

Divorce, Dissolution and Separation (Isle of Man) Bill 2020

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Daphne Caine MHK.

INTRODUCTION

1. These explanatory notes relate to the Divorce, Dissolution and Separation (Isle of Man) Bill 2020 ("the Bill"). They have been prepared by the mover of the Bill in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. These notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

BACKGROUND

3. In October 2018 Daphne Caine MHK received leave to introduce a private member's Bill that sought to amend the grounds for divorce, dissolution of civil partnerships and judicial separation; and for connected purposes. This followed research by a working group of Manx family advocates, which concluded there was a desire for the Island's divorce and dissolution laws to be modernised to reduce the adversarial nature of the divorce/dissolution process.
4. A public consultation on the draft Bill was conducted from 7th November 2019 to 2nd January 2020, which broadly supported reforms to the application process as proposed in this Bill.
5. The intention of the Bill is to remove the fault-based grounds for divorce, dissolution and separation. The Bill would replace the existing five "facts", which form the basis of an application for divorce, dissolution or separation, and replace them with a simple declaration by one or both parties that their union had irretrievably broken down.

FINANCIAL IMPLICATIONS

6. It is not believed that this Bill will increase public expenditure or decrease public revenue; it may reduce legal aid costs and reduce the court time required to process applications. Treasury has no objection to the Bill coming forward.

NOTES ON CLAUSES

Clause 1

7. Clause 1 gives the short title that the Act will have if passed.

Clause 2

8. Clause 2 provides for the commencement of the Bill on a day that the Council of Ministers, after consulting the Deemsters, may by order appoint, subject to any agreed incidental, supplemental, transitional and transitory provision.

Clause 3

9. Clause 3 replaces the current fact-based procedure with a simple administrative application process which will enable one or both parties to declare that the marriage has broken down irretrievably. The proposed substituted Section 2 of the Matrimonial Proceedings Act 2003 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 divorce order, which will be issued after a further period of six weeks.
10. Clause 3 also contains provision to permit a court to grant a final divorce order before the expiry of the set time periods if it appears to the court just to do so.

Clause 4

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

Clause 5

12. Clause 5 replaces the current fact-based procedure in respect of applications for dissolution of civil partnership.

Clause 6

13. Clause 6 amends the Civil Partnership Act 2011 to observe the same time periods as for divorce, that is 20 weeks after application to conditional order plus a further six weeks on confirmation to proceed to the granting of a final order. Similar to clause 3 there is a provision to permit a court to grant a final dissolution order before the expiry of the set time periods if it appears to the court just to do so.

Clause 7

14. 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.

Clause 8 and the Schedule

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