STATUTORY INSTRUMENTS

1983 No. 949 (S. 78)

EVIDENCE

The Evidence in Undefended Divorce Actions (Scotland) Order 1983

Made - - - -	30*th June* 1983
Laid before Parliament	14*th July* 1983
Coming into Operation	1*st September* 1983

In exercise of the powers conferred on me by section 2(2) of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983(**a**) and of all other powers enabling me in that behalf, I hereby make the following order:—

1. This order may be cited as the Evidence in Undefended Divorce Actions (Scotland) Order 1983 and shall come into operation on 1st September 1983.

2. Section 2 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 shall apply to the class of undefended actions for divorce in which—

(*a*) the action is brought in reliance on the facts set out in section 1(2)(*d*) (2 years non-cohabitation and the defender's consent to decree) or in section 1(2)(*e*) (5 years non-cohabitation) of the Divorce (Scotland) Act 1976(**b**);

(*b*) no other proceedings are pending in any court which could have the effect of bringing the marriage to an end;

(*c*) there are no children of the marriage under the age of 16 years;

(*d*) neither party applies for an order for financial provision on divorce; and

(*e*) neither party suffers from mental disorder within the meaning of section 6 of the Mental Health (Scotland) Act 1960(**c**).

Mackay of Clashfern,
Lord Advocate.

Lord Advocate's Chambers.
30th June 1983.

(**a**) 1983 c. 12. (**b**) 1976 c. 39. (**c**) 1960 c. 61.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides that section 2 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983, which allows the court to find facts proved by uncorroborated evidence in such class or classes of undefended actions of divorce as the Lord Advocate may by order prescribe, applies to undefended actions of divorce brought on the basis of either 2 years non-cohabitation with consent of the defender or 5 years non-cohabitation in which certain other criteria are fulfilled. These are actions in which a simplified divorce procedure is available under the Act of Sederunt (Rules of Court Amendment No. 6) (Simplified Divorce Procedure) 1982 (S.I. 1982/1679).

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