

CHAPTER 370

THE RECOGNITION OF DIVORCES AND LEGAL SEPARATIONS ACT

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Transitional provisions.
4. Recognition in Antigua and Barbuda of divorces and judicial separations granted in certain territories.
5. Recognition in Antigua and Barbuda of other divorces and legal separations.
6. Grounds for recognition.
7. Cross-proceedings and divorces following legal separations.
8. Proof of facts relevant to recognition.
9. Certain existing **rules** of recognition to continue in force.
10. Non-recognition of divorce by a third country no bar to re-marriage.
11. Exceptions from recognition.

SCHEDULE

RECOGNITION OF DIVORCES AND LEGAL
SEPARATIONS

(1st January, 1976.)

25/1975.

1. This Act may be cited as the Recognition of Divorces and Legal Separations Act. **Short title.**

2. In this Act unless the context otherwise requires— **Interpretation.**

"legal separation" shall include judicial separation;

"section" means section of this Act.

3. The provisions of this Act relating to divorces and legal separations obtained outside Antigua and Barbuda apply to a divorce or legal separation obtained before the date of the commencement of these provisions 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— **Transitional**

(a) shall govern recognition of its validity or otherwise 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 Antigua and Barbuda before that date.

4. Subject to section 11, the validity of a decree of divorce or judicial separation granted after the commencement of this Act shall, if it was granted under the law of any of the territories listed in the Schedule hereto be recognised in Antigua and Barbuda. **Recognition in Antigua and Barbuda of divorces and judicial separations granted in certain territories.**

5. Sections 6 to 8 shall have effect, subject to section 11, as respects the recognition in Antigua and Barbuda of the validity of divorces and legal separations which— **Recognition in Antigua and Barbuda of other divorces and legal separations.**

CAP. 370) Recognition of Divorces and
Legal Separations

(a) have been obtained by means of judicial or other proceedings in any country outside the territories listed in the Schedule hereto; and

, (b) are effective under the law of that country

Grounds for recognition.

6. (1) The validity of a divorce or legal separation granted in a territory other than those listed in the Schedule hereto, hereinafter called a "foreign divorce or legal separation", shall be recognized 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 legal separation, subsection (1) (a) 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 section (except those relating to nationality), shall have effect as if each territory were a separate country.

Cross-proceedings and divorces following legal separations.

7. (1) Where there have been cross-proceedings, the validity of a foreign divorce or legal separation obtained either in the original proceedings or in the cross-proceedings shall be recognised if the requirements of section 6 (1) (a) or (b) 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 section 6 or of subsection (1) 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.

8. (1) For the purpose of deciding whether a foreign divorce or legal separation is entitled to recognition by virtue of the foregoing provisions of this Act, any finding of fact made (whether expressly or by implication) in the proceedings by means of which the divorce or legal separation was obtained and on the basis of which jurisdiction was assumed in those proceedings shall—

Proof of facts relevant to recognition.

(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 section "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 subsection (1) (a) a spouse who has appeared in judicial proceedings shall be treated as having taken part in them.

9. This Act is without prejudice to the recognition of the validity of divorces and legal separations obtained outside Antigua and Barbuda—

Certain existing rules of recognition to continue in force.

(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 Act, but, save as aforesaid, no such divorce or legal separation shall be recognised as valid in Antigua and Barbuda except as provided in this Act.

10. Where the validity of a divorce obtained in any country is entitled to recognition by virtue of the foregoing provisions of this Act or by virtue of any rule or enactment preserved by section 9, neither spouse shall be precluded from re-marrying in Antigua and Barbuda on the ground that the validity of the divorce would not be recognised in any other country.

Non-recognition of divorce by a third country no bar to re-marriage.

**Exceptions from
recognition.**

11. (1) The validity of a decree of divorce or judicial separation obtained outside Antigua and Barbuda shall not be recognised in Antigua and Barbuda if it was granted or obtained at a time when, according to the law of Antigua and Barbuda (including the rules of private international law and the provisions of this Act), there was no subsisting marriage between the parties.

(2) Subject to subsection (1) hereof recognition by virtue of this Act or of any rule preserved by section 9 of the validity of a divorce or legal separation obtained outside Antigua and Barbuda 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, 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 Act 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.

SCHEDULE

COUNTRIES AND TERRITORIES WHOSE DIVORCE ETC. ARE RECOGNISED IN ANTIGUA AND BARBUDA.

1. Anguilla.
 2. Barbados.
 3. British Virgin Islands.
 4. Dominica.
 5. Grenada.
 6. Guyana.
 7. Montserrat.
 8. St. Christopher and Nevis.
 9. St. Lucia.
 10. St. Vincent and the Grenadines.
 11. Trinidad and Tobago.
 12. United Kingdom of Great Britain and Northern Ireland.
-