

DECREE
of 25 September 1945
Matrimonial Law
(Journal of Laws 1945 No. 48, item 270)

Pursuant to the Law of 3 January 1945 on the procedure for issuing decree-laws (Journal of Laws of the Republic of Poland No. 1, item 1), the Council of Ministers resolves, and the Praesidium of the State National Council approves, as follows:

Chapter I.
Engagement.

Article 1.

§ 1. No action may be brought on the grounds of an engagement to marry.

§ 2. Any reservation of payment of liquidated damages or any benefit for withdrawing from an engagement to marry shall be void.

[keywords: effect of engagement, inadmissibility of claim for marriage]

Article 2.

Whosoever, without just a cause, withdraws from an engagement or gives the other engaged person a just cause for withdrawing shall be liable to them, their parents or persons acting in place of their parents for any losses they have incurred as a result of reasonable preparations to marry.

[keywords: withdrawal of engagement]

Article 3.

§ 1. If the marriage does not take place, the other engaged person or their heirs may be demanded to return the engagement gifts.

§ 2. An engaged person at fault in the withdrawal from the engagement without a just cause shall not enjoy this-right.

[keywords: engagement gifts]

Article 4.

§ 1. The claim for damages and return of the gifts shall be time-barred after one year from the date of termination or breach of the engagement.

§ 2. An engaged person's claim shall pass on to their heirs if the action was brought during the engaged person's lifetime.

[keywords: statute of limitations]

Chapter II.
Contracting a marriage.
Article 5.

A marriage shall be validly contracted if:

- 1) the spouses have the legal capacity to marry;
- 2) there is no obstacle to the marriage;
- 3) the spouses' declarations of contracting the marriage are free from defects and have been made in the manner prescribed by law.

[keywords: prerequisites for marriage]

Article 6.

§ 1. The legal capacity to marry shall apply to a man and a woman aged eighteen years or older.

§ 2. For valid reasons, the guardianship authority may allow a person under the age of eighteen years to marry.

[keywords: age fit for marriage]

Article 7.

A marriage may not be contracted between:

- 1) persons at least one of whom is already married;
- 2) blood relatives in the direct line or siblings or step-siblings, whether born in or out of wedlock;
- 3) relatives by marriage in the direct line;
- 4) persons remaining in the adoptive relationship with each other;
- 5) persons at least one of whom, in order to facilitate the marriage, has attempted on the life of their spouse or the spouse of the other party;
- 6) persons at least one of whom is affected by mental illness, even when of sound mind, or mental retardation, has open tuberculosis or venereal disease in a contagious state.

[keywords: matrimonial obstacles]

Article 8.

§ 1. The spouse of a missing person may not remarry before the person is declared dead.

§ 2. The first marriage shall be dissolved when a new marriage is contracted.

[keywords: remarriage, missing person]

Article 9.

A declaration of contracting a marriage shall be flawed by a defect if it is made:

- 1) by a person who is in a state of unconsciousness or even a transient mental disorder that precludes conscious will, or
- 2) in mistake as to the person of the spouse, or
- 3) under threat from the spouse or a third party, where it is apparent from the circumstances that the person making the declaration may have feared that either they or any other person were at risk of serious harm.

[keywords: defects in the declaration of will]

Article 10.

§ 1. Before the marriage can take place, the spouses-to-be must present to the registrar:

- 1) proof of their legal capacity to marry;
- 2) a written declaration that there are no impediments to marriage listed in Article 7 (1)-(4) and (6);
- 3) a medical certificate attesting to the absence of the impediments listed in Article 7(6).

§ 2. The court may exempt future spouses from presenting the documents required by law if the obstacles in submitting such documents are difficult to overcome.

[keywords: official documents, medical certificate]

Article 11.

A marriage is contracted by the future spouses making a public joint declaration before a registrar in the presence of two witnesses that they are entering into the marriage.

[keywords: form of marriage]

Article 12.

§ 1. A marriage may be contracted at any registry office regardless of the domicile of the parties entering into the marriage.

§ 2. Only a marriage contracted before a registrar shall have legal effects vis-à-vis the State.

[keywords: place of marriage, secular marriage]

Article 13.

§ 1. For valid reasons, the court may allow the declaration of marriage to be made by a specifically authorised agent.

§ 2. The authorisation shall be made in writing, bear an officially certified signature and name the person with whom the marriage is to be contracted, failing which it shall be null and void.

§ 3. Revocation of the authorisation shall be effective only if it comes to the knowledge of the other party before the declaration is made before the registrar.

§ 4. The authorisation shall not expire upon the death of the principal. A marriage contracted through an agent the death of the principal shall have retroactive effect as concerns the entitlement of the mutual children and the rights of the other spouse from the date of the principal's death.

[keywords: marriage by agent]

Chapter III. Rights and obligations of spouses.

Article 14.

The spouses shall be obliged to live together, be faithful to each other, help each other and work together for the good of the family that they have formed by their union.

[keywords: duties of spouses]

Article 15.

Each spouse shall be obliged to contribute to bearing the burdens and maintaining the conjugal household, raise their children and satisfy the personal needs of the other spouse.

[keywords: maintenance of the household, raising children]

Article 16.

§ 1. Both spouses shall be jointly and severally liable for obligations incurred by each spouse in the ordinary affairs of the conjugal household and raising of their children.

§ 2. At the demand of one of the spouses, the court may, for valid reasons, deprive the other spouse of the right to contract obligations with the effect indicated in § 1.

§ 3. Shall the relations change, the court may, at the request of either spouse, repeal this limitation of rights.

[keywords: liability for spouse's obligations, joint and several liability]

Article 17.

The wife shall take the surname of her husband. She may add it to her maiden name if she declares in the marriage certificate that she retains her maiden name.

[keywords: wife's surname]

Chapter IV. Annulment of marriage.

Article 18.

§ 1. The annulment of a marriage may be requested by either spouse in the event of failure to meet any of the validity requirements indicated in Article 5.

§ 2. The right to bring an action for the annulment of a marriage shall also be granted to the public prosecutor unless the annulment is based on defects in the declaration of marriage (Article 9).

[keywords: marriage annulment]

Article 19.

§ 1. The right to bring an action for annulment shall expire:

- 1) in the absence of age — when the spouse reaches the legal age of majority, or three years after the marriage is contracted, or if the woman becomes pregnant;
- 2) in the case of bigamy — once the previous marriage has ceased or been annulled;
- 3) in the case of illness — once the illness has been considered as cured;
- 4) in the case of defects in the declaration of marriage — after six months from the date on which the state of unconsciousness or mental disorder came to an end, or on which the error has become known, or the coercion stopped, or after three years from the date on which the marriage was contracted.

§ 2. For a spouse who was under the legal age of majority or was mentally ill, the right to bring an action for annulment shall be extended by six months from the date on which the spouse reached the legal age of majority or the mental illness was cured.

[keywords: expiration of the right to annul the marriage]

Article 20.

§ 1. The court shall determine whether and which of the parties has contracted the marriage in good faith.

§ 2. A spouse who contracted a marriage in good faith, and the marriage was subsequently annulled, shall be treated on the same terms as a divorced spouse who was found not at fault.

§ 3. As regards the property relations between the spouses, the annulment of a marriage shall have the same effects as a divorce.

[keywords: declaration of guilt, effects of marriage annulment]

Article 21.

§ 1. A child from an annulled marriage shall be considered as a child from a valid marriage.

§ 2. Notwithstanding the foregoing, when pronouncing an annulment, the court shall proceed regarding the entrustment of the child, the custody of the child, the relations with the child and the parents' share of the burden of maintaining the child as it would as when pronouncing a divorce .

[keywords: child of an annulled marriage]

Article 22.

After the death of a spouse, only the spouse's descendants may pursue an action for annulment of the marriage, provided that the deceased brought the action when still alive.

[keywords: legal standing, marriage annulment]

Article 23.

Once the judgement on the annulment of a marriage has become final, the court shall order that a note to this effect be made in the marriage certificate.

[keywords: marriage certificate, marriage annulment]

Chapter V. Divorce.

Article 24.

At the request of either of the spouses, the court shall pronounce a divorce provided that it considers that the well-being of the minor children does not preclude it, and provided that it finds that the marriage has broken down irretrievably, in particular where the other spouse:

- 1) has committed adultery, unless either the plaintiff has forgiven it or six months have elapsed since the fact of adultery came to the plaintiff's knowledge, or three years have elapsed since the incident of adultery;

- 2) is attempting on the plaintiff's or their child's life or has grossly insulted the plaintiff, unless either the plaintiff has forgiven the insult or six months have elapsed since the it came to the plaintiff's knowledge, or three years have elapsed since the insult was committed;
- 3) is refusing to provide means of support of the family;
- 4) has left the conjugal domicile without a valid cause for a year, or even with a valid cause if they did not return within a year after the cause disappeared;
- 5) has committed a dishonourable offence;
- 6) is leading a life of debauchery or promiscuity, or is inciting the plaintiff or the children to lead an immoral life;
- 7) is pursuing a dishonourable occupation or drawing profits from it;
- 8) compulsively indulges in drunkenness or drug addiction;
- 9) has been suffering from a venereal disease that is contagious or and dangerous to the spouse or the offspring;
- 10) has been suffering from a mental illness for longer than a year;
- 11) has been affected by sexual impotence, irrespective of the time of its onset; however, impotence may not be invoked in the case of persons at the age of fifty years or older.

[keywords: grounds for divorce]

Article 25.

Once an action for divorce is brought, each of the spouses shall be entitled to temporarily leave the conjugal domicile.

[keywords: separation]

Article 26.

At the request of either of the parties, the court shall rule as regards a separate domicile of the spouses for the duration of the case, provision of the spouse who is the conjugal domicile with articles they might need, and furthermore the spouses' mutual duties of maintenance, and the manner of custody and maintenance of the children.

[keywords: divorce, property relations, custody of children]

Article 27.

§ 1. When pronouncing a divorce, the court shall determine whether and which party is at fault.

§ 2. In the case of sexual impotence or mental illness, a divorce shall take place without finding the party concerned to be at fault.

[keywords: divorce, declaration of guilt]

Article 28.

§ 1. Once a judgement pronouncing a divorce becomes final, a divorced person may enter into a new marriage. As of that moment, the spouses' existing mutual rights and obligations shall cease. The statutory right of inheritance of the surviving spouse and the benefits arising from the matrimonial property contract or dispositions on death shall also cease.

§ 2. Regardless of the matrimonial property contract, each spouse shall take their own property, and profits and losses in the division of joint property shall be shared proportionally to each spouse's share.

[keywords: consequences of divorce]

Article 29.

In a divorce judgement, the court shall, at the request of the spouse not at fault, award the spouse compensation from the spouse at fault for the damage caused by the divorce, in particular by the loss of benefits arising from the matrimonial property contract, and by the acts that form the grounds for the divorce judgement; furthermore, the court may award compensation for moral damage.

[keywords: divorce, compensation]

Article 30.

§ 1. At the request of the divorced spouse not at fault who is unable to earn their livelihood by their own means, the court shall award them maintenance from the other spouse, even if the latter is not at fault, taking into account the latter's financial status.

§ 2. When both spouses are at fault in divorce, the court may also award maintenance to a spouse at fault.

§ 3. At the request of either party, the court may change the amount of the maintenance awarded in accordance with a change in the financial position of either the person entitled or the person obliged,

§ 4. The duty of maintenance ceases once the entitled person remarries.

§ 5. The duty of maintenance passes onto the heirs of the obliged person.

[keywords: divorce, maintenance]

Article 31.

§ 1. In pronouncing a divorce, the court:

- 1) shall entrust the child and the administration of the child's property to one of the parents, with the priority given to the parent not at fault, or even to a third person if

the child's interest so requires;

2) shall determine the share of each parent in the burden of maintaining and raising the child;

3) shall ensure that each parent to whom the child has not been entrusted and who has not been deprived of parental authority can supervise the raising and education of the child and maintain personal relations with the child;

4) may also grant visitation rights to a spouse who has been deprived of parental authority.

§ 2. The right to benefit from the child's property shall pass on to the parent to whom the court entrusts the administration of the child's property. If the child is entrusted to a third party, neither parent will have the right to draw such benefits.

[keywords: divorce, child custody, child support]

Article 32.

The court's rulings regulating the relationship of divorced spouses with their child may be altered by the guardianship authority as appropriate to the circumstances.

[keywords: divorce, child custody]

Article 33.

Agreements on the mutual relations between the spouses in the event of a divorce, and on the rights and obligations arising from their relationship with the child shall have effect insofar as they have been approved in the divorce judgement.

[keywords: divorce, settlement, custody of children]

Article 34.

§ 1. A divorced wife shall return to using the surname she had before contracting the marriage.

§ 2. If a divorced wife has minor children of the same surname from the marriage, and for other valid reasons, the court may award her in the divorce judgement the right to keep the surname acquired through the marriage. Such a divorced wife may add the said surname to the surname which she had before contracting the marriage.

[keywords: divorce, wife's name]

Article 35.

Once the divorce judgement becomes final, the court shall order that an appropriate note be made in the marriage certificate stating that the divorced wife shall retain the right to

the surname acquired through the marriage, provided that it has been awarded to her.

[keywords: divorce, marriage certificate]

Chapter VI. Jurisdiction.

Article 36.

Cases arising from the relations covered by this law shall fall within the jurisdiction of common courts.

[keywords: jurisdiction]

Chapter VII. Final provisions.

Article 37.

The provisions of this law shall not deprive the parties of the possibility to also complete the rites that arise from their membership in a religious association.

[keywords: religious marriage]

Article 38.

The implementation of this Decree shall be entrusted to the Minister of Justice in agreement with the Minister of Public Administration.

[keywords: delegation]

Article 39.

This Decree shall enter into force on 1 January 1946.

[keywords: *vacatio legis*]

President of the State National Council:

Bolesław Bierut

Prime Minister:

Edward Osóbka - Morawski

Minister of Justice:

Henryk Świątkowski

Minister of Public Administration:

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