; § 173 – the words: “paternal authority” are replaced by the following words: “parental authority” and the words: “supervision of the father” are replaced by the following words: “supervision of the parents”; § 174 – the words: “from paternal authority if the father, according to their will and with the permission of the court, explicitly recognizes them as being of age” are replaced by the following words: “from parental authority if the parents, according to their will and with the permission of the court, explicitly recognize them as being of age”; § 175 which is given the following wording: “If a minor daughter enters into marriage, until she is of age, the parents have the rights and obligations of guardianship over her property. If the husband dies during her minority she returns under parental authority”; § 176 which is given the following wording: “If both parents are deprived of reason, if they are declared prodigals or sentenced for a crime for longer than a year of imprisonment, if they have permanently left the country arbitrarily, or if they have been absent for over a year and provide no information about their stay, parental authority expires and a custodian must be appointed, however, if these obstacles cease to exist, the father and mother resume their rights”; § 177 which is given the following wording: “The father or mother quite neglecting the nourishment and upbringing of his or her children shall lose parental authority for ever”; § 178 – the words of the first sentence: “if the father abuses” are replaced by the following words: “if the father or mother abuses”; the words of the second sentence “the father is given under supervision” are replaced by the following words: “the father or

mother is given under supervision”; § 181 – the first and second sentences which are given the following wording: “If the child is minor adoption may take place only with the permission of married parents. Permission is also required if the child is of age from the married father or mother, provided he or she is alive”; § 185 – the last words: “under the authority of married father” are replaced by the following words: “under parental authority”; § 187 – the words: “persons for whom the father has no endeavour” are replaced by the following words: “persons for whom neither the father nor the mother has any endeavour”; § 193; § 196 which is given the following wording: “Above all, exercising custody belongs to the one appointed by the father or mother in case the other parent is dead or incapable of exercising custody”; § 197, § 198 which is given the following wording: “Custody is exercise by the surviving father or mother. If no custodian is appointed in the last will or an incapable custodian is appointed custody must be entrusted to paternal grandfather, further to paternal grandmother, and finally, to the closest relation, and if there are more than one equally close, to the oldest”; § 205 – the words: “except for grandfather, mother and grandmother” are replaced by the following words: “except for parent, grandfather and grandmother”; § 209 – the first sentence is given the following wording: “As the custodian appointed by the father or mother is obliged to care not only for the minor, but also for his or her property, so the father or mother are deemed to have also intended to entrust guardianship over the person to the guardian of his or her property appointed by them”; § 209 – the words of the second sentence: “however, if the father has appointed” are replaced with the following words: “however, if the father or mother has appointed”; § 211 cl. 1 and the following words in the last sentence: “father’s will” are replaced by the following words: “parent’s will”; § 216 – the words: “Custodian, on an equal basis to the father, is obliged” are replaced by the following words: “Custodian, on an equal basis to the parents, is obliged”; § 218, § 219 – the words: “father’s decision” are replaced by the following words: “parent’s decision”; § 254, § 250 – the words: “if the father” are replaced by the following words: “if one of the parents”; the words of the headline of § 250: “paternal authority” are replaced by the following words: “parental authority”; § 255; § 259 – the first sentence is given the following wording: “If the brother was minor when custody was established, he, upon coming of age, has the right to be entrusted custody”; § 269 – the words: “under paternal authority” are replaced by the following words: “under parental authority”; § 1034 – the second sentence is replaced with the following sentence: “each of the parents and spouses is authorized by the law to substitute his or her child and spouse”; § 1458 – the word: “of the father” are replaced by the following words: “of the parents”

19. Court Decree of 11 June 1813 on divorce and Jewish marriages by proxy (Collection of Court Statutes No. 1053);

20. Decree of the Court Chancellery of 17 July 1813 on declaring permission to marriages of minors or the incapacitated (Collection of Court Statutes No. 1065); (Collection of Laws XLI No. 2);

21. Court Decree of 26 August 1814 on contracting marriage by the divorced and non-Catholics (Collection of Court Statutes No. 1099); Decree of the Court Chancellery of 21 October 1814 on the permission of a father of the Mosaic faith for his Catholic son (Collection of Court Statutes No. 1105);
22. Decree of the Court Chancellery of 23 September 1817 on the requirement of an oath as to the lack of obstacles (Collection of Court Statutes No. 1372);
23. Court Decree of 23 August 1819 on proceedings in matrimonial disputes (Collection of Court Statutes No. 1595);
24. Decree of the Court Chancellery of 20 November 1820 on the application of § 115 of the civil statute to the Greek Non-Unitary denomination (Collection of Statutes for Galicia No. 156);
25. Court Decree of 10 August 1821 on divorce and separation of Jewish spouses in case of conversion to the Christian religion (Collection of Court Statutes No. 1789);
26. Court Decree of 22 September 1821 on subsequent permission to marry for a pupil (Collection of Court Statutes No. 1802);
27. Court Decree of 17 June 1825 on contesting marriages of minors (Collection of Court Statutes No. 2112);
28. Court Decree of 19 May 1827 on divorce by proxy (Collection of Court Statutes No. 2277);
29. Court Decree of 17 July 1835 on marriages of Catholics with divorced non-Catholics (Collection of Court Statutes No. 61).
30. Decree of the Court Chancellery of 4 February 1837 on provisions relevant to divorces of Israelites who have converted to the Christian faith (Collection of Court Statutes No. 168);
31. Court Decree of 27 June 1837 on the admission of pursuing invalidity of marriage after the death of one or both spouses (Collection of Court Statutes No. 208); (Collection of Laws LXV No. 107);
32. Regulation of the Minister of Justice of 2 October 1851 on the establishment of the matrimonial bond defender (Journal of Austrian Laws No. 251);
33. Regulation of the Minister of Justice of 8 August 1853 r. on provisions relevant to divorce and separation of spouses of Israelite denomination who converted to the Christian faith (Journal of Austrian Laws No. 160);
34. Imperial patent of 9 August 1854 on proceedings in non-contentious cases (Journal of Austrian Laws No. 108): the headline of Chapter V which is given the following wording: “on adoption, entitlement and liberation from parental authority”; § 257 cl. 2 which is given the following wording: “In case of minority of the adopted child it is necessary to obtain the permit of married parents or, if none, of the custodian; moreover, in both cases the permit of the competent district court is needed”; the headline before § 266 which is given the following wording: “liberation from parental authority”; § 266 cl. 1 – the words: “The father should declare the child’s liberation from paternal authority” are replaced by the following words: “Parents should declare the child’s liberation from parental authority”; clause 2 – the words: “If the court declares that liberation from paternal authority”

are replaced by the following words: “If the court declares that liberation from parental authority”;

35. Law of 25 May 1868 on the conditional admissibility of entering into marriage before a civil authority (Journal of Austrian Laws No. 47);

36. Regulation of the Minister of Justice, Denominations and the Interior of 1 July 1868 containing executive provisions to the Law of 25 May 1868 (Journal of Austrian Laws No. 80);

37. Law of 31 December 1868 on marriages between people of various denominations (Journal of Austrian Laws No. 4/1869);

38. Law of 9 April 1870 on marriages of people not belonging to recognized church or religious association (Journal of Austrian Laws No. 51);

39. Law of 4 July 1872 on assigning certain official acts in matrimonial cases to poviats political authorities (Journal of Austrian Laws No. 111);

40. Regulation of the Minister of the Interior, Denominations and Education, Justice of 29 May 1876 on marriages of Israelites living outside religious communities (Journal of Austrian Laws No. 76);

41. Regulation of the Minister of the Interior of 22 October 1879 No. 9482 on participation of Evangelical clergymen in the marriages of non-divorced Catholics. Circular announcement of the Steward of 26 December 1879, L. 54391;

42. Law of 16 February 1883 on the declaration as dead § 9 (Journal of Austrian Laws No. 20);

43. Hungarian Law on marriages (Articles XXXI and XXXIII of 1894);

44. Regulation of the Minister of Justice of 9 December 1879 on proceedings in matrimonial disputes (Journal of Austrian Laws No. 283);

45. Laws of 2 February 1909 on the costs of establishing the matrimonial bond defender § 1 (Journal of Austrian Laws No. 24);

46. Regulation of the Minister of the Interior of 12 May 1911 on preparatory proceedings in matrimonial cases (Journal of Austrian Laws No. 91);

47. Regulation of the Emperor of 28 June 1916 on incapacitation – the words in § 4 cl. 2: “may contract marriage only with the permit of the advisor and the court, and” (Journal of Austrian Laws No. 207);

48. Law of 31 March 1918 on amendments to the Law of 16 February 1883 on proceedings relating to the recognition and proof of death § 4. (Journal of Austrian Laws No. 129);

49. Civil Code of 18 August 1896 §§ 1297-1360; 1564-1588.

Additionally, all previous provisions, amending or supplementing the above provisions, shall be repealed. The provisions of the above laws and regulations remain in force if they relate to matters not covered by this Law, and in particular, if they relate to the internal self-government of churches and denominations.

[tags: introductory provisions; transitional provisions; intertemporal provisions]

Art. 109.

Contracting, annulment, separation or dissolution of marriage effected prior to the coming into force of this Law shall be judged pursuant to the former law.

[tags: contracting marriage; separation; disconnection; dissolution of marriage; intertemporal provisions]

Art. 110.

With respect to the obligations resulting from marriage and to other of its civil effects provided for in this Law, this Law shall also apply to marriages contracted, annulled, dissolved or divorced under the former law.

[tags: marital obligations; contracting marriage; annulment of marriage; disconnection; separation; divorce; intertemporal provisions]

Art. 111.

Marriages contracted prior to the coming of this Law into force may, as of this date, be annulled, dissolved or divorced only according to the provisions of this Law.

[tags: contracting marriage; annulment of marriage; disconnection; separation; divorce; intertemporal provisions]

Art. 112.

Persons who are separated under the former law may apply for converting separation into divorce pursuant to this Law.

[tags: disconnection; separation; divorce; intertemporal provisions]

Art. 113.

Matrimonial cases initiated prior to the coming into force of this Law may, within a year as of this date, be recognized by courts competent under the former law and pursuant to its provisions. However, either party may, before this period expires, bring a case initiated under the former law to a common court pursuant to this Law; in such event only the decisions made in the new proceedings shall have civil effects. Decisions in cases pending under the former law which are not closed within the aforementioned period of 1 year shall not have civil effects; the same cases may henceforth be brought and recognized only by a court competent under this Law and pursuant to its provisions.

[tags: matrimonial cases; intertemporal provisions]