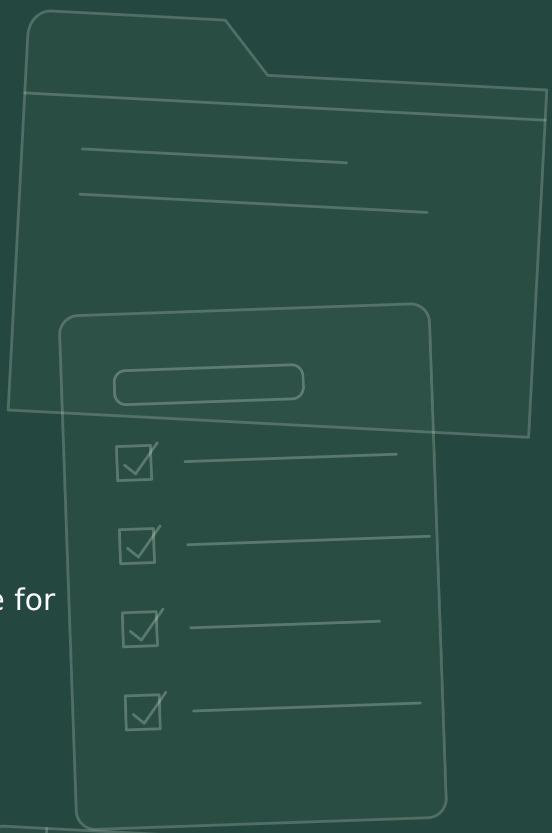
FREE PREVIEW

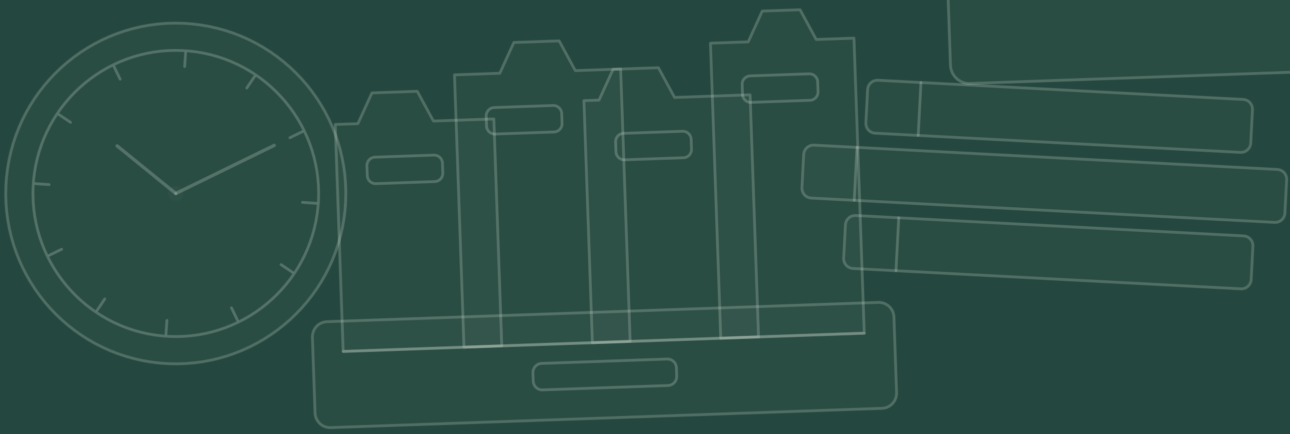
A SOUTH AFRICAN PLAIN-LANGUAGE DIVORCE ORGANISER



PREPARING FOR DIVORCE

in South Africa

Understand the process. Organise what matters. Prepare for informed decisions.



A PRACTICAL DIVORCE GUIDE & ORGANISER

Plain-language information, checklists and guided pages for organising documents, questions, finances and decisions before mediation, legal advice or court.

CLEAR EXPLANATIONS | DOCUMENT CHECKLISTS | DECISION PREPARATION

AN OPEN MIND MEDIATION RESOURCE

SOUTH AFRICAN EDITION | 2026

FREE PREVIEW

A selected look inside the full 71-page guide

Real pages. Original wording. Original page numbers retained.

What this preview gives you

A practical taste of the guide before you buy it. These pages were chosen to answer high-intent questions and show both sides of the product: clear explanations and usable organiser pages.

1 WHERE DO I START?

The first four actions to take when the whole process feels too large.

2 WHICH ROUTE FITS?

How resolution methods and the formal court track are different decisions.

3 UNCONTESTED OR CONTESTED?

What those labels actually mean - and how the track can change.

4 WHAT ABOUT PROPERTY?

The three common matrimonial-property starting points at a glance.

5 WHAT MUST I ORGANISE?

A real document checklist plus a settlement-issues map from the full organiser.

6 WHAT DOES THE COURT PROCESS LOOK LIKE?

A plain-language overview of an uncontested divorce action.

WHY THE PAGE NUMBERS JUMP

This is a curated preview, not the first pages of the book. The original page numbers are deliberately kept so you can see where each excerpt sits inside the complete guide.

QUICK START

Your first four actions

If the whole process feels too large, do only these four things first.

1 **Protect yourself and your information**

Check immediate safety and court deadlines first. Secure lawful access to identification, documents, money, devices, email and important accounts.

2 **Confirm the legal starting point**

Confirm the marriage type and date, whether an antenuptial contract exists, and which matrimonial-property system applies. Locate the actual documents.

3 **Build one honest financial picture**

Create one complete list of assets, debts, income, expenses and retirement interests. Mark estimates, missing records and disputed information honestly.

4 **Choose the next professional or process**

Choose the safest workable route: direct discussion, mediation, independent legal advice or litigation. Record who you will contact and the immediate next step.

i **WHAT HAPPENS NEXT**

Once these four actions are under control, use the contents pages to go directly to the topic or worksheet you need. You do not have to complete the guide in order.

THE BIG PICTURE

One divorce, two separate choices

Every divorce raises two different questions: how will the consequences be resolved, and what must happen in the court action?

1 LAYER 1 - RESOLUTION METHOD

Identify the legal and practical consequences: property, debt, retirement interests, maintenance, costs and, where relevant, child-related arrangements.

- direct discussion between spouses where suitable
- mediation with a neutral facilitator
- attorney negotiation with individual legal advice
- court decision on any issue that remains unresolved

2 LAYER 2 - COURT TRACK

The divorce still requires a summons, lawful service, evidence and a judicial order. Its track depends on the response after service and what remains disputed.

- uncontested / unopposed by agreement
- uncontested by default after service and no defence
- contested while a defence or material dispute remains
- capable of changing if settlement is reached later

i METHOD IS NOT STATUS

Mediation and attorney negotiation describe how issues are handled. Uncontested, default and contested describe what is happening in the court action. The labels answer different questions.

How the two layers combine

1 AGREEMENT FIRST

The material issues are resolved by discussion, mediation or attorney negotiation. The action can proceed unopposed, subject to proper papers and the court's decision.

2 NO DEFENCE AFTER SERVICE

The defendant does not defend after lawful service. This is a default divorce - a form of uncontested divorce - but evidence and a court order are still required.

3 A DISPUTE REMAINS

A defence is entered or material relief remains disputed. Settlement may still narrow the case; the court decides whatever is not lawfully resolved.

LAYER 1

Four ways to resolve the issues

These methods can overlap. The right mix depends on information, risk, complexity and each person's ability to negotiate freely.

1 DIRECT AGREEMENT

The spouses discuss the issues themselves and record clear terms. Best suited to transparent, balanced and straightforward matters.

- Lowest professional cost
- Independent review may still be wise

2 MEDIATION

A neutral mediator structures discussion and helps the spouses develop their own solution. The mediator does not decide or represent either spouse.

- Useful where dialogue is possible
- Suitability and safety must be screened

3 ATTORNEY NEGOTIATION

Each spouse may receive individual advice and negotiate through legal representatives. Settlement remains possible without a trial.

- Protects individual legal interests
- Cost depends on scope and conflict

4 COURT DETERMINATION

A judicial officer decides the unresolved issues after the required procedure and evidence. Settlement can still occur before judgment.

- Necessary where agreement is unsafe or impossible
- Usually the most demanding route

? DO NOT ASSUME

No method makes disclosure, legal requirements or implementation disappear. A calm process still needs accurate information and workable terms.

LAYER 2

Uncontested or contested?

The correct question is whether the action is defended or material relief remains disputed. Agreement is one route to an uncontested matter; default after lawful service is another.

? WHAT IS ACTUALLY BEFORE THE COURT?

Ask whether a notice of intention to defend or plea has been delivered, or whether any material relief still requires contested determination. Check lawful service, the response, the relief claimed, any settlement and the proposed order. The spouses' tone or chosen professional does not determine the track.

N NO - UNCONTESTED / UNOPPOSED

No defence is before the court and no material issue requires contested determination. This may be because the spouses agreed or because the defendant did not defend after lawful service.

- Agreement route: settlement and court papers must match
- Default route: lawful service and non-response must be proved
- Evidence, child-related requirements and a hearing still matter
- The court decides whether the requested order may be granted

Y YES - CONTESTED / OPPOSED

A defence has been entered or material relief remains disputed. Pleadings and evidence identify what the court may have to decide unless the dispute is lawfully settled and recorded.

- Disclosure and case management may be required
- Interim applications may address urgent needs
- Settlement can resolve all or part of the dispute later
- Get advice on deadlines, evidence and pressure

! BEFORE YOU CALL IT UNCONTESTED

- Lawful service and the sheriff's return are in the file
- The defence status and any applicable response period are confirmed
- Any settlement is complete, signed and consistent with the court papers
- Child-related requirements and supporting evidence are ready
- The proposed order is specific, lawful and capable of implementation
- If the track changes, the pleadings and requested order are updated

i A TRACK CAN CHANGE

A defended action may settle wholly or partly. If its status changes, the settlement, pleadings and proposed order must accurately reflect what remains for the court.

THREE COMMON STARTING POINTS

Property systems at a glance

Your property system sets the first financial rules - but the actual contract, exclusions, debts and claims still decide the real result.

System	During the marriage	At divorce / check first
1 IN COMMUNITY OF PROPERTY — **One joint estate**	Most assets and debts from before and during marriage are usually pooled. Each spouse has an undivided half-share, and statutory consent rules may affect certain transactions.	Start with the net joint estate after debts and proven exclusions. Equal division is usual, but a lawful settlement or forfeiture may alter it. Find the full asset, debt and exclusion proof.
2 OUT OF COMMUNITY WITH ACCRUAL — **Two estates + a growth claim**	Each spouse owns a separate estate. Accrual does not make assets jointly owned day to day; it creates a deferred claim to share qualifying net growth when the marriage ends.	Compare the net accruals using end values, adjusted start values and exclusions. The smaller accrual generally claims half the difference - not half of every asset. Find the ANC and figures.
3 OUT OF COMMUNITY WITHOUT ACCRUAL — **Two separate estates**	Assets and debts generally remain separate, with no automatic sharing of growth. Ownership and contractual liability remain the first questions, but not always the last.	A redistribution claim may still be available, but it must be claimed and proved and is not a guaranteed half-share. Find the ANC, ownership records and proof of contributions.

For every asset and debt, ask three different questions

1 OWNERSHIP / LIABILITY

Whose name is on the title, account or contract? This helps identify legal ownership or who the creditor may pursue.

2 ESTATE INCLUSION

Does the property system or a valid exclusion place that asset, value or debt inside or outside the relevant estate?

3 DIVORCE CONSEQUENCE

Will division, accrual, redistribution, forfeiture or a lawful settlement change the final result between the spouses?

! USE THE CHART, THEN VERIFY THE EXCEPTIONS

Use the actual ANC, marriage date and type, and any later court order. This comparison is mainly for South African civil marriages and civil unions. Customary, Muslim, foreign, uncertain or court-altered systems need tailored analysis. Maintenance, retirement interests, tax, insolvency and creditor rights may sit alongside the property system.

THE COURT'S SEPARATE DUTY

Minor and dependent children

Children are not a side issue. Before granting the divorce, the court must separately be satisfied that the arrangements for every minor or dependent child of the marriage are satisfactory, or the best that can be achieved in the circumstances.

1 MINOR CHILD

Generally a person under 18. The court looks beyond labels and checks the practical effect of arrangements involving care, contact, guardianship, residence, schooling, health, travel and maintenance. The child's best interests are the controlling consideration. The arrangement must fit that child.

2 DEPENDENT CHILD

A child aged 18 or older may still depend on the parents for reasonable support while not yet self-supporting. The duty does not end automatically at 18. Record the child's actual needs, own income, studies or training, health needs and expected period of dependence. Procedure and enforcement can differ.

WHAT MUST WORK IN REAL LIFE

A settlement cannot stop at vague phrases such as 'reasonable contact' or 'shared costs'. The arrangements must make sense for this child and this family.

- Care and contact: ordinary weeks, weekends, holidays, handovers, transport and safe communication.
- Guardianship and decisions: schooling, health care, documents, travel and other major choices.
- Money: ordinary maintenance, school and medical expenses, extras, proof and payment dates.
- Safety and change: emergencies, conflict, relocation, review dates and a lawful way to vary arrangements.

FOUR THINGS PARENTS OFTEN MISUNDERSTAND

- Parental agreement is not the end of the enquiry: the court retains a separate duty towards the children.
- Hearing a child is not asking the child to choose. Views are considered according to age, maturity and development.
- Maintenance is the child's right. Parents cannot simply waive it or trade it against contact.
- The Family Advocate is neutral, does not act for either parent, and may investigate or make recommendations to the court.

! IF THERE ARE MINOR CHILDREN, THIS ORGANISER IS ONLY HALF THE PREPARATION

Use the Co-Parenting Guide with it. A substantial part of the divorce will concern the children: care and contact schedules, handovers, decisions, expenses, communication, safety, change and parenting-plan wording. Work through that guide before finalising settlement terms, a parenting plan or court papers - even if you are amicable. **Use both guides together before making final decisions.**

PERSONAL + PROPERTY

Document checklist

Mark what you have. Note what must still be obtained. Keep copies; protect originals.

Personal and marriage

- [ ] Identity document and passport, if relevant
- [ ] Marriage or civil-union certificate
- [ ] Antenuptial contract and amendments
- [ ] Any court order changing the property system
- [ ] Birth certificates of minor children
- [ ] Existing parenting plan or child-related order
- [ ] Existing maintenance or protection orders
- [ ] Divorce papers already issued or served
- [ ] Relevant written agreements or undertakings
- [ ] Current will and estate-planning documents
- [ ] Proof of current residential address
- [ ] Previous divorce order or death certificate, if relevant
- [ ] Customary, religious or foreign marriage records, if relevant

Home, property and vehicles

- [ ] Title deed or full property description
- [ ] Latest home-loan statement or settlement figure
- [ ] Recent municipal account and arrears information
- [ ] Levy statement, if sectional title or estate
- [ ] Insurance details and recent valuation
- [ ] Lease agreement and deposit information
- [ ] Vehicle registration documents
- [ ] Vehicle finance statements or settlement figures
- [ ] Finance, lease or hire-purchase agreements
- [ ] Proof of major improvements or sale costs
- [ ] Purchase agreement or transfer statement, if relevant
- [ ] Current market appraisal or valuation
- [ ] Sale agreement, offer, lease or agent mandate, if relevant

MISSING DOES NOT MEAN IGNORE
Record who may hold the document, how it can be requested and whether delay creates a risk. A blank space is not proof that the asset, debt or agreement does not exist.

Missing-document tracker

MISSING DOCUMENT	WHO MAY HAVE IT	REQUEST / NEXT STEP	DATE

WHAT MUST BE DECIDED?

Settlement issues map

Not every topic applies, but every applicable topic needs an answer clear enough to implement.

1 PROPERTY + ASSETS

- homes and land
- vehicles and contents
- cash and investments
- businesses, trusts, claims
- jewellery and valuable items

2 DEBT + COSTS

- bonds and finance
- credit and loans
- tax, municipal and informal debt
- legal, transfer and selling costs
- arrears, guarantees and suretyships

3 RETIREMENT + POLICIES

- fund entitlement and order wording
- tax election and implementation
- policy ownership and value
- beneficiary review
- fund rules and administrator details

4 MAINTENANCE

- spousal maintenance
- child maintenance
- medical and education costs
- duration, escalation and default
- income, need and affordability

5 CHILD-RELATED

- care and residence
- contact and communication
- guardianship and travel
- decision-making and review
- holidays, relocation and review

6 IMPLEMENTATION

- who does what
- documents and approvals
- dates and triggering events
- fallbacks and proof
- tax, fees and third-party steps

? ONE CLEAR STORY

The financial schedules, settlement, summons, child-related documents and proposed court order should identify the same people, property, funds, amounts and obligations.

i MINOR CHILDREN NEED A DETAILED PLAN

If minor children are involved, use the Co-Parenting Guide alongside this organiser to work through care, contact, guardianship, travel, decisions, costs and review in proper detail.

USUAL ROADMAP

The uncontested divorce process

This is a practical overview, not a universal filing checklist. The exact documents, forms and sequence depend on the court, marriage, children and relief requested.

1 CONFIRM THE AGREEMENT

Resolve property, debts, pension interests, maintenance, children and costs. Every term should say who does what, by when, and how completion will be proved.

2 CHECK THE LEGAL POSITION

Confirm the marriage type, property system, jurisdiction and legal effect of each claim. Flag tax, pension, child-related or third-party terms that need advice.

3 PREPARE THE PAPERS

Prepare the summons, particulars, required notices and supporting documents. Names, dates, facts and relief must match the agreement and evidence.

4 ISSUE THE SUMMONS

The registrar or clerk checks the papers for issue, stamps them and allocates a case number. Issue starts the case; it does not end the marriage.

5 SHERIFF SERVES

Arrange service through the sheriff, ordinarily personally on the defendant. Keep the original return and check every name, date, address and attachment.

6 COMPLETE REQUIRED PROCESSES

Allow the response period in the summons to run. Complete the child-related, Family Advocate, applicable mediation-notice and local court requirements.

7 ENROL THE MATTER

Ask for a hearing date only after the court's checklist is complete. Filing, indexing, copies, timeframes and booking practice differ by court.

8 ATTEND + GIVE EVIDENCE

The plaintiff usually attends and gives brief evidence under oath. Take the documents and identification the court requires, and answer honestly.

9 OBTAIN + IMPLEMENT

Obtain the complete court order and every agreement or plan incorporated into it.

- Send copies to each fund, bank, conveyancer or other person who must act.
- Track deadlines, transfers, payments and record changes until proof is safely filed.

? UNCONTESTED DOES NOT MEAN AUTOMATIC

Agreement and silence do not guarantee a decree. The judicial officer must be satisfied that a legal ground for divorce is proved, the relief is competent, service and procedure are proper, and child arrangements meet the applicable standard. Corrections or further evidence may still be required.

CONTINUE WITH THE FULL GUIDE

You have seen the map. Now build the full file.

The complete Practical Divorce Guide & Organiser gives you the full 71-page framework for understanding the process, organising the facts and preparing for informed decisions before mediation, legal advice or court.

1. **LEGAL STARTING POINT**
   Marriage type, property system, claims and child-related requirements.

2. **FINANCIAL ORGANISER**
   Assets, debts, income, budgets, the family home, retirement funds and maintenance.

3. **RESOLUTION + MEDIATION**
   Mediation, settlement preparation, issue tracking, safety and bargaining power.

4. **COURT PROCESS**
   Jurisdiction, service, uncontested and contested tracks, interim relief and hearing preparation.

5. **AFTER THE ORDER**
   Implementation trackers, records to review, non-compliance and final preparation.

Get the complete guide

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