

**High Commission of India
Ottawa**

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**Ministry of Overseas Indian Affairs (MOIA)'s Scheme for giving legal / financial assistance to Indian women deserted by their overseas Indian / foreigner husbands
(revised w.e.f 30th November, 2011)**

I. Objective:

The objective of the scheme is to provide some financial assistance to needy Indian women in distress who have been deserted by their overseas Indian /foreigner husbands for obtaining counseling and legal services. “Desertion” in the context of eligibility for providing financial assistance under the MOIA’s Scheme would mean the voluntary abandonment of the wife by her husband. Also, if the husband - by his words- compels the wife to leave the matrimonial home or stay away without reasonable cause, he will be guilty of desertion, though the wife has seemingly separated from him. Desertion is frequently coupled with non-support, which is a failure to provide monetary resources for those to whom such an obligation is due. The term “Overseas Indian” would include Non-Resident Indians (NRIs) and Persons of Indian Origin (PIOs). The counseling and legal services would be provided through credible Indian Women’s Organizations/Indian Community Associations/NGOs identified for providing such services and empanelled with the Indian Missions in the USA, UK, Canada, Australia, New Zealand, Malaysia and the Gulf countries. The Scheme is a welfare measure to support Indian women in distress through the mobilization of the local Indian community in the endeavor and with some financial assistance from the Government.

II. Scope of and Eligibility for the Scheme:

The scheme would be available to Indian women who have been deserted by their overseas Indian / foreigner husbands or are facing divorce proceedings in a foreign country, subject to the following conditions:-

- (i) The woman is an Indian passport holder.
- (ii) The marriage of the woman has been solemnized in India or overseas with an overseas Indian or a foreigner.
- (iii) The woman is deserted in India or overseas within fifteen years of the marriage;
or
- (iv) Divorce proceedings are initiated within fifteen years of the marriage by her overseas Indian / foreigner husband.

OR

(v) An ex-parte divorce has been obtained by the overseas Indian / foreigner husband within twenty years of marriage and a case for maintenance and alimony is to be filed by her.

(vi) The scheme would not be available to a woman having a criminal case decided against her, provided that a criminal charge of Parental Child Abduction shall not be a bar if the custody of the child has not yet been adjudicated upon. "Parental Child Abduction" for this purpose will be defined as the unauthorized custody by the mother, without the other parent's agreement and contrary to family law ruling, which largely removes the child from care, access and contact of the other parent and family side and shall be deemed to be Parental Child Abduction. International child abduction occurs when a parent, relative or acquaintance of a child leaves the country with the child or children in violation of a custody decree or visitation order. Another related situation is retention of children when they are supposedly taken on vacation to a foreign country and are not returned." A criminal charge of Parental Child Abduction, in the context of this Scheme, would mean the framing of charge against the mother by the police authorities consequent on lodging FIR or its equivalent.

(vii) The domicile of the Indian woman seeking relief under the Scheme is not relevant for allowing the benefit. The woman may be domiciled in the country of her overseas Indian /foreigner husband or in India at the time of making the application.

(viii) Preference will be given to applicants on the basis of financial need.

(ix) Assistance will be provided to meet the legal and other costs, by the Heads of Indian Missions/Posts overseas directly to the applicant's legal counsel empanelled with the concerned Indian Mission/Post, or through the Indian Community Associations / Women's organizations / NGOs* acting on the woman's behalf in an overseas legal institution.

(x) The assistance will be limited to US\$ 3000 per case for developed countries and US\$ 2000 per case for developing countries and will be released to the empanelled legal counsel of the applicant or Indian Community Association / Women's organization / NGO concerned to enable it to take steps to assist the woman in documentation and preparatory work for filing the case.

(xi) The Indian Women's Organizations / Indian Community Associations / NGOs will make efforts to enlist community advocates, preferably women advocates, to extend further legal assistance / appearance in court etc on a pro-bono basis.

*Note: *NGOs would also include local NGOs that are empanelled with the Indian Missions/Posts abroad.*
