



The law and procedure are set out in the Matrimonial Causes (Jersey) Law 1949, as amended, and the Matrimonial Causes Rules, 2005.

Parties

Anyone can apply for a divorce provided:-

- they have been married for at least three years;
- they fulfil the jurisdiction requirements i.e. are domiciled in Jersey or have lived here for a continuous period of at least one year immediately prior to issuing proceedings; and
- they have grounds.

Grounds

The most commonly used grounds are:-

- the parties have lived separate and apart for at least 12 months and both parties want a divorce;
- the parties have lived separate and apart for at least two years;
- one party has behaved in such a manner that the other cannot reasonably be expected to live with him/her;
- one party has committed adultery and the other finds it intolerable to live with him/her.

Commencement of proceedings

One spouse (the Petitioner) has to prepare a Petition containing details of the parties and any children, setting out how they fulfil the jurisdictional requirements and the grounds the Petitioner relies on. At the end of the Petition the Petitioner must set out what financial relief, e.g. maintenance or lump sum, they are seeking. This has to be filed with the Court, along with the original marriage certificate and two forms called Notice of Proceedings and Acknowledgement of Service. If there are children under 18, or in full-time education, the Petitioner must also file a Statement setting out details of the children, where they are educated and what arrangements are in place for maintenance and contact with the other spouse.

Once the Petition is served on the other spouse he/she has an opportunity to defend it and/or to make his/her own application for financial relief.

How long will it take?

The Court holds six sessions of undefended divorces each year, one every other month. The Petition has to be served on the other spouse at least four weeks before the hearing. No less than 10 days before the Petition is considered by the Court it has to be set down for hearing. The Petitioner has to apply to set down and file an Affidavit confirming the truth of the Petition and the grounds for the divorce.

Neither party has to appear in Court. If all the paperwork is in order the Court will pronounce decree nisi on the date of the undefended session.

The parties are finally divorced once the Court pronounces decree absolute. This will be at least six weeks



after decree nisi and the Petitioner must apply. The Court will not, however, pronounce decree absolute if there is an outstanding dispute about where the children live or how much contact the non-resident spouse has. In practice, most lawyers prefer not to apply for decree absolute until all financial matters have been resolved, as this can have unexpected consequences e.g. in relation to any pension either party may have.

Ancillary Relief Applications

Once decree nisi has been pronounced either party can pursue any application he or she may have in respect of financial matters, such as maintenance, lump sum payments and transfer or sale of property. This is often the most complex part of the divorce process and can take some months, particularly if the parties are unable to agree matters between them. The parties will usually be required to make financial disclosure by way of completing a detailed Affidavit of Means and supplying documentary evidence of their income and assets. If agreement on financial matters cannot be reached then the matter will proceed to a full hearing before the Family Registrar, who will then make a decision on the apportionment of the assets. The Registrar's aim is to divide the assets fairly. This may mean dividing them equally but it may not: the parties' needs (and those of any minor children) and income capacity and any other relevant circumstances are all taken into account.

Applications in respect of children

These are dealt with separately to financial matters and can include applications for residence, contact, leave to remove a child from Jersey or prohibited steps orders. The parties are encouraged to attend Family Mediation to resolve issues, but if this proves unsuccessful then on an application being made the Court will appoint an officer from the Jersey Family Court Advisory Service to speak to both parties and report to the Court. If agreement still cannot be reached the JFCAS officer may investigate further, by speaking to the children and other family members, and provide recommendations to the Court. This may on occasion lead to a full hearing before the Family Registrar.

Note: The above is a summary of the procedure. Whilst a party can petition for divorce without a lawyer, using forms and examples provided on the Judicial Greffe website, it is generally recommended that a party take legal advice, especially if there is a dispute over children or financial matters.

For further information please contact our Dispute Resolution team.

This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.