



OTTO KRAUSE INCORPORATED

DIVORCE: CLIENT INFORMATION QUESTIONNAIRE

Information required for the drafting of the Summons and Particulars of Claim and for any interim application in terms of Rule 43 / Rule 58

Client name	
File / matter reference	
Attorney dealing	
Date completed and returned	

HOW TO COMPLETE THIS QUESTIONNAIRE

This questionnaire may be completed on your computer. Click into any shaded block and type your answer. The block will expand as you type. It is not necessary to print the document or to complete it by hand. When you have finished, save the document and e-mail it back to this office.

Please answer every question. If a question does not apply to you, type "N/A". If you do not know the answer, type "unknown" rather than leaving the block empty, so that we know the point still has to be investigated.

It is not necessary to attach any supporting documentation at this stage. A list of the documents we shall eventually require appears at the end of this questionnaire, and those documents may be forwarded to us once you have completed the questionnaire.

The accuracy of your answers is important. The contents of this questionnaire will be used to prepare the pleadings and affidavits which are filed at court under oath. Anything you are uncertain about should be marked as such.

Everything you disclose in this questionnaire is protected by legal professional privilege and will be treated in strict confidence.

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BEFORE YOU BEGIN

The decision to bring a marriage to an end is seldom an easy one, and we are conscious that you may be approaching this process with a measure of anxiety and uncertainty. Please know that you will not be walking this road on your own. Our undertaking to you is that we shall guide you through each stage of the matter, explain to you what is happening and why, and conduct the proceedings in a manner which is dignified, measured and as free of unnecessary conflict as the circumstances allow.

A divorce is not only a legal process. It touches your home, your children, your financial security and your peace of mind, and we shall be alive to all of those things and not merely to the papers before the court. Where a matter can sensibly be resolved by agreement we shall tell you so, because a settlement reached between the parties is almost always less costly, less painful and more enduring than an order imposed after a trial. Where your position must be defended, we shall defend it firmly and without hesitation.



You are welcome to ask us questions at any stage, however small they may seem to you. There is no question which is not worth asking, and you are entitled to understand every step taken on your behalf. Our task is to carry the legal burden so that you are free to attend to yourself and to your family.



THE PRINCIPAL STEPS IN A DIVORCE

Every matter is different, and not every divorce will pass through each of these stages or pass through them in this order. Many matters are settled long before a trial is reached. The outline below is intended simply to give you a general sense of the road ahead.



Consultation and instructions. We meet with you, take your instructions and obtain from you the information recorded in this questionnaire. We advise you on your rights, on the prospects of the matter and on the likely cost and duration of the proceedings.



Drafting of the summons and particulars of claim. We prepare the document which commences the action. It records the particulars of the marriage, the basis upon which the court has jurisdiction, the grounds upon which the marriage is said to have broken down irretrievably, the position of any minor children and the relief which you seek.



Issue of the summons. The summons is issued at court, a case number is allocated and the court file is opened. The action is formally instituted at this point.



Service by the sheriff. In a divorce the summons must ordinarily be served by the sheriff personally upon your spouse. This is why we require a reliable address at which he or she can be found.



Your spouse's response. Your spouse has ten court days after service in which to deliver a notice of intention to defend. If no such notice is delivered, the matter proceeds as an undefended divorce and can usually be brought to finality within a comparatively short period.



Exchange of pleadings. Where the matter is defended, your spouse delivers a plea and often a counterclaim, to which we reply. The purpose of this exchange is to identify precisely what is in dispute between you and what is not.



Interim relief pending the divorce. A divorce can take time, and in the meanwhile you and the children must be provided for. Where necessary an application is brought in terms of Rule 43 (Rule 58 in the Regional Court) for interim maintenance, interim care of and contact with the children and a contribution towards your legal costs. Urgent protective relief can also be sought where circumstances demand it.



Disclosure and preparation. The parties exchange the documents relevant to the matter, financial disclosure is made and, where required, valuations and expert reports are obtained. Where there are minor children the Office of the Family Advocate becomes involved, and a social worker, psychologist or mediator may be appointed to assist.



Negotiation, mediation and settlement. Settlement is explored throughout, and most divorces are resolved in this way. The terms agreed upon are recorded in a settlement agreement and, where there are children, a parenting plan. These are then placed before the court to be made an order.



Trial and decree of divorce. If agreement cannot be reached the matter proceeds to trial, evidence is led and the court determines the outstanding issues. A decree of divorce is granted. Thereafter the order must be implemented — the endorsement of pension fund records, the transfer of immovable property, the amendment of your will and beneficiary nominations, and the resumption of a previous surname if you have elected to do so.



IN WHICH COURT WILL THE DIVORCE BE HEARD?

A divorce may be instituted either in the High Court or in the Regional Court of the Magistrates' Court. Both courts are empowered to grant a decree of divorce and to make orders concerning maintenance, the care of and contact with the children and the division of the estate. Which of the two is the appropriate forum depends upon the circumstances of the particular matter, among them the complexity of the estate, whether trusts, companies or



offshore assets are involved, the nature of any dispute concerning the children, the question of cost and the time likely to elapse before a hearing date can be obtained.

This is a matter upon which your attorney will advise you once your instructions have been considered, and it is not something with which you need concern yourself at this stage.

**PART A: YOUR PERSONAL PARTICULARS**

Full names and surname (as per identity document)	
Maiden surname / any previous surnames	
Identity number (or passport number and nationality)	
Date of birth	
Age	
Gender	
Occupation	
Name of employer	
Employer's physical address	
Your residential address	
Your postal address (if different)	
Address at which documents may be served on you	
Cellphone number	
Alternative / work telephone number	
E-mail address	
Preferred method of communication	
Preferred language (English / Afrikaans / other)	
Do you have any physical or mental condition, or any language or literacy difficulty, of which we should be aware?	

**PART B: YOUR SPOUSE'S PARTICULARS**

Full names and surname	
Identity number (or passport number and nationality)	
Date of birth	
Age	
Gender	
Occupation	
Name of employer	
Employer's physical address	



Residential address	
Physical address at which the summons can be served (this must be an address where the sheriff will find your spouse, or a person over the age of 16, during ordinary working hours)	
Cellphone number	
E-mail address	
Has your spouse appointed an attorney? If so, give the name and contact details of that attorney	
Is your spouse aware that you intend to institute divorce proceedings?	
Is your spouse a member of the SANDF, SAPS or in the employ of the State?	
Is your spouse insolvent, under administration, or subject to any court order regarding his/her legal capacity?	

PART C: PARTICULARS OF THE MARRIAGE

Date of the marriage	
Place of the marriage (town and country)	
Marriage officer / church / religious denomination or magistrate	
Marriage certificate number (if known)	
Was the marriage concluded in terms of the Marriage Act, the Civil Union Act, or by customary or religious rites?	
If the marriage was concluded by customary rites: give the date of the traditional ceremony, whether lobola was negotiated and paid, whether the marriage was registered with the Department of Home Affairs, and whether there is more than one customary spouse	
If the marriage was concluded outside South Africa: state the country, and whether the marriage has been registered in South Africa	
Where are you and your spouse presently domiciled and ordinarily resident?	
For how long have you been ordinarily resident in South Africa, and in the area of jurisdiction of the court?	

**Matrimonial property regime**

Are you married in community of property, or out of community of property?	
If out of community of property: was an antenuptial contract executed and registered, and where and when was it registered?	
Does the antenuptial contract include or exclude the accrual system?	
If the accrual system applies: what commencement value was recorded for each party in the antenuptial contract?	
Were any assets specifically excluded from the accrual in the antenuptial contract? If so, list them	
If you do not have a copy of the antenuptial contract, state the name of the notary who executed it (if known)	
Has the matrimonial property regime been changed at any stage by order of court in terms of section 21 of the Matrimonial Property Act?	
If you are married in community of property, is the joint estate presently subject to any sequestration or any application for sequestration?	

If you are unsure of the answers in this section, please say so. We are able to obtain a copy of the marriage certificate and the antenuptial contract on your behalf.

Previous marriages

Have you been married before? If so, state to whom, when, and how that marriage was dissolved	
Has your spouse been married before? If so, give the same particulars	
Are there any maintenance or other obligations arising from a previous marriage or relationship, whether owed by you or by your spouse?	

**PART D: CHILDREN**

Complete this Part in respect of every child born of the marriage, and also in respect of any other child for whom either party is legally responsible or who forms part of the household.

Full names and surname	Identity number	Date of birth	Age	Relationship (born of the marriage / stepchild / other)



Full names and surname	Identity number	Date of birth	Age	Relationship (born of the marriage / stepchild / other)

Child's name	School / crèche / institution	Grade	With whom does the child presently live?

Does any child have special educational, medical, psychological or other needs? Give full particulars	
Is any child a major (18 or older) but still financially dependent? Give particulars of the studies or circumstances	
Is any child adopted, or was any child born before the marriage?	
Is any child presently the subject of any Children's Court proceedings, social worker involvement or investigation?	

Care, contact and guardianship

What are the present arrangements regarding where the children live and when each parent sees them? Describe the arrangement in detail, including weekdays, weekends, holidays and special days	
Since when has this arrangement been in place, and was it agreed or simply adopted?	
What arrangement do you propose should be made an order of court regarding the primary residence of the children?	
What arrangement do you propose regarding contact by the other parent (weekdays, alternate weekends, short and long school holidays, birthdays, Mother's Day / Father's Day, religious and public holidays, telephonic and electronic contact)?	
Do you seek sole guardianship, or any restriction on the other parent's parental	



responsibilities and rights? If so, on what grounds?	
Are you aware of any conduct on the part of the other parent which places the children at risk (substance abuse, violence, neglect, exposure to inappropriate persons or circumstances)? Give full particulars, with dates	
Has any parenting plan or written agreement regarding the children already been concluded or discussed?	
Has the Office of the Family Advocate, a social worker, psychologist or mediator been involved at any stage?	
Do either you or your spouse intend to relocate, whether within South Africa or abroad?	
Do the children have valid passports, and who is in possession of them?	

**PART E: THE BREAKDOWN OF THE MARRIAGE**

The Court must be satisfied that the marriage has broken down irretrievably and that there is no reasonable prospect of the restoration of a normal marriage relationship. Please set out the facts fully and factually. Dates and specific events are more useful than general statements.

When, in your view, did the marriage begin to break down?	
Are you and your spouse still living together? If not, on what date did you separate, and who left the common home?	
If you are still living in the same house, describe the present living arrangements	

Set out, as fully as possible, the reasons for the breakdown of the marriage:

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Have you and your spouse attempted marriage counselling, mediation or	
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reconciliation? Give particulars and dates	
In your view, is there any reasonable prospect of a reconciliation?	
Has your spouse indicated whether the divorce will be opposed, and on what basis?	
Are there any allegations of adultery, desertion, abuse, addiction or criminal conduct which you wish to raise? Give particulars, with dates and, where possible, the names of any witnesses	
Is your spouse suffering from any mental illness, or has your spouse been continuously unconscious, for a continuous period? (This is relevant to sections 4 and 5 of the Divorce Act)	

**PART F: YOUR INCOME AND EMPLOYMENT**

Are you employed, self-employed or unemployed?	
Job title and nature of your duties	
Date on which you commenced this employment	
Gross monthly salary or income (before deductions)	
Nett monthly salary or income (after deductions)	
Set out your monthly deductions (tax, UIF, pension, medical aid, garnishee or other)	
Annual bonus, commission, incentive or thirteenth cheque (state amount and when it is paid)	
Any other income (rental, interest, dividends, business drawings, trust distributions, maintenance, social grants, income from a second occupation)	
Fringe benefits (company vehicle, fuel or cellphone allowance, housing subsidy, medical aid contribution, share options)	
Your highest qualification, and any professional registration	
Summarise your employment history over the past ten years	



If you are not employed: for how long have you been out of the labour market, why, and what are your prospects of obtaining employment?	

101 PART G: YOUR SPOUSE'S INCOME AND EMPLOYMENT

Complete this Part as fully as you are able. Where you do not have exact figures, give your best estimate and indicate that it is an estimate.

Is your spouse employed, self-employed or unemployed?	
Job title and employer	
Estimated gross monthly income	
Estimated nett monthly income	
Fringe benefits and allowances known to you	
Any other income known or believed to accrue to your spouse (rental, business, cash income, trust distributions, undeclared income)	
Your spouse's qualifications and earning capacity	
Describe your spouse's standard of living and spending patterns (motor vehicles, travel, entertainment, recent purchases)	
Do you believe your spouse understates his/her income? If so, on what do you base that belief?	

102 PART H: MONTHLY EXPENSES – YOURSELF AND THE COMMON HOME

Set out your reasonable monthly expenses. Where an expense is not incurred monthly (for example annual insurance or school fees), divide the annual amount by twelve. In the third column indicate who presently pays the expense.

Item	Amount per month (R)	Paid by whom
Bond instalment or rent		
Rates, taxes and refuse removal		
Levies (sectional title / estate)		
Water and electricity		
Home insurance and household contents insurance		
Home maintenance, repairs and garden		
Domestic worker / gardener		
Security and armed response		



Item	Amount per month (R)	Paid by whom
Groceries and household consumables		
Toiletries and personal care		
Clothing and footwear		
Motor vehicle instalment		
Motor vehicle insurance		
Fuel		
Vehicle licence, servicing and maintenance		
Public transport / e-hailing		
Cellphone and data		
Telephone, internet and DStv / streaming services		
Medical aid contribution		
Medical expenses not covered by medical aid		
Life insurance, disability and funeral cover		
Retirement annuity and other savings		
Bank charges		
Credit card repayments		
Personal loan and other credit repayments		
Store account repayments		
Entertainment, restaurants and recreation		
Holidays and travel		
Gym, sport and hobbies		
Tithes, donations and gifts		
Support of extended family or dependants		
Legal costs		
Other (specify)		

TOTAL of your monthly expenses (R)	
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**PART I: MONTHLY EXPENSES – THE CHILDREN**

Set out the expenses attributable to the children. If the amounts differ materially between children, please complete a separate schedule for each child or note the split in the third column.

Item	Amount per month (R)	Paid by whom
Proportionate share of accommodation (bond/rent, rates, levies)		
Proportionate share of water and electricity		



Item	Amount per month (R)	Paid by whom
Groceries and food		
School fees		
Aftercare or day-care fees		
School uniforms and clothing		
Books, stationery and school levies		
Tertiary fees, registration and accommodation		
School transport		
Extramural activities, sport and equipment		
Extra lessons and tutoring		
School outings, tours and camps		
Medical aid contribution attributable to the children		
Medical, dental, optometry and orthodontic expenses not covered by medical aid		
Psychological, occupational or remedial therapy		
Medication		
Toiletries and personal care		
Cellphone, data and devices		
Entertainment, outings and pocket money		
Birthdays, gifts and celebrations		
Holidays		
Childcare (nanny / au pair)		
Other (specify)		

TOTAL of the children's monthly expenses (R)	
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PART J: ASSETS

List every asset, whether registered in your name, in your spouse's name, or jointly. Values may be estimated. In the column headed "Registered in whose name", state "self", "spouse" or "joint".

J1 Immovable property

Description and address	Registered in whose name	Estimated market value (R)	Outstanding bond (R)	Date acquired



Which property constitutes the former common home, and who presently occupies it?	
Is any property subject to a lease, and what rental is received?	

J2 Motor vehicles, caravans, trailers, boats and aircraft

Make, model and year	Registered in whose name	Estimated value (R)	Outstanding finance (R)	Who uses it

J3 Pension, provident, preservation and retirement annuity funds

This section is important. In terms of section 7(7) and 7(8) of the Divorce Act, the pension interest of a spouse may be taken into account and a portion may be awarded to the other spouse. The fund must be correctly cited in the pleadings.

Name of fund	Member (self / spouse)	Membership or policy number	Estimated value (R)	Date joined

J4 Policies, investments and savings

Type (life / endowment / unit trust / tax-free savings / shares)	Institution	Policy or account number	Value (R)	Owner

J5 Bank accounts

Bank	Type of account	Account number (last four digits sufficient)	Approximate balance (R)

**J6 Business interests, companies, close corporations and trusts**

Name of entity and registration number	Nature of interest (shareholder / member / trustee / beneficiary)	Percentage held	Estimated value (R)

Are you or your spouse a trustee, founder, donor or beneficiary of any trust? Give particulars of the trust and of the assets held by it	
Do you believe that any company, close corporation or trust is used to hold assets which are in truth those of your spouse?	
Are there any loan accounts owed to or by you or your spouse in any entity?	

J7 Movable assets and household contents

Describe the household contents and furniture, and state where they are presently situated	
List any items of significant value (jewellery, artwork, firearms, collections, equipment, livestock, tools of trade)	
Are there any items of sentimental value or which you brought into the marriage and wish to retain?	

J8 Other assets

Cryptocurrency and digital assets	
Offshore assets, accounts or investments	
Inheritances, donations or legacies received during the marriage (state the date and value, and whether the estate is still being wound up)	
Claims against third parties, damages claims, or amounts owing to you	
Any other asset not listed above	

**PART K: LIABILITIES**

Creditor	Nature of debt	Outstanding balance (R)	Monthly instalment (R)	Debtor (self / spouse / joint)

Are you or your spouse under debt review or administration, or subject to any judgment or emoluments attachment order?	
Have you signed surety for any person or entity? Give particulars	
Are there any tax liabilities, whether assessed or anticipated?	

PART L: ACCRUAL AND DIVISION OF THE ESTATE

What is your proposal regarding the division of the estate or the calculation of the accrual?	
Which assets do you wish to retain, and which are you prepared to relinquish?	
Do you contend that any asset should be excluded from the division or the accrual, and on what basis (inheritance, donation, exclusion in the antenuptial contract, asset acquired before the marriage)?	
Do you seek an order in terms of section 7(3) of the Divorce Act for the redistribution of assets? (This is only available in respect of certain marriages concluded out of community of property without accrual before 1 November 1984)	
Do you seek forfeiture of benefits in terms of section 9 of the Divorce Act? If so, set out the facts on which you rely (the duration of the marriage, the	



circumstances giving rise to the breakdown, and any substantial misconduct)	
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**PART M: MAINTENANCE****Maintenance in respect of the children**

What monthly amount per child do you seek, or are you able to contribute?	
Who should retain the children on a medical aid, and who should pay the contribution?	
How should medical, dental, orthodontic, optometry, pharmaceutical and therapeutic expenses not covered by the medical aid be dealt with?	
How should school and tertiary education costs, including fees, uniforms, books, stationery, levies, tours and extramural activities, be dealt with?	
What annual escalation do you propose, and on what date?	
What amount is presently being paid, by whom, and since when?	
Are there any arrears?	

Maintenance in respect of yourself

Do you seek maintenance for yourself? If so, what monthly amount, and for what period?	
On what basis do you say you require maintenance? (Consider the duration of the marriage, your age, health, qualifications, earning capacity, the standard of living during the marriage and the reasons for the breakdown)	
Have you sacrificed a career or earning capacity during the marriage? Give particulars	
Would rehabilitative maintenance for a fixed period, to enable you to become self-supporting, be appropriate?	
If your spouse claims maintenance from you, what is your response?	

**PART N: INTERIM RELIEF PENDING THE DIVORCE (RULE 43 / RULE 58)**

An application in terms of Rule 43 of the Uniform Rules (Rule 58 in the Magistrates' Courts) may be brought for interim maintenance for yourself and the children, interim care of and contact with the children, and a contribution towards your legal costs, pending the finalisation of the divorce. Please complete this Part even if you are not certain that such an application will be necessary.

Do you require interim relief pending the divorce?	
What financial support is your spouse presently providing to you and to the children, and how regularly?	
Has that support been reduced, stopped or made irregular? State when and give particulars	
Which household expenses is your spouse presently paying directly (bond, rates, school fees, medical aid, insurance, vehicle instalments)?	
How are you presently meeting your expenses, and are you incurring debt or relying on family or friends?	
What interim monthly maintenance do you seek for yourself?	
What interim monthly maintenance do you seek in respect of each child?	
What interim arrangements do you seek regarding the primary residence of and contact with the children?	
Do you seek an order regarding occupation of the common home or the use of a motor vehicle?	
What contribution towards your legal costs do you seek?	
What are your own financial resources with which to fund this litigation? (You must disclose this fully; the court will require it)	
Is there any urgency, or any conduct on the part of your spouse which requires immediate relief?	

**PART O: PROTECTION, SAFETY AND PRESERVATION OF ASSETS**

Has there been any physical, emotional, sexual, verbal, economic or psychological abuse, harassment or stalking, whether directed at you or at the children? Give particulars and dates	
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Has a protection order been applied for or granted, whether in terms of the Domestic Violence Act or the Protection from Harassment Act? Give the case number and court	
Has any criminal charge been laid by or against either party? Give the CAS number and station	
Are you concerned that your spouse may dissipate, conceal, encumber or dispose of assets? Give particulars of any conduct which causes that concern	
Has your spouse recently transferred, sold or ceded any asset, closed any account, or altered any policy or beneficiary nomination?	
Are you concerned that your spouse may remove the children from the area of jurisdiction of the court or from the Republic?	
Do you require any urgent interdictory relief?	

**PART P: EXISTING AND PREVIOUS PROCEEDINGS AND AGREEMENTS**

Have any divorce proceedings previously been instituted between you and your spouse, whether in this or any other court?	
Are there any pending or concluded maintenance court proceedings? Give the case number and court	
Are there any Children's Court, Family Advocate or High Court proceedings concerning the children?	
Has any settlement agreement, separation agreement, parenting plan or acknowledgement of debt been signed or negotiated between you?	
Have there been any settlement discussions? What has been offered or demanded?	
Has either party consulted an attorney previously in connection with the marriage? Give the name of the firm	
Would you be prepared to attempt mediation?	

**PART Q: THE RELIEF YOU SEEK**

Set out, in your own words, the outcome you seek from these proceedings, and your priorities. If there is anything which you regard as non-negotiable, please say so.

Do you wish to resume the use of your maiden surname or a previous surname? If so, state the surname

Is there any time constraint or deadline of which we should be aware (an impending relocation, a pending transaction, a health matter, a pregnancy, or a date by which you require the divorce to be finalised)?

**PART R: ANY OTHER INFORMATION**

Please set out any other information which you consider relevant, or which you think we ought to know, including anything which your spouse may raise against you. It is far better that we hear it from you now than for the first time in your spouse's answering papers.

**PART S: DECLARATION BY THE CLIENT**

I, the undersigned, confirm that the information furnished in this questionnaire is true and correct to the best of my knowledge and belief. I understand that this information will be used to prepare pleadings and affidavits which will be filed in court, and that any affidavit deposed to by me will be made under oath. I undertake to inform my attorneys forthwith should any of the information change or should I become aware that any of it is incorrect or incomplete.

Full names



Signature (you may type your name here and sign the printed copy at our offices, or attach a scanned signature)	
Place	
Date	

**ANNEXURE: DOCUMENTS TO BE FORWARDED IN DUE COURSE**

It is not necessary to provide these documents together with this questionnaire. They may be forwarded once the questionnaire has been returned. Please tick or mark those which you are able to obtain.

Document	Available? (Yes / No / Will obtain)
Unabridged marriage certificate	
Antenuptial contract (if applicable)	
Identity documents of both spouses	
Unabridged birth certificates of the children	
Your three most recent salary advices / payslips	
Your spouse's salary advices, if in your possession	
Your IRP5 and most recent income tax assessment	
Bank statements for all accounts for the past twelve months	
Credit card and store account statements	
Bond statements and municipal accounts	
Title deeds or a recent municipal valuation of immovable property	
Vehicle registration papers and finance agreements	
Pension, provident, preservation and retirement annuity fund statements	
Policy schedules and investment statements	
Medical aid statements and schedule of benefits	
School fee accounts and correspondence	
Annual financial statements of any company, close corporation or trust	
Trust deed and letters of authority of any trust	
Any protection order, maintenance order or previous court order	
Any settlement agreement, parenting plan or written agreement	
Relevant correspondence, messages or e-mails between the parties	