CHAPTER 20

Colonial and Other Territories (Divorce Jurisdiction) Act, 1950

ARRANGEMENT OF SECTIONS

Section
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An Act to make further provision as respects matrimonial proceedings in certain courts outside the United Kingdom in cases of parties to the marriage domiciled in England, Scotland or Northern Ireland.

[28th July 1950.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extension of principal Acts to persons domiciled in Northern Ireland.

1. For the purpose of extending the jurisdiction exercisable by virtue of the principal Acts (which empower courts in certain colonies, in cases of English or Scottish domicile, to make decrees for the dissolution of marriage and to give incidental relief on the grounds, and according to the principles and rules, applicable in the High Court in England) to cases of domicile in Northern Ireland, the principal Acts shall be amended as follows:—

(*a*) references (except in section three of the Act of 1926, which validates certain proceedings taken before the commencement of that Act) to domicile at any time in England or Scotland shall be construed as references to domicile at that time in any part of the United Kingdom;

(*b*) references to the High Court in England or the Court of Session in Scotland shall be construed as references to the court of the domicile, so however that nothing in this paragraph shall be taken to affect references to the grounds on which the High Court in England grants decrees or the principles and rules on which that court acts and gives relief;

(*c*) in subsection (2) of section one of the Act of 1926, as amended by the Act of 1940, (which subsection requires the proper officer of the court making a decree or order to transmit a certified copy thereof in the manner specified in paragraphs (*a*) and (*b*) of that subsection, that is to say if the parties to the marriage are domiciled in England, for registration in the High Court, and if the parties are domiciled in Scotland, for registration in the books of council and session) for paragraphs (*a*) and (*b*) there shall be substituted the words " for registration in the court of the domicile ";

(*d*) in subsection (4) of the said section one, in paragraph (*c*) for the words " England or Scotland " there shall be substituted the words " any part of the United Kingdom ", and in paragraph (*d*) for the words " between parties domiciled " there shall be substituted the words " where the court of the domicile is ";

(*e*) in subsection (5) of the said section one for the words " England, Scotland " there shall be substituted the words " the United Kingdom ".

Application of principal Acts to protectorates and trust territories.

2.—(1) The power of His Majesty, under section two of the Act of 1926, subject to the necessary modifications to apply to certain parts of His dominions the provisions of section one of that Act shall extend to the application as aforesaid of those provisions, as amended by the foregoing section, to any protectorate or United Kingdom trust territory.

(2) In section five of the Act of 1940 (which provides that sections one to four of that Act shall with the necessary adaptations apply in relation to any part of His Majesty's dominions to which the provisions of section one of the Act of 1926 apply by virtue of an Order under section two thereof) the references to sections one to four of the Act of 1940 shall be construed as references to those sections as amended by the foregoing section and the reference to a part of His Majesty's dominions shall include a reference to a protectorate or United Kingdom trust territory.

Validity in United Kingdom of divorce decrees of certain protected states.

3.—(1) If His Majesty in Council is satisfied—

(*a*) that under the law of any protected state a court of that state has the like jurisdiction to make decrees and orders in matrimonial causes, exercisable on the like grounds and in accordance with the like principles, as the jurisdiction exercisable by virtue of the principal Acts by a court in any part of His Majesty's dominions to which the provisions of section one of the Act of 1926 apply, and

(*b*) that under the said law provision is made for the transmission of certified copies of such decrees and orders for registration in the court of the domicile,

His Majesty may by Order in Council direct that subject to the necessary modifications the provisions of subsections (2) and (3) of section one of the Act of 1926, as amended by the Act of 1940 and section one of this Act, relating to the registration of decrees and orders and to the proceedings which may be taken thereunder shall apply to such decrees and orders as aforesaid of the court of the protected state.

(2) Where an Order in Council is in force under the last foregoing subsection as respects any court of a protected state, the decision of that court, or a decision on appeal therefrom, as to the domicile of the parties to a marriage shall for the purposes of the Order be binding on all courts in the United Kingdom.

(3) Where there is a common legislature established for two or more territories, and the territories include—

(*a*) one or more protected states, and

(*b*) one or more territories in respect of which an Order in Council under section two of the Act of 1926, or that section as extended by the last foregoing section, has been or can be made,

the foregoing provisions of this section shall have effect in relation to the territories as a whole as they have effect in relation to a protected state; and if an Order comes into operation under subsection (1) of this section in relation to the territories as a whole and immediately before the coming into operation thereof an Order, being either—

(i) an Order such as is mentioned in paragraph (*b*) of this subsection, or

(ii) an Order under subsection (1) of this section,

was in force in relation to any of the territories, the Order so in force shall thereupon cease to have effect in relation to that territory, but the Order relating to the territories as a whole may contain such transitional and saving provisions as appear to His Majesty in Council necessary or expedient in consequence of the cesser.

Minor amendment of Act of 1940.

4. Section five of the Act of 1940 shall have effect, and be deemed as from the passing of the Indian Independence Act, 1947, to have had effect, as if for the words " as they apply in relation to India " there were substituted the words " as they would have applied in relation to India if the Indian Independence Act, 1947, had not passed ".

Saving for legislative powers of Northern Irish Parliament.

5. For the purposes of section six of the Government of Ireland Act, 1920 (under which the Parliament of Northern Ireland has not power to amend an Act passed after the appointed day) this Act shall be deemed to be an Act passed before the appointed day, but nothing in this section shall be construed as extending the legislative powers of the Parliament of Northern Ireland under section four of the said Act of 1920.

Short title, citation and interpretation.

6.—(1) This Act may be cited as the Colonial and Other Territories (Divorce Jurisdiction) Act, 1950.

(2) The principal Acts, except in so far as still in force as respects decrees and orders of the courts in India, Pakistan or Ceylon, may be cited together with this Act as the Colonial and Other Territories (Divorce Jurisdiction) Acts, 1926 to 1950.

(3) In the principal Acts and this Act, according as the jurisdiction to make the decree for the dissolution of the marriage was exercisable by reason of the domicile of the parties being or having been in England, Scotland or Northern Ireland—

(*a*) the expression " the court of the domicile " means the High Court in England, the Court of Session in Scotland or the High Court in Northern Ireland;

(*b*) references to registration in the court of the domicile shall be construed as references to registration in the High Court in England, in the books of council and session or in the High Court in Northern Ireland.

(4) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

" Act of 1926 " means the Indian and Colonial Divorce Jurisdiction Act, 1926;

" Act of 1940 " means the Indian and Colonial Divorce Jurisdiction Act, 1940;

" principal Acts " means the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940;

" protected state," " protectorate " and " United Kingdom trust territory " have the meanings assigned to them respectively by the British Nationality Act, 1948.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Indian and Colonial Divorce Jurisdiction Act, 1926	16 & 17 Geo. 5. c. 40
Indian and Colonial Divorce Jurisdiction Act, 1940	3 & 4 Geo. 6. c. 35.
Indian Independence Act, 1947	10 & 11 Geo. 6. c. 30.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.