



# Family Law Act 1996

## 1996 CHAPTER 27

### PART II

#### DIVORCE AND SEPARATION

##### *Marital breakdown*

#### **5 Marital breakdown**

- (1) A marriage is to be taken to have broken down irretrievably if (but only if)—
  - (a) a statement has been made by one (or both) of the parties that the maker of the statement (or each of them) believes that the marriage has broken down;
  - (b) the statement complies with the requirements of section 6;
  - (c) the period for reflection and consideration fixed by section 7 has ended; and
  - (d) the application under section 3 is accompanied by a declaration by the party making the application that—
    - (i) having reflected on the breakdown, and
    - (ii) having considered the requirements of this Part as to the parties' arrangements for the future,the applicant believes that the marriage cannot be saved.
- (2) The statement and the application under section 3 do not have to be made by the same party.
- (3) An application may not be made under section 3 by reference to a particular statement if—
  - (a) the parties have jointly given notice (in accordance with rules of court) withdrawing the statement; or
  - (b) a period of one year ("the specified period") has passed since the end of the period for reflection and consideration.
- (4) Any period during which an order preventing divorce is in force is not to count towards the specified period mentioned in subsection (3)(b).

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*Status: This is the original version (as it was originally enacted).*

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- (5) Subsection (6) applies if, before the end of the specified period, the parties jointly give notice to the court that they are attempting reconciliation but require additional time.
- (6) The specified period—
  - (a) stops running on the day on which the notice is received by the court; but
  - (b) resumes running on the day on which either of the parties gives notice to the court that the attempted reconciliation has been unsuccessful.
- (7) If the specified period is interrupted by a continuous period of more than 18 months, any application by either of the parties for a divorce order or for a separation order must be by reference to a new statement received by the court at any time after the end of the 18 months.
- (8) The Lord Chancellor may by order amend subsection (3)(b) by varying the specified period.

## **6 Statement of marital breakdown**

- (1) A statement under section 5(1)(a) is to be known as a statement of marital breakdown; but in this Part it is generally referred to as “a statement”.
- (2) If a statement is made by one party it must also state that that party—
  - (a) is aware of the purpose of the period for reflection and consideration as described in section 7; and
  - (b) wishes to make arrangements for the future.
- (3) If a statement is made by both parties it must also state that each of them—
  - (a) is aware of the purpose of the period for reflection and consideration as described in section 7; and
  - (b) wishes to make arrangements for the future.
- (4) A statement must be given to the court in accordance with the requirements of rules made under section 12.
- (5) A statement must also satisfy any other requirements imposed by rules made under that section.
- (6) A statement made at a time when the circumstances of the case include any of those mentioned in subsection (7) is ineffective for the purposes of this Part.
- (7) The circumstances are—
  - (a) that a statement has previously been made with respect to the marriage and it is, or will become, possible—
    - (i) for an application for a divorce order, or
    - (ii) for an application for a separation order,
 to be made by reference to the previous statement;
  - (b) that such an application has been made in relation to the marriage and has not been withdrawn;
  - (c) that a separation order is in force.