

Proving the Divorce				Proving the Divorce (cont)			1. Plaintiff files requisite court documents (cont)	3 & 4. Defendant files and serves Court Documents (cont)
Only 1 ground for divorce - irretrievable breakdown of marriage				If adulterer is named, he/she must be a party to the proceedings	Objective test	must be continuous	-Statement of Claim -Statement of Particulars -Notice of Proceedings (Co-defendant) -Agreed/Proposed Parenting Plan -Agreed/Proposed matrimonial property plan & Particulars of Arrangements for Housing (HDB)	- 14 days after CPF replies standard query, sign agreement to proposed Matrimonial property and return to plaintiff or file to court and serve on plaintiff defendant's proposed matrimonial property plan
s95(3) of the Women's Charter has 5 facts that amount to an irretrievable breakdown of marriage				<b>Stage 1 - Resolution of Divorce</b>				<b>5&amp;6. Setdown and Judgment of Dissolution</b>
Adultery	Unreasonable behaviour	2 Years Desertion	Separation	1. Plaintiff files requisite court documents	2. Plaintiff serves court documents on parties	3. Defendant files court documents	4. Defendant serves court documents on parties	- Plaintiff must set action down for hearing: 2 types, contested and uncontested - 14 days after expiry of time for filing last pleading - If uncontested: - In open court, attendance can be dispensed - If court is satisfied, interim judgment to be made Final in 3 months - If parties agree on ancillary matters, consent order can be recorded at interim judgment - If contested: - fixed pre-trial conference - Parties will be sent for mediation or counselling if settlement is possible - Hearing in open court - If marriage broken down irretrievably, interim judgment.
Defendant has committed adultery and plaintiff finds it intolerable to live with defendant	Defendant behaves in a way that Plaintiff cannot reasonably be expected to live with Defendant	Defendant deserted Plaintiff a continuous period of at least 2 yrs immediately preceding the filing of Writ	Either lived apart for at least 3 years with Defendant's consent to judgment being granted	5. Set down for hearing on dissolution of marriage	6. Court decides on dissolution of marriage – Interim Judgment granted, made final in 3 months (Final Judgment)	<b>2. Plaintiff serves court documents</b>		
If plaintiff lives with Defendant for >6 months, adultery will not work	If live with >6 months wont work	Defendant's intention must be proven	or lived apart for at least 4 years without consent	<b>3 &amp; 4. Defendant files and serves Court Documents</b>		<b>1. Plaintiff files requisite court documents</b>		
				-Writ of Divorce		- Defendant has to file Memorandum of appearance (decided on whether to contest divorce) - 22 days after receipt to complete agreement to Proposed Parenting plan and return it to Plaintiff OR file to court and serve on Plaintiff Proposed parenting plan (by defendant)		
				- Rule 54(4) Appearance - 8 / 21 days				
				- Rule 56 (1) Defence - 14 days				
				- Rule 56 (9) Proposed parenting plan - 14 days				
				- Rule 56 (10) Proposed Matrimonial property plan - 14 days				



### Resolution of Ancillary matters

Division of Matrimonial Assets	Custody, care and control of Child	Assessment of Maintenance of Child and Wife
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### Division of matrimonial assets

S112(10) of Women's Charter  
 (a) any asset acquired before the marriage by one party or both parties to the marriage —  
 (i) ordinarily used or enjoyed by both parties or one or more of their children while the parties are residing together for shelter or transportation or for household, education, recreational, social or aesthetic purposes; or  
 (ii) which has been substantially improved during the marriage by the other party or by both parties to the marriage; and

### Division of matrimonial assets (cont)

(b) any other asset of any nature acquired during the marriage by one party or both parties to the marriage, but does not include any asset (not being a matrimonial home) that has been acquired by one party at any time by gift or inheritance and that has not been substantially improved during the marriage by the other party or by both parties to the marriage.

### Custody, Care and control of Children

Sections 122 - 126 of Women's Charter  
 Paramount consideration to be the welfare of the child  
 Section 125 Women's Charter  
 (1) The court may at any time by order place a child in the custody of his or her father or his or her mother or of any other relative of the child or of any organisation or association the objects of which include child welfare, or of any other suitable person.

### Custody, Care and control of Children (cont)

(2) In deciding in whose custody a child should be placed, the paramount consideration shall be the welfare of the child and subject to this, the court shall have regard —  
 (a) to the wishes of the parents of the child; and  
 (b) to the wishes of the child, where he or she is of an age to express an independent opinion.

### Assessment of Maintenance of Child

Section 127 of Women's Charter  
 127. —(1) During the pendency of any matrimonial proceedings or when granting or at any time subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage, the court may order a parent to pay maintenance for the benefit of his child in such manner as the court thinks fit.

### Assessment of Maintenance of Wife

(a) the income, earning capacity, property;  
 (b) the financial needs, obligations and responsibilities of both parties;  
 (c) the standard of living enjoyed by the family before the breakdown;  
 (d) the age of each party and the duration of the marriage;  
 (e) any physical or mental disability of either of the parties;  
 (f) the contributions made by each of the parties to the welfare of the family;  
 (2) in the financial position in which they would have been if the marriage had not broken down

### Stage 2

1. Filing and exchange of affidavits on ancillary matters
2. Court hears parties on ancillary matters and makes orders
3. Making Interim Judgment Final

### Exchange of affidavits on ancillary matters

Pre Trial Conference to set dates for exchange of affidavits on ancillary matters and date of hearing  
 Rule 89 FJR and Para 21 FJCPD  
 Parties file and exchange Affidavit of Assets and Means Form 206  
 ALL assets should be disclosed  
 Exchange of reply affidavits (total up to 2 rounds w/o leave of Court)

### 2. Court makes orders on ancillary matters

S 3 FJA : Family Justice Courts comprises Family Division of High Court



### 2. Court makes orders on ancillary matters (cont)

S 26(4) FJA : the Chief Justice may by order published in the Gazette direct that any class or description of family proceedings ... shall be heard and determined by the Family Division of the High Court.

Family Justice Court seminar on 22

October 2015 :

Gross value S\$5M

Novel point of law

Application by way of Summons for

Transfer

Rule 81(2) : Ancillary matters heard in

Chambers

Powers of Court:

Section 112 Women's Charter – Power of

Court to Order Division of Matrimonial

Assets

Section 113 Women's Charter– Power of

Court to Order Maintenance for Wife

Sections 123 & 124 Women's Charter–

Power of Court to Order Arrangements for

Welfare of the Child

Section 127 Women's Charter– Power of

Court to Order Maintenance for Children

### Making Interim Judgment Final

Interim Judgment can be made  
Final no less than 3 months by  
submitting application to make IJ  
final

After Ancillary Matters order  
made

Not after the expiration of 1 year  
after IJ

Registrar will cause a search to  
ensure :

No appeal is pending

No extension of time for appeal

No appearance/affidavit to show  
cause against IJ

Final Judgment (Form 33):

Issued by the Court

Conclusion of all Court  
proceedings



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