

What happens when I have given/sent the forms to court?

When the court receives your completed application, it will process it and send a copy of it to the respondent (and co-respondent if you are claiming adultery).

If there is a mistake or a problem with your application, the court will contact you and your application will be returned to be amended. To avoid this make sure you fill the forms in carefully.

Some common mistakes you should avoid are:

- spelling names differently on any certificates and the application form;
- incorrect dates of birth or names of the children; and
- not completing all the questions.

Taking the time to fill in the form correctly will save a lot of time.

How will I know when the respondent receives the application?

The court will send you/your advocate a certified copy of the respondent's acknowledgement of service form as soon as it is received, along with the forms for the next stage.

Once the court has received your completed divorce application, it will send a copy to the respondent with 2(3) copies of **Form 6 - Acknowledgement of Service**. The respondent then has 14 days to file the acknowledgement of service with the court.

You will then be sent a certified copy of the respondent's acknowledgement of service with:

- **Application for Directions at trial (special procedure)**
- **Form 7 - Affidavit by Applicant in Support of Application Under S.2 (2)** (different form depending on what grounds you applied for divorce on):

In this case the respondent has agreed to your application, so you must then submit the application

for directions at trial (special procedure) and affidavit in support of application forms with the court.

The matter will then be placed on the special procedure list by the Chief Registrar.

What if the respondent wants to defend my application?

If the respondent intends to defend your application you should seek legal advice.

Directions for Trial (special procedure) Un-defended applications

If the respondent has submitted their acknowledgement of service form stating that they do not intend to defend the case, the court will send you an **Application for Directions for Trial** (Special Procedure).

If the respondent is not going to defend your application, you should then submit the application for directions for trial (special procedure) along with your affidavit of evidence. The court will give directions for trial if it is satisfied that:

- a copy of the application and any subsequent pleading has been duly served on every party; and
- if no notice of intention to defend has been given, that the time limit for giving such notice has expired.

What goes in the Affidavit of Evidence?

Where the respondent has chosen not to defend the application, or consents on the 2-year separation rule, unless otherwise directed, there must be an affidavit of evidence submitted with the application for directions for trial. This affidavit must contain information required by **Form 7 - Affidavit by Applicant in Support of Application Under S.2 (2)** (different form depending on what grounds you applied for divorce on): together with correlative evidence on which you intend to rely. This is to verify the contents of any statement of arrangements that you have filed.



I want a divorce, what should I do?

DIV01

Applicant guidance in the Divorce process

**I want a divorce,
what should I do?**

www.courts.im

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This leaflet will provide you with general information relating to divorce. Please note that the court staff cannot help you to decide what to put on the forms, or give you any advice about your case. The court will always recommend if you are unsure of the relevant Acts/Rules which relate to applications, or have queries regarding the contents of applications you should seek legal advice and/or contact a Manx advocate.

When can I get a divorce?

You can apply for a divorce at any point in your marriage, *except* in the first year.

Will I need an advocate?

It is not always necessary to have an advocate when applying for a divorce order. However, you will find it useful to have taken some legal advice before starting your application if:

- you do not know if you have the grounds (reasons) for a divorce;
- the respondent is not likely to agree to a divorce;
- you have not come to an agreement as to who the children should live with; and
- you have not agreed about any financial support for the children or yourself, or not agreed about splitting up any property.

How much does it cost?

You will have to pay a court fee. Court staff will be able to tell you how much you will have to pay.

Do I have to live on the Isle of Man to get a divorce here?

The Isle of Man High Court has the jurisdiction to hear an application for a divorce order if (and only if) either of the parties to the marriage:

- is domiciled in the Island on the date when the application was filed; or
- was habitually a resident on the Island throughout the period of one year before the date that the application was filed.

Do I have to say why I want a divorce?

Yes. You have to be able to prove to the court that you have valid reasons (grounds) to say that the marriage is at an end.

The term the court uses is that the marriage has 'irretrievably broken down'.

To begin divorce proceedings you will need:

- 2 (3 if alleging adultery) copies of **Form 2 - Initial Application**; and
- 2 copies of **Form 3 - Statement of Arrangements for Children**.

Accompanying your forms there should be a guidance booklet to help you complete them.

What will I need to include in my application?

- your full name and address;
- your husband/wife's full name and address;
- your and your husband/wife's occupation;
- whether or not the court has jurisdiction (domiciled or habitually resident on the Isle of Man);
- the grounds for your divorce application (adultery, unreasonable behaviour etc) with a brief statement outlining the grounds. The court will not say the marriage has 'irretrievably broken down' unless you can prove one of the following facts:
- the respondent has committed adultery and you find it intolerable to live with them;
- the respondent has behaved in such a way that you cannot reasonably be expected to live with them;
- the respondent has deserted you for a continuous period of at least 2 years before applying for a divorce;
- both parties have lived apart for a continuous period of at least 2 years (2 years separation), and the respondent consents to a divorce: or

- the parties have lived apart for a continuous period of at least 5 years before applying for a divorce.
- the full names and dates of birth of any living children of the marriage (including adopted children, but NOT fostered children), no matter their age; and
- the name and address of any person with whom your husband/wife has committed adultery with (the co-respondent), if you wish to name them.

You will also need the original or a certified copy of your marriage certificate, not a photocopy, and the court fee.

You must also decide what you wish to apply for, whether it be just simply having the marriage ended (dissolved) or you wish to apply for any financial provision (e.g. maintenance). Note that applications for financial provision for you and any children are dealt with as separate applications. You need to submit separate application forms for these. More information about financial provision applications can be found here.

If a question on the form has multiple options, rule out the ones that do not apply to you, or that you do not wish to choose.

Statement of Arrangements for Children

This form sets out the current, and any future arrangements for any children under the age of 16, and between 16 and 18 if still in full time education.

You must also state if there is a maintenance order in force and if you will be applying for a court order regarding maintenance for the children.

It is always best if you and your spouse can agree arrangements for any children without the need for a court order. It will save time and money as well as providing a more amicable settlement for the children.

Note this is only a statement, not an application.