

# One party application for Order dissolving a marriage or civil union

Dissolution (divorce) application

pack **1**

# Application by one party for Order dissolving a marriage or civil union

## Dissolution application pack 1:

**Please read through the application pack before completing the application forms.**

**This application pack is to be used where one party to a marriage or civil union wishes to make an application to dissolve their marriage or civil union alone.**

If you want to make an application together with the other party to your marriage or civil union then you need **Dissolution Application Pack 2: Joint application for Order dissolving a marriage or civil union.**

This pack provides general information only and is not meant to provide legal advice. If you have a legal issue, you should contact a lawyer for advice. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case. Court staff can provide you with information about court forms and processes, but they cannot give you legal advice. There is also a glossary of common terms used on the inside back cover of this pack

If you require any further information about the forms or the process once you have read this pack, please contact the nearest Family Court office. Contact details for the Family Court are available in the blue Government pages at the front of the phone book, or through the following website link [www.justice.govt.nz/services/finding-your-local-Court](http://www.justice.govt.nz/services/finding-your-local-Court)

Information about Dissolution Orders and other Family Court processes can be found at [www.justice.govt.nz/family-justice](http://www.justice.govt.nz/family-justice)

# Information about applying for a Dissolution Order

## Grounds for legally ending a marriage or civil union

Irreconcilable differences is the only ground for legally dissolving a marriage or civil union. This means that your relationship has broken down and is at an end. Neither of you is blamed for this.

The only way of proving that your relationship has broken down irreconcilably is by living apart for two years. Only then can the court dissolve your marriage or civil union. You cannot shorten the two year period, even if you both agree to the dissolution.

You can, however, live together for a total of three months within that two year period if you can satisfy the court that the main reason for this was to get back together (“reconciliation”). You can get back together more than once, as long as the total time together is not more than three months.

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## Who can make an application

An application can be made by one spouse or civil union partner alone, or by both of you together.

### **This application pack is to be used when you are making the application alone.**

To make an application, at least one of you must be domiciled in New Zealand. You are “domiciled” in New Zealand if:

- You were born in New Zealand and have not made a home in another country with the intention of living in that country indefinitely; or
- You were born overseas but you have made a home in New Zealand with the intention of living here indefinitely.

Working overseas on a long-term contract does not prevent you from applying for a Dissolution Order as long as you are still domiciled in New Zealand.

The person making the application does not have to be the one who is domiciled in New Zealand.

The fact that you were married or entered into a civil union in New Zealand is not enough on its own to allow you to apply for a Dissolution Order in New Zealand. At least one party needs to be domiciled in New Zealand when the application is made.

If you were married or entered into a civil union overseas, you can apply for a Dissolution Order in New Zealand provided that one of the parties is domiciled in New Zealand when the application is made.

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## Appearing in court

It is not usually necessary to appear in court to get a Dissolution Order.

You can choose to appear in court if you want to. You may also be required to appear in court if your spouse or civil union partner opposes the application.

## What forms are required

to make an application by one party for an Order dissolving a marriage or civil union you will need to complete the following forms:

**FP11: Application by one party for Order dissolving marriage or civil union**

**FP12\*: Affidavit to accompany application by one party for Order dissolving marriage or civil union**

**G7: information sheet**

\*If you have decided to appear in court then you do not need to complete the **FP12: Affidavit to accompany application by one party for Order dissolving marriage or civil union** form

The application forms are available in this pack after page 10, or from [www.justice.govt.nz/family-justice/about-us/forms](http://www.justice.govt.nz/family-justice/about-us/forms)

The FP11 and FP12 forms are found under the Forms for Proceedings under Family Proceedings Act 1980 and Care of Children Act 2004 link. The G7 form is found under the General forms link.

You will find some guidance on completing the forms on pages 6 to 8 of this pack.

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## Marriage or civil union certificate

You must provide the court with a certified copy of your marriage or civil union certificate.

This should be attached to the **FP12: Affidavit to accompany application by one party for Order dissolving marriage or civil union** as an exhibit. If you have decided to appear in court and are not completing the affidavit, you can provide the certificate to the court with the other forms instead.

If you no longer have a copy, you will need to get one. If you were married or entered into a civil union in New Zealand you should contact Births, Deaths and Marriages at the Department of Internal Affairs for information on how to obtain a copy. They can be contacted on 0800 22 52 52 (if calling from within New Zealand) or +64 4 474 8150 (if calling from outside New Zealand).

If your marriage or civil union certificate is not in English, you will need to file a certified English translation along with it.

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## Separation Order or agreement

If you have a Separation Order from the court, or you have made a written separation agreement with your spouse or civil union partner, you should also provide a copy of it with your application.

This should be attached to the **FP12: Affidavit to accompany application by one party for Order dissolving marriage or civil union** as an exhibit. If you have decided to appear in court and are not completing the affidavit, you can provide the Order or agreement to the court with the other forms instead.

It is not necessary to have a Separation Order or written separation agreement to make an application to dissolve your marriage or civil union.

## Arrangements for children

If you have children who are under 16 years old (or, in special circumstances, 16 years or older) you will need to satisfy the court that you have made arrangements for their day-to-day care, maintenance, and other aspects of their welfare, or, that there is a good reason why no arrangements have been made.

For more information about parenting arrangements you may want to refer to the brochure 'Sorting out parenting arrangements without going to court' or the Ministry of Justice website: [www.justice.govt.nz/family-justice](http://www.justice.govt.nz/family-justice)

The granting of a Dissolution Order does not make these arrangements into a Court Order or determine what the parenting arrangements will be in the future. If you want an Order about the care arrangements for your children, you will need to make a separate application to the court.

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## Relationship property

The court does not consider issues of relationship property when granting a Dissolution Order.

If you have not sorted out relationship property issues and need the court's help to do this, you must make an application within 12 months after your dissolution.

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## Filing the application

You must make sure that all of the paperwork is completed correctly before you file your application. You can file your application by hand or by post at any Family Court office. You need to file the originals plus a photocopy of each form and an extra copy of the **G7 : Information sheet to accompany certain applications form**.

Contact details for the Family Court are available in the blue Government pages at the front of the phone book, or from [www.justice.govt.nz/services/finding-your-local-court](http://www.justice.govt.nz/services/finding-your-local-court)

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## Filing fee

When you make your application you will also need to pay a filing fee – refer to [www.justice.govt.nz/family-justice](http://www.justice.govt.nz/family-justice) or your nearest Family Court. Credit card and EFTPOS facilities are available at the court. Cheques should be made out to the Ministry of Justice. This fee is non-refundable.

You can make an application to waive the fee if you consider that you are unable to pay it. The criteria for being unable to pay includes if you are dependent on a benefit or New Zealand superannuation, or you would suffer undue financial hardship if you were required to pay the fee. Applications forms are available from your local Family Court office or from [www.justice.govt.nz/family-justice/about-us/forms](http://www.justice.govt.nz/family-justice/about-us/forms)

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## Service of the application

When you file your application, the court will process it and provide you with a set of documents that need to be served on your spouse or civil union partner. It is your responsibility to arrange this service as the court does not serve these types of applications. The court will give you instructions about what you need to do.

Unless the court directs otherwise, dissolution applications have to be served by personal service. This means that the documents have to be personally handed to the other party by **someone other than yourself**. If the other party refuses to take the documents, they can be put down in front of them instead.

Once the documents have been served on the other party, the person who served them needs to complete a document called an **Affidavit of Service**. The affidavit of service includes details about when and where the documents were served, and how it is known that the correct person was served. The affidavit of service form will be provided to you by the court. Once the affidavit of service is completed it needs to be returned to the court.

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## If the other party lives overseas

If your spouse or civil union partner lives overseas, you will need to make an application for leave (permission) to serve them outside of New Zealand. You are required to file an affidavit in support of this application.

The necessary forms are available from your local Family Court office, or you can download General form G21 and General Affidavit from [www.justice.govt.nz/family-justice/about-us/forms](http://www.justice.govt.nz/family-justice/about-us/forms). The forms are found under the General forms link.

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## If you do not know where the other party is

If you do not know where your spouse or civil union partner is, you may need to make an application for substituted service to change the way the application is to be served. You are required to file an affidavit in support of this application.

An application for substituted service should set out how you think that the application could best be brought to your spouse or civil union partner's notice. Some examples of substituted service are service on friends or family who are likely to be in contact with the person, or advertising in a major newspaper where you suspect the person is living.

The necessary forms are available from your local Family Court office, or you can download General form G21 and General Affidavit from [www.justice.govt.nz/family-justice/about-us/forms](http://www.justice.govt.nz/family-justice/about-us/forms). The forms are found under the General forms link.

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## After service

Once the documents have been served, your spouse or civil union partner will have a set time to decide if they want to defend the application. This is normally 21 days after service of the documents on them if they are in New Zealand. If they are not in New Zealand, the time will be 30 days if they are in Australia or 50 days if they are in another part of the world.

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## If the application is defended

If your spouse or civil union partner defends the application, a defended hearing will be allocated before a Family Court Judge who will hear from both of you and decide whether or not the grounds for a Dissolution Order have been met.

If the judge makes the Dissolution Order at the defended hearing it will take effect one month after the day it is made.

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## If the application is not defended

A registrar will consider your application, once the time for a defence to be filed has passed. Unless you have chosen to appear in court, the registrar will check that all the requirements are met, and if they are, will make the Dissolution Order. The Order will take effect one month after the day it is made.

If you have chosen to appear in court, a hearing date before a Family Court Judge will be allocated and you will need to attend at the court on this date. If the judge makes the Dissolution Order, it will take effect the same day.

Once the Order takes effect, a copy will be posted out to you and to the other party.

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## **Re-marrying or entering into a civil union again**

You are free to marry or enter into a civil union as soon as the Dissolution Order has taken effect. You can apply for a marriage licence or civil union licence on the day the Order takes effect, but the licence will not be available for three days.

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## **More information**

For more information about Dissolution Orders or other Family Court processes, look on the Family Court website, [www.justice.govt.nz/family-justice](http://www.justice.govt.nz/family-justice), or contact the nearest Family Court office.

If you want to find out how the law applies in your situation, you should get legal advice from a family lawyer or from your local community law centre. Family Court staff cannot give you legal advice.

# Completing the forms

## Form FP11: Application by one party for Order dissolving marriage or civil union

- Read the form and then complete it by writing or typing your details in. You will need to provide the original **plus** one copy of this form to the court.
- Complete the front page and then enter your name into the space on the top of page 2.

**Question 1** If you consent to the Order being made in your absence (i.e you do not want to appear in court), you should select option 1 (a). **If you select this option you do not need to complete questions 2 to 7 of this form.** Make sure you sign and date the form on page 4.

If you do not consent to the Order being made in your absence (i.e. you wish to appear at a hearing before a judge when your Order is made), you should select option 1 (b).

If you need the Dissolution Order to come into effect sooner than one month after it is made you should select option 1 (b) and discuss this with Court Registry Officer when you file your application. You will have to attend a hearing on the date set by the court.

**Question 2** If you are domiciled in New Zealand, but the other party isn't, tick the first box. If you are not domiciled in New Zealand, but the other party is, tick the second box. If both you and the other party are domiciled in New Zealand, tick the third box.

For a definition of domicile refer to the section on WHO CAN MAKE AN APPLICATION on page 1.

**Question 3** This must always apply for you to make an application.

**Question 4** This must always apply for you to make an application.

**Question 5** Enter the date when you separated. This must be at least two years before you file the application. If you do not know the exact date, enter as much information as you recall, for example, March 2002.

**Question 6** If you have a Separation Order, a written separation agreement or you made an oral separation agreement tick the appropriate box and enter the date of the Order or agreement. If you have a Separation Order or a written separation agreement you should provide a copy of this.

If you do not have a Separation Order and no agreement to separate was made, tick the last box.

**Question 7** For the purposes of this question, children means those under the age of 16 years unless there are special circumstances for older children which mean that care arrangements need to be made.

If there are no children of the marriage or civil union, tick the first box.

If there are children of the marriage or civil union and there are arrangements for their care in place, tick the second box and enter the details of the arrangements into the spaces on the form.

If there are children of the marriage or civil union, and it has not been practicable to make arrangements, tick the third box and enter the reasons why into the space on the form.

**Signature and date** Once you have completed the application, you need to sign and date in the spaces provided on page 4 of the form.

**Please note** You will need to provide the original plus a photocopy of this form to the court.



## Form FP12: Affidavit to accompany application by one party for Order dissolving marriage or civil union

- This document needs to be completed if you have selected option 1 (a) on the application form (i.e. you choose not to appear in court).
- Read the form and then complete it by writing or typing your details in. You will need to provide the original **plus** one copy of this form and its attachments to the court.
- Complete the front page and then enter your details into the spaces at the top of page 2.

**Question 1** This always applies.

**Question 2** If you are domiciled in New Zealand, but the other party isn't, tick the first box. If you are not domiciled in New Zealand, but the other party is, tick the second box. If both you and the other party are domiciled in New Zealand, tick the third box.

For a definition of domicile refer to the section on WHO CAN MAKE AN APPLICATION on page 1.

**Question 3** Enter the details of your marriage or civil union. This should match the details on your marriage or civil union certificate.

**Question 4** Attach the original or a certified copy of your marriage or civil union certificate to the back of this form and write the letter A at the top (this is known as exhibit "A").

**Question 5** This must always apply for you to make an application.

**Question 6** This must always apply for you to make an application.

**Question 7** Enter the date you separated. This must be at least two years before you file the application. If you do not know the exact date, enter as much information as you recall, for example, March 2002.

**Question 8** If you have a Separation Order, a written separation agreement or you made an oral separation agreement tick the appropriate box and enter the date of the Order or agreement.

If you have a Separation Order or a written separation agreement, attach a copy of it to the back of this form and write the letter B at the top (this is known as exhibit "B").

If you do not have a Separation Order and no agreement to separate was made, tick the last box.

**Question 9** This must always apply for you to make an application.

For a description of irreconcilable differences refer to the section **grounds for legally ending a marriage or civil union** on page 1.

For the purposes of questions 10 and 11, children means those under the age of 16 years unless there are special circumstances for older children which mean that care arrangements need to be made.

**Question 10**

Tick this box if you have children and the paragraph applies to you.

**Question 11**

Tick this box if you have children, and specify the arrangements for the children in the spaces provided.

**Getting the affidavit sworn or affirmed**

You need to take the affidavit (with the attached exhibits) to an authorised person to be sworn or affirmed.

In New Zealand, this can be a deputy registrar at a court, a Justice of the Peace or a lawyer (not your own).

If you are making your application when you are overseas you can have your affidavit witnessed:

- At a New Zealand Embassy or High Commission. A list of these can be found at <http://mfat.govt.nz/About-the-Ministry/What-we-do/Services.php>
- By a person who is authorised to administer oaths by the law of the country you are in, such as a Notary Public.

The person acting as witness must state their authority to do so under their name and signature on the affidavit form.

When you are with the authorised person, you need to sign the affidavit in the space labelled 'Signature of deponent' on page 4. You then need to initial the bottom right corner of each of the other pages of the document and in the margin next to any hand-written alterations.

The authorised person will then administer the oath or affirmation.

The authorised person must also sign and initial the documents and then complete an exhibit note on the marriage or civil union certificate and separation agreement or Order (if you have one). The following is an example of an exhibit note:

**This is the annexure marked “ ” referred to in the affidavit of**  
(your full name) **sworn/affirmed at** (place) **this \_\_\_\_\_ day of**  
**\_\_\_\_\_ before me:**

\_\_\_\_\_  
**Deputy Registrar/Justice of the Peace/Solicitor**

You cannot make any changes to the affidavit once it has been sworn or affirmed.

**Please note**

You will need to provide the original plus a photocopy of this form to the court.

**Form G7 : Information sheet**

- Read the form and then complete it by writing or typing your details in.
- The original version of this form needs to be on yellow paper.
- You will need to provide the original plus two copies of this form to the court.

# Checklist

**Please complete this checklist to make sure that you have done everything you need to do before you file your application with the court.**

- You have been separated for at least two years
- At least one of you and your spouse or civil union partner is domiciled in New Zealand

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## **FP11 : Application by one party for Order dissolving marriage or civil union**

- You have selected option 1 (a) if you do not want to appear at court, or option 1 (b) if you do want to appear at court
- If you have selected option 1 (b) you have completed questions 2 to 7 of this form
- You have signed and dated this form
- You have made a photocopy of the form

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## **FP12 : Affidavit to accompany application by one party for Order dissolving marriage or civil union**

- If you have selected option 1 (a) on the FP11 form, you have fully completed this form
- This form has been sworn or affirmed before an authorised person
- The authorised person has completed an exhibit note on the marriage or civil union certificate, and any Separation Order or written separation agreement (if you have one)
- You have made a photocopy of the form and the attachments (the marriage or civil union certificate and any Separation Order or written separation agreement (if you have one))

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## **G7 : Information sheet to accompany certain applications**

- You have fully completed the form
- One copy of the form is on yellow paper
- You have made two photocopies of the form

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## **Other**

- You have a certified copy of your marriage or civil union certificate (attached to the FP12 form if you are completing that form)
- If your marriage or civil union certificate is not in English, you have obtained a certified translation
- You have a copy of any Separation Order or written separation agreement (attached to the FP12 form if you are completing that form)
- You have organised the filing fee

Form FP 11

**Application by one party for order dissolving marriage or civil union**  
*Section 37, Family Proceedings Act 1980*

In the Family Court

FAM No: .....

at .....  
[place]

.....  
[full name]

.....  
[address]

.....  
[occupation]

Applicant

.....  
[full name]

.....  
[address]

.....  
[occupation]

Respondent(s)

*[Set out full description of document (including whether it is made with or without notice), its date, the Act under which the document is filed, and, in the case of an affidavit or affirmation, the name of the deponent in whose support it is filed.]*

<p>Application by One Party for Order Dissolving Marriage or Civil Union (Family Proceedings Act 1980) made by</p> <p>..... [name]</p> <p>dated.....</p>
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This document is filed by

*[name and address for service, and, if filed by lawyers, the name and telephone number of the acting lawyer.]*

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I, .....  
[full name]

apply for an order dissolving the marriage *or* civil union between my spouse (*or* partner) and me.

This application is made on the ground that the marriage *or* civil union has broken down irreconcilably.

I say:

[select the option that applies]

1. (a) I consent to the order dissolving the marriage *or* civil union being made in my absence.

*[If you choose option (a), you do not have to complete paragraphs 2 to 7 of this application, but you must file an affidavit in form FP 12 with this application.]*

*or*

1. (b) I do not consent to the order dissolving the marriage *or* civil union being made in my absence.

[select the option that applies]

2. I am domiciled in New Zealand.

*or*

2. My spouse (*or* partner) is domiciled in New Zealand.

*or*

2. My spouse (*or* partner) and I are both domiciled in New Zealand.

3. My spouse (*or* partner) and I are living apart.

4. We will, at the filing of this application, have been living apart for the period of 2 years immediately preceding the filing of this application.

5. We ceased living together on ..... [date]

[select and complete the option that applies]

6. A separation order was made on ..... [date]

*or*

6. A written separation agreement was made on ..... [date]

*or*

6. We made an oral agreement to separate on ..... [date]

*or*

6. No separation order was made and we did not agree to separate.

*[select and complete the option that applies]*

7. There are no children of the marriage *or* civil union.

*or*

7. If an order dissolving the marriage *or* civil union is made, I propose to make the following arrangements for the Day-to-day care and contact, maintenance, and welfare of the children of the marriage or civil union:

Day-to-day care and contact:

*[give details]*

Maintenance:

*[give details]*

Other aspects of welfare, such as schooling or any special needs:

*[give details]*

*or*

- 7. It is impracticable for me to make any arrangements for the day-to-day care, maintenance, and welfare of the children of the marriage *or* civil union because

*[give reasons]*

.....  
Signature of applicant

.....  
Date

**Date of hearing**

I appoint ..... *[date]* at ..... *[time]*  
at the Family Court at ..... *[place]*  
for the hearing of this application.

**Registrar's list of section 37 applications**

I have entered this application on the Registrar's list of section 37 applications. I will make an order dissolving the marriage or civil union

on ..... *[date]* if the requirements of the Family Proceedings Act 1980 and these rules are satisfied on that date.

.....  
Registrar

.....  
Date

## Notes

### *Information sheet*

A duly completed information sheet (form G 7) must accompany this application.

### *Consent to order being made in absence*

If you consent to the order being made in your absence (see paragraph 1), you must file an affidavit in form FP 12 with your application. Your application is then entered on the Registrar's list of section 37 applications. This allows the Registrar to make an order dissolving the marriage *or* civil union, if the requirements of the Family Proceedings Act 1980 and these rules are satisfied, without your having to appear before the Family Court.

### *Documents to be lodged*

If you do not consent to the order being made in your absence (see paragraph 1), you must, at the time of filing this application, lodge in the office of the Court, unless the Registrar otherwise directs,—

- (a) the original or a certified copy of your marriage *or* civil union certificate; and
- (b) a copy of any separation order or separation agreement to be used as evidence of living apart.

### *When order takes effect as final order*

If an order dissolving a marriage *or* civil union is made by the Family Court in undefended proceedings, it takes effect as a final order on being made.

If an order dissolving a marriage (*or* civil union) is made by the Family Court in defended proceedings, it takes effect as a final order at the expiration of 1 month from the date on which it is made.

However, one party may appeal to the High Court against the making of the order. If that happens, the order does not take effect while the appeal is pending. If, before the expiration of 1 month from the date on which the order is made, the appeal is withdrawn, abandoned, or dismissed, or the order is confirmed by the High Court, the order takes effect as a final order at the expiration of 1 month from the date on which it is made. If, after the expiration of 1 month from the date on which the order is made, the appeal is withdrawn, abandoned, or dismissed, or the order is confirmed by the High Court, the order takes effect as a final order on the withdrawal, abandonment, or dismissal of the appeal, or on the confirmation of the order of the High Court. If the order is set aside or quashed by the High Court, the order does not take effect as a final order.

If an order dissolving a marriage *or* civil union is made by the Family Court in defended proceedings and one party dies within 1 month of the order being made, the order does not take effect as a final order.

If an order dissolving a marriage *or* civil union is made by the Registrar, it takes effect as a final order at the expiration of 1 month from the date on which it is made.

However, if there is a change of circumstances between the time of the filing of the application and the date on which the order takes effect, either party may seek a hearing at any time before the order takes effect as a final order. If that happens, the order does not take effect as a final order.



Form FP 12

**Affidavit to accompany application by one party  
for order dissolving marriage or civil union**  
*Section 38(2)(d), Family Proceedings Act 1980*

In the Family Court

FAM No: .....

at .....  
*[place]*

.....  
*[full name]*

.....  
*[address]*

.....  
*[occupation]*

Applicant

.....  
*[full name]*

.....  
*[address]*

.....  
*[occupation]*

Respondent(s)

*[Set out full description of document (including whether it is made with or without notice), its date, the Act under which the document is filed, and, in the case of an affidavit or affirmation, the name of the deponent in whose support it is filed.]*

Affidavit of

..... *[name]*

in support of Application by One Party for Order Dissolving Marriage or Civil Union

(Family Proceedings Act 1980)

dated.....

This document is filed by

*[name and address for service, and, if filed by lawyers, the name and telephone number of the acting lawyer.]*

Empty rectangular box for signature and contact information.

I, .....  
[full name]

of .....  
[address]

.....  
[occupation]

**swear (or affirm)** that:

1. I am the applicant for an order dissolving a marriage *or* civil union.

[select the option that applies]

2. I am domiciled in New Zealand.

*or*

2. My spouse (*or* partner) is domiciled in New Zealand.

*or*

2. My spouse (*or* partner) and I are both domiciled in New Zealand.

3. My spouse (*or* partner) and I were married or entered into a civil union on

.....  
[date]

at .....  
[place]

.....  
[name of city or town, etc]

4. A copy of our marriage *or* civil union certificate is annexed to this affidavit and marked with the letter A.

5. We are living apart.

6. We will, at the filing of the application, have been living apart for the period of 2 years immediately preceding the filing of this application.

7. We ceased living together on ..... [date]

*[select and complete the option that applies]*

8. (a) A separation order was made on ..... *[date]*  
(b) A copy of the separation order is annexed to this affidavit and marked with the letter B.

*or*

8. (a) A written separation agreement was made on  
..... *[date]*  
(b) A copy of the written separation agreement is annexed to this affidavit and marked with the letter B.

*or*

8. We made an oral agreement to separate on ..... *[date]*

*or*

8. No separation order was made and we did not agree to separate.

9. Our marriage *or* civil union has broken down irreconcilably.

**[Note: Select and complete paragraphs 10 and 11 below if there are children of the marriage *or* civil union]**

10. Satisfactory arrangements, or arrangements that are the best that can be devised in the circumstances, have been made for the Day-to-day care and contact, maintenance, and other aspects of the welfare of every child of the marriage *or* civil union. The arrangements relate to every child who is under 16 years. They also relate to every child who is 16 years or over and, because of special circumstances, requires arrangements to be made.

11. The arrangements referred to in paragraph 10 of this affidavit are as follows:

Day-to-day care and contact:

*[give details]*

Maintenance:

*[give details]*

Other aspects of welfare, such as schooling or any special needs

*[give details]*

.....  
Signature of deponent

**Sworn (or Affirmed)**

at ..... *[place]* ..... *[date]*  
before me:

.....  
Deputy Registrar  
(or Justice of the Peace  
or Solicitor of the High Court)

## Notes

### *Living apart*

Section 40 of the Family Proceedings Act 1980 allows you to say that you have lived apart for 2 years even if you have come together as spouses, *or* as civil union partners, for some periods within that 2 years. This section applies if you have come together as husband and wife, *or* as civil union partners, for up to 3 months in total and if your purpose in coming together was to try to resume your marriage *or* civil union.

### *Documents*

When you have completed this affidavit, these are the documents you must file:

- an application by one party for an order dissolving a marriage *or* civil union (form FP 11)
- an information sheet (form G 7)
- this affidavit (form FP 12)
- your marriage or civil union certificate (the original or a certified copy), annexed to this affidavit and marked with the letter A.
- your separation order, if any, annexed to this affidavit and marked with the letter B.

*or*

- your written separation agreement, if any, annexed to this affidavit and marked with letter B.

**Information Sheet to accompany certain applications**  
(including certain applications made without notice)

In the Family Court At \_\_\_\_\_ FAM- \_\_\_\_\_

This information sheet accompanies applications for the following order(s):

1. \_\_\_\_\_ 2. \_\_\_\_\_

Applicant's Full Name								
* Home Address						Post Code:		
* Work Address					*Email Address			
* Contact Phone No	Home:			Work:			Mobile:	
Date of Birth		Age		Gender		Occupation		
Ethnic Origin	New Zealand European <input type="checkbox"/> Maori <input type="checkbox"/> Samoan <input type="checkbox"/> Cook Island Maori <input type="checkbox"/> Tongan <input type="checkbox"/> Niuean <input type="checkbox"/> Chinese <input type="checkbox"/> Indian <input type="checkbox"/> Other <input type="checkbox"/> (Dutch, Japanese, Tokelauan, etc) Please state:							
* Country of Residence			Interpreter required Yes/No	Language				

\* The applicant may delete these items from copies to be served

Full name of other party								
Relationship to Applicant								
Home Address						Post Code:		
Work Address					Email Address			
Contact Phone No	Home:			Work:			Mobile:	
Date of Birth		Age		Gender		Occupation		
Ethnic Origin	New Zealand European <input type="checkbox"/> Maori <input type="checkbox"/> Samoan <input type="checkbox"/> Cook Island Maori <input type="checkbox"/> Tongan <input type="checkbox"/> Niuean <input type="checkbox"/> Chinese <input type="checkbox"/> Indian <input type="checkbox"/> Other <input type="checkbox"/> (Dutch, Japanese, Tokelauan, etc) Please state:							
Country of Residence			Interpreter required Yes/No	Language				
Date of marriage or civil union			Place of marriage or civil union					
Date by which de facto relationship had begun								

**Children Affected by the Application:**

Full name of each child	Age	Date of Birth	M/F	Name of person with whom each child is living at the time of application, and the relationship (if any) of that person to the child	Relationship of Applicant to child	Relationship of Respondent to child	Ethnic Origin (please choose one from list above)

Previous applications: \_\_\_\_\_ DATE STAMP  
(Give the file number of any previous applications between the parties, and the Court where they were filed)

The accompanying applications are filed by \_\_\_\_\_ Whose address for service is at \_\_\_\_\_  
\_\_\_\_\_ Email Address \_\_\_\_\_

# Glossary of terms

**Address for service** – an address in New Zealand where documents relating to a court proceeding can be delivered and served on someone who is involved in the proceeding.

**Affidavit** – a written statement sworn or affirmed before someone who has the legal authority to administer oaths and affirmations, such as a registrar of a court, a lawyer or a Justice of the Peace (JP).

**Affirmation** – a promise that something is right or true made by someone without any religious beliefs. An affirmation has the same status as an oath.

**Applicant** – a person who makes an application to the court.

**Application** – a formal request to a court for an Order, direction or decision.

**Court Registry Officer** – a person in the Family Court who is responsible for managing individual cases.

**Certified copy** – a copy of a document signed and certified as true by someone who has the legal authority to do so, such as a registrar of a court, a lawyer or a Justice of the Peace (JP).

**Contact** – this is when a child spends time with a parent or other person who does not have day-to-day care of the child. Contact used to be called “access”.

**Day-to-day care** – this means having a child living with you on a daily basis, and being responsible for everyday things, like making sure they are safe, that they get to school, and that they’re warm and properly fed. Day-to-day care used to be called “custody”.

**Defend** – to respond to, or oppose an application.

**Defended hearing** – a court hearing of an application that is opposed by another party. The parties to the proceedings present their evidence and argue their case. The judge then makes a decision.

**Deponent** – a person who makes an affidavit.

**Dissolution Order** – the formal Court Order that ends a marriage or civil union. This is often referred to as divorce.

**Evidence** – information provided by a party to establish facts to support their case. This is usually provided in the form of an affidavit.

**Exhibit** – an item, such as a marriage or civil union certificate, that is used as evidence in proceedings. Often exhibits will be attached to affidavits.

**Family Court** – a division of the District Court. It was established under the Family Courts Act 1980 as a place where people living in New Zealand could get help with family problems.

**Family Court office** – a public area at the Family Court where people can obtain information about the court process and where parties file documents in relation to their case. Also known as the Family Court registry.

**Filing** – the lodging of an application or other document at a court. This can be done in person or by mail.

**Hearing** – the consideration of an application by a court, usually by a judge.

**Justice of the Peace (JP)** – A person appointed by the Governor-General, who can witness signatures on documents, take oaths and affirmations and issue warrants.

**Maintenance** – the provision of money, property and services.

**Oath** – a sworn statement made in front of a person who is an authorised witness, such as a judge, registrar, lawyer or Justice of the Peace, that something is true or right. An oath is based on the religious beliefs of the person making it.

**Party** – a person who is an applicant or respondent in any proceedings.

**Proceedings** – an application, or applications being considered by a court. The filing of an application commences a proceeding.

**Registrar** – an officer of the court who is responsible for keeping records relating to proceedings in the court, and who also exercises some judicial powers.

**Relationship Property** – this includes the family home, car, household furniture and appliances (even if one person owned this property before the relationship), and all property acquired by either spouse or civil union partner during the relationship.

**Respondent** – the person against whom an application is made.

**Rule** – a law about procedure, such as how a document must be served. Most rules about Family Court proceedings are found in the Family Courts Rules 2002.

**Separation Agreement** – this is an agreement that covers issues such as day-to-day care of and contact with children, division of any property, and records the date of separation. If the agreement covers division of property, a lawyer must certify that each spouse or civil union partner has received independent legal advice.

**Separation Order** – a formal Court Order which means that you have no obligation to live with your spouse or civil union partner.

**Service** (of documents) – the formal delivery of a document, such as an application, to a person who will be affected by it. There are rules about how particular documents must be served.

**Spouse** – a person’s wife or husband.

**Substituted Service** – a Court Order that changes the way that a document is required to be served.



MINISTRY OF  
**JUSTICE**  
*Tabu o te Ture*

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