
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART II

DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

Other matrimonial suits

Judicial separation

19.—(1) A petition for judicial separation may be presented to the court by either party to a marriage on the ground that any such fact as is mentioned in Article 3(2) exists, and the provisions of Article 4 shall apply accordingly for the purposes of a petition for judicial separation alleging any such fact, as they apply in relation to a petition for divorce alleging that fact.

(2) On a petition for judicial separation it shall be the duty of the court to inquire, so far as it reasonably can, into the facts alleged by the petitioner and into any facts alleged by the respondent, but the court shall not be concerned to consider whether the marriage has broken down irretrievably, and if it is satisfied on the evidence of any such fact as is mentioned in Article 3(2) it shall, subject to Article 44, grant a decree of judicial separation.

(3) Articles 8 and 9 shall apply for the purpose of encouraging the reconciliation of parties to proceedings for judicial separation and of enabling the parties to a marriage to refer to the court for its opinion of an agreement or arrangement relevant to actual or contemplated proceedings for judicial separation, as they apply in relation to proceedings for divorce.

Effects of judicial separation

20.—(1) Where the court grants a decree of judicial separation it shall no longer be obligatory for the petitioner to cohabit with the respondent.

(2) ^{F1} If while a decree of judicial separation is in force and the separation is continuing either of the parties to the marriage dies intestate as respects all or any of his or her real or personal property, the property as respects which he or she died intestate shall devolve as if the other party to the marriage had then been dead.

Para.(3) rep. with saving by 1980 NI 5

F1 1955 c.24 (NI)

Presumption of death and dissolution of marriage

21.—(1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the High Court to have it presumed that the other party is dead and to have the marriage dissolved, and the High Court may, if satisfied that such reasonable grounds exist, grant a decree of presumption of death and dissolution of the marriage.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Other matrimonial suits. (See end of Document for details)

(2) In any proceedings under this Article the fact that for a period of seven years or more the other party to the marriage has been continually absent from the petitioner and the petitioner has no reason to believe that the other party has been living within that time shall be evidence that the other party is dead until the contrary is proved.

(3) Articles 3(6), 10 and 11 shall apply to a petition and a decree under this Article as they apply to a petition for divorce and a decree of divorce respectively.

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

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