NO FAULT DIVORCE IS FINALLY HERE!
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It has taken almost 50 years, but it has finally become a reality, welcomed by many family solicitors, the new ground for "No Fault" divorce.

Unless you can evidence unreasonable behaviour, you must use the long-winded routes of separation. This is difficult when you both accept your relationship is over, but you must wait for this to be formally pronounced.

The case of Owens v Owens (2018] UKSC41) for example exposed the unfairness of the high proof needed to show the grounds of "unreasonable behaviour." Mrs Owens having been advised that she could only use the ground of 5 Years Separation as her grounds for "unreasonable behaviour" had failed to satisfy the courts. Despite this, it is known that many separating couples already agree, albeit behind the scenes, that their marriage is over and have come to agreements relating to the grounds for the divorce.

Otherwise, you must cite the affair or other conduct issues - this makes an amicable separation difficult and often parties take a claimant v defendant type stance as a result.

No more!

As from 6th April 2022 the Act Divorce, Dissolution and Separation Act 2020 came into force. The benefits:

- it removes the requirement to provide evidence of 'conduct' or 'separation' facts replacing this with a simple requirement to provide a statement of irretrievable breakdown of the marriage or civil partnership or to obtain a judicial separation.

- it removes the ability to defend the decision to divorce or end the civil partnership.

- allowing, for the first time, joint applications for divorce, dissolution, and separation, meaning that couples can now apply together for a divorce, dissolution, or separation. This takes away the blame or opposing party stance that do often causes issues.

- introducing a new minimum overall timeframe of six months (26 weeks) made up of a 'minimum period' of 20 weeks in divorce and dissolution proceedings between the start of proceedings (when the court issues the application) and when the applicant(s) may apply for a conditional order and the current minimum timeframe of 6 weeks between the conditional order and when the order can be made final.

- This ensures that there is a period of reflection, and where divorce is inevitable, provides a greater opportunity for couples to agree the practical arrangements for the future.

- updating the legal language used for divorce.

- 'Petition' will become 'Application', 'Petitioner' will become 'Applicant',

- 'Decree Nisi' will become 'Conditional Order' and 'Decree Absolute' will become 'Final Order'.

This makes the language simpler and more accessible to those outside the legal profession, and aligns across all legislation relating to divorce, dissolution, and separation.

You can apply solely or jointly.

However, bear in mind that if you apply solely, it will be you that will pay the issue fee. The other party can still dispute this, but the grounds are narrow and are as follows:

- They dispute the jurisdiction of the court in England and Wales to conduct the proceedings

- Where neither party lives in or has any other connection with England & Wales (this could be Scotland or Northern Ireland); or

- They dispute the validity of the marriage or civil partnership; or

- The marriage or civil partnership has already been legally ended.

Flexibility Joint applications can be made on paper or digitally. If for some reason the relationship breaks down and an applicant refuses to complete the joint application, it is possible to "switch" the application from a joint to a sole application.

This all sounds flexible and helpful for family lawyers and separating spouses. Let us see what happens next, but we hope there will there be less negativity towards separating?

This should reduce the costs incurred by l the parties and hopefully likewise the timeframes.

As resolution solicitors we are always looking to settle things amicably, swiftly and cost efficiently as we have the tools to help the parties achieve this.