



## PROCEDURES OF FILING A DIVORCE IN TANZANIA

Before one decides to start with the procedures for filing a divorce in Tanzania, there should be specific reasons for getting the divorce. The Law of Marriage Act under section 107 (2) provides for these reasons and they include:

1. Adultery committed by the Respondent;
2. Cruelty, whether mental or physical, inflicted by the Respondent on the Petitioner or the children, if any in the marriage;
3. Willful neglect on the part of the Respondent; and
4. Desertion of the Petitioner by the Respondent among others.

Section 100 of The Law of Marriage Act provides for the procedures of filing a divorce, whereby, it prohibits any person to file a divorce where the marriage has lasted for less than two years except where it is shown that exceptional hardship is being suffered by the person applying for such leave. Moreover, section 101 also prohibits any person who plans on filing a 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. The law, however, provides a waiver under section 101 (a) to (f) where it gives certain circumstances whereby the provision under section 101 shall not apply, and they include:

1. Where the petitioner alleges that he or she has been deserted by, and does not know the whereabouts of, his or her spouse;
2. Where the respondent is residing outside Tanzania and it is unlikely that he or she will enter the jurisdiction within the six months next ensuing after the date of the petition;
3. Where the respondent has been required to appear before the Board and has willfully failed to attend;
4. Where the respondent is imprisoned for life or for a term of at least five years or is detained under the Preventive Detention Act and has been so detained for a period exceeding six months;
5. Where the petitioner alleges that the respondent is suffering from an incurable mental illness;
6. Where the court is satisfied that there are extraordinary circumstances which make reference to the Board impracticable.

The procedures for filing a divorce in Tanzania cannot continue if the petition has not been granted by the court. Section 99 provides that, *"Subject to the provisions of sections 77, 100 and 101, any married person may petition the court for a decree of separation or divorce on the ground that his or her marriage has broken down but no decree of divorce shall be granted unless the court is satisfied that the breakdown is irreparable."*



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Once the party has satisfied all the requirements, it's up to the petitioner to provide evidence in court as to why a divorce should be granted. After the court has heard the petition of a decree of divorce and done the necessary inquiries as provided for under section 108, the court may, if satisfied that the marriage has broken down and is irreparable, grant a decree of divorce, together with any ancillary relief. However if the court is not satisfied, the court will dismiss the petition, and where there is a cross-petition or cross-prayer the court may if satisfied as aforesaid, grant a decree on the petition or on the cross-petition or cross-prayer as it may deem fit with any ancillary relief to either party or, if not so satisfied, dismiss both the petition and the cross-petition or cross-prayer.

Upon grant of a divorce by the court, the parties to the application then proceed to register the divorce with the Registration Insolvency and Trusteeship Agency (RITA) which will then issue a certificate of divorce.