

Form FP 13

Joint application for order dissolving marriage or civil union on ground of irreconcilable breakdown

Section 37, Family Proceedings Act 1980

In the Family Court FAM No: _____

at _____

[place]

[Applicant's full name]

[Applicant's address]

[Applicant's occupation]

Applicant (1)

[Applicant's full name]

[Applicant's address]

[Applicant's occupation]

Applicant (2)

[Set out full description of document (including whether it is made without notice or on notice), its date, the Act under which the document is filed, and, in the case of an affidavit or affirmation, the name of the deponent and in whose support it is filed.]

Joint application for order dissolving marriage or civil union on ground of irreconcilable breakdown (section 37, Family Proceedings Act 1980) made by

_____ [name]

and

_____ [name]

dated _____

This document is filed by

[name and address for service, and, if filed by lawyers, the name and telephone number of the acting lawyer].

We, _____
[Full name – applicant 1]

and

[Full name – applicant 2]

jointly apply for an order dissolving our marriage or civil union.

This is made on the ground that the marriage or civil union has broken down irreconcilably.

We say:

1. (a) We consent to the order dissolving the marriage or civil union being made in our absence.

[If you choose this option, you do not have to complete paragraphs 2 to 7 of this application, but you must file an affidavit in form FP 14 with this application.]

or

1. (b) We do not consent to the order dissolving the marriage or civil union being made in our absence.

[select and complete the option that applies below]

2. _____ is domiciled in New Zealand.
[full name of one of the applicants]

or

2. We are both domiciled in New Zealand.

3. We are living apart.

4. We will, at the filing of this application, have been living apart for the period of 2 years immediately preceding the filing of this application.

5. We ceased living together on _____ [date]

[select and complete the option that applies below]

6. A separation order was made on _____ [date].

or

6. A written separation agreement was made on _____ [date].

or

6. We made an oral agreement to separate on _____ [date].

or

6. No separation order was made and we did not agree to separate.

[select and complete the option that applies]

7. There are no children of the marriage or civil union.

or

7. If an order dissolving the marriage or civil union is made, I propose to make the following arrangements for the day-to-day care, maintenance, and welfare of the children of the marriage or civil union:

Day-to-day care:

[give details below]

Maintenance:

[give details below]

Other aspects of welfare, such as schooling or any special needs:

[give details below]

or

7. It is impracticable for me to make any arrangements for the day-to-day care, maintenance, and welfare of the children of the marriage or civil union because *[give reasons below]*

Signature of applicant

Signature of applicant

Date

Date

Registry to complete:

***Date of hearing**

I appoint _____ [date] at _____ [time]

at the Family Court at _____ [place]
for the hearing of this application.

***Registrar's list of applications for dissolution orders**

I have entered this application on the Registrar's list of applications for
dissolution orders. I will make an order dissolving the marriage or civil union

on _____ [date] if the requirements of the
Family Proceedings Act 1980 and these rules are satisfied on that date.

Registrar

Date

**Delete if inapplicable.*

Notes

Information sheet

A duly completed information sheet (form G 7) must accompany this application.

Consent to order being made in absence

If you consent to the order being made in your absence (see paragraph 1), you must file an affidavit in form FP 14 with your application. Your application is then entered on the Registrar's list of applications for dissolution orders. This allows the Registrar to make an order dissolving the marriage or civil union, if the requirements of the Family Proceedings Act 1980 and these rules (Family Court Rules 2002) are satisfied, without your having to appear before the Family Court.

Documents to be lodged

If you do not consent to the order being made in your absence (see paragraph 1), you must, at the time of filing this application, lodge in the office of the court, unless the Registrar otherwise directs,-

- (a) the original or a certified copy of your marriage or civil union certificate;
and
- (b) a copy of any separation order or separation agreement to be used as evidence of living apart.

When order takes effect as final order

If an order dissolving a marriage or civil union is made by the Family Court on this application, it takes effect as a final order on being made.

If an order dissolving a marriage or civil union is made by the Registrar on this application, it takes effect as a final order at the expiration of 1 month from the date on which it is made.

However, if there is a change of circumstances between the time of the filing of the application and the date on which the order takes effect, either party may seek a hearing at any time before the order takes effect as a final order. If that happens, the order does not take effect while the hearing is pending. If the order is then confirmed by the Family Court, the order takes effect as a final order on the confirmation of the order by the Family Court. If the order is quashed or set aside by the Family Court, the order does not take effect as a final order.

Form FP 14

Affidavit to accompany joint application for dissolution order on ground of irreconcilable breakdown

Section 38(2)(d), Family Proceedings Act 1980

In the Family Court FAM No: _____

at _____

[place]

[Applicant's full name]

[Applicant's address]

[Applicant's occupation]

Applicant (1)

[Applicant's full name]

[Applicant's address]

[Applicant's occupation]

Applicant (2)

[Set out full description of document (including whether it is made without notice or on notice), its date, the Act under which the document is filed, and, in the case of an affidavit or affirmation, the name of the deponent and in whose support it is filed.]

Affidavit of

_____ [name]

and

_____ [name]

in support of Joint application for order dissolving marriage or civil union on ground of irreconcilable breakdown (section 37, Family Proceedings Act 1980) made

dated _____

This document is filed by

[name and address for service, and, if filed by lawyers, the name and telephone number of the acting lawyer].

I, _____
[Applicant 1 full name]

of _____
[Applicant 1 address]

_____ [Applicant 1 occupation]

and I, _____
[Applicant 2 full name]

of _____
[Applicant 2 address]

_____ [Applicant 2 occupation]

swear (or **affirm**) that:

1. We are the applicants for an order dissolving a marriage or civil union on the ground that the marriage or civil union has broken down irreconcilably.

[select the option that applies below]

2. _____ is domiciled in New Zealand.
[full name of one of the marriage or civil union partners]

or

2. We are both domiciled in New Zealand.

3. We were married or entered into a civil union on

_____ [date]

at _____ [place]

_____ [name of city or town, etc].

4. A copy of our marriage or civil union certificate is annexed (attached) to this affidavit and marked with the letter A.
5. We are living apart.
6. We will, at the filing of this application, have been living apart for the period of 2 years immediately preceding the filing of this application.
7. We ceased living together on _____ [date].

[select and complete the option that applies below]

8. (a) A separation order was made on _____ [date].
(b) A copy of the separation order is annexed (attached) to this affidavit and marked with the letter B.

or

8. (a) A written separation agreement was made on _____ [date].

(b) A copy of the separation order is annexed (attached) to this affidavit and marked with the letter B.

or

8. We made an oral agreement to separate on _____ [date].

or

8. No separation order was made and we did not agree to separate.

9. Our marriage or civil union has broken down irreconcilably.

[note: select and complete paragraphs 10 and 11 below if there are children of the marriage or civil union]

*10. Satisfactory arrangements, or arrangements that are the best that can be devised in the circumstances, have been made for the day-to-day care, maintenance, and other aspects of the welfare of every child of the marriage or civil union. The arrangements relate to every child who is under 16 years. They also relate to every child who is 16 years or over and, because of special circumstances, requires arrangements to be made.

*11. The arrangements referred to in paragraph 10 of this affidavit are as follows:

Day-to-day care:

[give details below]

Maintenance:

[give details below]

Other aspects of welfare, such as schooling or any special needs:
[give details below]

**Include if there are children of the marriage or civil union.*

Signature of deponent

Signature of deponent

Severally, **sworn** (or **affirmed**) at _____
[place]

by both the above-named deponents this _____ before me.
[date]

Signature

(Registrar / Justice of the Peace / Solicitor of the High Court*)
**Select one*

Sworn (or **affirmed**) by _____
[name]

at _____
[place]

this _____ before me.
[date]

Signature

(Registrar / Justice of the Peace / Solicitor of the High Court*)
**Select one*

Notes

Living apart (definition)

Section 40 of the Family Proceedings Act 1980 allows you to say that you have lived apart for 2 years even if you have come together as a married couple, or as civil union partners, for some periods within that 2 years. This section applies if you have come together as a married couple, or as civil union partners, for up to 3 months in total and if your purpose in coming together was to try to resume your marriage or civil union.

Documents

When you have completed this affidavit, these are the documents you must file:

- a joint application for an order dissolving a marriage or civil union on ground of irreconcilable breakdown (form FP 13)
- an information sheet (form G 7)
- this affidavit (form FP 14)
- your marriage or civil union certificate (the original or a certified copy), annexed (attached) to this affidavit and marked with the letter A.
- your separation order, if any, annexed (attached) to this affidavit and marked with the letter B.

or

- your written separation agreement, if any, annexed (attached) to this affidavit and marked with the letter B.

