

Divorce

Legally ending your marriage or civil union

What is a Dissolution Order?

Dissolving a marriage or civil union is the legal term for divorce. You can ask the Family Court for a Dissolution Order if you both want to divorce or if just one of you wants to divorce. This factsheet explains how to do this.

Apply for a divorce

You can ask the Family Court to legally end your marriage or civil union if:

- you've been living apart for two years or more, and
- at least one of you is domiciled in New Zealand. In general, domiciled means that New Zealand is your permanent home even if you are, or have been, living overseas for a time.

You're considered to be domiciled in New Zealand when:

- you were born in New Zealand and haven't made a home in another country with the intention of living in that country for an indefinite time. (You could still be considered to be domiciled in New Zealand if you're living or working in another country but aren't planning to stay there indefinitely)
- you were born overseas but have made a home in New Zealand and intend to live here for an indefinite time.

If you were married or entered into a civil union overseas, you can apply for a Dissolution Order in New Zealand if one of you has been domiciled in New Zealand when you apply.

Two-year separation period

If you lived together within the past two years, you need to tell the Court in your application that you did this to try to get back together. You can try to get back together more than once during the two years, as long as the total time you spend together trying to reconcile isn't more than three months.

Caring for children

If you have children together, the Court must be satisfied that you've made arrangements for their day-to-day care, financial support and other aspects of their welfare.

If you and your former partner can't agree on parenting arrangements, the Court can help.

Relationship property

If you need the Court's help dividing your relationship property, you need to make a separate application within 12 months of your divorce.

When you both agree to divorce

When you both want to divorce, you can apply together. You don't have to fill this in together or swear the affidavit together – you can do this separately – but you only need to fill in one Joint application.

Fill in the right form

You both need to fill in the form Joint application for order dissolving a marriage or civil union. Download it from justice.govt.nz/family/separation-divorce. Or call us on 0800 268 787 and ask us to send it to you. Or visit your local court and ask for the form.

Documents you must give the Court

You must give the Court:

- your completed application form
- an original or certified copy of your marriage or civil union certificate (this isn't the document you signed on the day of your marriage or civil union). You can get the certificate from Births, Deaths and Marriages at govt.nz/browse/family-and-whanau/getting-married/get-a-marriage-certificate/
- a copy of your separation agreement or Separation Order, if you have one, to prove you've lived apart for at least two years.

Give your application to the Court

You can hand in your application at your local court or post it out. This is also known as filing your application

Fee

It costs \$211.50 per application to file the forms at court.

What happens next

IF YOU DECIDE TO GO TO COURT

If you both decide that you want to go to court, the Court will tell you when you need to attend. It's important to know that you **both** need to go to court on this day. At the Court, a judge will make the Dissolution Order and the divorce will be official on that day. The Court will send copies of the order to both of you.

IF YOU DECIDE NOT TO GO TO COURT

If you both decide that you don't want to go to court, the Court will look at your forms and check that you've met all the requirements. If you have, the Court will make the Dissolution Order and you'll be legally divorced one month after this date. The Court will send copies of the order to both of you.

When only one of you wants to divorce

If your former partner doesn't want a divorce, they won't agree to apply with you, or you don't want to ask them to apply with you, you can apply on your own.

Fill in the right form

You need to fill in the form One party application for order dissolving a marriage or civil union. Download it from justice.govt.nz/family/separation-divorce. Or call us on 0800 268 787 and ask us to send it to you. Or visit your local court and ask for the form.

Documents you must give the Court

You must give the Court:

- your completed application form
- an original or certified copy of your marriage or civil union certificate (this isn't the document you signed on the day of your marriage or civil union). You can get the certificate from Births, Deaths and Marriages at govt.nz/browse/family-and-whanau/getting-married/get-a-marriage-certificate/
- a copy of your separation agreement or Separation Order, if you have one, to prove you've lived apart for at least two years
- form G7: Information sheet to accompany certain forms
- a photocopy of each form and an extra copy of form G7.

Give your application to the court

You can give (file) your application by handing it in at your local court or by mailing them to the Court.

Fee

It costs \$211.50 per application to file the forms at court.

What happens next

GIVING YOUR FORMER PARTNER THE DIVORCE DOCUMENTS

The Court will process your application and give you a set of documents that need to be given to (served on) your former partner by someone else (not you).

PROVING YOUR FORMER PARTNER HAS THE DIVORCE DOCUMENTS

The person who served your documents will need to fill in an Affidavit of Service to prove that your former partner was given the documents.

An easy way to do this is to get the person who served your documents to go to a Family Court. Court staff will help the person fill in the affidavit and then the court staff can witness it and accept it for filing.

IF YOU DON'T KNOW WHERE YOUR FORMER PARTNER IS LIVING

If you don't know where your former partner is living, you can ask the Court if you can change the way the documents are served (this is called substituted service).

After divorce documents have been served

Once your former partner has been given the divorce documents, they have a set time to decide if they want to ask the Family Court not to approve the divorce. This is called defending the application. This is usually:

- 21 days after the documents are served in New Zealand
- 30 days if they are served in Australia
- 50 days for anywhere else in the world.

IF YOUR FORMER PARTNER ASKS THE COURT NOT TO GRANT A DIVORCE

If your former partner asks the Court not to grant a divorce, there will be a defended hearing in front of a Family Court judge. The judge will hear from both of you and decide if there are grounds to make the Dissolution Order.

If the Order is granted, you will be legally divorced one month after the date the Order is made. A copy of the Order will be sent to you.

IF YOUR FORMER PARTNER DOESN'T DO ANYTHING IN THE SET TIME

If your former partner doesn't do anything in the set time and **you don't want to appear in court**, and as long as all the requirements have been met, the Court will make the Dissolution Order. The Court will write to you to tell you the order has been made.

One month after the order was made, it becomes final and the court will send you a copy of the order.

If you want to appear in court, the Court will tell you when you need to come to court. At the hearing, a judge will make the Dissolution Order and the divorce will be final on that day. The Court will send copies of the order to both of you.

justice.govt.nz/family/separation-divorce

govt.nz/browse/family-and-whanau/getting-married/get-a-marriage-certificate/