



SUPREME COURT FALKLAND ISLANDS

D8

APPLICATION FOR A DIVORCE, DISSOLUTION OR (JUDICIAL) SEPARATION

Case Reference:	SC/CIV/	<i>Always quote this reference</i>
Date Issued:		

You can only make an application for divorce or dissolution if you have been in your marriage or civil partnership for at least one year. This does not apply to (judicial) separation applications.

The information you give will be used as evidence by the court to decide if you are entitled to legally end your marriage or civil partnership or to get a (judicial) separation order from your partner. A copy of this form will be sent to your spouse/civil partner by the court.

If there are exceptional reasons why your application should be dealt with urgently then please set those reasons out in a covering letter.

Section 1 - Your application

(known as a petition in divorce and judicial separation)

1.1 What application do you wish to make?

- Divorce** on the ground that the marriage has broken down irretrievably
- Dissolution** on the ground that the civil partnership has broken down irretrievably
- (Judicial) separation**

At times in this form you will be referred to as the Petitioner or Applicant and your spouse/civil partner will be referred to as the Respondent. These are technical terms used in law.

1.2 What documents are you supplying to support your application?

In cases of urgent applications it may be possible for you to make an application to allow you to deliver the original or a certified copy of the marriage/civil partnership certificate to the court at a later date.

- Your marriage or civil partnership certificate or a certified copy of the certificate from where you got married or entered into a civil partnership (a photocopy with **not** be accepted)
- A translation that has been certified by a notary public or authenticated by a statement of truth by the person who did the translation. This should be provided if your marriage or civil partnership certificate (or similar document issued under the law in the country you registered your marriage or civil partnership) is not in English.

For marriages/civil partnerships in the Falkland Islands you can request a copy of the certificate by emailing registrargeneral@townhall.gov.fk You will need to pay a fee.

If you entered into a **religious marriage** as well as a civil marriage, these proceedings may not dissolve the religious part of your marriage. It is important that you contact the relevant religious authority and seek further guidance if you are unsure.

Section 1 - About you

(the applicant/petitioner)

2.1 Your current name

First name(s)

Last name

Is this either your married name or the name shown on your marriage or civil partnership certificate?

Yes

No, please attach your change of name deed/statutory declaration or if this is not applicable, explain why your name has changed.

This can be different to the one on your marriage certificate. This can be your last name, your spouse/civil partner's last name or a double barrelled last name that combines the two.

If you have changed your name, other than through your marriage, since you got married you must attach a copy of your change of name deed or otherwise explain why your name has changed.

2.2 Confidentiality

Can your contact details be shared with your spouse/civil partner?

Yes

No, please complete the separate **C8 form** with your details in order to do this.

If you do not wish to disclose your contact details to your spouse/civil partner you should leave those details blank and complete **Form C8 Confidential contact details**.

2.3 What is your home address?

If you want to keep your contact details confidential, do not complete this question. Please complete form C8.

Address:	<input type="text"/>
Telephone:	<input type="text"/>
Email:	<input type="text"/>

If you have a legal practitioner acting for you, the court will send all papers to their address. If you do not have a legal practitioner, the court will send papers to your home address.

2.4 Do you have a legal practitioner acting for you?

No

Yes, please give their details below

Remember a copy of this form will be sent to your spouse/civil partner. If you do not want them to know your current contact details you should not enter them here or provide any details in the form which may give them information on how to contact you.

2.5 Legal practitioner's details

Name	<input type="text"/>
Firm	<input type="text"/>
Address	<input type="text"/>
Telephone	<input type="text"/>
Email	<input type="text"/>

Section 3 - About your spouse/civil partner

(the respondent)

3.1 Your spouse/civil partner's current name

First name(s)

Last name

Is this either their married name or the name shown on your marriage or civil partnership certificate?

Yes

No, please explain why their name has changed.

3.2 Their home address

Address:

Telephone:

Please insert the respondent's usual email address or an email address provided by the respondent for service (for example, their legal practitioner's email address). You should avoid using a work email address, as this may not be confidential.

Email:

For the respondent's email address only - I confirm that to the best of my knowledge only the respondent has access to the above email account.

3.3 Is the application to be served on the respondent outside of the Falkland Islands?

Yes. You must arrange service of this application on the respondent. Go to 3.5.

No

3.4 The court will serve the application on the respondent by email and a notice sent by post unless you tick the box below.

Please serve this application by post only

I will arrange service on the respondent

Unless a different address is provided at 3.5 court papers will be sent to the address at section 3.2.

If your spouse/civil partner has a legal practitioner acting for them you should complete their details at 3.4 and the court papers will be sent to their legal practitioner.

Where the application is to be served by the court this will be served by email with a notice confirming service sent to the respondent's postal address.

You should use the email address actively used by the respondent for personal emails. Where the respondent has a legal practitioner who is instructed to accept service of the application, please insert the legal practitioner's email address here instead.

The email address should not be the same as the one given for the petitioner/applicant.

3.5 Has the respondent provided a different address for the court documents to be sent to?

No

Yes, please use the address below

Legal Practitioner's name <i>(if applicable and if known)</i>	
Legal Practitioner's firm <i>(if applicable and if known)</i>	
Address:	
Telephone:	
Email:	

The court will send documents to this address.

Section 4 - Details of marriage/civil partnership

You should attach your marriage or civil partnership certificate to this application, together with a certified translation in English if necessary (the court will keep your documents and not return them). If you do not have the original certificate and cannot get a copy of it, you will have to make a separate application, alongside this application, to issue this form without it.

If you are applying without your marriage/civil partnership certificate you will need to make a separate application on Form D11 (Application notice). It is recommended that you seek legal advice if you are unsure of how to do this.

4.1 Did your marriage take place outside of the Falkland Islands?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

4.2 Are you making a separate application to commence proceedings without your marriage or civil partnership certificate?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No

If you answered 'Yes', to either question 4.1 or 4.2 above, please give the place where the marriage/civil partnership was formed, as it appears on your marriage/civil partnership certificate (if any)

4.3 Date of marriage or civil partnership

(day) (month) (year)

You can only apply for a divorce/dissolution if you have been in your marriage or civil partnership for at least one year.

4.4 Your full first name(s) and last name(s) - as shown on your certificate

Your spouse/civil partner's full first name(s) and last name(s) - as shown on your certificate

4.5 Are the details set out in your marriage or civil partnership certificate correct?

Yes

No, please explain why

Section 5 - Why this court can deal with your case

(Jurisdiction)

The court needs to understand why you think it has the legal power (jurisdiction) to deal with your application.

5.1 The court has the legal power to deal with this application because the Matrimonial and Civil Partnerships Proceedings Ordinance 1979 applies.

Please tick as applicable

- I am domiciled in the Falkland Islands
- The Respondent is domiciled in the Falkland Islands
- We are both domiciled in the Falklands Islands
- I have been habitually resident in the Falklands Islands for one year immediately before beginning proceedings
- The Respondent has been habitually resident in the Falkland Islands for one year immediately before these proceedings were begun
- We have both been habitually resident in the Falkland Islands for one year immediately before these proceedings were begun

Habitual Residence

Your habitual residence is the place in which your life is mainly based. You must be settled there and intend to stay settled there. Some of the following may apply: you work there, own property, have your children in school there, and your mainly family life takes place there.

Domicile

Your domicile is the main permanent home in which you live, or to which you live, or to which you intend to return. When you were born you will have acquired your parents' domicile (either your father's if they were married, or your mother's if they weren't married or if your father died before you were born). If you have since moved to another country and made that your permanent home then your domicile may have moved there.

Section 6 - Give the reason for your divorce or dissolution

(The facts)

6.1 If your application is for divorce or dissolution, you must choose one or more of the following reasons to support the fact that your marriage or civil partnership has broken down irretrievably (it can't be saved).

If your application is for (judicial) separation you must choose one or more of the following reasons to support your application.

You will need to provide information (evidence) to support the reasons given.

Adultery

The Respondent has committed adultery and the Petitioner/Applicant finds it intolerable to live with the Respondent.

Behaviour

The Respondent has behaved in such a way that the Petitioner/Applicant cannot be reasonably expected to live with the Respondent

Desertion

The Respondent has deserted the Petitioner/Applicant for a continuous period of at least one year immediately preceding the presentation of this petition/application.

One year separation and consent

The parties to the marriage/civil partnership have lived apart for a continuous period of at least one year immediately preceding the presentation of the petition/application and the Respondent consents to a decree/order being granted.

Three years separation

The parties to the marriage/civil partnership have lived apart for a continuous period of at least three years immediately preceding the presentation of the petition/application.

Adultery cannot be relied upon if, after discovery of the adultery, you lived with each other for a period exceeding, or periods together exceeding six months.

Behaviour cannot be relied upon you have lived with each other for a period exceeding, or periods together exceeding six months after the date of the last incident you want to rely on as evidence.

For 1 and 3 years' separation please make sure you have been separated the right amount of time in order to make the application.

What if we lived together after we separated?

Living in the same residence while separated - you can still live in the same residence while separated, as long as you are not living together as a couple, for example, you do not eat, sleep or cook together.

Living together as a couple after separating - if you have lived together as a couple after separating, you cannot use the 1 year separation with consent, 3 years' separation and desertion facts if it was for more than 6 months, during or after the separation period. This 6 month timescale can have been either in a single period or over several periods.

Section 7 - Supporting information

(Statement of case)

7.1 If you are using 1 year separation and consent or 3 years' separation, on what date did you reach the conclusion that your marriage or civil partnership was at an end?

Day month year

And

On what date did you stop living together as a couple?

Day month year

(both dates must be at least 1 or 3 years ago, plus any periods you lived together as a couple in that time if less than 6 months, before the date you make this application)

AND

Has there been any period or periods during this time that you have lived together as a couple again?

Yes, and the details and dates for those periods are as follows

No, we have not been a couple again - go to section 9

7.2 If using adultery, behaviour or desertion you must give brief details to support the reasons for your application.

(please refer to the notes on this page for guidance)

(if necessary, continue on a separate sheet)

If you are relying on adultery, behaviour or desertion you must complete question 7.2

Adultery

Please give the date when you first become aware of the adultery and, if known, dates and places where the adultery happened.

It is not normally necessary to name the person your spouse/civil partner committed adultery with; you should only consider doing so if the application is likely to be disputed.

If you include them you must provide their address in section 8 and the court will send them a copy of your petition to give them a chance to respond.

Your application could be delayed if they do not respond and it could cost you more money.

Behaviour

You should include examples of your spouse's/civil partner's behaviour which affected you the most, and the most recent incidents.

You can describe how they have behaved over a period of time or use particular incidents. Include dates if relevant. Provide enough detail to satisfy the court that you cannot reasonably be expected to live with them. Please remember that they will be sent a copy of this application.

Desertion

You should include the date when you spouse/civil partner left (deserted you) without your consent and describe why and how this came about. You should also confirm that you have lived separately since the date of desertion.

Section 8 - Adultery cases only

details of the person your spouse/civil partner committed adultery with (co-respondent)

People do not generally name the person their spouse/civil partner committed adultery with. However, if you have named them in section 7 then you must give their details below so a copy of this petition can be sent to them. If you did not name them, you do not need to fill in these details.

8.1 Name of the person your spouse/civil partner committed adultery with (co-respondent)

First name(s)

Last name

If the other person is named, then they will usually become a party to the court case and be sent copies of the petition.

Your petition could be delayed if they do not respond and it could cost you more money to resolve that issue.

8.2 The address to send court papers to them

Address:

Telephone:

Email:

Section 9 - Existing court cases

9.1 Are there any existing or previous court proceedings relating to your marriage/civil partnership, property or children?

No

Yes, please give details below

Case number(s)

If the other person is name, then they will usually become a party to the court case and be sent copies of the petition.

Your petition could be delayed if they do not respond and it could cost you more money to resolve that issue.

Summary of the on-going or previous court proceedings

Section 10 - Dividing your money and property

Orders which are sought

If you disagree with your spouse or civil partner about how your property, money, pensions and other assets will be split, then you can ask the court to decide for you.

Types of financial order include:

- an order for maintenance pending suit/outcome
- Periodical payments order
- Secured provision order
- Lump sum order
- Property adjustment order
- Pension sharing order

These decisions are called 'financial orders'. You can apply for orders for yourself, and/or, if appropriate, for your children.

If you agree with your spouse or civil partner on how your money and property will be split, and want it to be legally binding, you can apply for a financial order to be made by consent.

10.1 Do you want to apply for a financial order?

Yes, I want to apply for a financial order for *(select all that apply)*

<input type="checkbox"/>	myself
<input type="checkbox"/>	my children

No

If you answer 'Yes' to question 10.1 the court will take no action at this stage. To formally start financial proceedings, you will also need to complete a separate application form and pay another court fee.

If you answer 'No' to question 10.1 you can still apply for a financial order in the future, but only until you remarry or form another civil partnership. This restriction does not apply to pension sharing or pension compensation sharing orders.

If you are unsure what to do here it is recommended you seek legal advice.

The court will not start processing your request for a financial order until you submit the separate application and pay any fee. You can do this at the same time you apply for your divorce, dissolution or (judicial) separation or at any time after that.

Section 11 - Summary of what is being applied for (the prayer) and Statement of Truth

11 The Petitioner/Applicant applies for the following:

11.1 The application

- That the
 marriage be dissolved
 Civil partnership be dissolved

Or

That the Petitioner/Applicant be (judicially) separated from the Respondent.

11.2 Costs (if you wish to claim costs from the Respondent or Co-Respondent)

- That the
 Respondent
 Co-Respondent
Shall be ordered to pay the costs of this application

11.3 Financial Order

(if you ticked 'Yes' to the question 10.1 and wish to make an application for a Financial Order)

That a financial order may be granted for:

- The Petitioner/Applicant
 The children

You can ask the court to consider making an order that some or all of the costs of this application are paid for by your spouse/civil partner and/or, if applicable, the co-respondent. The court will not normally order costs where the application is based on 3 years' separation.

STATEMENT OF TRUTH:

[I believe]* [The Petitioner/Applicant believes]* that the facts stated in this application for a divorce/dissolution/judicial separation are true. **delete as applicable*

*[I am duly authorised by the Petitioner/Applicant to sign this statement]

Full name:

Signed:

Dated:

Petitioner / Petitioner's Legal Practitioner

Legal Practitioner's firm:

Statement of truth must be completed by the person making this application, or by the legal practitioner acting for them

Proceedings for contempt of court may be brought against a person who makes or causes to be made a false statement in a document verified by a statement of truth.

Section 12 - Checklist for submission

Have you included:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Original copy/certified copy of |
| <input type="checkbox"/> | Marriage certificate |
| <input type="checkbox"/> | Civil partnership certificate |
| <input type="checkbox"/> | Certified translation of the certificate, if applicable |
| <input type="checkbox"/> | Completed C8, if applicable |
| <input type="checkbox"/> | Completed Form A Notice of [intention to proceed with] an application for a financial order, if applicable |
| <input type="checkbox"/> | Fee |