

STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART V

MISCELLANEOUS AND SUPPLEMENTAL

The court

48.—(1) Subject to the following provisions of this Article, any reference in this Order to “the court” (except where the context shows that it is a reference to some particular court) is a reference to—

(a) the High Court; or

[^{F1}(b) a county court.]

^{F2}

^{F3}(1A)

^{F3}(1B)

^{F4}(2)

(3) ^{F5}... Rules of court—

(a) shall provide for the transfer to the High Court—

(i) of any matrimonial cause pending in a ^{F6}... county court which ceases to be undefended, and

(ii) of any matrimonial cause so pending, where the transfer appears to the ^{F6}... county court to be desirable;

(b) may provide for the transfer to the High Court of any matrimonial cause which remains undefended;

(c) may provide for the transfer or retransfer from the High Court to a ^{F7}... county court of any matrimonial cause which is, or again becomes, undefended;

(d) shall define the circumstances in which any matrimonial cause is to be treated for the purposes of this paragraph as undefended.

(4) The jurisdiction of a ^{F8}... county court to exercise any power under Part III or IV (except a power under Article 29 or 37 or a power under Article 35, 38 or 40 ^{F9}...) shall, except to the extent that rules of court otherwise permit and, in particular, without prejudice to paragraphs (5) and (7), be exercisable only in connection with a petition, decree or order pending in or made by such a court.

(5) ^{F10}... Rules of court may provide for the transfer or retransfer from a ^{F11}... county court to the High Court, or from the High Court to a ^{F11}... county court, of any proceedings for the exercise of a power under Part III or IV (except proceedings on an application under Article 35, 38 or 40).

(6) The power conferred by paragraphs (3) and (5) includes power to provide for the removal of proceedings at the direction of the High Court; but nothing in this Article affects any other power of the High Court to remove proceedings to that court from a county court or any power to remit proceedings from that court to a county court.

(7) A court shall have jurisdiction to entertain any proceedings transferred to the court by virtue of rules made in pursuance of paragraph (5).

(8) Any jurisdiction conferred on a ^{F12}... county court by virtue of this Order shall be exercisable notwithstanding that by reason of any amount claimed the jurisdiction would not but for this paragraph be exercisable by a county court.

(9) Without prejudice to [^{F13} Article 61 of the County Courts (Northern Ireland) Order 1980] (cases stated), rules of court shall make provision for an appeal to the Court of Appeal from any decree or order made by [^{F14} a judge of] a ^{F15}... county court in the exercise of the jurisdiction conferred by any provision of this Order (other than Article 34, 35, 38 or 40)[^{F16} or of the Children (Northern Ireland) Order 1995], or from the dismissal [^{F14} by such a judge] of any petition or application under such a provision (other than as aforesaid), upon a point of law, a question of fact or the admission or rejection of any evidence.

(10) A person dissatisfied with an order made by any county court in the exercise of the jurisdiction conferred by Article 35, 38 or 40 or with the dismissal of any application instituted by him under that Article shall be entitled to appeal from the order or dismissal as if the order or dismissal had been made in exercise of the jurisdiction conferred by Part III of the County Courts [^{F13} (Northern Ireland) Order 1980 and the appeal brought under Part VI of that Order and Articles 61 (cases stated by county court judge) and 62 (cases stated by High Court on appeal from county court) of that Order shall apply accordingly].

(11) In this Article “matrimonial cause” means any action for divorce, nullity of marriage or judicial separation^{F17}

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| F1 | Art. 48(1)(b) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(a) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3) |
| F2 | Words in art. 48(1) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 41(2)(b), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a) , Sch. 1 paras. 10, 12(a), 29, 30(c) |
| F3 | Art. 48(1A)(1B) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F4 | Art. 48(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F5 | Words in art. 48(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(c), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F6 | Word in art. 48(3)(a) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(d), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F7 | Word in art. 48(3)(c) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(d), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F8 | Word in art. 48(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(e), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F9 | Words in art. 48(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(e), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F10 | Words in art. 48(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(f), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F11 | Word in art. 48(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(f), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |
| F12 | Word in art. 48(8) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(g), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) |

Changes to legislation: *There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Section 48. (See end of Document for details)*

F13 1980 NI 3

F14 1980 NI 5

F15 Word in art. 48(9) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 76(6)(h), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

F16 1995 NI 2

F17 1989 NI 4

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Section 48.