

Kenya

Law of domicil

An Act of Parliament to declare and amend the law relating to the legal domicil of persons

[Act No. 6 of 1970.]

[*Date of commencement: 5th June, 1970.*]

[*Date of assent: 4th June, 1970.*]

1. Short title

This Act may be cited as the Law of Domicil Act.

2. Interpretation

In this Act, “**country**” means a sovereign State, or where the law of such a State recognizes that different domicils attach to different parts of that State, any such part.

3. Domicil of origin

Every person shall be deemed to have acquired, at the date of his birth—

- (a) if he is born legitimate or deemed to be legitimate, the domicil of his father, or, if he is born posthumously, the domicil which his father had at the date of his death;
- (b) if he is born illegitimate, the domicil of his mother.

4. Foundlings

An infant who is a foundling shall be deemed to have acquired domicil in the country where he is found.

5. Legitimation

An infant who is legitimated by the marriage of his parents shall acquire the domicil of his father at the date of the legitimation.

6. Adoption

An infant whose adoption has been authorized by a court of competent jurisdiction or recognized by a declaratory decree of such a court shall, as from the date of the order or decree, acquire the domicil of the adopter or, where he is adopted by two spouses, that of the husband.

7. Marriage

A woman shall, on marriage, acquire the domicil of her husband.

8. Domicil of choice

- (1) Where a person, not being under any disability, takes up residence in a country other than that of his domicil with the intention of making that country his permanent home, or where, being resident in a country other than that of his domicil, he decides to make that country his permanent home, he shall, as from the date of so taking up residence or of such decision, as the case may be, acquire domicil in that country and shall cease to have his former domicil.
- (2) A person may intend or decide to make a country his permanent home even though he contemplates leaving it should circumstances change.
- (3) An adult married woman shall not, by reason of being married, be incapable of acquiring an independent domicil of choice.
- (4) The acquisition of a domicil of choice by a married man shall not, of itself, change the domicil of his adult wife or wives, but the fact that a wife is present with her husband in the country of his domicil of choice at the time when he acquires that domicil or subsequently joins him in that country shall raise a rebuttable presumption that the wife has also acquired that domicil.

9. Consequential change of domicil

- (1) Subject to the provisions of subsections (2) and (3) of this section, the domicil of an infant shall change—
 - (a) where the infant was born legitimate or is deemed to be legitimate or has been legitimated, with that of his father, or if his father is dead, with that of his mother; or
 - (b) where the infant is illegitimate, with that of his mother:

Provided that where the custody of an infant has been entrusted to his mother by decree of a court of competent jurisdiction, his domicil shall not change with that of his father but shall change with that of his mother.

- (2) The domicil of an infant female who is married shall change with that of her husband.
- (3) The domicil of an infant, other than a female who is married, whose adoption has been authorized by a court of competent jurisdiction or recognised by a declaratory decree of such a court, shall change with that of his adopter or, where he was adopted by two spouses, that of the husband, or, if the husband is dead, that of the wife.

10. Unity and continuity of domicil

- (1) No person may have more than one domicil at any time and no person shall be deemed to be without a domicil.

- (2) Notwithstanding that he may have left the country of his domicile with the intention of never returning, a person shall retain such domicile until he acquires a new domicile in accordance with the provisions of this Act.