

Under the Divorce (Scotland) Act 1976, Section 1(2)(e)

Simplified Procedure

Court of Session
General Department
Edinburgh EH1 1RQ
Tel: 0131 225 2595

APPLICATION FOR DIVORCE

SPOUSES HAVING LIVED APART FOR AT LEAST 2 YEARS

Before completing this form, you should have read the leaflet entitled “Do it yourself Divorce”, which explains the circumstances in which a divorce may be sought by that method. If the simplified procedure appears to suit your circumstances, you may use this form to apply for divorce.

Below you will find directions designed to assist you with your application.

Please follow them carefully. In the event of difficulty, you may contact Court’s General Department at the above address or Citizens Advice Bureau.

Directions for making Application

WRITE IN INK, USING BLOCK CAPITALS

- | | |
|--|--|
| Application
(Part 1) | 1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section. |
| Affidavit
(Part 2) | 2. When you have completed Part 1, you should take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 2 (page 8) can be completed and sworn. |
| Returning
Completed
Application
Form to
Court | <p>3. When directions 1 and 2 above have been carried out, your application is now ready to be sent to court at the above address. With it you must enclose:</p> <p>(i) Your marriage certificate (the document headed “Extract of an entry in a Register of Marriages”), which will be returned to you in due course. Check the notes on page 2 to see if you also need to obtain a letter from the National Records of Scotland stating that there is no record that your spouse has divorced you; and</p> <p>(ii) Either a cheque or postal order for the court fee, crossed and made payable to “Scottish Court and Tribunal Service”, or a completed form SP15 claiming exemption from the Court fee.</p> <p>4. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court of Session immediately.</p> |

**THE NOTES ON THIS AND THE FOLLOWING PAGES ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH SECTION OF THE FORM.**

Notes on Sections 1 and 2 opposite

- (i) The names entered in Sections 1 and 2 opposite must be those on your marriage certificate. If you are known by another name which does not appear on that certificate, please write that name in brackets.
 - (ii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your spouse.
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Note on Section 3 opposite

If the address of your spouse is NOT known or cannot reasonably be ascertained, please enter “not known” in this section; you must take all reasonable steps to find out where your spouse is living and state on a separate sheet what steps you have taken and attach it to this form. Then proceed to section 4.

N.B. The statement must be signed.

Notes of Section 4 opposite

In the event that the address of your spouse is unknown to you, the Court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your spouse. (“Next-of-kin” does not include yourself or any children of the marriage for the purposes of this application. Children of the marriage includes any adopted children, and/or children accepted into the family.)
- (ii) ALL children of your marriage aged 16 years or over, whether or not they live with you.

When entering the details of the next-of-kin, if any, please state his or her relationship to your spouse (i.e. “mother”, “father”, “brother”, “sister”, etc).

If you do not know the identity or whereabouts of any of the next-of-kin of your spouse, or the whereabouts of any of the children of your marriage, please enter “not known” where appropriate.

LETTER FROM NATIONAL RECORDS OF SCOTLAND. If you do not know the address of your spouse and you were married in Scotland, you must obtain a letter from the National Records of Scotland stating that there is no record that your spouse has divorced you. The letter must be issued not more than one month before the date of posting this application to the court. If you require to obtain a letter you should apply to:

National Records of Scotland, Registration Branch, New Register House, Edinburgh, EH1 3YT,

stating both spouses’ full names, the date and place of your marriage and requesting that a search be made to confirm that there is no record that your spouse has divorced you. (Note - a fee will be charged for this service.)

The requirement to obtain a letter from the National Records of Scotland does not apply if you were married outwith Scotland.

PART 1

WRITE IN INK USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

<u>Surname</u>	<u>Other name(s)</u>
Present Address	in full
_____	_____
_____	Daytime telephone number (if any)
_____	_____

2. NAME OF SPOUSE

<u>Surname</u>	<u>Other name(s)</u>
_____	_____
_____	_____

3. ADDRESS OF SPOUSE (if the address of your spouse is not known, please enter "not known" in this section and proceed to section 4)

Present Address	

_____	Daytime telephone number (if any)
_____	_____

4. Only complete this section if you do not know the present address of your spouse

NEXT-OF-KIN

Name	<u>Address</u>
_____	_____
Relationship to your spouse	_____
_____	_____

CHILDREN OF THE MARRIAGE

Names and dates of birth	Address
_____	_____
_____	_____
_____	_____

If sufficient space is not available here to list all the children of the marriage, please continue on separate sheet and attach to this form

Note on Section 5 opposite

“Domiciled” means that the person concerned opposite regards Scotland and his/her permanent home and intended to live permanently in Scotland in the foreseeable future.

Notes on Section 6 opposite

You will be able to obtain these details from your marriage certificate (extract entry in a register of marriages) which must accompany this application form, when you send it to the Court.

A photocopy of the marriage certificate will NOT be accepted

Notes on Section 7 opposite

You and your spouse must have lived apart from each other for a continuous period of at least 2 years after the date of your marriage and immediately before the date of this application.

This minimum period of 2 years separation is extended if you and your spouse have lived together again for **NOT MORE THAN 6 MONTHS IN ALL** during that 2 year period. For example, if you lived together for 3 months in total during the 2 year period, then you should not complete this application until 2 years and 3 months have elapsed from the date of your original separation.

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My spouse is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

6. DETAILS OF PRESENT MARRIAGE

Place of marriage _____ (Registration District)

Date of marriage: Day _____ Month _____ Year _____

7. PERIOD OF SEPARATION

- (i) Please state the date on which you ceased to live with your spouse. (If more than 2½ years, just give the month and year) Day _____ Month _____ Year _____
- (ii) Have you lived with your spouse since that date? (*tick box which applies*) YES NO
- (iii) If yes, for how long in total did you live together before finally separating again? _____ Months

Notes on Section 8 opposite

Is there a reasonable chance that you can still settle the differences with your spouse and resume normal married life?

Are you satisfied that there is now no possibility of the marriage succeeding?

Note on Section 10 opposite

‘Children of the marriage’ includes any adopted children and/or children accepted into the family.

Notes on Section 12 opposite

No claim can be made in this form of divorce application for payment to you of a periodical allowance (i.e. regular payment of money weekly, monthly etc for your maintenance) or a capital sum (i.e. lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

No application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of that religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

As at 26th February 2007 “religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (i.e. a Jewish marriage) (S.S.I. 2006/253).

If you wish to make such an application you should consult a solicitor or Citizens’ Advice Bureau.

8. RECONCILIATION

Is there any reasonable prospect of reconciliation with your spouse?
(Tick box which applies) YES NO

Do you consider that the marriage has broken down irretrievably? YES NO

9. MENTAL DISORDER

As far as you are aware does your spouse have any mental disorder?
(whether mental illness, personality disorder or learning disability)
(Tick box which applies) YES NO

(If yes, give details below)

10. CHILDREN

Are there any children of the marriage under the age of 16? *(Tick box which applies)* YES NO

11. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage: *(Tick box which applies)* YES NO

(If yes, give details)

12. DECLARATION AND REQUEST FOR DIVORCE

I confirm that the facts stated in Sections 1 – 11 above apply to my marriage.

I do **NOT** ask the Court to make any financial award in connection with this application.

I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976.

I request the Court to grant decree of divorce from my spouse.

(Date) _____ (Signature of applicant) _____

PART 2

APPLICANT'S AFFIDAVIT

To be completed only after Part 1 has been signed and dated

I (*insert Applicant's full name*) _____

residing at (*insert Applicant's present home address*) _____
Town _____

Country _____

SWEAR that to the best of my knowledge and belief the facts stated in Part 1 of this Application are true.

Signature of applicant _____

To be completed by Justice of the Peace, Notary Public, or Commissioner for Oaths

SWORN at (*place*) _____

this _____ day of _____ 20_____

before me (*full name*) _____

(*full address*) _____

Signature _____

*Justice of the Peace/*Notary Public/*Commissioner for Oaths

*Delete where not applicable