
STATUTORY INSTRUMENTS

1983 No. 1210 (S. 106)

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of Court Amendment No. 6)
(Simplified Divorce Procedure) 1983**

Made - - - - - *4th August 1983*

Coming into Operation *1st September 1983*

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a) and of all other powers competent to them in that behalf, do hereby enact and declare:—

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 6) (Simplified Divorce Procedure) 1983 and shall come into operation on 1st September 1983.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment to Rules of Court

2. In the appendix (forms) to the Rules of Court(b) for forms 19A, 19B, 19C, 19D and 19E substitute forms 19A, 19B, 19C, 19D and 19E respectively in the Schedule to this Act of Sederunt.

Emslie,
Lord President,
I.P.D.

Edinburgh
4th August 1983

(a) 1933 c. 41.

(b) S.I. 1965/321; relevant amendment is SI. 1982/1679.

SCHEDULE

FORM 19A

UNDER THE DIVORCE (SCOTLAND) ACT 1976, SECTION 1(2)(d)
SIMPLIFIED PROCEDURE

Court of Session
Divorce Section (SP)
Parliament House
Edinburgh EH1 1RQ
Tel: 031-225 2595 Ext 316

APPLICATION FOR DIVORCE (WITH CONSENT OF OTHER PARTY TO
THE MARRIAGE) HUSBAND AND WIFE 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 the Court's Divorce Section at the above address, or any Sheriff Clerk's Office or Citizens Advice Bureau.

Directions for making Application

WRITE IN INK. USING BLOCK CAPITALS

1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section. Application
(Part 1)
2. When you have filled in Part 1 of the form, attach the (blue) Instruction Sheet SP3 to it and send both documents to your husband/wife for completion of the consent at Part 2 (page 9). Consent of
Husband/
Wife
(Part 2)

NOTE: If your husband/wife does NOT complete and sign the form of consent, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor.
3. When the application has been returned to you with the Consent (Part 2) duly completed and signed, you should then 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 3 (page 10) can be completed and sworn. Affidavit
(Part 3)
4. When directions 1-3 above have all been carried out, your application is now ready to be sent to the Court. With it you must enclose: Returning
completed
Application
Form to
Court
 - (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, and
 - (ii) Either a cheque or postal order for the sum of £40 in respect of the Court fee, crossed and made payable to "Court of Session",
or a completed form SP15, claiming exemption from the Court fee.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court immediately.

PART 1

SP2

WRITE IN INK, USING BLOCK CAPITALS

1.
NAME AND ADDRESS OF APPLICANT

Surname Other name(s)
 in full
 Present
 Address Daytime
 Telephone
 Number
 (if any)

2.
NAME AND ADDRESS OF HUSBAND/WIFE

Surname Other name(s)
 in full
 Present
 Address Daytime
 Telephone
 Number
 (if any)

3.
JURISDICTION

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

- (i) I consider myself to be domiciled in Scotland
 or
 (ii) I have lived in Scotland for a period of at least 12 months immediately before the date of signing this application
 or
 (iii) My husband/wife considers himself/herself to be domiciled in Scotland
 or
 (iv) My husband/wife has lived in Scotland for a period of at least 12 months immediately before the date of signing this application

4.
DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day month year

5.
PERIOD OF SEPARATION

- (i) Please state the date on which you ceased to live with your husband/wife. (If more than 2½ years, just give the month and year)

Day... month ...Year ...

- (ii) Have you lived with your husband/wife 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

6.
RECONCILIATION

- Is there any reasonable prospect of reconciliation with your husband/wife? *(Tick box which applies)* YES NO

- Do you consider that the marriage has broken down irretrievably? *(Tick box which applies)* YES NO

7.
CONSENT

- Does your husband/wife consent to a divorce being granted? *(Tick box which applies)* YES NO

8.
MENTAL DISABILITY

- Is your husband/wife incapable of managing his/her affairs because of a mental disorder (whether illness or deficiency?) *(Tick box which applies)* YES NO
(If yes, give details)

9.
CHILDREN

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

10.
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)

11.
REQUEST FOR DIVORCE AND DISCLAIMER OF FINANCIAL PROVI-
SION

I confirm that the facts stated in Sections 1–10 above apply to my marriage.

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

I request the Court to grant decree of divorce from my husband/wife.

.....
(Date)

.....
(Signature)

IMPORTANT—Part 1 **MUST** be completed, signed and dated before sending the application form to your husband/wife.

PART 2

CONSENT BY APPLICANT'S HUSBAND/WIFE TO DIVORCE

NOTE: Before completing this Part of the form, please read Part 1 and the notes opposite (page 8).

I,
(Full names, in BLOCK letters, of Applicant's husband/wife)

residing at

.....
(Address, also in BLOCK letters)

.....
.....

HEREBY STATE THAT

- a. I have read Part 1 of this application;
 - b. The Applicant has lived apart from me for a continuous period of 2 years immediately preceding the date of the application (Section 11 of Part 1);
 - c. I do not ask the Court to make any order for payment to me by the Applicant of a periodical allowance (ie a regular payment of money weekly or monthly, etc for maintenance);
 - d. I do not ask the Court to make any order for payment to me by the Applicant of a capital sum (ie a lump sum payment);
 - e. I understand that divorce may result in the loss to me of property rights;
- and
- f. I CONSENT TO DECREE OF DIVORCE BEING GRANTED IN RESPECT OF THIS APPLICATION.

.....
(Date)

.....
(Signature)

NOTE: You may withdraw your consent, even after giving it, at any time before divorce is granted by the Court. Should you wish to do so, you must immediately advise:

The Court of Session
Divorce Section (SP)
Parliament House
Edinburgh EH1 1RQ

PART 3

APPLICANT'S AFFIDAVIT

To be completed only after Parts 1 and 2 have 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:

- (1) the facts stated in Part 1 of this Application are true; and
- (2) the signature in Part 2 of this Application is that of my *husband/wife.

Signature of Applicant

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

SWORN at (Place) .
 this..... day of 19.....
 before me (full name)
 (full address)

 Signature

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

*Delete as appropriate

FORM 19B

UNDER THE DIVORCE (SCOTLAND) ACT 1976, SECTION 1(2)(e)
SIMPLIFIED PROCEDURE

Court of Session
Divorce Section (SP)
Parliament House
Edinburgh EH1 1RQ
Tel: 031-225 2595 Ext 316

**APPLICATION FOR DIVORCE
HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 5
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 with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's Divorce Section at the above address, or any Sheriff Clerk's Office or Citizens Advice Bureau.

Directions for making application

WRITE IN INK. USING BLOCK CAPITALS

- | | |
|--|--|
| 1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section. | Applicatic
(Part 1) |
| 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. | Affidavit
(Part 2) |
| 4. When directions 1 and 2 above have all been carried out, your application is now ready to be sent to the Court. With it you must enclose: | Returning
completed
Applicatic
Form to
Court |
| (i) Your marriage certificate (the document headed "Extract of an entry in a register of Marriages")—check the notes on page 2 to see if you need an up-to-date one (the certificate will be returned to you in due course), and | |
| (ii) Either a cheque or postal order for the sum of £40 in respect of the Court fee, crossed and made payable to "Court of Session",
or a completed form SP15, claiming exemption from the Court fee. | |
| 4. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court immediately. | |

PART 1

SP5

WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname	Other name(s)
	in full
Present Address	Daytime Telephone Number (if any)
.....
.....

2. NAME OF HUSBAND/WIFE

Surname	Other name(s)
	in full

3. ADDRESS OF HUSBAND/WIFE (if the address of your husband/wife 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 husband/wife

NEXT-OF-KIN

Name	Address
Relationship to your husband/wife

CHILDREN OF THE MARRIAGE

Names and dates of birth

Addresses

.....
.....
.....
.....
.....

If insufficient space is available here to list all the children of the marriage, please continue on a separate sheet and attach to this form.

**5.
JURISDICTION**

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

- (i) I consider myself to be domiciled in Scotland
- or
- (ii) I have lived in Scotland for a period of at least 12 months immediately before the date of signing this application
- or
- (iii) My husband/wife considers himself/herself to be domiciled in Scotland
- or
- (iv) My husband/wife has lived in Scotland for a period of at least 12 months immediately before the date of signing 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 husband/wife. (If more than 5½ years, just give the month and year)
Day... month ...Year ...
- (ii) Have you lived with your husband/wife 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

8.
RECONCILIATION

Is there any reasonable prospect of reconciliation with your husband/wife? *(Tick box which applies)* YES NO

Do you consider that the marriage has broken down irretrievably? *(Tick box which applies)* YES NO

9.
MENTAL DISABILITY

A far as you are aware is your husband/wife incapable of managing his/her affairs because of a mental disorder (whether illness or deficiency)? *(Tick box which applies)* YES NO
(If yes, give details)

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 awards in connection with this application.

I believe that no grave financial hardship will be caused to my husband/wife as a result of the granting of this application.

I request the Court to grant decree of divorce from my husband/wife.

.....
(Date)

.....
(Signature of Applicant)



PART 2

APPLICANT'S AFFIDAVIT

To be completed only after Part 1 have 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 Peace, Notary Public or Commissioner for Oaths

SWORN at (Place)

this..... day of 19.....

before me (full name)

(full address)

.....

.....

Signature

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

*Delete as appropriate

FORM 19C

CITATION IN SECTION 1(2)(D) CASES

UNDER THE DIVORCE (SCOTLAND) ACT 1976, SECTION 1(2)(d) SIMPLIFIED PROCEDURE

M
.....
.....

Edinburgh

19

APPLICATION FOR DIVORCE (WITH CONSENT OF OTHER PARTY TO THE MARRIAGE) HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 2 YEARS

You are hereby served with an application by your husband/wife which asks the Court to grant a decree of divorce.

If you wish to oppose the granting of such decree, you should put your reasons in writing and send your letter to the address shown below. Your letter must reach the Court before

Assistant Clerk of Session/
Messenger-at-Arms

IMPORTANT NOTE:
If you wish to exercise your right to claim a financial award you should immediately advise the Court that you oppose the application for that reason, and thereafter consult a solicitor.

Court of Session
Divorce Section (SP)
Parliament House
EDINBURGH EH1 1RQ
Tel: 031-225 2595 Ext 316

FORM 19D

CITATION IN SECTION 1(2)(E) CASES

UNDER THE DIVORCE (SCOTLAND) ACT 1976, SECTION 1(2)(e)
SIMPLIFIED PROCEDURE

M
.....
.....

Edinburgh

19

APPLICATION FOR DIVORCE
HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 5
YEARS

Your husband/wife has applied to the Court for divorce on the ground that the marriage has broken down irretrievably *because you and s(he) have lived apart for a period of at least 5 years.*

A copy of the application is hereby served upon you.

1. Please note:

- (a) that the Court may not make financial awards under this procedure and that your husband/wife is making no claim against you for payment of a periodical allowance (i.e. regular payment of money weekly, monthly etc for his/her maintenance) or a capital sum (i.e. lump sum).
 - (b) that your husband/wife states that you will not suffer grave financial hardship in the event of decree of divorce being granted.
2. Divorce may result in the loss to you of property rights (eg the right to succeed to the Applicant's estate on his/her death) or the right, where appropriate, to a widow's pension.
 3. If you wish to oppose the granting of a divorce, you should put your reasons in writing and send your letter to the address shown below. Your letter must reach the Court before
 4. In the event of the divorce being granted, you will be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the Court immediately.)

Assistant Clerk of Session/
Messenger-at-Arms

IMPORTANT NOTE:

If you wish to exercise your right to claim a financial award you should immediately advise the Court that you oppose the application for that reason, and thereafter consult a solicitor.

Court of Session
Divorce Section (SP)
Parliament House
Edinburgh EH1 1RQ
Tel: 031-225 2595 Ext 316

FORM 19E

INTIMATION TO CHILDREN/NEXT OF KIN IN SIMPLIFIED DIVORCE APPLICATION

UNDER THE DIVORCE (SCOTLAND) ACT 1976, SECTION 1(2)(e)
SIMPLIFIED PROCEDURE

M
.....
.....

Edinburgh

19

APPLICATION FOR DIVORCE
HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 5
YEARS

..... (Applicant) v. (Respondent)

1. In the above application, a copy of which is enclosed, the Applicant has indicated that you are the _____ of whose present address is unknown to the Applicant.

2. Should you know the present address of your _____ or how he/she may be contacted, you are requested to give this information at once to:

Court of Session
Divorce Section (SP)
Parliament House
Edinburgh EH1 1RQ
Tel: 031-225 2595 Ext 316

This will enable the Court to inform the Respondent that the Application has been made.

3. If you are unable to provide the above information, and/or you desire for your own interest to oppose the application for divorce, you should write to the above address not later than _____ stating the reason for your opposition.

Assistant Clerk of Session/
Messenger-at-Arms

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Rules of Court of the Court of Session by substituting amended forms for Forms 19A–19E in the Appendix (being forms for use in the Simplified Divorce Procedure). The amendments include (a) minor textual alterations; (b) clarification of notes for completion of forms, with use of ‘tick boxes’; (c) amendments to take into account the provision in section 2 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12) for the Court to dispense with corroboration in certain cases.

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