

CONCISE COLLEGE CASENOTES

CASES AND STATUTES ON FAMILY LAW

J. S. PINDER
AND
P. J. PACE

**SWEET
&
MAXWELL**



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**CASES AND STATUTES
ON
FAMILY LAW**

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PREFACE

In preparing this collection of case summaries and extracts from statutes we have endeavoured, within the limits imposed upon us by the format of this series, to select those items which, we believe, will be useful to students of all levels who approach Family Law for the first time. With this aim in view, we have attempted to deal with all the various topics normally studied under the general heading of Family Law but, of necessity, we have been forced to concentrate the largest selection of material on those areas common to the majority of courses.

Our task in selecting cases has been made particularly difficult because of the large amount of statutory material resulting from the increased Parliamentary attention to matters of Family Law in recent years. Special difficulty arose from the introduction into Parliament of the Domestic Proceedings and Magistrates' Courts Bill during the printing of the manuscript. The Bill received the Royal Assent on June 30, 1978 but comes into force on a date or dates to be appointed. We hope we have not tempted Providence too much by omitting references to the law which will be replaced by this legislation and treating this legislation as now operative.

We should like to place on record our thanks to Mrs Marjorie Pinder and Mrs Penelope A. Pace for their help in typing the manuscript, preparing the tables of cases and statutes and checking the proofs.

J. S. PINDER
P. J. PACE

September 1978

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PART I: MARRIAGE

CHAPTER I

THE CONTRACT TO MARRY

1. ENGAGEMENT

Law Reform (Miscellaneous Provisions) Act 1970, s. 1(1)

(1) An agreement between two persons to marry one another shall not under the law of England and Wales have effect as a contract giving rise to legal rights and no action shall lie in England and Wales for breach of such an agreement, whatever the law applicable to the agreement.

2. PROPERTY OF ENGAGED COUPLES

Law Reform (Miscellaneous Provisions) Act 1970, s. 2

(1) Where an agreement to marry is terminated, any rule of law relating to the rights of husbands and wives in relation to property in which either or both has or have a beneficial interest, including any such rule as explained by section 37 of the Matrimonial Proceedings and Property Act 1970, shall apply, in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force, as it applies in relation to property in which a husband or wife has a beneficial interest.

(2) Where an agreement to marry is terminated, section 17 of the Married Women's Property Act 1882 and section 7 of the Matrimonial Causes (Property and Maintenance) Act 1958 (which sections confer power on a judge of the High Court or a county court to settle disputes between husband and wife about property) shall apply, as if the parties were married, to any dispute between, or claim by, one of them in relation to property in which either or both had a beneficial interest while the agreement was in force; but an application made by virtue of this section to the judge under the said section 17, as originally enacted or as extended by the said section