

2024 No.

COURT OF SESSION

SHERIFF COURT

**Act of Sederunt (Rules of the Court of Session 1994 and
Ordinary Cause Rules 1993 Amendment) (Simplified Divorce
and Dissolution of Civil Partnership) 2024**

<i>Made</i> - - - -	2024
<i>Laid before the Scottish Parliament</i>	2024
<i>Coming into force</i> - -	2024

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council [with such modifications as it thinks appropriate].

The Court of Session therefore makes the following Act of Sederunt in exercise of the powers conferred by sections 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014(b) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 and Ordinary Cause Rules 1993 Amendment) (Simplified Divorce and Dissolution of Civil Partnership) 2024.

(2) It comes into force on [date].

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session 1994(c) are amended in accordance with this paragraph.

(2) After rule 49.27C(d), insert—

(a) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).
(b) 2014 asp 18.
(c) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by [].
(d) Rule 49.27C was inserted by S.S.I. 2006/206 and amended by S.S.I. 2007/7.

“Applications for postponement of decree under section 121A of the CP Act of 2004

49.27D. An application under section 121A(1) (application for postponement of decree of dissolution where impediment to religious marriage exists) or section 121A(4) (application for recall of postponement) of the CP Act of 2004 must be made by minute in the process of the action to which the application relates.”

(3) In rule 49.35 (application of this Part)(a), at the end of the rule insert “other than simplified divorce applications or simplified applications for dissolution of civil partnerships”.

(4) In rule 49.72 (application and interpretation of, and directions under, this Part)(b)—

(a) in paragraph (1)(a)—

(i) after “consent of defender to decree,” insert “or”; and

(ii) omit “or section (1)(1)(b) (issue of interim gender recognition certificate)”;

(b) omit paragraph (1)(d);

(c) after paragraph (1) insert—

“(1A) Where there is a child of the marriage under 16 years of age, this Part applies to an application only if the applicant’s spouse consents to the arrangements which have been made, or are proposed to be made, for the upbringing of every such child;

(1B) Despite paragraph (1A), no consent is required in respect of any child of the marriage under 16 years of age who does not live with the applicant or the applicant’s spouse because a permanence order has been made in respect of that child.”;

(d) in paragraph (2), for “If an application” substitute “Subject to rule 49.78B(6), if an application”; and

(e) for paragraph (3), substitute—

“(3) In this Part—

“permanence order” has the meaning given by section 80(2) of the Adoption and Children (Scotland) Act 2007(c);

“simplified divorce application” means an application mentioned in paragraph (1).”.

(5) For rule 49.73 (form of applications for simplified divorce)(d), substitute—

“Form of application for simplified divorce

49.73—(1) A simplified divorce application is to be made—

(a) in Form 49.73-A, where the facts set out in section 1(2)(d) of the Act of 1976 (no cohabitation for one year with consent of defender to decree) are relied on; or

(b) in Form 49.73-B, where the facts set out in section 1(2)(e) of the Act of 1976 (no cohabitation for two years) are relied on.

(2) A simplified divorce application must be signed by the applicant.

(3) A simplified divorce application in Form 49.73-A is of no effect unless the form of consent to divorce in Part 2 of that Form is signed by the applicant’s spouse.

(4) Paragraph (5)—

(a) applies where there is a child of the marriage under 16 years of age; but

(b) does not apply in respect of any child who does not live with the applicant or the applicant’s spouse because a permanence order has been made in respect of that child.

(5) A simplified divorce application is of no effect unless—

(a) Rule 49.35 was substituted by S.S.I. 2005/632.

(b) Rule 49.72 was last amended by S.S.I. 2007/7.

(c) 2007 asp 4.

(d) Rule 49.73 was last amended by S.S.I. 2006/206.

- (a) it is accompanied by a Form 49.73-D (form of arrangements for upbringing of child of the marriage under 16 years of age) in respect of each child of the marriage under 16 years of age; and
 - (b) the applicant’s spouse signs the form of consent in Part 2 of each Form 49.73-D.”.
- (6) In rule 49.74 (lodging and registration of simplified divorce applications)(a)—
- (a) in paragraph (1)—
 - (i) after subparagraph (a) insert “and”; and
 - (ii) omit subparagraph (c);
 - (b) after paragraph (1) insert—

“(1A) For each child of the marriage under 16 years of age, the applicant must also send the Deputy Principal Clerk—

 - (a) an extract or certified copy of each child’s birth certificate; and
 - (b) a Form 49.73-D for each child, other than a child referred to in rule 49.73(4)(b) (form of application for simplified divorce).”.
- (7) In rule 49.75 (warrants for service or intimation of simplified divorce applications)(b), in paragraph (2) omit “or section 1(1)(b) of the Act of 1976 (grounds of divorce: interim gender recognition certificate)”.
- (8) In rule 49.76 (execution of service or intimation of simplified divorce applications)(c), in paragraph (3)—
- (a) after “(no cohabitation for one year with consent to divorce)” insert “or”; and
 - (b) omit “or Form 49.76-BA (interim gender recognition certificate)”.
- (9) In rule 49.78 (evidence in simplified divorce applications), in paragraph (1) for “Parole evidence shall not” substitute “Subject to rule 49.78B (hearing to consider arrangements for upbringing of child of the marriage) parole evidence shall not”.
- (10) After rule 49.78, insert—

“Consideration of arrangements for upbringing of child of the marriage

49.78A.—(1) Paragraphs (2) and (3) apply where—

- (a) there is a child of the marriage under 16 years of age, other than a child who does not live with the applicant or the applicant’s spouse because a permanence order has been made in respect of the child;
- (b) the court is considering for the purpose of section 12 of the Act of 1995 (restrictions on decrees for divorce, separation or annulment affecting children) whether to make a section 11 order in respect of the child; and
- (c) the court is not satisfied that no such order should be made.

(2) The court must appoint the application to be put out on the By Order Roll for the purpose of enquiring further as to the arrangements for the upbringing of the child on the first suitable court date occurring not sooner than 21 days after the date on which the court so directs.

(3) The Deputy Principal Clerk must intimate the date of the hearing on the By Order Roll to the applicant and the applicant’s spouse in Form 49.78A.

(a) Rule 49.74 was amended by S.S.I. 2005/632.
 (b) Rule 49.75 was last amended by S.S.I. 2006/206.
 (c) Rule 49.76 was last amended by S.S.I. 2006/206.

Hearing to consider arrangements for upbringing of child of the marriage

49.78B.—(1) This rule applies to a hearing on the By Order Roll fixed in accordance with rule 49.78A, and to any continuation of such a hearing.

(2) The applicant and the applicant’s spouse must, except on cause shown, attend the hearing in person.

(3) At the hearing (which may be held in private), the court must seek to ascertain if the circumstances of the case may require the court to make a section 11 order.

(4) The applicant and the applicant’s spouse must provide the court with sufficient information to enable the court to conduct the hearing.

(5) Where the court is satisfied that no section 11 order should be made, the court must proceed to determine the application.

(6) Where the court is not so satisfied, the court must direct that this Part no longer applies to the application and appoint it to proceed as a family action.

(7) A continuation of a hearing must be intimated to any spouse not present or represented when the continued hearing was fixed in accordance with rule 49.78A(3).”.

(11) For rule 49.80 (applications after decree in simplified divorce applications), substitute—

“Applications after decree in simplified divorce applications

49.80.—(1) An application to the court to which this rule applies made after decree of divorce has been granted in a simplified divorce application must be made by minute.

(2) This rule applies to any application which could have been made in an action of divorce, other than an application for a section 11 order.

(3) On lodging a minute under paragraph (1), the minuter must lodge a process.”.

(12) In rule 49.80A (application and interpretation of, and directions under, this Part)(a)—

(a) in paragraph (1), after the definition of “child of the family” insert—

““non-applicant partner” means the party to the civil partnership other than the party who makes a simplified dissolution application;

“permanence order” has the meaning given by section 80(2) of the Adoption and Children) (Scotland) Act 2007(b).”;

(b) in paragraph (2)(a)—

(i) after “consent of defender to decree,” insert “or”; and

(ii) omit “or section 117(2)(b) (issue of a gender recognition certificate)”;

(c) omit paragraph (2)(d);

(d) after paragraph (2), insert—

“(2A) Where there is a child of the family under 16 years of age, this Part applies to an application only if the non-applicant partner consents to the arrangements which have been made for the upbringing of any such child.

(2B) Despite paragraph (2A), no consent is required in respect of any child of the family under 16 years of age who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of the child.”; and

(e) in paragraph (3), for “If an application” substitute “Subject to rule 49.80GB(6), if an application”.

(13) For rule 49.80B (form of application for simplified dissolution of a civil partnership)(c), substitute—

(a) Rule 49.80A was inserted by S.S.I. 2005/632 and amended by S.S.I. 2006/206.

(b) 2007 asp 4.

(c) Rule 49.80B was inserted by S.S.I. 2005/632 and amended by S.S.I. 2006/206.

“Form of application for simplified dissolution of a civil partnership

49.80B—(1) A simplified dissolution application is to be made—

- (a) in Form 49.80B-A, where the facts set out in section 117(3)(c) of the CP Act of 2004 (no cohabitation for one year with consent of defender to decree) are relied on; or
- (b) in Form 49.80B-B, where the facts set out in section 117(3)(d) of the CP Act of 2004 (no cohabitation for two years) are relied on.

(2) A simplified dissolution application must be signed by the applicant.

(3) A simplified dissolution application in Form 49.80B-A is of no effect unless the form of consent to dissolution of civil partnership in Part 2 of that Form is signed by the non-applicant partner.

(4) Paragraph (5)—

- (a) applies where there is a child of the family under 16 years of age; but
- (b) does not apply in respect of any child who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of that child.

(5) A simplified dissolution application is of no effect unless—

- (a) it is accompanied by a Form 49.80B-D (form of arrangements for upbringing of child of the family under 16 years of age) in respect of each child of the family under 16 years of age; and
- (b) the non-applicant partner signs the form of consent in Part 2 of each Form 49.80B-D.”.

(14) In rule 49.80C (lodging and registration of simplified dissolution applications)(a)—

(a) in paragraph (1)—

- (i) after subparagraph (a) insert “and”; and
- (ii) omit subparagraph (c);

(b) after paragraph (1) insert—

“(1A) For each child of the family under 16 years of age, the applicant must also send the Deputy Principal Clerk—

- (a) an extract or certified copy of each child’s birth certificate; and
- (b) a Form 49.80B-D for each child, other than a child referred to in rule 49.80B(4)(b) (form of application for simplified dissolution of civil partnership).”.

(15) In rule 49.80D (warrants for service or intimation of simplified dissolution applications)(b), in paragraph (2) omit “or section 117(2)(b) (issue of interim gender recognition certificate)”.

(16) In rule 49.80E (execution of service or intimation of simplified dissolution application)(c), in paragraph (3)—

- (a) after “(no cohabitation for one year with consent to divorce),” insert “or”; and
- (b) omit “, or Form 49.80E-C (interim gender recognition certificate)”.

(17) In rule 49.80G (evidence in simplified dissolution applications)(d), in paragraph (1) for “Parole evidence shall not” substitute “Subject to rule 49.80GB (hearing to consider arrangements for upbringing of a child of the family), parole evidence shall not”.

(18) After rule 49.80G, insert—

(a) Rule 49.80C was inserted by S.S.I. 2005/632.

(b) Rule 49.80D was inserted by S.S.I. 2005/632 and amended by S.S.I. 2006/206.

(c) Rule 49.80E was inserted by S.S.I. 2005/632 and amended by S.S.I. 2006/206.

(d) Rule 49.80G was inserted by S.S.I. 2005/632.

“Consideration of arrangements for upbringing of child of the family

49.80GA.—(1) Paragraphs (2) and (3) apply where—

- (a) there is a child of the family under 16 years of age, other than a child who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of the child;
- (b) the court is considering for the purpose of section 12 of the Act of 1995 (restrictions on decrees for divorce, separation or annulment affecting children) whether to make a section 11 order; and
- (c) the court is not satisfied that no such order should be made.

(2) The court must appoint the application to be put out on the By Order Roll for the purpose of enquiring further as to the arrangements for the upbringing of the child on the first suitable court date occurring not sooner than 21 days after the date on which the court so directs.

(3) The Deputy Principal Clerk must intimate the date of the hearing on the By Order Roll to the applicant and the non-applicant partner in Form 49.80GA.

Hearing to consider arrangements for upbringing of a child of the family

49.80GB.—(1) This rule applies to a hearing on the By Order Roll fixed in accordance with rule 49.80GA.

(2) The applicant and the non-applicant partner must, except on cause shown, attend the hearing in person.

(3) At the hearing (which may be held in private), the court must seek to ascertain if the circumstances of the case may require the court to make a section 11 order.

(4) The applicant and the non-applicant partner must provide the court with sufficient information to enable the court to conduct the hearing.

(5) Where the court is satisfied that no section 11 order should be made, the court must proceed to determine the application.

(6) Where the court is not so satisfied, the court must direct that this Part no longer applies to the application and appoint it to proceed as a family action.

(7) A continuation of a hearing shall be intimated to any civil partner not present or represented when the continued hearing was fixed in accordance with rule 49.80GA(3).”.

(19) For rule 49.80I (applications after decree in simplified dissolution applications)(a), substitute—

“Applications after decree in simplified dissolution applications

49.80I.—(1) An application to the court to which this rule applies which is made after decree of dissolution has been granted in a simplified dissolution application must be made by minute.

(2) This rule applies to any application which could have been made if it had been made in an action of dissolution, other than an application for a section 11 order.

(3) On lodging a minute under paragraph (1), the minuter must lodge a process.”.

(20) In the appendix (forms)(b)—

- (a) for Form 49.73-A (form of simplified divorce application under section 1(2)(d) of the Divorce (Scotland) Act 1976)(c), substitute Form 49.73-A set out in schedule 1;

(a) Rule 49.80I was inserted by S.S.I. 2005/632.

(b) The appendix (forms) was last amended by [S.S.I. /].

(c) Form 49.73-A was last amended by S.S.I. 2021/75.

- (b) for Form 49.73-B (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976(a), substitute Form 49.73-B set out in schedule 1;
- (c) omit Form 49.73-C (form of simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976(b);
- (d) after form 49.73-B, insert Form 49.73-D (form of arrangements for upbringing of child of the marriage under 16 years of age) set out in schedule 1;
- (e) omit Form 49.76B-A (form of citation in simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976(c);
- (f) after Form 49.76-E (form of certificate of service of simplified divorce application by messenger-at-arms), insert Form 49.78A (form of intimation to spouses of a By Order Roll hearing under rule 49.78A) set out in schedule 1;
- (g) for Form 49.80B-A (form of simplified dissolution of civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004)(d), substitute Form 49.80B-A set out in schedule 1;
- (h) for Form 49.80B-B (form of simplified dissolution of civil partnership application under section 117(3)(d) of the Civil Partnership Act 2004)(e), substitute Form 49.80B-B set out in schedule 1;
- (i) omit Form 49.80B-C (form of simplified dissolution of civil partnership application under section 117(2)(b) of the Civil Partnership Act 2004)(f);
- (j) after Form 49.80B-B, insert Form 49.80B-D (form of arrangements for upbringing of child of the family under 16 years of age) set out in schedule 1;
- (k) omit Form 49.80E-C (form of citation in simplified dissolution of civil partnership application under section 117(2)(b) of the Civil Partnership Act 2004)(g); and
- (l) after Form 49.80E-F (form of certificate of service of simplified dissolution application by messenger-at-arms)(h), insert Form 49.80GA (form of intimation to civil partners of a By Order Roll hearing under rule 49.80GA) set out in schedule 1).

Amendment of Chapter 33 of the Ordinary Cause Rules

3.—(1) Chapter 33 (family actions) of the Ordinary Cause Rules 1993(i) is amended in accordance with this paragraph.

(2) In rule 33.38 (application and interpretation of Part IV)(j), at the end of the rule insert “, other than a simplified divorce application”.

(3) In rule 33.73 (application and interpretation of Part XI)(k)—

- (a) in paragraph (1)(a), omit “or section 1(1)(b) (issue of interim gender recognition certificate)”;
- (b) omit paragraph (1)(d);
- (c) after paragraph (1), insert—

“(1A) Where there is a child of the marriage under 16 years of age, this Part applies to an application only if the applicant’s spouse consents to the arrangements which have been made, or are proposed to be made, for the upbringing of every such child.

(a) Form 49.73-B was last amended by S.S.I. 2021/75.

(b) Form 49.73-C was inserted by S.S.I. 2005/632 and amended by S.S.I. 2021/75.

(c) Form 49.76B-A was inserted by S.S.I. 2005/632 and amended by S.S.I. 2014/302.

(d) Form 49.80B-A was inserted by S.S.I. 2005/632 and last amended by S.S.I. 2021/75.

(e) Form 49.80B-B was inserted by S.S.I. 2005/632 and last amended by S.S.I. 2021/75.

(f) Form 49.80B-C was inserted by S.S.I. 2005/632 and amended by S.S.I. 2021/75.

(g) Form 49.80E-C was inserted by S.S.I. 2005/632.

(h) Form 49.80E-F was inserted by S.S.I. 2005/632.

(i) The Ordinary Cause Rules 1993 are in schedule 1 of the Sheriff Courts (Scotland) Act 1907 (c. 51). Schedule 1 was substituted by S.I. 1993/1956 and last amended by S.S.I. []. Chapter 33 was last amended by S.S.I. [2022/289].

(j) Rule 33.38 was last amended by S.S.I. 2006/207.

(k) Rule 33.73 was last amended by S.S.I. 2007/6.

(1B) Despite paragraph (1A), no consent is required in respect of any child of the marriage under 16 years of age who does not live with the applicant or the applicant's spouse because a permanence order has been made in respect of that child.”;

(d) at the beginning of paragraph (2), insert “Subject to rule 33.80B(7),”; and

(e) for paragraph (3), substitute—

“(3) In this Part—

“permanence order” has the meaning given by section 80(2) of the Adoption and Children (Scotland) Act 2007(a);

“simplified divorce application” means an application mentioned in paragraph (1).”.

(4) For rules 33.74 (form of applications)(b) and 33.75 (lodging of applications)(c), substitute—

“Form of applications

33.74.—(1) A simplified divorce application is to be made—

(a) in Form F31, where the facts set out in section 1(2)(d) of the Act of 1976 (no cohabitation for one year with consent of defender to decree) are relied on; or

(b) in Form F33, where the facts set out in section 1(2)(e) of the Act of 1976 (no cohabitation for two years) are relied on.

(2) A simplified divorce application must be signed by the applicant.

(3) A simplified divorce application in Form F31 is of no effect unless the form of consent to divorce in Part 2 of that Form is signed by the applicant's spouse.

(4) Paragraph (5)—

(a) applies where there is a child of the marriage under 16 years of age; but

(b) does not apply in respect of any child who does not live with the applicant or the applicant's spouse because a permanence order has been made in respect of that child.

(5) A simplified divorce application is of no effect unless—

(a) it is accompanied by a Form F33B (form of arrangements for upbringing of child of the marriage under 16 years of age) in respect of each child of the marriage under 16 years of age; and

(b) the applicant's spouse signs the form of consent in Part 2 of each Form F33B.

Lodging of applications

33.75.—(1) The applicant is to send a simplified divorce application to the sheriff clerk with—

(a) an extract or certified copy of the marriage certificate; and

(b) the appropriate fee.

(2) Where there is a child of the marriage under 16 years of age, the applicant is also to send to the sheriff clerk—

(a) an extract or certified copy of each child's birth certificate; and

(b) a Form F33B for each child, other than a child referred to in rule 33.74(4)(b) (form of applications).”.

(5) In rule 33.76 (citation and intimation)(d), in paragraph (3)—

(a) 2007 asp 4.

(b) Rule 33.74 was last amended by S.S.I. 2006/207.

(c) Rule 33.75 was amended by S.S.I. 2006/207.

(d) Rule 33.76 was last amended by S.S.I. 2010/279.

- (a) after subparagraph (a) insert “and”; and
- (b) omit subparagraph (c).
- (6) In rule 33.77 (citation where address not known)(a), in paragraph (1) omit “or section 1(1)(b) of the Act of 1976 (grounds of divorce: issue of interim gender recognition certificate)”.
- (7) In rule 33.79 (evidence), at the beginning of the rule insert “Subject to rule 33.80B (hearing to consider arrangements for upbringing of a child of the marriage)”.
- (8) After rule 33.80, insert—

“Consideration of arrangements for upbringing of child of the marriage

33.80A.—(1) Paragraphs (2) and (3) apply where—

- (a) there is a child of the marriage under 16 years of age, other than a child who does not live with the applicant or the applicant’s spouse because a permanence order has been made in respect of the child;
- (b) the sheriff is considering for the purpose of section 12 of the Act of 1995 (restrictions on decrees for divorce, separation or annulment affecting children) whether to make a section 11 order in respect of the child; and
- (c) the sheriff is not satisfied that no such order should be made.

(2) The sheriff must order that a hearing is fixed for the purpose of enquiring further as to the arrangements for the upbringing of the child.

(3) The sheriff clerk must—

- (a) fix a date and time for the hearing on the first suitable court date occurring not sooner than 21 days after the date of the order, unless the sheriff directs the hearing to be held on an earlier date; and
- (b) intimate the date and time of the hearing to the applicant and the applicant’s spouse in Form F38A.

Hearing to consider arrangements for upbringing of child of the marriage

33.80B.—(1) This rule applies to a hearing fixed in accordance with rule 33.80A, and to any continuation of such a hearing.

(2) The applicant and the applicant’s spouse must, except on cause shown, attend the hearing in person.

(3) If the applicant is neither present nor represented at the hearing, or if cause is not shown for the applicant’s failure to attend in person, the sheriff may dismiss the application.

(4) At the hearing (which may be held in private), the sheriff must seek to ascertain if the circumstances of the case may require the sheriff to make a section 11 order.

(5) The applicant and the applicant’s spouse must provide the sheriff with sufficient information to enable the sheriff to conduct the hearing.

(6) Where the sheriff is satisfied that no section 11 order should be made, the sheriff must proceed to determine the application in accordance with rule 33.80 (decree).

(7) Where the sheriff is not so satisfied, the sheriff must direct that this Part no longer applies to the application and appoint it to proceed as a family action.

(8) A continuation of a hearing must be intimated to any spouse not present or represented when the continued hearing was fixed in accordance with rule 33.80A(3)(b).”.

(9) For rule 33.82 (applications after decree), substitute—

(a) Rule 33.77 was amended by S.S.I. 2006/207.

“Applications after decree

33.82.—(1) An application to the court to which this rule applies which is made after decree of divorce has been granted in a simplified divorce application must be made by minute.

(2) This rule applies to any application which could have been made if it had been made in an action of divorce, other than an application for a section 11 order.”.

Amendment of Chapter 33A of the Ordinary Cause Rules

4.—(1) Chapter 33A (civil partnership actions) of the Ordinary Cause Rules 1993(a) is amended in accordance with this paragraph.

(2) After rule 33A.28(b), insert—

“Applications for postponement of decree under section 121A of the Act of 2004

33A.29. An application under section 121A (application for postponement of decree of dissolution where impediment to religious marriage exists) or section 121A(4) (application for recall of postponement) of the Act of 2004 must be made by minute in the process of the action to which the application relates.”.

(3) In rule 33A.38 (application and interpretation of Part IV)(c), at the end of the rule insert “, other than a simplified dissolution of civil partnership application”.

(4) In rule 33A.66 (application and interpretation of Part XI)(d)—

(a) in paragraph (1)(a)—

(i) after “consent of defender to decree), insert “or”; and

(ii) omit “or section 117(2)(b) (issue of interim gender recognition certificate)”;

(b) omit paragraph (1)(d);

(c) after paragraph (1), insert—

“(1A) Where there is a child of the family under 16 years of age, this Part applies to an application only if the non-applicant partner consents to the arrangements which have been made, or are proposed to be made, for the upbringing of every such child.

(1B) Despite paragraph (1A), no consent is required in respect of any child of the family under 16 years of age who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of that child.”;

(d) in paragraph (2), for “If an application” substitute “Subject to rule 33A.73B(7), if an application”; and

(e) for paragraph (3), substitute—

“(3) In this Part—

“child of the family” has the meaning given by section 12(4)(b) of the Act of 1995;

“non-applicant partner” means the party to the civil partnership other than the party who makes a simplified dissolution of civil partnership application;

“permanence order” has the meaning given by section 80(2) of the Adoption and Children (Scotland) Act 2007(e);

“simplified dissolution of civil partnership application” means an application mentioned in paragraph (1).”.

(a) Chapter 33A was inserted by S.S.I. 2005/638 and last amended by S.S.I. [2019/123].

(b) Rule 33A.28 was substituted by S.S.I. 2006/207 and amended by S.S.I. 2007/7.

(c) Rule 33A.38 was amended by S.S.I. 2006/207.

(d) Rule 33A.66 was last amended by S.S.I. 2012/188.

(e) 2007 asp 4.

(5) For rules 33A.67 (form of applications)(a) and 33A.68 (lodging of applications), substitute—

“Form of applications

33A.67.—(1) A simplified dissolution of civil partnership application is to be made—

- (a) in Form CP29, where the facts set out in section 117(3)(c) of the Act of 2004 (no cohabitation for one year with consent of defender to decree) are relied on; or
- (b) in Form CP30, where the facts set out in section 117(3)(d) of the Act of 2004 (no cohabitation for two years) are relied on.

(2) A simplified dissolution of civil partnership application must be signed by the applicant.

(3) A simplified dissolution of civil partnership application in Form CP29 is of no effect unless the form of consent to dissolution of civil partnership in Part 2 of that form is signed by the non-applicant partner.

(4) Paragraph (5)—

- (a) applies where there is a child of the family under 16 years of age; but
- (b) does not apply in respect of any child who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of that child.

(5) A simplified dissolution of civil partnership application is of no effect unless—

- (a) it is accompanied by a Form CP30A (form of arrangements for upbringing of child of the family under 16 years of age) in respect of each child of the family under 16 years of age; and
- (b) the non-applicant partner signs the form of consent in Part 2 of each Form CP30A.

Lodging of applications

33A.68.—(1) The applicant is to send a simplified dissolution of civil partnership application to the sheriff clerk with—

- (a) an extract or certified copy of the civil partnership certificate; and
- (b) the appropriate fee.

(2) Where there is a child of the family under 16 years of age, the applicant is also to send the sheriff clerk—

- (a) an extract or certified copy of each child’s birth certificate; and
- (b) a Form CP30A for each child, other than a child referred to in rule 33A.67(4)(b) (form of applications).”.

(6) In rule 33A.69 (citation and intimation)(b), in paragraph (3)—

- (a) after subparagraph (a) insert “and”; and
- (b) omit subparagraph (c).

(7) In rule 33A.70 (citation where address unknown)(c), in paragraph (1) omit “or section 117(2)(b) (issue of interim gender recognition certificate)”.

(8) In rule 33A.72 (evidence), for “If an application ceases” substitute “Subject to rule 33A.73B (hearing to consider arrangements for upbringing of a child of the family), if an application ceases”.

(9) After rule 33A.73, insert—

(a) Rule 33A.67 was amended by S.S.I. 2006/207.
(b) Rule 33A.69 was amended by S.S.I. 2010/279.
(c) Rule 33A.70 was last amended by S.S.I. 2012/188.

“Consideration of arrangements for upbringing of child of the family

33A.73A.—(1) Paragraphs (2) and (3) apply where—

- (a) there is a child of the family under 16 years of age, other than a child who does not live with the applicant or the non-applicant partner because a permanence order has been made in respect of the child;
- (b) the sheriff is considering for the purpose of section 12 of the Act of 1995 (restrictions on decrees for divorce, separation or annulment affecting children) whether to make a section 11 order in respect of the child; and
- (c) the sheriff is not satisfied that no such order should be made.

(2) The sheriff must order that a hearing is fixed for the purpose of enquiring further as to the arrangements for the upbringing of the child.

(3) The sheriff clerk must—

- (a) fix a date and time for the hearing on the first suitable court date occurring not sooner than 21 days after the date of the order, unless the sheriff directs the hearing to be held on an earlier date; and
- (b) intimate the date and time of the hearing to the applicant and the non-applicant partner in Form CP37A.

Hearing to consider arrangements for upbringing of a child of the family

33A.73B.—(1) This rule applies to a hearing fixed in accordance with rule 33A.73A, and to any continuation of such a hearing.

(2) The applicant and the non-applicant partner must, except on cause shown, attend the hearing in person.

(3) If the applicant is neither present nor represented at the hearing, or if cause is not shown for the applicant’s failure to attend in person, the sheriff may dismiss the application.

(4) At the hearing (which may be held in private), the sheriff must seek to ascertain if the circumstances of the case may require the sheriff to make a section 11 order.

(5) The applicant and the non-applicant partner must provide the sheriff with sufficient information to enable the sheriff to conduct the hearing.

(6) Where the sheriff is satisfied that no section 11 order should be made, the sheriff must proceed to determine the application in accordance with rule 33A.73 (decree).

(7) Where the sheriff is not so satisfied, the sheriff must direct that this Part no longer applies to the application and appoint it to proceed as a civil partnership action.

(8) A continuation of a hearing shall be intimated to any civil partner not present or represented when the continued hearing was fixed in accordance with rule 33A.73A(3)(b).”.

(10) For rule 33A.75 (applications after decree), substitute—

“Applications after decree

33A.75.—(1) An application to the court to which this rule applies which is made after decree of dissolution has been granted in a simplified dissolution of civil partnership application shall be made by minute.

(2) This rule applies to any application which could have been made if it had been made in an action of dissolution of civil partnership, other than an application for a section 11 order.”.

Amendment of Appendix 1 to the Ordinary Cause Rules

5. In Appendix 1 (forms) to the Ordinary Cause Rules 1993—

- (a) for Form F31 (form of simplified divorce application under section 1(2)(d) of the Divorce (Scotland) Act 1976)(a), substitute Form F31 (form of simplified divorce application under section 1(2)(d) of the Divorce (Scotland) Act 1976) set out in schedule 2;
- (b) for Form F33 (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976)(b), substitute Form F33 (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976) set out in schedule 2;
- (c) after Form F33 (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976), insert Form F33B (form of arrangements for upbringing of child of the marriage under 16 years of age) set out in schedule 2;
- (d) omit Form F33A (form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976)(c) (form of simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976)(d);
- (e) omit Form F35A (form of citation in application on grounds under section 1(1)(b) of the Divorce (Scotland) Act 1976)(e);
- (f) after Form F38 (form of extract decree of divorce in simplified divorce application), insert Form F38A (form of intimation to spouses of a hearing under rule 33.80A) set out in schedule 2;
- (g) for Form CP29 (form of simplified dissolution of civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004)(f), substitute Form CP29 (form of simplified dissolution of a civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004) set out in schedule 3;
- (h) for Form CP30 (form of simplified dissolution of civil partnership application under section 117(3)(d) of the Civil Partnership Act 2004)(g), substitute Form CP30 (form of simplified dissolution of a civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004) set out in schedule 3;
- (i) after Form CP30 (form of simplified dissolution of a civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004), insert Form CP30A (form of arrangements for upbringing of child of the family under 16 years of age) set out in schedule 3;
- (j) omit Form CP31 (form of simplified dissolution of a civil partnership application under section 117(2)(b) of the Civil Partnership Act 2004)(h); and
- (k) omit Form CP34 (form of citation in application on grounds under section 117(2)(b) of the Civil Partnership Act 2004)(i);
- (l) after Form CP37 (form of extract decree of dissolution of a civil partnership in an application for a simplified dissolution of a civil partnership), insert Form CP37A (form of intimation to civil partners of a hearing under rule 33A.73A) set out in schedule 3.

Saving provision

6. Paragraphs 2, 3, 4 and 5 have no effect in respect of any application or proceedings raised but not yet determined by [date].

(a) Form F31 was last amended by S.S.I. 2021/75.
 (b) Form F33 was last amended by S.S.I. 2021/75.
 (c) Form F33 was amended by S.S.I. 2021/75.
 (d) Form F33A was inserted by S.S.I. 2006/207 and last amended by S.S.I. 2021/75.
 (e) Form F35A was inserted by S.S.I. 2006/207 and amended by S.S.I. 2007/6.
 (f) Form CP29 was inserted by S.S.I. 2005/638 and last amended by S.S.I. 2021/75.
 (g) Form CP30 was inserted by S.S.I. 2005/638 and last amended by S.S.I. 2021/75.
 (h) Form CP31 was inserted by S.S.I. 2005/638 and last amended by S.S.I. 2021/75.
 (i) Form CP34 was inserted by S.S.I. 2005/638.

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
Date

SCHEDULE 1

Paragraph 2(20)(a), (b), (d),
(f), (g), (h), (j) and (l)

Form 49.73-A

Under the Divorce (Scotland) Act 1976, Section 1(2)(d)

Simplified Procedure

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

APPLICATION FOR DIVORCE (WITH CONSENT OF OTHER PARTY TO THE MARRIAGE) SPOUSES HAVING LIVED APART FOR AT LEAST ONE YEAR

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a divorce may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for divorce. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's General Department or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|----------------------------|-----|---|
| Application (Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of the marriage | 1A. | If there are any children of the marriage under 16 years of age, you must also complete and sign a copy of Form 49.73-D for each child. You do not have to do this for any child who does not live with you or your spouse because the court has made a permanence order. |
| Consent of spouse (Part 2) | 2. | When you have completed Part 1 of this form (and Form 49.73-D, if you have children under 16 years of age), send the documents to your spouse for completion of the consent at Part 2 (and Part 2 of Form 49.73-D, if you have children under 16 years of age). |

NOTE: If your spouse does NOT complete and sign:

- (a) the form of consent at Part 2;
- (b) (where there are children under 16 years of age) Part 2 of Form 49.73-D, for every child under 16 years of age,

your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor.

- Affidavit (Part 3)
3. When the application has been returned to you with the Consent (Part 2) duly completed and signed, you should then take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 3 may be completed and sworn.
- Returning completed application form to court
4. When 3 above has been complied with, your application is now ready to be sent to the court at the above address. With it you must enclose:
- (a) your marriage certificate (the document headed “Extract of an entry in a Register of Marriages”, which will be returned to you in due course).
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form 49.73-D for each child signed by you and your spouse, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court of Session immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Paragraphs 1 and 2 opposite should be those shown on your marriage certificate. If you are known by another name which does not appear on that certificate, please write that name in brackets.
 - (ii) The surname given for each spouse must be that person's present name. Any previous surnames should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your spouse.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME AND ADDRESS OF SPOUSE

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

Paragraph 3 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- (i) I am domiciled in Scotland on the date I signed this application
- (ii) My spouse is domiciled in Scotland on the date I signed this application

- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

Paragraph 4 notes

You will be able to obtain these details from your marriage certificate (extract entry in the register of marriages) which must accompany this application form, when you send it to the court.

A photocopy of the marriage certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the marriage was registered,

stating both spouses' full names, and the date and place of the marriage.

The Registrar will charge a fee for this service.

4. DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day month year

Paragraph 5 notes

You and your spouse must have lived apart from each other for a continuous period of at least one year after the date of your marriage and immediately before the date of this application.

This minimum period of one year's separation is extended if you and your spouse have lived together again for **not more than six months in all** during that one year period. For example, if you lived together for three months in total during the one year period, then you should not complete this application until one year and three months have elapsed from the date of your original separation.

5. PERIOD OF SEPARATION

- (i) Please state the date on which you ceased to live with your spouse (if more than 1½ years, just give the month and year)

Day month year

*delete as appropriate

- (ii) Have you lived with your spouse since that date? *[YES/NO]

- (iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 6 notes

Is there a reasonable chance that you can still settle the differences with your spouse and resume normal married life?

6. RECONCILIATION

Is there any reasonable prospect of reconciliation with your spouse?

*[YES/NO]

Do you consider that the marriage has broken down irretrievably?

*[YES/NO]

7. CONSENT

Does your spouse consent to a divorce being granted?

*[YES/NO]

8. MENTAL DISORDER

As far as you are aware, does your spouse have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 9 notes

- (i) "Children of the marriage" includes any adopted children and children treated by both you and your spouse as children of your family.
- (ii) A "permanence order" is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

9. CHILDREN

- (i) Are there any children of the marriage under 16 years of age?
*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 10.)

- (ii) Give the name and date of birth of each child of the marriage under 16 years of age.
- (iii) Has a court made a permanence order relating to any child listed at (ii)?
*[YES/NO]
- (iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

10. OTHER COURT ACTIONS

- Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage?
*[YES/NO]

(if yes, give details)

Paragraph 11 notes

No claim can be made in this form of divorce application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

No application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of that religion of that marriage; and

- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

“Religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

If you wish to make such an application you should consult a solicitor or Citizens Advice Scotland.

11. DECLARATION AND REQUEST FOR DIVORCE

I confirm that the facts stated in paragraphs 1 to 10 above apply to my marriage.

I do NOT ask the court to make any financial provision in connection with this application.

I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976.

I request the court to grant decree of divorce from my spouse.

Date

Signature of applicant

IMPORTANT

Part 1 **MUST** be completed, signed and dated before sending the application form to your spouse.

Warning

Divorce may result in the loss to you of property rights (e.g. the right to succeed to the Applicant’s estate on his/her death) or the right, where appropriate, to a widow’s pension.

(If you are in doubt about signing this form, you should consult a solicitor.)

NOTICE TO CONSENTING SPOUSE

CONSENT TO APPLICATION FOR DIVORCE (HAVING LIVED APART FOR AT LEAST ONE YEAR)

In Part 1 of the enclosed application form your spouse is applying for divorce on the ground that the marriage has broken down irretrievably because you and your spouse have lived apart for at least one year and you consent to the divorce being granted.

Such consent must be given formally in writing at Part 2 of the application form. BEFORE completing that part, you are requested to read it over carefully so that you understand the effect of consenting to divorce. Thereafter if you wish to consent:

- (a) check the details given by the Applicant at Part 1 of the form to ensure that they are correct to the best of your knowledge;
- (b) complete Part 2 (Consent by Applicant's spouse to divorce) by entering your name and address at the appropriate place and adding your signature and the date; and
- (c) return the whole application form to your spouse at the address given in Part 1.

Once your spouse has completed the remainder of the form and has submitted it to the court, a copy of the whole application (including your consent) will later be served upon you formally by the court.

In the event of the divorce being granted, you will automatically be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the court immediately.)

If you do NOT wish to consent, please return the application form, with Part 2 uncompleted, to your spouse and advise him or her of your decision.

The court will NOT grant a divorce on this application if Part 2 of the form is not completed by you.

Notes on completing Part 2

1. Read over carefully PART 1 of this application, which has already been completed by your spouse.

2. **Financial Provision**

Please note that in Section 11 of Part 1, the Applicant states that he/she does NOT claim any financial awards by way of periodical allowance or capital sum. You are also required to state that you make no claim upon the Applicant for payment of a periodical allowance or capital sum.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

2A. Postponement of decree

Please note that no application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of the religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

As at 26th February 2007 “religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

In Section 11 of Part 1, the Applicant states that he/she does not apply for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. You are also required to state (item (f) opposite) that you make no such application.

3. Warning

Divorce may result in the loss to you of property rights (e.g. the right to succeed to the Applicant’s estate on his/her death) or the right, where appropriate, to a widow’s pension.

(If you are in doubt about signing this form of consent, you should consult a solicitor.)

PART 2 CONSENT BY APPLICANT’S SPOUSE TO DIVORCE

NOTE:

Before completing this Part of the form, please read Part 1 and the notes above.

I,

(Insert full name of Applicant’s spouse)

residing at

(Insert Applicant’s spouse’s present home address)

HEREBY STATE THAT

- (a) I have read Part 1 of this application;
- (b) the Applicant has lived apart from me for a continuous period of one year immediately preceding the date of the application (paragraph 11 of Part 1);
- (c) I do NOT ask the court to make any order for payment to me by the Applicant of a periodical allowance (*i.e.* a regular payment of money weekly or monthly, etc for maintenance);

- (d) I do NOT ask the court to make any order for payment to me by the Applicant of a capital sum (*i.e.* a lump sum payment);
- (e) I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976; and
- (f) I CONSENT TO DECREE OF DIVORCE BEING GRANTED IN RESPECT OF THIS APPLICATION.

Signature of Applicant's spouse

Date

NOTE: You may withdraw your consent, even after giving it, at any time before divorce is granted by the court. Should you wish to do so, you must immediately advise:

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

PART 3 APPLICANT'S AFFIDAVIT

To be completed by the Applicant only after Parts 1 and 2 have been signed and dated.

I,
(*insert Applicant's full name*)

residing at
(*insert Applicant's present home address*)

SWEAR that to the best of my knowledge and belief:

*Delete as appropriate

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form F49.73-D] are true; and
- (2) the signature in Part 2 of this Application *[and in Part 2 of *[each] Form F49.73-D] is that of my spouse.

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(*insert place*)
this day of 20
before me
(*insert full name*)
(*insert full address*)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form 49.73-B

Under the Divorce (Scotland) Act 1976, Section 1(2)(e)

Simplified Procedure

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

APPLICATION FOR DIVORCE

SPOUSES HAVING LIVED APART FOR AT LEAST TWO YEARS

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a divorce may be sought by this method. If the simplified procedure appears to suit your circumstances, you may use this form to apply for divorce. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's General Department at the above address or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|--------------------------|-----|---|
| Application (Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of the marriage | 1A. | If there are any children of the marriage under 16 years of age, you must also complete and sign a copy of Form 49.73-D for each child. You do not have to do this for any child who does not live with you or your spouse because the court has made a permanence order. |
| | 2. | Each Form 49.73-D that you are required to complete and sign must then be sent to your spouse for completion of the consent at Part 2 of the form. |
| | | NOTE: If your spouse does NOT complete and sign Part 2 of each Form 49.73-D your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor. |
| Affidavit (Part 2) | 3. | When you have completed and signed Part 1 of this form, and when each Form 49.73-D that requires to be completed has been returned to you with Part 2 of that form duly completed and signed by your spouse, you should take the forms to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 2 of this form can be completed and sworn. |

Returning
completed
application
form to
court

4. When 3 above has been complied with, your application is now ready to be sent to the court at the above address. With it you must enclose:
 - (a) your marriage certificate (the document headed “Extract of an entry in a Register of Marriages”, which will be returned to you in due course).
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form 49.73-D for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court of Session immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your marriage certificate. If you are known by another name which does not appear on that certificate, please write that name in brackets.
 - (ii) The surname given for each spouse must be that person's present name. Any previous surnames should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your spouse.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME OF SPOUSE

Surname
Other name(s) in full

Paragraph 3 notes

If the address of your spouse is NOT known or cannot reasonably be ascertained, please enter "not known" in this section; you must take all reasonable steps to find out where your spouse is living and state on a separate sheet what steps you have taken and attach it to this form. Then proceed to section 4.

N.B. The statement must be signed.

3. ADDRESS OF SPOUSE (if the address of your spouse is not known, please enter "not known" in this paragraph and proceed to paragraph (4)

Present address
Daytime telephone number (if any)

Paragraph 4 notes

In the event that the address of your spouse is unknown to you, the Court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your spouse. (“Next-of-kin” does not include yourself or any child of the marriage for the purposes of this application. Children of the marriage includes any adopted children, and/or children accepted into the family.)
- (ii) ALL children of your marriage aged 16 years or over, whether or not they live with you.

When entering the details of the next-of-kin, if any, please state his or her relationship to your spouse (*i.e.* “mother”, “father”, “brother”, “sister”, etc).

If you do not know the identity or whereabouts of any of the next-of-kin of your spouse, or the whereabouts of any of the children of your marriage, please enter “not known” where appropriate.

If you do not know the address of your spouse and you were married in Scotland, you must obtain a letter from National Records of Scotland stating that there is no record that your spouse has divorced you. The letter must be issued not more than one month before the date of posting this application to the court. If you require to obtain a letter you should apply to:

National Records of Scotland, Registration Section, New Register House, Edinburgh,
EH1 3YT

stating both spouses’ full names, the date and place of your marriage and requesting that a search be made to confirm that there is no record that your spouse has divorced you. (Note – a fee will be charged for this service.)

The requirement to obtain a letter from National Records of Scotland does not apply if you were married outwith Scotland.

-
4. Only complete this paragraph if you do not know the present address of your spouse

NEXT-OF-KIN

Name

Address

Relationship to your spouse

CHILDREN OF THE MARRIAGE

Addresses

Names and dates of birth

If insufficient space is available to list all the children of the marriage, please continue on a separate sheet and attach to this form.

Paragraph 5 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My spouse is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
-

Paragraph 6 notes

You will be able to obtain these details from your marriage certificate (extract entry in a register of marriages) which must accompany this application form, when you send it to the Court.

A photocopy of the marriage certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the marriage was registered,

stating both spouses' full names, and the date and place of the marriage.

The Registrar will charge a fee for this service.

6. DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day month year

Paragraph 7 notes

You and your spouse must have lived apart from each other for a continuous period of at least 2 years after the date of your marriage and immediately before the date of this application.

This minimum period of 2 years separation is extended if you and your spouse have lived together again for **not more than 6 months in all** during that 2 year period. For example, if you lived together for 3 months in total during the 2 year period, then you should not complete this application until 2 years and 3 months have elapsed from the date of your original separation.

7. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your spouse (if more than 2½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your spouse since that date? *[YES/NO]

(iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 8 notes

Is there a reasonable chance that you can still settle the differences with your spouse and resume normal married life?

Are you satisfied that there is now no possibility of the marriage succeeding?

8. RECONCILIATION

Is there any reasonable prospect of reconciliation with your spouse?

*delete as appropriate

*[YES/NO]

Do you consider that the marriage has broken down irretrievably?

*[YES/NO]

9. MENTAL DISORDER

As far as you are aware, does your spouse have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 10 notes

- (i) "Children of the marriage" includes any adopted children and children treated by both you and your spouse as children of your family.
 - (ii) A "permanence order" is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

10. CHILDREN

- (i) Are there any children of the marriage under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 11.)

- (ii) Give the name and date of birth of each child of the marriage under 16 years of age.

- (iii) Has a court made a permanence order relating to any child listed at (ii)?

*[YES/NO]

- (iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

11. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage or the wellbeing of any child of the marriage?

*[YES/NO]

(if yes, give details)

Paragraph 12 notes

No claim can be made in this form of divorce application for payment to you of a periodical allowance (i.e. regular payment of money weekly, monthly etc. for your maintenance) or a capital sum (i.e. lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

No application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of that religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

“Religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

If you wish to make such an application you should consult a solicitor or Citizens Advice Scotland.

12. DECLARATION AND REQUEST FOR DIVORCE

I confirm that the facts stated in paragraphs 1 to 11 above apply to my marriage.

I do NOT ask the court to make any financial provision in connection with this application.

I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976.

I request the court to grant decree of divorce from my spouse.

Date

Signature of applicant

PART 2 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Part 1 has been signed and dated.

I,
(insert Applicant’s full name)

residing at
(insert Applicant’s present home address)

SWEAR that to the best of my knowledge and belief:

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form F49.73-D] are true *[]; and
- (2) the signature in Part 2 of *[each] Form F49.73-D is that of my spouse.]

*Delete as appropriate

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(insert place)
this day of 20
before me
(insert full name)
(insert full address)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form 49.73-D

Form of arrangements for upbringing of child of the marriage under 16 years of age

Rule 49.73(5)

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

You must complete this form if you are making a simplified divorce application and there are children of the marriage under 16 years of age.

You must complete one copy of this form for each child of the marriage under 16 years of age, unless the child does not live with you or your spouse because the court has made a permanence order for the child.

Note: If the court has made a permanence order, do not complete this form.

How to complete this form WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|----------------------------------|----|--|
| Arrangements
(Part 1) | 1. | Complete and sign Part 1 of the form. |
| Consent of
spouse
(Part 2) | 2. | When you have completed Part 1, send it to your spouse for completion of Part 2. |
| | | NOTE: If your spouse does NOT complete and sign the form of consent in Part 2, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor. |
| Affidavit | 3. | When the form has been returned to you with Part 2 completed and signed, you should take it with you when you take the simplified divorce application to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person. The affidavit that you swear includes the content of this form so it must be completed and signed (Parts 1 and 2) before the affidavit is sworn. |
| What
happens
next? | 4. | Once the affidavit has been sworn, your application is ready to be sent to the court (see the notes on the simplified divorce application form). |
| | 5. | The information that you and your spouse give on this form helps the court to consider your proposed arrangements for the upbringing of your child. By law, the court must look at what you have proposed. |

6. If the court does not think that the proposed arrangements are in the best interests of your child, you and your spouse will have to come to court to discuss them with the court. If the court decides that there will be a hearing, the Deputy Principal Clerk of Session will write to you and your spouse to explain when you have to come to court.
7. If the Deputy Principal Clerk tells you that there will be a hearing **AND YOU ARE UNSURE WHAT TO DO**, you should consult a solicitor. You may be entitled to legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from a Citizens Advice Scotland or other advice agency.

PART 1 WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Address

2. NAME AND ADDRESS OF SPOUSE

Surname
Other name(s) in full
Address

3. CHILD'S DETAILS

- (a) Surname:
- (b) Other name(s) in full:
- (c) Date of birth:
- (d) Sex: *Male/Female
- (e) Current address:
- (f) Name and address of school or nursery attended:

*delete as appropriate

4. LIVING ARRANGEMENTS

Note: if the child lives or will live both with you and your spouse, sharing time equally between you, give details of both houses and the people who live there in questions 4(a) to (f). You do not have to complete question 6(a).

*delete as appropriate

(c) After the divorce, will the child stay in the same house?

*[YES/NO]

(d) If the answer to (c) is No, describe the house where the child is going to live. For example, how many bedrooms are there? Will the child have to share a bedroom? If so, who will he or she be sharing with?

--

(e) Who will live with the child following the divorce? If there are any changes from (b) list the full name and age of anyone else who will live with the child, and the relationship between the child and that person.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>

- (f) Has any person listed in (b) or (e) ever been convicted of a violent offence, a sexual offence or been placed on the Sex Offenders Register?

*delete as appropriate

*[YES/NO]

If the answer to (f) is Yes, give details below.

5. CHILD PROTECTION MEASURES

- (a) Has the child been referred to a Children's Hearing?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is YES, give details below.

6. CONTACT ARRANGEMENTS

Note: If you gave details about your house and your spouse's house at question 4, you do not need to answer question 6(a).

- (a) What arrangements have been made for the child to have contact with the parent or parents with whom the child is not living?

- (b) What arrangements have been made for the child to have contact with other members of his or her family, particularly brothers or sisters with whom the child is not living?

7. EDUCATIONAL ARRANGEMENTS

- (a) Is it proposed that the child will attend a different school or nursery following the divorce?

*[YES/NO]

*delete as appropriate

- (b) If the answer to (a) is Yes, give the name and address of the proposed new school or nursery, and explain why this change is happening.

8. CHILDCARE ARRANGEMENTS

- (a) Who will look after the child when the person with whom the child is to live is not doing so? Include details about any arrangements for the child to be looked after before and after school/nursery.

9. ABOUT THE CHILD

- (a) What are the child's interests? Include information about what the child does in his or her spare time. For example, does he or she have any hobbies? Is he or she a member of any clubs or teams? Does he or she take part in any sports?

- (b) Does the child have any health or developmental issues? Include details of any health conditions, additional support needs, and any other issues which have an impact on the child's life.

10. VIEWS OF THE CHILD

- (a) Have you asked your child for his or her views on the arrangements in questions 1 to 9?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is Yes, what are your child's views, if any?

- (c) If the answer to (a) is No, explain why you have not asked your child for his or her views.

11. DECLARATION

I declare that the facts stated in answer to questions 1 to 10 above are a true record of the proposed arrangements for the upbringing of *(name of child)* in the event of decree of divorce being granted.

Date

Signature of applicant

IMPORTANT: Part 1 must be completed, signed and dated before sending the form to your spouse.

PART 2 NOTICE TO SPOUSE

CONSENT TO ARRANGEMENTS FOR THE UPBRINGING OF

(Full name of child)

- *delete as appropriate
1. Your spouse is applying for divorce. Because there *[is a child/are children] of the marriage under 16 years of age, your spouse and you must tell the court about the proposed arrangements for the upbringing of that child or children.
 2. Your spouse has detailed the proposed arrangements in Part 1 of this form. You are requested to read over Part 1 of this form carefully. If you wish to consent to these arrangements, you must—
 - (a) check that the details in Part 1 are correct to the best of your knowledge;
 - (b) complete Part 2 (consent to arrangements for upbringing of child) by inserting your name and address and signing and dating it; and
 - (c) return the whole form to your spouse at the address given in Part 1.
 3. Your spouse will then return the form, with the simplified divorce application, to the court.
 4. **IMPORTANT: If there is more than one child of the marriage under 16 years of age, your spouse must complete a separate Form for each child and you must consent by completing Part 2 of each Form.**
 5. If you are not happy with the proposed arrangements, please return the form, with Part 2 uncompleted, to your spouse and advise him or her of your decision.
 6. The court will NOT grant a divorce if you do not complete Part 2 of this form.

Deputy Principal Clerk of Session

CONSENT BY APPLICANT'S SPOUSE
TO
ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

I, *(full name of applicant's spouse)*

residing at *(address)*

HEREBY STATE THAT:

- (a) I have read Part 1 of this application;
- (b) I CONSENT TO THE PROPOSED ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

IN THE EVENT THAT DECREE IS GRANTED.

Date

Signature

IMPORTANT: You may withdraw your consent, even after giving it, at any time before divorce is granted by the court. Should you wish to do so please contact the court immediately at the following address:

Court of Session
General Department
Edinburgh EH1 1RQ
Tel: 0131 225 2595 Ext. 6748

Form 49.78A

Rule 49.78A(3)

Form of intimation to spouses of a By Order Roll hearing under rule 49.78A

Court ref. no:

Date:

(Date of posting or other method of service)

To:

APPLICATION FOR DECREE OF DIVORCE BY *(insert name of applicant)*

TAKE NOTICE

1. A hearing has been fixed in the above application at which the court will consider the arrangements for the upbringing of *(insert name(s) of child or children)*.
2. The hearing will take place at *(insert time)* on *(insert date)* at the Court of Session, Parliament House, Edinburgh EH1 1RQ.

(Signed)

Deputy Principal Clerk of Session

[or authorised Clerk of Session]

NOTE

At the hearing you should be prepared to provide the court with any information the judge requests concerning the arrangements for the upbringing of the child *[or children]* mentioned above. *[In particular (specify particular issues where applicable)]*.

In terms of rule 49.78B(2), both spouses must attend the hearing in person. If you are unable to attend the hearing you should immediately contact the court at the following address—

Court of Session
General Department
Edinburgh EH1 1RQ
Tel: 0131 225 2595 Ext. 6748

Form 49.80B-A

Rule 49.80B(1)

Form of simplified dissolution of civil partnership application under section 117(3)(c) of the Civil Partnership Act 2004

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

APPLICATION FOR DISSOLUTION OF A CIVIL PARTNERSHIP WITH CONSENT OF OTHER PARTY TO THE CIVIL PARTNERSHIP (CIVIL PARTNERS HAVING LIVED APART FOR AT LEAST ONE YEAR)

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a dissolution of a civil partnership may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for a dissolution of a civil partnership. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's General Department or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|-----------------------------------|-----|---|
| Application (Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of the marriage | 1A. | If there are any children of the family under 16 years of age, you must also complete and sign a copy of Form 49.80B-D for each child. You do not have to do this for any child who does not live with you or your civil partner because the court has made a permanence order. |
| Consent of civil partner (Part 2) | 2. | When you have completed Part 1 of this form (and Form 49.80B-D, if there are children under 16 years of age), send the documents to your civil partner for completion of the consent at Part 2 (and Part 2 of Form 49.80B-D, if there are children under 16 years of age). |
| | | NOTE: If your civil partner does NOT complete and sign:
(a) the form of consent at Part 2;
(b) (where there are children under 16 years of age) Part 2 of Form 49.80B-D, for every child under 16 years of age,
your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a dissolution, you should consult a solicitor. |
| Affidavit (Part 3) | 3. | When the application has been returned to you with the consent (Part 2) duly completed and signed, you should then take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 3 may be completed and sworn. |

Returning
completed
application
form to court

4. When directions 1 to 3 above has been complied with, your application is now ready to be sent to the court at the above address. With it you must enclose:
 - (a) an extract of the registration of your civil partnership in the civil partnership register (the document headed “Extract of an entry in a Register of Civil Partnerships”, which will be returned to you in due course).
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form 49.80B-D for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court of Session immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your extract of registration of civil partnership. If you are known by another name which does not appear on that extract, please write that name in brackets.
 - (ii) The surname given for a female partner must be her maiden name. Any names from previous civil partnerships or marriages should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your civil partner.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME AND ADDRESS OF CIVIL PARTNER

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

Paragraph 3 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- PART A**
- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My civil partner is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My civil partner was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

If you have ticked one of the boxes in Part A, you do not have to complete Part B. You should complete Part B if you have not ticked any of the boxes in Part A.

- PART B**
- (i) My civil partner and I are registered as civil partners of each other in Scotland
- AND
- (ii) No court has, or is recognised as having, jurisdiction
- AND
- (iii) It is in the interests of justice for the Court of Session to assume jurisdiction in the case
- (Please give reasons below)

Paragraph 4 notes

You will be able to obtain these details from your extract of registration of civil partnership which must accompany this application form, when you send it to the court.

A photocopy of the extract of registration of civil partnership will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the civil partnership was registered,

stating both civil partners' full names, and the date and place of the civil partnership.

The Registrar will charge a fee for this service.

4. DETAILS OF PRESENT CIVIL PARTNERSHIP

Place of Registration of Civil Partnership
(Registration District)

Date of Registration of Civil Partnership: Day month year

Paragraph 5 notes

You and your civil partner must have lived apart from each other for a continuous period of at least one year after the date of your civil partnership and immediately before the date of this application.

This minimum period of one year's separation is extended if you and your civil partner have lived together again for **not more than six months in all** during that one year period. For example, if you lived together for three months in total during the one year period, then you should not complete this application until one year and three months have elapsed from the date of your original separation.

5. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your civil partner (if more than 1½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your civil partner since that date? *[YES/NO]

(iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 6 notes

Is there a reasonable chance that you can still settle the differences with your civil partner and resume normal family life?

Are you satisfied that there is now no possibility of the civil partnership succeeding?

6. RECONCILIATION

Is there any reasonable prospect of reconciliation with your civil partner?

*[YES/NO]

Do you consider that the civil partnership has broken down irretrievably?

*[YES/NO]

Paragraph 7 notes

If your civil partner is not prepared to sign the form of consent at Part 2 of this application, you will not obtain a dissolution of your civil partnership by this method.

7. CONSENT

Does your civil partner have consent to a dissolution of the civil partnership being granted?

*[YES/NO]

8. MENTAL DISORDER

As far as you are aware, does your civil partner have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 9 notes

- (i) “Children of the family” includes children adopted by you and your civil partner, children treated by both you and your civil partner as children of your family, and children in relation to whom you and your civil partner are parents by virtue of the Human Fertilisation and Embryology Act 2008.
 - (ii) A “permanence order” is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

9. CHILDREN

- (i) Are there any children of the family under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 10.)

- (ii) Give the name and date of birth of each child of the marriage under 16 years of age.
- (iii) Has a court made a permanence order relating to any child listed at (ii)?
*[YES/NO]
- (iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

10. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your civil partnership?
*[YES/NO]

(if yes, give details)

Paragraph 11 notes

No claim can be made in this form of dissolution application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after dissolution of a civil partnership, the right to payment of a capital sum is lost once decree of dissolution is granted.

11. REQUEST FOR DISSOLUTION OF THE CIVIL PARTNERSHIP AND DISCLAIMER OF FINANCIAL PROVISION

I confirm that the facts stated in paragraphs 1 to 10 above apply to my civil partnership.

I do NOT ask the court to make any financial provision in connection with this application.

I request the Court to grant decree of dissolution of my civil partnership.

Date

Signature of applicant

NOTICE TO CONSENTING CIVIL PARTNER

CONSENT TO APPLICATION FOR DISSOLUTION OF CIVIL PARTNERSHIP (HAVING LIVED APART FOR AT LEAST ONE YEAR)

In Part 1 of the attached application form your civil partner is applying for dissolution of the civil partnership on the ground that it has broken down irretrievably because you and your civil partner have lived apart for at least one year and you consent to the civil partnership being dissolved.

Such consent must be given formally in writing at Part 2 of the application form. BEFORE completing that part, you are requested to read it over carefully so that you understand the effect of consenting to dissolution of the civil partnership. Thereafter if you wish to consent:

- (a) check the details given by the Applicant in Part 1 of the form to ensure that they are correct to the best of your knowledge;
- (b) complete Part 2 (Consent by Applicant's civil partner to dissolution of civil partnership) by entering your name and address at the appropriate place and adding your signature and the date; and
- (c) return the whole application to your civil partner at the address given in Part 1.

Once your civil partner has completed the remainder of the form and has submitted it to the court, a copy of the whole application (including your consent) will later be served upon you formally by the court.

In the event of the dissolution of the civil partnership being granted, you will automatically be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the court immediately.)

If you do NOT wish to consent, please return the application form, with Part 2 uncompleted, to your civil partner and advise him or her of your decision.

The court will NOT grant a dissolution of the civil partnership on this application if Part 2 of the form is not completed by you.

Notes on completing Part 2

1. Read over carefully PART 1 of this application, which has already been completed by your civil partner.
2. **Financial Provision**
Please note that in Section 11 of Part 1, the Applicant states that he/she does NOT claim any financial awards by way of periodical allowance or capital sum. You are also required to state that you make no claim upon the Applicant for payment of a periodical allowance or capital sum.

NOTE: While it may be possible to obtain an order for **periodical allowance** after dissolution of a civil partnership, the right to payment of a **capital sum** is lost once decree of dissolution is granted.

3. **Warning**

Dissolution of your civil partnership may result in the loss to you of property rights (e.g. the right to succeed to the Applicant's estate on his/her death) or the right, where appropriate, to a pension.

(If you are in doubt about signing this form of consent, you should consult a solicitor.)

PART 2

CONSENT BY APPLICANT'S CIVIL PARTNER TO DISSOLUTION OF CIVIL PARTNERSHIP

NOTE:

Before completing this Part of the form, please read Part 1 and the notes above.

I,

(insert full name of Applicant's civil partner)

residing at

(insert Applicant's civil partner's present home address)

HEREBY STATE THAT

- (a) I have read Part 1 of this application;
- (b) the Applicant has lived apart from me for a continuous period of one year immediately preceding the date of the application (paragraph 11 of Part 1);
- (c) I do not ask the court to make any order for payment to me by the Applicant of a periodical allowance (*i.e.* a regular payment of money weekly or monthly, etc for maintenance);
- (d) I do NOT ask the court to make any order for payment to me by the Applicant of a capital sum (*i.e.* a lump sum payment);
- (e) I understand that dissolution of my civil partnership may result in the loss to me of property rights; and
- (f) I CONSENT TO DECREE OF DISSOLUTION BEING GRANTED IN RESPECT OF THIS APPLICATION.

Signature of Applicant's civil partner

Date

NOTE: You may withdraw your consent, even after giving it, at any time before dissolution of the civil partnership is granted by the court. Should you wish to do so, you must immediately advise:

Court of Session

General Department

Parliament House

Edinburgh EH1 1RQ

Tel: 0131 225 2595

PART 3 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Parts 1 and 2 have been signed and dated.

I,
(insert Applicant’s full name)

residing at
(insert Applicant’s present home address)

SWEAR that to the best of my knowledge and belief:

*Delete as appropriate

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form 49.80B-D] are true; and
- (2) the signature in Part 2 of this Application *[and in Part 2 of *[each] Form 49.80B-D] is that of my civil partner.

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(insert place)
this day of 20
before me
(insert full name)
(insert full address)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form 49.80B-B

Form of simplified dissolution of civil partnership application under Section 117(3)(d) of the Civil Partnership Act 2004

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

APPLICATION FOR DISSOLUTION OF A CIVIL PARTNERSHIP (CIVIL PARTNERS HAVING LIVED APART FOR AT LEAST TWO YEARS)

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a dissolution of a civil partnership may be sought by this method. If the simplified procedure appears to suit your circumstances, you may use this form to apply for dissolution of your civil partnership. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's General Department at the above address or Citizens Advice Scotland.

How to complete this form WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|------------------------|-----|---|
| Application (Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of the family | 1A. | If there are any children of the family under 16 years of age, you must also complete and sign a copy of Form 49.80B-D for each child. You do not have to do this for any child who does not live with you or your civil partner because the court has made a permanence order. |
| | 2. | Each form 49.80B-D that you are required to complete and sign must then be sent to your civil partner for completion of the consent at Part 2 of the form. |
| | | NOTE: If your civil partner does NOT complete and sign Part 2 of each Form 49.80B-D your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a dissolution of the civil partnership, you should consult a solicitor. |
| Affidavit (Part 2) | 3. | When you have completed and signed Part 1 of this form, and when each Form 49.80B-D that requires to be completed has been returned to you with Part 2 of that form duly completed and signed by your civil partner, you should take the forms to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 2 of this form can be completed and sworn. |

Returning
completed
application
form to court

4. When 3 above has been complied with, your application is now ready to be sent to the court at the above address. With it you must enclose:
 - (a) an extract of the registration of your civil partnership in the civil partnership register (the document headed “Extract of an entry in a Register of Civil Partnerships”, which will be returned to you in due course) or an equivalent document.
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form 49.80B-D for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Court of Session immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your extract of the registration of civil partnership. If you are known by another name which does not appear on that extract, please write that name in brackets.
 - (ii) The surname given for each partner must be that partner's present name. Any names from previous marriages or civil partnerships should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your civil partner.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME OF CIVIL PARTNER

Surname
Other name(s) in full

Paragraph 3 notes

If the address of your civil partner is NOT known or cannot reasonably be ascertained, please enter "not known" in this section; you must take all reasonable steps to find out where your civil partner is living and state on a separate sheet what steps you have taken and attach it to this form. Then proceed to section 4.

N.B. The statement must be signed.

3. ADDRESS OF CIVIL PARTNER (if the address of your civil partner is not known, please enter "not known" in this paragraph and proceed to paragraph (4))

Present address
Daytime telephone number (if any)

Paragraph 4 notes

In the event that the address of your civil partner is unknown to you, the Court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your civil partner. (“Next-of-kin” does not include yourself or any child of the family for the purposes of this application.)
- (ii) ALL children of the family aged 16 years or over, whether or not they live with you. (“Children of the family” includes any adopted children, and/or children accepted into the family.)

When entering the details of the next-of-kin, if any, please state his or her relationship to your civil partner (*i.e.* “mother”, “father”, “brother”, “sister”, etc).

If you do not know the identity or whereabouts of any of the next-of-kin of your civil partner, or the whereabouts of any of the children of your family, please enter “not known” where appropriate.

If you do not know the address of your civil partner and your civil partnership was registered in Scotland, you must obtain a letter from National Records of Scotland stating that there is no record that your civil partner has had the civil partnership dissolved. The letter must be issued not more than one month before the date of posting this application to the court. If you require to obtain a letter you should apply to:

National Records of Scotland, Registration Section, New Register House, Edinburgh,
EH1 3YT

stating both civil partners’ full names, the date and place of the registration of your civil partnership and requesting that a search be made to confirm that there is no record that your civil partner has had the civil partnership dissolved. (Note – a fee will be charged for this service.)

The requirement to obtain a letter from National Records of Scotland does not apply if your civil partnership was registered outwith Scotland.

-
4. Only complete this paragraph if you do not know the present address of your civil partner

NEXT-OF-KIN

Name

Address

Relationship to your civil partner

CHILDREN OF THE FAMILY

Addresses

Names and dates of birth

If insufficient space is available to list all the children of the family, please continue on a separate sheet and attach to this form.

Paragraph 5 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

- PART A**
- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My civil partner is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My civil partner was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

If you have ticked one of the boxes in Part A, you do not have to complete Part B. You should complete Part B if you have not ticked any of the boxes in Part A.

- PART B**
- (i) My civil partner and I are registered as civil partners of each other in Scotland
- AND
- (ii) No court has, or is recognised as having, jurisdiction
- AND
- (iii) It is in the interests of justice for the Court of Session to assume jurisdiction in the case

(Please give reasons below)

Paragraph 6 notes

You will be able to obtain these details from the extract of the registration of your civil partnership (Extract of an entry in the register of civil partnerships) which must accompany this application form, when you send it to the court.

A photocopy of the civil partnership registration certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House,
Edinburgh EH1 3YT or the office where the civil partnership was registered, in writing,

or by e-mailing the form at <http://www.gro.scotland.gov.uk/contracts/contact-form.html>

stating both civil partners' full names, and date and place of registration of civil partnership.

The Registrar will charge a fee for this service.

6. DETAILS OF PRESENT CIVIL PARTNERSHIP

Place of Registration of Civil Partnership

(Registration District)

Date of Registration Day month year
of Civil Partnership:

Paragraph 7 notes

You and your civil partner must have lived apart from each other for a continuous period of at least 2 years after the date of registration of your civil partnership and immediately before the date of this application.

This minimum period of 2 years separation is extended if you and your civil partner have lived together again for **not more than 6 months in all** during that 2 year period. For example, if you lived together for 3 months in total during the 2 year period, then you should not complete this application until 2 years and 3 months have elapsed from the date of your original separation.

7. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your civil partner (if more than 2½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your civil partner since that date? *[YES/NO]

- (iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 8 notes

Is there a reasonable chance that you can still settle the differences with your civil partner and resume normal family life?

Are you satisfied that there is now no possibility of the civil partnership succeeding?

8. RECONCILIATION

Is there any reasonable prospect of reconciliation with your civil partner?

*delete as appropriate

*[YES/NO]

Do you consider that the civil partnership has broken down irretrievably?

*[YES/NO]

9. MENTAL DISORDER

As far as you are aware, does your civil partner have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 10 notes

- (i) "Children of the family" includes children adopted by you and your civil partner, children treated by both you and your civil partner as children of your family, and children in relation to whom you and your civil partner are parents by virtue of the Human Fertilisation and Embryology Act 2008.
- (ii) A "permanence order" is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.

10. CHILDREN

- (i) Are there any children of the family under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 11.)

- (ii) Give the name and date of birth of each child of the family under 16 years of age.
- (iii) Has a court made a permanence order relating to any child listed at (ii)?
*[YES/NO]
- (iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

11. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your civil partnership?
*[YES/NO]

(if yes, give details)

Notes on Section 12 below

No claim can be made in this form of dissolution application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after dissolution of your civil partnership, the right to payment of a capital sum is lost once decree of dissolution is granted.

12. DECLARATION AND REQUEST FOR DISSOLUTION OF CIVIL PARTNERSHIP

I confirm that the facts stated in paragraphs 1 to 11 above apply to my civil partnership.

I do NOT ask the court to make any financial provision in connection with this application.

I request the court to grant decree of dissolution of my civil partnership.

Date

Signature of applicant

PART 2 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Part 1 has been signed and dated.

I,
(insert Applicant’s full name)

residing at
(insert Applicant’s present home address)

SWEAR that to the best of my knowledge and belief:

*Delete as appropriate

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form 49.80B-D] are true *[: and
- (2) the signature in Part 2 of *[each] Form 49.80B-D] is that of my civil partner.]

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(insert place)
this day of 20
before me
(insert full name)
(insert full address)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form 49.80B-D

Form of arrangements for upbringing of child of the family under 16 years of age

Rule 49.80B(5)

Court of Session
General Department
Parliament House
Edinburgh EH1 1RQ
Tel: 0131 225 2595

You must complete this form if you are making a simplified dissolution of civil partnership application and there are children of the family under 16 years of age.

You must complete one copy of this form for each child of the family under 16 years of age, unless the child does not live with you or your civil partner because the court has made a permanence order for the child.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|-----------------------------------|----|---|
| Arrangements (Part 1) | 1. | Complete and sign Part 1 of the form. |
| Consent of civil partner (Part 2) | 2. | When you have completed Part 1, send it to your civil partner for completion of Part 2.

NOTE: If your civil partner does NOT complete and sign the form of consent in Part 2, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a dissolution of civil partnership, you should consult a solicitor. |
| Affidavit | 3. | When the form has been returned to you with Part 2 completed and signed, you should take it with you when you take the simplified dissolution of civil partnership application to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person. The affidavit that you swear includes the content of this form so it must be completed and signed (Parts 1 and 2) before the affidavit is sworn. |
| What happens next? | 4. | Once the affidavit has been sworn, your application is ready to be sent to the court (see the notes on the simplified dissolution of civil partnership application form). |
| | 5. | The information that you and your civil partner give on this form helps the court to consider your proposed arrangements for the upbringing of your child. By law, the court must look at what you have proposed. |

6. If the court does not think that the proposed arrangements are in the best interests of your child, you and your civil partner will have to come to court to discuss them with the judge. If the court decides that there will be a hearing, the Deputy Principal Clerk of Session will write to you and your civil partner to explain when you have to come to court.
7. If the Deputy Principal Clerk tells you that there will be a hearing **AND YOU ARE UNSURE WHAT TO DO**, you should consult a solicitor. You may be entitled to legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from a Citizens Advice Scotland or other advice agency.

PART 1 WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Address

2. NAME AND ADDRESS OF CIVIL PARTNER

Surname
Other name(s) in full
Address

3. CHILD'S DETAILS

- (a) Surname:
- (b) Other name(s) in full:
- (c) Date of birth:
- (d) Sex: *Male/Female
- (e) Current address:
- (f) Name and address of school or nursery attended:

*delete as appropriate

4. LIVING ARRANGEMENTS

Note: if the child lives or will live both with you and your civil partner, sharing time equally between you, give details of both houses and the people who live there in questions 4(a) to (f). You do not have to complete question 6(a).

*delete as appropriate

(c) After the dissolution of your civil partnership, will the child stay in the same house? *[YES/NO]

(d) If the answer to (c) is No, describe the house where the child is going to live. For example, how many bedrooms are there? Will the child have to share a bedroom? If so, who will he or she be sharing with?

(e) Who will live with the child following the dissolution of your civil partnership? If there are any changes from (b) list the full name and age of anyone else who will live with the child, and the relationship between the child and that person.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>

- (f) Has any person listed in (b) or (e) ever been convicted of a violent offence, a sexual offence or been placed on the Sex Offenders Register?

*delete as appropriate

*[YES/NO]

If the answer to (f) is Yes, give details below.

5. CHILD PROTECTION MEASURES

- (a) Has the child been referred to a Children's Hearing?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is YES, give details below.

6. CONTACT ARRANGEMENTS

Note: If you gave details about your house and your civil partner's house at question 4, you do not need to answer question 6(a).

- (a) What arrangements have been made for the child to have contact with the parent or parents with whom the child is not living?

- (b) What arrangements have been made for the child to have contact with other members of his or her family, particularly brothers or sisters with whom the child is not living?

7. EDUCATIONAL ARRANGEMENTS

- (a) Is it proposed that the child will attend a different school or nursery following the dissolution of the civil partnership? ***[YES/NO]**

*delete as appropriate

- (b) If the answer to (a) is Yes, give the name and address of the proposed new school or nursery, and explain why this change is happening.

8. CHILDCARE ARRANGEMENTS

- (a) Who will look after the child when the person with whom the child is to live is not doing so? Include details about any arrangements for the child to be looked after before and after school/nursery.

9. ABOUT THE CHILD

- (a) What are the child's interests? Include information about what the child does in his or her spare time. For example, does he or she have any hobbies? Is he or she a member of any clubs or teams? Does he or she take part in any sports?

- (b) Does the child have any health or developmental issues? Include details of any health conditions, additional support needs, and any other issues which have an impact on the child's life.

10. VIEWS OF THE CHILD

- (a) Have you asked your child for his or her views on the arrangements in questions 1 to 9?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is Yes, what are your child's views, if any?

- (c) If the answer to (a) is No, explain why you have not asked your child for his or her views.

11. DECLARATION

I declare that the facts stated in answer to questions 1 to 10 above are a true record of the proposed arrangements for the upbringing of *(name of child)* in the event of decree of dissolution of civil partnership being granted.

Date

Signature of applicant

IMPORTANT: Part 1 must be completed, signed and dated before sending the form to your civil partner.

PART 2 NOTICE TO CIVIL PARTNER

CONSENT TO ARRANGEMENTS FOR THE UPBRINGING OF

(Full name of child)

*delete as appropriate

1. Your civil partner is applying for dissolution of your civil partnership. Because there *[is a child/are children] of the family under 16 years of age, your civil partner and you must tell the court about the proposed arrangements for the upbringing of that child or children.
2. Your civil partner has detailed the proposed arrangements in Part 1 of this form. You are requested to read over Part 1 of this form carefully. If you wish to consent to these arrangements, you must—
 - (a) check that the details in Part 1 are correct to the best of your knowledge;
 - (b) complete Part 2 (consent to arrangements for upbringing of child) by inserting your name and address and signing and dating it; and
 - (c) return the whole form to your civil partner at the address given in Part 1.
3. Your civil partner will then return the form, with the simplified dissolution of civil partnership application, to the court.
4. **IMPORTANT: If there is more than one child of the family under 16 years of age, your civil partner must complete a separate form for each child and you must consent by completing Part 2 of each form.**
5. If you are not happy with the proposed arrangements, please return the form, with Part 2 uncompleted, to your civil partner and advise him or her of your decision.
6. The court will NOT grant a dissolution of civil partnership if you do not complete Part 2 of this form.

Deputy Principal Clerk of Session

CONSENT BY APPLICANT'S CIVIL PARTNER
TO
ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

I, *(full name of applicant's civil partner)*
residing at *(address)*

HEREBY STATE THAT:

- (a) I have read Part 1 of this application;
- (b) I CONSENT TO THE PROPOSED ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

IN THE EVENT THAT DECREE IS GRANTED.

Date

Signature

IMPORTANT: You may withdraw your consent, even after giving it, at any time before dissolution of the civil partnership is granted by the court. Should you wish to do so please contact the court immediately at the following address.

Court of Session
General Department
Edinburgh EH1 1RQ
Tel: 0131 225 2595 Ext. 6748

Form 49.80GA

Rule 49.80GA(3)

Form of intimation to civil partners of a By Order Roll hearing under rule 49.80GA

Court ref. no:

Date:

(Date of posting or other method of service)

To:

APPLICATION FOR DECREE OF DISSOLUTION OF CIVIL PARTNERSHIP BY *(insert name of applicant)*

TAKE NOTICE

1. A hearing has been fixed in the above application at which the court will consider the arrangements for the upbringing of *(insert name(s) of child or children)*.
2. The hearing will take place at *(insert time)* on *(insert date)* at the Court of Session, Parliament House, Edinburgh EH1 1RQ.

(Signed)

Deputy Principal Clerk of Session

[or authorised Clerk of Session]

NOTE

At the hearing you should be prepared to provide the court with any information the judge requests concerning the arrangements for the upbringing of the child *[or children]* mentioned above. *[In particular (specify particular issues where applicable)]*.

In terms of rule 49.80GB(2), both civil partners must attend the hearing in person. If you are unable to attend the hearing you should immediately contact the court at the following address—

Court of Session
General Department
Edinburgh EH1 1RQ
Tel: 0131 225 2595 Ext. 6748

SCHEDULE 2

Paragraph 5(a), (b),
(c) and (f)

Form F31

Form of simplified divorce application under section 1(2)(d) of the Divorce
(Scotland) Act 1976

Rule 33.74(1)(a)

Sheriff Clerk
Sheriff Court House

APPLICATION FOR DIVORCE WITH CONSENT OF OTHER PARTY TO THE MARRIAGE (SPOUSES HAVING LIVED APART FOR AT LEAST ONE YEAR)

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a divorce may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for divorce. Below you will find directions designed to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact any sheriff clerk's office or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | |
|----------------------------------|---|
| Application
(Part 1) | 1. Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph.

1A. If there are any children of the marriage under 16 years of age, you must also complete and sign a copy of Form F33B for each child. You do not have to do this for any child who does not live with you or your spouse because the court has made a permanence order. |
| Consent of
spouse
(Part 2) | 2. When you have completed Part 1 of this form (and Form F33B, if you have children under 16 years of age), send the documents to your spouse for completion of the consent at Part 2 of the form (and Part 2 of Form F33B, if you have children under 16 years of age).

NOTE: If your spouse does NOT complete and sign:
(a) the form of consent at Part 2;

(b) (where there are children under 16 years of age) Part 2 of Form 33B, for every child under 16 years of age,

your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor. |
| Affidavit
(Part 3) | 3. When the application has been returned to you with the consent (Part 2) duly completed and signed, you should take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit at Part 3 may be completed and sworn. |

Returning
completed
application
form to
court

4. When 3 above has been complied with, your application is now ready to be sent to the sheriff clerk at the above address. With it you must enclose:
 - (a) your marriage certificate (the document headed “Extract of an entry in a Register of Marriages”, which will be returned to you in due course);
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form F33B for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the sheriff clerk immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Paragraphs 1 and 2 below should be those shown on your marriage certificate. If you are known by another name which does not appear on that certificate, please write that name in brackets.
 - (ii) The surname given for each spouse must be that person's present name. Any previous surnames should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your spouse.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME AND ADDRESS OF SPOUSE

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

Paragraph 3 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

Please complete both Part A and Part B

PART A (i) I am domiciled in Scotland on the date I signed this application

- (ii) My spouse is domiciled in Scotland on the date I signed this application
- (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

PART B

- (i) I have lived at the address shown above for at least 40 days immediately before the date I signed this application
- (ii) My spouse has lived at the address shown above for at least 40 days immediately before the date I signed this application
- (iii) I lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and have no known residence in Scotland at that date
- (iv) My spouse lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and has no known residence in Scotland at that date

Paragraph 4 notes

You will be able to obtain these details from your marriage certificate (extract entry in the register of marriages) which must accompany this application form, when you send it to the court.

A photocopy of the marriage certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the marriage was registered,

stating both spouses' full names, and the date and place of the marriage.

The Registrar will charge a fee for this service.

4. DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day month year

Paragraph 5 notes

You and your spouse must have lived apart from each other for a continuous period of at least one year after the date of your marriage and immediately before the date of this application.

This minimum period of one year's separation is extended if you and your spouse have lived together again for **not more than six months in all** during that one year period. For example, if you lived together for three months in total during the one year period, then you should not complete this application until one year and three months have elapsed from the date of your original separation.

5. PERIOD OF SEPARATION

- (i) The date on which you ceased to live with your spouse. (If more than 1½ years, just give the month and year)

Day month year

*delete as appropriate

- (ii) Have you lived with your spouse since that date? *[YES/NO]

- (iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 6 notes

Is there a reasonable chance that you can still settle the differences with your spouse and resume normal married life?

6. RECONCILIATION

Is there any reasonable prospect of reconciliation with your spouse?

*[YES/NO]

Do you consider that the marriage has broken down irretrievably?

*[YES/NO]

7. CONSENT

Does your spouse consent to a divorce being granted?

*[YES/NO]

8. MENTAL DISORDER

As far as you are aware, does your spouse have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 9 notes

- (i) "Children of the marriage" includes any adopted children and children treated by both you and your spouse as children of your family.
 - (ii) A "permanence order" is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

9. CHILDREN

- (i) Are there any children of the marriage under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 10.)

- (ii) Give the name and date of birth of each child of the marriage under 16 years of age.

- (iii) Has a court made a permanence order relating to any child listed at (ii)?

*[YES/NO]

- (iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

10. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage?

*[YES/NO]

(if yes, give details)

Paragraph 11 notes

No claim can be made in this form of divorce application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

No application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of that religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

“Religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

If you wish to make such an application you should consult a solicitor or Citizens Advice Scotland.

11. DECLARATION AND REQUEST FOR DIVORCE

I confirm that the facts stated in paragraphs 1 to 10 above apply to my marriage.

I do NOT ask the sheriff to make any financial provision in connection with this application

I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976.

I request the sheriff to grant decree of divorce from my spouse.

Date

Signature of Applicant

IMPORTANT

Part 1 **MUST** be completed, signed and dated before sending the application form to your spouse.

NOTICE TO CONSENTING SPOUSE

CONSENT TO APPLICATION FOR DIVORCE (SPOUSES HAVING LIVED APART FOR AT LEAST ONE YEAR)

In Part 1 of the enclosed application from your spouse is applying for divorce on the ground that the marriage has broken down irretrievably because you and your spouse have lived apart for at least one year and you consent to the divorce being granted.

Such consent must be given formally in writing at Part 2 of the application form. BEFORE completing that part, you are requested to read it over carefully so that you understand the effect of consenting to divorce. Thereafter if you wish to consent:

- (a) check the details given by the Applicant at Part 1 of the form to ensure that they are correct to the best of your knowledge;
- (b) complete Part 2 (Consent by Applicant's spouse to divorce) by entering your name and address at the appropriate place and adding your signature and the date; and
- (c) return the whole application form to your spouse at the address given in Part 1.

Once your spouse has completed the remainder of the form and has submitted it to the court, a copy of the whole application (including your consent) will later be served upon you formally by the sheriff clerk.

In the event of the divorce being granted, you will automatically be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the sheriff clerk immediately.)

If you do NOT wish to consent, please return the application form, with Part 2 uncompleted, to your spouse and advise him or her of your decision.

The sheriff will NOT grant a divorce on this application if Part 2 of the form is not completed by you.

Notes on completing Part 2

1. Read over carefully PART 1 of this application, which has already been completed by your spouse.

2. **Financial Provision**

Please note that in Section 11 of Part 1, the Applicant states that he/she does NOT claim any financial awards by way of periodical allowance or capital sum. You are also required to state that you make no claim upon the Applicant for payment of a periodical allowance or capital sum.

NOTE: While it may be possible to obtain an order for **periodical allowance** after divorce, the right to payment of a **capital sum** is lost once decree of divorce is granted.

2A. **Postponement of decree**

Please note that no application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of the religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

As at 26th February 2007 “religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

In Section 11 of Part 1, the Applicant states that he/she does not apply for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. You are also required to state (item (f) opposite) that you make no such application.

3. **Warning**

Divorce may result in the loss to you of property rights (e.g. the right to succeed to the Applicant’s estate on his/her death) or the right, where appropriate, to a widow’s pension.

(If you are in doubt about signing this form of consent, you should consult a solicitor.)

PART 2 CONSENT BY APPLICANT’S SPOUSE TO DIVORCE

I,

(insert full name of Applicant’s spouse)

residing at

(insert Applicant’s spouse’s present home address)

HEREBY STATE THAT

- (a) I have read Part 1 of this application;
- (b) the Applicant has lived apart from me for a continuous period of one year immediately preceding the date of the application (paragraph 11 of Part 1);
- (c) I do not ask the sheriff to make any financial provision for me including—
 - (i) the payment by the Applicant of a periodical allowance (*i.e.* a regular payment of money weekly or monthly, etc. for maintenance);
 - (ii) the payment by the Applicant of a capital sum (*i.e.* a lump sum payment);

- (d) I understand that divorce may result in the loss to me of property rights;
- (e) I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976; and
- (f) I CONSENT TO DECREE OF DIVORCE BEING GRANTED IN RESPECT OF THIS APPLICATION

Signature of Applicant's spouse

Date

NOTE: You may withdraw your consent, even after giving it, at any time before divorce is granted by the sheriff. Should you wish to do so, please contact the sheriff clerk immediately.

PART 3 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Parts 1 and 2 have been signed and dated.

I,
(*insert Applicant’s full name*)

residing at
(*insert Applicant’s present home address*)

SWEAR that to the best of my knowledge and belief:

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form F33B] are true; and
- (2) the signature in Part 2 of this Application *[and in Part 2 of *[each] Form F33B] is that of my spouse.

*Delete as appropriate

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(*insert place*)
this day of 20
before me
(*insert full name*)
(*insert full address*)

Signature
*Justice of the Peace/Notary Public/Commissioner for Oaths

Form F33

Form of simplified divorce application under section 1(2)(e) of the Divorce (Scotland) Act 1976

Rule 33.74(1)(b)

Sheriff Clerk
Sheriff Court House

APPLICATION FOR DIVORCE

(SPOUSES HAVING LIVED APART FOR AT LEAST TWO YEARS)

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a divorce may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for divorce. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact any sheriff clerk's office or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|---|-----|---|
| Application (Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of the marriage | 1A. | If there are any children of the marriage under 16 years of, you must also complete and sign a copy of Form F33B for each child. You do not have to do this for any child who does not live with you or your spouse because the court has made a permanence order. |
| | 2. | Each Form F33B that you are required to complete must then be sent to your spouse for completion of the consent at Part 2 of the form. |
| | | NOTE: If your spouse does NOT complete and sign Part 2 of each Form F33B your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor. |
| Affidavit (Part 2) | 3. | When you have completed and signed Part 1 of this form, and when each Form F33B that requires to be completed has been returned to you with Part 2 of that form duly completed and signed by your spouse, you should take the forms to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person in order that your affidavit at Part 2 may be completed and sworn. |
| Returning completed application form to court | 4. | When 3 has been complied with, your application is now ready to be sent to the sheriff clerk at the above address. With it you must enclose: |

- (a) your marriage certificate (the document headed “Extract of an entry in a Register of Marriages”, which will be returned to you in due course).
 - (b) in respect of every child under 16—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form F33B for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the sheriff clerk immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your marriage certificate. If you are known by another name which does not appear on that certificate, please write that name in brackets.
 - (ii) The surname given for each spouse must be that person's present name. Any previous surnames should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your spouse.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME OF SPOUSE

Surname
Other name(s) in full

Paragraph 3 notes

If the address of your spouse is NOT known or cannot reasonably be ascertained, please enter "not known" in this section; you must take all reasonable steps to find out where your spouse is living and state on a separate sheet what steps you have taken and attach it to this form. Then proceed to section 4.

N.B. The statement must be signed

3. ADDRESS OF SPOUSE (if the address of your spouse is not known, please enter "not known" in this paragraph and proceed to paragraph (4)

Present address
Daytime telephone number (if any)

Paragraph 4 notes

In the event that the address of your spouse is unknown to you, the Court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your spouse. (“Next-of-kin” does not include yourself or any child of the marriage for the purposes of this application. Children of the marriage includes any adopted children, and/or children accepted into the family.)
- (ii) ALL children of your marriage aged 16 years or over, whether or not they live with you.

When entering the details of the next-of-kin, if any, please state his or her relationship to your spouse (*i.e.* “mother”, “father”, “brother”, “sister”, etc).

If you do not know the identity or whereabouts of any of the next-of-kin of your spouse, or the whereabouts of any of the children of your marriage, please enter “not known” where appropriate.

If you do not know the address of your spouse and you were married in Scotland, you must obtain a letter from National Records of Scotland stating that there is no record that your spouse has divorced you. The letter must be issued not more than one month before the date of posting this application to the court. If you require to obtain a letter you should apply to:

National Records of Scotland, Registration Section, New Register House, Edinburgh,
EH1 3YT

stating both spouses’ full names, the date and place of your marriage and requesting that a search be made to confirm that there is no record that your spouse has divorced you. (Note – a fee will be charged for this service.)

The requirement to obtain a letter from National Records of Scotland does not apply if you were married outwith Scotland.

-
4. Only complete this paragraph if you do not know the present address of your spouse

NEXT-OF-KIN

Name

Address

Relationship to your spouse

CHILDREN OF THE MARRIAGE

Addresses

Names and dates of birth

If insufficient space is available to list all the children of the marriage, please continue on a separate sheet and attach to this form.

Paragraph 5 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

Please complete both Part A and Part B

- PART A**
- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My spouse is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- PART B**
- (i) I have lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (ii) My spouse has lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (iii) I lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and have no known residence in Scotland at that date
 - (iv) My spouse lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and has no known residence in Scotland at that date
-

Paragraph 6 notes

You will be able to obtain these details from your marriage certificate (extract entry in a register of marriages) which must accompany this application form, when you send it to the Court.

A photocopy of the marriage certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the marriage was registered,

stating both spouses' full names, and the date and place of the marriage.

The Registrar will charge a fee for this service.

6. DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day month year

Paragraph 7 notes

You and your husband/wife must have lived apart from each other for a continuous period of at least 2 years after the date of your marriage and immediately before the date of this application.

This minimum period of 2 years separation is extended if you and your spouse have lived together again for **not more than 6 months in all** during that 2 year period. For example, if you lived together for 3 months in total during the 2 year period, then you should not complete this application until 2 years and 3 months have elapsed from the date of your original separation.

7. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your spouse (if more than 2½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your spouse since that date? *[YES/NO]

(iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 8 notes

Is there a reasonable chance that you can still settle the differences with your spouse and resume normal married life?

Are you satisfied that there is now no possibility of the marriage succeeding?

8. RECONCILIATION

Is there any reasonable prospect of reconciliation with your spouse?

*[YES/NO]

Do you consider that the marriage has broken down irretrievably?

*[YES/NO]

9. MENTAL DISORDER

As far as you are aware, does your spouse have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 10 notes

- (i) “Children of the marriage” includes any adopted children and children treated by both you and your spouse as children of your family.
- (ii) A “permanence order” is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.

10. CHILDREN

(i) Are there any children of the marriage under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 11.)

(ii) Give the name and date of birth of each child of the marriage under 16 years of age.

(iii) Has a court made a permanence order relating to any child listed at (ii)?

*[YES/NO]

(iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

11. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage?

*[YES/NO]

(if yes, give details)

Paragraph 12 notes

No claim can be made in this form of divorce application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.

No application can be made in this form of divorce application for postponement of decree under section 3A of the Divorce (Scotland) Act 1976. On an application under that section, the court may postpone the grant of decree of divorce if it is satisfied that:

- (a) the applicant is prevented from entering into a religious marriage by virtue of a requirement of that religion of that marriage; and
- (b) the other party can act so as to remove or enable or contribute to the removal of, the impediment which prevents that marriage.

“Religious marriage” for the purposes of section 3A of the Divorce (Scotland) Act 1976 means a marriage solemnised by a celebrant of any Hebrew congregation (*i.e.* a Jewish marriage) (S.S.I. 2006/253).

If you wish to make such an application you should consult a solicitor or Citizens Advice Scotland.

12. DECLARATION AND REQUEST FOR DIVORCE

I confirm that the facts stated in paragraphs 1 to 11 above apply to my marriage.

I do NOT ask the sheriff to make any financial provision in connection with this application.

I do NOT ask the court to postpone the grant of decree under section 3A of the Divorce (Scotland) Act 1976.

I request the sheriff to grant decree of divorce from my spouse.

Date

Signature of applicant

PART 3 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Part 1 has been signed and dated.

I,
(insert Applicant’s full name)

residing at
(insert Applicant’s present home address)

SWEAR that to the best of my knowledge and belief:

- *Delete as appropriate*
- (1) the facts stated in Part 1 of this Application **[and in Part 1 of *[each] Form F33B]* are true **[; and*
 - (2) the signature in Part 2 of **[each] Form F33B]* is that of my spouse.]

Signature of Applicant

To be
completed by
Justice of the
Peace, Notary
Public or
Commissioner
for Oaths

SWORN at
(insert place)
this day of 20
before me
(insert full name)

(insert full address)

Signature
**Justice of the Peace/Notary Public/Commissioner for Oaths*

Form F33B

Form of arrangements for upbringing of child of the marriage under 16 years of age

Rule 33.74(5)

Sheriff Clerk
Sheriff Court House

(Telephone)

You must complete this form if you are making a simplified divorce application and there are children of the marriage under 16 years of age.

You must complete one copy of this form for each child of the marriage under 16 years of age, unless the child does not live with you or your spouse because the court has made a permanence order for the child.

Note: If the court has made a permanence order, do not complete this form.

Directions for making application WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|----------------------------------|----|--|
| Arrangements
(Part 1) | 1. | Complete and sign Part 1 of the form. |
| Consent of
spouse
(Part 2) | 2. | When you have completed Part 1, send it to your spouse for completion of Part 2. |
| | | NOTE: If your spouse does NOT complete and sign the form of consent in Part 2, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor. |
| Affidavit | 3. | When the form has been returned to you with Part 2 completed and signed, you should take it with you when you take the simplified divorce application to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person. The affidavit that you swear includes the content of this form so it must be completed and signed (Parts 1 and 2) before the affidavit is sworn. |
| What
happens
next? | 4. | Once the affidavit has been sworn, your application is ready to be sent to the sheriff clerk (see the notes on the simplified divorce application form). |
| | 5. | The information that you and your spouse give on this form helps the sheriff to consider your proposed arrangements for the upbringing of your child. By law, the sheriff must look at what you have proposed. |

6. If the sheriff does not think that the proposed arrangements are in the best interests of your child, you and your spouse will have to come to court to discuss them with the sheriff. If the sheriff decides that there will be a hearing, the sheriff clerk will write to you and your spouse to explain when you have to come to court.
7. If the sheriff clerk tells you that there will be a hearing **AND YOU ARE UNSURE WHAT TO DO**, you should consult a solicitor. You may be entitled to legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from a Citizens Advice Scotland or other advice agency.

PART 1 WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT
Surname
Other name(s) in full
Address
2. NAME AND ADDRESS OF SPOUSE
Surname
Other name(s) in full
Address
3. CHILD'S DETAILS
 - (a) Surname:
 - (b) Other name(s) in full:
 - (c) Date of birth:
 - (d) Sex: *Male/Female
 - (e) Current address:
 - (f) Name and address of school or nursery attended:
4. LIVING ARRANGEMENTS

*delete as appropriate

Note: if the child lives or will live both with you and your spouse, sharing time equally between you, give details of both houses and the people who live there in questions 4(a) to (f). You do not have to complete question 6(a).

*delete as appropriate

(c) After the divorce, will the child stay in the same house?

*[YES/NO]

(d) If the answer to (c) is No, describe the house where the child is going to live. For example, how many bedrooms are there? Will the child have to share a bedroom? If so, who will he or she be sharing with?

--

(e) Who will live with the child following the divorce? If there are any changes from (b) list the full name and age of anyone else who will live with the child, and the relationship between the child and that person.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>

- (f) Has any person listed in (b) or (e) ever been convicted of a violent offence, a sexual offence or been placed on the Sex Offenders Register?

*delete as appropriate

*[YES/NO]

If the answer to (f) is Yes, give details below.

5. CHILD PROTECTION MEASURES

- (a) Has the child been referred to a Children's Hearing?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is YES, give details below.

6. CONTACT ARRANGEMENTS

Note: If you gave details about your house and your spouse's house at question 4, you do not need to answer question 6(a).

- (a) What arrangements have been made for the child to have contact with the parent or parents with whom the child is not living?

- (b) What arrangements have been made for the child to have contact with other members of his or her family, particularly brothers or sisters with whom the child is not living?

7. EDUCATIONAL ARRANGEMENTS

- (a) Is it proposed that the child will attend a different school or nursery following the divorce?

*[YES/NO]

*delete as appropriate

- (b) If the answer to (a) is Yes, give the name and address of the proposed new school or nursery, and explain why this change is happening.

8. CHILDCARE ARRANGEMENTS

- (a) Who will look after the child when the person with whom the child is to live is not doing so? Include details about any arrangements for the child to be looked after before and after school/nursery.

9. ABOUT THE CHILD

- (a) What are the child's interests? Include information about what the child does in his or her spare time. For example, does he or she have any hobbies? Is he or she a member of any clubs or teams? Does he or she take part in any sports?

- (b) Does the child have any health or developmental issues? Include details of any health conditions, additional support needs, and any other issues which have an impact on the child's life.

10. VIEWS OF THE CHILD

- (a) Have you asked your child for his or her views on the arrangements in questions 1 to 9?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is Yes, what are your child's views, if any?

- (c) If the answer to (a) is No, explain why you have not asked your child for his or her views.

11. DECLARATION

I declare that the facts stated in answer to questions 1 to 10 above are a true record of the proposed arrangements for the upbringing of *(name of child)* in the event of decree of divorce being granted.

Date

Signature of applicant

IMPORTANT: Part 1 must be completed, signed and dated before sending the Form to your spouse.

PART 2 NOTICE TO SPOUSE

CONSENT TO ARRANGEMENTS FOR THE UPBRINGING OF

(Full name of child)

- *delete as appropriate
1. Your spouse is applying for divorce. Because there *[is a child/are children] of the marriage under 16 years of age, your spouse and you must tell the sheriff about the proposed arrangements for the upbringing of that child or children.
 2. Your spouse has detailed the proposed arrangements in Part 1 of this form. You are requested to read over Part 1 of this form carefully. If you wish to consent to these arrangements, you must—
 - (a) check that the details in Part 1 are correct to the best of your knowledge;
 - (b) complete Part 2 (consent to arrangements for upbringing of child) by inserting your name and address and signing and dating it; and
 - (c) return the whole form to your spouse at the address given in Part 1.
 3. Your spouse will then return the form, with the simplified divorce application, to the court.
 4. **IMPORTANT: If there is more than one child of the marriage under 16 years of age, your spouse must complete a separate form for each child and you must consent by completing Part 2 of each form.**
 5. If you are not happy with the proposed arrangements, please return the form, with Part 2 uncompleted, to your spouse and advise him or her of your decision.
 6. The sheriff will NOT grant a divorce if you do not complete Part 2 of this form.

Sheriff Clerk (depute)

Sheriff Court (*insert name and address*)

CONSENT BY APPLICANT'S SPOUSE
TO
ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

I, *(full name of applicant's spouse)*

residing at *(address)*

HEREBY STATE THAT:

- (a) I have read Part 1 of this application;
- (b) I CONSENT TO THE PROPOSED ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

IN THE EVENT THAT DECREE IS GRANTED.

Date

Signature

IMPORTANT: You may withdraw your consent, even after giving it, at any time before divorce is granted by the sheriff. Should you wish to do so please contact the sheriff clerk immediately.

Form F38A

Rule 33.80A(3)(b)

Form of intimation to spouses of a hearing under rule 33.80A

Court ref. no:

Date:

(Date of posting or other method of service)

To:

APPLICATION FOR DECREE OF DIVORCE BY *(insert name of applicant)*

TAKE NOTICE

1. A hearing has been fixed in the above application at which the court will consider the arrangements for the upbringing of *(insert name(s) of child or children)*.
2. The hearing will take place at *(insert time)* on *(insert date)* at *(insert address of sheriff court)*.

(Signed)

Sheriff Clerk (Depute)

NOTE

At the hearing you should be prepared to provide the court with any information the sheriff requests concerning the arrangements for the upbringing of the child [*or children*] mentioned above. [In particular *(specify particular issues where applicable)*].

In terms of rule 33.80B(2), both spouses must attend the hearing in person. If you are unable to attend the hearing you should immediately contact the sheriff clerk's office at *(insert address and telephone number)*.

SCHEDULE 3

Paragraph 5(g), (h),
(i) and (l)

Form CP29

Form of simplified dissolution of a civil partnership application under
section 117(3)(c) of the Civil Partnership Act 2004

Rule 33A.67(1)(a)

Sheriff Clerk
Sheriff Court House

APPLICATION FOR DISSOLUTION OF A CIVIL PARTNERSHIP WITH CONSENT OF OTHER PARTY TO THE CIVIL PARTNERSHIP (CIVIL PARTNERS HAVING LIVED APART FOR AT LEAST ONE YEAR)

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a dissolution of a civil partnership may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for dissolution of your civil partnership. Below you will find directions designed to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact any sheriff clerk's office or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|---|-----|---|
| Application
(Part 1) | 1. | Complete and sign Part 1 of this form, paying particular attention to the notes above each paragraph. |
| Children of
the marriage | 1A. | If there are any children of the family under 16 years of age, you must also complete and sign a copy of Form CP30A for each child. You do not have to do this for any child who does not live with you or your partner because the court has made a permanence order. |
| Consent of
civil partner
(Part 2) | 2. | When you have completed Part 1 of this form (and Form CP30A, if there are children under 16 years of age), send the documents to your civil partner for completion of the consent at Part 2 (and Part 2 of Form CP30A, if there are children under 16 years of age). |
| | | NOTE: If your civil partner does NOT complete and sign:
(a) the form of consent at Part 2;
(b) (where there are children under 16 years of age) Part 2 of Form 49.73-D, for every child under 16 years of age,
your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a dissolution of the civil partnership, you should consult a solicitor. |
| Affidavit
(Part 3) | 3. | When the application has been returned to you with the consent (Part 2) duly completed and signed, you should take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit at Part 3 may be completed and sworn. |

Returning
completed
application
form to
court

4. When directions 1 to 3 above have been complied with, your application is now ready to be sent to the sheriff clerk at the above address. With it you must enclose:
 - (a) an extract of the registration of your civil partnership in the civil partnership register (the document headed “Extract of an entry in a Register of Civil Partnerships”, which will be returned to you in due course) or an equivalent document;
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form CP30A for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the sheriff clerk immediately.

THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU. PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH OF THE FORM.

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your extract of registration of civil partnership. If you are known by another name which does not appear on that extract, please write that name in brackets.
 - (ii) The surname given for a female partner must be her maiden name. Any names from previous civil partnerships or marriages should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your civil partner.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME AND ADDRESS OF CIVIL PARTNER

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

Paragraph 3 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

3. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

Please complete both Part A and Part B

- PART A**
- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My spouse is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application

- PART B**
- (i) I have lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (ii) My spouse has lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (iii) I lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and have no known residence in Scotland at that date
 - (iv) My spouse lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and has no known residence in Scotland at that date

Paragraph 4 notes

You will be able to obtain these details from your extract of registration of civil partnership which must accompany this application form, when you send it to the court.

A photocopy of the extract of registration of civil partnership will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House, Edinburgh EH1 3YT, or the office where the civil partnership was registered,

stating both civil partners' full names, and the date and place of the civil partnership.

The Registrar will charge a fee for this service.

4. DETAILS OF PRESENT CIVIL PARTNERSHIP

Place of Registration of Civil Partnership
(Registration District)

Date of Registration Day month year
of Civil Partnership:

As above 5 notes

You and your civil partner must have lived apart from each other for a continuous period of at least one year after the date of your civil partnership and immediately before the date of this application.

This minimum period of one year's separation is extended if you and your civil partner have lived together again for **not more than six months in all** during that one year period. For example, if you lived together for three months in total during the one year period, then you should not complete this application until one year and three months have elapsed from the date of your original separation.

5. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your civil partner. (If more than 1½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your civil partner since that date? *[YES/NO]

(iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 6 notes

Is there a reasonable chance that you can still settle the differences with your civil partner and resume normal family life?

Are you satisfied that there is now no possibility of the civil partnership succeeding?

6. RECONCILIATION

Is there any reasonable prospect of reconciliation with your civil partner?

*[YES/NO]

Do you consider that the civil partnership has broken down irretrievably?

*[YES/NO]

Paragraph 7 notes

If your civil partner is not prepared to sign the form of consent at Part 2 of this application, you will not obtain a dissolution of your civil partnership by this method.

7. CONSENT

Does your civil partner consent to a dissolution of the civil partnership being granted?

*[YES/NO]

8. MENTAL DISORDER

As far as you are aware, does your civil partner have any mental disorder (whether mental illness, personality disorder or learning disability)?

*[YES/NO]

(if yes, give details)

Paragraph 9 notes

- (i) “Children of the family” includes children adopted by you and your civil partner, children treated by both you and your civil partner as children of your family, and children in relation to whom you and your civil partner are parents by virtue of the Human Fertilisation and Embryology Act 2008.
 - (ii) A “permanence order” is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

9. CHILDREN

(i) Are there any children of the family under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 10.)

(ii) Give the name and date of birth of each child of the family under 16 years of age.

(iii) Has a court made a permanence order relating to any child listed at (ii)?

*[YES/NO]

(iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

10. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your civil partnership?

*[YES/NO]

(if yes, give details)

Paragraph 11 notes

No claim can be made in this form of dissolution application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after dissolution of a civil partnership, the right to payment of a capital sum is lost once decree of dissolution is granted.

11. REQUEST FOR DISSOLUTION OF THE CIVIL PARTNERSHIP AND DISCLAIMER OF FINANCIAL PROVISION

I confirm that the facts stated in paragraphs 1 to 10 above apply to my civil partnership.

I do NOT ask the sheriff to make any financial provision in connection with this application.

I request the sheriff to grant decree of dissolution of my civil partnership.

Date

Signature of Applicant

IMPORTANT

Part 1 **MUST** be completed, signed and dated before sending the application form to your civil partner.

NOTICE TO CONSENTING CIVIL PARTNER

(Insert name and address of consenting civil partner)

CONSENT TO APPLICATION FOR DISSOLUTION OF A CIVIL PARTNERSHIP (CIVIL PARTNERS HAVING LIVED APART FOR AT LEAST ONE YEAR)

In Part 1 of the enclosed application form your civil partner is applying for dissolution of your civil partnership on the ground the civil partnership has broken down irretrievably because you have lived apart for at least one year and you consent to the dissolution being granted.

Such consent must be given formally in writing in Part 2 of the application form. BEFORE completing that part, you are requested to read it over carefully so that you understand the effect of consenting to the dissolution of the civil partnership. Thereafter if you wish to consent—

- (a) check the details given by the Applicant at Part 1 of the form to ensure that they are correct to the best of your knowledge;
- (b) complete Part 2 (Consent by Applicant's civil partner to dissolution) by entering your name and address at the appropriate place and adding your signature and the date; and
- (c) return the whole application form to your civil partner at the address given in Part 1.

Once your civil partner has completed the remainder of the form and has submitted it to the court, a copy of the whole application (including your consent) will later be served upon you formally by the sheriff clerk.

In the event of the dissolution of the civil partnership being granted, you will automatically be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the sheriff clerk immediately.)

If you do NOT wish to consent please return the application form, with Part 2 uncompleted, to your civil partner and advise him or her of your decision.

The sheriff will NOT grant a dissolution on your civil partnership on this application if Part 2 of the form is not completed by you.

Notes on completing Part 2

1. Read over carefully PART 1 of this application, which has already been completed by your civil partner.

2. **Financial Provision**

Please note that in Section 11 of Part 1, the Applicant states that he/she does NOT claim any financial awards by way of periodical allowance or capital sum. You are also required to state that you make no claim upon the Applicant for payment of a periodical allowance or capital sum.

NOTE: While it may be possible to obtain an order for **periodical allowance** after dissolution of a civil partnership, the right to payment of a **capital sum** is lost once decree of dissolution is granted.

3. **Warning**

Dissolution of your civil partnership may result in the loss to you of property rights (e.g. the right to succeed to the Applicant's estate on his/her death) or the right, where appropriate, to a pension.

(If you are in doubt about signing this form of consent, you should consult a solicitor.)

PART 2 CONSENT BY APPLICANT'S CIVIL PARTNER TO DISSOLUTION OF CIVIL PARTNERSHIP

I,

(insert full name of Applicant's civil partner)

residing at

(insert Applicant's civil partner's present home address)

HEREBY STATE THAT

- (a) I have read Part 1 of this application;
- (b) the Applicant has lived apart from me for a continuous period of one year immediately preceding the date of the application (paragraph 11 of Part 1);
- (c) I do not ask the sheriff to make any financial provision for me including—
 - (i) the payment by the Applicant of a periodical allowance (i.e. a regular payment of money weekly or monthly, etc. for maintenance);
 - (ii) the payment by the Applicant of a capital sum (i.e. a lump sum payment);
- (d) I understand that dissolution of my civil partnership may result in the loss to me of property rights;
- (e) I CONSENT TO DECREE OF DISSOLUTION BEING GRANTED IN RESPECT OF THIS APPLICATION

Signature of Applicant's civil partner

Date

NOTE: You may withdraw your consent, even after giving it, at any time before the dissolution of the civil partnership is granted by the sheriff. Should you wish to do so, please contact the sheriff clerk immediately.

PART 3 APPLICANT’S AFFIDAVIT

To be completed by the Applicant only after Parts 1 and 2 have been signed and dated.

I,
(*insert Applicant’s full name*)

residing at
(*insert Applicant’s present home address*)

SWEAR that to the best of my knowledge and belief:

*Delete as appropriate

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form CP30A] are true; and
- (2) the signature in Part 2 of this Application *[and in Part 2 of *[each] Form CP30A] is that of my civil partner.

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(*insert place*)
this day of 20
before me
(*insert full name*)
(*insert full address*)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form CP30

Form of simplified dissolution of a civil partnership application under section 117(3)(d) of the Civil Partnership Act 2004

Rule 33A.67(1)(b)

Sheriff Clerk
Sheriff Court House

APPLICATION FOR DISSOLUTION OF CIVIL PARTNERSHIP

CIVIL PARTNERS HAVING LIVED APART FOR AT LEAST TWO YEARS

Before completing this form, you should have read the guidance notes on simplified divorce and dissolution of civil partnership which explain the circumstances in which a dissolution of a civil partnership may be sought by this method. If simplified procedure appears to suit your circumstances, you may use this form to apply for dissolution of your civil partnership. Below you will find directions to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact any sheriff clerk's office or Citizens Advice Scotland.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | |
|---|--|
| Application
(Part 1) | <ol style="list-style-type: none">1. Complete and sign Part 1 of this form, paying particular attention to the notes before each paragraph.<ol style="list-style-type: none">1A. If there are any children of the family under 16 years of age, you must also complete and sign a copy of Form CP30A for each child. You do not have to do this for any child who does not live with you or your partner because the court has made a permanence order.2. Each Form CP30A that you are required to complete and sign must then be sent to your civil partner for completion of the consent at Part 2 of the form.<p>NOTE: If your civil partner does NOT complete and sign Part 2 of each Form CP30A your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor.</p> |
| Affidavit
(Part 2) | <ol style="list-style-type: none">3. When you have completed and signed Part 1 of this form, and when each form CP30A that requires to be completed has been returned to you with Part 2 of that form duly completed and signed by your civil partner, you should take the forms to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit at Part 2 may be completed and sworn. |
| Returning
completed
application
form to
court | <ol style="list-style-type: none">4. When 3 above has been complied with, your application is now ready to be sent to the sheriff clerk at the above address. With it you must enclose: |

- (a) an extract of the registration of your civil partnership in the civil partnership register (the document headed “Extract of an entry in a Register of Civil Partnerships”, which will be returned to you in due course) or an equivalent document;
 - (b) in respect of every child under 16 years of age—
 - (i) the child’s birth certificate (which will also be returned to you in due course); and
 - (ii) a Form CP30A for each child, unless the child is the subject of a permanence order;
 - (c) either a cheque or postal order in respect of the court fee, crossed and made payable to “the Scottish Courts and Tribunals Service”, or a completed fee exemption form.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the sheriff clerk immediately.

**THE NOTES BEFORE EACH PARAGRAPH ARE DESIGNED TO ASSIST YOU.
PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH PARAGRAPH
OF THE FORM.**

PART 1 WRITE IN INK, USING BLOCK CAPITALS

Paragraph 1 and 2 notes

- (i) The names entered in Sections 1 and 2 below should be those shown on your extract of the registration of civil partnership. If you are known by another name which does not appear on that extract, please write that name in brackets.
 - (ii) The surname given for each partner must be that partner's present name. Any names from previous marriages or civil partnerships should be entered in the space for other names.
 - (iii) Home addresses should be given where these are known. The Court is required by law to serve a copy of this application on your civil partner.
-

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Present address
Daytime telephone number (if any)

2. NAME OF CIVIL PARTNER

Surname
Other name(s) in full

Paragraph 3 notes

If the address of your civil partner is NOT known or cannot reasonably be ascertained, please enter "not known" in this section; you must take all reasonable steps to find out where your civil partner is living and state on a separate sheet what steps you have taken and attach it to this form. Then proceed to section 4.

N.B. The statement must be signed

3. ADDRESS OF CIVIL PARTNER (If the address of your civil partner is not known, please enter "not known" in this paragraph and proceed to paragraph 4)

Present address
Daytime telephone number (if any)

Paragraph 4 notes

In the event that the address of your civil partner is unknown to you, the Court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your civil partner. (“Next-of-kin” does not include yourself or any child of the family for the purposes of this application.)
- (ii) ALL children of the family aged 16 years or over, whether or not they live with you. (“Children of the family” includes any adopted children, and/or children accepted into the family.)

When entering the details of the next-of-kin, if any, please state his or her relationship to your civil partner (*i.e.* “mother”, “father”, “brother”, “sister”, etc).

If you do not know the identity or whereabouts of any of the next-of-kin of your civil partner, or the whereabouts of any of the children of your family, please enter “not known” where appropriate.

If you do not know the address of your civil partner and your civil partnership was registered in Scotland, you must obtain a letter from National Records of Scotland stating that there is no record that your civil partner has had the civil partnership dissolved. The letter must be issued not more than one month before the date of posting this application to the court. If you require to obtain a letter you should apply to:

National Records of Scotland, Registration Section, New Register House, Edinburgh,
EH1 3YT

stating both civil partners’ full names, the date and place of the registration of your civil partnership and requesting that a search be made to confirm that there is no record that your civil partner has had the civil partnership dissolved. (Note – a fee will be charged for this service.)

The requirement to obtain a letter from National Records of Scotland does not apply if your civil partnership was registered outwith Scotland.

- 4. Only complete this paragraph if you do not know the present address of your civil partner

NEXT-OF-KIN

Name

Address

Relationship to your civil partner

CHILDREN OF THE FAMILY

Names and dates of birth

Addresses

If insufficient space is available to list all the children of the family, please continue separate sheet and attach to this form.

Paragraph 5 notes

“Domiciled in Scotland” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

5. JURISDICTION

Please indicate with a tick in the appropriate box or boxes which of the following apply:

Please complete both Part A and Part B

- PART A**
- (i) I am domiciled in Scotland on the date I signed this application
 - (ii) My spouse is domiciled in Scotland on the date I signed this application
 - (iii) I was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
 - (iv) My spouse was habitually resident in Scotland throughout the period of one year ending with the date I signed this application
- PART B**
- (i) I have lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (ii) My spouse has lived at the address shown above for at least 40 days immediately before the date I signed this application
 - (iii) I lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and have no known residence in Scotland at that date
 - (iv) My spouse lived at the address shown above for a period of at least 40 days ending not more than 40 days before the date I signed this application and has no known residence in Scotland at that date
-

Paragraph 6 notes

You will be able to obtain these details from the extract of the registration of your civil partnership (Extract of an entry in the register of civil partnerships) which must accompany this application form, when you send it to the court.

A photocopy of the civil partnership registration certificate will NOT be accepted. If you cannot find the original, you should apply for an official copy to:

National Records of Scotland, Registration Section, New Register House,
Edinburgh EH1 3YT or the office where the civil partnership was registered, in writing,

stating both civil partner's full names, and date and place of registration of civil partnership.

The Registrar will charge a fee for this service.

6. DETAILS OF PRESENT CIVIL PARTNERSHIP

Place of Registration of Civil Partnership
(Registration District)

Date of Registration Day month year
of Civil Partnership:

Paragraph 7 notes

You and your civil partner must have lived apart from each other for a continuous period of at least 2 years after the date of registration of your civil partnership and immediately before the date of this application.

This minimum period of 2 years separation is extended if you and your civil partner have lived together again for **not more than 6 months in all** during that 2 year period. For example, if you lived together for 3 months in total during the 2 year period, then you should not complete this application until 2 years and 3 months have elapsed from the date of your original separation.

7. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your civil partner (if more than 2½ years, just give the month and year)

Day month year

*delete as appropriate

(ii) Have you lived with your civil partner since that date? *[YES/NO]

(iii) If yes, for how long in total did you live together before finally separating again?

Months

Paragraph 8 notes

Is there a reasonable chance that you can still settle the differences with your civil partner and resume normal family life?

Are you satisfied that there is now no possibility of the civil partnership succeeding?

8. RECONCILIATION

Is there any reasonable prospect of reconciliation with your civil partner?

*delete as appropriate

*[YES/NO]

Do you consider that the civil partnership has broken down irretrievably?

*[YES/NO]

9. MENTAL DISORDER

As far as you are aware, does your civil partner have any mental disorder (whether mental illness, personality disorder or learning disability)?

*Delete as appropriate

*[YES/NO]

(if yes, give details)

Paragraph 10 notes

- (i) "Children of the family" includes children adopted by you and your civil partner, children treated by both you and your civil partner as children of your family, and children in relation to whom you and your civil partner are parents by virtue of the Human Fertilisation and Embryology Act 2008.
 - (ii) A "permanence order" is an order of court made under Part 2 of the Adoption and Children (Scotland) Act 2007 giving a local authority certain rights and responsibilities in relation to a child.
-

10. CHILDREN

(i) Are there any children of the family under 16 years of age?

*[YES/NO]

(if yes, please provide the information requested at (ii), (iii) and, if applicable, (iv). If no, please proceed to paragraph 11.)

(ii) Give the name and date of birth of each child of the family under 16 years of age.

(iii) Has a court made a permanence order relating to any child listed at (ii)?

*[YES/NO]

(iv) If yes, for each child who is subject to a permanence order please give the name of the child, the court in which the permanence order was made, and the date, or approximate date, on which the order was made.

11. OTHER COURT ACTIONS

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your civil partnership?

*[YES/NO]

(if yes, give details)

Notes on Section 12 below

No claim can be made in this form of dissolution application for payment to you of a periodical allowance (*i.e.* regular payment of money weekly, monthly etc for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

NOTE: While it may be possible to obtain an order for periodical allowance after dissolution of your civil partnership, the right to payment of a capital sum is lost once decree of dissolution is granted.

12. DECLARATION AND REQUEST FOR DISSOLUTION OF THE CIVIL PARTNERSHIP

I confirm that the facts stated in paragraphs 1 to 11 above apply to my civil partnership.

I do NOT ask the sheriff to make any financial provision in connection with this application

I request the sheriff to grant decree of dissolution of my civil partnership.

Date

Signature of Applicant

PART 2 APPLICANT'S AFFIDAVIT

To be completed by the Applicant only after Part 1 has been signed and dated.

I,
(*insert Applicant's full name*)

residing at
(*insert Applicant's present home address*)

SWEAR that to the best of my knowledge and belief:

*Delete as appropriate

- (1) the facts stated in Part 1 of this Application *[and in Part 1 of *[each] Form CP30A] are true *[]; and
- (2) the signature in Part 2 of this Application *[and in Part 2 of *[each] Form CP30A] is that of my civil partner.]

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

SWORN at
(*insert place*)
this day of 20
before me
(*insert full name*)
(*insert full address*)

Signature

*Justice of the Peace/Notary Public/Commissioner for Oaths

Form CP30A

Form of arrangements for upbringing of child of the family under 16 years of age

Rule 33A.67(5)

Sheriff Clerk
Sheriff Court House

(Telephone)

You must complete this form if you are making a simplified dissolution of civil partnership application and there are children of the family under 16 years of age.

You must complete one copy of this form for each child of the family under 16 years of age, unless the child does not live with you or your civil partner because the court has made a permanence order for the child.

Note: If the court has made a permanence order, do not complete this form.

How to complete this form

WRITE IN INK, USING BLOCK CAPITALS

- | | | |
|---|----|---|
| Arrangements
(Part 1) | 1. | Complete and sign Part 1 of the form. |
| Consent of
civil partner
(Part 2) | 2. | When you have completed Part 1, send it to your civil partner for completion of Part 2. |
| | | NOTE: If your civil partner does NOT complete and sign the form of consent in Part 2, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a dissolution of civil partnership, you should consult a solicitor. |
| Affidavit | 3. | When the form has been returned to you with Part 2 completed and signed, you should take it with you when you take the simplified dissolution of civil partnership application to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person. The affidavit that you swear includes the content of this form so it must be completed and signed (Parts 1 and 2) before the affidavit is sworn. |
| What
happens
next? | 4. | Once the affidavit has been sworn, your application is ready to be sent to the sheriff clerk (see the notes on the simplified dissolution of civil partnership application form). |
| | 5. | The information that you and your civil partner give on this form helps the sheriff to consider your proposed arrangements for the upbringing of your child. By law, the sheriff must look at what you have proposed. |

6. If the sheriff does not think that the proposed arrangements are in the best interests of your child, you and your civil partner will have to come to court to discuss them with the sheriff. If the sheriff decides that there will be a hearing, the sheriff clerk will write to you and your civil partner to explain when you have to come to court.
7. If the sheriff clerk tells you that there will be a hearing **AND YOU ARE UNSURE WHAT TO DO**, you should consult a solicitor. You may be entitled to legal aid depending on your circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from a Citizens Advice Scotland or other advice agency.

PART 1 WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname
Other name(s) in full
Address

2. NAME AND ADDRESS OF CIVIL PARTNER

Surname
Other name(s) in full
Address

3. CHILD'S DETAILS

- (a) Surname:
- (b) Other name(s) in full:
- (c) Date of birth:
- (d) Sex: *Male/Female
- (e) Current address:
- (f) Name and address of school or nursery attended:

*delete as appropriate

4. LIVING ARRANGEMENTS

Note: if the child lives or will live both with you and your civil partner, sharing time equally between you, give details of both houses and the people who live there in questions 4(a) to (f). You do not have to complete question 6(a).

*delete as appropriate

(c) After the dissolution of your civil partnership, will the child stay in the same house? *[YES/NO]

(d) If the answer to (c) is No, describe the house where the child is going to live. For example, how many bedrooms are there? Will the child have to share a bedroom? If so, who will he or she be sharing with?

(e) Who will live with the child following the dissolution of your civil partnership? If there are any changes from (b) list the full name and age of anyone else who will live with the child, and the relationship between the child and that person.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>

- (f) Has any person listed in (b) or (e) ever been convicted of a violent offence, a sexual offence or been placed on the Sex Offenders Register?

*delete as appropriate

*[YES/NO]

If the answer to (f) is Yes, give details below.

5. CHILD PROTECTION MEASURES

- (a) Has the child been referred to a Children's Hearing?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is YES, give details below.

6. CONTACT ARRANGEMENTS

Note: If you gave details about your house and your civil partner's house at question 4, you do not need to answer question 6(a).

- (a) What arrangements have been made for the child to have contact with the parent or parents with whom the child is not living?

- (b) What arrangements have been made for the child to have contact with other members of his or her family, particularly brothers or sisters with whom the child is not living?

7. EDUCATIONAL ARRANGEMENTS

- (a) Is it proposed that the child will attend a different school or nursery following the dissolution of the civil partnership? ***[YES/NO]**

*delete as appropriate

- (b) If the answer to (a) is Yes, give the name and address of the proposed new school or nursery, and explain why this change is happening.

8. CHILDCARE ARRANGEMENTS

- (a) Who will look after the child when the person with whom the child is to live is not doing so? Include details about any arrangements for the child to be looked after before and after school/nursery.

9. ABOUT THE CHILD

- (a) What are the child's interests? Include information about what the child does in his or her spare time. For example, does he or she have any hobbies? Is he or she a member of any clubs or teams? Does he or she take part in any sports?

- (b) Does the child have any health or developmental issues? Include details of any health conditions, additional support needs, and any other issues which have an impact on the child's life.

10. VIEWS OF THE CHILD

- (a) Have you asked your child for his or her views on the arrangements in questions 1 to 9?

*delete as appropriate

*[YES/NO]

- (b) If the answer to (a) is Yes, what are your child's views, if any?

- (c) If the answer to (a) is No, explain why you have not asked your child for his or her views.

11. DECLARATION

I declare that the facts stated in answer to questions 1 to 10 above are a true record of the proposed arrangements for the upbringing of *(name of child)* in the event of decree of dissolution of civil partnership being granted.

Date

Signature of applicant

IMPORTANT: Part 1 must be completed, signed and dated before sending the Form to your civil partner.

PART 2 NOTICE TO CIVIL PARTNER

CONSENT TO ARRANGEMENTS FOR THE UPBRINGING OF

(Full name of child)

- *delete as appropriate
1. Your civil partner is applying for dissolution of your civil partnership. Because there *[is a child/are children] of the family under 16 years of age, your civil partner and you must tell the sheriff about the proposed arrangements for the upbringing of that child or children.
 2. Your civil partner has detailed the proposed arrangements in Part 1 of this form. You are requested to read over Part 1 of this form carefully. If you wish to consent to these arrangements, you must—
 - (a) check that the details in Part 1 are correct to the best of your knowledge;
 - (b) complete Part 2 (consent to arrangements for upbringing of child) by inserting your name and address and signing and dating it; and
 - (c) return the whole form to your civil partner at the address given in Part 1.
 3. Your civil partner will then return the form, with the simplified dissolution of civil partnership application, to the court.
 4. **IMPORTANT: If there is more than one child of the family under 16 years of age, your civil partner must complete a separate form for each child and you must consent by completing Part 2 of each form.**
 5. If you are not happy with the proposed arrangements, please return the form, with Part 2 uncompleted, to your civil partner and advise him or her of your decision.
 6. The sheriff will NOT grant a dissolution of civil partnership if you do not complete Part 2 of this form.

Sheriff Clerk (depute)

Sheriff Court (*insert name and address*)

CONSENT BY APPLICANT'S CIVIL PARTNER
TO
ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

I, *(full name of applicant's civil partner)*
residing at *(address)*

HEREBY STATE THAT:

- (a) I have read Part 1 of this application;
- (b) I CONSENT TO THE PROPOSED ARRANGEMENTS FOR THE UPBRINGING OF

(full name of child)

IN THE EVENT THAT DECREE IS GRANTED.

Date

Signature

IMPORTANT: You may withdraw your consent, even after giving it, at any time before divorce is granted by the sheriff. Should you wish to do so please contact the sheriff clerk immediately.

Form CP37A

Rule 33A.73A(3)(b)

Form of intimation to civil partners of a hearing under rule 33A.73A

Court ref. no:

Date:

(Date of posting or other method of service)

To:

APPLICATION FOR DECREE OF DISSOLUTION OF CIVIL PARTNERSHIP BY *(insert name of applicant)*

TAKE NOTICE

1. A hearing has been fixed in the above application at which the court will consider the arrangements for the upbringing of *(insert name(s) of child or children)*.
2. The hearing will take place at *(insert time)* on *(insert date)* at *(insert address of sheriff court)*.

(Signed)

Sheriff Clerk (Depute)

NOTE

At the hearing you should be prepared to provide the court with any information the sheriff requests concerning the arrangements for the upbringing of the child [*or children*] mentioned above. [In particular *(specify particular issues where applicable)*].

In terms of rule 33A.73B(2), both civil partners must attend the hearing in person. If you are unable to attend the hearing you should immediately contact the sheriff clerk's office at *(insert address and telephone number)*.

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

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