1953 No. 883

The Colonial and Other Territories (Divorce Jurisdiction) (Federation of Malaya) Order in Council, 1953

Made - - - - 28*th May*, 1953

At the Court at Buckingham Palace, the 28th day of May, 1953

Present,

The Queen's Most Excellent Majesty in Council

Whereas by subsection (1) of section 3 of the Colonial and Other Territories (Divorce Jurisdiction) Act, 1950(a) (hereinafter called the Act of 1950), it is provided that if Her Majesty is satisfied that under the law of any protected state a court of that state has such jurisdiction as is mentioned in paragraph (*a*) of that subsection and that under the said law such provision is made as is set forth in paragraph (*b*) of that subsection, Her Majesty may by Order in Council direct that subject to the necessary modifications the provisions of subsections (2) and (3) of section 1 of the Indian and Colonial Divorce Jurisdiction Act, 1926(b) (hereinafter called the Act of 1926), as amended by the Indian and Colonial Divorce Jurisdiction Act, 1940(c) (hereinafter called the Act of 1940), and section 1 of the Act of 1950, relating to the registration of decrees and orders and to the proceedings which may be taken thereunder, shall apply to such decrees and orders as aforesaid of the court of the protected state:

And Whereas by subsection (3) of section 3 of the Act of 1950 it is provided that where there is a common legislature established for two or more territories and the territories include—

(*a*) one or more protected states; and

(*b*) one or more territories in respect of which an Order in Council under section 2 of the Act of 1926 has been made;

the foregoing provisions of the said section 3 shall have effect in relation to the territories as a whole as they have effect in relation to a protected state; and if an Order comes into operation under subsection (1) of the said section 3 in relation to the territories as a whole, and immediately before the coming into operation thereof an Order such as is mentioned in paragraph (*b*) of subsection (2) of the said section 3 was in force in relation to any of the territories, the Order so in force shall thereupon cease to have effect in relation to that territory, but the Order relating to the territories as a whole may contain such transitional and saving provisions as appear to Her Majesty in Council necessary or expedient in consequence of the cesser:

And Whereas there is a common legislature established for the territories comprised in the Federation of Malaya and such territories include the Malay States, being protected states, and the Settlements of Penang and Malacca, being territories in respect of which an Order in Council under section 2 of the Act of 1926, namely the Straits Settlements Divorce Jurisdiction Order in Council, 1931(d), has been made:

And Whereas Her Majesty in Council is satisfied that under the law of the Federation of Malaya the High Court thereof has such jurisdic-

(a) 14 Geo. 6. c. 20. (b) 16 & 17 Geo. 5. c. 40. (c) 3 & 4 Geo. 6. c. 35.
(d) S.R. & O. 1931/851; Rev. VI, p. 23; 1931, p. 1225.

tion as is mentioned in paragraph (*a*) of subsection (1) of section 3 of the Act of 1950, and that under the said law such provision has been made as is set forth in paragraph (*b*) of the said subsection:

And Whereas it is expedient to provide for applying the provisions referred to in subsection (1) of section 3 of the Act of 1950, to the decrees and orders in matrimonial causes of the High Court of the Federation of Malaya:

Now, therefore, Her Majesty, by virtue and in exercise of the powers vested in Her by the Colonial and Other Territories (Divorce Jurisdiction) Acts, 1926 to 1950, and all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

Short title

1. This Order may be cited as the Colonial and Other Territories (Divorce Jurisdiction) (Federation of Malaya) Order in Council, 1953.

Application of s. 1 (2) *and s.* 1 (3) *of the Act of* 1926 *to the Federation of Malaya*

2. The provisions of subsections (2) and (3) of section 1 of the Act of 1926, as amended by the Act of 1940, and section 1 of the Act of 1950, relating to the registration of decrees and orders and to the proceedings which may be taken under them shall apply to such decrees and orders as aforesaid of the High Court of the Federation of Malaya.

Interpretation

3. In the application of the said provisions as mentioned in section 2 of this Order—

(*a*) any reference therein to section 1 of the Act of 1926 shall be read as a reference to subsection (1) of section 5 of the Divorce Ordinance, 1052(a), of the Federation of Malaya;

(*b*) references to the High Court in India shall be read as references to the High Court of the Federation of Malaya; and

(*c*) references to India shall be read as references to the Federation of Malaya.

Saving

4. Where on the coming into force of this Order any proceedings are pending which have been commenced under or by virtue of the Straits Settlements Divorce Jurisdiction Order in Council, 1931, such proceedings shall continue and be determined in accordance with the provisions of the said Order in like manner as if this Order had not been made.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order in Council provides that the provisions of subsections (2) and (3) of section 1 of the Indian and Colonial Divorce Jurisdiction Act, 1926, relating to the registration of decrees and orders and to proceedings which may be taken thereunder in matrimonial causes shall apply to such decrees and orders of the High Court of the Federation of Malaya.

(a) No. 74 of 1952.