

Your Legal Questions

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Q My husband and I are separated and want a divorce. I was born in the UK but married an American and went to live there. I have now returned. Can I commence divorce proceedings in this country and what can I claim financially if the joint home was in America?

A You are able to issue a divorce petition in this country as long as you are domiciled here which means that you consider that this country is where you have your real or permanent home. You would have to show the Court that your marriage has irretrievably broken down by citing one of five facts – adultery, unreasonable behaviour, desertion for over two years or separation – two years if both parties agree or five years if they don't.

With regard to the financial aspects of your separation/divorce if you're not able to resolve matters with your husband direct then it is possible for you to pursue a financial claim against your husband in respect of property in America in this country.

The Court would have regard to the law in this country set out in the Matrimonial Causes Act 1973 (as amended) and could make an order against your husband. Should your husband not comply with the terms of such an order you would then have to enforce it in America. This could be difficult as some States have reciprocal arrangements to enforce orders made in this country and others do not.

As your position is potentially complicated I would suggest that you take legal advice before taking any steps to issue divorce proceedings or resolving the financial aspects of your separation.

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