



About (judicial) separation decrees/orders

What is a (judicial) separation decree/order?

A (judicial) separation decree/order confirms that the parties to a marriage or civil partnership are separated.

Following a (judicial) separation decree/order the couple remain married/in a civil partnership. For more information on orders which end a marriage/civil partnership please see leaflet **D183 – About divorce/dissolution** and **D191 – About annulment**.

Why do some people decide to have a (judicial) separation decree/order rather than a divorce/dissolution or annulment?

A (judicial) separation tends to be applied for due to religious, moral or ethical grounds or due to the fact they can be applied for in the first year of marriage/civil partnership.

Do I have to apply for a (judicial) separation decree/order when I separate from my spouse/civil partner?

A (judicial) separation is not compulsory. You can decide to separate and not apply for any decree/order to be made and remain married/in a civil partnership, or you can separate and then apply for a divorce/dissolution or annulment as appropriate.

When can I get a (judicial) separation decree/order?

You can apply for a (judicial) separation decree/order at any time after the marriage/civil partnership, including within the first year.

How do I apply for a (judicial) separation decree/order?

By filling in form D8 divorce/dissolution/ (judicial) separation petition and sending it to your nearest court that deals with divorce/civil partnership matters.

You can find the full list of courts, and information about what type of work they do, online at courtribunalfinder.service.gov.uk

Must I explain why I want a (judicial) separation decree/order?

Yes. The court will accept one or more of the following 'facts' in support of your application:

- that your spouse has committed adultery, with a person of the opposite sex and that you find it intolerable to live with him or her (marriage only)
- that your spouse/civil partner's behaviour has been so bad that you can no longer bear to live with them
- that your spouse/civil partner deserted you at least two years ago
- that you and your spouse/civil partner have lived apart for at least two years and he or she agrees to a (judicial) separation or divorce/dissolution, or
- that you and your spouse/civil partner have lived apart for at least five years.

Do I have to live in this country to get a (judicial) separation decree/order here?

You and your spouse/civil partner must both have your permanent homes ('domicile') in England or Wales when the application is started, or

You and your spouse must both be living in England or Wales when the petition is started, or

You and your spouse/civil partner must both have had your last home in England or Wales and one of you must still be living in either of these countries when the application is started, or

Your spouse/civil partner must be living in England or Wales when the application is started, or

You must have been living in England or Wales for at least a year on the day the application is started, or

You must have your permanent home in England or Wales and have been living in either of these countries for at least six months on the day the application is started.

You may also get an annulment in England and Wales in other specific circumstances. You should contact a solicitor, law centre or Citizens Advice Bureau if you need help deciding which statement applies to you.

Will I need a solicitor?

Probably not. But you will find it useful to have some legal advice before starting your application if:

- you do not know whether you have grounds for a (judicial) separation decree/order
- your spouse/civil partner is not likely to agree to a (judicial) separation decree/order
- you have not agreed about any financial support for the children or yourself, or about any property.

The court will give you the forms you need and tell you what to do next. The forms are free. If you do need help filling in the forms a Citizens Advice Bureau will help.

Court staff cannot give legal advice or answer questions like:

- Should I claim financial support?
- Do I have proper reasons for a (judicial) separation decree/order?
- What will happen to the house I own with my spouse/civil partner?

Will I have to attend a court hearing?

If you and your spouse/civil partner both consent to the (judicial) separation decree/order and there is no dispute over any children or finances, it is likely that you will not need to attend a court hearing.

If you cannot agree with your spouse/civil partner about the arrangements for any children, you can apply to a family court for an order under the Children's Act 1989. Leaflet **CB7 – Guide for separated parents: children and the family courts** provides further information.

You can get a copy from any family court office or from our website hmctsformfinder.justice.gov.uk

Can I apply for a financial order as part of (judicial) separation proceedings?

Yes. You can apply for a financial order as part of a (judicial) separation application. The application process is the same as the processes use in divorce/dissolution.

Please see leaflet **D190 – I want to apply for a financial order**.

How much will the (judicial) separation decree/order cost?

You may have to pay a fee for the following:

- when you submit your petition to the court
- if you submit any applications for financial support or about any children in the marriage/civil partnership.

For more information about fees, please refer to booklet **EX50 – Civil and Family Court Fees**. This lists the most common family fees. You can get a copy from any family court office or from our website hmctsformfinder.justice.gov.uk

Methods of payment

Courts accept payment by debit or credit cards, cash, postal orders or cheques, which should be made payable to 'HM Courts & Tribunals Service'. If you pay by cheque and it bounces, the court will take steps to recover the money. If you do not pay a court fee your case may be stayed (suspended) or even struck out. If your case is struck out it will be permanently removed from the court and you would need to apply again.

What if I cannot afford to pay a court fee?

If you cannot afford to pay a court fee, you may be eligible for a fee remission in full or in part. The booklet **EX160A – Court and Tribunal fees – Do I have to pay them?** gives all the information you need. You can get a copy from any family court office or from our website hmctsformfinder.justice.gov.uk

Will I need a copy of my marriage/civil partnership certificate?

Yes. You will have to give a copy to the court when you start your application. It will be kept on the court file. The copy must not be a photocopy.

Where can I get a copy of my marriage/civil partnership certificate if I do not have one?

If you were married/entered into a civil partnership in England or Wales, you can get a copy from:

- the office of the Registrar of Births, Deaths, Marriages and Civil Partnerships for the district in which you were married/entered into a civil partnership. You will have to pay a fee, and they will tell you how much it is.

- You can also get a copy from:

Certificate Services Section
The General Register Office
PO Box 2
Southport
PR8 2JD

You cannot order in person at the General Register Office. You can apply for certificates online at www.gro.gov.uk/gro/content/certificates/, or by phone 0300 123 1837, lines are open Monday to Friday 8am to 8pm and Saturday 9am to 4pm. Alternatively, you can apply by post to the above address.

There will be a charge for your copy certificate. The office will tell you how much it is.

The office you go to will want to know:

- the date and place of your marriage/civil partnership
- your full name, and
- the full name of your spouse/civil partner.

Can I apply for a divorce after the (judicial) separation decree/order?

Yes you can. If it is based on the same or very similar reasons you may not need to provide the evidence again. However, you should check with a solicitor at the time of making the application.

Most of the procedures involved in (judicial) separation order proceedings are the same as the ones involved in divorce/dissolution.

If you decide to go ahead and start an application, read leaflet **D184 – I want to get a divorce/dissolution – what do I do?**

If you have children you should also read leaflet **CB7 – Guide for separated parents; children and the family courts.**