

# Ground of Divorce and Dissolution Bill

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## EXPLANATORY NOTES

No Explanatory notes to the Bill are published separately.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Ellie Cumbo has made the following statement in accordance with section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Ground of Divorce and Dissolution Bill are compatible with the Convention rights.

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Schedule – Minor and consequential amendments

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# B I L L

TO

Make provision with respect to the ground of divorce, judicial separation and dissolution of civil partnerships; and for connected purposes.

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:—

## *Ground of divorce*

### 1. **Amendment of the Matrimonial Causes Act 1973**

(1) The Matrimonial Causes Act 1973 is amended as follows.

(2) For section 1 (Divorce on breakdown of marriage) substitute—

- “1. Divorce on breakdown of marriage”** 5
- (1) Subject to section 3 below, a petition for divorce may be presented to the court by either party to a marriage on the ground that the marriage has broken down irretrievably.
- (2) Subject to section 5 below, the court must grant a decree of divorce on presentation of a petition. 10
- (3) Every decree of divorce—
- (a) is, in the first instance, a conditional order (a “decree nisi”), and
- (b) may not be made final (“absolute”) before the end of the prescribed period.
- (4) The prescribed period for the purposes of subsection (4) is— 15
- (a) six weeks from the making of the conditional order, or
- (b) if the six week period would end on a day on which the office or registry of the court dealing with the case is closed, the period of six weeks extended to the end of the first day on which the office or registry is next open. 20
- (5) The Lord Chancellor may by order amend this section so as to substitute a different definition of the prescribed period for the purposes of subsection (4).
- (6) But the Lord Chancellor may not under subsection (5) provide for a period longer than six months to be the prescribed period.
- (7) In a particular case the court dealing with the case may by order shorten the prescribed period. 25
- (8) The power to make an order under subsection (5) is exercisable by statutory instrument.

- (9) An instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) For section 5 (Refusal of decree in five year separation cases on grounds of grave hardship to respondent) substitute—
- “4. Refusal of decree on ground of grave hardship** 5
- (1) The respondent to a petition for divorce may oppose the grant of a decree on the ground that—
- (a) the dissolution of the marriage will result in grave financial or other hardship to him or her, and
- (b) it would in all the circumstances be wrong to grant it. 10
- (2) If the grant of a decree is opposed under this section the court must—
- (a) consider all the circumstances, including the conduct of the parties to the marriage and the interests of those parties and of any children or other persons concerned, and
- (b) if it is of the opinion that the ground mentioned in subsection (1) is made out, dismiss the petition. 15
- (3) “Hardship” includes the loss of the chance of acquiring any benefit which the respondent might acquire if the marriage were not dissolved.”
- (4) In section 17 (Judicial separation)—
- (a) in subsection (1) for the words after “ground” to “exists” substitute “mentioned in section 1”, and delete the words “alleging any such fact”; 20
- (b) for subsection (2) substitute—
- “Subject to section 41 below, the court must grant a decree of judicial separation on presentation of a petition.”
- Ground of dissolution of civil partnership* 25
- 2. Amendment of the Civil Partnerships Act 2004**
- (1) The Civil Partnerships Act 2004 is amended as follows.
- (2) For section 44 (Dissolution of civil partnership which has broken down irretrievably) substitute—
- “44. Dissolution of civil partnership which has broken down irretrievably** 30
- (1) Subject to section 41, an application for a dissolution order may be made to the court by either civil partner on the ground that the civil partnership has broken down irretrievably.
- (2) Subject to section 47, the court must grant a dissolution order on application.”
- (3) For section 47 (Refusal of dissolution in five year separation cases on grounds of grave hardship to respondent) substitute— 35

**“47. Refusal of dissolution on ground of grave hardship**

- (1) The respondent to an application for a dissolution order may oppose the grant of a decree on the ground that—
- (a) the dissolution of the civil partnership will result in grave financial or other hardship to him or her, and 5
  - (b) it would in all the circumstances be wrong to dissolve the civil partnership.
- (2) If the grant of a decree is opposed under this section, the court must—
- (a) consider all the circumstances, including the conduct of the civil partners and the interests of the civil partner and of any children or other persons concerned, and 10
  - (b) if it is of the opinion that the ground mentioned in subsection (1) is made out, dismiss the petition.
- (3) “Hardship” includes the loss of the chance of acquiring any benefit which the respondent might acquire if the civil partnership were not dissolved.” 15
- (4) In section 56 (Separation orders)—
- (a) in subsection (1) for the words after “ground” substitute “mentioned in section 1”;
  - (b) omit subsection (2);
  - (c) for subsection (3), substitute— 20
- “Subject to section 63, the court must, on an application, make a separation order.”
- (d) omit subsection (4).

*Supplementary*

**3. Minor and consequential amendments**

- (1) The Schedule (minor and consequential amendments) has effect.

**4. Extent, commencement and short title**

- (1) This Act extends to England and Wales only. 25
- (2) This Act (apart from this section) shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) This Act may be cited as the Ground of Divorce and Dissolution Act 2015.

# SCHEDULE

Section 3

## MINOR AND CONSEQUENTIAL AMENDMENTS

### *Matrimonial Causes Act 1973*

- 1 (1) The Matrimonial Causes Act 1973 is amended as follows.
- (2) For section 4 substitute— 5
- “4. Divorce not precluded by previous judicial separation.**
- A person shall not be prevented from presenting a petition for divorce, or the court from granting a decree of divorce, by reason only that the petitioner or respondent has at any time, in relation to the marriage, been granted a decree of judicial separation or an order under, or having effect as if made under, the Matrimonial Proceedings (Magistrates’ Courts) Act 1960 or Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978 or any corresponding enactments in force in Northern Ireland, the Isle of Man or any of the Channel Islands.” 10
- (3) Section 10 (Proceedings after decree nisi: special protection for respondent in separation cases) is repealed. 15
- (4) In—
- (a) section 15 (Application of ss. 1(5), 8 and 9 to nullity proceedings), and
- (b) the side-note to that section, for “1(5)”, substitute “1(3)”.
- (5) Section 20 (Relief for respondent in divorce proceedings) is repealed.
- (6) Section 49 (Parties to proceedings under this Act) is repealed. 20

### *Civil Partnerships Act 2004*

- 2 (1) The Civil Partnerships Act 2004 is amended as follows.
- (2) Section 45 (Supplemental provisions as to facts raising presumption of breakdown) is repealed.
- (3) In section 46 (Dissolution order not precluded by previous separation order etc.)— 25
- (a) in subsection (1) for “and (3) apply” substitute “applies”;
- (b) for subsection (2) substitute—
- “The making of an order referred to in subsection (1) does not prevent—
- (a) either civil partner from applying for a dissolution order, or
- (b) the court from making a dissolution order.”; 30
- (c) omit subsections (3) to (5).
- (4) Section 48 (Proceedings before order made final: protection for respondent in separation cases) is repealed.

(5) Section 62 (Relief for respondent in dissolution proceedings) is repealed.

(6) Section 64 (Parties to proceedings under this Chapter) is repealed.

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## B I L L

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Make provision with respect to the ground of divorce, judicial separation and dissolution of civil partnerships; and for connected purposes.

*Presented by  
Ellie Cumbo*

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*Ordered, by Ellie Cumbo,  
to be Published, 16th June 2015.*

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