
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Jurisdiction of court

49.—(1) Paragraphs (2) to (6) shall have effect with respect to—

- (a) the jurisdiction of the court to entertain—
 - (i) proceedings for divorce, judicial separation or nullity of marriage; and
 - (ii) proceedings for financial provision under Article 29; and

^{F1}(b)

^{F2}(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).]

^{F3}(2) The court shall have jurisdiction to entertain proceedings for divorce or judicial separation if (and only ^{F4}if) on the date of the application—

- (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 application was made;
- (e) the applicant is domiciled and habitually resident in Northern Ireland and has resided there for at least six months immediately before the application was made;
- (f) both parties to the marriage are domiciled in Northern Ireland; or
- (g) either of the parties to the marriage is domiciled in Northern Ireland.]]

^{F3}(3) The court shall have jurisdiction to entertain proceedings for nullity of marriage if (and only ^{F5}if) on the date of the application—

- (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 application was made;
- (e) the applicant is domiciled and habitually resident in Northern Ireland and has resided there for at least six months immediately before the application was made;

- (f) both parties to the marriage are domiciled in Northern Ireland; or
- (g) either of the parties to the marriage—
 - (i) is domiciled in Northern Ireland; or
 - (ii) died before the application was made 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.]]

^{F6}(3A)

^{F7}(4)

[^{F8}(5) The court has jurisdiction to entertain an application for financial provision under Article 29 if (and only if)—

- (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application;
- (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
- (c) the respondent is resident there on that date.

(5A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.]

(6) The court shall, at any time when proceedings are pending in respect of which it has jurisdiction by virtue of paragraph (2) or (3) (or of this paragraph), also have jurisdiction to entertain other proceedings, in respect of the same marriage, for divorce, judicial separation or nullity of marriage, notwithstanding that jurisdiction would not be exercisable under paragraph (2) or (3).

(7) ^{F9}... Schedule 1 shall have effect as to the cases in which matrimonial proceedings in Northern Ireland are to be, or may be, stayed by the court where there are concurrent proceedings elsewhere in respect of the same marriage, and as to the other matters dealt with in that Schedule; but nothing in the Schedule prejudices any power to stay proceedings which is exercisable by the court apart from the Schedule.

[^{F10}(8) In this Article “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.]

F1 Art. 49(1)(b) repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6\), ss. 19, 20\(2\), Sch. 2, Sch. 3; S.R. 2009/356, art. 2](#)

F2 Art. 49(1A) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\), regs. 1\(2\), 35\(6\) \(with regs. 6-9\)](#)

F3 S.I. 2001/660

F4 Words in art. 49(2) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 8\(4\)\(a\) \(with reg. 8\) \(as amended by S.I. 2020/1574, regs. 1, 5\(2\)\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)

F5 Words in art. 49(3) substituted (31.12.2020) by [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\), reg. 1\(1\), Sch. para. 8\(4\)\(b\) \(with reg. 8\) \(as amended by S.I. 2020/1574, regs. 1, 5\(2\)\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)

F6 S.I. 2005/265

F7 Art. 49(4) repealed (9.11.2009) by [Presumption of Death Act \(Northern Ireland\) 2009 \(c. 6\), ss. 19, 20\(2\), Sch. 2, Sch. 3; S.R. 2009/356, art. 2](#)

- F8** Art. 49(5)(5A) substituted (31.12.2020) for art. 49(5) by S.I. 2019/519, Sch. para. 8(4)(d) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(c)**)
- F9** Words in art. 49(7) omitted (31.12.2020) by virtue of S.I. 2019/519, Sch. para. 8(4)(e) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(c)**)
- F10** Art. 49(8) substituted (31.12.2020) by S.I. 2019/519, Sch. para. 8(4)(f) (as substituted by [The Jurisdiction, Judgments and Applicable Law \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1574\)](#), regs. 1, **5(3)(c)**)

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Section 49.