

Bernard Passingham

Law and Practice in Matrimonial Causes

Third edition

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Law and Practice in Matrimonial Causes

Third edition

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Preface

The law which governs matrimonial causes is continually developing and perhaps I have allowed too long to elapse between publication of a second edition of this book in 1974 and this edition. The delay is explained by a desire to await the enactment of the Domestic Proceedings and Magistrates' Courts Act 1978. It is by no means the only statutory change since 1974. Both Parts of the Maintenance Orders (Reciprocal Enforcement) Act 1972 are now in force, though considerations of length have necessitated a rather brief reference to them. The Inheritance (Provision for Family and Dependents) Act 1975 has replaced all former legislation on this subject, and is dealt with in Chapter 9. The increasing frequency of domestic violence has led to the passing of the Domestic Violence and Matrimonial Proceedings Act 1976 which, together with the new powers on this subject conferred on magistrates' courts by the Act of 1978, is covered by a new Chapter 18, in Part III. But perhaps the most significant change has been the extension, by the Matrimonial Causes Rules 1977 (which replace the former Rules of 1973) of Special Procedure to all undefended cases of divorce and judicial separation, the withdrawal of legal aid from these cases, and the ever diminishing number of defended cases. One result has been the increasing emphasis on ancillary relief for which legal aid is available, and a greater shift of interest from disputes as to whether or not a marriage should be ended to contests as to financial provision, adjustment of property rights and the welfare of children of the family.

This has led me to make changes in the arrangement of the book. Chapters 15 and 16, which deal respectively with Taxation and Welfare Benefits, have been added to Part I, in view of the increasing importance of these matters in relation to ancillary relief. Part III now consists of a completely new Chapter 17 on Magistrates' Courts, dealing with the Act of 1978. A new Part IV deals in Chapter 18 with the subject of Protection from Molestation and Violence. Finally Part V deals with the subjects of Procedure in the High Court and County Courts, Legal Aid and Costs and Appeals. The Prescribed Forms which were formerly contained in Appendix II have been deleted, since they are readily available in the Appendix to the Rules and at Court Offices. The number of Precedents, which include (inter alia) completed examples of the more important of these Forms, have been correspondingly increased, in the hope that they will prove more helpful.

In planning and making these changes I have received great assistance from Miss Caroline Harmer, a Principal Lecturer at the College of Law. She has written the Chapters on Taxation, Welfare Benefits and Protection from Violence and has updated that on Legal Aid and Costs. I should have found it difficult to complete the task without her help in these Chapters, and in planning and preparing the Precedents.

Last, but by no means least, my thanks to the publishers, who have helped me in every possible way and, once again, to my daughter Ann, who despite my deplorable handwriting and my habit of omitting essential words from sentences, has contrived to translate and type what I have written.

BERNARD PASSINGHAM

October 1978

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