

Clearance Certificate and Trial Record

Doing Your Own Divorce

The purpose of this series of fact sheets is to provide information on some issues related to doing your own divorce. This particular fact sheet offers information about **Clearance Certificates and Trial Records**.

After filing the Petition/Application for Divorce with the court and serving it on your spouse, you must file a **Trial Record** with the court in order to proceed with your divorce. However, you must wait to file your Trial Record until you receive your Clearance Certificate, because it has to be included with your Trial Record. This fact sheet offers more information about these two documents. For more information about the steps to getting a divorce, see our **Checklist and Timeline for Doing Your Own Divorce** at www.familylawnb.ca.

JUSTICE

If there are two active divorce petitions, one of them must be abandoned by filing a Notice of Discontinuance in the province where the original petition was filed. When one Petition is discontinued, then the other will receive a Clearance Certificate.

What is the Trial Record?

The Trial Record is a package of documents you put together that contains everything the judge will need to see in order to grant you a divorce. These documents show the court that you have followed all the steps required in a divorce and are ready to proceed.

Do not file your Trial Record until you have a Clearance Certificate, or it will be returned to you.

I have filed a Petition for Divorce, received the Clearance Certificate, and served my spouse. How long can I wait to file the Trial Record?

There is no deadline for filing your Trial Record after the other spouse has been served.

However, once you **swear your affidavit of evidence** before a Commissioner of Oaths, you must file your Trial Record within 5 days if you completed a Petition for Divorce or within 14 days if you have completed a Joint Petition for Divorce.

I have completed the Trial Record. How do I file it?

The Trial Record should be mailed or delivered in person to the **clerk/administrator** of the **Court of Queen's Bench, Family Division** in your judicial district. Do not send it to the Registrar's Office where you filed your petition. There is no fee to file the Trial Record.

What is a Clearance Certificate?

When you receive your "Clearance Certificate" in the mail, you may mistakenly think this must be your 'proof of divorce.' This is an important document but it is not your divorce judgment. A clearance certificate is proof that you or your spouse have not already started divorce proceedings.

The Central Registry in Ottawa receives all Petitions for Divorce in the country. It makes sure that no other Petition for Divorce involving the same people has been filed in any other court in Canada. Once you begin a divorce process in New Brunswick or elsewhere in Canada, the file remains active, no matter how long ago it was started. The file is not automatically closed or discontinued.

How long does it take to receive a Clearance Certificate?

Your clearance certificate will be sent to you in the mail. This can take 2-3 months. If you receive

a Clearance Certificate, it means that the Registry has allowed your Petition for Divorce to proceed to the next step. **This is not your divorce judgment! It does not mean that you are divorced.**

What if I do not receive a Clearance Certificate?

If you did not receive clearance, there is a pending divorce proceeding that you or your spouse filed in another court in Canada. In this case, the Central Registry will notify both courts. The Registrar of the court where a spouse filed the first Petition will notify that spouse.

Contact the Central Divorce Registry:

If it has been more than 3 months and you still have not received your Clearance Certificate, you can make inquiries at the Family Law Assistance Services, Central Registry of Divorce Proceedings in Ottawa at (613) 957-4519, or at the Registrar's Office at the Justice Building in Fredericton, 427 Queen Street (506) 453-2452.

Trial Record Documents

The following table lists the documents you must include in your Trial Record. The documents you include depend on whether you choose to divorce by **Affidavit Evidence** (if you have settled all issues) or by **Court Hearing** (if you want the judge to decide on certain issues).

Please Note: Most of the documents that you must prepare for the Trial Record are **NOT** pre-printed. You will have to create them yourself. They are generally very short. Examples of every form and document you need are included in PLEIS-NB's **Doing Your Own Divorce in New Brunswick** self-help guide. You can download or order the self-help guide at www.familylawnb.ca.

Affidavit Evidence	Court Hearing
Cover Letter for the Trial Record	Cover Letter for the Trial Record
Cover Page for the Trial Record	Cover Page for the Trial Record
Index for the Trial Record	Index for the Trial Record
Certificate of Readiness (Form 47B)	Certificate of Readiness (Form 47B)
Request for Divorce	The Request for Divorce is not necessary to include if you are going to trial.
Clearance Certificate from the Central Registry of Divorce Proceedings	Clearance Certificate from the Central Registry of Divorce Proceedings.
Affidavit of Service (example for personal service , example for registered mail) and Acknowledgment of Receipt card if served by mail or courier	Affidavit of Service (example for personal service , example for registered mail) and Acknowledgment of Receipt card if served by mail or courier.
Original Petition for Divorce and attached documents (marriage certificate, financial statements and separation agreement or family court orders if applicable). An Amended Petition would go here as well.	Original Petition for Divorce and attached documents (marriage certificate, financial statements and separation agreement or family court orders if applicable). An Amended Petition would go here as well.
A copy of all responding documents filed with the court by the Respondent (including Answer, Counterpetition, Affidavit in Support of Claim for Custody or Access, Financial Statement and/or Affidavit)	A copy of all responding documents filed with the court by the Respondent (including Answer, Counterpetition, Affidavit in Support of Claim for Custody or Access, Financial Statement and/or Affidavit).
Affidavit of Evidence of the Petitioner: must be taken to a Commissioner of Oaths and signed in front of them no more than 5 days before you file the Trial Record . If a Joint Petition for Divorce is being filed, BOTH spouses must swear to the affidavit no more than 14 days before filing the Trial Record .	An Affidavit of Evidence is not required in the Trial Record, but be prepared to give this evidence through testimony at trial if you are the petitioner.

Make sure that your Trial Record is complete and accurate. If information is incorrect or missing the judge will return the Trial Record to you. To re-file the Trial Record, there is a \$10 fee. Please make sure to keep a copy of the Trial Record and all supporting documents for your own records.

What if my spouse never filed a Trial Record? Can I take over the action?

Yes. If the person who filed for divorce does not file the Trial Record within a reasonable period of time, you can do so using the process under **New Brunswick Rules of Court**, Rule 72.18(3).

You must put together a trial record that includes a copy of the Petition for Divorce. You may need to make inquiries about getting a Clearance Certificate if one hasn't been provided to you (see above). You will have to ask for a court hearing date. The person who filed for divorce will then be required to file their original Petition for Divorce with the court at the beginning of the hearing.



This is general information about the law and laws change from time to time. Anyone requiring advice on their specific situation should consult a lawyer. If you have questions on your options call the toll-free **Family Law Information Line** at:

1-888-236-2444

info@familylawnb.ca



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and Information Service
of New Brunswick**

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