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| |  |  | | --- | --- | | Uncontested divorces:  A pocket guide | | | |  | | --- | | http://poweroftwocounseling.com/wp-content/uploads/2013/07/divorce.jpg | | | | THE MEDIATOR  The New Beginning | |  |  | | To continue, simply complete the Client Registration Form from the email that contained this brocure, sign it, scan it and email it to [info@alternativedivorce.co.za](mailto:info@alternativedivorce.co.za)   * Kindly do not make any payment prior to receipt of an invoice * Should you have any questions, contact us on the details below  Contact Us If you have a physical location, provide brief directional information, such as highways or landmarks:  1735  Phone: 074 118 4847  Email: [info@alternativedivorce.co.za](mailto:info@alternativedivorce.co.za)  Web: [www.AlternativeDivorce.co.za](http://www.AlternativeDivorce.co.za) | | |  |  | | --- | --- | |  | THE MEDIATOR 1735 | |  |  | | | | | |  |  | Mediated Divorces ExplainedMy partner and I are considering a divorce  |  |  | | --- | --- | |  | Divorce should never be the first choice when marital problems arise. If you believe that a marital counselor may be able to help seek counseling. Should a divorce be inevitable, speak to a mediator. Under South African law one cannot prohibit a partner from approaching the Court for a divorce – not participating in the divorce could negatively affect the outcome as that Party would be denied the opportunity of giving inputs to the Decree of Divorce. |  Legal grounds for a Divorce  |  |  | | --- | --- | |  | Either of the Parties needs to prove to the court that the marriage has broken down irretrievably. The conditions for this include, *inter alia*:   * A spouse has moved out of the house * Abuse of any kind by either of the spouses * Adultery * Habitual criminality * Neglecting to support financially * Constant arguing * Loss of love between the spouses |  Product or Service 3  |  |  | | --- | --- | |  | To print this booklet two-sided, click File and then click Print. Under the option that defaults to Print One Sided, select a two-sided print setting. This booklet is setup to flip on the short side of the page. | | |
| |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | What will happen to our Children?  |  |  |  | | --- | --- | --- | |  | |  | | --- | |  |   Both Parties need to agree on who will be the primary caregiver. In recent years our Courts have shown greater flexibility with regards to shared care (shared custody), where the Children spend a period of time with one spouse and the same period of time with the other (subject to age considerations – a social worker may be appointed to compile a report in this regard).  Should the Parents not be able to agree, the Court – as upper guardian of all minors – will decide, usually on recommendation by the office of the Family Advocate. The Court may hold the Parties liable for the cost of a social worker’s report.  Given the stress of the divorce itself, the Children should ideally not be subjected to further distress. Mediation enables the Parents to work out their differences and minimize the impact on their Children. |  How will our property be divided?  |  |  |  | | --- | --- | --- | | |  | | --- | | http://uk.businessesforsale.com/uk/Static/ArticleImage?articleId=9258&name=image_small.jpg&width=425 | | If the Parties are unable to arrive at a settlement, the court may decide to liquidate the assets and divide the net returns based on the applicable marital property regime. Typically there is a loss in the value of the returns as the assets are liquidated. |  Product or Service 3  |  |  |  | | --- | --- | --- | | |  | | --- | |  | | To print this booklet two-sided, click File and then click Print. Under the option that defaults to Print One Sided, select a two-sided print setting. This booklet is setup to flip on the short side of the page. | | | 5 | |  |  | |  |  | | --- | --- | |  | Mediation is not limited by these processes: the goal is to find out-of-the-box solutions and to lose as little as possible in terms of the value of the shared estate. Where needs be the services of an expert (financial / property / business) can be employed to this effect. |  What is the difference between contested and uncontested divorces?  |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | |  | | A contested divorce is typically where the Parties disagree on:   |  | | --- | | http://www.thehkfirm.com/wp-content/uploads/2014/10/Child_Visitation_Overview.png |  * With whom the Children should live * Contact with the Children * Maintenance for the Children or the spouses * Division of the communal estate   Contested divorces usually entail multiple Court appearances which dramatically increase the cost to each of the Parties.  Uncontested divorces are where the Parties agree on all aspects and sign a Divorce Settlement Agreement, which the Court then incorporates into its Decree of Divorce. Costs are substantially lower and the Parties do not need legal representation.  At the end of the process the mediator instructs the Parties on how to file for divorce without legal representation, or if the Parties choose, assists in appointing a legal representative to file the case with Court. |  Product or Service 3 | | | |

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| The Parties appear before Court as a formality but there is no trial. Once the Decree of Divorce is issued the matter is finalized and the Parties are required to adhere to the Court order. How does Child Maintenance work?  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | |  | |  | | --- | | http://2.bp.blogspot.com/_iWTt5ZZPuL4/TNUMTIL2gBI/AAAAAAAAAj0/1jlNbgiOSKw/s1600/gg2842175845_2fbec91570.jpg |   Every Parent is legally required to pay Child Maintenance until their Child is 18 years old. Should the Child not be self-supporting on their 18th birthday the Parent is then required to continue paying until the Child can support herself/himself.  Child Maintenance is payable in proportion to the Parents’ incomes, and include all costs for raising the Child. The first step is to calculate the actual costs (including housing, food, educational & medical expenses, etc.)  Consider the below example: (simplified)   |  |  | | --- | --- | | Cost of raising Child | R 5,000 | | Parent 1 Income | R 20,000 | | Parent 2 Income | R 12,000 | |  |  | | Parent 1’s shares of Expenses | 62.5% | | Parent 2’s shares of Expenses | 37.5% | |  |  | | Parent 1’s total Contribution | R 3,125 | | Parent 2’s total Contribution | R 1,875 |   Any expenses of the Child at both Parents’ houses are then calculated and factored into the required Child Maintenance payments. | |  |  |   Any expenses of the Child at both of the Parent’s houses are then calculated and factored into the required Child Maintenance payments. |  |  | Do I have to pay Spousal Maintenance?  |  |  |  |  | | --- | --- | --- | --- | |  | The mutual duty between spouses to maintain each other usually ends when the marriage is dissolved – unless certain factors apply which demand otherwise.  If only one of the spouses was the breadwinner, the Court may award Spousal Maintenance to them to either maintain the standard of living to which they had become accustomed.  Here the Court will take into consideration factors like:   * Assets obtained from the Divorce * Ability to re-enter the job market or generate an income * Age and Health * Reasons for unemployment if the person was not working for an extended period during the marriage * Duration of the marriage   The Court may decide to award Spousal Maintenance for a limited period of time to enable a spouse to re-enter the job market. Do both Parents have Parental Rights and Responsibilities towards the Minor Children?  |  |  | | --- | --- | |  | In terms of the Children’s Act 38 of 2005, Parents have the following rights and responsibilities towards their Children:  To Care for their Child, to have regular Contact with their Child and to maintain a meaningful relationship, to act as Guardian of the Child and to contribute in respect of Child Maintenance. | | |
| What is Mediation?Mediation explained Mediation is a voluntary process of structured negotiation between two or more Parties that enables the Parties to resolve any differences and arrive at mutually acceptable, legally binding solution to a legal problem. Because the solution is designed by both Parties, the chances that one of the Parties will default or go back on the agreement are substantially lower.  definition.jpg  At the end of the process, the Parties have the option of filing the divorce directly with Court (full instructions provided), or to have a third party legal representative file the divorce on their behalf. Please enquire for full details on the difference between the 2.   |  | | --- | |  |   Find out why over 60 of our country’s laws have been updated in recent years to accommodate Mediation as a critical component of the Legal process.  Give us a call today. |  |  | |  |  |  |  |  | | --- | --- | --- | --- | --- | | What do I do next? To continue, simply complete the Client Registration Form from the email that contained this brochure, sign it, scan it and email it to [info@themediatorsa.co.za](mailto:info@themediatorsa.co.za)   * Kindly do not make any payment prior to receipt of an invoice * Should you have any questions, contact us on the details below  What are the Costs involved? Take a look at the Services and Costs section on our website:  https://www.themediatorsa.co.za Contact Us Phone: 083 447 9893  Email: willem@themediatorsa.co.za  Web: www.themediator.sa.co.za   |  |  | | --- | --- | | index.png |  | |  |  | | |  | |
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