

SCHEDULE

Amendment of primary and secondary legislation

PART 1

Amendment of primary legislation

Amendment of the Matrimonial Causes (Northern Ireland) Order 1978

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

(2) In Article 2 (interpretation) omit the definition of “the Maintenance Regulation”.

(3) In Article 37 (alteration of agreements by the court, or by a court of summary jurisdiction, during the lives of the parties)—

- (a) in paragraph (1), for “paragraphs (1A) and” substitute “paragraph”;
- (b) omit paragraph (1A).

(4) In Article 49 (jurisdiction of court)—

- (a) in paragraph (2), for the words from “if”—” to the end substitute “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.”;

- (b) in paragraph (3), for the words from “if)—” to the end substitute “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

(1) S.I. 1978/1045 (N.I. 15), relevant amending instruments are S.I. 2001/660, 2005/265, 2011/1484.

- (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.”;
 - (c) omit paragraph (3A);
 - (d) for paragraph (5) substitute—
 - “(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.”;
 - (e) omit paragraph (8).
- (5) In paragraph 9 of Schedule 1 (staying of matrimonial proceedings), in sub-paragraph (1), omit “, other than proceedings governed by the Council Regulation,”.