

## How to apply for a Divorce

This flowchart shows you how to apply for a Divorce in the Court, whether you are doing so together with your spouse, or on your own. It also includes checklists of key documents you may need to provide to the Court in support of your application, and helpful links to other resources that may assist.

### I am a SOLE APPLICANT applying for Divorce on my own

#### Checklist

- I have proof that I am legally married
- I have been separated for more than 12 months
- There is no chance that my partner and I will reconcile



#### Documents you will need to file your application:

- Marriage Certificate, and if it is not in English, a translation by a certified translator
- Proof of jurisdiction – eg: Australian citizenship certificate, Australian passport or visa
- Counselling certificate if marriage less than 2 years



#### Filing application

- Register for the Commonwealth Courts Portal to e-file and access copies of Court orders
- Application for Divorce and Affidavit of eFiling needs to be sworn before an authorised witness
- Pay Filing Fee



### Now you are ready to serve your divorce application by hand or by post

See Divorce Service Kit



#### By hand

Forms required:

- Affidavit of Service by Hand
- Acknowledgment of Service
- Affidavit Proving Signature

#### By hand

Forms required:

- Affidavit of Service by Post
- Acknowledgment of Service
- Use Registered Post

#### What if I am unable to serve by hand or post?

You must file an Application in a Proceeding and Affidavit asking the Court to allow you to serve the application in another way (substituted service) or avoid service altogether (dispensation of service).





## Reminder

- Make sure your Affidavit of Service by Hand and Affidavit Proving Signature or Affidavit of Service by Post are sworn or affirmed before an authorised witness
- Take the signed Acknowledgment of Service with you and have both documents witnessed by the same person



### Hearing

You must attend if:

- There are children under 18 years
- You file an application for substituted service or dispensation of service
- A Response to Divorce has been filed

Your divorce hearing will be heard electronically. Parties will be provided with the dial-in details before the hearing.



### Proof of divorce

- Your divorce order can be downloaded from the Commonwealth Courts Portal one month and one day after the divorce is granted

## My SPOUSE and I are applying for Divorce together

### Checklist

- We have proof that we are legally married
- We have been separated for more than 12 months
- There is no chance that we will reconcile



### Document

You will need to file your application:

- Marriage certificate
- Translation by a certified translator if not in English
- Proof of jurisdiction – eg: Australian citizenship certificate, Australian passport or visa
- Counselling certificate if marriage less than 2 years



### Filing application

- Register for the Commonwealth Courts Portal to e-file and access copies of Court orders
- Application for Divorce and Affidavit of eFiling needs to be sworn before an authorised witness
- Pay Filing Fee





## Hearing

- You are not required to attend the hearing for a joint application

Your divorce hearing will be heard electronically. Parties will be provided with the dial-in details before the hearing.



## Proof of divorce

- Your divorce order can be downloaded from the Commonwealth Courts Portal one month and one day after the divorce is granted

## Timeline of Divorce process

- **Date of separation**

12 months

- **Date you can file your Application for Divorce**

After receipt of sealed copies of Application and hearing date

- **Serve your Application for Divorce on the other party**

Within Australia, at least 28 days before the hearing Overseas, at least 42 days before the hearing

- **Hearing date – Divorce granted**

One month and one day

- **Divorce becomes final**

Download divorce order from Commonwealth Courts Portal

## Other tips:

- ✓ If you have changed your name since you were married, you must file an affidavit stating your current name and attaching a copy of a change of name certificate or other official documentation confirming the change.
- ✓ Please ensure you provide sufficient detail about the arrangements for your children (time spent with each party, details of their education, health and financial support) otherwise you will be asked to file an affidavit providing more detailed information.
- ✓ If you and your spouse are separated but have been living under the same roof in the 12 month period before filing your Application for Divorce, you will need to file an affidavit about how your relationship changed.
- ✓ You cannot remarry until your divorce is finalised and becomes effective – the divorce process usually takes a number of months from when you file your application.
- ✓ If you need more time to complete any step in this process, you can ask the Court for an adjournment of your hearing date.
- ✓ Please make sure you provide an email address in your application, so that if the Court needs to contact you, it can be done quickly.