

Undefended Divorces in British Columbia - Costs

A divorce is commenced in British Columbia by the filing of a Notice of Family Claim in the Supreme Court of British Columbia. \$10 of the \$210.00 initial filing fee includes a form which is sent to Ottawa with the particulars of the marriage. This *Registration of Divorce Proceedings* form is filed to ensure neither spouse has commenced a divorce proceeding in Canada. A certified copy of the Marriage Registration or the Marriage Certificate is usually filed at the same time. It takes from 6 to 8 weeks for the *Clearance Certificate* to be sent back to the Court Registry where the divorce proceedings were commenced.

The person who starts the divorce is called the Claimant. The Claimant must have a copy of the filed Notice of Family Claim served on the Respondent. The Claimant may not serve Respondent him or herself but must arrange for a process server or any person over the age of nineteen to serve the Respondent personally. That person must then swear or affirm an Affidavit of Service which is then filed with the Court. The Respondent does not have to sign any papers when served but has to provide proof of identity unless known personally to the person serving the documents.

Once thirty days has elapsed since the Respondent was served and the Clearance Certificate is back from Ottawa and no Response or Counterclaim has been filed, the Claimant proceeds by filing the following documents to support the granting of a Divorce:

1. A *Requisition* requesting the divorce and setting out the supporting;
2. An *Affidavit of Service*;
3. An *Affidavit* sworn or affirmed by the Claimant setting out the claim or claims which may include a request for a change of name;
4. A *Child Support Affidavit* where there are children of the marriage;
5. A mini *Requisition* asking for confirmation that no Response or Counterclaim have been filed;
6. Registrar's *Certificate of Pleadings* stating that all documents are in order;
7. A draft *Order for Divorce*.

Once all of required documents are filed, the Court Registry processes the uncontested application for divorce. There is a fee of \$80.00 for processing these documents. A final Order comes into effect 31 days after the date of the Divorce Order and a party may not remarry prior to the expiry of the 31 days.

If either the Claimant or Respondent wish to remarry in BC after the 31 days have elapsed, a certified copy of the *Divorce Order* should be adequate to obtain a marriage license. If a former spouse wishes to marry outside of BC, he or she may obtain a Certificate of Divorce through the Court Registry at a cost of \$62.00.

A change of name to a maiden name or name used prior to the marriage may be requested as part of the uncontested divorce proceedings.

Robert J. Klassen

If the spouses consent, the Divorce Order may include provisions for custody, access, child support, and spousal maintenance. In order to request a division of property as well, the provincial statute, the *Family Relations Act*, (which is to be replaced by the *Family Law Act*) must be included in the Notice of Family Claim.

Often a Separation Agreement is entered before commencing proceedings for a divorce. It is a good idea to enter such an agreement to settle issues prior to filing the Notice of Family Claim for an uncontested divorce.