

2001 No. 660

**JUDGMENTS, NORTHERN IRELAND
FAMILY LAW, NORTHERN IRELAND**

**The European Communities (Matrimonial Jurisdiction and
Judgments) (Northern Ireland) Regulations 2001**

Made - - - - - *5th March 2001*
Laid before Parliament *5th March 2001*
Coming into force - - - *30th March 2001*

The Lord Chancellor, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to jurisdiction over, and the recognition and enforcement of judgments in, matrimonial matters and in matters of parental responsibility for children of both spouses, in exercise of the powers conferred on him by that section, makes the following Regulations—

Citation, commencement and extent

1. These Regulations may be cited as the European Communities (Matrimonial Jurisdiction and Judgments) (Northern Ireland) Regulations 2001 and shall come into force on 30th March 2001.
2. These Regulations extend to Northern Ireland only.

Amendments to the Matrimonial Causes (Northern Ireland) Order 1978

3.—(1) Article 49 of the Matrimonial Causes (Northern Ireland) Order 1978(c) is amended as follows.

(2) For paragraph (2) substitute—

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

- (a) the court has jurisdiction under the Council Regulation; or
- (b) no court of a Contracting State has jurisdiction under the Council Regulation and either of the parties to the marriage is domiciled in Northern Ireland on the date when the proceedings are begun.”.

(3) For paragraph (3) substitute—

“(3) The court shall have jurisdiction to entertain proceedings for nullity of marriage if (and only if)—

- (a) the court has jurisdiction under the Council Regulation; or

(a) S.I. 2000/3238.
(b) 1972 c. 68.
(c) S.I. 1978/1045 (N.I. 15).

- (b) no court of a Contracting State has jurisdiction under the Council Regulation and either of the parties to the marriage—
 - (i) is domiciled in Northern Ireland on the date when the proceedings are begun; or
 - (ii) died before that date 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.”.

(4) After paragraph (3) insert—

“(3A) Paragraphs (2) and (3) do not give the court jurisdiction to entertain proceedings in contravention of Article 7 of the Council Regulation”.

(5) After paragraph (7) add—

“(8) In this Article and in Schedule 1—

“the Council Regulation” means Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses^(a);

“Contracting State” means

- (a) one of the original parties to the Council Regulation, that is to say Belgium, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom, and
- (b) a party which has subsequently adopted the Council Regulation”.

4. In paragraph 9(1) of Schedule 1 to the Matrimonial Causes (Northern Ireland) Order 1978 after “in any matrimonial proceedings” insert—

“, other than proceedings governed by the Council Regulation,”.

Amendments to the Family Law Act 1986

5. In section 19(1) of the Family Law Act 1986^(b), after the word “unless” insert—

“(a) the child concerned is a child of both parties to the matrimonial proceedings and the court has jurisdiction to entertain those proceedings by virtue of the Council Regulation, or

(b) ”.

6. In section 22(2) of the Family Law Act 1986, after “for the variation of a Part I order,” insert “other than proceedings governed by the Council Regulation,”.

7. At the end of section 42(1) of the Family Law Act 1986^(c), insert—

““the Council Regulation” means Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses.”.

8. In section 45 of the Family Law Act 1986^(d)—

(a) for “Subject” substitute “(1) Subject to subsection (2) of this section and”; and

(b) at the end, insert—

“(2) Subsection (1) and the following provisions of this Part do not apply to an overseas divorce, annulment or legal separation as regards which provision as to recognition is made by Articles 14 to 20 of the Council Regulation.”.

(a) OJ No. L160, 30.6.2000, p. 19.

(b) 1986 c. 55.

(c) section 42(1) of the Family Law Act 1986 has also been amended by S.I. 2001/310 in relation to England and Wales.

(d) section 45 of the Family Law Act 1986 has also been amended by S.I. 2001/310 in relation to England and Wales.

9. In section 54(1) of the Family Law Act 1986(a), after the definition of “annulment” insert—

““the Council Regulation” means Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses.”.

Dated 5th March 2001

Irvine of Lairg, C.

(a) section 54(1) of the Family Law Act 1986 has also been amended by S.I. 2001/310 in relation to England and Wales.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under section 2(2) of the European Communities Act 1972, amend certain provisions of domestic law to clarify the relationship between those provisions and the provisions of Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses.

The purposes of the Council Regulation are to unify the jurisdictional rules in matrimonial matters and in matters of parental responsibility and to simplify the formalities for rapid and automatic recognition and enforcement of judgments relating to these matters. The Council Regulation is directly effective in the United Kingdom and, consequently, the changes effected by these Regulations are limited to those necessary to amend inconsistent provisions of national law.

The amendments to the Matrimonial Causes (Northern Ireland) Order 1978 (regulations 3 and 4) concern the jurisdiction in Northern Ireland to entertain proceedings for divorce, judicial separation and nullity of marriage, and the power of those courts to stay such proceedings.

The amendments to the Family Law Act 1986 (regulations 5, 6, 7, 8 and 9), concern the jurisdiction of courts in Northern Ireland to make orders in or in connection with matrimonial proceedings with respect to children of both parties, and the rule as to recognition in Northern Ireland of divorces, annulments and judicial separations.

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