

- there has been no application for revocation, re-hearing, appeal from the respondent, or the dismissal of an application is still pending;
- it has been 3 months since the provisional order was made;
- no order extending the time for an application to the Staff of Government Division (appeals) to appeal against the order or a dismissal of the order;
- no application from the above still pending;
- the court has complied with s 25(1) of the Matrimonial Proceedings Act 2003; and
- that the court has not revoked the order under S9 (2) to (4) of the Act.

How long have I got to submit my application?

You have up until 12 months after your provisional order is issued to apply for it to be made final. If you apply after 12 months you must:

- give reasons for the delay;
- state whether you and the applicant have lived together in the last 12 months;
- state whether or not the wife has given birth to any child since the provisional order was issued, whether or not it is a child of the family.

The Deemster may ask you to submit an affidavit if he/she feels that your reasons are not acceptable. You should note that the second and third point could result in the provisional decree being nullified, and you having to start the divorce process from the initial application stage again.

When the Chief Registrar is happy, he will issue a final order, which will include a statement of the precise time it was issued, and will then send both you and the respondent a certified copy. A copy will also be kept on file.


Any additional copies of the final order can be obtained for a fee from the General Registry.

Last updated 11th September 2009

www.courts.im

Deemsters Walk, Bucks Road, Douglas
Isle of Man IM1 3AR

Phone: +44 (0) 1624 685265 Fax: +44 (0) 1624 685236
E-mail: court.house@courts.im



ISLE OF MAN

COURTS OF JUSTICE

I have received a divorce application, what do I do?

DIV02

Respondent guidance—Divorce

I have received a divorce application from my spouse, what do I do?

www.courts.im

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.

You will have received a copy of your spouse's initial application for divorce, a copy of their statement of arrangements and 2 copies of **Form 6 - Acknowledgement of Service**.

You now need to return the acknowledgement of service form to the court with your response to the initial application.

There are 5 possible grounds on which your spouse can seek a divorce as laid down in the Matrimonial Proceedings Act 2003. These are:

- you have committed adultery and the applicant finds it intolerable to live with you;
- you have behaved in such a way that the applicant cannot reasonably be expected to live with you;
- you have deserted the applicant for a continuous period of at least 2 years before they applied for a divorce;
- both parties have lived apart for a continuous period of more than 2 years (2 years separation), and you consent to a divorce; and
- the parties have lived apart for a continuous period of at least 5 years before applying for a divorce;

What do I need for the acknowledgement of service form?

You will need to state that you have seen and read the application form, as well as when you received it. The main thing you need to decide is whether or not you intend to defend the application or whether you consent to it.

All the documents are filed, what happens next?

Directions for Trial (special procedure) Undefended applications

If you have submitted your Acknowledgement of Service form stating that you do not intend to defend the case, the applicant will submit an **Application for Directions for Trial (special procedure)** (Word doc) (PDF) along with an 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.

The Chief Registrar will then enter the proceedings on the 'Special Procedure List'.

What goes in the Affidavit of Evidence?

Where you have chosen to submit a cross-application, there must be an affidavit of evidence submitted with the Application for Directions for Trial from both parties. This affidavit must contain information required by Form 7 Affidavit in Support of Application

- Adultery (Word doc) (PDF);
- Behaviour (Word doc) (PDF);
- 2 Years Separation (Word doc) (PDF); or
- 5 Years Separation (Word doc) (PDF).

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. The Chief Registrar will then enter the proceedings on the 'Special Procedure List'.

Once any issues are sorted out, the applicant (and you on cross-application) can then apply for applications for directions for trial (special procedure) and have the case listed by the Chief Registrar.

What will happen in Court?

Directions appointments are initial hearings where the Deemster can set out any instructions he/she wants to give.

At a directions hearing, the Deemster may give directions in regards to:

- future course of proceedings, e.g. whether any more directions appointments will be required;
- ordering discovery; or
- any other proceedings connected to your divorce proceedings such as financial provision, or arrangements for children of the family

Several directions hearings may be necessary to enable the Deemster to have all the relevant information available to him/her so he can make his/her decision.

At this stage the divorce application is the only one being decided. Although you have submitted a statement of arrangements for children, this is only a statement. Any Financial Provision or arrangements for children are separate applications and are dealt with separately. Unless the court raises concerns under s25 (1) of the Matrimonial Proceedings Act 2003, your Divorce proceedings cannot be held up by any other proceedings regarding children.

When will the provisional order be made final?

The applicant can apply to have the provisional order made final from 6 weeks after the date of issue. If they have not applied after 3 months from the date of issue, you can then apply.

How do I apply to make the provisional order final?

You should complete **Form 9 - Application for Provisional Order to be made Final** and submit it to the court.

When the court receives your application, the Chief Registrar will search the court records to make sure he is satisfied that:-