

The things you need to know about getting a divorce in New Zealand

First of all, in legal terms, getting a divorce is called dissolving a marriage or civil union and in New Zealand, the Family Court can end your marriage or civil union by making a Dissolution Order, not issuing a divorce certificate that some other countries do.

Can I get a divorce here in NZ if I was married overseas?

Yes, if at least one of you has been domiciled in New Zealand when applying for the divorce (dissolution of marriage). In general, domicile means that New Zealand is your permanent home and you have intention to live here for an indefinite time.

If my spouse had an affair before we separated, do I get more relationship property?

Unlike some other countries (e.g China, Japan, France), a New Zealand court may not take any misconduct of a spouse into account when the relationship property is being divided unless extraordinary circumstances can be found which will make a 50/50 split repugnant to justice. Misconduct may be taken into account in determining the contribution of a spouse to the marriage. However, such misconduct must be gross and palpable. Affairs normally do not fall into either of the two categories.

I am not the registered proprietor of the house that we live in together. Is the house relationship property?

If your name is not on the mortgage or certificate of title, that does not mean that you have no rights or claims to the property. Under the Property (Relationships) Act 1976, a Family Home means "the dwelling/house that either or both of the spouses or partners use habitually or from time to time as the only or principal family residence, together with any land, buildings, or improvements appurtenant to that dwelling/house and used wholly or principally for the purposes of the household." Therefore, unless there is a prenuptial relationship property agreement in place (also known as a "Contracting Out Agreement") which precludes the house from the relationship property, it will be relationship property.

Private child support arrangement or get IRD to assess?

Parents can agree to fund their children's day to day needs and other expenses between themselves and include those arrangements as a part of the separation agreement. If there is no agreement or no agreement can be reached, then the custodial parent can get the state child support agency, IRD, to determine the non-custodial parent's obligations, by a "formula assessment" pursuant to the Child Support Act. The child support payments then get deducted from the non-custodial parent's salary/wages on a monthly basis by his/her employer unless there are further changes of circumstances.

If you have any questions in relation to the dissolution of a marriage or civil union in New Zealand please do not hesitate to contact us.

Disclaimer: This publication is necessarily brief and general in nature. You should seek professional advice before taking any further action in relation to matters dealt with in this publication.

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