

Divorce Act, 1869

Chapter 1 - Preliminary

This Act may be called the [1](#)[***]Divorce Act, and shall come into operation on the first day of April, 1869.

1.The word "Indian" omitted by Act 51 of 2001, section 2 (w.e.f. 3-10-2001).

Section 2 - Extent of Act

[1](#)[This Act extends to [2](#)[the whole of India [3](#)[except the State of Jammu and Kashmir]]].

Extent of power to grant relief generally, -

[4](#)[Nothing hereinafter contained shall authorise any court to grant any relief under this Act except where the petitioner [5](#)[or respondent] professes the Christian religion,

and to make decrees of dissolution-

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

or of nullity-

or to make decrees of nullity of marriage except where the marriage has been solemnized in India and the petitioner is resident in India 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 India at the time of presenting the petition.]

1 . Substituted by the A.O. 1948, for the original first paragraph.

2. Substituted by The A.O. 1950, for certain words.

3. Substituted by Act 3 of 1951, Section 3 and Schedule, for "except Part B States".

4. Substituted by Act 25 of 1926, Section 2, for Paragraphs 2, 3 and 4.

5. Inserted by Act 30 of 1927, Section 2.

Section 3 - Interpretation-clause

In this Act, unless there be something repugnant in the subject or context, -

[1](#) [(1) "High Court" means with reference to any area: -

(a) in a State, the High Court for that State;

[2](#) [(b) in Delhi, the High Court of Delhi;

[3](#) [***]]

(c) in Manipur and Tripura, the High Court of Assam;

(d) in the Andaman and Nicobar Islands, the High Court at Calcutta;

(e) in [4](#) [Lakshadweep], the High Court of Kerala;

[5](#) [(ee) in Chandigarh, the High Court of Punjab and Haryana;]

and in the case of any petition under this Act, "High Court" means the High Court for the area where the husband and wife reside or last resided together:]

[6](#) [(2) "District Judge" means a Judge of a principal civil court of original jurisdiction however designated:]

(3) "District Court" means, in the case of any petition under this Act, the court of the District Judge within the local limits of whose ordinary jurisdiction, [7](#) [or of whose jurisdiction under this Act the marriage was solemnized or] the husband and wife reside or last resided together:

(4) "Court" means the High Court or the District Court, as the case may be:

(5) "minor children" means, in the case of sons of Native fathers, boys, who have not completed the age of sixteen years, and, in the case of daughters of Native 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:

[8](#) [***]

(8) "marriage with another woman" means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage shall have taken place within [9](#) [India] or elsewhere:

(9) "desertion", implies an abandonment against the wish of the person charging it; and

(10) "property" includes in the case of a wife any property to which she is entitled for an estate in remainder or reversion or as a trustee, executrix or administrator and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administrator.

1. Substituted by A.O. (No.2) 1956, for clause (1).

2. Clauses (b) and (bb) substituted for clause (b) by the Himachal Pradesh (Adaptation of Laws on State and Concurrent Subjects) Order, 1968, (w.e.f. 1-11-1966).

3. Clause (bb) omitted by Himachal Pradesh Adoption of Laws (State and Concurrent Subjects) Order, 1973,) (w.r.e.f. 1-11-1966).

4. Substituted by the Laccadive, Minicoy and Admindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974, Section 3 and Schedule, for "Laccadive, Minicoy and Admindivi Islands" (w.e.f. 1-11-1973).

5. Inserted by the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968, Section 3 and Schedule (w.e.f. 1-11-1966).

6. Substituted by the A.O. 1950, for clause (2).

7. Substituted by Act 51 of 2001, section 3, for "or of whose jurisdiction under this Act" (w.e.f. 03.10.2001).

8. Clauses (6) and (7) omitted by Act 51 of 2001, section 3 (w.e.f. 03.10.2001).

9. Substituted by the A.O. 1950, for "the dominions of Her Majesty".