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## SCHEDULE

### Part 3

Rule 49.73

FORM 49.73C

FORM 49.73C

Rule 49.73

Under the Divorce (Scotland) Act 1976, section 1(1)(b)

Simplified Procedure

Court of Session  
Extracts Department (SP)  
Parliament House  
Edinburgh  
EH1 1RQ

#### APPLICATION FOR DIVORCE

#### ISSUE OF INTERIM GENDER RECOGNITION CERTIFICATE

Before completing this form, you should have read the leaflet entitled "Do it yourself Divorce" which explains the circumstances in which a divorce may be sought by that method. If the simplified procedure appears to suit your circumstances, you may use this form to apply for divorce.

Below you will find directions designed to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Court's Extracts Department at the above address, or any Sheriff Clerk's Office or Citizen's Advice Bureau.

#### Direction for making Application

#### WRITE IN INK, USING BLOCK CAPITALS

- |   |  |
|---|--|
| Application (Part 1)                          | 1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section.   |
| Consent of civil partner (Part 2)             | 2. When you have filled in Part 1 of the form, attach the (blue) Instruction Sheet SP3 to it and send both documents to your husband/wife for completion of the consent at Part 2 (page 9).<br><b>NOTE: If your husband/wife does NOT complete and sign the form of consent, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor.</b>   |
| Affidavit (Part 3)                            | 3. When the application has been returned to you with the Consent (Part 2) duly completed and signed, you should then take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit at Part 3 (page 10) can be completed and sworn.  |
| Returning completed Application Form to court | 4. When directions 1-3 above have been carried out, your application is now ready to be sent to the court. With it you must enclose:<br>(i) your marriage certificate (the document headed "Extract of an entry in a Register of Marriages"), which will be returned to you in due course, or an equivalent document, and<br>(ii) Either a cheque or postal order in respect of the court fee, crossed and made payable to "the Scottish Court Service", or a completed form SP15, claiming exemption from the court fee.<br>5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the court immediately. |

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**THE NOTES ON THIS AND THE FOLLOWING PAGES ARE DESIGNED TO ASSIST YOU. PLEASE READ THEM CAREFULLY BEFORE COMPLETING EACH SECTION OF THE FORM.**

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*Notes on Sections 1 and 2 opposite*

- (i) The names entered in sections 1 and 2 opposite must be those shown on your marriage certificate. If you are known by another name which does not appear on that extract, please write that name in brackets.
- (ii) The surname given for a wife must be her present married name. Her maiden name and any names from previous marriages should be entered in the space for other names.
- (iii) Home addresses should be given where these are known. The court is required by law to serve a copy of this application on your husband/wife.

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*Note on Section 3 opposite*

If the address of your husband/wife is NOT known or cannot reasonably be ascertained, please enter “not known” in this section; you must take all reasonable steps to find out where your husband/wife is living and state on a separate sheet what steps you have taken and attach it to this form then proceed to section 4.

N.B. The statement must be signed

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*Notes on Section 4 opposite*

In the event that the address of your husband/wife is unknown to you, the court is required by law to intimate a copy of this application to:

- (i) ONE of the next-of-kin of your husband/wife. (“Next-of-kin” does not include yourself or any children of the marriage for the purposes of this application.)
- (ii) All children of your marriage aged 16 years or over, whether or not they live with you.

When entering details of next-of-kin, if any, please state his or her relationship to your husband/wife (i.e.—“mother”, “father”, “brother”, “sister”, etc.)

If you do not know the identity or whereabouts of any of the next-of-kin of your husband/wife, or the whereabouts of any children of your marriage, please enter “not known” where appropriate.

**MARRIAGE CERTIFICATE**— If you do not know the address of your husband/wife and you were married in Scotland, you will require to obtain a copy of your marriage certificate issued by the Registrar not more than one month before the date of posting this application to the court. In order to obtain an up-to-date copy of your marriage certificate you should apply to:

General Register Office (Scotland), Registration Branch, New Register House, Edinburgh EH1 3YT or the office where the marriage was registered,

stating both husband’s and wife’s full names and the date and place of your marriage

(Note that the registrar will charge a fee for this service.)

The requirement to obtain an up-to-date marriage certificate does not apply if you were married outwith Scotland.

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**PART 1**

**WRITE IN INK, USING BLOCK CAPITALS**

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**1. NAME AND ADDRESS OF APPLICANT**

Surname..... Other name(s)  
in full .....

Present Address.....  
.....  
..... Daytime telephone number (if  
any).....

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**2. NAME OF HUSBAND/WIFE**

Surname..... Other name(s)  
in full.....

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**3. ADDRESS OF HUSBAND/WIFE** (if the address of your husband/wife is not known, please enter "not known" and proceed to Section 4)

Present Address..... Daytime telephone number (if any) .....

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**4. Only complete this section if you do not know the present address of your husband/wife**

**NEXT-OF-KIN**

Name..... Address.....  
.....  
.....

Relationship to your  
husband/wife.....

**CHILDREN OF THE FAMILY**

Names and dates of birth	Addresses
.....	.....
.....	.....
.....	.....
.....	.....

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If sufficient space is not available here to list all the children of the marriage, please continue on a separate sheet and attach to this form.

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*Notes on Section 5 opposite*

“Domiciled” means that the person concerned regards Scotland as his/her permanent home and intends to live permanently in Scotland in the foreseeable future.

“the Council Regulation” means Council Regulation (EC) No. 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility (O.J. No L. 338, 23.12.2003, p.1)

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*Notes on Section 6 opposite*

You will be able to obtain these details from your marriage certificate, which must accompany this application form when you send it to the court.

**A photocopy of the marriage certificate will NOT be accepted.**

**PART 1 (continued)**

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**5. JURISDICTION**

Please indicate with a tick (✓) in the appropriate box or boxes which of the following apply:

PART A

- (i) My spouse and I are habitually resident in Scotland
  - (ii) My spouse and I were last habitually resident in Scotland, and one of us still resides there
  - (iii) My spouse is habitually resident in Scotland
  - (iv) I am habitually resident in Scotland having resided there for at least a year immediately before this application was made
  - (v) I am habitually resident in Scotland having resided there for at least six months immediately before this application was made and am domiciled in Scotland
  - (vi) My spouse and I are domiciled in Scotland
- 

**Part B applies where the defender is not a national of a Contracting State (other than the UK or Ireland) or domiciled in Ireland**

PART B

- (i) I am domiciled in Scotland

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(ii) My spouse is domiciled in Scotland

\_\_\_\_\_

AND

(iii) No Court of a Contracting State has jurisdiction under the Council Regulation

**6. DETAILS OF PRESENT MARRIAGE**

Place of Marriage.....(Registration District)

Date of Marriage: Day.....month.....year.....

**7. DETAILS OF ISSUE OF INTERIM GENDER RECOGNITION CERTIFICATE**

(i) Please state whether the interim gender recognition certificate has been issued to you or your husband/wife.

(ii) Please state the date the interim gender recognition certificate was issued. Day.....Month.....Year.....

*Note on Section 9 opposite*

“Children of the marriage” includes any adopted children and/or children accepted into the family.

*Notes on Section 11 opposite*

No claim can be made in this form of divorce application for payment to you of a periodical allowance (*i.e.* regular payment of money, weekly, monthly etc. for your maintenance) or a capital sum (*i.e.* lump sum). If you wish to make such a claim, you should consult a solicitor.

**NOTE: While it may be possible to obtain an order for periodical allowance after divorce, the right to payment of a capital sum is lost once decree of divorce is granted.**

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**PART 1 (continued)**

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**8. MENTAL DISABILITY**

As far as you are aware is your husband/wife incapable of managing his/her affairs because of a mental disorder (whether illness or deficiency) (If yes, give details)	YES	NO
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*(Tick box which applies)*

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**9. CHILDREN**

Are there any children of the marriage under the age of 16?	YES	NO
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*(Tick box which applies)*

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**10. OTHER COURT ACTIONS**

Are you aware of any court actions currently proceeding in any country (including Scotland) which may affect your marriage?	YES	NO
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*(If yes, give details)*

*(Tick box which applies)*

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**11. DECLARATION AND REQUEST FOR DIVORCE**

I confirm that the facts stated in Sections 1-10 above apply to my marriage.

I do not ask the court to make any financial awards in connection with this application.

I request the court to grant decree of divorce from my husband/wife.

.....  
(Date)

.....  
(Signature of Applicant)

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**PART 2**

**APPLICANT'S AFFIDAVIT**

**To be completed only after Part 1 has been signed and dated.**

I, *(Insert Applicant's full name)*.....

residing at *(insert Applicant's present home address)*.....

.....

Town.....Country.....

SWEAR that to the best of my knowledge and belief the facts stated in Part 1 of this Application are true.

Signature of Applicant.....

SWORN at *(insert place)*.....

To be completed by Justice of the Peace, this.....day of.....20.....

Notary Public or before me *(insert full name)*.....

Commissioner for *(insert full address)*.....

Oaths

.....

.....

Signature.....

\*Justice of the Peace/ Notary Public/Commissioner for Oaths

\* Delete as appropriate

Rule 49.76

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FORM 49.76–BA

**Form of citation in simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976**

FORM 49.76–BA

Rule 49.76

**Form of citation in simplified divorce application under section 1(1)(b) of the Divorce (Scotland) Act 1976**

CITATION

Date: *(Date of posting or other method of service)*

To: .....  
.....  
.....

**APPLICATION FOR DIVORCE. INTERIM GENDER RECOGNITION CERTIFICATE ISSUED TO HUSBAND/WIFE AFTER MARRIAGE**

Your husband [*or wife*] has applied to the court for divorce on the ground that an interim gender recognition certificate has been issued to you or your husband [*or wife*] after your marriage.

A copy of the application is hereby served on you.

1. Please note that the court may not make a financial award under this procedure and that your husband [*or wife*] is making no claim against you for payment of a periodical allowance (*i.e.* regular payment of money weekly, monthly, etc., for his [*or her*] maintenance or a capital sum (*i.e.* lump sum);
2. Dissolution of your marriage may result in the loss to you of property rights (*e.g.* the right to succeed to the applicant’s estate on his/her death) or the right, where appropriate, to a pension.
3. If you wish to oppose the granting of a divorce, you should put your reasons in writing and send your letter to the address shown below. Your letter must reach the court by (*insert date on which period of notice expires*).
4. In the event of the divorce being granted, you will be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the court immediately.)

*(Signed)*

Deputy Principal Clerk of Session

[*or authorised clerk of session*]

[*or Messenger-at-Arms*]

*(Address)*

**IMPORTANT NOTE.** If you wish to exercise your right to claim a financial award you should immediately advise the court that you oppose the application for that reason, and thereafter consult a solicitor.

Court of Session  
Extracts Department (SP)  
Parliament House  
Edinburgh EH1 1RQ  
Tel: 0131-225-2595



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Rule 49.76(4)

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FORM 49.76-C

**Form of intimation to child or next-of-kin in simplified divorce application under section 1(2)(e) or (1)(b) of the Divorce (Scotland) Act 1976**

FORM 49.76-C

Rule 49.76(4)

**Form of intimation to child or next-of-kin in simplified divorce application under section 1(2)(e) or (1)(b) of the Divorce (Scotland) Act 1976**

CITATION

Date: *(Date of posting or other method of service)*

To: .....  
.....  
.....

**APPLICATION FOR DIVORCE. HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST FIVE YEARS OR ISSUE OF INTERIM GENDER RECOGNITION CERTIFICATE AFTER REGISTRATION OF THE CIVIL PARTNERSHIP**

.....(Applicant) v .....(Respondent)

TAKE NOTICE

1. In the above application, a copy of which is enclosed, the applicant has indicated that you are the *(state relationship)* of *(name of respondent)* whose present address is not known to the applicant.

2. Should you know the present address of your *(state relationship)* or how he [or she] may be contacted, you are requested to give this information at once in writing to—

Court of Session  
Extracts Department (SP)  
Parliament House  
Edinburgh EH1 1RQ  
Tel: 0131-225-2595

This will enable the court to inform the respondent that the application has been made.

3. If you are unable to provide the above information, and/or you wish for your own interest to oppose the application for divorce, you should write to the above address by *(insert date on which period of time expires)*.

*(Signed)*

Deputy Principal Clerk of Session  
[or authorised clerk of session]  
[or Messenger-at-Arms]  
*(Address)*