



Uncontested Divorce Guide for Newfoundlanders and Labradorians



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INTRODUCTION

Divorce is a legal procedure. When you are legally married, the only way to end your marriage in law is to get a divorce. In Newfoundland and Labrador, the application for an uncontested divorce is made at the Supreme Court of Newfoundland and Labrador (Family Division).

The purpose of the Divorce Guide is to assist individuals in navigating court processes and procedures for uncontested divorces in Newfoundland and Labrador. This section outlines the applicability of this Uncontested Divorce Guide. If you are considering divorce, please read this section to determine whether the Divorce Guide is intended for your situation.

YOU CAN USE THIS GUIDE IF:

- You and your spouse have already settled and/or agreed upon all the outstanding issues of your marriage, including: support, custody and division of matrimonial property through written agreement(s) and/or court order(s). Please note that you should seek independent legal advice prior to settling such matters.
- You do not expect your spouse to oppose or challenge (contest) the divorce. This guide can be used for uncontested divorce proceedings for both individual and joint applicants. There is also a section for Respondents.
- You have been separated for at least one year and the marriage has broken down with no hope of reconciliation. You can start the divorce proceedings before the year has passed; however, it cannot be completed until after one year has passed.
- You know where your spouse currently lives and you can arrange to have a third party serve your spouse with the necessary documents.
- You and/or your spouse have lived in Newfoundland and Labrador for at least 12 consecutive months immediately before applying for divorce.

YOU CANNOT USE THIS GUIDE IF:

- You have not settled all of your family law issues such as support, custody and property division.
- You believe that your spouse will contest the divorce, or you are the respondent and you plan to contest the claims made in the originating application.
- You want to file for divorce based on adultery or cruelty. This is a more complicated process and you should hire a lawyer. This guide only applies to uncontested divorces based on one year's separation.
- You do not know the whereabouts of your spouse.
- Neither you nor your spouse has been a resident of Newfoundland and Labrador for at least 12 consecutive months immediately prior to applying for divorce.

Please note that if any of the above-noted listed under “YOU CANNOT USE THIS GUIDE IF” apply to your situation, you should consult a lawyer as soon as possible.

- ⇒ If you and your spouse have settled all outstanding issues, your divorce is called “uncontested,” which means that you will normally not have to attend court for a hearing. However, you will need to ensure that the required paperwork and documentation is filed with the Family Court Registry Office.
- ⇒ To help find a lawyer you may call PLIAN’s Lawyer Referral Service. This service provides members of the public with a referral for an initial consultation up to 30 minutes with a lawyer for \$40.00 (tax included). The Lawyer Referral Service operates Monday through Friday, from 8:30AM to 4:00PM . Call (709) 722-2643 or toll-free 1-888-660-7788. You may also e-mail us at info@publiclegalinfo.com
- ⇒ You can also contact the Legal Aid Commission of Newfoundland and Labrador at one of the numbers provided under “Legal Resources” on page 23 of this publication.

FREQUENTLY ASKED QUESTIONS

What are the grounds for divorce?

To apply for a divorce, you must be able to show that there has been a **permanent breakdown of the marriage**. This means that **either**:

- you have lived separate and apart for one year (this includes living under the same roof if you are living as though you are separate and apart), **or**
- your spouse has committed adultery, **or**
- mental or physical cruelty has made it intolerable for the spouses to continue to live together

Please note: You cannot use this guide for a divorce based on adultery or cruelty. You can only use this guide for divorce proceedings based on one year's separation.

Where do I go to obtain a divorce?

You will need to go to the Supreme Court of Newfoundland and Labrador. Depending on where you live, it will either be General Division or Family Division. For a list of contact information for Supreme Courts across Newfoundland and Labrador, see page 24.

Do I need a lawyer?

A lawyer is not necessarily needed to file the court paperwork to seek a divorce if you and your spouse have already settled and/or agreed upon all the outstanding issues in your marriage, including support, custody and division of matrimonial property through written agreement(s) and/or court order(s). However, a lawyer is usually consulted before filing for the divorce to ensure all matters have been settled. A lawyer can help you understand your legal rights and obligations.

Do I need to get a legal separation first?

No. Legal separation is not required to file for a divorce. Legal separation does not exist in the eyes of the law. A person is either single, married, or divorced in the Province of Newfoundland and Labrador.

How long do I have to wait before I can file for divorce?

If you are basing your divorce on living separate and apart, the *Divorce Act* states that the period of time you and your spouse must be living apart to qualify for a divorce is one year. You are considered to be living apart when you no longer live together as spouses. This means that you can live in the same home and still be living apart so long as you are living separate lives (such as sleeping in different rooms, not sharing meals, etc.). You can start the process of paperwork and file before one year has passed, but divorce cannot be granted until you have been separated for at least one year.

What happens if we get back together to try to reconcile?

The *Divorce Act* does allow a period of “trial cohabitation”, where spouses resume their married relationship to try and reconcile. This does not interrupt or end the one-year separation period, as long as you do not reunite for more than a **total of 90 days** during your one year separation prior to applying for divorce. If you exceed 90 days and still decide to end the marriage, your one year separation period will restart and you will have to wait one full year again before you can start divorce proceedings.

My spouse and I are separated, but we still live under the same roof. Can we still file for divorce?

As long as you have been living separate and apart for one year, you may still file for divorce based on separation. In some cases, spouses live in the same home but are living as though they are separate and apart (e.g. sleeping in separate rooms, not sharing meals, laundry or other household chores and activities). If you are still sharing a residence with your spouse while being separated, it is highly recommended you speak to a lawyer about your situation before starting to do your own divorce.

Am I guaranteed to be granted a divorce by the Court?

No, there is no guarantee to be granted a divorce. Certain circumstances may prevent a divorce from being granted, such as if spouses have not made reasonable arrangements for supporting any children of the marriage, or if either spouse misled the Court about the divorce.

My spouse and I have been separated for six years. How long do we wait before the divorce is legal?

Divorce does not automatically happen, no matter how long you have been separated. While you do not have to file any paperwork with the Court to be separated, you **must** file an application with court to get divorced.

We've separated without hopes of reconciliation. Do we have to divorce or can we just stay separated and resolve our legal issues on our own?

You are not legally obligated to get a divorce after separation. Only you or your spouse can decide to file for divorce. As such, some people choose to separate and not divorce. You may wish to resolve your legal issues through a Separation Agreement instead of going to court. This can address any number of issues, such as custody of and access to children, support payments, division of property, and debt, and other relevant issues. Even if spouses are able to draft their own Separation Agreement it is strongly recommended that each party seek independent legal advice before signing it. However, if you choose to separate but not divorce this means that at law you and your spouse will still have many rights as a married couple would. For example, your spouse may be able to inherit under your estate when you die.

What happens if we are separated but not legally divorced?

If you do not legally divorce your spouse will be entitled to certain legal rights. For example, when you die your spouse may still have legal rights to your estate.

I've filled out all the necessary forms and submitted them to the Court. Am I officially divorced now?

No, you are not divorced yet. Submitting an Originating Application is just the first step. Just because you've started the divorce proceeding does not mean that you are divorced. You are not divorced until (1) a judge grants your divorce and (2) you have been issued an official Certificate of Divorce. You will not be officially divorced until the process is complete.

I married my spouse in another country. Can I apply for divorce in Newfoundland and Labrador?

Yes, you can apply for divorce in any province no matter where in the world you were married. However, you or your spouse must have lived in Newfoundland and Labrador for at least 12 months immediately before the application for divorce is made.

I'm not a Canadian citizen. Can I apply for divorce in NL?

You do not have to be a Canadian citizen to apply for divorce in Newfoundland and Labrador. However, either you or your spouse must have lived in Newfoundland and Labrador for at least 12 months immediately before making the application for divorce.

My divorce was just finalized. Am I free of all obligations to my ex now?

Although a divorce legally ends a marital relationship and frees the spouses from their obligations to each other under the marriage, under the *Divorce Act* the Court may require one spouse to financially support the other. Divorce also does **not** change the rights and obligations that parents have to children of the marriage. Parents are still obligated to support their children financially. Before you can use this guide, you must first settle all your related family law matters.

We've separated and won't be getting back together. Are we legally obligated to divorce or can we just stay separated and resolve our legal issues on our own?

You are not legally obligated to get a divorce after separation. It is your choice whether you file for divorce. You can resolve your legal issues through a Separation Agreement. These agreements can be useful to handle who will get what property, pay specific debts, and who parents the children, and on what schedule, among other things. If a couple separates on good terms, they may be able to work out many of these issues together.

However, even if spouses can draft their own Separation Agreement, it is strongly recommended that each party seek independent legal advice before signing it. Remember that when you are legally married, the only way to end your marriage in law is to get a divorce.

I just filed for divorce. Do I have to pay the other parent child support before there is a court order?

You do not have to pay child support to your spouse before a court orders you to do so. However, a court may order you pay “retroactive child support”, and you will have to pay what you would have had to pay when you split up.

A court may also order “Interim Child Support” be paid. This can be higher than what the final order may be.

You should consider working out a child support plan with your ex-spouse to avoid additional delays and costs as a result of court applications.

How long will it take to get my Certificate of Divorce?

There is no guarantee of how long it can take to complete your divorce and receive your certificate. In “Joint Applications” where both parties agree to everything and submit for divorce together the process can be quite quick and take a matter of weeks. However, many factors can affect this timeframe, including:

- How long it takes for you to serve your spouse;
- If you have correctly filed all of your court documents;
- Whether the judge believes they have enough information in submitted documents to grant a divorce;
- Court scheduling; and
- Whether a court hearing is necessary to clarify, settle, or determine a matter.

How much will an uncontested divorce cost?

- \$130.00 for filing the Originating Application for Divorce (including \$10.00 fee from the Central Registry of Divorce Proceedings) + \$3.00 fee if represented by a lawyer
- \$60.00 for the Divorce Judgment
- \$30.00 for the Certificate of Divorce

Other costs may include: hiring a lawyer for specific questions or tasks, ordering a certified copy of your marriage certificate, photocopying documents, hiring someone to serve documents, paying fees for a Commissioner of Oaths, etc. If you qualify for Legal Aid, the court filing fees may be waived.

Methods of payment include: cash, credit card (Visa, Mastercard), debit and cheque.

GLOSSARY

This glossary lists definitions for some legal terms you may come across when preparing for your uncontested divorce.

Affidavit of Applicant:

A statement of facts, given voluntarily, for the purposes of a court action or other legal process. An affidavit must be signed by the person verifying the facts of the affidavit, and witnessed and sworn by a Commissioner of Oaths, Lawyer, Mayor, Justice of the Peace, or Notary Public.

Affidavit Of Service:

A sworn statement stating that a document has been served on a party.

Appeal:

After a judge has made a decision at a trial or hearing, if either party is not satisfied with part of or all of the decision, they may be entitled to "appeal" the decision to a higher Court. This means asking a higher Court to review the decision. The person seeking to appeal must have proper grounds to appeal. This means there must be a legal reason to appeal (for example, the judge may have made a mistake when applying the law to the case).

Applicant:

A person who makes or starts an application in court. The other spouse is called the respondent. In joint applications, parties are called "co-applicants".

Case Management Hearing:

An informal court hearing whereby parties to a proceeding meet with a judge to discuss what matters must be handle and how to proceed. This is a first step before a trial will be considered.

Certificate of Divorce:

The final document issued by the Court at the end of a divorce proceeding. Either party may apply for this certificate 30 days after the divorce has been granted. This document states that the divorce is final and means that the parties are free to remarry.

Children of the Marriage:

Children of two spouses who, at the material time, are under the age of 19 and under their charge or who remain under their charge at 19 years of age or older but are unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessities of life.

Child Support:

Money paid by one spouse to another to support Children of the Marriage. Divorce may be denied if appropriate child support is not agreed upon by parents.

Co-Applicant:

A spouse who is cooperating with his/her spouse in a joint application for divorce; both parties want the divorce and are applying together.

Common Law Relationship:

Two people are considered to be in a common law relationship when they live together in a conjugal (married-like) relationship without having been legally married.

Default Judgment:

A judgment obtained where the Respondent fails to reply to an Applicant's court claim.

Divorce Judgment:

An order from the Court that says that two people are divorced. Normally the divorce becomes effective on the 31st day after the date of the judgment.

Matrimonial Assets:

As defined by the *Family Law Act*, matrimonial assets includes all property (personal property, land, etc.) acquired by either or both spouses during the marriage with some exceptions: gifts, inheritances, trusts, settlements, personal injury awards (except compensation for economic loss), personal effects, business assets, property exempted under a marriage contract (sometimes referred to as a 'pre-nuptial agreement' or 'pre-nup') or separation agreement, family heirlooms and property acquired after separation. Other exemptions may apply.

Originating Application:

A court application to start a divorce. Originating Applications comment court proceedings once filed with the court. Joint Originating Applications may also be filed when parties agree to everything in a divorce application.

Party/Parties:

A person who is part of a legal action, such as the spouses in a divorce.

Respondent:

A person who a claim has been made against. They are the person who "responds" to a court application.

Response:

The formal response to an Originating Application: an answer stating the Respondent's position.

Separation:

In family law cases, where spouses are living separate and apart, and one or both of them has the intention of ending the relationship.

Separation Agreement:

An agreement by two people in a relationship who lived together and have separated. Separation agreements set out the rights, responsibilities, and obligations of both sides in a separation.

Service:

The formal delivery of a legal document to the required person in accordance with the Rules of Court.

Spousal Support:

Money paid by one spouse to another with the goal of helping the spouse receiving money to achieve financial independence. Spousal support varies in length and amount of payment.

Swear/Affirms:

A solemn declaration made by a person to tell the truth in court or in an affidavit.

THE STEP-BY-STEP PROCESS

Doing your own **uncontested divorce** will involve a very specific process. There are three different processes to follow depending on which scenario applies to you.

INDIVIDUAL APPLICATION:	One spouse is applying for divorce.
JOINT APPLICATION:	Both spouses are applying together for divorce.
FOR THE RESPONDENT:	If your spouse has filed for divorce.

Please read on carefully to determine which process you should follow.

INDIVIDUAL APPLICATION

Step 1: Prepare Your Originating Application

GATHER YOUR DOCUMENTS

First, you must gather all necessary documents and certificates that you will need to complete your application for divorce. This includes:

1) Originating Application (Form 4.03A.):

This is the application for divorce. It can be obtained in person at the Family Court Registry Office and is also available online at <https://court.nl.ca/supreme/family/forms/F4.03A%20-%20Originating%20Application.pdf>

It contains several sections that must be filled out, including details about the marriage and the grounds for seeking a divorce, which, for the purpose of this guide as an uncontested divorce, must be one year's separation.

2) Marriage Certificate:

You must provide your original marriage certificate or original registration of marriage certificate to the Family Court Registry Office, which will place it on file. You can also file a certified copy of such documents. To order certified copies of any of these official certificates, contact the Division of Vital Statistics. They will advise you of what fee may apply to receive such a document.

If you were married in a different province, you should contact Vital Statistics in that province to request a certified copy of your marriage certificate. If a marriage or registration of marriage certificate is in a language other than English or French, you must provide a certified and accurate translation of that certificate.

3) Separation Agreement:

If you have a separation agreement you must file the original agreement or a certified copy of it with your Originating Application.

INDIVIDUAL APPLICATION CONTINUED

Step 1: Prepare Your Originating Application Continued

GATHER YOUR DOCUMENTS

4) Family Court Order(s):

If you and your spouse have any existing court orders from any court or jurisdiction these must also be included in your application.

5) Any other contract or agreement(s):

If you and your spouse have any existing marriage or separation agreements between yourselves these must also be included in your application.

6) Financial Statement and Property Statement:

If a divorce involves a claim for support, normally a financial statement needs to be filed with the Court. As well, if a divorce involves a property claim, usually a property statement needs to be filed with the Court (form F10.04A), which can be found online here: <https://court.nl.ca/supreme/family/forms/F10.04A%20-%20Property%20Statement.pdf>

If the amount of child support agreed upon is different from the basic table amount set by the Child Support Guidelines, then financial statements (Form F10.02A) will need to be filed with the Court by the Applicant and Respondent, and served on the other party. This can be found online here: <https://court.nl.ca/supreme/family/forms/F10.02A%20-%20Financial%20Statement.pdf>

COMPLETE THE ORIGINATING APPLICATION (Form F4.03A)

You must carefully read and fill out each section of the Originating Application. Be sure to use blue or black ink, and print neatly. The Court will not accept them if they are not tidy or legible. You may also fill in the forms online or use the Public Legal Information Association of Newfoundland and Labrador's free *Family Form Builder* to assist you in completing your application online to be printed. This form builder can be accessed online here: <https://publiclegalinfo.com/family-law-form-builder/>

Once the application has been filled it must be sworn or affirmed by a commissioner of oaths, notary public, lawyer, or other person able to swear or affirm documents. Your signature must be witnessed by the person swearing or affirming you on the form. Double check that all original certificates are attached, including any orders and agreements involving your marriage, children or separation.

Step 2: File Your Originating Application & Notice to Respondent

File your Originating Application and Notice to Respondent and any necessary documents at the nearest Supreme Court of NL (Family Division). To find the Court closest to you, visit <http://www.court.nl.ca/supreme/contact.html>.

After your application has been filed the court clerk will then assign your case a court file number, stamp the application with a court seal and collect the applicable fees. Methods of payment include: cash, credit card (Visa, MasterCard), debit and cheque.

The clerk keeps the original copy of your application, as well as any supporting documents, and will place them in the Court file. Two stamped photocopies will be given to you; one that must be served on the Respondent and one copy for your own records.

WAIT FOR YOUR CLEARANCE CERTIFICATE

A Clearance Certificate proves that there are no other divorce actions pending in another province between you and your spouse. The Central Registry of Divorce Proceedings at the federal Department of Justice is notified and checks its database to see if the same parties have registered any other divorce applications. If the check comes back clear, the Central Registry of Divorce Proceedings will issue a Clearance Certificate to the court.

This part of the process usually takes **8-10 weeks**. Although the Court cannot grant a divorce until the Clearance Certificate has arrived, you **can** use this waiting period to arrange for the Originating Application and Notice to Respondent (and any accompanying documents) to be served on your spouse.

Step 3: Serve the Documents on the Respondent

Your spouse, the Respondent, must be given notice of your divorce application. Your spouse must be served with one copy of the Originating Application and Notice to Respondent (including any attachments), provided to you by the Family Court Registry Office. A copy of the Response form should also be served on the Respondent at the same time (Form F6.02A, found online here: <https://court.nl.ca/supreme/family/forms/F6.02A%20-%20Response.pdf>).

Some Applicants may wait to receive their Clearance Certificate from the Central Registry of Divorce Proceedings, before having these documents served on their spouse. Others may choose to serve the documents soon after the original documents are filed with the Court.

These documents must be given to the Respondent personally, by someone other than the Applicant. You cannot serve these legal documents yourself. Instead, you must arrange to have them served by a third party, aged 18 or older. The person who serves these papers (the server) must complete an **Affidavit of Service** (Form F8.03A) to prove to the Court that the Respondent has been given the documents. This form can be found online here: <https://court.nl.ca/supreme/family/forms/F8.03A%20-%20Affidavit%20of%20Service.pdf>

The Affidavit must be signed by the person who served it (the server) in front of a Commissioner of Oaths, lawyer, mayor, notary, or a Justice of the Peace. If the server is unable to have it signed before one of these officials, both you and the server can go to the Court and have the Affidavit of Service signed and witnessed before a clerk. Remember, the person who served the documents will be signing the Affidavit of Service, **not** you.

The Originating Application and Notice to Respondent (including any attachments) must be served within **180 days** of the date they are filed with the Court. In some special cases, an application can be made to extend the time needed for service. Once served, your spouse (the Respondent) has 30 days to issue a Response to your claim (if he/she lives in Canada or the United States) or 60 days if he/she lives elsewhere.

WAYS TO PROPERLY SERVE YOUR DOCUMENTS (use one method only):

Personal Service

The person serving your documents must be a person who is 18 years of age or older. It can be a friend or acquaintance or even a professional process server. You, the Applicant, are not allowed to serve the documents on your spouse. If you opt to have the documents delivered by a professional process server, there is normally a fee for this service.

Substituted Service

If you do not know the exact whereabouts of your spouse, it may be impossible to serve them directly. Under these circumstances, the Applicant would normally have to apply to the Court for an order to pursue substituted service. This means you could seek to serve the legal documents using a method other than personal service (such as posting a notice in a newspaper or serving the documents on one of the Respondent's family members). It is strongly recommended that you consult with a lawyer if you are unable to locate your spouse so that you can discuss what options may be available to you.

Step 4: File Affidavit of Service with Court

FILE AFFIDAVIT OF SERVICE

As soon as possible after the Originating Application and Notice to Respondent document has been served on the Respondent, you must file the [Affidavit of Service](#) (Form F8.03A) with the Family Court Registry Office. You are required to provide the Court with proof that the Originating Application and Notice to Respondent has been served.

WAIT FOR YOUR SPOUSE TO RESPOND

Depending on the jurisdiction where your spouse was served, you must wait a certain period of time from the date the Originating Application and Notice to Respondent was served to him/her before proceeding to the next step:

- **30 days** if your spouse was served in Newfoundland and Labrador
- **30 days** if your spouse was served elsewhere in Canada or in the United States
- **60 days** if your spouse was served in a country outside Canada and/or the United States

NO RESPONSE?

In an uncontested divorce, the Respondent often does not respond. You may apply for a [Notice of Default](#) (Form F6.06A) when the waiting period has passed and your spouse has not responded. In some uncontested divorces the Respondent may complete a Response (Form 6.02A) and indicate that they are not contesting any of the claims made. Even where the Respondent is not contesting the divorce, they can complete a [Demand for Notice Form](#) (Form F6.04A). The Demand for Notice requires the Applicant, to keep the Respondent updated on any progress made with the divorce application process. You must serve the Respondent with any further paperwork related to the divorce.

Step 5: Ask for your Divorce Judgment

After the designated time period has passed and there has been no answer from your spouse, or your spouse has filed a Response stating they do not contest your application, you can complete and submit a [Notice of Default](#) (form F6.06A) and then an [Application for Judgment](#) (Form 26A.02A). You must file a Notice of Default before filing an Application for Judgment. An Application for Judgment is essentially a “request” to the Court for a judgment granting the divorce, based on affidavit evidence that you have submitted.

Remember, if any of these forms need to be witnessed, do not sign them ahead of time, unless you do so before a commissioner of oaths, lawyer, notary, mayor, or justice of the peace. Otherwise, the forms must be signed in the presence of a clerk at the Family Court Registry Office. Once you have filed this and paid the accompanying registry fee you the court will inform you if something needs to be done with your application, or if your application for judgment was successful. There is a 30-day appeal period should either side wish to appeal the judgment, but this is uncommon in uncontested divorces.

Step 6: Receive your Certificate of Divorce

A [Certificate of Divorce](#) (Form 40.04A) states that a divorce dissolved the marriage of the parties on a specific date. It is not issued automatically; it is only sent at the request of either party. Once the request for the certificate is made, court staff will check the file to make sure the required time has passed and that there has been no appeal. If everything is in order, the Certificate will be issued. There is a \$30.00 fee charged by the Court for the Certificate.

This is the final step in the process. Once you receive the certificate, you have proof that **your divorce is official**. Your Certificate of Divorce should be kept in a safe place with your other important papers. If you lose it, there will be a fee to replace it. If you choose to remarry, this Certificate will be required by Vital Statistics as proof of divorce in order to obtain a new marriage license.

JOINT APPLICATION

In Newfoundland and Labrador, spouses ask the court for a divorce together. This is called a joint application and it is an option when neither spouse is opposed to the divorce. For the purpose of this guide, one year's separation must be the grounds for the joint divorce application.

By filing a joint application, the spouses (known as "Co-Applicants") are telling the Court that they both want the divorce and that all outstanding legal matters have been settled (e.g. claims for support, custody, access and division of matrimonial property). If there are outstanding matters to be addressed (such as who will parent the children), then a court may not grant a divorce.

In most cases, the joint application process can be simpler and less time consuming as the parties have agreed how to handle the divorce issues.

Additionally, a joint application does not need to be served and does not need certain forms to be filed. As well, after a judgment is issued the appeal period can often be waived if both spouses sign an undertaking not to appeal the Divorce Judgment, but this is not necessary.

The following are some steps you may need to take when making a joint application.

Step 1: Prepare Your Joint Application

GATHER YOUR DOCUMENTS

First, you must gather all necessary documents and certificates that you will need to complete your application for divorce. This includes:

- **Joint-Originating Application (Form 4.04A)**: This is the application for divorce, and can be completed together as a joint application. It is available at the Family Court Registry Office. It is also available online here: <https://court.nl.ca/supreme/family/forms/F4.04A%20-%20Joint%20Originating%20Application.pdf>.
- This form has several sections that must be filled out, including details about the marriage and the grounds for seeking a divorce, which, for the purpose of this guide, must be one year's separation.
- **Consent Orders or Agreements (Forms F34.02A and F34.02B)**
In addition to your Joint Originating Application you must also include either a signed agreement from both sides about what will happen with the matrimonial property and assets, and children (if any). You may also file forms [F34.02A](#) and [F34.02B](#) for consent orders indicating to the court what you agree to do with your matrimonial property, assets, and child related matters (parenting and parenting time, and child support).

- **Marriage Certificate:** You must provide your original marriage certificate or original registration of marriage certificate to the Family Court Registry Office. You can also file a certified copy of such documents. To order certified copies of any of these official certificates, contact the Division of Vital Statistics. They will advise you of what fee may apply to receive such a document. If you were married in a different province, you should contact Vital Statistics in that province to find out how to request a certified copy of your marriage certificate. If a marriage or registration of marriage certificate is in a language other than English or French, then you must provide a certified and accurate translation of that certificate.
- **Separation Agreement:** If you have one, you must file the original agreement or a certified copy of it.
- **Any Family Court Order(s):** From any Court or jurisdiction.
- **Any other contract or agreement** involving your marriage or separation.
- **Undertaking:** This form is available from the Court clerk. This document is a sworn promise that neither you nor your spouse will appeal the divorce judgment. It does not have to be completed or filed for your divorce.
- **Financial Statement and Property Statement:** If a divorce involves a claim for support, normally a financial statement needs to be filed with the Court. As well, if a divorce involves a property claim, usually a property statement needs to be filed with the Court.

It should be noted that if the amount of child support agreed upon is different from the basic table amount set by the Child Support Guidelines, then financial statements ([Form F10.02A](#)) will need to be filed with the Court by the Applicant and Respondent and served on the other party.

COMPLETE THE APPLICATION FORM

Carefully read and complete each section of the Joint Originating Application. Be sure to either complete the form electronically and print it, or if by handwriting use blue or black ink and print neatly. Once the Application and Affidavit of Applicants have been filled out, it should not be immediately signed. Both spouses' signatures must be witnessed by the clerk at the Family Court Registry Office, unless you have already had the documents sworn to and signed in the presence of a Commissioner of Oaths or Justice of the Peace. Double check that you've attached all the original certificates, orders and agreements involving your marriage, children or separation.

Keep in mind that at any time during the application process, either party may change their mind and file a [Notice of Withdrawal](#) (Form 4.04B). This is, however, usually not seen in uncontested joint divorces where both spouses want the process to move along quickly and be finalized.

Step 2: File Your Joint Application

At the Court office, staff will take your application form and supporting documents, file them, give your case a court file number and collect any applicable fees. At the time of writing, the fee for a joint divorce application is \$70. Often, the Co-Applicants split the cost of this fee, but either applicant can make the payment. Methods of payment include cash, credit card (Visa, MasterCard), debit and cheque (paid to the order of “Registrar of the Supreme Court of NL”).

Each of the applicant spouses will then be asked to sign the Joint Originating Application and the copies in the Court clerk’s presence (unless you have already had it sworn and signed before a Commissioner of Oaths or a Justice of the Peace). As part of the process, the clerk will keep the original application form and all original supporting documents for the Court file. Then, the clerk will return two stamped copies to you (one for each spouse). There will be no need to serve a Notice to Respondent, as both spouses are jointly applying for the divorce. A Notice of Default need not be issued, either.

At the time you file your joint application, you both may also file an **Undertaking** (written promise) that neither party will appeal the Court’s Divorce Judgment. This is often done at the beginning of the application process in the interest of speeding things along. By submitting an Undertaking, the Court can waive the 30-day judgment appeal period at the end of the process. You can ask the Court clerk for an Undertaking form when you are at the Court office and both spouses can sign it in the clerk’s presence. Currently, this form can only be obtained in person at the Family Division Court Office.

WAIT FOR YOUR CLEARANCE CERTIFICATE

A Clearance Certificate proves that there are no other divorce actions pending in another province between you and your spouse. The Central Registry of Divorce Proceedings at the federal Department of Justice is notified and checks its database to see if the same parties have registered any other divorce applications. If the check comes up clear, the Central Registry of Divorce Proceedings will issue a Clearance Certificate to the Court.

This part of the process usually takes **8-10 weeks**. The Court cannot grant a divorce until the Clearance Certificate has been filed.

Step 3: Ask for your Divorce Judgment

The Co-Applicants can complete and submit an [Application for Judgment](#) (Form 26.02A). This is basically a “request” to the Court for a judgment granting the divorce, based on affidavit evidence.

Bring the following documents to the Court Office when asking for your judgment:

- **Any other affidavits** or supporting materials required
- **Self-addressed** envelopes (addressed to the Co-Applicants)

Remember: if any of these forms need to be witnessed, do not sign them until you are before a Commissioner of Oaths, lawyer, or a Justice of the Peace. Otherwise, the forms must be signed in the presence of a clerk at the Family Court Registry Office. At the time of writing this guide, there is a \$30 fee associated with the filing of the Application for Judgment (and accompanying documentation). Methods of payment include cash, credit card (Visa, MasterCard), debit and cheque (paid to the order of “Registrar of the Supreme Court of NL”).

Your file will be sent to a judge to be reviewed. If the judge is satisfied with the documentation, he/she will grant your divorce. Neither spouse will be required to attend Court unless the Court notifies you otherwise. Should the judge need more information in order to make the divorce judgment, the Court office will contact you.

If the judge decides to grant the divorce, the Court will mail each spouse a copy of the Divorce Judgment.

Step 4: Receive your Certificate of Divorce

A [Certificate of Divorce](#) (Form 40.04A) states that a divorce dissolved the marriage of the parties as of the specified date. It is not issued automatically; it is only sent at the request of either party. Once the request for the Certificate is made, Court staff will check the file to make sure the required time has passed and that there has been no appeal. If everything is in order, the certificate will be issued. At the time of writing this guide, a \$20 fee is charged by the Court for the Certificate of Divorce. Methods of payment include cash, credit card (Visa, MasterCard), debit and cheque (paid to the order of “Registrar of the Supreme Court of NL”).

This is the final step in the process. Once you receive the certificate, you will have proof that **your divorce is official**. Your Certificate of Divorce should be kept in a safe place with your other important papers. If you lose it, there will be a fee to replace it. If you choose to remarry, this Certificate will be required by Vital Statistics as proof of divorce in order to obtain a marriage license.

FOR THE RESPONDENT

If your spouse has filed an application for divorce, and you have not made a joint application, you are the Respondent. You usually do not have to appear in Court in an uncontested divorce case. If you do oppose any of the claims in your spouse's application, you cannot use this guide. This guide is for uncontested divorces only. The following section explains what you can expect in an uncontested divorce procedure and helps you understand what your responsibilities are as the Respondent.

Step 1: Receive Notice to Respondent

When you have been served with an Originating Application and Notice to Respondent, it means that your spouse has filed for divorce. A [Response Form](#) should also be served on you at the same time (Form 6.02A). If you have not received such a form, then you should contact the Court to request one or download the form online at <https://court.nl.ca/supreme/family/forms/F6.02A%20-%20Response.pdf>.

After receiving the Notice to Respondent, you have a designated period of time to respond. You have two options if you are not contesting (opposing) the divorce: to respond without opposing or to not respond at all. Both actions will essentially have the same result and should keep the procedure fairly straightforward so that you and your spouse can get your divorce finalized. The next step will explore these options.

Step 2: Respond or Do Not Respond

In an uncontested divorce, it is expected that the Respondent will not challenge the Originating Application. However, in other cases, a Respondent may choose to contest the claims for relief or the facts set out in the Application. In such situations, the Respondent should consult with a lawyer.

If you do not want to contest a divorce, and your spouse has filed the application for divorce, you can choose whether or not to respond to it. Your two options are explained below:

RESPOND WITHOUT OPPOSING

You can respond without opposing the claims made in your spouse's application for divorce. This is done by completing a [Response Form](#) (Form 6.02A) and indicating within it that you do not contest any of the claims made by the Applicant. This means that you acknowledge your spouse's application for divorce and do not oppose any of the claims made within it.

DO NOT RESPOND

The second option is to not respond at all. When you are served with the Originating Application and Notice to Respondent, you can simply make no response. By not responding, you show the Court that you do not oppose your spouse's application for divorce and any of the claims made within it.

If you choose not to respond, you do not need to do anything further except wait for the designated response time to expire (30 days in Canada and the United States, 60 days for other countries overseas). The Court will then normally issue a [Notice of Default](#). This is simply a form stating that the deadline for responding has expired and you have not filed a response.

STILL WANT TO BE KEPT INFORMED OF THE PROCEEDINGS?

Even where the Respondent is not contesting the divorce, he/she can complete a [Demand for Notice](#) form (Form 6.04A) and have it served on the Applicant. The Demand for Notice requires that an Applicant keep a Respondent updated on any progress made with the divorce application process. The Applicant will then need to ensure the Respondent is served with any further paperwork pertaining to the divorce proceeding. The Demand for Notice must be served on the Applicant and filed with the Court (along with an Affidavit of Service) within 30 days of the Respondent's receipt of the Originating Application and Notice to Respondent.

Step 3: Wait for Notification of Divorce Judgment

Next, you will receive notice as to whether or not your divorce has been granted. The judge will make an official judgment on your spouse's application for divorce. If your divorce is granted, the Court registrar will mail you a copy of the Judgment. There will be a 30-day appeal period, if you wish to appeal the judgment. Normally, in an uncontested divorce, this is not seen, as both spouses want the same thing: to finalize the divorce.

Step 4: Ask for Your Certificate of Divorce

A [Certificate of Divorce](#) (Form 40.04A) is not automatically sent to you. You must ask the Court for your official copy. At the time of writing this guide, the fee associated for this document is \$20. Methods of payment include cash, credit card (Visa, Mastercard), debit and cheque (paid to the order of "Registrar of the Supreme Court of NL"). Once you receive this official document, you will have proof that you are legally divorced. Keep your Certificate of Divorce in a safe place; you will need it if you choose to remarry in the future.

CONCLUSION

We hope that this guide was of assistance to you during the process of filing for, or responding to, your uncontested divorce. You will find more useful resources in the following additional resources, including various government services, family law services, and other useful information. We also hope that you will complete the enclosed Evaluation Form and send it back to us. Your feedback, suggestions and ideas will help us improve this guide.

Additional Resources

COURT FORMS

Necessary court forms for your divorce application can be obtained at Supreme Court (Family Division), or found online here: <http://www.court.nl.ca/supreme/family/forms.html>

LEGISLATION

The Divorce Act

<https://laws-lois.justice.gc.ca/eng/acts/d-3.4/>

The Family Law Act

<http://assembly.nl.ca/Legislation/sr/statutes/f02.htm>

Supreme Court Rules (Family Law Proceedings)

<https://www.assembly.nl.ca/legislation/sr/regulations/RulesSc/rc86PartIV.htm>

FAMILY FORM BUILDER

The Public Legal Information Association of Newfoundland and Labrador operates a free to use “Family Form Builder” program online. This program asks registered users a series of questions related to their family law matter and will fill in the appropriate court forms. The information can be saved and users can finish their forms at a later date. These forms can then be printed and filed at court or filed electronically.

To access the Family Form Builder, please visit: <https://publiclegalinfo.com/family-law-form-builder/>.

Public Legal Information Info Line and Lawyer Referral Service

The Public Legal Information Association of Newfoundland and Labrador operates a free to use legal information line for general legal questions. This line can be contacted Monday to Friday 8:30 – 1:30 to receive general legal information. You can call this line at (709) 722-2643, or toll-free at 1-888-660-7788.

You can also ask for a lawyer referral to receive basic legal advice. Lawyers across Newfoundland and Labrador have registered with The Public Legal Information Association of Newfoundland and Labrador to provide basic legal advice at a preferred rate of a one-time 30-minute consultation for \$40.00 (tax included). This fee is paid to the lawyer, and not The Public Legal Information Association of Newfoundland and Labrador.

Please call (709) 722-2643, or toll-free at 1-888-660-7788 to receive a referral or e-mail info@publiclegalinfo.com to ask your legal questions or to receive a referral.

Newfoundland and Labrador Legal Aid

Legal Aid provides either subsidized or free legal representation for residents of Newfoundland and Labrador who qualify for their services. Qualification is based on income, debts, and other economic considerations.

For the Legal Aid Application, please visit: https://legalaid.nl.ca/pdf/legal_aid_application.pdf

For the contact list of Legal Aid offices throughout Newfoundland and Labrador, please visit: <https://legalaid.nl.ca/contact.html>

“Create A Parenting Plan” by Justice Canada

Justice Canada maintains a parenting plan tool online that parties may use to help develop a parenting plan. This includes a guide to making a parenting plan, as well as a parenting plan checklist. To access this resource, please visit the following link:

<https://www.justice.gc.ca/eng/fl-df/parent/plan.html>.

Federal Child Support Guidelines

The Federal Child Support Guidelines are designed to provide a fair standard of support for children; to improve legal court systems efficiencies; and to ensure a consistent treatment of all children in similar situations. The Guidelines vary from province to province and are based on (1) the income of the paying parent; and (2) the residence of the paying parent. Courts do not have to follow these guidelines to a tee, but rarely deviate from them.

To determine what someone may have to pay in child support, please visit the following link: <https://laws.justice.gc.ca/eng/regulations/SOR-97-175/page-1.html>.

Support Enforcement Program

The Support Enforcement Program is a government of Newfoundland and Labrador program responsible for registering support orders, receiving and disbursing court-ordered support payments, and enforcing court support orders, among other items. The support enforcement program has numerous powers to enforce support payments, including wage, pension, and bank garnishments, denying government licenses (driving licenses, passports, and hunting licenses), and can even seize and sell items to satisfy court orders. The Support Enforcement Program can also help assist individuals looking to pay their support. To contact the Support Enforcement Program, please see the below contact information:

Email: Seps@gov.nl.ca
Toll free: 1-855-637-2608
Local: (709) 637-2608
Fax: (709) 634-9518

Child Support Recalculation Office

The Recalculation Office can recalculate support yearly where a court order contains a “recalculation clause”. If this clause is present in your order, the Court will provide the Recalculation Office with the Child Support Order. This clause allows the office to determine if support should be increased or decreased each year depending on the changes in circumstances (such as changes in either party’s career, earnings, or residences). The Office will change your support order without you having to go to court. This is a free to use service.

Child Support will not be automatically recalculated every year. It is up to the parties involved to update the Recalculation Office of any change in circumstances. The parents involved must provide the office with satisfactory income information. If this is not done then the office can add an additional 10% or 20% of the registered income to an order that must be paid to the other parent. Both parents must notify the office of changes to their contact information, including address, phone numbers, e-mails, or other means of communication.

However, please note that the Recalculation Office cannot recalculate special or extraordinary expenses; child support in shared parenting arrangements, or child support which is not based on the Federal Child Support Guidelines. To contact the Recalculation Office, please see the below contact information:

Child Support Recalculation Office:

9th Floor, Sir Richard Squires Building
P.O. Box 2006
Corner Brook, NL
A2H 6J8

Telephone: (709) 634-4172
Fax: (709) 634-4155
E-mail: recalculation@gov.nl.ca

COURT CONTACT LIST

Below is a list of contacts that may be helpful to you. Please note that these addresses and contact were current as of November 2020.

THE COURTS

Supreme Court, Family Division - St. John's

68 Portugal Cove Road
St. John's, NL, A1B 2L9
Tel: 709-729-2258
Fax: 709- 729-0784

Supreme Court, Family Division - Corner Brook

82 Mount Bernard Avenue
P.O. Box 2006
Corner Brook, NL, A2H 6J8
Phone: (709) 637-2227
Fax: (709) 637-8036

Supreme Court - Gander

100 Airport Boulevard
P.O. Box 2222
Gander, NL, A1V 2N9
Phone: (709) 256-1115
Fax : (709) 256-1120

Supreme Court - Grand Bank

69 Grandview Boulevard
P.O. Box 910
Grand Bank, NL, A0E 1W0
Phone: (709) 832-1720
Fax: (709) 832-2755

Supreme Court - Grand Falls- Windsor

3 Cromer Avenue
Grand Falls, NL , A2A 1W9
Phone: (709) 292-4260
Fax: (709) 292-4224

Supreme Court, Trial Division (General) - Happy Valley - Goose Bay

214 Hamilton River Road
P.O. Box 1139, Station B
Happy Valley-Goose Bay, NL, A0P 1E0
Phone: (709) 896-7892
Fax: (709) 896-9212

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