

Form FP 11

**Application by one party 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

[Respondent's full name]

[Respondent's address]

[Respondent's occupation]

Respondent(s)

[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.]

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

_____ [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].*

I, _____
[Full name]

apply for an order dissolving the marriage or civil union between my spouse (or partner) and me.

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

I say:

[select the option that applies below]

- ☐ 1. (a) I consent to the order dissolving the marriage or civil union being made in my 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 12 with this application.]

or

- ☐ 1. (b) I do not consent to the order dissolving the marriage or civil union being made in my absence.

[select the option that applies below]

- ☐ 2. I am domiciled in New Zealand.

or

- ☐ 2. My spouse (or partner) is domiciled in New Zealand.

or

- ☐ 2. My spouse (or partner) and I are both domiciled in New Zealand.

3. My spouse (or partner) and I 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

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 12 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 in undefended proceedings, it takes effect as a final order on being made.

If an order dissolving a marriage (or civil union) is made by the Family Court in defended proceedings, it takes effect as a final order at the expiration of 1 month from the date on which it is made.

However, one party may appeal to the High Court against the making of the order. If that happens, the order does not take effect while the appeal is pending. If, before the expiration of 1 month from the date on which the order is made, the appeal is withdrawn, abandoned, or dismissed, or the order is confirmed by the High Court, the order takes effect as a final order at the expiration of 1 month from the date on which it is made. If, after the expiration of 1 month from the date on which the order is made, the appeal is withdrawn, abandoned, or dismissed, or the order is confirmed by the High Court, the order takes effect as a final order on the withdrawal, abandonment, or dismissal of the appeal, or on the confirmation of the order of the High Court. If the order is set aside or quashed by the High Court, the order does not take effect as a final order.

If an order dissolving a marriage or civil union is made by the Family Court in defended proceedings and one party dies within 1 month of the order being made, the order does not take effect as a final order.

If an order dissolving a marriage or civil union is made by the Registrar, 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 as a final order.

Form FP 12

**Affidavit to accompany application by one party
for order dissolving marriage or civil union for
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

[Respondent's full name]

[Respondent's address]

[Respondent's occupation]

Respondent(s)

[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]

in support of Application by one party 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, _____
[full name]
of _____
[address]

[occupation]

swear (or **affirm**) that:

1. I am the applicant 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. I am domiciled in New Zealand.

or

☐ 2. My spouse (or partner) is domiciled in New Zealand.

or

☐ 2. My spouse (or partner) and I are both domiciled in New Zealand.

3. My spouse (or partner) and I 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 the 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

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:

- an application by one party for an order dissolving a marriage or civil union on ground of irreconcilable breakdown(form FP 11)
- an information sheet (form G 7)
- this affidavit (form FP 12)
- 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 letter B.

Information Sheet G7

In the Family Court at		FAM-
This information sheet accompanies applications for the following order(s):		
1.	2.	

Applicant's full name											
*Home address								Post code:			
*Work address						*Email address					
*Contact phone No	Home:				Work:				Mobile:		
Date of Birth		Age:		Gender:		Occupation:					
Ethnic Origin	New Zealand European ☐ Māori ☐ Samoan ☐ Cook Island Māori ☐ Tongan ☐ Niuean ☐ Chinese ☐ Indian ☐ Other ☐ (Dutch, Japanese, Tokelauan, etc) Please state:										
*Country of residence					Interpreter required Yes ☐ /No ☐		Language				

*The applicant may delete these items from copies to be served

Full name of other party												
Relationship to applicant												
Home address								Post code:				
Work address						Email address						
Contact phone No	Home:					Work:				Mobile:		
Date of Birth			Age:				Gender:				Occupation:	
Ethnic Origin	New Zealand European ☐ Māori ☐ Samoan ☐ Cook Island Māori ☐ Tongan ☐ Niuean ☐ Chinese ☐ Indian ☐ Other ☐ (Dutch, Japanese, Tokelauan, etc) Please state:											
Country of residence						Interpreter required Yes ☐ / No ☐		Language				

Date of marriage or civil union		Place of marriage or civil union	
Date when the de facto relationship started		When did the relationship end	

Children Affected by the Application:

[illegible]