

PRACTICE NOTE 8

RELIEF UNDER THE DIVORCE ACT AND THE FAMILY LAW ACT

1. The following relief may be sought in a divorce proceeding commenced under the *Divorce Act*: the dissolution of the marriage; child custody; child support and spousal support.
2. Further relief may be claimed under the *Family Law Act* in a divorce proceeding commenced under the *Divorce Act* without the necessity of commencing a separate action and subsequent consolidation.
3. Where relief is claimed under the *Family Law Act* in a divorce proceeding under the *Divorce Act*, the necessary pleadings and financial statement required under the *Family Law Act* must be properly included in the divorce petition. It is not sufficient to just indicate in the divorce petition that relief is also being claimed under the *Family Law Act* without properly setting out the particulars of the relief being claimed under the *Family Law Act*.
4. An action which seeks relief under both the *Divorce Act* and the *Family Law Act* shall not have a judgment granted as an uncontested divorce unless:
 - (a) the issue of the dissolution of the marriage is uncontested;
 - (b) each and every issue of corollary relief under the *Divorce Act* as well as each and every issue of relief sought under the *Family Law Act* has been first agreed to between the parties;
 - (c) such agreement is evidenced by a written document, signed by each party, each of whom shall have received separate and independent advice.
5. Where, on the hearing of an uncontested divorce, which includes a claim for corollary or ancillary relief in addition to the simple dissolution of the marriage and no such written agreement has been filed in advance thereof, the Court will deal **only** with the issue of the dissolution of the marriage, and all other matters of relief will be adjourned for hearing at a later date other than on a day fixed for uncontested divorces.