

# Singapore Divorce Process



Our lawyers can help you to understand your legal rights and responsibilities, explaining how the law applies to you so that you are fully equipped in progressing your case.

 **GLORIA  
JAMES-CIVETTA & CO**  
ADVOCATES & SOLICITORS



# The Divorce Process

# 1

## Am I Eligible to apply for a Divorce?

- **Length of Marriage**
  - Have you been married for more than 3 years?
  - If no, you will not be eligible for a divorce unless you make a special application to the court for its permission to commence divorce proceedings
- **Habitual Residence or Domicile**
  - If you are not Singaporean, you must have lived in Singapore for at least 3 years
  - If you are not habitually resident in Singapore and wish to file for Divorce before the 3 year bar, you need to show the intention to be domiciled in Singapore indefinitely

# 2

## What are the Grounds for Divorce?

- Adultery
- Unreasonable behavior
- Desertion (i.e. abandonment) for at least 2 years
- Separation for at least 3 years (with consent of both parties)
- Separation for at least 4 years (mutual consent not necessary)

# 3

## The Divorce Process

- **Part 1: the Divorce**
  - The court will address the issue of the grounds of the divorce itself
  - We will prepare the papers needed for you to start the divorce process
  - We will require your IC, marriage certificate and birth certificates of your children
- **Part 2: the Ancillaries**
  - The court will address issues such as custody, care and control of the children, division of matrimonial assets and maintenance

# 4

## The Divorce

- When the ground of the divorce has been approved, an Interim Judgment will be granted. When all the ancillary matters have been settled, the Final Judgment Order can be extracted
- Your divorce becomes final

## What are Matrimonial Assets?

Under the law, matrimonial assets include all property acquired during marriage. Generally, properties acquired prior to marriage are not matrimonial assets, unless they are ordinarily used by the family or substantially improved by one or both parties.

Similarly, assets acquired by way of 'gifts' or 'inheritance' are not matrimonial assets, unless they explicitly refer to the 'matrimonial home', or are assets that have been substantially improved by one or both parties.

Common examples of assets which may be put up for division include businesses, insurance, shares, car, savings, CPF balances and jewelry.



## Division of Matrimonial Assets

The court has the power to order the division of matrimonial assets in a 'just and equitable manner'. Some factors that the court will consider in arriving at a just and equitable division include:

### 1 Extent of Contribution

The Court will consider the extent of the contributions made by each party, and whether the contribution is financial (direct contributions) or non-financial (indirect contributions)\*.

#### \*Indirect contributions include:

- Maintaining the shared property (by cleaning or repairing, etc.);
- The extent of the contributions made by the parties to the welfare of the family, including taking care of the household or caring for the family or any aged or infirmed relative or dependent of either party, as decided in case law; and
- Giving of assistance or support which aids the other party in the carrying on of his or her occupation or business.

### 2 The needs of the Children of the Marriage

The Court will take into account the needs and welfare of the children of the marriage, and to whom the care and control of the children have been given.

### 3 Agreements between the Parties prior to Divorce

The Court will also take into consideration agreements made between the parties prior to the divorce. One example of such an agreement includes pre-nuptial agreements.

### 4 Financial independence of Parties after Divorce

The Court will take into consideration the working abilities and earning capacity of the parties in dividing the matrimonial assets.

### 5 Debts undertaken by Parties

Debts undertaken by parties towards the joint benefit of both parties, or for the benefit of any child of the marriage, would be also considered by the Court in division of the matrimonial assets.

Once made, maintenance orders may be varied under limited circumstances - for instance, if there is a substantial change in the health or earning capacity of the parent contributing to the maintenance.

### 6 Other considerations

- Financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- Standard of living enjoyed by the family before the breakdown of the marriage;
- Age of each party to the marriage and the duration of the marriage;
- Any physical or mental disability of either of the parties;
- Age of each party to the marriage and the duration of the marriage; and
- The value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage that party will lose the chance of acquiring.

## Spousal Maintenance

The court may order a husband to pay maintenance to his wife/ex-wife either during the granting, or subsequent to the grant, of a judgment of divorce, judicial separation or nullity of marriage. There is no need to file for a divorce before applying for the maintenance.

The court has the discretion to decide on the amount of maintenance required to be paid to the wife/ex-wife, taking into account all the facts of the case.

**Below is a list of factors that the court will consider. These include:**

- The salary and earning capacity of each party - in the past, present and future.
- The financial needs and obligations of each party, including future obligations.
- The standard of living of each party prior to marriage breakdown.
- The age of both parties and the length of time that they were married.
- Any direct and indirect contributions made by each party to the household.
- Any losses suffered by each party as a result of their marriage.

### How is maintenance paid?

Maintenance can be paid in either a lump sum, or in periodic payments.



## Child Maintenance

In Singapore, children are entitled to financial support from their biological parents until the age of 21. However, maintenance orders may be extended for children above the age of 21 under certain circumstances - for example, if they are pursuing their tertiary education or undergoing national service. Courts generally arrive at a final maintenance order after taking into account a child's education, financial and other living expenses.

### Who needs to contribute to Child Maintenance?

Under the law, it is the duty of both parents to maintain or contribute to the maintenance of his or her children, regardless of whether they are legitimate or illegitimate children.

If it is proven that a parent has refused to provide reasonable maintenance for a child who is unable to maintain himself or herself, a court may order that the parent pay a monthly payment or one-time lump sum for the maintenance of the child.

## Child Custody, Care & Control and Access

The principle guiding the Court in making decisions relating to custody, care and control and access is the welfare or best interests of the child.

**What is Custody?** Custody refers to the parent who has legal decision-making authority over the major decisions of the child's life such as education, health and religion. Generally, the court would grant no custody order or a joint custody order. Sole custody is given in exceptional circumstances.

**What is Care and Control?** Care and control refers to which parent the child lives with on a day-to-day basis. The court can grant sole or shared care and control. Some factors that the court will consider in making the order are: continuity of child's life, age of the child and independent wishes of the child if the child is at the age of awareness.



**What is Access?** Access refers to the periods during which the parent who does not have care and control of the child is granted time to spend with the child. Generally, the court will order liberal or reasonable access, keeping in mind that both parents should be equally involved in the child's life. There can also be supervised access.

### - Accreditation -



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