

THE GET PROCESS

Adapted from a guide by Dayan B Berkovits z"tl

What is a *get*?

A *get* is a document, handwritten in Hebrew and Aramaic, by means of which Jews are divorced in Jewish law. The word is also used to refer to Jewish divorce proceedings as a whole. Whenever a Jewish man and Jewish woman marry in a manner which is recognised as valid in Jewish law, a *get* will be required to dissolve that marriage. Where a marriage takes place under non-Orthodox auspices, it may still be that a *get* is required.

Most *get* cases are processed more quickly than the corresponding civil divorces.

Is a *get* required when there was no religious marriage at all?

Very often a *get* will be required even if the parties concerned only married in a Register Office or where there was no marriage ceremony at all, but the parties lived together as husband and wife.

Is a *get* required if the marriage only lasted a short while?

Yes. Where there is a valid marriage, a *get* will still be required even if the marriage was a very short one.

What if I have already been civilly divorced for several years? Do I still need a *get*?

Yes – the fact that some years have passed does not do anything to terminate your marriage in Jewish law.

In English law no divorce can be obtained within the first year after the marriage. Is there a similar bar in Jewish law?

No, there is not. A *get* may be applied for at any time after the marriage.

What do I do if I have lost contact with my ex-husband or wife?

Get in touch with the Beis Din and provide all the relevant facts. We are often able to arrange a *get* nonetheless.

Is it true that one can only do a *get* after the civil divorce has been concluded?

No – this is a common misconception. The *get* can be done at **any** time. It is usually done (as a matter of

practice and convenience) to coincide with the civil divorce (decree absolute), but it can certainly be done earlier if need be.

What is the best time to apply for the *get*?

It is best to apply for the *get* even before the *decree nisi* – at the time civil divorce proceedings are first contemplated – as this allows time to process the application smoothly. And often problems can be avoided by applying for the *get* as early as possible.

If I – or my ex-husband/ex-wife – have already remarried civilly without a *get*, is there any point in still applying for a *get*?

Yes, the *get* will still be needed to enable the other party to the marriage to remarry in *shul*. And even if you, or your ex-spouse, have already remarried, a *get* is still needed because in Jewish law you are not free to remarry without it. By obtaining a *get*, you save yourself from the position of being in an adulterous relationship in the eyes of Jewish law. You will also avoid problems in relation to children who might be born from a future marriage (see below).

Why can't I just remarry in a Registry office or a non-Orthodox synagogue?

No authority in the world is empowered to dispense with the requirement of a *get* when it is necessary in Jewish law, nor can any authority grant a valid *get* if it does not follow the rules of Jewish law. One cannot simply, in Jewish law, disregard the requirements for a *get* or the rules as to how a *get* is to be done. And there is a more serious consideration relating to the next generation.

If a Jewish woman who has been previously validly married in Jewish law remarries without obtaining a *get*, she is, in Jewish law, still married to her first husband. Any children she has subsequently may be *mamzerim* – children who are, in effect, not permitted to marry in Jewish law. This is a terrible tragedy, which must be avoided at all costs.

What are the grounds for a divorce in Jewish law?

There is no specific 'list' in Jewish law of grounds which have to be satisfied before a *get* can be obtained. If both parties want a divorce, that is a sufficient basis for a *get* - mutual agreement is sufficient.

Is mutual agreement always required?

Nearly every *get* requires the mutual agreement of both husband and wife. They agree – of their own free will – to marry one another; they agree – of their own free will – to be divorced from one another. However, it is **not** possible for a husband simply to divorce his wife without her consent, nor can a wife divorce her husband without his consent.

But what happens if only one party to the marriage wants a *get*, and the other party does not?

Then the *get* cannot be done (unless the case falls under one of the rare exceptions). Both husband and wife must agree that they want the *get*. This agreement may be lacking for a variety of different reasons. For example, one party may think that the marriage has broken down irretrievably, but the other party feels that it can still be saved. Sometimes one party may need more time to come to terms with the breakdown of their marriage.

How do you obtain agreement when it is not forthcoming?

We explain to the parties the significance and importance of a *get*. We offer our services to sort out disagreements between the parties which may be holding up the *get*. We do not compel. The key words are: tact, diplomacy, patience and persuasion.

Are there any other powers available to the Beis Din if these tactics do not produce the desired results?

There are certain legal powers which can be used to assist the *get* process. For example, a '*get clause*', which effectively obliges cooperation over the *get*, can often be inserted into a civil court order. Care must be taken in drafting such clauses to ensure that they are effective both in English law and in *halocho*. The Beis Din can advise on this. In extreme circumstances, the Beis Din can also impose 'sanctions' against a recalcitrant spouse, including a *nidui*, which is a powerful form of social ostracism.

HOW TO APPLY FOR A GET

A *get* requires the presence of two competent witnesses, as defined by Jewish law, as well as a Beis Din of three Rabbis, when the document is handed over to the wife. It also requires a qualified scribe to write the document, and (if husband and wife are not to meet each other) a properly-appointed legal agent. There are innumerable complex laws regarding every step of the procedure. Failure to comply with any of these laws may render the whole *get* invalid. For all these reasons, a *get* is **never** done except by a highly specialised and highly qualified Beis Din. A *get* which is not done by a qualified and recognised Beis Din, in compliance with the rules of Jewish law, is not a valid *get*.

Who prescribes how a *get* is done? What are the sources for it in Jewish law?

The basic requirement of writing a document for divorce is contained in the Torah itself (Deuteronomy 24:1). The numerous details regarding this are found in the Talmud, and codified eventually in the *Shulchan Aruch* (the authoritative code of Jewish law).

What if I am not religious?

A *get* is not a religious procedure as such. It is simply a legal process prescribed by Jewish law. It requires no declaration of faith, and no one is examined, or even asked about, his or her religious convictions or practices.

How do I go about obtaining a *get*?

Contact the Beis Din and provide contact details for yourself and your spouse. We then open a file and process it from there. We will ideally need to see your marriage documents (or at least to have the date and place of your marriage), and in due course, your civil divorce papers.

I have heard that since it is the husband who divorces his wife, it is only the husband who can apply for a *get*. Is that correct?

The husband divorces his wife only in the sense that the technical act of divorce is the handing over the *get* document from him to her. As explained above, however, both must agree. It is perfectly possible

for the wife to instigate the *get* procedure by applying to the Beis Din. In fact, most *get* files are opened by wives.

What happens next?

A preliminary appointment will be made, so that all necessary arrangement for the *get* can be prepared in advance. In particular, details of Hebrew and English names which have to be inscribed in the *get* document are carefully taken by a Dayan. There are many rules in *halocho* about which names to include, and how to transliterate them and therefore it is very important to get this right. At the preliminary meeting, any other matters which may arise can also be fully discussed.

The next step is to arrange for a similar preliminary meeting for the other party to the *get*. If it is difficult to come in to the Beis Din for the preliminary meeting, details may be taken over the phone by a Dayan.

Do I have to meet my husband or wife for the preliminary appointment, or indeed, at any stage in the *get* procedure?

It is entirely up to you. If you do not mind meeting one another, then come together. If you prefer not to meet, or it is difficult to find a mutually suitable time, you may come separately.

FINALISING THE *GET* PROCEDURE

Once husband and wife have both been through their preliminaries, an appointment is made for the actual writing of the *get* document. The husband comes along and formally instructs a scribe to write the document on his behalf and for his wife. He also instructs two witnesses to sign the document on his behalf. If husband and wife are not meeting each other for the *get* procedure, he also instructs an agent to act on his behalf and hand the *get* over to his wife. The scribe, witnesses and agent are all provided by the Beis Din, and the Dayonim will explain how the various instructions are to be given.

Then the *get* document is written by the scribe and signed by the witnesses. The writing of the *get* can take up to two hours (it is very carefully written, in the manner of a Sefer Torah). It is then thoroughly checked by the Dayonim, and if everything is OK, we are ready for the *get* to be handed over to the wife.

How is it handed over?

If husband and wife are meeting for the *get*, he makes a statement declaring that he is divorcing her with the *get* document, and then he places it into her hands. Once again, the Dayonim will give exact instructions as to how this is to be done.

If they are not meeting for the *get*, he makes a statement (again, with the guidance of the Dayonim) appointing an agent to hand the *get* over to his wife at some later date, and then he places the *get* into the hands of the agent. The wife is then given an appointment to come to the Beis Din a little later, and have the *get* handed over to her by the agent.

When is the effective moment of divorce in Jewish law?

The effective moment of divorce is the moment that the *get* document is placed into the wife's hands. Until then, she is still married to her husband, and he to her. After that moment, they are both divorced from one another.

Are members of the public allowed into the courtroom during the *get* procedure? And is confidentiality guaranteed throughout the handling of my *get*?

No, members of the general public are not allowed in and there is absolute confidentiality throughout the *get* proceedings. You may, however, bring along whomever you wish for moral support.

Do I need to have my lawyer present?

No, you do not.

SPECIAL CIRCUMSTANCES

Do I have to be present while the *get* is written?

You do not have to be present throughout the time the *get* is written, although the husband does have to be present at the beginning and at the end. If he really cannot wait, there is a special emergency procedure which will shorten the process.

Can't I just sign various documents or forms, and obtain my *get* without coming to the Beis Din at all?

As explained, husband and wife do not in fact sign any documents. But the husband must give instructions to the scribe and witnesses in person, and the wife must receive the *get* in person.

I am still a little reluctant to come to the Beis Din. I don't want to be asked any awkward questions about the marriage or the reasons for its breakdown. I don't want to be told off for being the 'guilty' party. And I don't want anyone to look down on me because of my standards of religious observance.

You will not be asked any awkward questions, or indeed any questions at all, about the history of the marriage or the reasons for its breakdown. We do not ascribe blame, or tell anyone off for being the guilty party. Nor do we look down on anyone because of their standards of observance. Our task is simply to help the public, by arranging a *get* when required. In all cases, you can be assured of being treated courteously and politely throughout.

Is my *get* recognised as a valid divorce in English law? In other words, if I do a *get*, is that sufficient to dissolve my marriage in English law, or do I also need to have an English civil divorce?

Before 1973, there were certain circumstances under which a *get* done in England was also recognised as a civil divorce. However, since 1973 this is unfortunately no longer the case. Consequently, even though a *get* has been obtained, a civil divorce will also be required to end the marriage in English law.

There are certain cases (particularly when one of the parties to the *get* is living abroad) which raise difficult questions of recognition in English law. Advice should be sought in each case from the Registrar of the Beis Din.

Is a *get* done in England recognised under Israel law?

Yes, such a *get* will be recognised. However, there are certain procedures which must take place, and advice should be sought from the Beis Din.

Can I remarry after my *get*, and if so, how soon after?

Yes, you can remarry after your *get*. A man can marry immediately after the *get*, but a woman has to wait ninety clear days. This is so that it is possible to establish the paternity of a child born to her within the first year after the divorce.

Are there any limitations on remarriage?

The most usual limitation on remarriage is that a Cohen cannot marry a woman who has received a *get*. However, 96 percent of the community are not Cohanim.

There may also be some other limitations, depending on the facts of a particular case. The Beis Din will provide information about this if need be.

I have already booked a remarriage before applying for my *get*. Will I be able to have my *get* in time to remarry?

We will certainly do whatever is possible to help you. However, in the case of a woman, if the remarriage date is less than 90 days after the *get*, there will be a problem.

MISCELLANEOUS MATTERS

Does a *get* cost money? If so, who pays for it, and what happens if I can't afford to pay for it?

Yes, there is a cost involved. The reason for this is that payment is required for the services of the people involved in arranging the *get*, such as the scribe, witnesses and agent, and for various administrative expenses.

Sometimes the husband pays for the *get*, and sometimes the wife pays for it. It often depends on who has applied for it. Sometimes, the parties agree to split the cost between them. Our costs reflect the actual expenditure we incur, and there is no profit element in our charges. We also charge the same amount for all members of the public, irrespective of whether or not they are members of the Federation.

Nobody, however, should be deterred from applying for a *get* simply because they cannot afford to pay for it. We do not withhold a *get* from anyone who genuinely cannot afford to pay for it, and we will always be prepared to come to arrangements.

FOR FURTHER QUERIES

Telephone 020 8202 2263 (option 3) or email beisdin@federation.org.uk