



INSTITUTION OF DIVORCE PROCEEDINGS

INTRODUCTION

Divorce is a dissolution of a marriage by the Court on the ground of its irreparable breakdown. The Law of Marriage Act Cap 29 "hereinafter the LMA" and the Civil Procedure Code Cap 33. However the LMA is the main legislation governing marriage and divorce in Tanzania. Proceedings shall commence with the filing of a petition in the Court of law after obtaining a Certificate from the Marriage Conciliation Board. In essence the courts will only grant a divorce if it is satisfied that the marriage has irretrievably or irreparably broken down.

GROUND FOR DIVORCE

- Adultery committed by the Respondent;
- Sexual perversion on the part of the Respondent;
- Cruelty, whether mental or physical, inflicted by the Respondent on the Petitioner or the children, if any in the marriage;
- Willful neglect on the part of the Respondent; and
- Desertion of the Petitioner by the Respondent

Couples must refer themselves to a Marriage Conciliation Board to try to settle their marital differences. Only when the Board certifies that the parties can not reconcile only then can the divorce proceedings begin. However, where the Petitioner has proof of being deserted by, and does not know the whereabouts of his or her spouse, he or she can petition to the court for divorce without having to go through the Marriage Conciliation Board.

PROCEDURE FOR PETITIONING FOR DIVORCE

Section 101 of the Law of Marriage Act, Cap. 29 provides the procedure for petition for divorce, whereby, it prohibits any person to petition for divorce unless he or she has first referred the matrimonial dispute or matter to a Board (Marriage Conciliation Board) and the Board has certified that it has failed to reconcile the parties whereas Section 103 (2)(a) of the Law Of Marriage Act Cap.29, further requires the matter to be taken to the Board having Jurisdiction to handle the matter, whereas in this case the Board or any of the Board established for the ward within which the petitioner or intended petitioner resides, or, where the petitioner or intended petitioner is not a resident in Tanzania, the Board established for the Ward within which the spouse or the intended spouse resides.



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The Law under Section 104(8) of the same Act states that “when the matter is referred to the Board no Advocate/Attorney shall appear or act for any party in any proceeding before the Board and not any party shall be represented by any person other than a member of his or her family, without first obtaining leave of the Board

The petitioner is required to first secure an introduction letter from the Local Government Authority at the area he or she resides and submit the introduction letter to the Ward Offices. Upon submission of the Introduction Letter to the Ward Offices for setting a date for the Marriage Conciliation Board to hear the matrimonial matter, the petitioner will also be required to submit various documents such as; Certified copies of the parties’ Residence Permits that is the Petitioner’s Residence permit and Spouse’s Residence Permit, Certified copies of the parties’ valid Passports; and Certified copies of the parties Marriage Certificate.

Filing for Divorce: Either spouse can initiate the divorce process by filing a petition with the appropriate court. The petition must include grounds for divorce and evidence to support the claim, Then what will follow is Serving the petition: Once the petition has been filed, it must be served on the other spouse. Service may be done by a court officer or through a private process server.

Hearings; If the divorce is contested, both parties will have the opportunity to present their case in court. The court will consider evidence from both parties and make a ruling based on the best interests of the children and the assets of the couple. If both spouses are present in court, the judge will hear testimony and consider evidence to determine if the grounds for divorce have been proven. If the judge finds in favor of the petitioner, the divorce will be granted, and the court will issue a decree dissolving the marriage.

Final Ruling is the last stage where, once the court has made a ruling, the divorce becomes final. If either party is dissatisfied with the ruling, they can appeal the decision.