



Family Law Act 1986

1986 CHAPTER 55

PART II

RECOGNITION OF DIVORCES, ANNULMENTS AND LEGAL SEPARATIONS

Overseas divorces, annulments and legal separations

45 Recognition in the United Kingdom of overseas divorces, annulments and legal separations.

[^{F1}(1) Subject to subsection (2) of this section and] to sections 51 and 52 of this Act, the validity of a divorce, annulment or legal separation obtained in a country outside the British Islands (in this Part referred to as an overseas divorce, annulment or legal separation) shall be recognised in the United Kingdom if, and only if, it is entitled to recognition—

- (a) by virtue of sections 46 to 49 of this Act, or
- (b) by virtue of any enactment other than this Part.

[^{F2}(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 [^{F3}Articles 21 to 27, 41(1) and 42(1)] of the Council Regulation.]

Textual Amendments

- F1** S. 45: words “(1) Subject to subsection (2) of this section” substituted for “Subject” (1.3.2001 for E.W.S. and 30.3.2001 for N.I.) by virtue of S.I. 2001/310, **reg. 9(a)**; S.S.I. 2001/36, **reg. 4(5)(a)(b)**; S.I. 2001/660, **reg. 8(a)**
- F2** S. 45(2) inserted (1.3.2001 for E.W.S. and 30.3.2001 for N.I.) by virtue of S.I. 2001/310, **reg. 9(b)**; S.S.I. 2001/36, **reg. 4(5)(c)**; S.I. 2001/660, **reg. 8(b)**
- F3** Words in s. 45(2) substituted (E.W.) (1.3.2005) by [The European Communities \(Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters\) Regulations 2005](#) (S.I. 2005/265), **regs. 1, 17** (with **reg. 20**) and (S.) (1.3.2005) by [The European Communities \(Matrimonial and Parental](#)

Status: Point in time view as at 01/03/2005.

Changes to legislation: Family Law Act 1986, Cross Heading: Overseas divorces, annulments and legal separations is up to date with all changes known to be in force on or before 17 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Responsibility Jurisdiction and Judgments) (Scotland) Regulations 2005 (S.S.I. 2005/42), regs. 1(1), 4(6) (with reg. 7)

46 Grounds for recognition.

- (1) The validity of an overseas divorce, annulment or legal separation obtained by means of proceedings shall be recognised if—
 - (a) the divorce, annulment or legal separation is effective under the law of the country in which it was obtained; and
 - (b) at the relevant date either party to the marriage—
 - (i) was habitually resident in the country in which the divorce, annulment or legal separation was obtained; or
 - (ii) was domiciled in that country; or
 - (iii) was a national of that country.
- (2) The validity of an overseas divorce, annulment or legal separation obtained otherwise than by means of proceedings shall be recognised if—
 - (a) the divorce, annulment or legal separation is effective under the law of the country in which it was obtained;
 - (b) at the relevant date—
 - (i) each party to the marriage was domiciled in that country; or
 - (ii) either party to the marriage was domiciled in that country and the other party was domiciled in a country under whose law the divorce, annulment or legal separation is recognised as valid; and
 - (c) neither party to the marriage was habitually resident in the United Kingdom throughout the period of one year immediately preceding that date.
- (3) In this section “the relevant date” means—
 - (a) in the case of an overseas divorce, annulment or legal separation obtained by means of proceedings, the date of the commencement of the proceedings;
 - (b) in the case of an overseas divorce, annulment or legal separation obtained otherwise than by means of proceedings, the date on which it was obtained.
- (4) Where in the case of an overseas annulment, the relevant date fell after the death of either party to the marriage, any reference in subsection (1) or (2) above to that date shall be construed in relation to that party as a reference to the date of death.
- (5) For the purpose of this section, a party to a marriage shall be treated as domiciled in a country if he was domiciled in that country either according to the law of that country in family matters or according to the law of the part of the United Kingdom in which the question of recognition arises.

47 Cross-proceedings and divorces following legal separations.

- (1) Where there have been cross-proceedings, the validity of an overseas divorce, annulment or legal separation obtained either in the original proceedings or in the cross-proceedings shall be recognised if—
 - (a) the requirements of section 46(1)(b)(i), (ii) or (iii) of this Act are satisfied in relation to the date of the commencement either of the original proceedings or of the cross-proceedings, and

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- (b) the validity of the divorce, annulment or legal separation is otherwise entitled to recognition by virtue of the provisions of this Part.
- (2) Where a legal separation, the validity of which is entitled to recognition by virtue of the provisions of section 46 of this Act or of subsection (1) above is converted, in the country in which it was obtained, into a divorce which is effective under the law of that country, the validity of the divorce shall be recognised whether or not it would itself be entitled to recognition by virtue of those provisions.

48 Proof of facts relevant to recognition.

- (1) For the purpose of deciding whether an overseas divorce, annulment or legal separation obtained by means of proceedings is entitled to recognition by virtue of section 46 and 47 of this Act, any finding of fact made (whether expressly or by implication) in the proceedings and on the basis of which jurisdiction was assumed in the proceedings shall—
- (a) if both parties to the marriage took part in the proceedings, be conclusive evidence of the fact found; and
 - (b) in any other case, be sufficient proof of that fact unless the contrary is shown.
- (2) In this section “finding of fact” includes a finding that either party to the marriage—
- (a) was habitually resident in the country in which the divorce, annulment or legal separation was obtained; or
 - (b) was under the law of that country domiciled there; or
 - (c) was a national of that country.
- (3) For the purposes of subsection (1)(a) above, a party to the marriage who has appeared in judicial proceedings shall be treated as having taken part in them.

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