

Your Legal Questions

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Q I have been separated from my wife for about 5 years. My wife has started divorce proceedings and I have received some papers direct from the Court. Is there anything I need to do?

A I assume that as you have been separated for so long you accept that your marriage has irretrievably broken down and you don't intend to defend the divorce proceedings. Your wife will have to prove that your marriage has irretrievably broken down by saying that she has grounds for the divorce. There are only five grounds for a divorce namely adultery, unreasonable behaviour, desertion for over two years and separation - two years if both parties agree or five years if they don't. You don't say what ground your wife is relying on but I expect it is five years separation. The papers that you have received from the Court will include an "Acknowledgment of Service Form". You must fill in this form to say whether or not you agree to the divorce, you must then send this form back to the court. However before completing the form and sending it back to the Court you should ensure that you are fully informed of the procedures and your rights. A divorce is a formal termination of a marriage. You should consider instructing a family solicitor at this stage who will not only help you to complete the Acknowledgment of Service but also advise you with regard to the costs of the divorce, as your wife may be asking, in the petition, for you to pay the costs of the divorce. You may also need advice with regard to the financial aspects of your separation such as any property that you and your wife own together, division of any other joint assets and whether or not you have any claim against the other's pension. When the divorce is made absolute if anything was to happen to either of you, you would not be the others' widow or widower and you would not get the widow or widower's pension however in divorce proceedings pensions can be shared between the divorcing couple.

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