

## Overview

Anyone who has been married for a year or more can start the divorce proceedings provided one of your permanent places of residence is in England and Wales or one of you has been resident here during the last year. It does not matter if you were married in another country.

## What are the grounds for divorce?

There is only one ground and that is that the marriage has irretrievably broken down. To show this and end the marriage you will need to prove one of the the following five facts in order to end your marriage:-

- Your spouse has committed adultery.
- Your spouse has behaved 'unreasonably'.
- Your spouse has deserted you for a continuous period of 2 years or more.
- You have lived apart for at least 2 years and your spouse agrees to a divorce.
- You have lived apart for at least 5 years or more whether your spouse agrees to a divorce or not.

## How is a divorce started?

A divorce petition is drafted, signed and then sent to a Family Court once you have decided which fact to rely upon. The petition will contain information about your marriage, any children and your reasons for wanting a divorce. Your original marriage certificate will have to be sent to the court and there is also a fee to pay (currently £550).

Following receipt of the petition the court issue the case and assign a case number. and will send a copy of it to your spouse. When your spouse receives the petition from the court, he or she will have to complete and return an 'Acknowledgement of Service' form which confirms the petition has been received and gives certain information to the court.

## What happens next?

Your spouse will need to indicate in this form whether or not he or she intends to defend the divorce proceedings. This document will generally provide the proof you need to advance the divorce.

After your spouse has returned the form to the court, the decree nisi is then applied for. This is done by preparing a formal standard form statement. The papers are reviewed by a Judge who decides whether you have 'proved' your case and whether a decree nisi should be pronounced. If they are satisfied then a date is fixed by the court for the decree nisi to be pronounced.

## Will I have to go to Court?

A divorce is a largely an administrative process, provided it is not defended. Nobody needs to attend court when the decree nisi is pronounced as normally the names of the parties are simply read out. However, either spouse may have to attend if there is a dispute over costs for example. There is no formal court hearing for the granting of the decree absolute. Most divorces are finalised within 4-6 months but it depends very much on the court involved and your spouse's cooperation.

## What should you do?

Contact us for advice on the best way to proceed, and for help drafting the petition and pursuing the proceedings to decree nisi and decree absolute.

