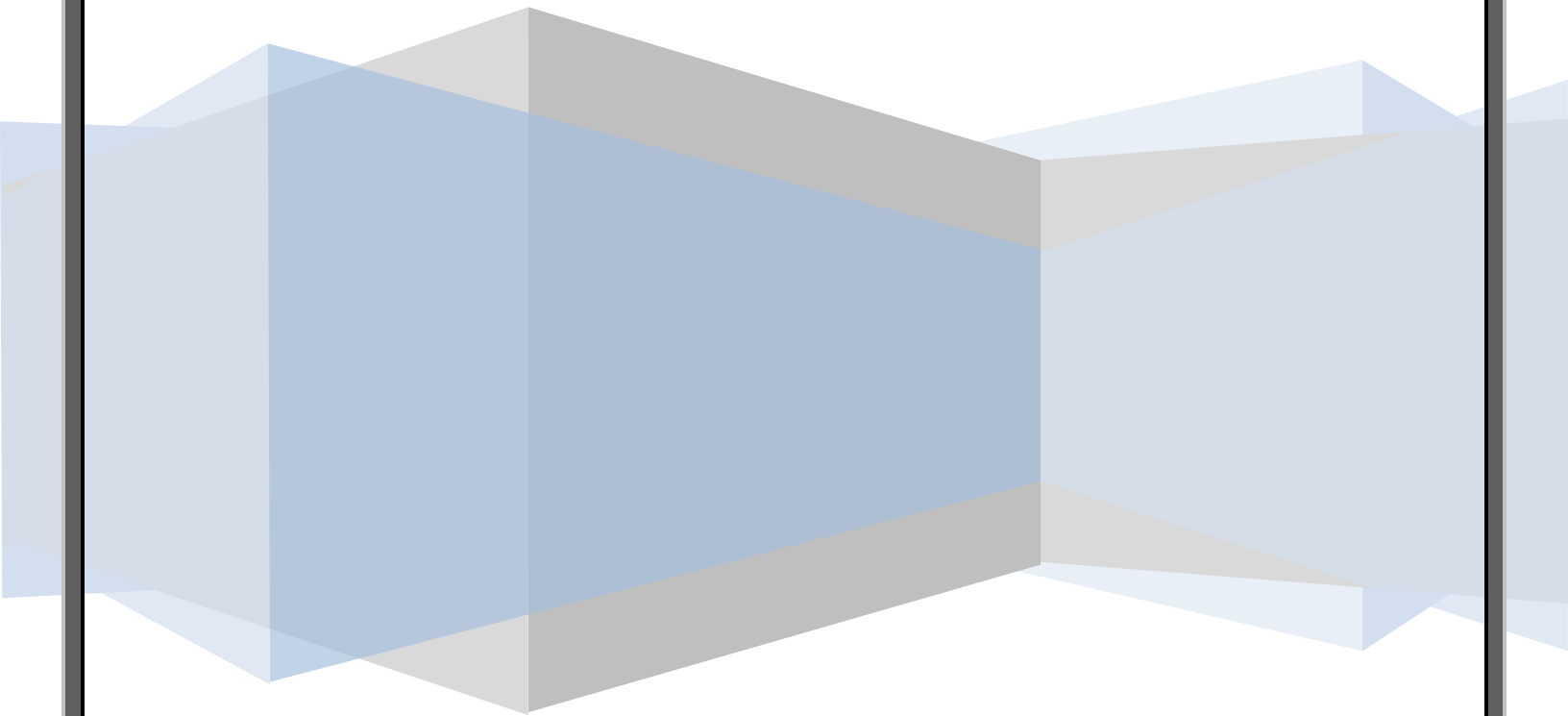


# DMV ULAMA COUNCIL

## Divorce & Marriage Dissolution Procedures

End User



## MEN SEEKING DIVORCE

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*Due to the financial responsibilities which he has to bear, the right to divorce in Islam is primarily given to the husband. A Muslim who wishes to divorce his wife is therefore advised - in the first instance - to ask for an arbitration meeting, arranged by elders of the couple so that reconciliation may be reached. If such efforts fail and the man sincerely thinks he cannot live a harmonious life with his wife, he may divorce her either verbally or in writing. In both cases, it is recommended for there to be two witnesses present on the occasion of the pronouncement of such a divorce.*

*A man should (a) divorce only once and (b) only during the time when his wife is not on her menses and (c) there has been no sexual contact with her since the time of her last menses.*

*After a divorce is pronounced by a husband, his wife must wait for a given period ('iddat'). During this period, the husband must live with his divorced wife in the same house, while not having sexual relations with her: if, after this waiting period, the husband fails to take his wife back, then the wife is completely divorced, and must leave the matrimonial home immediately.*

*It is also recommended to have two witnesses present in the case, where the husband decides to take back ('ruju') his wife, before the end of the waiting period (iddat).*

*Where a man has pronounced three divorces, on three different occasions, he can neither take back his former wife, nor remarry her.*

*DMV ULAMA COUNCIL issues a divorce certificate signed by the applicant in the presence of two witnesses. The man is required to pay the dower amount in full to the woman along with an recommended agreed amount as a remedy.*

## **PROCEDURE FOR TALAQ**

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- 1. All new and prospective clients, whether they are male or female, must write, send a fax or send an email to DMV ULAMA COUNCIL , detailing the main reasons for their (the applicant) seeking a divorce.*
- 2. Once DMV ULAMA COUNCIL is in receipt of this initial correspondence, an application form is then sent to the applicant.*
- 3. Upon obtaining a fully completed application form with the relevant details from the applicant - amongst which is included a contact address for the wife, and a copy of the client's ID, civil marriage certificate, and a civil divorce decree or proceeding copy if applicable- DMV ULAMA COUNCIL will register the application. An application will not be registered if any details or documents requested on the application form are not included on or with a submitted application form.*
- 4. DMV ULAMA COUNCIL will then send a **talaq nama** to the husband. He must sign this in front of two witnesses and return it to the Council.*
- 5. DMV ULAMA COUNCIL keeps the wife informed of the proceedings by letter and by email. The letter notifies the wife that she has a period of thirty days in which to respond. If DMV ULAMA COUNCIL receives no response from the wife within this period, DMV ULAMA COUNCIL will then*

*ask the husband to (a) verify the address of his wife, and (b) ensure that the full amount of dower - agreed at time of marriage - has been paid in full: DMV ULAMA COUNCIL will only consider the full amount of dower to have been paid by the husband, where this amount is identical to the full dower amount, as originally specified at the time of marriage.*

*6. After all of the above stages have been reached, DMV ULAMA COUNCIL will issue two original copies of Islamic divorce; one will be sent, with the dower amount, by post to the woman, and one copy will be forwarded to the applicant.*

*\*DMV ULAMA COUNCIL conducts Islamic divorces only: it does not conduct cases as part of the US legal or judicial systems: for advice regarding a civil divorce, please consult a qualified, legal representative.*

## **WOMAN SEEKING DIVORCE**

*"If any woman asks her husband for a divorce without some strong reason, the fragrance of the Garden will be forbidden to her." (Abu Dawud)"*

### ***Procedure for Khula (where wife is the client)***

- 1. All new and prospective applicants must attach the main reasons for seeking a Khula / Marriage Dissolution, on a separate sheet, with their application form.*
- 2. Your application will be registered with the relevant details. It is imperative that you provide a contact address for the husband, email and cell phone number.*

3. *DMV ULAMA COUNCIL will issue the first letter to the husband, informing him that his wife has approached the DMV ULAMA COUNCIL for Khula / Marriage Dissolution. The applicant will receive a copy with a reference number for future correspondences. If the husband fails to reply within the allocated period, the DMV ULAMA COUNCIL will issue a second letter which will be followed by a third letter if no reply was received within the allocated time. The allocated period for husbands residing in the USA is one month otherwise two months for those residing abroad. (If the wife has obtained the Civil Divorce, evidence has to be provided that the husband did not defend it. In this case, the issuance of one letter may be enough provided that the address is verified).*
4. *If the husband failed to respond to the third letter, DMV ULAMA COUNCIL will request the applicant to verify the respondent's address. However, if the husband responded at any point, a joint meeting between both parties and the DMV ULAMA COUNCIL representative is an integral part of the proceedings to carry out fair and just meditation. Failure to attend this meeting by the applicant may delay the case or result in its closure.*
5. *The above procedure is subject to the nature of the contact details of the husband.*
6. *Once DMV ULAMA COUNCIL has received verification of the husband's address, it will issue an interview request letter to the wife and the husband (provided he is legally able to do so) to see one of the DMV ULAMA COUNCIL representative in their area (if applicable). The representative will produce a report accordingly.*
7. *If the husband does not attend the interview in given time, DMV ULAMA COUNCIL will issue a final notice and copy of 1st, 2nd, 3rd letters will be sent to him via recorded delivery.*
8. *A request is sent to the wife asking her confirmation to take the file to the next panel meeting, which is on last Wednesday (TBD) of every month. **However, before a case is presented to the panel***

*meeting, .all the above criteria must be met. Once the case goes to the panel meeting, if any conditional decision of dissolution is made by the panel then faskh certificate is issued subject to compliance of these conditions. If the wife breaches any conditions which she agreed to, the council may revoke the faskh certificate.*

*\*DMV ULAMA COUNCIL conducts Islamic divorces only: it does not conduct cases as part of the US legal or judicial systems: for advice regarding a civil divorce, please consult a qualified, legal representative.*

## **MAXIMUM OF THREE LETTERS TO HUSBAND**

*DMV ULAMA COUNCIL will send a maximum of three letters to the husband of an applicant. A form is sent to all divorce applicants making an initial request to the DMV ULAMA COUNCIL for a divorce. Part of this process will involve an applicant being required to send to the DMV ULAMA COUNCIL specific supporting documents, along with any fully completed application forms. A nominal registration fee of \$300.00 is required.*

*Once it has received an application, DMV ULAMA COUNCIL writes to the applicant's husband, to request his views regarding the applicant's claim. If an answer is not received within a month of the date of this letter, a second letter is sent (after two months of the date of the initial letter, in cases where the husband lives outside of the US), asking the husband to give his conditions for granting divorce. Where no answer is received within one month of the date of the second letter, a third and final letter is sent to the husband, giving him a notice of one month (after two months of the date of the initial letter, in cases where the husband lives outside of the US) to reply to DMV ULAMA COUNCIL's letter. If a reply is still not received DMV ULAMA COUNCIL will attempt to contact the husband through any of his relatives –*

*address of relatives can be supplied by the applicant.*

*The final decision to issue a divorce is made during a monthly meeting; the applicant is interviewed before or during the meeting: if the husband replies to any of the DMV ULAMA COUNCIL's letters, his views are conveyed to the applicant so that she may respond to them. If any conditions have been stipulated by the husband and provided that these conditions are deemed to be reasonable, the applicant is required to comply with them.*

*Wherever possible, DMV ULAMA COUNCIL seeks to effect reconciliation between an applicant and her spouse. The following are grounds outside of reconciliation, where DMV ULAMA COUNCIL will consider issuing a divorce:*

- 1. Where the husband suffers certain physical defects, which are well-known in the Islamic Law and are considered to be legal grounds for nullification of the marriage.*
- 2. Where the husband accuses the wife of unchastely: in such cases, **the process of "li'aan" is to be applied (see the twenty-fourth chapter of the Quran).***
- 3. Where the husband is untraceable.*
- 4. Where an applicant embraces Islam but the husband refuses to do so.*
- 5. Where the husband ill-treats the applicant or fails to fulfill his marital obligations or does not maintain her, despite having the means to do so.*
- 6. Where the husband does not divorce his wife for one of the reasons mentioned, when so ordered by a judge.*

*Divorce can be denied to an applicant on the grounds that she has failed to comply with any reasonable preconditions stipulated by her husband.*

*DMV ULAMA COUNCIL is a registered nonprofit and its constitution empowers it to preside over cases where either party has been living permanently in this country and at least one of the parties has made an application, requesting DMV ULAMA COUNCIL's judgment.*

*Once a judgment to grant divorce has been made by DMV ULAMA COUNCIL, a fee of \$400.00 is payable by the applicant as the last installment of the fee. Two original copies of the divorce certificate are then*

*issued; one of which is sent to the applicant and one is sent to the former husband.*

## **VALIDITY OF THE COUNCIL'S DIVORCE/FASKH CERTIFICATE**

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*A divorce decision issued by the Council nullifies an Islamic marriage to which it applies only and has no bearing on the status of any coexistent civil contract (one which is recognized as legally binding under USA Law); for a civil divorce, applicants are advised to refer to the USA legal system for assistance in this area.*

*A woman applying for divorce is required to provide DMV ULAMA COUNCIL with the postal address of her husband or one of his relatives and all other means of contact. In the event of such an address being unavailable and/or the husband's whereabouts being unknown, the applicant will bear **the cost of DMV ULAMA COUNCIL's posting a notice in a recognized, local newspaper**. The notice will solicit the applicant's husband to contact DMV ULAMA COUNCIL within a month from the date of the notice, regarding his opinion on the application for divorce.*