
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART II

DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

Nullity

Grounds on which a marriage is void

13.—(1) A marriage celebrated after the commencement of this Article shall be void on the following grounds only, that is to say—

- (a) that the parties are within the prohibited degrees of relationship;
- (b) that it is not a valid marriage under the provisions of the Age of Marriage Act (Northern Ireland) 1951 (persons under 16);
- (c) that it is not a valid marriage by reason of non-compliance with any statutory provision or rule of law governing the formation of marriage;
- (d) that at the time of the marriage either party was already lawfully married^{F1} or a civil partner];

^{F2}(e)

- (f) in the case of a polygamous marriage entered into outside Northern Ireland, that either party was at the time of the marriage domiciled in Northern Ireland.

(2) For the purposes of paragraph (1)(f) a marriage^{F3} is not polygamous if] at its inception neither party has any spouse additional to the other.

^{F4}(3) Paragraph (4) applies in the case of a marriage which results from the conversion, or purported conversion, of a civil partnership into a marriage—

- (a) under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020, or
- (b) under Part 3 or 4 of the Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014 where the civil partnership is a convertible Northern Ireland civil partnership as defined by regulation 2 of those Regulations.

(4) The marriage is void if (but only if) the civil partnership was void.]

F1 2004 c. 33

F2 Art. 13(1)(e) omitted (13.1.2020) by virtue of [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **5(1)** (with regs. 6-9)

F3 1995 NI 20

F4 Art. 13(3)(4) inserted (7.12.2020) by The Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020 (S.I. 2020/1143), regs. 1(2), **37(2)**

Grounds on which a marriage is voidable

14. A marriage celebrated after the commencement of this Article shall be voidable on the following grounds only, that is to say—

- (a) that the marriage has not been consummated owing to the incapacity of either party to consummate it;
- (b) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it;
- (c) that either party to the marriage did not validly consent to it, whether in consequence of duress, mistake or unsoundness of mind or otherwise;
- (d) that at the time of the marriage either party, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder within the meaning of the Mental Health^{F5} (Northern Ireland) Order 1986] of such a kind or to such an extent as to be unfitted for marriage;
- (e) that at the time of the marriage the respondent was suffering from venereal disease in a communicable form;
- (f) that at the time of the marriage the respondent was pregnant by some person other than the petitioner.
- ^{F6}(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;]
- ^{F6}(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004][^{F7};

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

F5 1986 NI 4

F6 2004 c. 7

F7 Words in art. 14 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(5)** (with regs. 6-9)

^{F8}Marriage converted from a civil partnership: when voidable

14A.—(1) Paragraphs (2) and (3) apply in the case of a marriage which results from the conversion of a civil partnership into a marriage—

- (a) under Part 3 of the Marriage and Civil Partnership (Northern Ireland) (No. 2) Regulations 2020, or
 - (b) under Part 3 or 4 of the Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014 where the civil partnership is a convertible Northern Ireland civil partnership as defined by regulation 2 of those Regulations.
- (2) Article 14 applies in relation to the marriage, but does so as if—
- (a) paragraphs (a) and (b) were omitted,
 - (b) the reference in paragraph (c) to either party not validly consenting to the marriage were a reference to either party not validly consenting to the formation of the civil partnership, and

- (c) a reference in paragraphs (d) to (h) to the time of the marriage were a reference to the time the civil partnership was formed.
- (3) Article 16 applies in relation to the marriage as if—
 - (a) the reference in paragraph (1)(a) to having the marriage avoided were a reference to having the marriage avoided or (at times before the conversion) to obtaining a nullity order in respect of the civil partnership,
 - (b) a reference in paragraph (2), (4) or (5) to the date of the marriage were a reference to the date the civil partnership was formed, and
 - (c) the reference in paragraph (3) to the time of the marriage were a reference to the time the civil partnership was formed.]

F8 Art. 14A inserted (7.12.2020) by [The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), 37(3)

Jurisdiction of court, and form of order, etc., in nullity proceedings

15.—(1) The court has jurisdiction to grant a decree of nullity—

- (a) of a marriage which is void; or
- (b) on the petition of a party to the marriage, of a marriage which is voidable.

(2) Articles 3(6), 10 and 11 shall apply in relation to proceedings for nullity of marriage as if for any reference in those provisions to divorce there were substituted a reference to nullity of marriage.

Bars to relief where marriage is voidable

16.—(1) The court shall not, in proceedings instituted after the commencement of this Article, grant a decree of nullity on the ground that a marriage is voidable if the respondent satisfies the court—

- (a) that the petitioner, with knowledge that it was open to him to have the marriage avoided, so conducted himself in relation to the respondent as to lead the respondent reasonably to believe that he would not seek to do so; and
- (b) that it would be unjust to the respondent to grant the decree.

[^{F9}(2) Without prejudice to paragraph (1), the court shall not grant a decree of nullity by virtue of Article 14 on the grounds mentioned in paragraph (c), (d), (e)[^{F10}, (f) or (h)] of that Article unless—

- (a) it is satisfied that proceedings were instituted within the period of three years from the date of the marriage, or
- (b) leave for the institution of proceedings after the expiration of that period has been granted under paragraph (4).]

[^{F10}(2A) Without prejudice to paragraph (1), the court shall not grant a decree of nullity by virtue of article 14 on the ground mentioned in paragraph (g) of that Article unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.]

(3) Without prejudice to paragraphs (1) and (2), the court shall not grant a decree of nullity by virtue of Article 14 on the grounds mentioned in paragraph (e)[^{F10}, (f) or (h)] of that Article unless it is satisfied that the petitioner was at the time of the marriage ignorant of the facts alleged.

[^{F9}(4) In the case of proceedings for the grant of a decree of nullity by virtue of Article 14 on the grounds mentioned in paragraph (c), (d), (e)[^{F10}, (f) or (h)] of that Article, a judge of the court may,

on an application made to him, grant leave for the institution of proceedings after the expiration of the period of three years from the date of the marriage if—

- (a) he is satisfied that the petitioner has at some time during that period suffered from mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986; and
- (b) he considers that in all the circumstances of the case it would be just to grant leave for the institution of proceedings.

(5) An application for leave under paragraph (4) may be made after the expiration of the period of three years from the date of the marriage.]

F9 1989 NI 4

F10 2004 c. 7

Marriages governed by foreign law or celebrated abroad under certain enactments or under common law

17.—(1) [^{F11}Subject to paragraph (3)] where, apart from this Order, any matter affecting the validity of a marriage would fall to be determined (in accordance with the rules of private international law) by reference to the law of a country other than Northern Ireland, nothing in Article 13, 14 or 16(1) shall—

- (a) preclude the determination of that matter as aforesaid; or
- (b) require the application to the marriage of the grounds or bar there mentioned except so far as applicable in accordance with those rules.

(2) In the case of a marriage which purports to have been celebrated under the Foreign Marriage Acts 1892 to 1947 or has taken place outside Northern Ireland and purports to be a marriage under common law, Article 13 is without prejudice to any ground on which the marriage may be void under those Acts or, as the case may be, by virtue of the rules governing the celebration of marriages outside Northern Ireland under common law.

[^{F11}(3) No marriage is to be treated as valid by virtue of paragraph (1) if, at the time when it purports to have been celebrated, either party was already a civil partner.]

F11 2004 c. 33

Effect of decree of nullity in case of voidable marriage

18. A decree of nullity granted after the commencement of this Article in respect of a voidable marriage shall operate to annul the marriage only as respects any time after the decree has been made absolute, and the marriage shall, notwithstanding the decree, be treated as if it had existed up to that time.

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Nullity.