



THE DIVORCE ACT, 1869



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SCHEDULE. SCHEDULE OF FORMS

THE DIVORCE ACT

¹ACT No. IV OF 1869

[26th February, 1869]

An Act to amend the law relating to Divorce and Matrimonial Causes^{2*} *.

Preamble. WHEREAS it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows :—

I.— PRELIMINARY

1. Short title. Commencement of Act. This Act may be called the ^{3*} Divorce Act, and shall come into operation on the first day of April, 1869.

2. Extent of Act. ⁴[This Act extends to the whole of Pakistan.]

¹For Statement of Objects and Reasons, see Calcutta Gazette, 1863, p. 173; for Report of Select Committee, see Gazette of India, 1869, p. 192; for Proceedings in Council, see Calcutta Gazette, 1862, Supplement, p. 463, *ibid.*, 1863, Supplement, p. 43, and Gazette of India, 1869, Supplement, p. 291.

The Act extends to Pakistan the principal provisions of the Matrimonial Causes Act, 1857 (20 & 21 Vict., c. 85), as amended by the Matrimonial Causes Act, 1859 (22 & 23 Vict., c. 61), the Matrimonial Causes Act, 1860 (23 & 24 Vict., c. 144), and the Matrimonial Causes Act, 1866 (29 & 30 Vict., c. 32). It also embodies many rulings of Sir Cresswell and Lord Penzance. Provision was made by the Indian Divorces (Validity) Act (11 & 12 Geo., 5, ch. 18) with respect to the validity of certain decrees granted in India for the dissolution of the marriage of persons domiciled in the United Kingdom.

The Limitation Act does not apply to suits under this Act, see the Limitation Act, 1908 (9 of 1908), s. 29 (2).

It has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3.

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications, and extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from such date and subject to such modifications as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

²The words “in India” omitted by A. O., 1949, Sch.

³The word “Indian” omitted, *ibid.*

⁴The original paragraph has successively been amended by A. O., 1949, and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), to read as above.

Extent of power to grant relief generally, and to make decrees of dissolution, or of nullity. ¹[Nothing hereinafter contained shall authorise any Court to grant any relief under this Act except where the petitioner²[or respondent] professes the Christian religion,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in ³[Pakistan] at the time when the petition is presented,

⁴[or to make decrees of nullity of marriage except where the marriage if solemnized before the 15th day of August, 1947, has been solemnized in India and if solemnized on or after that date has been solemnized in Pakistan and the petitioner is resident in Pakistan at the time of presenting the petition,]

or to grant any relief under this Act, other than a decree of dissolution of marriage or of nullity of marriage, except where the petitioner resides in ³[Pakistan] at the time of presenting the petition.]

3. Interpretation-clause. In this Act, unless there be something repugnant in the subject or context,—

“**High Court.**” ⁵[⁶* * * * *

(2) "**Court of Civil Judge**". "Court of Civil Judge" means, in the case of any petition under this Act, the Court of the Civil Judge within the local limits of whose ordinary jurisdiction the husband and wife resided or last reside together ;

(3) "**Court**". "Court" means the High Court, the District Court or the Court of Civil Judge, *as* the case may be;]

(5) "**Minor children.**" "minor children" means, in the case of sons of ⁷[Pakistani] fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of ⁷[Pakistani] fathers, girls who have not completed the age of thirteen years : in other cases it means unmarried children who have not completed the age of eighteen years :

¹Subs. by the Divorce (Amendment) Act, 1926 (25 of 1926), for the original paragraph.

²Ins. by the Divorce (Second Amendment) Act, 1927 (30 of 1927), s. 2.

³Subs. by A.O., 1949, Sch., for "India".

⁴Subs. by the Divorce (Amendment) Act, 1950 (57 of 1950), s. 2, for the original sub-paragraph.

⁵The original clauses (1), (2), (3), and (4), successively amended by Acts 18 of 1919, 32 of 1925, 8 of 1935, A. O. 1937, A. O. 1949, Sch. Act 26 of 1951 Ord. 21 of 1960, and A. O. 1961 have been subs. by the Divorce (Amendment) Act, 1975 (4 of 1976), s. 2, to read as above.

⁶Clause (1) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and IIInd Sch.

⁷Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 2, for "Native".