



Ministerial Professional Development Practice Note

Topic: Marriage Dissolution Checklist

Date: August 2023 (AFS)(AC)

Take your time. If you are in a busy Service Centre it is better make an appointment for another time than to rush through and make a mistake. For marriage, read civil union as well. When you perform a Dissolution, you may be dealing with both parties who are with you and signing at the same time, or you may be dealing with only one of the parties. The other party may have already filled out the information on the various forms and signed the affidavit, or your client may be completing the forms and will be the first to sign the affidavit and will be sending the documents to the other party subsequently for completion.

Preparation

Make sure you have all that is needed **BEFORE** you go to action.

- Does client have the original Marriage Certificate? If it is a NZ certificate, it must be the Marriage Certificate document and not the Particulars of Marriage. This is mandatory and you cannot proceed without it. To get a copy of a NZ Marriage certificate the client must apply to the Department of Internal Affairs.
- If the Marriage Certificate is in a language other than English it needs an authorised translation done by the Department of Internal Affairs or other person who cannot be a relative or friend of the applicant.
- There should be copies of both the Marriage Certificate and any translation for you to certify as it is not recommended to use the original documents even if client/s say they never want to see the original again. (Say what if I make a mistake I would hate to think you may have to buy a new certificate so the affidavit can be done again)
- The certified copy of the Marriage Certificate and any translation will become Exhibit A of the Affidavit (yes – there may be 2 Exhibits A). (These must be single sided)
- Is the client relying on an old certified copy certified by a different JP if so this will not work.
- Does client want to attach the separation agreement or order? The Separation Agreement is not mandatory but if it is included it will become Exhibit B of the Affidavit. It must be single sided.
- Have both the form FP 13 (or FP 11) and the Affidavit FP 14 (or FP 12) been completed?
- Is the form G7 filled in correctly (G7 tells you if there are dependants which has implications for the Affidavit)? The client may present this on white paper or yellow but if lodging on line they now prefer white paper.
- Do they have photo ID with their signature on (Identify your client)? Remember if they do not have photo ID you can take other steps to be reasonably confident of their identity.
- Are the clients/swearing or affirming? This choice is made by each client and they need not do it the same way. If swearing, which Holy Book are they using and have they brought it? You can use a Holy Book on a smartphone.
- Are there any other exhibits which will be attached?

Check that the details on the FP13 (or FP11) and FP 14 (or FP12) have been completed correctly and are consistent with the Marriage Certificate. You are looking for:

- names correctly spelled and including all middle names

- correct date of the marriage
- correct location of the marriage
- ceased living together at least two years+1 day ago before date the form is to be lodged(you need the date of Marriage to work that out)
- if there are dependants listed on the G7, the boxes for day to day care and contact, maintenance and any other aspects of welfare or special care need to be filled in on the Affidavit FP 14 (or FP 12). Is there a protection order in place if so client can note number, Court issued and date

If the FP13 and FP 14 have already been completed for one party and you are completing the Marriage dissolution forms for the second party, you must still check all the details. You must also check that all the usual steps have been taken including the initialling of the bottom right of the affidavit except the signature page, initialling of any alterations and that the witness to the affidavit has correctly identified themselves. **While you can do your share correctly if the previous person has not done so, the client will need to be advised that the other party's part will need to be done again.**

Process

If FP 13 and FP14 (or FP11 and FP12) and G7 are correct, move onto completion of the Affidavit (FP 14 or FP12). This involves correctly stamping the exhibits and completing the Jurat.

- Certify the copy of the Marriage certificate, in the usual way, date, signature, name and stamp (we use a copy in case of mistakes in which case, the original is available to be copied again).
- Attach Exhibit note A to the Marriage Certificate. If there are two parties present then only one exhibit note marked A (with both names on it) is required and if one is swearing and one is affirming leave that bit unaltered as the Judge will determine that from the Jurat.
- If the Marriage Certificate is in a foreign language, certify ALL PAGES of the authorised translation including any blank pages. Then attach Exhibit A stamp to the translation.
- Note that there could be up to 4 Exhibit A stamps on the documents – one each on the Marriage Certificate and one each on the translation for each party.
- Do not obliterate any text on the copy with your exhibit notes or certification. If need be, fold over a corner of the page and put the Exhibit note on the back.
- If the client intends to attach a Separation Agreement there is no need to certify it as a copy and you do not need to see an original, BUT it must be a single sided copy.
- Attach Exhibit note B to front page of Separation Agreement. If there are two parties present no need to attach a second exhibit note marked B.
- For multi page marriage certificates and translations you must certify each page including blank pages.
- For multi-page exhibits other than the Marriage Certificate, there is no need to note that its multi-page on the Exhibit not. DO NOT alter the exhibit in any way by such as numbering pages or as a JP initialling the bottom right corner of each page.
- DO NOT cross out one of civil union or marriage. Leave as is on both FP13 and FP14
- Check for alterations. All parties including the JP must initial each one. If the Affidavit is error strewn, you may want to see if they want to fill it in again.
- To complete the jurat, each client swears or affirms and then signs.
- Each client initials each page of the affidavit bottom right except signature page.
- You initial each page except signature page and then sign and complete location, date and your role (delete ROLES that do not apply).

The JP Manual 2020 states that if both parties are present then you only need one Exhibit Note for the Copy of the Marriage certificate. Just put the full name of each party on the Exhibit note and if

one swears and one affirms do not amend the Exhibit note to delete one or the other. Same applies to a Copy of a Separation Agreement or Order if both present.

On the first Exhibit note A you complete the full name of the first party (and if present full name of second party) if one party either they swore or affirmed delete as not applicable, sign, name and date and JP stamp. If both parties present and one swears and one affirms then leave both words and sign, name, date and JP stamp.

Should you be taking the affidavit for the second party then on second Exhibit note A you complete the full name of the second party and then whether they swore or affirmed, delete as not applicable, sign, name, date and JP stamp

If there is a Separation agreement then there will be one Exhibit note B if both present write full names, sworn or affirmed delete as not applicable or leave both if the applicants have exercised different choices, sign, name, date and JP stamp.

The Affidavit and the Exhibit notes MUST have the same dates

Other challenges

If the other party has completed the forms/affidavit at an earlier stage, and if you notice any mistakes made by them, their solicitor or the other JP then you need to advise the client that the other party's part will need to be redone. Give them a choice as to whether you proceed or not.

Is the completed application by the party not present dated within three months of the date you are seeing them? If its longer than three months then do not proceed. It will not be accepted by the Court.

Everything must be complete before the first client swears or affirms. If first client presents with only their details filled in, do not proceed until details of second person are filled in.

On page 2 of the Affidavit there is an option to swear or affirm, we have been assured there is no need to alter this as the Judge/Registrar will work it out from the signature page and the exhibit notes which must of course match who is affirming and who is swearing or if both are swearing/affirming unless both parties are present at the same time then no need to delete as applicable if they exercise different choices on affirming or swearing.

If there are two clients before you, then they each swear or affirm as individuals; that is separately (severally). They as individuals choose the option for them so you could have a joint application sworn by one party and affirmed by the other.

There must be a reasonable amount of information on day to day care and contact, maintenance and other aspects of welfare but it does not need to be an essay. Examples of acceptable answers are: "Shared care 50—50", "Mother has full-time care, father has weekend contact", "Father pays child support through IRD", "Mother pays maintenance of \$100/week", "No special needs of children", "Child has Downs syndrome and is currently being treated by Dr ABC" etc. If they wish to refer to a Protection Order or a court order for care then the Order Number should be included.

Only one party needs to be domiciled in New Zealand here but if the other party is overseas invite the client to consider a sole application as it may be easier than trying to get the other party to complete the Affidavit.

If it's a Joint Application then it is perfectly OK to have one party swear and one affirm. There are two signature boxes on the FP 14. The convention is the first person named on the form signs in the top deponent line and the second person named in the form signs in the second deponent line and the JP gets to sign twice, same date and same location for each of the parties.

Example of NZ Marriage Certificate

BDM 109

New Zealand Marriage Certificate

Particulars of Parties to Marriage

BRIDE

BRIDEGROOM

First/given name(s)
Surname/family name

(If different from above) First/given name(s) at birth
Surname/family name at birth

Age
Place of birth

Usual occupation, profession or job
Relationship status

Usual residential address

MOTHER: First or given name(s)
Surname or family name
Surname or family name at birth
(If different from above)

FATHER: First or given name(s)
Surname or family name
Surname or family name at birth
(If different from above)

Date of marriage

Place of marriage

Other information pursuant to sections
59, 60, 62 or 62D of the Births, Deaths,
Marriages, and Relationships
Registration Act 1995

Certified true copy of particulars recorded by a Registrar

Issued under the seal of the Registrar on

Registration Number



CAUTION - Any person who (1) falsifies any of the particulars on this certificate, or (2) uses it as true, knowing it to be false, is liable to prosecution under the Crimes Act 1961.