

DIVORCE CHECKLIST

Divorce Petition

- Names on the divorce petition must match those on the marriage certificate exactly – all middle names to be stated in full
- Paragraph 1: Names of parties to be stated in full. The place and date of the marriage must be inserted and must be exactly as stated on the marriage certificate.
- A petition for divorce cannot be filed within 3 years of the date of the parties' marriage unless leave is granted by the court. Leave can only be granted on the ground of exceptional hardship or exceptional depravity of the respondent. Application for leave must be made on a separate application and must be supported by an affidavit setting out full details of the exceptional hardship etc (additional fee of \$100 plus \$15 per affidavit). Until leave is granted by the court any divorce petition lodged with the court will not be issued and will be returned to the petitioner un-filed.
- Paragraph 2: Place where the parties last cohabited must be inserted.
- Paragraph 3: Domicile and period of residency in Turks and Caicos Islands must be inserted for both parties.
- Paragraph 4: Occupations and current full addresses (not just the island) for both parties to be inserted.
- Paragraph 5: The names of all children of the family (including children of both parties, other children treated by the parties as children of the family, adopted children) as well as the dates of birth of each child to be inserted – includes children over 18 years of age.
- Paragraph 6: Names and dates of birth of other children born to the parties during the marriage who are not children of the family – includes children conceived after the parties' separation, children of adulterous relationships.

- Full details of all previous proceedings in the Turks and Caicos Islands to be inserted including previous divorce proceedings, adoption proceedings, maintenance, custody and access proceedings in the Magistrates' Court etc. Details which must be inserted include the name of the court, the case number, details of orders made, dates etc.
- Paragraph 8: Please insert details of all foreign proceedings in relation to the parties including any overseas divorce, child or financial proceedings.
- Paragraph 9: Must state that the petition is not prosecuted in collusion or connivance with the Respondent.
- Paragraph 10: The petition must state that the marriage has broken down irretrievably.
- Paragraph 11: There must be a ground for divorce inserted in the petition which must be one of the following:
 - (a) The Respondent has committed adultery
 - (b) The Respondent has deserted the Petitioner without cause for a period of at least 3 years immediately prior to the presentation of the petition
 - (c) The Respondent has treated the Petitioner with cruelty
 - (d) The Respondent is incurably of unsound mind and has been continuously under care and treatment for at least 5 years
- Paragraph 12: Full particulars and details must be given in support of the ground for divorce as follows:
 - (a) Adultery cases: Details of when and where the adultery was committed, the name of the other person involved, details of children born of adulterous relationship, and details of any cohabitation of the parties after the adultery was discovered.
 - (b) Desertion cases: Must include details of the date and circumstances of the desertion.
 - (c) Cruelty cases: Full details of all allegations of cruelty to include details of the most serious incidents of cruelty (giving dates and circumstances)
- Prayer: The petition must include a prayer for the marriage to be dissolved. If the petitioner wishes to make a claim for the respondent to pay the costs of the divorce (court and service fees etc.), a claim for custody/access or a financial claim (maintenance, lump sums etc.) any such claims MUST be included in the prayer.

Affidavit in support: Required in all cases

- Name and address of the petitioner to be included on the affidavit
- Must be signed by the petitioner
- Must be dated
- Must be signed by the Justice of Peace/Commissioner for Oaths
- Must confirm that the contents of the divorce petition are true.
- Must exhibit copies of the marriage certificate of the parties and the birth certificates of all the children. The exhibits (copy certificates) must be marked (as referred to in the affidavit) and the exhibits should be signed and dated by the Justice of the Peace/Commissioner for Oaths.

Statement of Arrangements for Children: Must be filed for every case where there are children of the family under 18 years of age

- Must be signed by the petitioner
- Must contain full details of the proposed future arrangements for custody/access, maintenance, education and religion for each of the children of the family.

Notice of Presentation of Petition

- The notice should include the name and full address of the respondent and the name and address of the petitioner should be inserted at the bottom. The time period in the first line of the notice should be left blank to be completed by the Registrar.
- If a Co-Respondent is named in the petition, a notice is required for service on the Co-Respondent to include the full name and address of the Co-Respondent.

Marriage and birth certificates

- The parties' original marriage certificate and the original birth certificates of the children of the family must be filed. If the certificate has the original seal and signature of the Registrar of Deeds that is acceptable. However, a photocopy of such a certificate is not acceptable even if it is certified as a true copy by a Justice of the Peace/Commissioner for Oaths.

Fees

- The fee payable for the filing of a divorce petition is \$100 plus an additional \$15 for each affidavit filed. Any petition received without the full petition and affidavit fee will not be filed and will be returned to the petitioner.
- Applications for leave to file a petition within 3 years of marriage, applications for financial provision, applications for substituted service and leave to dispense with service all attract a fee of \$100 plus \$15 for each affidavit in support. Documents only to be filed by the court following payment of the fees in full.

Request for Registrar's Certificate and Application to Set Down: Not to be filed until the matter is ready for a final divorce hearing – for example after service of the divorce proceedings on the respondent and co-respondent and after expiry of the time for service of a notice of appearance or Answer.

Copies

Three copies of the divorce petition, affidavit in support, and statement of arrangements should be filed at court. One copy will be retained by the court and two copies will be returned to the Petitioner who must make arrangements for one set of papers to be served on the respondent – the court bailiffs at the Magistrates' Court can arrange service for the payment of a fee. The papers should not be personally served on the respondent by the petitioner. In a case involving a co-respondent an extra set of the papers will need to be filed – the extra set will be returned to the petitioner to arrange service upon the co-respondent.

**IN THE SUPREME COURT
TURKS AND CAICOS ISLANDS
IN DIVORCE**

No. of Matter: D- /2009

BETWEEN:

PETITIONER

AND:

RESPONDENT

STATEMENT OF ARRANGEMENTS FOR

CUSTODY/ACCESS:

MAINTENANCE:

EDUCATION:

RELIGION:

Dated this day of 2009

PETITIONER