



Family Law (Scotland) Act 2006

2006 asp 2

Divorce

11 Divorce: reduction in separation periods

In subsection (2) of section 1 of the 1976 Act (irretrievable breakdown of marriage to be sole ground of divorce)—

- (a) in paragraph (d), for “two years” there shall be substituted “one year”; and
- (b) in paragraph (e), for “five” there shall be substituted “two”.

Commencement Information

11 [S. 11](#) in force at 4.5.2006 by [S.S.I. 2006/212](#), [art. 2](#)

12 Irretrievable breakdown of marriage: desertion no longer to be ground

Paragraph (c) of section 1(2) of the 1976 Act (irretrievable breakdown of marriage to be sole ground of divorce) shall be repealed.

Commencement Information

12 [S. 12](#) in force at 4.5.2006 by [S.S.I. 2006/212](#), [art. 2](#) (with [art. 4](#))

13 Non-cohabitation without consent: removal of bar to divorce

Subsection (5) of section 1 of the 1976 Act (irretrievable breakdown of marriage to be sole ground of divorce) shall be repealed.

Commencement Information

13 [S. 13](#) in force at 4.5.2006 by [S.S.I. 2006/212](#), [art. 2](#)

*Status: Point in time view as at 04/05/2006.**Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 2006, Cross Heading: Divorce. (See end of Document for details)***14 Collusion no longer to be bar to divorce**

- (1) Any rule of law by which collusion between parties is a bar to their divorce shall cease to have effect.
- (2) Section 9 of the 1976 Act (abolition of the oath of calumny) shall be repealed.

Commencement Information**14** [S. 14](#) in force at 4.5.2006 by [S.S.I. 2006/212](#), [art. 2](#)**15 Postponement of decree of divorce where religious impediment to remarry exists**

After section 3 of the 1976 Act (action for divorce following on decree of separation) there shall be inserted—

“3A Postponement of decree of divorce where religious impediment to remarry exists

- (1) Notwithstanding that irretrievable breakdown of a marriage has been established in an action for divorce, the court may—
 - (a) on the application of a party (“the applicant”); and
 - (b) if satisfied—
 - (i) that subsection (2) applies; and
 - (ii) that it is just and reasonable to do so,
 postpone the grant of decree in the action until it is satisfied that the other party has complied with subsection (3).
- (2) This subsection applies where—
 - (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of the religion of that marriage; and
 - (b) the other party can act so as to remove, or enable or contribute to the removal of, the impediment which prevents that marriage.
- (3) A party complies with this subsection by acting in the way described in subsection (2)(b).
- (4) The court may, whether or not on the application of a party and notwithstanding that subsection (2) applies, recall a postponement under subsection (1).
- (5) The court may, before recalling a postponement under subsection (1), order the other party to produce a certificate from a relevant religious body confirming that the other party has acted in the way described in subsection 2(b).
- (6) For the purposes of subsection (5), a religious body is “relevant” if the applicant considers the body competent to provide the confirmation referred to in that subsection.
- (7) In this section—

“religious marriage” means a marriage solemnised by a marriage celebrant of a prescribed religious body, and “religion of that marriage” shall be construed accordingly;

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“prescribed” means prescribed by regulations made by the Scottish Ministers.

- (8) Any reference in this section to a marriage celebrant of a prescribed religious body is a reference to—
- (a) a minister, clergyman, pastor or priest of such a body;
 - (b) a person who has, on the nomination of such a body, been registered under section 9 of the Marriage (Scotland) Act 1977 (c. 15) as empowered to solemnise marriages; or
 - (c) any person who is recognised by such a body as entitled to solemnise marriages on its behalf.
- (9) Regulations under subsection (7) shall be made by statutory instrument; and any such instrument shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”.

Commencement Information

15 [S. 15](#) in force at 4.5.2006 by [S.S.I. 2006/212](#), [art. 2](#)

Status:

Point in time view as at 04/05/2006.

Changes to legislation:

There are currently no known outstanding effects for the Family Law (Scotland) Act 2006, Cross
Heading: Divorce.