



Isle of Man

Ellan Vannin

AT 9 of 1987

**RECOGNITION OF DIVORCES ETC. ACT
1987**



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**Isle of Man***Ellan Vannin*

RECOGNITION OF DIVORCES ETC. ACT 1987

Received Royal Assent: 8 October 1987
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AN ACT to amend the law with respect to the recognition of divorces, annulments and legal separations; to make further provision with respect to the effect of divorces and annulments on wills; and for connected purposes.

Divorces, annulments and judicial separations granted in the British Islands

1 Recognition of divorces etc granted in British Islands

[P1986/55/44]

- (1) Subject to section 9(4) and (5)(a), no divorce or annulment obtained in any part of the British Islands shall be regarded as effective unless granted by a court of civil jurisdiction.
- (2) Subject to section 8, the validity of any divorce, annulment or judicial separation granted by a court of civil jurisdiction in any part of the British Islands shall be recognised in the Island.

Overseas divorces, annulments and legal separations

2 Recognition of overseas divorces etc

[P1986/55/45]

Subject to sections 8 and 9, the validity of a divorce, annulment or legal separation obtained in a country outside the British Islands (in this Act referred to as an overseas divorce, annulment or legal separation) shall be recognised in the Island if, and only if, it is entitled to recognition by virtue of sections 3 to 6.

3 Grounds for recognition

[P1986/55/46]

- (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 Island throughout the period of one year immediately preceding that date.
- (3) In this section “the relevant date” means —
 - (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) to that date shall be construed 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 Island.

4 Cross-proceedings and divorces following legal separations

[P1986/55/47]

- (1) Where there have been cross-proceedings, the validity of an overseas divorce, annulment or legal separation obtained either in the original proceedings or in the cross-proceedings shall be recognised if —

- (a) the requirements of section 3(1)(b)(i), (ii) or (iii) are satisfied in relation to the date of the commencement either of the original proceedings or of the cross-proceedings; and
 - (b) the validity of the divorce, annulment or legal separation is otherwise entitled to recognition by virtue of the provisions of this Act.
- (2) Where a legal separation, the validity of which is entitled to recognition by virtue of the provisions of section 3 or subsection (1), is converted, in the country in which it was obtained, into a divorce which is effective under the law of that country, the validity of the divorce shall be recognised whether or not it would itself be entitled to recognition by virtue of those provisions.

5 Proof of facts relevant to recognition

[P1986/55/48]

- (1) For the purpose of deciding whether an overseas divorce, annulment or legal separation obtained by means of proceedings is entitled to recognition by virtue of sections 3 and 4, any finding of fact made (whether expressly or by implication) in the proceedings and on the basis of which jurisdiction was assumed in the proceedings shall —
 - (a) if both parties to the marriage took part in the proceedings, be conclusive evidence of the fact found; and
 - (b) in any other case, be sufficient proof of that fact unless the contrary is shown.
- (2) In this section “finding of fact” includes a finding that either party to the marriage —
 - (a) was habitually resident in the country in which the divorce, annulment or legal separation was obtained; or
 - (b) was under the law of that country domiciled there; or
 - (c) was a national of that country.
- (3) For the purposes of subsection (1)(a) a party to the marriage who has appeared in judicial proceedings shall be treated as having taken part in them.

Supplemental

6 Modification in relation to countries having more than one system of law

[P1986/55/49]

- (1) In relation to a country comprising territories in which different systems of law are in force in matters of divorce, annulment or legal separation, the

provisions mentioned in subsections (2) to (5) shall have effect subject to the following modifications.

- (2) In the case of a divorce, annulment or legal separation the recognition of the validity of which depends on whether the requirements of section 3(1)(b)(i) or (ii) are satisfied, section 3 and, in the case of a legal separation, section 4(2) shall have effect as if each territory were a separate country.
- (3) In the case of a divorce, annulment or legal separation the recognition of which depends on whether the requirements of section 3(1)(b)(iii) are satisfied —
 - (a) in section 3(1), for paragraph (a) substitute —

“(a) the divorce, annulment or legal separation is effective throughout the country in which it was obtained;”;
 - (b) in the case of a legal separation, in section 4(2) for “is effective under the law of that country” substitute “is effective throughout that country”.
- (4) In the case of a divorce, annulment or legal separation the recognition of the validity of which depends on whether the requirements of section 3(2)(b) are satisfied, sections 3 and 9(3) and (4) and, in the case of a legal separation, section 4(2) shall have effect as if each territory were a separate country.
- (5) Section 5(2)(a) and (b) shall have effect as if each territory were a separate country.

7 Non-recognition of divorce or annulment in another jurisdiction no bar to marriage

[P1986/55/50]

Where —

- (a) a divorce or annulment has been granted by the High Court, or
- (b) the validity of a divorce or annulment is recognised in the Island by virtue of this Act,

the fact that the divorce or annulment would not be recognised elsewhere shall not preclude either party to the marriage from forming a subsequent marriage or civil partnership in the Island or cause the subsequent marriage or civil partnership of either party (wherever it takes place) to be treated as invalid in the Island¹

8 Refusal of recognition

[P1985/55/51]

- (1) Subject to section 9, recognition of the validity of —

- (a) a divorce, annulment or judicial separation granted by a court of civil jurisdiction in any part of the British Islands, or
 - (b) an overseas divorce, annulment or legal separation,

may be refused in the Island if the divorce, annulment or legal separation was granted or obtained at a time when it was irreconcilable with a decision determining the question of the subsistence or validity of the marriage of the parties previously given (whether before or after the commencement of this Act) by the High Court, or by a court outside the Island and recognised or entitled to be recognised in the Island.
- (2) Subject to section 9, recognition of the validity of —
 - (a) a divorce or judicial separation granted by a court of civil jurisdiction in any part of the British Islands, or
 - (b) an overseas divorce or legal separation,

may be refused in the Island if the divorce or separation was granted or obtained at a time when, according to the law of the Island (including the rules of private international law and the provisions of this Act), there was no subsisting marriage between the parties.
- (3) Subject to section 9, recognition by virtue of section 2 of the validity of an overseas divorce, annulment or legal separation may be refused if —
 - (a) in the case of a divorce, annulment or legal separation obtained by means of proceedings, it was obtained —
 - (i) without such steps having been taken for giving notice of the proceedings to a party to the marriage as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken; or
 - (ii) without a party to the marriage having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to those matters, he should reasonably have been given; or
 - (b) in the case of a divorce, annulment or legal separation obtained otherwise than by means of proceedings —
 - (i) there is no official document certifying that the divorce, annulment or legal separation is effective under the law of the country in which it was obtained; or
 - (ii) where either party to the marriage was domiciled in another country at the relevant date, there is no official document certifying that the divorce, annulment or legal separation is recognised as valid under the law of that other country; or
 - (c) in either case, recognition of the divorce, annulment or legal separation would be manifestly contrary to public policy.
- (4) In this section —

“official”, in relation to a document certifying that a divorce, annulment or legal separation is effective, or is recognised as valid, under the law of any country, means issued by a person or body appointed or recognised for the purpose under that law;

“the relevant date” has the same meaning as in section 3; and section 3(5) shall apply for the purposes of this section as it applies for the purposes of section 3.

- (5) Nothing in this Act shall be construed as requiring the recognition of any finding of fault made in any proceedings for divorce, annulment or legal separation or of any maintenance, custody or other ancillary order made in any such proceedings.

9 Provisions as to divorces etc obtained before commencement

[P1986/55/52]

- (1) The provisions of this Act shall apply —
- (a) to a divorce, annulment or judicial separation granted by a court of civil jurisdiction in the British Islands before the date of the commencement of this Act, and
 - (b) to an overseas divorce, annulment or legal separation obtained before that date,
- as well as to one granted or obtained on or after that date.
- (2) In the case of such a divorce, annulment or separation as is mentioned in subsection (1)(a) or (b), this Act shall require or, as the case may be, preclude the recognition of its validity in relation to any time before that date as well as in relation to any subsequent time, but this Act shall not —
- (a) affect any property to which any person became entitled before that date, or
 - (b) affect the recognition of the validity of the divorce, annulment or separation if that matter has been decided by any competent court in the British Islands before that date.
- (3) Subsections (1) and (2) shall apply in relation to any divorce or judicial separation granted by a court of civil jurisdiction in the British Islands before the date of the commencement of this Act, whether granted before or after the 17th October 1972.
- (4) The validity of any divorce, annulment or legal separation mentioned in subsection (5) shall be recognised in the Island whether or not it is entitled to recognition by virtue of any of the foregoing provisions of this Act.
- (5) The divorces, annulments and legal separations referred to in subsection (4) are —

- (a) a divorce which was obtained in the British Islands before the 1st January 1975 and was recognised as valid under rules of law applicable before that date;
- (b) an overseas divorce which was recognised as valid under the Recognition of Divorces and Legal Separations (Isle of Man) Act 1972 and was not affected by section 7(2) of the Domicile and Matrimonial Proceedings Act 1974 (proceedings otherwise than in a court of law where both parties resident in the Island);
- (c) a divorce or annulment which was recognised as valid under section 1 of the Matrimonial Causes (War Marriages) (No. 2) Act 1946 or under section 4 of the Matrimonial Causes (War Marriages) Act 1944 (an Act of Parliament); and
- (d) an overseas legal separation which was recognised as valid under the said Act of 1972.

10 [Repealed]²

11 Interpretation

[P1986/55/54]

- (1) In this Act —

“**annulment**” includes any decree or declarator of nullity of marriage, however expressed;

“**proceedings**” means judicial or other proceedings.

- (2) In this Act “**country**” includes a colony or other dependent territory of the United Kingdom, but for the purposes of this Act a person shall be treated as a national of such a territory only if it has a law of citizenship or nationality separate from that of the United Kingdom and he is a citizen or national of that territory under that law.

12 Short title etc

- (1) This Act may be cited as the Recognition of Divorces etc. Act 1987, and shall come into operation on such day as the Governor in Council may by order appoint.³
- (2) [Repealed]⁴

SCHEDULE⁵

ENDNOTES

Table of Endnote References

¹ S 7 amended by Civil Partnership Act 2011 Sch 14.

² S 10 repealed by Law Reform (Miscellaneous Provisions) Act 1996 s 3(2) (and see also s 3(3)).

³ ADO (whole Act) 4/4/1988 (GC49/88).

⁴ Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.

⁵ Sch repealed by Statute Law Revision Act 1992 Sch 2.