



Number 24 of 1986

DOMICILE AND RECOGNITION OF FOREIGN DIVORCES ACT 1986

REVISED

Updated to 30 March 2012

This Revised Act is an administrative consolidation of the *Domicile and Recognition of Foreign Divorces Act 1986*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Clotting Factor Concentrates and Other Biological Products Act 2012 (8/2012)*, enacted 27 March 2012, and all statutory instruments up to and including *Finance Act 2004 (Section 91) (Deferred Surrender to Central Fund) Order 2012 (S.I. No. 101 of 2012)*, made 29 March 2012, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Acts which affect or previously affected this revision

None

All Acts up to and including *Clotting Factor Concentrates and Other Biological Products Act 2012* (8/2012), enacted 27 March 2012, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005)
- *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2001* (S.I. No. 472 of 2001)

All statutory instruments up to and including the *Finance Act 2004 (Section 91 (Deferred Surrender to Central Fund) Order 2012* (S.I. No. 101 of 2012), made 29 March 2012, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Abolition of wife's dependent domicile.
2. Domicile before commencement of Act.
3. Domicile after commencement of Act.
4. Dependent domicile of minor.
5. Recognition of foreign divorces.
6. Short title and commencement.



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AN ACT TO AMEND THE LAW RELATING TO DOMICILE AND THE RECOGNITION OF FOREIGN DIVORCES. [2nd July, 1986]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Abolition of wife's dependent domicile.

1.—(1) From the commencement of this Act the domicile of a married woman shall be an independent domicile and shall be determined by reference to the same factors as in the case of any other person capable of having an independent domicile and, accordingly, the rule of law whereby upon marriage a woman acquires the domicile of her husband and is during the subsistence of the marriage incapable of having any other domicile is hereby abolished.

(2) This section applies to the parties to every marriage, irrespective of where and under what law the marriage takes place and irrespective of the domicile of the parties at the time of the marriage.

Domicile before commencement of Act.

2.—The domicile that a person had at any time before the commencement of this Act shall be determined as if this Act had not been passed.

Domicile after commencement of Act.

3.—The domicile that a person has at any time after the commencement of this Act shall be determined as if this Act had always been in force.

Dependent domicile of minor.

4.—(1) The domicile of a minor at any time when his father and mother are living apart shall be that of his mother if—

(a) the minor then has his home with her and has no home with his father, or

(b) the minor has at any time had her domicile by virtue of *paragraph (a)* of this subsection and has not since had a home with his father.

(2) The domicile of a minor whose mother is dead shall be that which she last had before she died if at her death the minor had her domicile by virtue of *subsection (1)* of this section and has not since had a home with his father.

(3) This section shall not affect any existing rule of law as to the cases in which a minor's domicile is regarded as being, by dependence, that of his mother.

(4) In the application of this section to a minor who has been adopted, references to the father or mother of such minor shall be construed as references to the adoptive father or adoptive mother of such minor.

Recognition of
foreign divorces.

5.—(1) For the rule of law that a divorce is recognised if granted in a country where both spouses are domiciled, there is hereby substituted a rule that a divorce shall be recognised if granted in the country where either spouse is domiciled.

(2) In relation to a country which has in matters of divorce two or more systems applying in different territorial units, this section shall, without prejudice to *subsection (3)* of this section, have effect as if each territorial unit were a separate country.

(3) A divorce granted in any of the following jurisdictions—

- (a) England and Wales,
- (b) Scotland,
- (c) Northern Ireland,
- (d) the Isle of Man,
- (e) the Channel Islands,

shall be recognised if either spouse is domiciled in any of those jurisdictions.

(4) In a case where neither spouse is domiciled in the State, a divorce shall be recognised if, although not granted in the country where either spouse is domiciled, it is recognised in the country or countries where the spouses are domiciled.

(5) This section shall apply to a divorce granted after the commencement of this Act.

(6) Nothing in this section shall affect a ground on which a court may refuse to recognise a divorce, other than such a ground related to the question whether a spouse is domiciled in a particular country, or whether the divorce is recognised in a country where a spouse is domiciled.

(7) In this section—

“divorce” means divorce *a vinculo matrimonii*;

“domiciled” means domiciled at the date of the institution of the proceedings for divorce.

Annotations

Modifications (not altering text):

- C1** Application of section restricted (1.03.2005) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 7(a).

Non-applicability of certain statutory provisions.

7. The following provisions shall not have effect in relation to proceedings to which the Council Regulation (other than Article 7) applies:

- (a) section 5 of the Domicile and Recognition of Foreign Divorces Act 1986;

...

Editorial Notes:

- E1** Previous affecting provision: application of section restricted (23.10.2001) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2001* (S.I. No. 472 of 2001), reg. 3; revoked (1.03.2005) by *European Communities (Judgments in Matrimonial Matters and Matters of Parental Responsibility) Regulations 2005* (S.I. No. 112 of 2005), reg. 11.

Short title and
commencement.

6.—(1) This Act may be cited as the Domicile and Recognition of Foreign Divorces Act, 1986.

(2) This Act shall come into operation on the day that is three months after the date of the passing of this Act.