

Draft Regulations laid before Parliament under section 6(5) of the Divorce, Dissolution and Separation Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2022 No.

FAMILY LAW, ENGLAND AND WALES

**The Divorce, Dissolution and Separation Act 2020
(Consequential Amendments) Regulations 2022**

*Made - - - - - ***
Coming into force in accordance with regulation 1(2)*

The Lord Chancellor, in exercise of the powers conferred by sections 6(2) and (3) of the Divorce, Dissolution and Separation Act 2020(1), makes the following Regulations.

In accordance with section 6(5) of the Divorce, Dissolution and Separation Act 2020, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Divorce, Dissolution and Separation Act 2020 (Consequential Amendments) Regulations 2022.

(2) These Regulations come into force on the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.

(3) Subject to paragraph (4), these Regulations extend to England and Wales.

(4) An amendment made by these Regulations has the same extent as the enactment amended.

Amendments

2. The Schedule (amendments in consequence of provisions of the Divorce, Dissolution and Separation Act 2020) has effect.

Transitional provision

3. Paragraphs 1(3), 6, and 7 of the Schedule do not apply in relation to proceedings that were issued before these Regulations come into force.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Divorce, Dissolution and Separation Act 2020 (Consequential Amendments) Regulations 2022 No. 237

Address
Date

Name
Lord Chancellor
Ministry of Justice

SCHEDULE

Regulation 2

Amendments in consequence of provisions of the Divorce, Dissolution and Separation Act 2020

PART 1

Amendment of primary legislation

Domicile and Matrimonial Proceedings Act 1973

- 1.—(1) The Domicile and Matrimonial Proceedings Act 1973(2) is amended as follows.
- (2) In section 5 (jurisdiction of High Court and family court), in subsection (2), after paragraph (c), insert—
 - “(ca) in a joint application only, either of the parties to the marriage is habitually resident in England and Wales;”.
- (3) In Schedule 1 (staying of matrimonial proceedings (England and Wales))—
 - (a) in paragraph 2, for “petitioner” substitute “applicant”;
 - (b) in paragraph 7, for “a petitioner” substitute “an applicant”.

PART 2

Amendment of secondary legislation

Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005

2. In regulation 4 (jurisdiction: England and Wales) of the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005(3), after paragraph (c), insert—
 - “(ca) in a joint application only, either civil partner is habitually resident in England and Wales;”.

Civil Partnership (Registration Provisions) Regulations 2005

3. In Schedule 3 (evidence) to the Civil Partnership (Registration Provisions) Regulations 2005(4), in paragraph 4, sub-paragraph (1)(a)—
 - (a) after “decree absolute” insert “or final order”;
 - (b) after “marriage” insert “or nullity of marriage order”.

Pension Protection Fund (Provision of Information) Regulations 2005

- 4.—(1) Schedule 3 (information to be provided by members and beneficiaries) to the Pension Protection Fund (Provision of Information) Regulations 2005(5), is amended as follows.
- (2) In the table in paragraph 1, in the second row —
 - (a) in the second column, after “decree” insert “or final order”;

(2) 1973 c. 45 as amended by S.I. 2019/519.

(3) S.I. 2005/3334 amended by S.I. 2019/495.

(4) S.I. 2005/3176 amended by S.I. 2015/177.

(5) S.I. 2005/674 amended by S.I. 2006/595.

(b) in the third column, after “absolute” insert “or the conditional order was made final”.

Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005

5.—(1) Schedule 2 (information to be provided by beneficiaries and potential beneficiaries) to the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005⁽⁶⁾ is amended as follows.

(2) In the table in paragraph 1, in the third row—

(a) in the second column, after “decree” insert “or final order”;

(b) in the third column, after “absolute” insert “or the conditional order is made final”.

Civil Legal Aid (Merits Criteria) Regulations 2013

6. In regulation 25 (victims of domestic violence and family matters: family help (lower)) of the Civil Legal Aid (Merits Criteria) Regulations 2013⁽⁷⁾, for “a petition” substitute “an application”.

Civil Legal Aid (Remuneration) Regulations 2013

7.—(1) The Civil Legal Aid (Remuneration) Regulations 2013⁽⁸⁾ are amended as follows.

(2) In regulation 8(4) (remuneration: advocacy services in family proceedings), in subparagraph (c), for “defended” substitute “disputed”.

(3) In Schedule 1, in Part 1 (civil standard and graduated fees), in the heading to Table 3(b), for “petition” substitute “application”.

Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014

8. In regulation 2 (jurisdiction) of the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014⁽⁹⁾, after paragraph (c), insert—

“(ca) in a joint application only, either of the parties to the marriage is habitually resident in England and Wales;”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to primary and secondary legislation consequential on the Divorce, Dissolution and Separation Act 2020 (c. 11) (“the Act”).

Paragraphs 1, 2 and 8 of the Schedule amend the jurisdiction grounds for divorce and dissolution consequential on the introduction of joint applications for divorce, dissolution, judicial separation and separation orders under the Act.

⁽⁶⁾ S.I. 2005/2189, to which there are amendments not relevant to these Regulations.

⁽⁷⁾ S.I. 2013/104, to which there are amendments not relevant to these Regulations.

⁽⁸⁾ S.I. 2013/422, to which there are amendments not relevant to these Regulations.

⁽⁹⁾ S.I. 2014/543 amended by S.I. 2019/495.

The remaining amendments in the Schedule are consequential on the amendments made to the Matrimonial Causes Act 1973 (c. 18) by the Act updating the terminology in relation to divorce applications.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

An explanatory memorandum has been prepared and is available alongside this instrument on the website www.legislation.gov.uk.