

Paperweight Perspective

No fault divorce ... at last!



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Much has been written in recent weeks about the new divorce law changes. At last, after more than 150 years of

“blame” being the norm, it is now open to a husband or wife – or even both of them jointly – to ask the court to end the marriage without any reason being given. All it takes is for one or both spouses to assert that the marriage has broken down irretrievably. No fault divorce has arrived.

Gone forever are the grounds of ‘unreasonable behaviour’ and adultery. Very frequently behaviour statements were embellished just to get the cases through the courts. But the effect on the receiving spouse on reading the allegations was often shock and resentment and ultimately damaging to the already fragile relationship. This resentment and anger very often fuelled further and bitter arguments about finances and children.

The new procedure is still quite slow

– ostensibly to give couples the chance to think again. The divorce will take at least 26 weeks and there is nothing that the respondent husband or wife can do to delay the final order terminating the marriage. The court simply has no power to extend time. This is a worrying development because it can prove to be unfair for a respondent if, for example, the application was served late. He or she may be seriously adversely affected by this – particularly when financial issues have not been agreed. The marriage may well have been finally dissolved before financial arrangements have been made. Any recipient of a divorce application will therefore be well advised to seek

legal advice (or contact Paperweight for guidance) immediately.

All applications must now be done online and almost all correspondence is automated. No one goes to court. Old legal terms have gone. No more ‘decree nisi’ (now conditional order) or ‘decree absolute’ (now final order).

In most cases the court will serve the application by email. There is no obligation to notify the other spouse in advance or go to mediation. So, this may come as a great shock to a receiving party. But, most importantly, there is no opportunity for any defence to the divorce application. No longer will the respondent be able to delay the case even if he or

she lives in hope of a reconciliation. One can also imagine, in some cases, a sense of helplessness, anger or the feeling of injustice.

One helpful provision survives. It seems the court will still have power to delay the final order (decree absolute) if one party is refusing to grant or accept a Get (Jewish divorce).

Children are not affected at all by the new law. There are no changes to the rules for care and maintenance for the children of a marriage.

The new Act is by no means perfect and some amendments are to be hoped for in future legislation. Will the new ‘no fault’ procedure reduce tensions between the parties and lead to more amicable agreements without the court intervening? One can but hope.

As always Paperweight is here to help. Our Family Law Support team has a wealth of experience in assisting wives or husbands who are in unhappy relationships. We aim to explain all the options available in difficult circumstances, and help clients make their own informed decisions.

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