
STATUTORY INSTRUMENTS

1995 No. 3211 (N.I. 20)

NORTHERN IRELAND

The Polygamous Marriages (Northern Ireland) Order 1995

<i>Made</i>	- - - -	<i>13th December 1995</i>
		<i>22nd December</i>
<i>Laid before Parliament</i>		<i>1995</i>
<i>Coming into operation</i>		<i>14th February 1996</i>

At the Court at Buckingham Palace, the 13th day of December 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to the purposes of Part II of the Private International Law (Miscellaneous Provisions) Act 1995⁽¹⁾:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽²⁾ (as modified by section 17 of the said Act 1995) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1. This Order may be cited as the Polygamous Marriages (Northern Ireland) Order 1995 and shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954⁽³⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(1) 1995 c. 42.

(2) 1974 c. 28.

(3) 1954 c. 33 (N.I.).

Validity of potentially polygamous marriages

3.—(1) A marriage entered into outside Northern Ireland between parties neither of whom is already married is not void under the law of Northern Ireland on the ground that it is entered into under a law which permits polygamy and that either party is domiciled in Northern Ireland.

(2) This Article does not affect the determination of the validity of a marriage by reference to the law of another country to the extent that it falls to be so determined in accordance with the rules of private international law.

Application of Article 3 to prior marriages

4.—(1) Article 3 shall be deemed to apply, and always to have applied, to any marriage entered into before commencement which is not excluded by paragraph (2) or (3).

(2) That Article does not apply to a marriage a party to which has (before commencement) entered into a later marriage which either—

- (a) is valid apart from this Article but would be void if Article 3 applied to the earlier marriage; or
- (b) is valid by virtue of this Article.

(3) That Article does not apply to a marriage which has been annulled before commencement, whether by a decree granted in Northern Ireland or by an annulment obtained elsewhere and recognised in Northern Ireland at commencement.

(4) An annulment of a marriage resulting from legal proceedings begun before commencement shall be treated for the purposes of paragraph (3) as having taken effect before that time.

(5) For the purposes of paragraphs (3) and (4) a marriage which has been declared to be invalid by a court of competent jurisdiction in any proceedings concerning either the validity of the marriage or any right dependent on its validity shall be treated as having been annulled.

(6) Nothing in Article 3, in its application to marriages entered into before commencement—

- (a) gives or affects any entitlement to an interest—
 - (i) under the will of, or on the intestacy of, a person who died before commencement; or
 - (ii) under a settlement or other disposition of property made before that time (otherwise than by will);
- (b) gives or affects any entitlement to a benefit, allowance, pension or other payment—
 - (i) payable before, or in respect of a period before, commencement; or
 - (ii) payable in respect of the death of a person before that time;
- (c) affects tax in respect of a period or event before commencement; or
- (d) affects the succession to any dignity or title of honour.

(7) In this Article “commencement” means the coming into operation of this Order.

Supplemental

5.—(1) The statutory provisions specified in the Schedule (which contains consequential amendments and amendments removing unnecessary references to potentially polygamous marriages) are amended in accordance with the Schedule.

(2) Nothing in the Schedule affects either the generality of any statutory provision empowering the making of subordinate legislation or any such legislation made before the coming into operation of this Order.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Consequential and Minor Amendments

The Matrimonial Causes (Northern Ireland) Order 1978 (NI 15)

- 1.—(1) The Matrimonial Causes (Northern Ireland) Order 1978 shall be amended as follows.
- (2) In Article 13 (grounds on which a marriage is void), for the words “may be polygamous although” there shall be substituted the words “is not polygamous if”.
- (3) In Article 50 (matrimonial relief in respect of polygamous marriages)—
- (a) in paragraph (1), for the words “the marriage” onwards there shall be substituted the words “either party to the marriage is, or has during the subsistence of the marriage been, married to more than one person”; and
- (b) for paragraph (3)
- there shall be substituted—
- “(3) Provision may be made by rules of court—
- (a) for requiring notice of proceedings brought by virtue of this Article to be served on any additional spouse of a party to the marriage in question; and
- (b) for conferring on any such additional spouse the right to be heard in the proceedings,
- in such cases as may be specified in the rules.”.

The Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (NI 14)

2. In Article 3 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (interpretation), for paragraph (3) there shall be substituted—
- “(3) It is hereby declared that this Order applies as between the parties to a marriage notwithstanding that either of them is, or has at any time during the marriage’s subsistence been, married to more than one person.”.

The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4)

3. In Article 37 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (declarations in respect of polygamous marriages)—
- (a) in paragraph (1), for the words “the marriage” onwards there shall be substituted the words “either party to the marriage is, or has during the subsistence of the marriage been, married to more than one person”; and
- (b) for paragraph (2) there shall be substituted—
- “(2) Provision may be made by rules of court—
- (a) for requiring notice of proceedings brought by virtue of this Article to be served on any additional spouse of a party to the marriage in question; and
- (b) for conferring on any such additional spouse the right to be heard in the proceedings,
- in such cases as may be specified in the rules.”.

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

4.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 shall be amended as follows.

(2) In section 120(1)(b) (regulations as to application of provisions of Parts I to VI to polygamous marriages), for the words following “section” there shall be substituted the words “applies, a marriage during the subsistence of which a party to it is at any time married to more than one person is to be treated as having, or as not having, the same consequences as any other marriage.”.

(3) In section 143(5) (regulations as to application of provisions of Part IX to polygamous marriages), for the words following “in which” there shall be substituted the words “a marriage during the subsistence of which a party to it is at any time married to more than one person is to be treated for the purposes of this Part of this Act as having, or not having, the same consequences as any other marriage.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made only for purposes corresponding to the purposes of Part II of the Private International Law (Miscellaneous Provisions) Act 1995.

The Order provides that a potentially polygamous marriage entered into outside Northern Ireland by parties neither of whom is already married shall not be void on the ground that either party is domiciled in Northern Ireland.