Changes to Legislation: as of 12 March 2024, this Act is up to date with all changes known to be in force.

Number 24 *of* 1986

DOMICILE AND RECOGNITION OF FOREIGN DIVORCES ACT 1986

REVISED

Updated to 1 August 2022

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 the *Electoral Reform Act 2022* (30/2022), enacted 25 July 2022, and all statutory instruments up to and including the *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), made 31 July 2022, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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DOMICILE AND RECOGNITION OF FOREIGN DIVORCES ACT 1986

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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.

Number 24 *of* 1986

DOMICILE AND RECOGNITION OF FOREIGN DIVORCES ACT 1986

REVISED

Updated to 1 August 2022

AN ACT TO AMEND THE LAW RELATING TO DOMICILE AND THE RECOGNITION OF FOREIGN DIVORCES. [2*nd 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 Prospective affecting provision: application of section restricted by *Family Law Act 2019* (37/2019), s. 5 (2), not commenced as of date of revision.

Definitions and Application (Part 3)

5.— ...

(*2*) Section 5 of the Domicile and Recognition of Foreign Divorces Act 1986 shall not apply to a divorce to which section 6 or 7 applies.

C2 Application of section restricted (1.08.2022) by *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), reg. 7(a), in effect as per reg. 1(2).

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 6) applies:

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

...

C3 Application of section restricted (31.12.2020, 11 p.m.) by *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020), s. 124(2), S.I. No. 693 of 2020.

Definitions and application (*Part 19*)

124. ...

(*2*) Section 5 of the Domicile and Recognition of Foreign Divorces Act 1986 shall not apply to a divorce to which section 125 or 126 applies.

Editorial Notes:

E1 Previous affecting provision: 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), in effect as per reg. 1(2); revoked (1.08.2022) by *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2005), reg. 12, in effect as per reg. 1(2), suject to transitional provisions in paras. (a)-(c).

E2 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, in effect as per reg. 1(2).

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.

Number 24 *of* 1986

DOMICILE AND RECOGNITION OF FOREIGN DIVORCES ACT 1986

REVISED

Updated to 1 August 2022

About this Revised Act

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.

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

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020)
- *Family Law Act 2019* (37/2019)

Statutory instruments which affect or previously affected this revision

- *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022)

- *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 *European Union (Decisions in Matrimonial Matters and in Matters of Parental Responsibility and International Child Abduction) Regulations 2022* (S.I. No. 400 of 2022), made 31 July 2022, were considered in the preparation of this revision.