

## The judge's decision

The judge shall, after completing any investigation under rule 61, make such order as he/she thinks just.

Pending the final determination of the application, a judge may make an interim order upon such terms as he/she thinks just.

## Application to vary/ revoke a Financial Provision Order

Over time your circumstances may change: you may need more maintenance money to cover any additional costs that arise, or you may decide that you do not need as much as is being currently paid.

If you wish to change the amount you are being paid in maintenance then you need to fill in, and file and serve on both the court and the other party **Form FB2** – Application for Variation of Order.

The circumstances when this may be necessary include:-

- loss of your job;
- you now have a better paid job;
- you have a long term illness that is preventing you from working;
- you have remarried, or are now co-habiting with another partner;
- the child's educational needs have changed; or
- the parent looking after the child has changed or the child has been taken into care.

If the respondent's circumstances have changed, you can also apply for a variation of the original order. The circumstances where this might be necessary may include:-

- the respondent got a new, better paid job;
- the respondent has re-married or is co-habiting with another person and their financial burden has reduced;

- the respondent has sold the former matrimonial home;
- the respondent has come into a large sum of money (e.g. an inheritance); or
- you have found out about some undeclared income the respondent has been enjoying.

This application will need to be submitted along with an **Affidavit of means** which will include details of changes since the original order was made.


**Please remember that this section of the website can only provide you with a general idea of what is likely to happen. The website cannot explain everything about court rules, costs and procedures which may affect different matters in different ways. Court staff can provide you with information, tell you about court forms and procedures, but they cannot give you legal advice. You should seek legal advice from an advocate. A list of Manx advocates is available through the Isle of Man Law Society .**

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[www.courts.im](http://www.courts.im)

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**Applicant guidance—Divorce**

**How do I apply for Financial Provision?**

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## What can I apply for?

In any application for a divorce order, an applicant (or a respondent to the divorce if they file an answer claiming financial provision) can apply for:-

- an order for maintenance pending suit;
- a financial provision order;
- a property adjustment order; and/or
- a pension sharing order.

## What form will I need to apply for financial provision?

You can make an application for any of the above in paragraph 11 of **Form 2 - Initial Application** when you submit it to court. The respondent to the divorce application can also make an application for any of the above.

If an application was not made in the initial application or answer, it may subsequently be made:-

- by the leave of the court in **Form 12 – Application for Financial Provision**; or
- if you and you spouse/ex-spouse both agree with the terms, without leave in **Form 12 – Application for Financial**.

If you have stated in your initial application that you intend to apply for any Financial Provision, you must then submit **Form 13 – Notice of Intention to proceed with Application for Financial Provision made in Initial Application**.

## How do I apply for Financial Provision?

You must serve a copy of either **Form 12 – Application for Financial Provision** or **Form 13 – Notice of Intention to proceed with Application for Financial Provision made in Initial Application** on both the court and the respondent to the application.

If the application is not by consent, you must serve along with either **Form 12** or **Form 13** an affidavit containing full particulars of your property and income and the facts you intend to rely upon in support of your application, on both the court and the respondent.

If you are applying for a property adjustment order, your affidavit must also contain full particulars of the property in respect of the application is made.

## What happens if the respondent and I agree by consent to an order?

If you are filing an application for a consent order, you must also file with the application:-

- 2 copies of a draft consent order in the terms sought, 1 of which must be signed by you and the respondent; and
- a statement of information (which may be more than one document) which shall include:-
  - the duration of the marriage, the age of both parties and of any minors or dependent children of the family;
  - an estimate of the approximate value of the capital resources and net income of both parties and any minor child of the family;
  - what arrangements are intended for the accommodation of each of the parties and any minor child of the family;
  - whether either party has remarried or intends to remarry or cohabit with another person;
  - if the order includes a pension sharing annex, a statement confirming the person responsible for the pension has been served with documents under rule 67(11) and that no objection has been received within 14 days;
  - where the terms provide for a transfer of property, a statement confirming that any mortgagee of that property has been served with a notice of the application, and no objection has been received; and
  - any other especially significant matters.

## What happens after I have served my application and affidavit?

After you have served all documents on both the court and the respondent, the respondent must file and serve an affidavit in answer containing full particulars of his property and income.

## Directions hearings/Hearing

On or after the filing of an application in **Form 12 – Application for Financial Provision** or a notice in **Form 13 – Notice of Intention to proceed with Application for Financial Provision made in Initial Application**, a directions appointment will be fixed by the judge.

Notice of this appointment must be given by you to every party to the application.

At the eventual trial hearing the judge:-

- shall subject to rule 64, investigate the allegations made in support of and in answer to the application;
- may take evidence orally; and
- may at any stage order the attendance of any person for the purpose of being examined or cross-examined and order the discovery and production of any document or require further affidavits.

Be aware that multiple directions hearings may be necessary before the final hearing.

## Open Proposals

Normally no less than 14 days from the date fixed by the court for the final hearing, you should (unless the court has directed otherwise) serve on the court and the respondent an open statement which sets out concise details, including amounts involved, of the orders which he/she proposes to ask the court to make.

Normally the respondent will then no more than 7 days after being served with your open proposals, to serve his/her own open proposals.