

**LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977**

CHAPTER 60

NATIVE DIVORCE

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE

An Ordinance to provide for the hearing and granting of petitions of divorce between natives

4 of 1941
(s. 55 of Cap. 18 of 1952)
10 of 1965
8 of 1968
9 of 1969
9 of 1971
3 of 1972
(Cap. 21 of 1973)
26 of 1977

Commencement: 1st February 1948

Short title

1. This Ordinance may be cited as the Native Divorce Ordinance.

Application

2. The provisions of this Ordinance shall apply within the jurisdiction of every magistrates' court.

Interpretation

3. In this Ordinance unless the context otherwise requires -

"court" means a magistrates' court;

"island" bears the meaning ascribed to that term in the Magistrates' Courts Ordinance.

[Cap 52]

Grounds for divorce

4. A petition for divorce may be presented to the court either by the husband or the wife on the ground that-

(a) the respondent has, since the celebration of the marriage, committed adultery; or

- (b) the respondent has deserted the petitioner without cause for a period of at least 3 years immediately preceding the presentation of the petition; or
- (c) the respondent has, since the celebration of the marriage, treated the petitioner with cruelty; or
- (d) the respondent has wilfully refused to consummate or is incapable of consummating the marriage; or
- (e) the respondent is certified by a medical officer to be incurably of unsound mind, and has been continuously under care and treatment for a period of at least 5 years since the celebration of the marriage and immediately preceding the presentation of the petition; or
- (f) the respondent is certified by a medical officer to have been subject during the 3 years previous to the presentation of the petition to recurrent fits of epilepsy; or
- (g) the respondent is certified by a medical officer to be suffering from venereal disease; or
- (h) the marriage was induced by duress or mistake; or
- (i) the parties were within the prohibited degrees of consanguinity or affinity; or
- (j) the temperaments of the parties to the marriage are incompatible.

Jurisdiction and procedure of court

5. (1) A court shall have power to hear and adjudicate upon petitions under this section for the dissolution of marriages between natives when both petitioner and respondent are domiciled in the Gilbert Islands and the petitioner is ordinarily resident within the jurisdiction of such court.
- (2) Every decree for divorce pronounced by such court shall, in the first instance, be a decree nisi and shall not become absolute unless and until-
- (i) in the event of an appeal to the High Court against the making of such decree nisi, the court finally determining such appeal so orders; or
 - (ii) in any other case, an order to such effect is made by a judge after review by him of the proceedings under the provisions of the Magistrates' Courts Ordinance.
[Cap. 52]
- (3) Upon the making absolute any decree of divorce granted under subsection (2) the court shall issue a certificate of divorce in the form contained in the Schedule to both the petitioner and the respondent upon their requesting the same.
- (4) For filing each petition under this section the petitioner shall pay to the court such sum as may for the time being be prescribed therefor under the provisions of the Magistrates' Courts Ordinance.

Procedure and forms

6. The Chief Justice may prescribe rules of court to regulate the procedure to be followed and the forms to be used in divorce cases; and the forms contained in the Schedule shall be followed and used unless and until varied, amended or replaced.

SCHEDULE

(Sections 5(3) and 6)

Form 1-Certificate of divorce to be given to a man

CERTIFICATE OF DIVORCE No.

In the Magistrates' Court in and for the District of

The divorce of (*man*) and (*woman*)

To the man

A decree nisi of divorce is this day pronounced between you (*man*) and your wife (*woman*)before this Court.

Dated 19....

.....
Clerk of the Court

.....
Presiding Magistrate

Having dismissed the appeal in the above suit *or* Having reviewed the proceedings in the above suit (*delete as appropriate*) I HEREBY ORDER that the above decree nisi be absolute.

Dated 19....

.....
Judge

Seal of the High Court

(This form to be given to the man)

Form 2-Certificate of divorce to be given to a woman.

CERTIFICATE OF DIVORCE No.

In the Magistrates' Court in and for the District of

The divorce of (*woman*) and (*man*)

To the woman

A decree nisi of divorce is this day pronounced between you (*woman*)and your husband (*man*) before this Court.

Dated 19....

.....
Clerk of the Court

.....
Presiding Magistrate

Having dismissed the appeal in the above suit *or* Having reviewed the proceedings in the above suit (*delete as appropriate*) I HEREBY ORDER that the above decree nisi be absolute.

Dated 19....

.....
Judge

Seal of the High Court

(This form to be given to the woman)

Native Divorce

Form 3-Register of divorces

**NATIVE DIVORCE REGISTER OF THE MAGISTRATE'S COURT OF AND FOR THE
DISTRICT OF
Year**

Divorce No.	Name and Island of Petitioner	Name and Island of Respondent	Name and Island of Co-respondent (if any)	Ground of Petition	Date of Magistrates' Court's Decree	Signature of Presiding Magistrate	Date of confirmation	Signature and title of confirming officer
	of	of	of					
	of	of	of					
