



Family Law Act 1996

1996 CHAPTER 27

PART II

DIVORCE AND SEPARATION

Court orders

2 Divorce and separation

- (1) The court may—
 - (a) by making an order (to be known as a divorce order), dissolve a marriage; or
 - (b) by making an order (to be known as a separation order), provide for the separation of the parties to a marriage.
- (2) Any such order comes into force on being made.
- (3) A separation order remains in force—
 - (a) while the marriage continues; or
 - (b) until cancelled by the court on the joint application of the parties.

3 Circumstances in which orders are made

- (1) If an application for a divorce order or for a separation order is made to the court under this section by one or both of the parties to a marriage, the court shall make the order applied for if (but only if)—
 - (a) the marriage has broken down irretrievably;
 - (b) the requirements of section 8 about information meetings are satisfied;
 - (c) the requirements of section 9 about the parties' arrangements for the future are satisfied; and
 - (d) the application has not been withdrawn.
- (2) A divorce order may not be made if an order preventing divorce is in force under section 10.

Status: This is the original version (as it was originally enacted).

- (3) If the court is considering an application for a divorce order and an application for a separation order in respect of the same marriage it shall proceed as if it were considering only the application for a divorce order unless—
- (a) an order preventing divorce is in force with respect to the marriage;
 - (b) the court makes an order preventing divorce; or
 - (c) section 7(6) or (13) applies.

4 Conversion of separation order into divorce order

- (1) A separation order which is made before the second anniversary of the marriage may not be converted into a divorce order under this section until after that anniversary.
- (2) A separation order may not be converted into a divorce order under this section at any time while—
- (a) an order preventing divorce is in force under section 10; or
 - (b) subsection (4) applies.
- (3) Otherwise, if a separation order is in force and an application for a divorce order—
- (a) is made under this section by either or both of the parties to the marriage, and
 - (b) is not withdrawn,
- the court shall grant the application once the requirements of section 11 have been satisfied.
- (4) Subject to subsection (5), this subsection applies if—
- (a) there is a child of the family who is under the age of sixteen when the application under this section is made; or
 - (b) the application under this section is made by one party and the other party applies to the court, before the end of such period as may be prescribed by rules of court, for time for further reflection.
- (5) Subsection (4)—
- (a) does not apply if, at the time when the application under this section is made, there is an occupation order or a non-molestation order in force in favour of the applicant, or of a child of the family, made against the other party;
 - (b) does not apply if the court is satisfied that delaying the making of a divorce order would be significantly detrimental to the welfare of any child of the family;
 - (c) ceases to apply—
 - (i) at the end of the period of six months beginning with the end of the period for reflection and consideration by reference to which the separation order was made; or
 - (ii) if earlier, on there ceasing to be any children of the family to whom subsection (4)(a) applied.