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FAMILY LAW (MISCELLANEOUS PROVISIONS) ACT, 1997

ARRANGEMENT OF SECTIONS

Section

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Provisions) Act, 1997.*

[1997.]

Acts Referred to

Domestic Violence Act, 1996	1996, No. 1
Family Law Act, 1995	1995, No. 26
Marriages (Ireland) Act, 1844	1844, c. 81
Powers of Attorney Act, 1996	1996, No. 12
Registration of Marriages (Ireland) Act, 1863	1863, c. 90
Succession Act, 1965	1965, No. 27



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FAMILY LAW (MISCELLANEOUS PROVISIONS) ACT, 1997

AN ACT TO AMEND THE LAW IN RELATION TO NOTIFICATION OF INTENTION TO MARRY, THE LAW IN RELATION TO BARRING ORDERS, THE LAW IN RELATION TO IRREVOCABLE POWERS OF ATTORNEY AND THE LAW IN RELATION TO THE DISTRIBUTION OF DISCLAIMED ESTATES. [5th May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “the Act of 1995” means the Family Law Act, 1995. Definition.

2.—(1) Section 32 of the Act of 1995 is hereby amended by— Amendment of Act of 1995.

(a) the insertion of the following subsection before subsection (5):

“(5) (a) Where the Registrar receives a notification under subsection (1)—

(i) the health board in whose functional area the District of the Registrar is situated shall pay to the Registrar a fee of such amount as may stand specified for the time being by regulations under subsection (4), and

(ii) if the District of the Registrar is situated in the functional area of more than one health board, each health board concerned shall pay to the Registrar so much of the fee aforesaid as is proportionate to the part of the District aforesaid in the functional area of that board.”,

and

(b) the substitution of the following subsection for subsection (5):

“(6) In this section—

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‘the Act of 1844’ means the Marriages (Ireland) Act, 1844;

‘the Act of 1863’ means the Registration of Marriages (Ireland) Act, 1863;

‘District’ means a District formed under the Act of 1844 or the Act of 1863, as may be appropriate;

‘the Registrar’—

(a) in relation to a marriage to which section 11 of the Act of 1863 applies, means the Registrar appointed under section 10 of that Act for the District in which the marriage is intended to be solemnised or a person authorised by that Registrar to act on his or her behalf, and

(b) in relation to any other marriage, means the Registrar appointed under section 57 of the Act of 1844 for the District in which the marriage is intended to be solemnised or a person authorised by that Registrar to act on his or her behalf.”.

(2) Section 38 of the Act of 1995 is hereby amended by the substitution of the following subsection for subsection (4):

“(4) The jurisdiction conferred on the Circuit Family Court by this Act may be exercised—

(a) in the case of an application under section 33, by the judge of any circuit, and

(b) in any other case, by the judge of the circuit in which any of the parties to the proceedings ordinarily resides or carries on any business, profession or occupation.”.

(3) *Subsection (1)* of this section shall be deemed to have come into operation upon the commencement of section 32 of the Act of 1995.

Validity in law of certain marriages.

3.—(1) Where, in relation to a marriage solemnised after the commencement of section 32 (whether before or after the passing of this Act) of the Act of 1995, the notification provided for in subsection (1) of that section is or was given to a Registrar appointed under section 57 of the Marriages (Ireland) Act, 1844, or section 10 of the Registration of Marriages (Ireland) Act, 1863, or a person authorised by that Registrar to act on his or her behalf and that Registrar is or was not the Registrar (within the meaning of section 32 of the Act of 1995) in relation to that marriage, the marriage shall be and shall be deemed always to have been valid in law if it would have been so valid if the notification had been given to the Registrar (within the meaning aforesaid) in relation to that marriage.

(2) Where, in relation to a marriage, exemption from section 31 (1) (a) or 32 (1) (a) of the Act of 1995, or both of those provisions, was granted, before the passing of this Act, by a judge of the Circuit Family Court who, in relation to the application concerned, was not the appropriate judge having regard to section 38 (4) of the Act of

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1995, the marriage shall be and shall be deemed always to have been valid in law if it would have been so valid if the exemption aforesaid had been granted by the judge who, in relation to the application, was the appropriate judge having regard to the said section 38 (4). S.3

4.—Section 3 of the Domestic Violence Act, 1996, is hereby amended by the insertion of the following subsection after subsection (12): Amendment of Domestic Violence Act, 1996.

“(13) Where, by reason only of either or both of the following, that is to say, a barring order and an interim barring order, an applicant who is not the spouse of the respondent has not lived with the respondent as husband or wife for a period of at least six months in aggregate during the period of nine months immediately prior to the application for a further barring order under subsection (9), the applicant shall be deemed, for the purposes of this section, to have lived with the respondent as husband or wife for a period of at least six months in aggregate during the period of nine months immediately prior to the application.”.

5.—(1) The Powers of Attorney Act, 1996, is hereby amended— Amendment of Powers of Attorney Act, 1996.

(a) in section 20, by the substitution of the following subsection for subsection (3):

“(3) This section does not apply to a power of attorney that was given otherwise than to secure an interest, or the performance of an obligation, referred to in subsection (1) and was created by an instrument executed before the 1st day of August, 1996, but, subject to the foregoing, applies to powers of attorney whenever created.”.

and

(b) by the substitution of the following section for section 25:

“Repeals. 25.—Subject to section 20(3), each enactment specified in the Fourth Schedule is hereby repealed to the extent specified in the third column of that Schedule.”.

(2) This section shall be deemed to have come into operation upon the commencement of the Powers of Attorney Act, 1996.

6.—The Succession Act, 1965, is hereby amended by the insertion after section 72 of the following section: Amendment of Succession Act, 1965.

“Distribution of disclaimed estate.

72A.—Where the estate, or part of the estate, as to which a person dies intestate is disclaimed after the passing of the *Family Law (Miscellaneous Provisions) Act, 1997* (otherwise than under section 73 of this Act), the estate or part, as the case may be, shall be distributed in accordance with this Part—

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(a) as if the person disclaiming had died immediately before the death of the intestate, and

(b) if that person is not the spouse or a direct lineal ancestor of the intestate, as if that person had died without leaving issue.”.

Short title.

7.—This Act may be cited as the Family Law (Miscellaneous Provisions) Act, 1997.