

Jersey Law 21/1973

**RECOGNITION OF DIVORCES AND LEGAL SEPARATIONS
(JERSEY) LAW, 1973.**

A LAW to make provision in relation to the recognition in the Island of divorces and legal separations obtained outside the Island, sanctioned by Order of Her Majesty in Council of the

24th day of OCTOBER, 1973.

(Registered on the 13th day of November, 1973).

STATES OF JERSEY.

The 12th day of June, 1973.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

INTERPRETATION

In this Law “country” includes a colony or other dependent territory of the United Kingdom but for the purposes of this Law a person shall be treated as a national of such a territory only if it has a law of citizenship or nationality separate from that of the United Kingdom and he is a citizen or national of that territory under that law.

*Jersey Law 21/1973 Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

ARTICLE 2

**RECOGNITION OF DIVORCES AND JUDICIAL SEPARATIONS
GRANTED IN THE BRITISH ISLANDS**

Subject to the provisions of Article 9 of this Law, the validity of a decree of divorce or judicial separation granted after the commencement of this Law shall, if it was granted under the law of any part of the British Islands, be recognised in Jersey.

ARTICLE 3

OVERSEAS DIVORCES AND LEGAL SEPARATIONS

The provisions of Articles 4, 5 and 6 of this Law shall have effect, subject to Article 9 of this Law, as respects the recognition in Jersey 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 the British Islands; and
- (b) are effective under the law of that country.

ARTICLE 4

GROUND FOR RECOGNITION

(1) The validity of an overseas divorce or legal separation shall be recognised if, at the date of the institution of the proceedings in the country in which it was obtained –

- (a) either spouse was habitually resident in that country; or
- (b) either spouse was a national of that country.

(2) In relation to a country the law of which uses the concept of domicile as a ground of jurisdiction in matters of divorce or

*Jersey Law 21/1973 Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

legal separation, sub-paragraph (a) of paragraph (1) of this Article shall have effect as if the reference to habitual residence included a reference to domicile within the meaning of that law.

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

ARTICLE 5

CROSS-PROCEEDINGS AND DIVORCES FOLLOWING LEGAL SEPARATIONS

(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 recognised if the requirements of sub-paragraph (a) or (b) of paragraph (1) of Article 4 of this Law 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 the provisions of Article 4 of this Law or of paragraph (1) of this Article is converted, in the country in which it was obtained, into a divorce, the validity of the divorce shall be recognised whether or not it would itself be entitled to recognition by virtue of those provisions.

ARTICLE 6

PROOF OF FACTS RELEVANT TO RECOGNITION

(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 Law, any finding of fact made, whether expressly or by implication, in the proceedings by means of which the

*Jersey Law 21/1973 Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

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 Article “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 the purposes of sub-paragraph (a) of paragraph (1) of this Article, a spouse who has appeared in judicial proceedings shall be treated as having taken part in them.

ARTICLE 7

**CERTAIN EXISTING RULES OF RECOGNITION TO
CONTINUE IN FORCE**

This Law is without prejudice to the recognition of the validity of divorces and legal separations obtained outside the British Islands –

- (a) by virtue of any rule of law relating to divorces or legal separations obtained in the country of the spouses’ domicile or obtained elsewhere and recognised as valid in that country;
- (b) by virtue of any enactment other than this Law;

but, save as aforesaid, no such divorce or legal separation shall be recognised as valid in Jersey except as provided in this Law.

Jersey Law 21/1973 *Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

ARTICLE 8

**NON-RECOGNITION OF DIVORCE BY THIRD COUNTRY NO
BAR TO RE-MARRIAGE**

Where the validity of a divorce obtained in any country is entitled to recognition by virtue of the foregoing provisions of this Law or by virtue of any rule or enactment preserved by Article 7 of this Law, neither spouse shall be precluded from re-marrying in Jersey on the ground that the validity of the divorce would not be recognised in any other country.

ARTICLE 9

EXCEPTIONS FROM RECOGNITION

- (1) The validity of –
- (a) a decree of divorce or judicial separation granted under the law of any part of the British Islands; or
 - (b) a divorce or legal separation obtained outside the British Islands;

shall not be recognised in Jersey if it was granted or obtained at a time when, according to the law of Jersey including its rules of private international law and the provisions of this Law, there was no subsisting marriage between the parties.

(2) Subject to the provisions of paragraph (1) of this Article, recognition by virtue of this Law or of any rule preserved by Article 7 thereof of the validity of a divorce or legal separation obtained outside the British Islands 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,

*Jersey Law 21/1973 Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

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 Law shall be construed as requiring the recognition of any findings of fault made in any proceedings for divorce or separation or of any maintenance, custody or other ancillary order made in any such proceedings.

ARTICLE 10

TRANSITIONAL PROVISIONS

The provisions of this Law relating to overseas divorces and legal separations and other divorces and legal separations obtained outside the British Islands apply to a divorce or legal separation obtained before the date of the commencement of this Law as well as to one obtained on or after that date, and, in the case of a divorce or legal separation obtained before that date –

- (a) require, or, as the case may be, preclude the recognition of its validity in relation to any time before that date as well as in relation to any subsequent time; but
- (b) do not affect any property rights to which any person became entitled before that date or apply where the question of the validity of the divorce or legal separation has been decided by any competent court in the British Islands before that date.

*Jersey Law 21/1973 Recognition of Divorces and Legal
Separations (Jersey) Law, 1973*

ARTICLE 11

CITATION

This Law may be cited as the Recognition of Divorces and
Legal Separations (Jersey) Law, 1973.

R.S. GRAY

Deputy Greffier of the States.