

ORDER IN COUNCIL

V
1979

ratifying a Projet de Loi

ENTITLED

The Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979

(Registered on the Records of the Island of Guernsey
on the 3rd July, 1979.)



1979.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 3rd day of July, 1979 before Charles Keith Frossard, Esquire, Deputy Bailiff; present:— Stanley Walter Gavey, Esquire, O.B.E., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire and Sydney Haydn Heard, Esquire, M.B.E., Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 23rd day of May, 1979, ratifying a *Projet de Loi* entitled "The Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

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At the Court at Buckingham Palace

The 23rd day of May 1979

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 16th day of May 1979 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That in pursuance of their Resolution of the 26th day of January 1978 the States of Deliberation at a meeting held on the 21st day of June 1978 approved a Bill or “Projet de Loi” entitled “The Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979”, which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 16th day of August 1978 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 4th day of October 1978 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same

to Sark. 4. That the said Bill or "Projet de Loi" is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979", and to order that the same shall have force of law in the Bailiwick of Guernsey.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979

THE STATES, in pursuance of their Resolution of the twenty-sixth day of January, nineteen hundred and seventy-eight, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amend-
ments to
Law of 1972.

1. The Recognition of Divorces and Legal Separations (Bailiwick of Guernsey) Law, 1972 (hereinafter referred to as "the principal Law")^(a), is hereby amended as follows:—

(a) section six thereof is repealed and the following section is substituted therefor—

"Existing
common
law and
statutory
rules:

6. (1) In this section "the common law rules" means the rules of law relating to the recognition of divorces or legal separations obtained in the country of the spouses' domicile or obtained elsewhere and recognised as valid in that country.

(2) In any circumstances in which the validity of a divorce or legal separation obtained in a country outside the British

(a) Ordres en Conseil Vol. XXIII, p. 336.

Islands would be recognised by virtue only of the common law rules if either—

- (a) the spouses had at the material time both been domiciled in that country; or
- (b) the divorce or separation were recognised as valid under the law of the spouses' domicile;

its validity shall also be recognised if the next following subsection is satisfied in relation to it.

(3) This subsection is satisfied in relation to a divorce or legal separation obtained in a country outside the British Islands if either—

- (a) one of the spouses was at the material time domiciled in that country and the divorce or separation was recognised as valid under the law of the domicile of the other spouse; or
- (b) neither of the spouses having been domiciled in that country at the material time, the divorce or separation was recognised as valid under the law of the domicile of each of the spouses respectively.

(4) For any purpose of subsection (2) or (3) of this section the expression "the material time", in relation to a divorce or legal separation, means the time of the institution of proceedings in the country in which it was obtained.

(5) Sections two to five of this Law are without prejudice to the recognition of the validity of divorces and legal separations obtained outside the British Islands by virtue of the common law rules (as extended by this section), or of any enactment other than this Law; but, subject to this section, no divorce or legal separation so obtained shall be recognised as valid in the Bailiwick except as provided by those sections.";

(b) in section seven thereof—

- (i) the words "the foregoing provisions" are repealed and the words "sections one to five or subsection (2) of section six" are substituted therefor;
- (ii) the words "section six" are repealed and the words "subsection (5) of section six" are substituted therefor;

(c) immediately after section seven thereof there is inserted the following additional section numbered "7A."—

"Non-judicial divorces.

7A. (1) No proceeding in any part of the British Islands shall be regarded as validly dissolving

a marriage unless instituted in the courts of law of one of those parts.

(2) Notwithstanding anything in section six of this Law, a divorce which—

(a) has been obtained elsewhere than in any part of the British Islands; and

(b) has been so obtained by means of a proceeding other than a proceeding instituted in a court of law; and

(c) is not required by any of the provisions of sections two to five of this Law to be recognised as valid;

shall not be regarded as validly dissolving a marriage if both parties to the marriage have throughout the period of one year immediately preceding the institution of the proceeding been habitually resident in the Bailiwick.

(3) This section does not affect the validity of any divorce obtained before its coming into force and recognised as valid under rules of law formerly applicable.”;

(d) in subsection (2) of section eight thereof—

(i) immediately after the words “by virtue of” there are inserted the words

“sections two to five or subsection (2) of section six of”;

(ii) the words “section six” are repealed and the words “subsection (5) of section six” are substituted therefor;

(e) section nine thereof is renumbered as section “9 (1)” and immediately thereafter there are inserted the following additional subsections numbered “(2)” and “(3)”—

“(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law throughout the Bailiwick.”.

Citation.

2. This Law may be cited as the Recognition of Divorces and Legal Separations (Amendment) (Bailiwick of Guernsey) Law, 1979.

Collective title.

3. This Law and the principal Law may be cited together as the Recognition of Divorces and Legal Separations (Bailiwick of Guernsey) Laws, 1972 and 1979.

Commencement.

4. This Law shall come into force on such day as the States of Guernsey may by Ordinance appoint.

K. H. TOUGH,
Her Majesty's Deputy Greffier.