

No Fault Divorce: what to expect in April 2022

The Government have confirmed that No Fault Divorce will be introduced in England and Wales in April 2022, although lawyers are still waiting for the detailed rules that will underpin the change in the law to be published.

The main differences between No Fault Divorce and the current divorce process are highlighted below:

1. Terminology

The new law takes the opportunity to update the language of divorce:

- Divorce Petition will become the 'Divorce Order'
- The Petition will become 'The Application';
- Decree Nisi (the first decree of divorce) will become the 'Conditional Order';
- Decree Absolute (the final decree of divorce) will become the 'Final Divorce Order';
- Petitioner will become the 'Applicant'.

2. 12 month rule

The rule preventing a couple from divorcing within 1 year from the date of marriage will remain. Before that time, couples will continue to be able to apply for Judicial Separation – which will mean that some of the financial issues could be resolved although the couple will remain married.

3. Joint Applications

For the first time, it will be possible for couples to make a joint application for divorce. Sole applications will also continue to be available.

4. Irretrievable breakdown

The sole ground for divorce will continue to apply and under the new law, applicants will provide a statement of 'irretrievable breakdown' of the marriage. However, in a change from the current procedure, the Court must accept this statement as evidence that the marriage has broken down irretrievably. The 5 facts that are currently required to be provided (adultery, unreasonable behaviour, desertion and 2 years separation, 2 years separation (with consent) and 5 years separation (without consent) will no longer apply.

5. Two stage process

The two stage process will remain with a couple first receiving a Conditional Order and then a Final Order which can be applied for six weeks from that date.

A specific 'cooling off' period of 20 weeks will be introduced by the new law, so that the applicant(s) will not be able to confirm that they wish to proceed and apply for the Conditional Order before the expiration of 20 weeks from the start of the proceedings. The whole process cannot be completed before the expiration of 26 weeks from start to finish.

6. Defended Divorce

It will no longer be possible to defend the divorce. It will be possible to 'dispute' the divorce on limited grounds for lack of jurisdiction or fraud.

Should you wait for No Fault Divorce?

The introduction of No Fault Divorce is a welcome development for many couples wanting to end their marriage in a co-operative and constructive way. Each situation is different and, for example, there may be tax implications of waiting to start divorce proceedings until April 2022.

If you are thinking about waiting, you should get legal advice relevant to your particular circumstances before making a decision on the timing of any proceedings.

For advice about Family Law Matters, please contact Steven Barratt or Heather Weavill at Alison Fielden & Co on 01285 653261. We are able to offer an initial free half hour consultation.