# divorce in Northern Ireland a guide

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The first of three family law guides

The end of a marriage is one of the hardest things anyone goes through. Understanding the process takes away some of the uncertainty. This guide explains who can divorce in Northern Ireland, on what grounds, in which court, how long it takes and what it costs, and gives an introduction to how money, property and pensions are divided. Two sister guides cover those subjects in detail: Money and property on divorce: ancillary relief, and Children and family breakdown.

## The law in brief

Divorce in Northern Ireland is governed by the Matrimonial Causes (Northern Ireland) Order 1978. There is one ground: that the marriage has broken down irretrievably. That must be proved by one of five facts, set out on page 2.

Northern Ireland has not adopted the "no-fault" divorce introduced in England and Wales in 2022. Unless you have been separated for at least two years, one spouse must still rely on the other's conduct.

No petition can be presented within the first two years of the marriage. In that period, a decree of judicial separation, or protective orders, may be available instead.

The same rules apply, with small differences, to the dissolution of a civil partnership.

## Why use a solicitor?

- Choosing the right fact and the right court, and drafting the petition so it does not inflame matters unnecessarily.
- Checking jurisdiction, especially where one spouse lives in the Republic or abroad.
- Arranging proper service, and dealing with a spouse who will not cooperate.
- Protecting your share of the home, savings and pensions before anything is sold or moved.
- Timing the decree absolute so you do not lose pension or inheritance rights.
- Making sure any agreement is turned into a binding court order.
- Keeping the children's interests at the centre throughout.

Your first steps

Gather your marriage certificate, and details of income, property, savings, debts and pensions for both of you. Do not move out, sell anything or sign anything about money until you have taken advice.

If you are at risk

Where there is violence or abuse, protection comes first. Non-molestation and occupation orders can be obtained urgently, sometimes the same day. Domestic abuse is also a criminal offence in Northern Ireland. Contact us or the police immediately.

### Judicial separation

Formally separates you without ending the marriage. It is useful within the first two years, or for religious or other reasons, and the court can still make financial orders.

### Nullity

Declares that a marriage was void from the start, or voidable, for example where it was never consummated or consent was not valid. Rare, but sometimes important.

### Civil partnerships

Dissolution follows almost identical rules, except that adultery is not available as a fact. Behaviour is used instead.

# Who can divorce in Northern Ireland, and the five facts

## Jurisdiction: can the court here hear your divorce?

It does not matter where you married. A Northern Ireland court can deal with your divorce if, on the day the petition is presented, any of the following applies:

| | Test |
|---|---|
| 1 | Both of you are habitually resident in Northern Ireland |
| 2 | Both of you were last habitually resident here, and one of you still is |
| 3 | The respondent is habitually resident here |
| 4 | The petitioner has been habitually resident here for at least a year immediately before |
| 5 | The petitioner is domiciled and has been habitually resident here for at least six months immediately before |
| 6 | Either of you is domiciled in Northern Ireland |

"Habitual residence" means where you normally live and have your settled life. "Domicile" means the country you regard as your permanent home.

One spouse in the Republic

If the other spouse lives in the Republic, the courts there may also have jurisdiction, but an Irish divorce requires two of the last three years living apart. Since Brexit there is no automatic rule about which court goes first. Where you start can affect how money is divided, so take advice before either of you issues proceedings.

### Divorces granted elsewhere

A divorce obtained in the Republic, England, Scotland or most other countries is usually recognised in Northern Ireland, provided it was validly obtained there. A financial claim may still be possible here after a foreign divorce in some cases.

A marriage that took place abroad can be dissolved here if the jurisdiction tests are met. You will need the original or a certified copy of the marriage certificate, with a translation if it is not in English.

## The five facts

| Fact | What must be shown |
|---|---|
| Adultery | The respondent committed adultery, and the petitioner finds it intolerable to live with them. Adultery is only sexual intercourse with a person of the opposite sex |
| Behaviour | The respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with them. This covers violence and domestic abuse, coercive or controlling conduct, and less dramatic behaviour such as neglect, cruelty or financial irresponsibility |
| Desertion | The respondent left without good reason and without consent, for at least two years |
| Two years' separation, with consent | You have lived apart for two years and the respondent consents in writing |
| Five years' separation | You have lived apart for five years. No consent is needed |

You can be "living apart" under the same roof if you lead completely separate lives. Short reconciliations of up to six months in total do not restart the clock.

A divorce cannot be blocked for ever

A spouse can delay a divorce by refusing consent or defending a behaviour petition. But after five years' separation, a divorce can be granted without their agreement. The only defence, that the divorce would cause grave financial or other hardship, very rarely succeeds. Sooner or later, a determined spouse will obtain a divorce.

Behaviour petitions are usually drafted in moderate terms, often agreed in advance, to reduce conflict. A petition is not the place to win arguments about money or children.

Only one spouse petitions. The other is the respondent. Being the respondent does not mean you are at fault, and it does not affect the division of money or the arrangements for children.

# Which court, the documents, service and the steps to a decree

## County Court or High Court?

A divorce petition can be issued in a divorce county court or in the Family Division of the High Court in Belfast. Most undefended divorces are dealt with in the county court.

| | County Court | High Court |
|---|---|---|
| Best for | Most undefended divorces and straightforward finances | Defended divorces, complex or high-value finances, businesses, farms, trusts, international issues |
| Cost | Generally lower | Higher, with senior counsel more often involved |
| Speed | Often quicker for simple cases | Better suited to long or technical hearings |
| Transfers | A case can move between courts if it becomes defended, complex or more valuable than expected | |

## The documents

- The petition, setting out the parties, the marriage, jurisdiction, the fact relied on and the orders sought, including a claim for ancillary relief to protect your position.
- The marriage certificate, original or certified copy.
- A statement of arrangements for children, where there are children under 16, or under 18 and still in education. It sets out where they will live, schooling, contact and support, and the other parent is invited to agree it.
- Written consent from the respondent in a two-year separation case.
- The court fee, unless you are exempt or on legal aid.

This is not a complete list. Other documents are often needed, including long form birth certificates for all children of the marriage, certified copies of any court orders relating to the marriage, and reports confirming any disability or special educational needs of a child of the marriage.

Where the respondent lives outside Northern Ireland, service must follow the rules of the country concerned, which can take longer. We arrange this through agents where necessary.

## From petition to decree absolute

### 1 Issue the petition

The documents are lodged with the court and the fee paid.

### 2 Service

The petition is sent to the respondent, usually by post with an acknowledgment of service form. If they do not return it, personal service by a process server, or service through a solicitor, is arranged. If the respondent cannot be found, the court can allow another method or dispense with service.

### 3 Acknowledgment

The respondent says whether they intend to defend. Most do not.

### 4 Undefended hearing

A short hearing at which the court considers the evidence. The petitioner may need to give brief evidence.

### 5 Decree nisi

A provisional decree. You are still married.

### 6 Decree absolute

Can be applied for six weeks after the decree nisi. Only then is the marriage ended.

**How long does it take?**

Timescales vary considerably and are largely outside our control. At present the Matrimonial Office of the High Court is taking several months to process applications and issue decrees. A defended divorce, a missing respondent or a dispute about jurisdiction can add many months more, and financial and children's matters run on their own timetable alongside. We will give you a realistic view for your case and keep you informed.

**Defended divorces**

A respondent who disputes the petition files an answer, and the case is heard in the High Court with evidence from both sides. Defended divorces are now uncommon, slow and expensive, and are rarely in either party's interest. Often a petition can be amended, or a different fact relied on, to avoid one.

# Ancillary relief: how assets are divided on divorce

The divorce ends the marriage. It does not, on its own, divide the money. That is done through ancillary relief, the court's power to make financial orders on divorce, by agreement or after a contested hearing. This page is an introduction. Our sister guide, Money and property on divorce: ancillary relief, explains the process and the court's approach in detail.

## What the court considers

Under Article 27 of the 1978 Order, the court must have regard to all the circumstances, giving first consideration to the welfare of any child under 18. It looks in particular at:

- each party's income, earning capacity, property and other resources, now and in the foreseeable future;
- each party's financial needs, obligations and responsibilities;
- the standard of living during the marriage;
- the ages of the parties and the length of the marriage;
- any disability;
- the contributions each has made, including looking after the home and family;
- conduct, but only where it would be inequitable to disregard it, which is rare;
- the value of any benefit, such as a pension, lost by the divorce.

Fairness, not fault

The aim is a fair result in all the circumstances. Courts here follow the House of Lords in White v White: there is no presumption of equal division, but equality is the yardstick against which any departure must be justified. Fairness looks at needs, at sharing the fruits of the marriage, and sometimes at compensation. Who caused the breakdown almost never affects the money.

### Help while the case goes on

Before the final order, the court can order maintenance pending suit: interim payments to meet a spouse's reasonable needs. It can also make orders to preserve the home or prevent assets being dissipated. Interim help can be sought early where one spouse controls the family finances.

## The orders the court can make

| Order | What it does |
|---|---|
| Maintenance | Regular payments for a spouse; child maintenance is usually dealt with by the Child Maintenance Service |
| Lump sum | A one-off payment, or payments by instalments |
| Property adjustment | Transfer or sale of the home or other property, or deferred sale until the children are older |
| Pension sharing | Splits a pension, giving the other spouse their own pension fund |
| Pension attachment | Part of a pension or lump sum paid to the other spouse when it comes into payment |
| Clean break | Ends all future financial claims between you |

### Pensions matter

Pensions are often the second-largest asset, and sometimes the largest. They must be valued properly, often with an actuary's report, and can be shared, offset against other assets, or attached.

### Protecting the assets

If a spouse tries to sell, give away or hide assets to defeat your claim, the court can prevent the transaction by injunction, or set it aside afterwards as a reviewable disposition. Matrimonial home rights can be registered against the family home to protect your right to live there.

Do not rush the decree absolute

On decree absolute you stop being a spouse. You can lose widow's or widower's pension rights, and your rights under your spouse's will or on intestacy. It is usually wise to wait until the financial order is made, or at least agreed, before applying.

# What divorce costs, who pays, and why each side usually bears its own

## The divorce itself

An undefended divorce, with no disputes about money or children, is relatively modest in cost. The court fee and our fees are confirmed at the outset in our terms of business.

- In an adultery or behaviour petition, the petitioner can ask the court to order the respondent to pay the costs of the divorce. The court usually does so where the petition succeeds.
- In a separation case, costs are often shared or each side pays its own, and the respondent may make that a condition of consenting.
- Where a respondent defends unsuccessfully, or behaves unreasonably in the proceedings, they are likely to be ordered to pay the petitioner's costs.
- A petitioner who issues a hopeless petition, or abandons proceedings without good reason, may be ordered to pay the respondent's costs.

## Ancillary relief: usually each side bears its own costs

In financial proceedings, the usual outcome is that each spouse pays their own legal costs, sometimes described as costs lying "back to back". There are good reasons for this:

- Both sides' costs are usually paid out of the same pool of family assets, so an order that one pays the other's costs simply reduces what that spouse receives, and can distort an otherwise fair division.
- There is often no "winner" in a financial case. The court is dividing assets fairly, not deciding who was right.
- It encourages both sides to negotiate realistically.

The court can depart from this where one party has behaved unreasonably: hiding assets, failing to disclose, refusing reasonable offers, or running up costs out of proportion to what is at stake.

Where one spouse controls the family money and the other cannot fund legal advice, the court can in some cases order a payment towards legal costs, so that both sides can be properly represented.

Offers that protect you on costs

A carefully drafted written offer to settle, made "without prejudice save as to costs", can be shown to the court once the case is decided. If the other side did not accept an offer that proves to be as good as, or better than, the outcome, the court may take that into account in deciding costs.

## Controlling costs

The level of costs depends far more on how the case is conducted than on the size of the assets. Prompt and full disclosure, realistic expectations and a willingness to negotiate keep costs down. Litigation over modest sums can consume a large part of what is in dispute.

We give you an estimate at the start and update it as the case develops. You will receive regular bills, so there are no surprises.

Who checks the costs?

Where one party is ordered to pay the other's costs and the amount cannot be agreed, the bill is assessed ("taxed") by the Taxing Master of the High Court, or by the County Court. You also have the right to have your own solicitor's bill reviewed, as set out in our terms of business.

Legal aid

Civil legal aid may be available for divorce, financial and children's proceedings, depending on your income and capital. It is administered by the Legal Services Agency Northern Ireland. If you are eligible, your contribution may be reduced or nil. But in financial cases legal aid is usually a loan: under the statutory charge, the costs paid for you must be repaid from money or property you recover or keep. Our ancillary relief guide explains how this works.

Mediation and collaborative law

Many couples reach agreement through mediation or negotiation between solicitors, at a fraction of the cost of a contested hearing. An agreement should always be made into a court order to make it binding and enforceable.

# Children, timing, and how we help

## Children: an introduction

The divorce court must consider the arrangements proposed for any children, using the statement of arrangements. Most parents agree the arrangements between themselves. Where they cannot, either parent can apply for orders under the Children (Northern Ireland) Order 1995: residence (where the child lives), contact, and orders about specific issues such as schooling or moving abroad.

The child's welfare is the court's paramount consideration, and the court makes no order unless doing so is better for the child than making none. Our sister guide, Children and family breakdown, covers residence, contact, specific issues and relocation in detail.

## Timing

We do not publish a typical timetable, because every divorce depends on how quickly the other party responds, whether service is straightforward, and how long the court office takes to process each stage, which at present can be several months. Rather than raise expectations that may not be met, we will explain the steps that apply to you at our first meeting and update you as each one is completed.

Bring to your first meeting

Your marriage certificate; both parties' dates of birth and addresses; the children's names and dates of birth; recent payslips and tax returns; bank, savings and pension statements; details of the home, mortgage and any other property; and any letters already received from your spouse or their solicitor.

## How we help

- A clear first meeting on jurisdiction, grounds, timing and likely costs.
- Drafting and issuing the petition and the statement of arrangements, and arranging service.
- Urgent protection: non-molestation and occupation orders, and preventing the sale or removal of assets.
- Full financial disclosure, valuations of property, businesses, farms and pensions, and negotiation.
- Representation at every hearing, with counsel where appropriate.
- Turning agreements into binding consent orders, including pension sharing.
- Cross-border advice where either of you, or your assets, are in the Republic.
- New wills and enduring powers of attorney once the marriage has ended.

Update your will

In Northern Ireland, divorce does not revoke a will, but gifts to the former spouse fail and they cannot act as executor. Separation alone changes nothing. Review your will, pension nominations and life policies as soon as you separate.

Our approach

We aim to resolve matters fairly, efficiently and with as little conflict as possible, especially where there are children. But where your interests need protection, we act firmly and promptly. Every case is different. We will tell you honestly what is realistic, what it is likely to cost, and how long it is likely to take, and we will keep you informed at every stage.

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Family law is rarely one size fits all, and it is not black and white. While the same legal principles apply, every case turns on its own facts and is decided on a case by case basis. This guide is reviewed and updated as the law changes. This briefing is general information on the law of Northern Ireland as at October 2026. It is not advice on your circumstances. See also our guides on ancillary relief and on children and family breakdown.