

Getting a Divorce

Irish courts have a number of requirements before they will grant a couple a divorce, writes David Higgins, Partner at Berwick Solicitors.

Marital breakdown is never easy but unfortunately, it is an occurrence in many homes across Ireland. For couples wanting to go their separate ways, divorce allows both parties to move on and indeed remarry if either should so wish.

There are a number of requirements which must be met before a court will grant a decree of divorce. Both spouses must have been living apart from one another for a period of four out of the previous five years however, it is possible that the spouses have been living in the same house but no normal marital relationship must be in existence for the previous four years. There must be no prospect of reconciliation between the couple and one spouse must have been resident in Ireland for the previous 12 months before starting the divorce. The court must be satisfied that any children/dependents are properly provided for following the divorce.

When it grants the divorce, the court may make orders in relation to access and custody of children, the payment of child and spousal maintenance and lump sum payments, the division and transfer of marital property, the extinguishment of succession rights and pension rights.

In any application for a decree of divorce, the

court can review any previous arrangements made by the couple such as a separation agreement or judicial separation particularly if the circumstances of either spouse has changed.

A divorce is intended to be a final separation with the intent that the spouses become as financially independent from one another as is possible. It should be pointed out that following the divorce, either spouse may be entitled to apply to court to review and amend the orders made under the divorce should there be a significant change in the circumstances of one or both of the former spouses.

Irish divorce is not fault-based so once a couple fulfils the legal requirements for a divorce, either partner is entitled to a divorce, however badly they may have behaved. A hearing in court is always in camera, that is, no members of the public are allowed into the courtroom. If a couple can agree on most issues before the hearing, it can be relatively short and straight forward. It also saves on legal fees, particularly if you apply for a consent divorce.

If you are seeking a divorce or judicial separation, it is important to seek legal advice.



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