

*a time to weep...a time to build*

# THE GET

*An overview of form and procedure*



# *Contents*

<i>page</i> 1	Introduction
<i>page</i> 3	What is a <i>Get</i> ?
<i>page</i> 3	Who needs a <i>Get</i> ?
<i>page</i> 4	What does the <i>Beth Din</i> actually do?
<i>page</i> 4	Do I need a lawyer?
<i>page</i> 5	What is a <i>Get</i> clause?
<i>page</i> 5	The effect of the divorce (Religious marriages) Act 2002
<i>page</i> 5	What happens if I do not obtain a <i>Get</i> ?
<i>page</i> 6	<i>Get</i> procedure at the Manchester <i>Beth Din</i>
<i>page</i> 6	The first interview
<i>page</i> 7	A facsimile of the <i>Get</i> document
<i>page</i> 9	The day of the <i>Get</i>
<i>page</i> 9	Make up of the Court
<i>page</i> 10	The writing of the <i>Get</i>
<i>page</i> 11	The actual <i>Get</i>
<i>page</i> 12	Can I keep my <i>Get</i> ?

Some useful numbers *inside back cover*



cover photograph: *Freedom* by Susanne Bosman

# Introduction

When one contemplates the future of Jewry and considers the vast amount of intermarriage and assimilation taking place, one cannot but be alarmed at the resulting decline in the world Jewish population. The viability of the Jewish Nation can only be secured by the existence of stable families, aware of its great traditions and steeped in its customs. It is the family unit, which forms the building blocks of *Am Yisroel* – the People of Israel and it is that foundation which has undoubtedly perpetuated and consolidated our nation over the last 3000 years.

It is perhaps for this reason, that the *Torah* looks at divorce, not merely as the act which terminates a failed marriage, but as the pre-requisite for a future marriage. One of the essential phrases, used by the husband and incorporated into the *Get* Document is the fact that the *Get* whilst signifying a release from the current marital bonds is also a permit to re-marry. Judaism considers marriage as the normative state in which the body and soul of the husband and wife are pledged to their life's aim of building together a physical and spiritual haven for themselves, a secure location in which children can thrive and grow, and a minor sanctuary for the Divine Presence, the eternal partner in every Jewish marriage. When a marriage breaks down, it is absolutely vital, therefore, that this powerful bond is terminated in the Jewish way i.e. via a *Get*, not merely in order to free the couple from their commitments but to set the scene for an eventual rebuilding of the families concerned. For sure the *Get* is all about gaining one's freedom [the theme of our front cover] but equally it is for the purpose of initiating

in due course a fresh Torah based union founded on the family unit, (hence the phrase based on *Koheles*).

The purpose of this booklet is to explain in simple and lucid terms what the *Get* Procedure is all about. We, the *Dayanim* (Judges) at the *Beth Din* (Court of Jewish Law), have devoted a great deal of time and effort to ensure that the *Get* procedure is as smooth, simple and painless as possible.

I would like to take this opportunity to thank the *Rosh Beth Din* - Dayan Krausz, all the *Beth Din* staff and the many *Rabbonim* who have helped put this booklet together. A special thanks to Shalom Schotten of Thames & Hudson Ltd [London] for the beautiful design of this booklet. I am sure that they all join me in the hope that this booklet fulfils its important task.

May we all have the merit to enjoy a long, happy, harmonious and loving relationship with our spouses, thereby contributing to the unity of the Jewish nation, its ability to fulfil its sacred role, and the rebuilding of the *Beis Hamikdosh* speedily in our days.

DAYAN Y.O. STEINER



# The Get

## *An overview of form and procedure*

### WHAT IS A *GET*?

In stark contrast to some religions, Jewish Law states that it is a *mitzvah* (positive *Torah* commandment) to end an irreparable marriage with a *Get*.

A *Get* is a Jewish religious divorce based on the *Torah* (*Devorim* /Deuteronomy 24 1-3) "...and he shall write her a bill of divorce...". Under Jewish Law there is no requirement for either party to establish grounds for divorce such as separation, cruelty, unreasonable behaviour or desertion. All that is required is the consent of both the husband and wife as was the case when the marriage bonds were created.

A *Get* can take place either before or after the Decree Nisi or Absolute. However, in the absence of a Civil Divorce, the *Beth Din* will wish to be sure that the marriage has broken down irretrievably. This will usually mean that the parties have instructed a solicitor and that the civil process has commenced. The *Beth Din* will keep the *Get* certificate (see later) until after the Decree Absolute has been granted.

### WHO NEEDS A *GET*?

Any person who has been married under Jewish Law requires a *Get*. Since in Jewish law the simple act of setting up home and living together creates the presumption of a marital relationship, it is necessary for a *Get* to be sought even in respect of

Common Law marriages, Registry Office marriages and marriages conducted under non-orthodox auspices, provided that such marriages would have been valid if performed by an Orthodox Rabbi.

Any queries as to whether a *Get* is needed should be directed to the *Beth Din's* Registrar on 0161 740 9711

#### WHAT DOES THE *BETH DIN* ACTUALLY DO?

Although the setting is formal and court-like, the *Beth Din* does not grant the *Get* (as opposed to English law), but rather supervises the procedure including the writing of the *Get* on behalf of the husband, and its transmission to the wife, to make sure that the many detailed *Halachic* requirements are complied with. The *Beth Din* also provides the mandatory forum of three *Dayanim* required for the *Get* to be valid.

The Congregational Rabbi can often be very helpful in providing useful advice prior to the *Get* and will usually be willing to attend the proceedings if requested. This wish should be made known to the *Beth Din* either by the couple or the Rabbi.

#### DO I NEED A LAWYER?

It is unnecessary to instruct a lawyer with regard to a *Get*, though one may well be required to deal with other ancillary matters relating to the children, maintenance or the division of assets. The *Beth Din* will communicate with you directly and keep you fully informed of the progress of the *Get* arrangements. They will advise you as to procedure in general, and deal with any matters causing concern.

A lawyer or professional adviser may, however, commence the *Get* action on your behalf if you so choose.

It should however be noted that there is a general prohibition for contentious matters between two Jewish parties to be

brought before the Civil Courts. In the event of a dispute arising concerning the matters ancillary to the Divorce, the *Beth Din* is the correct forum for either mediation or arbitration. The Courts will recognise the Award of a *Beth Din* following arbitration and will incorporate it into the Divorce proceedings.

#### WHAT IS A *GET* CLAUSE?

A *Get* clause is a clause inserted in a Consent Order or Financial Agreement, usually following negotiations between lawyers representing the husband and wife when petitioning for Divorce before the Civil Courts. A typical *Get* clause will require both the husband and wife to co-operate with the *Beth Din* in ensuring the completion of the *Get*. However, because an incorrectly worded clause can affect the required level of consent and thus nullify the *Get*, the *Beth Din* should be consulted prior to the insertion of any such clause, or at least informed of it afterwards.

#### THE EFFECT OF THE DIVORCE (RELIGIOUS MARRIAGES) ACT 2002

This legislation provides relief in Civil Law for a party to a marriage being deprived of a *Get* by the failure of the other party to consent. It provides for the aggrieved party to apply to the Civil Courts for the Decree Absolute to be withheld until after the completion of *Get* proceedings. A party finding themselves in need of this provision must contact the *Beth Din* prior to instructing a solicitor to proceed with the application in order to ensure that all is done in keeping with Jewish Law.

#### WHAT HAPPENS IF DO NOT OBTAIN A *GET*?

The consequences are very serious if relationships take place without a *Get* as such relationships are often regarded as adulterous. A child born by a woman who has not obtained a *Get* will most likely have the status of a *Mamzer* and will be

handicapped in Jewish Law as far as the ability to marry is concerned. This handicap not only affects the *Mamzer*, but also affects any offspring that he or she may have for generations to come.

#### GET PROCEDURE AT THE MANCHESTER *BETH DIN*

The husband, wife, a solicitor, a Rabbi, or any other interested party may notify the *Beth Din* that a *Get* is required.

#### THE FIRST INTERVIEW

The *Beth Din* invites both the husband and the wife to attend separate or, if acceptable to the parties, joint interviews at the *Beth Din*. The average duration of each interview is approximately twenty-five minutes and is relatively informal. In the course of the interview, information will be sought regarding the names of the parties and other relevant data relating to the writing of the *Get*. The *Dayan* will also seek to ascertain if there are any problems such as the possible withholding of consent. Details of the cost of the *Get* proceedings will be provided and the *Beth Din* will wish to know which of the parties will be responsible for meeting its costs. (It should be noted that the cost of *Get* proceedings is kept artificially low in order to ensure that no-one is unable to obtain a *Get*. The cost is subsidised out of charitable funds and participants in a *Get* who are able to make additional payments are urged to do so. This will not be discussed with the participants to avoid potential embarrassment).

The information required is as follows:

1. The name, address, home and daytime telephone numbers.
2. The date and place of the marriage.
3. The age and gender of any children of the marriage.
4. Details of any previous *Get* or subsequent marriage.
5. In addition, the *Beth Din* will wish to see the *Ketubah* and

# A facsimile of the Get document

1) באחד בשבת בשלשה עשר יום לירח תשרי שנת חמשת אלפים ועדע מאות ושישים ושדנים  
 לבריאט עולם למזון שאון מזון כאן במאזשעסטער דמתקריא מאזשעסטער מתא דיתבא על זהר  
 2) ערוועלל ועל זהר ערק ועל זהר מעדלאק ועל מי סילויות אפא זחמן המוכזה זארמן בן לי הלוי העומד  
 3) היום במאזשעסטער דמתקריא מאזשעסטער מתא דיתבא על זהר ערוועלל ועל זהר ערק ועל  
 זהר מעדלאק ועל מי סילויות קביתי ברעות זפשי בדלא אגיסזא ושבקית ופטרית ותרקבית  
 יתיכי ליכי אנת אנתתי דזשוכלי בת הזס הכהן ז  
 4) קדמת דלא וכזו פטרית ושבקית ותרקבית ידניכי ליכי  
 זידיניז וויין שאד ושכטאד זנפשיכי למיך  
 כלל זנסבא כלל זבר דיתיקבויין ואזש לא ימוחא  
 בידיכי מן יומא דזן ולעלם ודרי אנת מוזתרד כלל אדם  
 וזן זי ידוי ליכי מזאי ספר תרקבין ואנת שבקין וזט פטרין  
 כז זי ידוי מושד ז וישו אב  
 5) דוד ליב זושע בן אליעזר עד  
 6) שמעון אריה בן מיכאל עד  
 7)

- 1) Date when document written
- 2) Name of town: Manchester
- 3) Rivers: Erwell, Erk and Medlock
- 4) Name of husband
- 5) Name of wife
- 6) Statement that this is the bill of severance/letter of divorce
- 7) Name of the two witnesses



the Decree Absolute (if available), although any difficulty in providing these documents need not delay the interview or even the *Get*.

6. As the *Get* has to be written in keeping with strict Jewish Law (*Halacha*), considerable questioning may take place to ensure that the correct names of the parties and their respective fathers are obtained including any English names, nicknames and Hebrew names. Care will also be taken to ensure that the names to be written in the *Get* are still in use or at least have been used within the previous 3 years.

The first interview may be conducted by telephone in cases where either party lives or works a long way from the *Beth Din*, or when it is otherwise impractical for them to travel to the *Beth Din*.

The first interview also offers the *Dayanim* an opportunity to acquaint the parties with the *Get* procedure. If the parties are unwilling or genuinely unable to attend the *Beth Din* at the same time, the *Beth Din* will offer a facility whereby the husband will appoint a *Beth Din* official to act as his agent to hand the *Get* over to his wife at a subsequent session of the *Beth Din*.

The *Beth Din* will advise the wife and any other ladies that may be attending to dress in keeping with traditional Jewish modesty when attending the *Get* procedure. This includes the wearing of a head-cover when attending the *Get* session.

The *Beth Din* will also ask the parties to arrange for someone to formally identify them at the beginning of the actual *Get* proceedings. This witness may be a relative or friend, male or female, but must be of the Jewish faith. They will also offer the parties the opportunity to bring a friend with them to accompany them during the proceedings. (The Jewish Marriage Council contactable on 0161 740 5764 provides trained

councilors to accompany the parties to a *Get* upon request)

This preliminary session will also enable the parties to clarify any issues that they wish to raise with the *Beth Din* concerning the *Get*, its procedure, and the cost.

In order to protect privacy, the *Beth Din* will not normally enquire into the reasons for the failure of the marriage. This should not be considered as a lack of interest or care. Rather, it is to make the visit to the *Beth Din* as easy as possible. Naturally any party to a *Get* who wishes to discuss the reasons for the breakdown of the marriage with the *Beth Din* will find a sympathetic ear. It goes without saying that any discussion will be treated with total confidence.

The *Beth Din* will presume that all attempts at reconciliation will have been made. If this is not the case this should be made known when attending the first interview as the *Beth Din* may be able to guide you in this matter.

#### THE DAY OF THE *GET*

The *Beth Din* will be aware that this day may well be very emotional, as the *Get* results in the termination of your marriage in Jewish Law.

The *Beth Din* is a Jewish court of Law and therefore you should expect the atmosphere to be court-like. Notwithstanding the above, the *Dayanim* (Judges) and staff are there to help you make the *Get* procedure as comfortable as possible and will take account of your feelings and emotions.

Please feel free to ask at any time any questions concerning the procedure, as it is important that you should be fully aware of what you are doing and saying.

#### MAKE UP OF THE COURT

At the *Beth Din* there will be people performing various roles:

Three *Dayanim* – Judges

Two *Edim* – *Beth Din* officials

to witness the *Get* and the proceedings

The *Sopher* – Scribe, to write the *Get*

The *Shliach* – Agent of the husband

should this be a requirement

#### THE WRITING OF THE *GET*

At the *Get* proceedings, the husband and wife attend and are formally identified by the witness they will have brought along.

This takes place outside the actual Court Room in the Court antechamber. The wife and the witness may then leave for a period of 2 – 2½ hours whilst the husband



returns to the Court Room. Before the *Beth Din* of three *Dayanim* he will instruct a Scribe to write the *Get* and the witnesses to sign it. He will also answer standard questions aimed at ascertaining his unconditional consent. This procedure lasts approximately thirty minutes. If the wife is not present, a *Beth Din* official will be instructed by the husband to act as his agent. He will receive the *Get* from the husband and will be charged with the duty of transmitting it to the wife at subsequent proceedings. During the 2 hours or so that the Scribe needs to write the *Get*, the husband may also leave the Court. Both parties are asked to remain within Greater Manchester.

Any questions put to the parties are in English. The answers are generally standard and will be read from a text that will be handed to the parties.

#### THE ACTUAL *GET*

1. The *Get* must be written by a Scribe, formally appointed by the husband. As all the writing equipment must belong to the husband, the Scribe will make a gift to the husband of a quill, pen and paper which the husband will hand back to the Scribe so that he can write the *Get* using equipment which now legally belongs to the husband.  
Once the instructions to the Scribe, witnesses and agent (when applicable) have been completed, they adjourn to another room to write the *Get*.
2. Once written, the *Get* must be checked by a *Dayan* and then signed by the witnesses.
3. The parties, having returned to the Court Room, will be asked to confirm their continued consent to the *Get* proceedings. The *Beth Din* will demonstrate the actual mechanics involved in handing over the *Get*. The *Beth Din* asks the wife to remove any rings from her fingers to ensure no separation between her hand and the *Get*. The

following procedure then takes place:

- a) The wife will be shown how to stand, facing her husband or his agent with her hands cupped to receive the *Get* (in both hands).
- b) The husband or agent recites a declaration which he repeats word for word after the Presiding *Dayan* and then carefully places the *Get* into the wife's hands. (The *Dayan* first rehearses the text with the husband)
- c) The wife accepts the *Get* and is asked to signify ownership of the document in keeping with Jewish law. She will then hand back the *Get* to the Presiding *Dayan* for it to be read and checked by the *Dayan* and the witnesses.
- d) As soon as the above procedure is over, the parties can sit down and relax. The wife may replace her rings. The *Dayan* will advise the parties that they are now divorced and free to re-marry.

The Presiding *Dayan* will conclude by wishing the parties only happiness in the future.

#### CAN I KEEP MY *GET*?

The *Get*, once received is the wife's property. It is, however, standard practice to deposit the *Get* with the *Beth Din*. Both the wife and husband will receive a Certificate as soon as possible, in Hebrew and English, stating that the *Get* has been duly executed and that the parties are free to marry under Jewish law. For legal reasons the *Beth Din* must be in possession of the Decree Absolute to issue the Certificate.





## Some useful numbers

MANCHESTER BETH DIN	0161 740 9771
JEWISH MARRIAGE COUNCIL	0161 740 5764
THE FED (Manchester Jewish Federation)	0161 795 0024
CARE CONCERN	0161 796 0807



Issued by The  
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