
STATUTORY INSTRUMENTS

2019 No. 1514

**The Marriage (Same-sex Couples) and Civil Partnership
(Opposite-sex Couples) (Northern Ireland) Regulations 2019**

PART 4

Amendments: Children and Families

Divorce, annulment and judicial separation

35.—(1) The Matrimonial Causes (Northern Ireland) Order 1978 is amended as follows.

(2) In Article 2(2), in the definition of “child”(1), after “married to” insert “, or civil partners of,”.

(3) In Article 3 (matters of which the court must be satisfied before granting a divorce), after paragraph (6) insert—

“(7) Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this Article.”.

(4) In Article 4(6) (interpretation of references to living apart), for “a husband and wife” substitute “the parties to a marriage”.

(5) In Article 14 (grounds on which a marriage is voidable), after paragraph (h) insert—

“;

but paragraphs (a) and (b) do not apply to the marriage of a same-sex couple.”.

(6) In Article 49(2) (jurisdiction of the court), after paragraph (1) insert—

“(1A) Paragraphs (2) and (3) apply only in relation to a marriage of a man and a woman (but see Article 49A as regards jurisdiction in proceedings concerning a marriage of a same-sex couple).”.

(7) After Article 49 insert—

“Jurisdiction of court: proceedings in relation to a marriage of a same-sex couple

49A.—(1) Paragraphs (2) to (4) have effect with respect to the jurisdiction of the court to entertain any of the following proceedings in relation to a marriage of a same-sex couple—

- (a) proceedings for divorce,
- (b) proceedings for judicial separation, and
- (c) proceedings for nullity of marriage.

(2) The court has jurisdiction to entertain proceedings for divorce or judicial separation if (and only if)—

(1) In Article 2(2), the definition of “child” was amended by Schedule 9 to the Children (Northern Ireland) Order 1995.

(2) In Article 49, paragraphs (2) and (3) were inserted by regulation 3 of [S.I. 2001/660](#). Other non-relevant amendments have been made to Article 49.

- (a) both parties to the marriage are habitually resident in Northern Ireland,
 - (b) both parties to the marriage were last habitually resident in Northern Ireland and one of them continues to reside there,
 - (c) the respondent is habitually resident in Northern Ireland,
 - (d) the applicant is habitually resident in Northern Ireland and has resided there for at least one year immediately before the proceedings are begun,
 - (e) either of the parties to the marriage is domiciled in Northern Ireland, or
 - (f) the following conditions are met—
 - (i) the parties married each other under the law of Northern Ireland, and
 - (ii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (3) The court has jurisdiction to entertain proceedings for nullity of marriage if (and only if)—
- (a) both parties to the marriage are habitually resident in Northern Ireland,
 - (b) both parties to the marriage were last habitually resident in Northern Ireland and one of them continues to reside there,
 - (c) the respondent is habitually resident in Northern Ireland,
 - (d) the applicant is habitually resident in Northern Ireland and has resided there for at least one year immediately before the proceedings are begun,
 - (e) either of the parties to the marriage—
 - (i) is domiciled in Northern Ireland, or
 - (ii) died before the proceedings are begun and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of one year ending with the date of death, or
 - (f) the following conditions are met—
 - (i) the parties married each other under the law of Northern Ireland, and
 - (ii) it appears to the court to be in the interests of justice to assume jurisdiction in the case.
- (4) At any time when proceedings are pending in respect of which the court has jurisdiction by virtue of paragraph (2) or (3) (or of this paragraph), the court also has jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, even though that jurisdiction would not be exercisable under paragraph (2) or (3).”.