



# Matrimonial Causes Act 1973

## 1973 CHAPTER 18

### PART I

#### DIVORCE, NULLITY AND OTHER MATRIMONIAL SUITS

##### *Divorce*

**[<sup>F1</sup>1 Divorce on breakdown of marriage.**

- (1) Subject to section 3, either or both parties to a marriage may apply to the court for an order (a “divorce order”) which dissolves the marriage on the ground that the marriage has broken down irretrievably.
- (2) An application under subsection (1) must be accompanied by a statement by the applicant or applicants that the marriage has broken down irretrievably.
- (3) The court dealing with an application under subsection (1) must—
  - (a) take the statement to be conclusive evidence that the marriage has broken down irretrievably, and
  - (b) make a divorce order.
- (4) A divorce order—
  - (a) is, in the first instance, a conditional order, and
  - (b) may not be made final before the end of the period of 6 weeks from the making of the conditional order.
- (5) The court may not make a conditional order unless—
  - (a) in the case of an application that is to proceed as an application by one party to the marriage only, that party has confirmed to the court that they wish the application to continue, or
  - (b) in the case of an application that is to proceed as an application by both parties to the marriage, those parties have confirmed to the court that they wish the application to continue;

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and a party may not give confirmation for the purposes of this subsection before the end of the period of 20 weeks from the start of proceedings.

- (6) The Lord Chancellor may by order made by statutory instrument amend this section so as to shorten or lengthen the period for the purposes of subsection (4)(b) or (5).
- (7) But the Lord Chancellor may not under subsection (6) provide for a period which would result in the total number of days in the periods for the purposes of subsections (4)(b) and (5) (taken together) exceeding 26 weeks.
- (8) In a particular case the court dealing with the case may by order shorten the period that would otherwise be applicable for the purposes of subsection (4)(b) or (5).
- (9) A statutory instrument containing an order under subsection (6) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (10) Without prejudice to the generality of section 75 of the Courts Act 2003, Family Procedure Rules may make provision as to the procedure for an application under subsection (1) by both parties to a marriage to become an application by one party to the marriage only (including provision for a statement made under subsection (2) in connection with the application to be treated as made by one party to the marriage only).]

**Textual Amendments**

**F1** S. 1 substituted (25.6.2020 for specified purposes, 6.4.2022 in so far as not already in force) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), **ss. 1, 8(3)(a)** (with s. 8(4)); S.I. 2022/283, reg. 2

**F22 Supplemental provisions as to facts raising presumption of breakdown.**

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**Textual Amendments**

**F2** S. 2 omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 2** (with s. 8(4)); S.I. 2022/283, reg. 2

**[F43 Bar on [F3 applying for a divorce order] within one year of marriage.**

(1) [F5 An application for a divorce order may not be made] before the expiration of the period of one year from the date of the marriage.

F6(2) .....]

**Textual Amendments**

**F3** Words in s. 3 heading substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), **Sch. para. 3(a)** (with s. 8(4)); S.I. 2022/283, reg. 2

**F4** S. 3 substituted (with saving) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), ss. 1, 46(1), 48(2), **Sch. 2**

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- F5** Words in s. 3(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 3(b)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F6** S. 3(2) omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 3(c)** (with s. 8(4)); S.I. 2022/283, reg. 2

**F7 4 Divorce not precluded by previous judicial separation.**

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**Textual Amendments**

- F7** S. 4 omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 4** (with s. 8(4)); S.I. 2022/283, reg. 2

**F8 5 Refusal of decree in five year separation cases on grounds of grave hardship to respondent.**

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**Textual Amendments**

- F8** S. 5 omitted (6.4.2022) by virtue of Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 5** (with s. 8(4)); S.I. 2022/283, reg. 2

**6 Attempts at reconciliation of parties to marriage.**

- (1) Provision shall be made by rules of court for requiring the [<sup>F9</sup>legal representative] acting for [<sup>F10</sup>an applicant for a divorce order to certify whether the representative has discussed with the applicant the possibility of reconciliation and given the applicant] the names and addresses of persons qualified to help effect a reconciliation between parties to a marriage who have become estranged.
- (2) If at any stage of proceedings for [<sup>F11</sup>a divorce order] it appears to the court that there is a reasonable possibility of a reconciliation between the parties to the marriage, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a reconciliation.

The power conferred by the foregoing provision is additional to any other power of the court to adjourn proceedings.

**Textual Amendments**

- F9** Words in s. 6(1) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), s. 211(2), **Sch. 21 para. 29** (with ss. 29, 192, 193); S.I. 2009/3250, art. 2(h)
- F10** Words in s. 6(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 6(a)** (with s. 8(4)); S.I. 2022/283, reg. 2
- F11** Words in s. 6(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), **Sch. para. 6(b)** (with s. 8(4)); S.I. 2022/283, reg. 2

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## 7 Consideration by the court of certain agreements or arrangements.

Provision may be made by rules of court for enabling the parties to a marriage, or either of them, on application made [<sup>F12</sup>when proceedings for a divorce order are contemplated or have begun,] to refer to the court any agreement or arrangement made or proposed to be made between them, being an agreement or arrangement which relates to, arises out of, or is connected with, the [<sup>F13</sup>proceedings,] and for enabling the court to express an opinion, should it think it desirable to do so, as to the reasonableness of the agreement or arrangement and to give such directions, if any, in the matter as it thinks fit.

### Textual Amendments

- F12** Words in s. 7 substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 7\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F13** Word in s. 7 substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 7\(b\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

## 8 Intervention of Queen’s Proctor.

- (1) In the case of [<sup>F14</sup>an application for a divorce order] —
- (a) the court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Queen’s Proctor, who shall under the directions of the Attorney-General instruct counsel to argue before the court any question in relation to the matter which the court considers it necessary or expedient to have fully argued;
  - (b) any person may at any time during the progress of the proceedings or before the [<sup>F15</sup>divorce order is made final] give information to the Queen’s Proctor on any matter material to the due decision of the case, and the Queen’s Proctor may thereupon take such steps as the Attorney-General considers necessary or expedient.
- (2) Where the Queen’s Proctor intervenes or shows cause against a [<sup>F16</sup>conditional order in any proceedings for a divorce order,] the court may make such order as may be just as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of those parties by reason of his so doing.
- (3) The Queen’s Proctor shall be entitled to charge as part of the expenses of his office—
- (a) the costs of any proceedings under subsection (1)(a) above;
  - (b) where his reasonable costs of intervening or showing cause as mentioned in subsection (2) above are not fully satisfied by any order under that subsection, the amount of the difference;
  - (c) if the Treasury so directs, any costs which he pays to any parties under an order made under subsection (2).

### Textual Amendments

- F14** Words in s. 8(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 8\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F15** Words in s. 8(1)(b) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 8\(b\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

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**F16** Words in s. 8(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 8\(c\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

**9** **Proceedings [<sup>F17</sup>before divorce order has been made final]: general powers of court.**

- (1) Where a [<sup>F18</sup>divorce order has been made but not made final], then, without prejudice to section 8 above, any person (excluding a party to the proceedings other than the Queen’s Proctor) may show cause why the [<sup>F19</sup>order should not be made final] by reason of material facts not having been brought before the court; and in such a case the court may—
- (a) notwithstanding anything in [<sup>F20</sup>section 1(4)] above (but subject to [<sup>F21</sup>section] 10(2) to (4) <sup>F22</sup>... below) make the [<sup>F20</sup>order final]; or
  - (b) rescind the [<sup>F23</sup>order]; or
  - (c) require further inquiry; or
  - (d) otherwise deal with the case as it thinks fit.
- (2) [<sup>F24</sup>Where a divorce order has been made on an application by one party to a marriage and that party has not applied for the order to be made final,] then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, [<sup>F25</sup>the other party to the marriage] may make an application to the court, and on that application the court may exercise any of the powers mentioned in paragraphs (a) to (d) of subsection (1) above.

**Textual Amendments**

- F17** Words in s. 9 heading substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F18** Words in s. 9(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(b\)\(i\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F19** Words in s. 9(1) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(b\)\(ii\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F20** Words in s. 9(1)(a) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(c\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F21** Word in s. 9(1)(a) substituted (22.4.2014) by [Children and Families Act 2014 \(c. 6\)](#), [ss. 17\(3\)\(a\)](#), 139(6); S.I. 2014/793, [art. 2](#) (with transitional provisions in S.I. 2014/1042, arts. 5, 11)
- F22** Words in s. 9(1)(a) omitted (22.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), [ss. 17\(3\)\(b\)](#), 139(6); S.I. 2014/793, [art. 2](#) (with transitional provisions in S.I. 2014/1042, arts. 5, 11)
- F23** Word in s. 9(1)(b) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(d\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F24** Words in s. 9(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(e\)\(i\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F25** Words in s. 9(2) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 9\(e\)\(ii\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

**10** [<sup>F26</sup>Proceedings before divorce order made final: special protection for respondent].

<sup>F27</sup>(1) .....

[<sup>F28</sup>(2) The following provisions of this section apply where—

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- (a) on an application for a divorce order a conditional order has been made and—
    - (i) the conditional order is in favour of one party to a marriage, or
    - (ii) the conditional order is in favour of both parties to a marriage but one of the parties has since withdrawn from the application, and
  - (b) the respondent has applied to the court for consideration under subsection (3) of their financial position after the divorce.
- (3) Subject to subsection (4), the court hearing an application by the respondent under subsection (2) must not make the divorce order final unless it is satisfied—
- (a) that the applicant should not be required to make any financial provision for the respondent, or
  - (b) that the financial provision made by the applicant for the respondent is reasonable and fair or the best that can be made in the circumstances.
- (3A) In making a determination under subsection (3) the court must consider all the circumstances including—
- (a) the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties to the marriage, and
  - (b) the financial position of the respondent as, having regard to the divorce, it is likely to be after the death of the applicant should that person die first.]
- (4) The court may if it thinks fit makes the [F29 divorce order final] notwithstanding the requirements of subsection (3) above if—
- (a) it appears that there are circumstances making it desirable that the [F30 order should be made final] without delay, and
  - (b) the court has obtained a satisfactory undertaking from the [F31 applicant that they will make such financial provision] for the respondent as the court may approve.

#### Textual Amendments

- F26** S. 10 heading substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(a\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F27** S. 10(1) omitted (6.4.2022) by virtue of [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(b\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F28** S. 10(2)-(3A) substituted for s. 10(2) (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(c\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F29** Words in s. 10(4) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(d\)\(i\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F30** Words in s. 10(4)(a) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(d\)\(ii\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2
- F31** Words in s. 10(4)(b) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\)](#), s. 8(1)(8), [Sch. para. 10\(d\)\(iii\)](#) (with s. 8(4)); S.I. 2022/283, reg. 2

#### [F32] 10A Proceedings [F33 before divorce order has been made final]: religious marriage

- (1) This section applies if a [F34 divorce order has been made] but not made [F35 final] and the parties to the marriage concerned—
- (a) were married in accordance with—
    - (i) the usages of the Jews, or
    - (ii) any other prescribed religious usages; and

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- (b) must co-operate if the marriage is to be dissolved in accordance with those usages.
- (2) On the application of either party, the court may order that a [<sup>F36</sup>divorce order] is not to be made [<sup>F37</sup>final] until a declaration made by both parties that they have taken such steps as are required to dissolve the marriage in accordance with those usages is produced to the court.
- (3) An order under subsection (2)—
- (a) may be made only if the court is satisfied that in all the circumstances of the case it is just and reasonable to do so; and
- (b) may be revoked at any time.
- (4) A declaration of a kind mentioned in subsection (2)—
- (a) must be in a specified form;
- (b) must, in specified cases, be accompanied by such documents as may be specified; and
- (c) must, in specified cases, satisfy such other requirements as may be specified.
- (5) The validity of a [<sup>F38</sup>divorce order] made by reference to such a declaration is not to be affected by any inaccuracy in that declaration.
- (6) “Prescribed” means prescribed in an order made by the Lord Chancellor [<sup>F39</sup>after consulting the Lord Chief Justice] and such an order—
- (a) must be made by statutory instrument;
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) “Specified” means specified in rules of court.
- [ The Lord Chief Justice may nominate a judicial office holder (as defined in <sup>F40</sup>(8) section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]]

#### Textual Amendments

- F32** S. 10A inserted (24.2.2003) by Divorce (Religious Marriages) Act 2002 (c. 27), ss. 1(1), 2(2); S.I. 2003/186, art. 2
- F33** Words in s. 10A heading substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(a) (with s. 8(4)); S.I. 2022/283, reg. 2
- F34** Words in s. 10A(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(b)(i) (with s. 8(4)); S.I. 2022/283, reg. 2
- F35** Word in s. 10A(1) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(b)(ii) (with s. 8(4)); S.I. 2022/283, reg. 2
- F36** Words in s. 10A(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(c)(i) (with s. 8(4)); S.I. 2022/283, reg. 2
- F37** Word in s. 10A(2) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(c)(ii) (with s. 8(4)); S.I. 2022/283, reg. 2
- F38** Words in s. 10A(5) substituted (6.4.2022) by Divorce, Dissolution and Separation Act 2020 (c. 11), s. 8(1)(8), Sch. para. 11(d) (with s. 8(4)); S.I. 2022/283, reg. 2
- F39** Words in s. 10A(6) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 76(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

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**F40** S. 10A(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 76(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)



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