



# Divorce, Dissolution and Separation Act 2020

## 2020 CHAPTER 11

### *Divorce and judicial separation*

#### **1 Divorce: removal of requirement to establish facts etc**

For section 1 of the Matrimonial Causes Act 1973 (divorce on breakdown of marriage) substitute—

##### **“1 Divorce on breakdown of marriage**

- (1) Subject to section 3, either or both parties to a marriage may apply to the court for an order (a “divorce order”) which dissolves the marriage on the ground that the marriage has broken down irretrievably.
- (2) An application under subsection (1) must be accompanied by a statement by the applicant or applicants that the marriage has broken down irretrievably.
- (3) The court dealing with an application under subsection (1) must—
  - (a) take the statement to be conclusive evidence that the marriage has broken down irretrievably, and
  - (b) make a divorce order.
- (4) A divorce order—
  - (a) is, in the first instance, a conditional order, and
  - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order.
- (5) The court may not make a conditional order unless—
  - (a) in the case of an application that is to proceed as an application by one party to the marriage only, that party has confirmed to the court that they wish the application to continue, or

- (b) in the case of an application that is to proceed as an application by both parties to the marriage, those parties have confirmed to the court that they wish the application to continue;

and a party may not give confirmation for the purposes of this subsection before the end of the period of 20 weeks from the start of proceedings.

- (6) The Lord Chancellor may by order made by statutory instrument amend this section so as to shorten or lengthen the period for the purposes of subsection (4)(b) or (5).
- (7) But the Lord Chancellor may not under subsection (6) provide for a period which would result in the total number of days in the periods for the purposes of subsections (4)(b) and (5) (taken together) exceeding 26 weeks.
- (8) In a particular case the court dealing with the case may by order shorten the period that would otherwise be applicable for the purposes of subsection (4)(b) or (5).
- (9) A statutory instrument containing an order under subsection (6) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (10) Without prejudice to the generality of section 75 of the Courts Act 2003, Family Procedure Rules may make provision as to the procedure for an application under subsection (1) by both parties to a marriage to become an application by one party to the marriage only (including provision for a statement made under subsection (2) in connection with the application to be treated as made by one party to the marriage only)."

## 2 **Judicial separation: removal of factual grounds**

- (1) Section 17 of the Matrimonial Causes Act 1973 (judicial separation) is amended as follows.
- (2) For subsection (1) substitute—
  - “(1) Either or both parties to a marriage may apply to the court for an order (a “judicial separation order”) which provides for the separation of the parties to the marriage.
  - (1A) An application under subsection (1) must be accompanied by—
    - (a) if the application is by one party to the marriage only, a statement by that person that they seek to be judicially separated from the other party to the marriage, or
    - (b) if the application is by both parties to the marriage, a statement by them that they seek to be judicially separated from one another.
  - (1B) The court dealing with an application under subsection (1) must make a judicial separation order.”
- (3) Omit subsection (2).
- (4) In subsection (3)—
  - (a) for “judicial separation”, in both places, substitute “a judicial separation order”;

- (b) for “divorce” substitute “a divorce order”.

*Civil partnership: dissolution and separation*

**3 Dissolution: removal of requirement to establish facts**

- (1) Section 44 of the Civil Partnership Act 2004 (dissolution of civil partnership which has broken down irretrievably) is amended as follows.
- (2) In subsection (1), for “either civil partner” substitute “either or both civil partners”.
- (3) After subsection (1) insert—

“(1A) An application under subsection (1) must be accompanied by a statement by the applicant or applicants that the civil partnership has broken down irretrievably.”
- (4) Omit subsections (2) and (3).
- (5) For subsection (4) substitute—

“(4) The court dealing with an application under subsection (1) must—
  - (a) take the statement to be conclusive evidence that the civil partnership has broken down irretrievably, and
  - (b) make a dissolution order.”
- (6) Omit subsection (5).
- (7) At the end insert—

“(6) Without prejudice to the generality of section 75 of the Courts Act 2003, Family Procedure Rules may make provision as to the procedure for an application under subsection (1) by both civil partners to become an application by one civil partner only (including provision for a statement made under subsection (1A) in connection with the application to be treated as made by one civil partner only).”

**4 Dissolution orders: time limits**

- (1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 37 (powers to make orders and effect of orders), omit subsection (2).
- (3) After section 37 insert—

**“37A Dissolution on ground of breakdown: conditional and final orders**

- (1) Every dissolution order—
  - (a) is, in the first instance, a conditional order, and
  - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order (the “first prescribed period”).
- (2) The court may not make a conditional order unless—

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

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- (a) in the case of an application that is to proceed as an application by one civil partner only, that person has confirmed to the court that they wish the application to continue, or
  - (b) in the case of an application that is to proceed as an application by both civil partners, those persons have confirmed to the court that they wish the application to continue;
- and a person may not give confirmation for the purposes of this subsection before the end of the period of 20 weeks from the start of proceedings (the “second prescribed period”).
- (3) The Lord Chancellor may by order amend this section so as to substitute—
    - (a) a different definition of the first prescribed period, or
    - (b) a different definition of the second prescribed period.
  - (4) But the Lord Chancellor may not under subsection (3) provide for a period which would result in the total number of days in the first and second prescribed periods (taken together) exceeding 26 weeks.
  - (5) In a particular case the court dealing with the case may by order shorten the first prescribed period or the second prescribed period.
  - (6) The power to make an order under subsection (3) is exercisable by statutory instrument.
  - (7) An instrument containing such an order may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (4) In section 38 (the period before conditional orders may be made final)—
- (a) for the heading substitute “Annulment and presumption of death: conditional and final orders”;
  - (b) before subsection (1) insert—
    - “(A1) Every nullity or presumption of death order—
      - (a) is, in the first instance, a conditional order, and
      - (b) may not be made final before the end of the prescribed period for the purposes of this paragraph.”;
    - (c) in subsection (1), in the words before paragraph (a), for “section 37(2)(b)” substitute “subsection (A1)(b)”;
    - (d) in subsection (2), for “section 37(2)(b) substitute “subsection (A1)(b)”.

## **5 Separation: removal of factual grounds**

- (1) Section 56 of the Civil Partnership Act 2004 (separation orders) is amended as follows.
- (2) In subsection (1), for the words from “either civil partner” to the end substitute “either or both civil partners.”
- (3) After subsection (1) insert—
  - “(1A) An application under subsection (1) must be accompanied by—
    - (a) if the application is by one civil partner only, a statement by that person that they seek to be separated from the other civil partner, or

- (b) if the application is by both civil partners, a statement by them that they seek to be separated from one another.”
- (4) Omit subsection (2).
- (5) For subsection (3) substitute—
  - “(3) The court dealing with an application under subsection (1) must make a separation order.”
- (6) Omit subsection (4).

### *General*

## **6 Minor and consequential amendments**

- (1) The Schedule to this Act contains minor and consequential amendments.
- (2) The Lord Chancellor may by regulations made by statutory instrument make provision that is consequential on any provision made by this Act.
- (3) Regulations under this section—
  - (a) may include transitional or saving provision;
  - (b) may amend, repeal or revoke any provision of or made under primary legislation.
- (4) The provision referred to in subsection (3)(b) does not include a provision of legislation passed or made after the end of the session of Parliament in which this Act is passed.
- (5) A statutory instrument containing regulations under this section that amend, repeal or revoke primary legislation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “primary legislation” means—
  - (a) an Act;
  - (b) a Measure or Act of the National Assembly for Wales;
  - (c) an Act of the Scottish Parliament;
  - (d) Northern Ireland legislation.

## **7 Extent**

- (1) This Act extends to England and Wales only, subject to subsections (2) and (3).
- (2) Sections 6 to 9 also extend to Scotland and Northern Ireland.
- (3) An amendment or repeal made by the Schedule has the same extent as the provision amended or repealed.

## **8 Commencement and transitional provision**

- (1) The provisions of this Act come into force on the commencement date, subject to subsections (2) and (3).
- (2) Sections 6(2) to (7), 7 and 9 and this section come into force on the day on which this Act is passed.
- (3) The following sections come into force on the day on which this Act is passed so far as they confer power to make provision by Family Procedure Rules—
  - (a) section 1;
  - (b) section 3.
- (4) Section 1 and paragraphs 2 to 11, 17, 19, 20(3), 26, 28, 30, 31 and 33(a) of the Schedule do not apply in relation to proceedings for divorce that started before the commencement date.
- (5) Section 2 and paragraphs 16, 19, 20(3), 26, 28, 30, 31, 33(a) and 51(3) of the Schedule do not apply in relation to proceedings for judicial separation that started before the commencement date.
- (6) Paragraphs 12 to 14, 19, 20(3), 26, 28, 30, 33(b), 51(6) and 56 of the Schedule do not apply in relation to proceedings for nullity of marriage that started before the commencement date.
- (7) Sections 3 to 5 and Part 2 of the Schedule do not apply to proceedings for a dissolution, nullity, presumption of death or separation order that started before the commencement date.
- (8) In this section “the commencement date” means such day as the Lord Chancellor may by regulations appoint.
- (9) Different days may be appointed for different purposes.
- (10) Regulations under this section are to be made by statutory instrument.

## **9 Short title**

This Act may be cited as the Divorce, Dissolution and Separation Act 2020.