

The Divorce Process in Kenya: A Step-by-Step Guide





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Legal Steps for Divorce in Kenya

1. Filing the Divorce Petition

Initiate the process by submitting a petition to the High Court. The petition must state the grounds for divorce and include necessary documents such as:

1. Marriage certificate
2. National ID or passport
3. Evidence supporting your claims
4. Completed divorce petition form

2. Serving the Respondent

Notify your spouse of the divorce petition through one of the following methods:

5. Personal delivery via a court process server
6. Registered mail with proof of delivery
7. Newspaper publication (if the spouse is untraceable)

3. Response from the Respondent

Your spouse has 14 days to respond. They may:

8. Agree to the divorce (uncontested case)
9. Disagree and contest the divorce

10. Fail to respond (you can seek a default judgment)

4. Issuance of Registrar's Certificate

After the response period, apply for this certificate to confirm that preliminary procedures are complete, allowing the case to proceed to hearing.

5. Pre-Trial Conferences

The judge facilitates meetings to identify and possibly resolve disputed issues before trial, which may include mediation.

6. Trial Process

If disputes remain, both parties present evidence and witnesses to support their claims before the court.

7. Issuance of Decree Nisi

This is a provisional order indicating the court's intention to dissolve the marriage, subject to any objections within a specified period.

8. Issuance of Decree Absolute

The final order officially terminating the marriage, issued after the Decree Nisi and required waiting period.



Types of Divorce in Kenya

Contested Divorce: One spouse disagrees on the divorce or its terms, requiring court intervention on issues like property division and child custody.

Uncontested Divorce: Both spouses agree on the divorce terms, making the process faster and less costly.

Grounds for Divorce in Kenya

Kenyan law, under the Marriage Act of 2014, recognizes several grounds for divorce:

1. **Adultery** – A breach of marital vows through extramarital affairs.
2. **Cruelty** – Physical, emotional, or mental abuse toward a spouse or children.

3. **Desertion** – Absence of a spouse for at least three years (Christian marriage) or two years (civil marriage).
4. **Infidelity** – Betrayal of trust in the marriage.
5. **Irretrievable Breakdown** – Includes neglect, separation for two years, or other conditions that make reconciliation impossible.
6. **Imprisonment** – If a spouse is sentenced to more than seven years in prison.
7. **Venereal Diseases** – Contracting a serious sexually transmitted disease that was undisclosed before marriage.
8. **Presumption of Death** – If a spouse has been missing for seven or more years.
9. **Conversion of Religion** – In Hindu marriages, conversion to another faith is a valid reason for divorce.
10. **Incurable Insanity** – A mental illness diagnosed by two certified doctors, one of whom must be a psychiatrist.



Why You Need Legal Grounds for Divorce

Kenyan law follows a fault-based divorce system, meaning you must establish legally valid grounds for the court to grant a divorce. Without clear justification, your petition could be dismissed.

Key Aspects During the Divorce Process

1. Property and Asset Division

Kenyan law ensures fair division of marital assets based on both financial and non-financial contributions. Courts consider:

11. Property ownership documents
12. Bank statements and investment records

13. Purchase receipts and proof of contributions

2. Child Custody and Support

Decisions are made based on the child's best interests, considering:

14. Age, health, and education

15. Financial ability of each parent

16. Emotional well-being of the child

3. Spousal Support and Maintenance

Support may be granted based on:

17. Income and financial stability of both parties

18. Length of the marriage

19. Standard of living before divorce

20. Health and employment prospects of both spouses

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