



Introduction to Family Law

A. Initiation of Family Proceedings

For proceedings to be commenced in Singapore, either party must be domiciled in Singapore at the time of commencement or be a habitual resident of Singapore for a period of 3 years preceding the commencement of the proceedings.

B. Grounds for Filing a Divorce

Either party may file for divorce on the ground that the marriage has irretrievably broken down and if:

- a) one of the parties have committed adultery and the plaintiff finds it intolerable to live with the defendant;
- b) the defendant behaved in a way that plaintiff cannot reasonably be expected to live with the defendant;
- c) the defendant deserted the plaintiff for a continuous period of at least two years;
- d) parties have lived apart for a continuous period of at least 3 years and parties consent to the judgment; or
- e) parties lived apart for four years.

The tests and thresholds that must be met before an interim judgment for divorce is granted differ depending on which ground the party intends to proceed on and whether the divorce is contested.

Crucially, before a divorce is granted, parties must file a parenting plan together with the divorce writ. Further, before the commencement of any divorce proceedings, parties are generally advised to consider the possibility of reconciliation.

C. Types of Order

A custody order gives the parent control and responsibility over the upbringing and education of the child and is not to be mistaken for physical control over the child (i.e. care and control order).

An order for care and control gives the parent authority and responsibility over the day to day matters of the child (i.e. the child resides with the parent who has care and control over it). A parent who does not have care and control will usually be given “access” to the child. In Singapore, case law suggests that the norm is for joint custody to be ordered.

In determining issues such custody, care and control, the welfare of the child is given paramount consideration.

D. Maintenance Orders

Unless the court otherwise orders or by agreement, it is the duty of the parent to contribute to the maintenance of his or her children whether they are in his or her custody. Further, a husband is required under law to provide reasonable maintenance to his wife.

Where a party has failed to provide reasonable maintenance for his or her dependent/spouse, the

dependent/spouse may apply to Court for an order of maintenance against the defaulting party.

E. Division of Assets

All matrimonial assets are subject to distribution between the parties in such proportion as the court thinks just and equitable.

A list of factors is considered in determining what is just and equitable. Further, the amount of maintenance agreed between the parties will also impact on the quantum of the division of assets. Both financial and non-financial contribution of the parties are considered and given equal weight. In deciding the respective division of assets, there is no norm of equality of division of assets, instead a “broad brush” approach is used by the court in weighing the respective contribution of the parties.

F. Agreements

Pre and Post nuptial agreements are not void under the Women’s Charter (Act 18 of 1961) and the former is given critical weight in deciding what is just and equitable while the latter can be enforced through a consent order (i.e. consent of the parties).

G. Changes under the New Family Justice Act

The Family Justice Act 2014 (Act No. 27 of 2014) (“**Family Justice Act**”) which came into operations on 1 October 2014 introduced the following changes:

1) the establishment of the new Family Justice Courts (“**FJC**”) comprising a) the High Court (Family Division), the Family Courts and the Youth Courts.

Under the new structure, with effect from 1 October 2014, the FJC will be the court of first instance for all family proceedings and with effect from 1 January 2015, all probate proceedings will

be dealt with by the FJC and all non-contentious probate proceedings will be transferred to the FJC.

H. Division of Assets

Before the Family Justice Act, division of asset whereby the alleged value was greater than \$1.5 million or more were transferred to the High Court after the grant of an interlocutory judgment. The Family Justice Act however does away with the above practice and only requires cases which are filed in the FJC to be transferred to the High Court (Family Division) where the cases are complex, involve an important question of law or if there are sufficient reasons to do so.

I. Mandatory Counselling and Mediation

Counselling and mediation seeks to help parties amicably resolve issues pertaining to divorce and various ancillary matters.

From 1 October 2014, the Family Justice Act expands the mandatory counselling and mediation programme first introduced in 2011 to all parties where one child is below the age of 21 years.

J. Application under the Mental Capacity Act

Changes to the existing State Courts and Supreme Court practice directions aim to simplify the process of appointing a deputy in the event that a person is incapacitated through a simplification of the applicant’s affidavit, deputy’s affidavit and introduce a standard medical report and doctor’s affidavit.

The ELC Way

ELC provides a comprehensive suite of affordable and quality matrimonial services dealing with both contentious and non-contentious divorce. We appreciate the emotional and time consuming challenge a divorce process is and hence our lawyers are ready to guide our client at each step



of the journey to ensure that our client understand their rights and obligations and are not overwhelmed by the entire process.

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