



# Family Law Act 1986

## 1986 CHAPTER 55

### PART II

#### RECOGNITION OF DIVORCES, ANNULMENTS AND LEGAL SEPARATIONS

##### *Overseas divorces, annulments and legal separations*

#### **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—

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**Changes to legislation:** *Family Law Act 1986, Section 46 is up to date with all changes known to be in force on or before 20 May 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) View outstanding changes*

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- (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.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1)(ca)-(cc) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 7](#)
- s. 2A(1)(1A) substituted for s. 2(1) by [1996 c. 27 Sch. 8 para. 37\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))
- s. 19(1A)-(1C) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 8](#)
- s. 29A inserted by [2020 asp 16 s. 29\(2\)](#)
- s. 38(4) inserted by [1996 c. 27 Sch. 8 para. 37\(9\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 8 Pt. I repealed (except for paras. 4, 16(1)(5)(a)(6)(b)(7)) (13.5.2014) by Children and Families Act 2014 (c. 6), ss. 18(2)(e), 139(4))