



**BERMUDA
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**RECOGNITION OF DIVORCES AND LEGAL SEPARATIONS ACT
1977**

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[3 June 1977]

[preamble and words of enactment omitted]

**RECOGNITION OF DIVORCES AND LEGAL SEPARATIONS ACT
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Interpretation

Interpretation

1 In this Act "country" includes a colony or dependent territory of any country and a person shall be deemed to be a national of a colony or dependent territory if the law of such colony or dependent territory recognizes him as such or recognizes him as a national of the country on which the colony or dependent territory is dependent.

Overseas Divorces and Legal Separations

Recognition in Bermuda of overseas divorces and legal separations

2 Sections 3 to 5 shall have effect, subject to section 8, as respects the recognition in Bermuda of the validity of overseas divorces and legal separations, that is to say, divorces and legal separations which—

- (a) have been obtained by means of judicial or other proceedings in any country outside Bermuda; and
- (b) are effective under the law of that country.

Grounds for recognition

3 (1) The validity of an overseas divorce or legal separation shall be recognized in Bermuda if—

- (a) at the date of the institution of proceedings in the country in which it was obtained either spouse was habitually resident in that country; or
- (b) at that date both spouses were nationals of that country; or
- (c) at that date the petitioner was a national of that country and one of the following further conditions was fulfilled, that is to say—
 - (i) the petitioner was habitually resident there;
 - (ii) he had habitually resided there continuously for a period of one year, being a period falling wholly or partly within the period of two years immediately preceding the institution of the said proceedings.

(2) The validity of an overseas divorce shall also be recognized in Bermuda if, at the date of the institution of proceedings in the country in which it was obtained, the petitioner was a national of that country and both the following further conditions were fulfilled, that is to say—

- (a) he was present in that country at that date;

(b) he and the respondent last habitually resided in a country whose law, at that date, did not provide for divorce.

(3) In relation to a country the law of which uses the concept of domicile as a ground of jurisdiction in matters of divorce or legal separation, the references in subsections (1) and (2) to habitual residence include reference to domicile within the meaning of that law.

(4) In this section, as respects proceedings other than judicial proceedings the expressions "petitioner" and "respondent" respectively refer to the spouse initiating the proceedings and the other spouse.

(5) In relation to a country comprising territories in which different systems of law are in force in matters of divorce or legal separation, the provisions of subsections (1) to (4) (except those relating to nationality) shall have effect as if each territory were a separate country.

Cross-proceedings and divorces following legal separations

4 (1) Where there have been cross-proceedings, the validity of an overseas divorce or legal separation obtained either in the original proceedings or in the cross-proceedings shall be recognized if the requirements of section 3(1) or (2) are satisfied in relation to the date of the institution either of the original proceedings or of the cross-proceedings.

(2) Where a legal separation the validity of which is entitled to recognition by virtue of section 3 or subsection (1) is converted, in the country in which it was obtained, into a divorce, the validity of the divorce shall be recognized whether or not it would itself be entitled to recognition by virtue of those provisions.

Proof of facts relevant to recognition

5 (1) For the purpose of deciding whether an overseas divorce or legal separation is entitled to recognition by virtue of the foregoing provisions of this Act, any finding of fact made (whether expressly or by implication) in the proceedings by means of which the divorce or legal separation was obtained and on the basis of which jurisdiction was assumed in those proceedings shall—

(a) if both spouses 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 spouse was habitually resident or domiciled in, or a national of, the country in which the divorce or legal separation was obtained; and for

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the purpose of subsection (1)(a), a spouse who has appeared in judicial proceedings shall be treated as having taken part in them.

General Provisions

Other grounds no long recognized

6 No overseas divorce or legal separation shall be recognized as valid in Bermuda except as provided in this Act.

Non-recognition of divorce by third country no bar to re-marriage

7 Where the validity of a divorce is obtained in any country is entitled to recognition by virtue of the foregoing provisions of this Act, neither spouse shall be precluded from re-marrying in Bermuda on the ground that the validity of the divorce would not be recognized in any other country.

Exceptions from recognition

8 (1) The validity of a divorce or legal separation obtained outside Bermuda shall not be recognized in Bermuda if it was granted or obtained at a time when, according to the law of Bermuda (including its rules of private international law and the provisions of this Act), there was no subsisting marriage between the parties.

(2) Subject to subsection (1), recognition by virtue of this Act of the validity of the divorce or legal separation obtained outside Bermuda may be refused if, and only if—

- (a) it was obtained by one spouse—
 - (i) without such steps having been taken for giving notice of the proceedings to the other spouse as, having regard to the nature of the proceedings and all the circumstances, should reasonably have been taken; or
 - (ii) without the other spouse having been given (for any reason other than lack of notice) such opportunity to take part in the proceedings as, having regard to the matters aforesaid, he should reasonably have been given; or
- (b) its recognition would manifestly be contrary to public policy.

(3) Nothing in this Act shall be construed as requiring the recognition of any findings of fault made in any proceedings for divorce or separation or of any custody order, or, save as provided in section 9(3), any maintenance or other ancillary order, made in any such proceedings.

Jurisdiction of Bermuda court in certain ancillary matters

9 (1) Subject to subsection (3), where the circumstances specified in subsection (2) obtain in relation to a divorce or legal separation, then on the application of either of the spouses of a marriage the court shall have the same jurisdiction under Part IV of the Matrimonial Causes Act 1974 [*title 27 item 3*] in relation to any land, or any interest in land, in Bermuda (hereafter in this section referred to as "Bermudian matrimonial land") as the court would have had if the court had itself granted a decree of divorce or legal separation in respect of that marriage.

(2) The circumstances referred to in subsection (1) are circumstances in which all of the following conditions apply, that is to say—

- (a) the divorce or legal separation was obtained in proceedings in a country outside Bermuda (hereafter in this section referred to as "overseas proceedings");
- (b) the validity of the divorce or legal separation is recognized by the law of Bermuda.

(3) In exercising its powers under subsection (1), the court shall make such allowance as appears to the court just for the provisions of any order made in the overseas proceedings or of any relevant law or of any arrangement between the spouses (being provisions affecting property of one or both of the spouses other than Bermudian matrimonial land) that it is proved to the court have taken, or will take, effect in relation to such property.

(4) In this section "court" means the Supreme Court of Bermuda.

(5) It is hereby declared that, save as provided in this section, no disposition of any land, or any interest in land, in Bermuda, being a disposition purporting to be a disposition made in consequence of or for the purposes of a divorce or legal separation, has any effect in law in Bermuda, unless that disposition can also take effect apart from any divorce or legal separation.

Short title, commencement and transitional provisions

10 (1) This Act may be cited as the Recognition of Divorces and Legal Separations Act 1977, and shall come into force on 1 August 1977.

(2) The provisions of this Act relating to overseas divorces and legal separations shall apply to a divorce or legal separation obtained on or after, but not before, 1 August 1977.