

South Africa

Matrimonial Affairs Act, 1953

Act 37 of 1953

Legislation as at 1 April 1997

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Matrimonial Affairs Act, 1953

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South Africa
Matrimonial Affairs Act, 1953
Act 37 of 1953

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Commenced on 28 October 1953

[This is the version of this document from 1 April 1997.]

[Amended by [General Law Further Amendment Act, 1962 \(Act 93 of 1962\)](#) on 4 July 1962]

[Amended by [Maintenance Act, 1963 \(Act 23 of 1963\)](#) on 22 January 1965]

[Amended by [Matrimonial Affairs Amendment Act, 1966 \(Act 13 of 1966\)](#) on 1 June 1966]

[Amended by [Matrimonial Affairs Amendment Act, 1976 \(Act 13 of 1976\)](#) on 24 March 1976]

[Amended by [Divorce Act, 1979 \(Act 70 of 1979\)](#) on 1 July 1976]

[Amended by [Matrimonial Property Act, 1984 \(Act 88 of 1984\)](#) on 1 November 1984]

[Amended by [General Law Fourth Amendment Act, 1993 \(Act 132 of 1993\)](#) on 1 December 1993]

[Amended by [Guardianship Act, 1993 \(Act 192 of 1993\)](#) on 1 March 1994]

[Amended by [Justice Laws Rationalisation Act, 1996 \(Act 18 of 1996\)](#) on 1 April 1997]

(English text signed by the Governor-General.)

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.

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. ***

[section 1 repealed by section 10 of [Act 132 of 1993](#)]

2. ***

[section 2 repealed by section 10 of [Act 132 of 1993](#)]

3. ***

[section 3 substituted by section 1 of [Act 13 of 1976](#) and repealed by section 37 of [Act 88 of 1984](#)]

4. ***

[section 4 repealed by section 16 of [Act 23 of 1963](#)]

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

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.

[subsection (1) substituted by section 16(a) of Act 70 of 1979]

- (2) An order under subsection (1) in regard to a minor whose parents are living apart a-hall, 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.

[subsection (2) substituted by section 16(b) of Act 70 of 1979]

- (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), or the Divorce Act, 1979, as the case may be; and

[paragraph (a) amended by section 4 of Act 18 of 1996]

- (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.

[paragraph (b) substituted by section 2(a) Act 192 of 1993]

[subsection (3) substituted by section 2(a) of Act 13 of 1966 and by section 16(c) of Act 70 of 1979]

- (4) *[subsection (4) deleted by section 2(b) of Act 192 of 1993]*

- (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.

[subsection (5) substituted by section 2(c) of Act 192 of 1993]

- (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 made under subsection (3)(a) shall lapse.

[subsection (6) substituted by section 2(b) of Act 13 of 1966 and by section 16(d) of Act 70 of 1979, and amended by section 4 of Act 18 of 1996]

- (7) *[subsection (7) deleted by section 2(d) of Act 192 of 1993]*

6. ***

[section 6 repealed by section 18 of Act 70 of 1979]

7. ***

[section 7 repealed by section 18 of Act 70 of 1979]

8. ***

[section 8 repealed by section 18 of Act 70 of 1979]

9. ***

[section 9 repealed by section 18 of Act 70 of 1979]

10. ***

[section 10 repealed by section 18 of Act 70 of 1979]

11. Short title

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