



Leaving Cert Home Economics

Free Notes

Separation

Separation:

Couples may separate legally by:

- a) Entering into a separation agreement/deed of separation.
- b) Getting a decree of judicial separation in court.

Separation Agreement/Deed of Separation

- It is a **legally binding contract between spouses**, which sets out their future rights and responsibilities.
- Can avoid **court proceedings** but must be drawn up by a solicitor.
- It includes:
 - Arrangements regarding the **responsibility for the care of children**.
 - Amount of **maintenance** to be paid to children.
 - Arrangements regarding the **ownership and occupation of the family home**.
 - **Agreement to live apart** and not interfere with each other.

Judicial Separation

- If a couple cannot reach a separation agreement or only one spouse wants to separate, an application can be made to the court for a decree of judicial separation.
- This is under the guidelines of the **Judicial Separation Act 1989**.
- Grounds for judicial separation: Adultery, desertion, unreasonable behaviour, no normal marriage relationship for at least a year and where spouses have lived apart, couple haven't lived together for 1 year (agreed separation) or 3 years (lack of consent).

Nullity of Marriage:

The concept of nullity refers to a marriage that never existed.

□ **Legal Annulment**

Grounds for legal annulment:

- **Lack of Capacity:** If the couple do not satisfy the rules of the marriage e.g. not over 18 years of age in Ireland.

- **Non Observance of certain formalities:** If 3 months' notice has not been given to the Registrar of Marriages.
- **Absence of Consent:** If one of the parties did not give full, free and informed consent e.g. drunk or under pressure from parents.
- **Impotence:** If they were not able to consummate the marriage.
- **Inability to form and sustain a normal martial relationship:** If they are not able to sustain a normal marital relationship e.g. manic depression and homosexuality may be grounds for civil annulment.

Effects of a legal annulment:

- Partners are **free to marry**.
- **No legal right to share in the** estate of the other party.
- **Does not affect the rights of the dependent children.**

□ **Church Annulment:**

This is granted on similar grounds to those for civil annulments. A church annulment has no legal standing.

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