

Tam Yuen Hung & Co.

TYH & CO. · DIVORCE & FAMILY LAW · MALAYSIA

Divorce in Malaysia: A Simple Guide for Non-Muslims

Your two options, the steps, the costs, custody and timelines.
Explained in plain English, so you can decide your next step with confidence.

A client guide · Updated June 2026

Tam Yuen Hung & Co. (TYH & Co.)

Affordable divorce and family law firm in Kuala Lumpur & Selangor · Serving clients since 2017

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☰ What is in this guide

Written for non-Muslims going through a divorce in Malaysia. Skim the contents and jump to what you need.

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How to use this guide: Read the short version first, then go straight to the section you need. If you only read one page, make it the summary near the end.

The short version

- Non-Muslim divorce in Malaysia is governed by the **Law Reform (Marriage and Divorce) Act 1976**.
- There are two paths: a **joint petition**, where both of you agree, or a **single petition**, where one spouse files and must prove a ground.
- Along the way, you will usually settle **custody, maintenance and the division of assets**.
- A joint petition takes about **3 to 6 months**. A single petition takes about **6 to 12 months**, sometimes longer.
- There is **no automatic divorce** in Malaysia, even after years apart. You must still file.

PART 1 • THE BASICS

1. Who this guide is for

For non-Muslim couples in Malaysia who want a clear picture before filing.

Divorce is a difficult decision, and the legal process can feel overwhelming. This guide breaks it down into plain English, so you know what to expect at every stage.

It applies to **non-Muslims**, whose divorces are governed by the **Law Reform (Marriage and Divorce) Act 1976**. Muslim divorces follow a separate system in the Syariah courts.

By the end, you will know which type of divorce fits your situation, the steps involved, and what needs to be settled along the way. No legal background is needed.

2. Your two paths to divorce

Everything starts with one question: do you both agree?

Do you and your spouse both agree to divorce?

YES

Joint petition

A mutual divorce. You both sign and agree on the terms. Faster, cheaper and less stressful.

NO

Single petition

One spouse files alone and must prove to the Court that the marriage has broken down.

2

years married before you can file

3 to 6

months for a typical joint petition

6 to 12

months for a typical single petition

IN SHORT

If you both agree, file jointly. If not, one of you files a single petition and proves a ground.

3. Grounds for divorce

What you must prove depends on the path you take.

Joint petition: no reason needed

You do not have to prove anything went wrong. You only need to have been married for more than two years.

EXAMPLE

If your marriage was registered on 1 March 2024, you can generally file for divorce from 1 March 2026 onwards. The Court allows earlier filing only in exceptional cases.

Single petition: prove at least one ground

- Your spouse committed **adultery** and you find it intolerable to live with them.
- Your spouse behaved in a way that means you **cannot reasonably be expected to live with them**.
- Your spouse **deserted** you for more than two years.
- You have **lived apart** for more than two years.

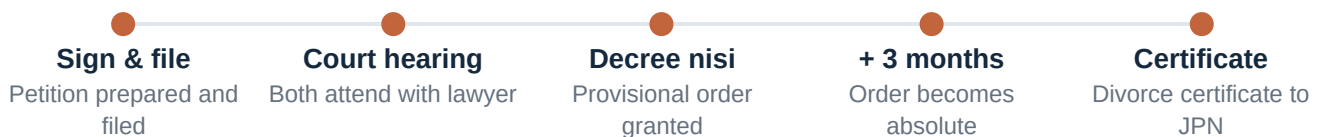
 **Tip:** If your spouse is missing or refuses to take part, a single petition is your only route, usually based on desertion or two years of separation.

PART 2 · THE PROCESS

4. Joint petition: step by step

When you both agree, the process is straightforward.

- 1 Your lawyer prepares the petition based on the terms you have both agreed.
- 2 You both sign the petition and supporting documents before a commissioner for oaths.
- 3 Your lawyer files the documents with the Court.
- 4 The Court fixes a hearing date. You both attend with your lawyer.
- 5 The Court grants a **decree nisi**, a provisional divorce order.
- 6 Three months later, it becomes **absolute** and your divorce certificate is issued. The certificate then goes to **JPN** to update your marital status.



5. Single petition: step by step

When you file alone, the Court examines your case more closely.

- 1 Your lawyer prepares the petition, setting out the facts that show the marriage has broken down.
- 2 You sign the petition and documents before a commissioner for oaths.
- 3 Your lawyer files the documents with the Court.
- 4 The Court sets case management dates to confirm the petition has been served on your spouse.
- 5 If your spouse contests it, both sides exchange replies and written submissions.
- 6 The Court fixes a hearing or trial date once the exchange is complete.
- 7 The Court examines the facts, evidence and witnesses to decide whether the marriage has broken down.
- 8 If it has, the Court grants the divorce and also decides custody, maintenance, alimony and the division of assets.

✓ 6. What to settle before you file

The more you agree upfront, the faster and cheaper your divorce will be.

A divorce petition usually needs these matters settled. Use this as your working checklist:

Decide on each of these

- ☐ **Guardianship** of children (legal custody)
- ☐ **Custody, care and control** of children (day-to-day care)
- ☐ **Visitation** rights and schedule
- ☐ **Maintenance** for the children
- ☐ **Maintenance** for a spouse (alimony)
- ☐ **Division** of matrimonial assets

This list is not exhaustive. You can add other reasonable terms, and your lawyer can advise on what to include for your situation.

⇒ 7. Joint vs single at a glance

Whatever your situation, aim for a joint petition first.

	Joint petition	Single petition
Agreement	Both spouses agree	One spouse files alone
Prove a reason?	No, if married over 2 years	Yes, one ground must be proven
Speed and cost	Faster and cheaper	Slower and costlier
Typical timeline	3 to 6 months	6 to 12 months or more

IN SHORT A mutual divorce saves time, money and stress. It is worth negotiating for.

8. What a divorce costs

There is no fixed fee. The cost depends on your path and how complex your case is.

A joint petition usually costs less, because both spouses agree and the process is shorter. A single petition costs more, because of court hearings and a longer timeline.

Fees also depend on the lawyer's experience and how much negotiation or mediation your case needs. If you need a JPN counselling exemption before a single petition, that can add to the cost.

 **Want an exact figure?** Get a free, transparent quote from our divorce lawyer on WhatsApp before you commit. Details on the last page.

9. Dividing matrimonial assets

Agree between yourselves, or the Court decides based on contribution.

If you both agree

You are free to agree on any reasonable division, recorded through a joint petition.

If you cannot agree

The Court weighs each spouse's contribution to the marriage. Contribution is not only about money. It includes non-monetary contributions such as caring for the family and children.

EXAMPLE

One spouse paid the mortgage and bills, while the other left work to raise the children and run the household. The Court treats both as real contributions when dividing the assets.

What counts as a matrimonial asset

Property, cash, shares, EPF savings, businesses, and valuables such as antiques and luxury watches.

IN SHORT There is no automatic 50-50 split. The Court divides assets based on fairness and contribution.

10. Child custody

The child's welfare always comes first.

For children under seven, the law presumes the mother should have custody. This is a **rebuttable presumption**: a father can be granted custody if he can show the mother is unfit as a parent.

Parents are free to agree on custody arrangements themselves. Whatever you agree, it must serve the best interests and welfare of the children.

11. Maintenance and alimony

There is no fixed formula. It comes down to means and needs.

Maintenance for a spouse (alimony)

A spouse can claim a reasonable amount. The claim must be within the paying party's means and reasonable for the claiming party's needs.

Maintenance for children

The amount must reflect what the children genuinely need and what the paying parent can afford.

 **Tip:** Because there is no formula, mediating and agreeing an amount yourselves saves significant time and cost.

PART 4 · PRACTICAL MATTERS

12. The automatic divorce myth

Living apart, even for years, does not divorce you on its own.

Many people believe a divorce happens automatically after two years of separation. It does not. However long you have lived apart, you must still file a joint or single petition before you are legally divorced in Malaysia.

 **Why it matters:** Until a Court grants your divorce, you remain legally married, with all the rights and obligations that come with it.

13. Timelines and hearings

How long it takes, and how the Court will hear your case.

How long it takes

A joint petition agreed amicably usually completes in **3 to 6 months**. A single petition takes about **6 to 12 months**, and a contested case can run well beyond a year. The exact timing depends on the Court's schedule and the complexity of your case.

Remember the built-in waiting period: after the Court grants the decree nisi, it becomes absolute **three months** later, when your divorce certificate is issued.

How hearings are held in 2026

Most courts now hold divorce hearings in person. Some still conduct hearings online by Zoom. If you cannot attend in person, your lawyer can apply for an online hearing, but the Court decides whether to allow it.

14. Updating your status with JPN

Your divorce is not fully reflected until JPN updates your records.

Once your divorce is finalised, update your marital status with the National Registration Department (JPN). Here is what you need:

Documents to prepare

- ☐ Your **Divorce Certificate**, issued when the divorce is final
- ☐ Your **MyKad** or passport
- ☐ Your **marriage certificate**

Submit these at JPN Putrajaya, or by post to their headquarters.

 **Easy to forget:** Skip this step and your official records may still show "Married", even after the Court has granted your divorce.

15. Choosing the right lawyer

The right lawyer makes a stressful process feel manageable.

Before you engage a divorce lawyer in Malaysia, check that they:

- Specialise in divorce and family law.
- Offer clear, affordable and transparent fees.
- Have good online reviews, or come recommended by someone who has used them.
- Give personalised and responsive support.
- Are someone you feel comfortable discussing private matters with.

16. Frequently asked questions

Can I get a divorce without my spouse's consent?

Yes. You file a single petition and prove one ground: adultery, unreasonable behaviour, desertion of more than two years, or living apart for more than two years. The Court hears the evidence and decides.

Can I file within the first two years of marriage?

Usually no. Your marriage must have lasted more than two years before you can file. The Court may allow an earlier petition only in exceptional cases, such as serious hardship.

Do I have to attend marriage counselling before I file?

For a single petition, usually yes. You first refer your marriage to the marriage tribunal at JPN for counselling. If it does not work, JPN issues a certificate that lets you proceed. A joint petition does not need counselling, and a lawyer can apply for an exemption in some cases.

What if my spouse refuses to divorce or cannot be found?

You can still file a single petition. If your spouse refuses, the Court decides based on the evidence. If they have left you or cannot be traced, desertion or two years apart is usually the ground, and the Court can allow another way to serve the papers.

How long does a divorce take in Malaysia?

A joint petition takes about 3 to 6 months. A single petition takes about 6 to 12 months, longer if contested. After the decree nisi, the divorce becomes final three months later.

Q How much does a divorce cost in Malaysia?

There is no fixed fee. A joint petition costs less because both spouses agree. A single petition costs more due to hearings and a longer process. Get a quote for your specific case.

Q Who gets custody of the children after divorce?

The Court puts the child's welfare first. For children under seven, the mother is usually presumed to have custody, though this can be challenged if she is shown to be unfit. Parents are free to agree on custody themselves.

Q When is the divorce final, and can I remarry?

Your divorce is final once the divorce certificate (decree absolute) is issued, three months after the decree nisi. After that you are free to remarry. Remember to update your status with JPN.

17. Your one-page summary

Everything in this guide, on a single page.

THE LAW

Non-Muslim divorce falls under the **Law Reform (Marriage and Divorce) Act 1976**.
You must have been married more than 2 years to file.

YOUR TWO PATHS

Joint petition: both agree; no reason needed.

Single petition: one files; must prove a ground.

WHAT YOU SETTLE

- Custody, care and visitation
- Child and spousal maintenance
- Division of matrimonial assets

TIMELINE

Joint: **3 to 6 months**. Single: **6 to 12 months** or more. Decree nisi becomes absolute after 3 months.

COST

No fixed fee. Joint costs less; single costs more. Agreeing terms early keeps costs down. Get a quote before you commit.

REMEMBER

- No automatic divorce, ever. You must file.
- No automatic 50-50 asset split.
- Update JPN after the divorce is final.

18. Talk to us

You know the process. Here is how to take the first step.

1

Decide your path

Joint if you both agree,
single if not.

2

List what to settle

Custody, maintenance,
assets.

3

Message us

Get advice and a quote on
WhatsApp.

Get a free divorce consultation

Tell us about your case and receive legal advice and a quote from our
divorce lawyer, usually within two working hours.

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Why families choose TYH & Co.

2017

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families since

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clients guided through
divorce

Free

first consultation and
quote

2 hrs

typical reply on working
days

Tam Yuen Hung & Co. (TYH & Co.) is an affordable divorce and family law firm in Kuala Lumpur and Selangor. We handle joint and single petitions, child custody, maintenance and the division of matrimonial assets.

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This guide is general information about non-Muslim divorce in Malaysia under the Law Reform (Marriage and Divorce) Act 1976. It is not legal advice. Every case is different. Speak to a divorce lawyer about your situation.