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Divorce

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What is a divorce?

A divorce is a legal dissolution of a marriage. It can be contested or uncontested. In Singapore, divorce is a 2-stage process in the Family Justice Courts. The first stage involves the dissolution of the marriage. The second stage concerns ancillary matters, ie. the division of matrimonial assets; custody, care and control of the children; and maintenance of

Who can apply for divorce?

A. Eligibility for divorce

The party applying for a divorce is the plaintiff. His or her spouse will be the defendant.

To obtain a divorce in Singapore, the legal requirements under sections 93 and 94 of the Women's Charter must be satisfied. The plaintiff must show that:-

- i. The plaintiff and defendant have been married for at least 3 years (unless the former suffered exceptional hardship or exceptional depravity from the latter); and
- ii. he or she is domiciled in Singapore; or
- iii. he or she has lived in Singapore for at least 3 years before applying for divorce proceedings.

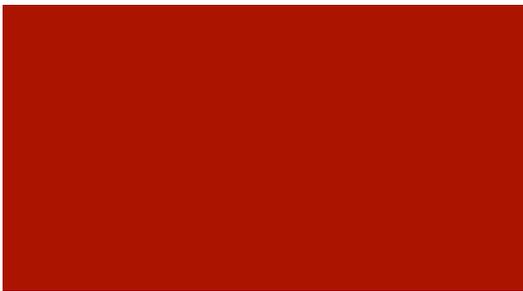


Who can apply for divorce?

B. Grounds for divorce

Furthermore, when applying for divorce, the plaintiff must satisfy the Court that divorce should be obtained on ground that the marriage has broken down irretrievably. The plaintiff must show one or more of the following facts:

- i. the defendant has committed adultery and the plaintiff finds it intolerable to live with him or her; or
- ii. the defendant has behaved in a way that the plaintiff cannot reasonably be expected to live with him or her; or
- iii. the defendant has deserted the plaintiff for at least 2 years; or
- iv. where both parties consent to the divorce, the plaintiff and defendant have been separated for at least 3 years; or
- v. where there is no consent to the divorce, the plaintiff and the defendant have been separated for at least 4 years.



(1) Adultery

For example, A, from the roof of his house sees a beautiful woman, X, next door. He befriends her and sleeps with her. Both A and X are married to their respective partners. They have both committed adultery.

However, where the plaintiff knows that the defendant committed adultery and both continue to live together for more than 6 months, the former may no longer rely on the adultery as a ground of divorce.

(2) Unreasonable Behaviour

The definition of “unreasonable behaviour” is very wide and may include a range of violent to less serious action. The question is whether the plaintiff finds it intolerable and cannot reasonably be expected to live with the defendant spouse. While it is insufficient to allege that the parties are merely incompatible, “unreasonable behaviour” may refer to instances of:

- Adultery (including emotional adultery)
- Domestic violence
- Physical or verbal abuse
- Personal habits that the other spouse finds intolerable to deal with, such as
 - Prioritising his or her work over the family
 - Gambling or alcoholic habits



(3) Desertion

“Desertion” means that one spouse has been abandoned by the other against his/ her wishes. Desertion is where one party has the intention to desert the other and this desertion is not consensual. Thus, it is not merely characterised by physical separation.

(4) Separation

While a deed of separation may allow for less complications in the divorce proceedings and settlement of ancillary matters, it is not necessary to prove separation for the purpose of a divorce. Separation does not simply mean physically living apart. It involves both the plaintiff and the defendant **living in separate households**.

Parties live in separate households when they have intended to live separate lives, no longer as husband and wife. Thus, both parties may be living under the same roof but may be maintaining separate households when they sleep in different rooms and do not share the same living spaces during waking moments. For example, apart from ceasing marital relations, a wife no longer carry out duties as a wife for the husband ie. doing chores, laundry or cook for the husband. When parties decide to keep their finances separate, it is also another example of living in separate households.



What needs to be done before filing for a divorce?

Where parties have at least one child below the age of 21, and do not have an agreement on the divorce and ancillary matters, they are required to attend the Mandatory Parenting Programme. This consultation by the Ministry of Social and Family Development (MSF) aims to encourage parents to make informed decisions that prioritises the well-being of the child before filing for

Commencing divorce proceedings

If the plaintiff has satisfied the requirements to commence a divorce, he or she can make an application for divorce to the Family Justice Courts or Family Division of High Court. The plaintiff must file the following documents in Court via e-Litigation:-

- i. Writ of Divorce
- ii. Statement of Claim
- iii. Statement of Particulars
- iv. Notice of Proceedings (where applicable)
- v. Proof of completion parenting programme (where applicable)
- vi. Matrimonial Property Plan (where applicable)
- vii. Agreed or Proposed Parenting Plan (where applicable)

Once the documents have been approved by Court, a copy of the documents together with an Acknowledgement of Service and Memorandum of Appearance must be served on the defendant personally or via registered post.

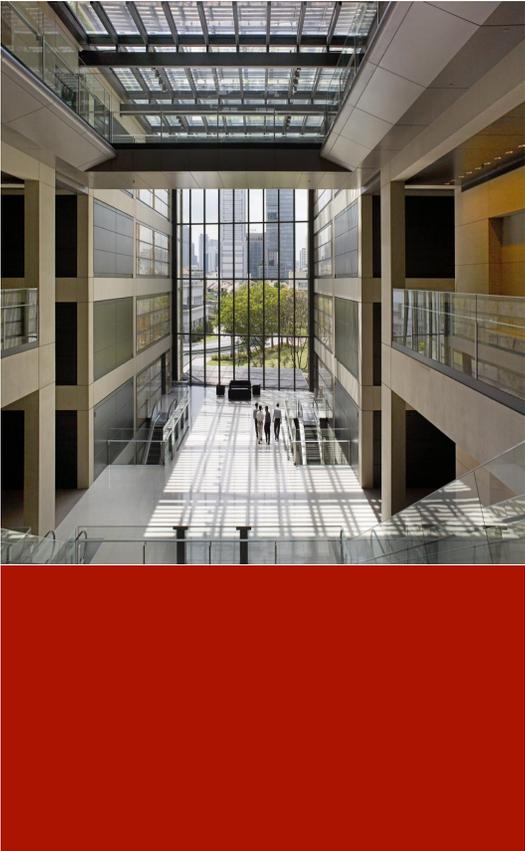


What to do if I am being served a writ of divorce and other documents?

When the defendant receives the writ of divorce, he or she must sign and return an **Acknowledgement of Service** to the plaintiff or the plaintiff's solicitor.

If the defendant has been served with the writ but chooses to ignore them, the plaintiff may submit the Request for Setting Down Action for Trial to ask the Court for a divorce hearing date. The Court will then hear the case and grant the divorce despite the defendant's absence.

A defendant who has been served with the writ may file a **Memorandum of Appearance** if he or she intends to be heard by the Court for the divorce proceedings or if he or she wishes to defend the divorce. The Memorandum of Appearance must be filed and served on the Plaintiff within **8 days** after the writ has been served on the defendant.



(1) Simplified uncontested divorce proceedings

Under the Family Justice Rules, the plaintiff may apply to be placed on the “**Simplified uncontested divorce proceedings**” track. To proceed on a simplified uncontested divorce basis, the plaintiff and the defendant must have (i) agreed that the divorce will be uncontested and (ii) agreed on all ancillary matters, prior to the plaintiff commencing the divorce application.

When parties have agreed on both the divorce and ancillary matters, there is no need to file a parenting plan or a matrimonial plan even if there are children or HDB assets involved. When the Court is satisfied that the documents are in order, it may direct that the matter be heard within 10 days after the date of setting down.

(2) Uncontested Divorce

An uncontested divorce refers to a divorce mutually agreed on, with all matrimonial matters settled privately and amicably. Where the plaintiff and defendant have agreed on a divorce and the defendant does not contest what the plaintiff has stated in the statement of claim and statement of particulars, the plaintiff can proceed to set down the matter for Court hearing. This is to inform the Court that both parties are ready for their case to be heard. Subsequently, the court will inform the parties of the next Court date.



(3) Contested divorce

Contested divorce proceedings are more complicated, time consuming and costly than uncontested divorce proceedings. Unlike the latter, contested divorce hearings are held in Court before a judge and are open to the public.

In a contested divorce, after the defendant has been served with the writ of divorce, the defendant must file a memorandum of appearance to inform the Court that he or she wishes to defend the allegations made in the statement of claim. The defendant must then file a **Defence** or a **Defence and Counterclaim** within 14 days after filing the memorandum of appearance.

The plaintiff may file a **Reply** or a **Reply and Defence to Counterclaim** within 14 days after receiving the defence.

At any point of time, the Court may refer parties for mediation or counselling session so that parties are given an opportunity to settle their dispute amicably. In the event parties are unable to settle their dispute amicably, the plaintiff will then have to set down the matter for a contested divorce hearing before the Court.



Divorce Hearings before the Court

Parties or parties' solicitors are required to attend before the Court for various hearings in the course of a divorce proceeding. Some examples of the different types of hearings are:-

- Status Conference – this hearing takes place before the divorce has been set down for court hearing and is usually administrative. Parties will typically need to update the Court of the status of their respective documents filed or to be filed.
- Case Conference – this hearing takes place after the divorce has been set down for court hearing and is usually administrative. The purpose of the case conference is to prepare parties for the actual divorce hearing.
- Actual divorce hearing – this is the substantive hearing where the Court will hear parties' case. For an uncontested divorce, parties or parties' lawyers typically do not need to attend the hearing as the Court will go through the filed documents and grant an order. For a contested divorce, the hearing usually takes place in an open court before the Judge. Parties' attendance are necessary for a contested divorce hearing as it is as this hearing that parties present their respective cases before the Judge.

At any of the hearings above, the Court may direct parties to attend before a court counsellor or refer parties for mediation so that parties are given an opportunity to settle the matter amicably.

Interim Judgment

At the end of both the uncontested and contested divorce hearings, an Interim Judgment will be granted if the Court is satisfied that the marriage has irretrievably broken down. The interim judgement will be made final after 3 months. This concludes the first stage of the divorce. Subsequently, ancillary matters will be heard in chambers.



For more information on the article, or if you wish to learn more about the topics discussed, please contact: -

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