
I have sent my forms back, what happens now?

Upon receiving your forms the court will send a copy of them to the petitioner. This is so the petitioner can decide what action they need to take next. What they do will depend on what answers you have given.

If you have agreed to the divorce then the petitioner may apply for the Decree Nisi. A Decree Nisi is the first Decree in a divorce; it does not end your marriage.

If you have not agreed to the divorce or if you cannot agree with your husband or wife about financial support, property or arrangements for any children, you may have to attend a court hearing. The petitioner will have to apply to the court for the matter to be listed and you will be informed of the date when you need to come to court. It may be that you wish to seek legal advice to assist you if you are contesting the divorce or any part of it

I have received a letter giving me a date for Decree Nisi to be pronounced. What does this mean?

This means that your husband or wife has applied to the court for the judge to consider the reasons for your divorce and to determine if your divorce can legally be granted.

In making this decision the judge will consider any agreement you and your husband or wife have come to about financial arrangements and the arrangements that have been put forward for any children of the family.

Pronouncing the Decree Nisi takes place at a public hearing, but there is no need for you to attend this.

What will happen if the judge says we cannot have a divorce?

The court will send you a notice of refusal of judge's

certificate which will tell you why the judge has decided your case is not in order. In most cases the court will request further information from you or your husband or wife. You will be told what information it is that the court wants.

If the judge feels that your case cannot be decided from the written information supplied, there may have to be a court hearing. You will have to come to the hearing and you will be advised what date and time you need to attend.

When will I find out if the judge has granted my Decree Nisi?

After the judge pronounces the Decree Nisi the court will send to you and the petitioner a copy of the order. This is the first of two decrees that you will receive before you are divorced. Only the second decree (the Decree Absolute) will mean you are free to marry again.

Once you have been granted the Decree Nisi the petitioner may apply for your Decree Absolute, but cannot do so until 6 weeks have passed.

More than 6 weeks have passed but the petitioner hasn't obtained the Decree Absolute. What do I do?

If the petitioner has not applied for the Decree Absolute after three months six weeks and one day from the date your Decree Nisi was pronounced, you may make an application to the court requesting that the Decree Nisi be made absolute. You will need to complete the form "application for Decree Absolute", which is available from the court staff or on the court website (www.courts.gov.fk) and pay a fee that the court staff will be able to advise you of. The matter will then be considered by a judge at a hearing.

PLEASE NOTE—it is important that you keep your Decree Absolute safe. This is a legal document that shows that you are no longer in a marriage and are free to re-marry. You may require it at a later date.



Divorce:

Responding to the petition

This leaflet has been designed to assist those who have been served with divorce papers. It cannot cover all situations. The Courts and Tribunals Service can only provide you with advice regarding procedure. For any questions concerning legal issues please seek independent legal advice.

If you wish to obtain a divorce and your partner has not issued proceedings, please see leaflet "Divorce: commencing proceedings".

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I have received a petition for divorce from the court, what should I do?

Whether you have received the papers by post or they have been served on you by a bailiff, the procedure is the same. The first thing you need to do is read all of the papers you have received carefully to make sure that the details contained in them are correct.

In order to obtain a divorce in the Falkland Islands you must have been married for one year or more and you and the petitioner must either both have your permanent homes in the Falkland Islands on the date when the petitioner applies for the divorce or both have been living in the Falkland Islands throughout the period of one year before the date the divorce is applied for.

The papers that you have received should contain the following:

- The petition
- A statement of arrangements for children (only if there are any children of the family under the age of 16 or between 16 and 18 who are still in full time education)
- The acknowledgment of service form
- A notice of proceedings

The petition

The petition will give you the details of the application that your husband or wife ("the petitioner") has made to the court. Those papers will tell you the reasons why he or she is seeking a divorce and any claim for financial support that they are making.

Statement of arrangements for children

If there are children of the family then you should also have received a form entitled "statement of arrangements for children". This

tells you what arrangements the petitioner is suggesting should be made for the child(ren). This will include information about where the child(ren) are to live and go to school and how the family finances will work to ensure that they remain financially supported.

Each question in the statement of arrangements for child (ren) will contain an answer from the petitioner. It will also give you an opportunity to state whether you agree or disagree with what the petitioner is saying about the arrangements for the children. You need to complete this form and sign the back page. This form will then need to be returned to the court along with the acknowledgment of service.

Acknowledgment of service & notice of proceedings

These forms have been sent to you by the court to ensure you have received the petition and understand what needs to happen next.

The acknowledgment of service is your opportunity to say whether you agree to a divorce and if not, why not. It also allows you to answer the reasons given by the petitioner in the petition for why he or she wants a divorce.

There are reasons in law why you can get divorced (these are known as the "grounds for divorce") and the petitioner should have stated which ground he or she is relying upon to ask for a divorce.

The grounds are:

- that you have committed adultery and that the petitioner finds it intolerable to live with you;
- that your behaviour has been so bad that the petitioner cannot reasonably be expected to live with you;
- that you deserted the petitioner at least one year ago;
- that you and the petitioner have lived apart for at least one year and that you agree to a divorce
- that you and the petitioner have lived apart for at least three years.

It may be that you disagree with the reasons why the petitioner seeks a divorce but agree to the divorce going

ahead. The acknowledgement of service allows you to explain this. You must answer each question that is relevant to you truthfully and sign the form at the end. The notice of proceedings provides some guidance about how you complete the form.

Once you have read the papers and completed the acknowledgement of service and statement of arrangements for children (as appropriate), you need to return the completed forms to the court.

You must act quickly; there are strict timescales within which you must respond to the petition. If you fail to send the forms back within 14 days of your receiving them then the petitioner may apply to the court for the divorce to continue without your response. This would mean that the court would not know what your views are about the divorce. It could also mean that costs could be awarded against you and that the divorce will take longer.

Will I need a lawyer?

There is no requirement for you to have a lawyer when you are getting a divorce, but you might find it useful to have some legal advice, especially if:

- You are unsure whether your husband or wife has grounds for a divorce;
- You do not agree to a divorce;
- You have not agreed with your husband or wife who the child(ren) should live with;
- You have not agreed about any financial support for the child(ren) or your partner, or about any property.

The court cannot answer questions like:

- Should I contest the claim my husband or wife has made for financial support?
- What will happen to the house I own with my husband or wife.

If you have any questions like these then you are advised to seek independent legal advice.