

MATRIMONIAL AFFAIRS ACT 37 OF 1953

(English text signed by the Governor-General)

[Assented To: 1 October 1953]

[Commencement Date: 28 October 1953]

as amended by:

General Law Further Amendment Act 93 of 1962

Maintenance Act 23 of 1963

Matrimonial Affairs Amendment Act 13 of 1966

Matrimonial Affairs Amendment Act 13 of 1976

Divorce Act 70 of 1979

Matrimonial Property Act 88 of 1984

General Law Fourth Amendment Act 132 of 1993

Guardianship Act 192 of 1993

Justice Laws Rationalisation Act 18 of 1996

ACT

To amend the law relating to the property rights of spouses, to orders for maintenance, to the guardianship and custody of minors and to divorce.

ARRANGEMENT OF SECTIONS

<u>1.</u>	<u>.....</u>
<u>2.</u>	<u>.....</u>
<u>3.</u>	<u>.....</u>
<u>4.</u>	<u>.....</u>
<u>5.</u>	<u>Guardianship and custody of minors</u>
<u>6.</u>	<u>.....</u>
<u>7.</u>	<u>.....</u>
<u>8.</u>	<u>.....</u>
<u>9.</u>	<u>.....</u>
<u>10.</u>	<u>.....</u>
<u>11.</u>	<u>Short title</u>

1.	[S. 1 amended by s. 31 of Act 93/62 and repealed by s. 10 of Act 132/93]
2.	[S. 2 amended by s. 1 of Act 13/66 and repealed by s. 10 of Act 132/93]
3.	[S. 3 substituted by s. 1 of Act 13/76 and repealed by s. 37 of Act 88/84]
4.	[S. 4 repealed by s. 16 of Act 23/63]
5.	Guardianship and custody of minors	

- (1) Any provincial or local division of the Supreme Court or any judge thereof may, on the application of either parent of a minor whose parents are divorced or are living apart, in

regard to the custody or guardianship of, or access to, the minor, make any order which it may deem fit, and may in particular, if in its opinion it would be in the interests of such minor to do so, grant to either parent the sole guardianship (which shall include the power to consent to the marriage of the child) or the sole custody of the minor, and the court may order that, on the predecease of the parent to whom the sole guardianship of the minor is granted, a person other than the surviving parent shall be the guardian of the minor, either jointly with or to the exclusion of the surviving parent.

[Sub-s. (1) substituted by s. 16 of Act 70/79]

(2) An order under subsection (1) in regard to a minor whose parents are living apart shall, if the parents become reconciled and live together again as husband and wife, lapse with effect from the date on which the parents commence to live together again.

[Sub-s. (2) substituted by s. 16 of Act 70/79]

(3) Subject to any order of court -

(a) a parent to whom the sole guardianship or custody of a minor has been granted under subsection (1) of the Divorce Act, 1979, may by testamentary disposition appoint any person to be the sole guardian or to be vested with the sole custody of the minor, as the case may be; and

[Para. (a) amended by s. 4 of Act 18/96]

(b) the parent of a minor to whom the sole guardianship of the minor has not been granted under subsection (1) or the Divorce Act, 1979, shall not be entitled by testamentary disposition to appoint any person as the guardian of the minor unless such parent was the sole natural guardian immediately before his death.

[Para. (b) substituted by s. 2 of Act 192/93]

[Sub-s. (3) substituted by s. 2 of Act 13/66 and s. 16 of Act 70/79]

(4)

[Sub-s. (4) deleted by s. 2 of Act 192/93]

(5) The court or a judge may, where a parent has appointed a guardian or custodian as provided in paragraph (a) of subsection (3), upon the application of the other parent, made after the death of the testator, make such order in regard to the guardianship or custody of the minor as the court or judge may deem in the interests of the minor.

[Sub-s. (5) substituted by s. 2 of Act 192/93]

(6) If an order under subsection (1) of this section or under the Divorce Act, 1979, granting the sole guardianship or custody of a minor to a parent, lapses or is rescinded or is varied in such a manner that the parent is no longer the sole guardian or vested with the sole custody of the minor, any disposition under subsection (3) (a) shall lapse.

[Sub-s. (6) substituted by s. 2 of Act 13/66 and s. 16 of Act 70/79 and amended by s. 4 of Act 18/96]

(7)

[Sub-s. (7) deleted by s. 2 of Act 192/93]

6.

[S. 6 repealed by s. 18 of Act 70/79]

7.

[S. 7 repealed by s. 18 of Act 70/79]

8.

[S. 8 repealed by s. 18 of Act 70/79]

9.

[S. 9 repealed by s. 18 of Act 70/79]

10.

[S. 10 repealed by s. 18 of Act 70/79]

11. Short title

This Act shall be called the Matrimonial Affairs Act, 1953.