

Divorce (etc.) Law Review Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Baroness Butler-Sloss, are published separately as HL Bill 126 – EN.

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TO

Provide for a review by the Lord Chancellor of the law of England and Wales relating to divorce and judicial separation and to the dissolution of civil partnerships and the separation of civil partners.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Review of law

- (1) The Lord Chancellor must conduct a review of the law of England and Wales relating to—
 - (a) divorce and judicial separation, and
 - (b) the dissolution of civil partnerships and the separation of civil partners. 5
- (2) The review must in particular consider replacing the current law with a scheme for divorce and judicial separation, and the equivalent for civil partnerships, based on a system of application and confirmation (and such a scheme is set out in the Schedule).
- (3) The review must include consideration of— 10
 - (a) any procedural implications of its proposals, and
 - (b) the consequences of its proposals for other relevant connected matters, such as (for example) financial provision and arrangements for children.
- (4) The Lord Chancellor must begin the review before the end of the period of six months beginning with the day on which this Act is passed. 15
- (5) The Lord Chancellor must lay before Parliament a report of the conclusions of the review and of any proposals which it makes.
- (6) The Lord Chancellor must report to Parliament about the progress of the review— 20
 - (a) before the end of the period of six months beginning with the day on which the review began, and

- (b) then before the end of each further period of six months beginning with the day of the most recent progress report, until the report of the review is laid before Parliament in accordance with subsection (5).

2 Extent, commencement and short title

- (1) This Act extends to England and Wales only. 5
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act may be cited as the Divorce (etc.) Law Review Act 2018.

SCHEDULE

Section 1

SCHEME FOR REFORMED LAW OF DIVORCE ETC.

Ground for divorce etc.

- 1 The sole ground for divorce or judicial separation, or the dissolution of a civil partnership or the separation of civil partners, is to be irretrievable breakdown of the marriage or civil partnership. 5
- 2 (1) The irretrievable breakdown is to be evidenced in each case by –
 - (a) the making of an application to the court, and
 - (b) the subsequent confirmation of that application.
- (2) No further evidence or reason is to be required. 10

Application

- 3 (1) No application for an order for divorce, or for dissolution of a civil partnership, may be made before the end of the period of one year beginning with the day of the marriage or civil partnership.
- (2) An application for an order for judicial separation, or in the case of a civil partnership for a separation order, may be made at any time after the day of the marriage or civil partnership. 15
- 4 (1) An application may be made by one party to the marriage or civil partnership, or by both of them jointly.
- (2) If the application is made by one party only, the other may join in the application later. 20
- 5 If an application is made by one party only, the other must be (or be deemed to have been) given notice of it.
- 6 (1) An application made by one party only may be withdrawn by that party before it is confirmed. 25
- (2) A joint application may be withdrawn by both parties jointly before it is confirmed.
- (3) One party may withdraw from a joint application before it is confirmed, and from then on the application is to be treated as having been made by the other party only. 30

Confirmation

- 7 (1) Either party, or both of them jointly, may by giving notice to the court confirm an application which has not been withdrawn.
- (2) A party confirming need not have made or joined in the application.

- (3) No confirmation may be given before the end of the period of nine months beginning with the day on which—
- (a) notice of the application was (or was deemed to have been) given to the other party in accordance with paragraph 5, if the application was made by one party only, or
 - (b) the application was made, if it was made by both parties jointly.

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- 8 An application which is not confirmed expires at the end of the period of two years beginning with the day mentioned in paragraph 7(3).

Order

- 9 The court may not make the order sought before the application has been confirmed.

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- 10 In the case of an application made or confirmation given by one party only, the consent of the other to the order sought is not required.

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