

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 19 September 1958

Words struck out by the Committee are shown in roman enclosed in panel; words inserted are shown in black within bold square brackets or in roman with rule down side.

Hon. Mr Mason

DIVORCE AND MATRIMONIAL CAUSES AMENDMENT

ANALYSIS

Title	3. Extending power of Court to hear proceedings in Chambers
1. Short Title	4. Newspaper reports of proceedings
2. Recognition of overseas divorces	5. Section 48 of principal Act amended. Commencement

A BILL INTITULED

An Act to amend the Divorce and Matrimonial Causes Act 1928

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

10 **1. Short Title**—This Act may be cited as the Divorce and Matrimonial Causes Amendment Act 1958, and shall be read together with and deemed part of the Divorce and Matrimonial Causes Act 1928 (hereinafter referred to as the principal Act).

15 **2. Recognition of overseas divorces**—(1) The principal Act, as amended by section ten of the Divorce and Matrimonial Causes Amendment Act 1953, is hereby further amended by repealing section twelve A, and substituting the following section:

12A. (1) The validity of any decree or order or legislative enactment for divorce or nullity of marriage made (whether before or after the commencement of this section) by a Court or legislature of any country outside New Zealand shall, by virtue of this section, be recognised in all New Zealand Courts if— 5

“(a) That Court or legislature has exercised jurisdiction—

“(i) In any case, on the basis of the domicile of one or both of the parties to the marriage in that country; or 10

“(ii) In any case, on the basis of the residence of one or both of the parties to the marriage in that country if at the commencement of the proceedings any such party had in fact been resident in that country for a continuous period of not less than two years; or 15

“(iii) In any case, on the basis that one or both of the parties to the marriage are nationals or citizens of that country or of the sovereign State of which that country forms part: 20

“(iv) In any case, on the basis that the wife has been deserted by her husband, or the husband has been deported, and that the husband was immediately before the desertion or deportation domiciled in that country; or 25

“(v) In any case, on the basis that the wife was legally separated from her husband, whether by order of a competent Court or by agreement, and that the husband was at the date of the order or agreement domiciled in that country; or 30

“(vi) In a case of nullity of marriage on the ground of non-consummation owing to incapacity or wilful refusal or on some ground existing at the time of the marriage, on the basis of the celebration of the marriage in that country; or 35

“(b) The decree or order or enactment is recognised as valid in the Courts of a country in which at least one of the parties to the marriage is domiciled or is deemed by the law of that country to be domiciled.

“(2) Nothing in this section shall affect the validity of any decree or order or legislative enactment for divorce or nullity of marriage, or of any dissolution of marriage otherwise than 40

by judicial process, that would be recognised in the Courts of New Zealand apart from this section.”

(2) Section ten of the Divorce and Matrimonial Causes Amendment Act 1953 is hereby consequentially repealed.

5 **3. Extending power of Court to hear proceedings in Chambers**—Section fifty-five of the principal Act is hereby amended
Struck Out

as follows:

- 10 (a) By omitting the words “either the petitioner or the respondent”, and substituting the words “any party to any suit or proceeding under this Act”:
- 15 (b) By omitting the words “the evidence or other proceedings therein, either as to the whole or any portion thereof”, and substituting the words “the proceedings or of any part thereof”.

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by omitting the words “either the petitioner or the respondent”, and substituting the words “any party to any suit or proceeding under this Act”.

20 **4. Newspaper reports of proceedings**—The principal Act is hereby amended by inserting, after section fifty-five, the following section:

“55A. (1) No particulars in relation to any suit or proceeding under this Act shall be printed or published in any newspaper, except the following particulars, namely:

25 “(a) The names, addresses, and occupations of the parties and witnesses [~~and the names of the counsel and solicitors engaged~~]:

30 “(b) The grounds of the petition, and a concise statement of the charges, defences, and countercharges in support of which evidence has been given:

“(c) Submissions on any point of law arising in the course of the proceedings, and the decision of the Court on the submissions:

35 “(d) The summing-up of the Judge and the finding of the jury (if any), and the decision of the Court and any observations made by the Court in giving it:

40 “Provided that the Court may in its discretion authorise the publication of any other particulars, subject to such conditions relating to any matter to be published as it thinks fit.

“(2) If any particulars are printed or published in any newspaper in contravention of the provisions of this section, every printer, publisher, or editor of the newspaper shall be guilty of an offence and liable on summary conviction,—

“(a) In the case of an individual, to imprisonment for a term 5
not exceeding three months or to a fine not exceeding one hundred pounds, or to both:

“(b) In the case of a body corporate, to a fine not exceeding five hundred pounds.

“(3) No prosecution for an offence against this section shall 10
be commenced except with the leave of the Attorney-General.

“(4) Nothing in this section shall be construed to limit the provisions of section fifty-five of this Act or of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings. 15

“(5) For the purposes of this section, the term ‘newspaper’ means any newspaper within the meaning of the Newspapers and Printers Act 1955, or any periodical publication which is published at intervals not exceeding three months; and every document which at any time accompanies and is distributed 20
together with any newspaper shall be deemed to form part of the newspaper:

“Provided that for the purposes of this section the term ‘newspaper’ shall not include any newspaper or periodical publication of a technical character bona fide intended for 25
circulation among members of the legal or medical professions, psychologists, advisers in the sphere of marriage guidance, or other social welfare workers.”

Cf. Judicial Proceedings (Regulation of Reports) Act 30
1926, s. 1 (U.K.)

5. Section 48 of principal Act amended. Commencement—

(1) Section forty-eight of the principal Act is hereby amended by inserting, after the words “with the leave of the Court”, the words “or where so authorised by rules of Court”.

(2) This section shall be deemed to have come into force on 35
the first day of December, nineteen hundred and forty-three (being the date of commencement of the Matrimonial Causes Rules 1943).