

Court.

- If you need any help, visit the Legal Aid office nearest you.

What if I do not know where my husband/wife is now living?

The Court can go ahead with your case without serving the other party. However you have to show the Court that;

- you do not know where the other party is;
- you have tried to find him/her but have not been able to;
- such a long time has passed since you last saw him/her that it is very hard to find them;
- you cannot afford to advertise in the newspapers because you are a poor person;
- it is too expensive and will take too long to try and find the person; or
- the case is so urgent, and it is important to get your Court order, you cannot wait to find out where the other party is (eg. child(ren) abduction or family violence orders).

What do I do if I have been given a copy of court papers?

When served (sent or given) with the court papers you would have also received an Acknowledgement of Service (Form 21). You **must** sign this, to show that you have received the documents. This **does not** mean that you accept what is in the document.

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LEGAL AID
COMMISSION

SERVICE

(Getting your court papers sent to the right person)

What is Service?

- The delivery of court papers to the other party.
- Service must be hand delivered, by post or by advertisement in a newspaper.
- You cannot serve your own court papers. This means you have to get a relative, Police, or friend to serve them for you.
- Most documents must be served before your case is called. This should be done as soon as possible.
- Even if you have not given a copy of the form to the other party you MUST still go to Court.

What is an acknowledgment of service?

- After giving a copy of the form to the other party, you will need to give them an *Acknowledgment of Service* (Form 21).
- They will need to sign this form to show the court that they have been given a copy of the form.
- If the other party refuses to sign, you must state this in the box where they were supposed to sign.
- This form must then be filed in court. If it is not filed, the court will think that you still have not given the form to the other party.

What is an affidavit of service?

- The person who gives the papers to the other party MUST fill out an *Affidavit of Service* (FORM 22) to show the other party has been given the

court papers.

- The *Affidavit of Service* (FORM 22) has to be signed in front of a lawyer, Justice of Peace or Commissioner of Oaths. Once this is done, you have to take it back to the Family Registry before your case is called.
- **It is important** that the person serving your court papers actually gives it to the person named, and does not leave it with a family member, or at the person's office or at the person's house.
- This is so the other party cannot complain that he or she was not given the court papers.
- In the event the other party refuses to accept the court papers, the person serving it can put it down near him/her and tell the person what the document is and the court date.
- This form must then be filed in court. If it is not filed, the court will think that you still have not given the form to the other party.

What are the various types of service?

1. Registered Mail:-

- You may send your court papers through Registered mail to the other person's last known address.
- If done locally, within 28 days after posting,
- If mailed overseas, within 42 days.

2. Substituted Service:-

- This means that you will be asking the court to serve by advertisement.
- To do this, you will have to pick and fill a *Application* (FORM 12) asking the

Court for permission to serve by way of advertisement.

- You must also pick and fill an *Affidavit* (FORM 23) where you will state the reason why other means of service are not possible and this is the only way you can serve the other party.
- Once the Court has given you permission to serve by way of advertisement, you will then need to prepare a *Notice of Advertisement*.
- You will then have to file this *Notice of Advertisement* in the Family Court Registry for the Magistrate to sign.
- Once the *Notice* has been signed, you will have to pick it from the Family Court Registry and take it to a daily newspaper office for it to be published.
- Once the *Notice* has been published, you will need to cut the whole page where your *Notice* appears showing the date and the name of the daily newspaper.
- You will have to attach this to an *Affidavit* (FORM 23) where you will have to state the date and name of the daily newspaper that published your *Notice*.
- This will have to be filed at the Family Court Registry to show that the *Notice* has been advertised.
- This is enough to show the Court, that the other party has been notified of the proceedings in