

Marriage Act 1949 (Amendment) Bill

Briefing, February 2020

Summary

A new Bill to protect British women in polygamous households or those who have had a religious-only marriage, to find upon divorce they have little to no rights in terms of finance or property.

Background

Women who are married in Islamic ceremonies but are not married under English law can suffer grave disadvantages because they lack legal protection. What is more, they can be unaware that their marriage is not officially recognised.

“The Government is supportive in principle of the requirement that civil marriages are conducted before or at the same time as religious ceremonies. Therefore, the Government will explore the legal and practical challenges of limited reform relating to the law on marriage and religious weddings.”

Integrated Communities Strategy Green Paper, March 2018

The situation was highlighted in a *Channel 4* survey, which found that 6 in 10 Muslim women who have had traditional Islamic weddings in Britain are not legally married. Of these, over a quarter (28 per cent) are not aware that they do not have the same rights as they would have with a legally-recognised marriage.¹

A separate study by the Muslim women’s group *Aurat: Supporting Women* highlighted cases of women in Britain living in polygamous marriages. The evidence for its findings was drawn from 50 case studies of Muslim women living in the West Midlands. Two thirds of those who identified as being married said their ‘husband’ had more than one ‘wife’.²

The reports’ findings are all the more alarming when it is considered that as many as 100,000 couples in Britain are estimated to be living in Islamic marriages not recognised by English law.³

“By linking Islamic marriage to civil marriage it ensures that a greater number of women will have the full protection afforded to them in family law and they will face less discriminatory practices. This will be a positive move aimed at giving women maximum rights should the marriage end in divorce.”

Independent Review into the Application of Sharia Law, February 2018

¹ The Channel 4 survey was carried out by 20 Muslim female community researchers between December 2016 and September 2017, using a mix of face to face and phone interviews. Data were tabulated by ICM analysed from the responses of 923 participants from 14 cities across Britain.

² Jaan, H, *Equal and Free? 50 Muslim Women’s Experiences of Marriage in Britain Today*, Aurat: Supporting Women

³ *The Times*, 3 July 2015

“All marriages, regardless of faith, should be registered so that the union is legally valid under British laws. We have heard strong arguments that the Marriage Act should be reformed to apply to all faiths and that faith institutions must ensure they are properly registered and operate within existing legislation.”

The Casey Review, Paragraph 8.50, December 2016

Recent attempts to change the law

1. Marriage Act 1949 (Amendment) Bill [2017-19]

The Bill received its First Reading in the House of Lords on 10 July 2017 but failed to progress due to the busy parliamentary timetable. Its provisions sought to amend the Marriage Act so that marriages of all faiths are automatically recognised as legally valid.

2. Arbitration and Mediation Services (Equality) Bill [2011-17]

The Bill sought to tackle religiously-sanctioned gender discrimination in arbitration proceedings, informal mediations or pseudo-courts. It placed a duty on public bodies to ensure that couples in religious-only marriages are made aware of their (lack of) legal rights under English law. The Bill was introduced in six consecutive Parliamentary Sessions and received three Second Reading debates in the House of Lords, with widespread cross-party support.⁴

3. Amendment 219C: Policing and Crime Bill [November 2016]

This amendment provided that any celebrant of a religious marriage ceremony would have an obligation to ensure that the religious marriage is also legally registered. The maximum penalty for failing to do so would be three years in prison.⁵

4. Amendment 13: Anti-social Behaviour, Crime and Policing Bill [November 2013]

A separate amendment would have made it an offence to solemnise a religious marriage in circumstances where the marriage is not also solemnised as a legal marriage if either or both parties to the marriage wrongly believed that they were married according to the law simply because they had been through a religious ceremony.⁶

“[We call on the UK to] review the Marriage Act to make it a legal requirement for Muslim couples to civilly register their marriage before or at the same time as their Islamic ceremony.”

Parliamentary Assembly of the Council of Europe, Resolution 2253, January 2019

The new Bill: Marriage Act 1949 (Amendment) Bill

The new Bill, which extends to England and Wales only, was introduced into the House of Lords on 3 February 2020. It amends Section 75 of the Marriage Act 1949 so that the celebrant of specified marriages, including Islamic marriages, would face penalties should they fail to ensure the marriage is also civilly registered. This would make it a legal requirement for a religious marriage to be civilly registered before or at the same time as the religious ceremony.

⁴ House of Lords, Hansard, 27 January 2017; 23 October 2015; 19 October 2012

⁵ House of Lords, Hansard, 16 November 2016, columns 1482-1484

⁶ House of Lords, Hansard, 12 November 2013, columns 675-681