

Information on separation and divorce In the case of marriage, registered partnership and cohabitation

I want to separate: what should I do?

You can initiate marital settlement proceedings at the Glarus county court and make a request for separation. You are then not yet divorced but legally separated. When both parties are in disagreement then a divorce is only possible at the earliest after two years of separation. You can request a separation yourself by completing the application form for marital settlement proceedings or have it done by a lawyer. The victim support centre is willing to give help.

We advise you to take the following documents along to the initial meeting in court or with your lawyer:

- ✓ last two tax declaration forms
- ✓ last definite tax assessment
- ✓ salary statements from the previous six months
- ✓ statements from the previous six months (post office and bank account)
- ✓ notes recording violent incidents in the partnership (medical reports, documentation on criminal procedures and authorisation on protective measures taken)

Who pays for the marital settlement proceedings?

If you have hardly any money, you can ask for free legal aid. If the application is approved, the court costs as well as the lawyers' fees and the interpreter's fee will be covered by the state. The court cashier will at the latest after 5 years check to determine if you have enough money to repay the costs. If need be a repayment will be arranged and a debt acknowledgement agreement issued. The 10 year period of limitation is automatically interrupted with such an agreement. You can also arrange a payment agreement with a lawyer yourself should you be in a position to bear the costs.

What will be resolved at the marital settlement proceedings?

- ✓ Who may remain in the home. That is the person who is more dependent on the home, mainly the child carer. Demand a date from the other party for moving out and the return of a full set of keys when you wish to stay in the home.
- ✓ Where the children will live most of the time.
- ✓ How child care will be shared between the parents.
- ✓ How much is the person required to pay in child maintenance (alimony). Children are entitled to alimony up to the age of 18 or the completion of their initial education. When the person required to pay maintenance as ruled in court does not do so, you yourself can take the matter into your hands and initiate debt collection. Or you can take help from the advance alimony contributions made by the state.

What is the practice at the hearing on the marital settlement measures?

- ✓ You make the legal appeal for marital settlement measures (separation).
- ✓ You speak and justify your appeal and present evidence.
- ✓ The other party can also make claims.
- ✓ The court demands the other party speaks and gives an explanation and comments on your legal requests.
- ✓ It is possible that the court asks questions.
- ✓ Sometimes the court requests further documents to be submitted.

Fear of an escalation of violence due to a separation

Should you and your children be threatened or abused by the person who you have had to leave, then the police can order restrictions straightaway. You can extend these restrictions within 5 days after they have been issued at the court for compulsory measures for a further 10 days. If you fear further threats you can submit a request to the civil court for additional protective measures (restrictions, contact ban and a ban on visiting certain local districts). We support you and give advice on these requests which is free of charge and confidential. Shelter for you and your children can be provided should you be in great danger or if the person you left does not keep to the restrictions.

When it has to happen quickly?

If you can provide evidence of violent actions and with this prove the urgency, then you can apply for 'super provisional measures' in court. The court decides on the important issues in the marital settlement procedure without hearing the parties.

With whom will the children live and how will childcare be organised?

Children should live with the parent who has previously had the main responsibility for them and can continue to do so. Child welfare is priority and the court can question children over 6 personally. Both parents are entitled to contact with the children. For this reason it is advisable to agree on childcare and visiting rights. If the children are under threat or if violent confrontations occur during visits, then you can request accompanied visiting rights or the appointment of a guardian.

What do we live on?

It can take a long time before a legally enforceable court decision on maintenance settlement has been reached and you receive alimony. As a precaution make an application for social support to the social welfare services in canton Glarus. If you have a joint account with the abuser and you yourself have no savings, then take out enough money for two months and block the access rights of the other person to the bank account. It is advisable to open a new account in your own name. In the marital settlement proceedings the requirements of both households will be ascertained and deducted from the respective incomes. This is the base on which the maintenance contributions are calculated. If the alimony and the salaries are not enough to live on then you need additional financial social support. Should you want to work and have a legally valid decision on the marital settlement, then you can apply to the canton Glarus for 90 days unemployment benefit or an advance alimony payment.

I am a foreigner - will the separation affect the status of my residence permit?

Many of the women concerned are in possession of a B status residence permit because they were admitted to Switzerland as family dependants being re-unified; therefore the status of the permit was granted on condition that you cohabit. People from EU countries have better chances for obtaining residency in Switzerland. People from non EU countries can apply in the case of a separation to the migration office for an extension of their stay if they have lived in Switzerland for at least 3 years and are able to prove that they are integrated. Important personal reasons can be brought forward (such as being a victim of domestic violence or the potential risk in the social re-integration in the country of origin). Our advice on this matter is free and confidential.

What happens at the hearing on the marital settlement measures?

Children cannot be taken to the hearing so organise childcare for at least half a day. Make an early request for an interpreter for the hearing if German is not your first language. If you are represented by a lawyer then he/she will inform you on the procedure. Should you appear in court without a lawyer then you must not sign any settlement agreement (contract) if you are uncertain. Only sign if you are allowed a 10 day cancellation provision. You are then able to discuss the settlement agreement with a qualified person during the cancellation period.

If I disagree with the ruling, what can I do?

Within a 10 day period you have to request the reasons for the ruling or you must submit an appeal. The directive for a legal appeal is found at the end of the ruling. After the 10 days an amendment is only possible if there are significant changes in your personal life situation. If you want to live with your partner again then the ruling is automatically null and void.

Is a divorce not better than marital settlement measures?

If both parties are in agreement then a divorce is possible at any time. These intentions must be confirmed in a contract which can be cancelled. A divorce against the will of the other party can be obtained after the separation period within 2 years. The marital settlement procedure is usually much quicker.

If I was forced into marriage, what can I do?

In Switzerland 'a forced marriage' is illegal. Thereby it is irrelevant if the marriage took place abroad or in Switzerland. You have the right in Switzerland to choose your partner. Any questions regarding 'forced marriage' can be answered free of charge and confidentially.

How do I dissolve a registered partnership?

You can initiate a separation at the Glarus county court and if your cohabitee is violent or threatens you, protective measures can be issued along with the settlement proceedings. If you are not in agreement with your partner on the dissolution then the partnership can be dissolved against their will after 1 year.

We cohabit - I want to separate?

In the case of a separation of people who cohabit various judicial processes take place simultaneously. The Child and Adult protection authority (KESB) arranges custody and care. The county court makes the ruling on maintenance. As to who may remain in the flat depends on the signature on the rental agreement and on the goodwill of the landlord and the other party. If your cohabitee becomes violent, you can also request in cohabitation protective measures in the civil court. Our advice is free and confidential.

Useful addresses:

- Glarner lawyer association: <http://www.glav.ch/>
- Lawyer register canton Glarus:
<https://www.gl.ch/rechtspflege/anwaltsregister.html/276>
- Request for free legal aid canton Glarus:
https://www.gl.ch/public/upload/assets/7652/18_Gesuch_unentgeltliche_Rechtspflege.pdf
- Request for marital settlement proceedings canton Glarus (separation)
<https://www.gl.ch/rechtspflege/online-schalter.html/287>

This information sheet on separation and divorce is based on the legal information on the web site of the BIF support centre for women in marriages and partnerships