



Support 4 the Family *in UKIP*



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5 November 2018

Reform of the Legal Requirements for Divorce

Public Consultation from the Ministry of Justice

Closing date Monday 10 December 2018

The Government wants to change the divorce laws so that a divorce can be granted without giving a reason for it!

You will have no right to contest it!

Current Law

Under the current law, based on the Matrimonial Causes Act 1973, a divorce can be granted if either party to the marriage presents a petition to a court claiming that the marriage has irretrievably broken down. The petitioner must satisfy the court that one or more of the following facts has occurred:

- (a) The respondent has committed adultery;
- (b) The respondent has behaved unreasonably;
- (c) The respondent has deserted the petitioner for at least two years;
- (d) The parties to the marriage have been separated for at least two years and the respondent consents to the divorce;
- (e) The parties to the marriage have been separated for at least five years.

The court will take into consideration the views of the respondent who may wish to contest any of these facts.

The problem, as the Ministry of Justice sees it, and the introduction of “no-fault” divorce

The Ministry of Justice has produced a Consultation Document called *“Reducing family conflict: Reform of the legal requirements for divorce”*. It quotes figures from the National Office of Statistics showing that from 2012-2016 about half of all divorces were based on unreasonable behaviour. They are concerned that the current process creates unnecessary conflict within the family because the petitioner for a divorce is incentivised to find fault with the respondent, and if necessary to exaggerate the facts for the purpose of obtaining the divorce.

The solution, as they see it, is that the five facts should be abolished. It should only be necessary for the petitioner to state their belief that the marriage has irretrievably broken down. There is no need to support it with any facts, or make any suggestions that the respondent is at fault in any way.

They acknowledge that this will also deprive the respondent of the right to contest the facts, but they are not bothered about it because they say that only about 2% of divorces are contested.

At the same time they say: *“Marriage is a solemn commitment, and the process of divorce should reflect the seriousness of the decision to end a marriage.”*

The new problem, as we see it

This proposal by the Ministry of Justice goes further than “no-fault” divorce, it’s actually “no-reason” divorce. The petitioner only has to say that the marriage has irretrievably broken down and does not have to give a reason. It would therefore be possible to obtain a divorce that is motivated purely by self-interest. For example:

- A man might decide that his wife is old and not as good-looking as she used to be. He doesn’t want to say so because she might be offended, but he can get his divorce anyway.
- A woman might decide that her husband is not much use to her any more after he fell off a ladder and hurt his back and now he is disabled and she doesn’t want to be involved in his long-term care. She doesn’t want to say so because it would make her look mean and nasty, but she can get her divorce anyway.

Where is the “solemn commitment” that the Ministry of Justice boasts about? What is their view of the marriage vows: “For better or for worse, in sickness and in health, until death do us part”? If divorce is this easy, marriage is meaningless.

The Consultation: Send Your Views to the Government

The consultation, including the supporting documents, is available on the Government website here:

<https://consult.justice.gov.uk/digital-communications/reform-of-the-legal-requirements-for-divorce/>

On this page you will find a link to the ‘Online Survey’ and underneath it there is a series of links to relevant documents. The most important one is the “Consultation Document” that we have been quoting from already, and it contains notes on all the questions.

You don’t have to answer all the questions, you only need to answer the ones that concern you, but we think you will want to answer most of them.

Questions 1-3 are about giving notice of irretrievable breakdown of marriage and the abolition of the five facts.

Questions 4-7 are about the timeframe of the divorce process, including the decree nisi and the decree absolute, when the financial settlements are worked out.

Questions 8 & 9 are about the right of the respondent to contest the divorce. It seems strange that these questions have been put here, they should have been immediately after questions 1-3.

Question 10 asks if the ban on divorce during the first year of marriage should remain in place.

Question 11 is about the retention of other requirements including the power of the court to suspend proceedings if there is a possibility of reconciliation, and the power of the Queen’s Proctor to prevent a decree absolute being issued in the event of a false accusation of adultery.

Question 12 is about the impact assessment and the equalities impact assessment and you will need to read the supporting documents on both of these issues. You might also want to read our leaflet on the cost of family failure (to the taxpayer).

www.support4thefamily.org/resources/Support4theFamily_March_2017.pdf

On the equalities issue, you might want to mention our example of the man who becomes disabled after he has fallen off a ladder.

Further Reading: Coalition for Marriage: *No good reason: the case against no-reason divorce*

www.c4m.org.uk/wp-content/uploads/2018/03/C4M_NoReasonDivorce.pdf

Please send us your views about this survey, we would like to hear from you.

www.support4thefamily.org/contact.htm

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