

Order of the Day

4. CONSIDERATION OF CLAUSES

4.1. Divorce, Dissolution and Separation (Isle of Man) Bill 2020 – Clauses considered

Mrs Caine to move.

The President: Item 4, Consideration of Clauses, and first up is the Divorce, Dissolution and Separation (Isle of Man) Bill 2020, in the hands of Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

Going straight into the start of the Bill, clauses 1 and 2: clause 1 provides for the short title of the resulting Act, while clause 2 provides for its commencement.

Mr Speaker, I beg to move that clauses 1 and 2 stand part of the Bill.

The Speaker: Mrs Barber, Hon. Member for Douglas East.

Mrs Barber: I beg to second and reserve my remarks.

The Speaker: Thank you.

I put the motion that clauses 1 and 2 stand part of the Bill. I presume the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

Mrs Caine has indicated that she intends to move clauses 3 to 7 together. However, they can of course be voted on separately if the debate indicates that.

Mrs Caine to move.

Mrs Caine: Thank you, Mr Speaker.

Clauses 3 replaces the current fact-based procedure with a simple administrative application process that will enable one or both parties to declare that the marriage has broken down irretrievably.

The Bill if passed will remove the need to establish any of the five facts which under our existing law are the conditions precedent to the granting of a conditional divorce order in relation to marriage.

Subsection 2, paragraph 6, of this clause outlines how the court dealing with a divorce application will make a conditional order in the first instance not less than 20 weeks after an application is received. A conditional order may not be made final until either or both parties give confirmation they wish to progress to a final order, which will be issued after a further period of six weeks.

Clause 4 amends section 17 of the Matrimonial Proceedings Act 2003 which deals with separation, again removing the need to establish any of the five facts.

Clauses 5 deals with the dissolution of a civil partnership in the same way, removing the need to cite a reason.

Unlike the way the Matrimonial Proceedings Act 2003 is set out, the Civil Partnership Act of 2011 deals with the time limits in a different place, hence clause 6 is necessary to bring these into line with the new 20 weeks plus six weeks process.

Clause 7 makes corresponding provision in relation to the granting of a separation order for civil partners who may not want to apply for a dissolution.

The Bill is drafted to enable the Council of Ministers to amend the time periods by Order but they may not make the prescribed periods amount to longer than 26 weeks when combined; also, any change to the time periods would require Tynwald approval.

A little used provision in the Matrimonial Proceedings Act has been included in this Bill to give discretion to the court to enable a divorce or dissolution to be granted before the expiry of the time periods 'if it appears to the court to be just to do so'.

It is felt this gives flexibility to the courts to grant a final order in exceptional circumstances.

This can be seen in clause 3 in substituted section 2 of the Matrimonial Proceedings Act 2003 paragraph (6), and in clause 6(5) amending 35A of the Civil Partnership Act 2011.

The Bill also allows that the Rules of Court may make provision for the process to follow should a joint application for divorce or dissolution become an application by one party only.

Mr Speaker, I beg to move that clauses 3 to 7 stand part of the Bill.

The Speaker: Thank you.

Mrs Barber.

Mrs Barber: Thank you.

I beg to second and reserve my remarks.

The Speaker: No Member wishing to speak, I put the motion that clauses 3, 4, 5, 6 and 7 stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being registered, the motion therefore carries.

Clause 8 and the schedule, Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

Clause 8 and the schedule make minor and consequential amendments to various legislation that will be necessary upon the passing of this Bill.

Mr Speaker, I beg to move that clause 8 and the schedule stand part of the Bill

The Speaker: Mrs Barber.

Mrs Barber: Thank you.

I beg to second and reserve my remarks.

The Speaker: No Member indicating a wish to speak, I put the question that clause 8 and the schedule stand part of the Bill. I presume that the motion will be carried unless any Member indicates dissent, which they should do now. No dissent being indicated, the motion therefore carries.

That concludes the clauses stage of the Divorce, Dissolution and Separation (Isle of Man) Bill 2020.