

Significant and welcome **changes to matrimonial law** **in England and Wales**

After a 12-week public consultation Justice Secretary, David Gauke, vows to ensure that the Matrimonial Causes Act 1973 will be amended to allow for “no fault” divorces as soon as possible.



These plans are long-awaited in England and Wales and a practical response to tackling the high rates of divorce allowing for a “no fault” divorce. Previously couples either had to agree to the divorce and show they had been separated for at 2 years, or they had to prove that their partner had committed adultery, deserted them or been guilty of “unreasonable behavior”. Alternatively, they had to wait until after they had been separated for 5 years to petition for a divorce.

The practical effect of the soon-to-be “old law” was that in order to get divorced without having to first separate for 2 or 5 years, couples would opt for the “blame-game”, which only helped to make the process more acrimonious and stressful. A “no fault” divorce it is hoped, will make divorce less ugly for couples and in turn much easier for any children involved.

The new law will also enforce a minimum 6-month window immediately after a spouse issues a petition to allow the couple to ruminate before the court will issue a decree absolute finalising the divorce.

Unless similar legislative changes are approved by the Legislative Assembly, the Cayman Islands’ Matrimonial Causes Law (2005 Revision) will continue to require couples to rely on specific grounds for a divorce, together with the court being satisfied that the reason is valid, the marriage has broken down irretrievably and there are no other legal impediments preventing the pronouncement of the decree.

In the Cayman Islands these reasons are:

- (a) the respondent has committed adultery and the petitioner finds it intolerable to live with the respondent;
- (b) the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent;
- (c) the respondent has deserted the petitioner for a continuous period of at least 2 years immediately preceding the presentation of the petition;
- (d) the parties to the marriage have lived apart for a continuous period of at least 2 years immediately preceding the presentation of the petition and the respondent consents to the decree being pronounced; or
- (e) the parties to the marriage have lived apart for a continuous period of at least 5 years immediately preceding the presentation of the petition.

Parallel legislative changes have been considered in the Cayman Islands previously, but to date nothing has been done about introducing “no fault” divorces in this jurisdiction. However given the Grand Court’s recent landmark, and progressive, decision to allow same-sex couples to marry, which was regarded by Chief Justice Anthony Smellie as a modification to the law which would strengthen rather than threaten the institution of marriage, similar amendments to the law in the Cayman islands may find renewed public support.

Our team:

Broadhurst LLC have extensive expertise in matrimonial and children’s law in the Cayman Islands and are able to provide help and advice at every stage of the process. For further information, please contact our office on 1 345 949 7237 or email Yvonne Mullen at yvonne@broadhurstllc.com, or Leslie Talbot at leslie@broadhurstllc.com.

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