



# Application for Divorce Kit

[www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

[www.familycourt.gov.au](http://www.familycourt.gov.au)

 **LIVE CHAT** on the websites

1300 352 000

It is important to read this kit before you complete the Application for Divorce.

## Use this kit when asking for orders to end a marriage

This kit includes:

- Glossary of legal words (inside front cover)
- Step by step guide (page A)
- Helpful information (pages B–J)
- Checklist (page K)
- The Application for Divorce (pages 1–7)
- Notice to Respondent of Application for Divorce (page 8)
- Where to file (inside back cover)
- Help in other languages (back cover)

FAMILY COURT OF AUSTRALIA

FEDERAL CIRCUIT COURT OF AUSTRALIA

This kit provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The courts cannot provide legal advice.



**NOTE:** Applications for Divorce can be electronically filed using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete the form in this kit if you wish to eFile. Visit the *How do I...? Apply for a Divorce* page at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi) for more details.

## Legal words used in this kit

**Address for service** – the address given by a party where court documents can be served on them by hand, post or certain circumstances, by fax or email.

**Adjourn** – defer or postpone a court event to another day.

**Affidavit** – a written statement by a party or witness. It is the main way of presenting the facts of a case to the Court. An affidavit must be sworn or affirmed before a person who is authorised to witness affidavits; for example, a lawyer or Justice of the Peace.

**Applicant** – the person who applies to the Court for orders.

**Court hearing** – the date and time when a case is scheduled to come before the Court.

**Divorce order** – an order made by the Court that ends a marriage. The divorce order becomes final one month and one day after it is made, unless it is shortened by order of the Court. Your divorce order will be made available to you through the Commonwealth Courts Portal after the order has become final. The divorce order has an electronic seal and signature and is an original order.

**eFiling** – the procedure of electronically lodging a document through the Commonwealth Courts Portal.

**Family Law Act 1975** – the law in Australia which covers family law matters.

**Family law registry** – a public area at the courts where people can obtain information about the court process and where parties file documents in relation to their case.

**Family violence** – means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful. A child is exposed to family violence if the child sees or hears family violence or is otherwise exposed to family violence. See the Family Law Act, section 4AB, which gives examples.

Family violence may also amount to abuse of a child. Abuse - in relation to a child means,

- (a) an assault, including a sexual assault, of the child; or
- (b) a person (the first person) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or

- (c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or

- (d) serious neglect of the child.

**Family violence order** – an order made under Commonwealth, state or territory legislation to protect a person, including a child, from violence.

**Filing** – the procedure of lodging a document at a family law registry.

**Judicial officer** – a person who has been appointed to hear and decide cases; for instance, a judge.

**Party or parties** – a person or people involved in the court proceedings; for example, the applicant/s and/or respondent/s.

**Other party to the marriage** – your husband, wife or spouse.

**Registrar** – a court lawyer who has been delegated power to perform certain tasks; for example, grant divorces, sign consent orders and decide the next step in a case.

**Respondent** – a person named as a party to a case. A respondent may or may not respond to the orders sought by the applicant.

**Rules** – a set of directions that outlines court procedures and guidelines.

**Sealed copy** – a copy of a document which has the original court seal stamped on it.

**Service** – the process of delivering or posting court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with the Court.

## Legal advice

You should seek legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case.

You can seek legal advice from a legal aid office, community legal centre or private law firm.

If you are an Aboriginal or Torres Strait Islander, you can also contact your local Aboriginal or Torres Strait Islander legal service.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

# Basic step by step guide

## STEP 1 Apply

- Complete an Application for Divorce. Applications for Divorce can be electronically filed using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete the form in this kit if you wish to eFile. Alternatively you (or your lawyer if you have one) can write or type your details into the Application for Divorce form and file by post or hand at your nearest family law registry.

## STEP 2 Sign

- You must swear or affirm the Application for Divorce (Part G – Affidavit of applicant/s) before a lawyer, Justice of the Peace or other person authorised to witness affidavits in your state or territory.
- There are strict requirements on who qualifies as an ‘other authorised person’. This depends on which state or territory you have your divorce application witnessed, because state and territory oaths and affirmations differ. You should check state legislation to find out what is appropriate.

If you are overseas, the following persons can witness your signature:

- Notary Public
- Australian Diplomatic Officer or Australian Consular Officer delegated as defined by s2 of the Consular Fees Act.
- Employee of the Australian Trade Commission who is authorised under paragraph 3(d) of the Consular Fees Act.

## STEP 3 Photocopy

- You must make two photocopies of the completed and signed Application for Divorce and any supporting documents.

## STEP 4 File

- You can file an Application for Divorce electronically using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete the form in this kit if you wish to eFile. See *How do I...? Apply for a Divorce* at [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) for more details. You can also file by post or hand at your nearest family law registry. You will need to file:
  - the original and two photocopies of the Application for Divorce and any supporting documents, and
  - a copy of your marriage certificate. The marriage certificate you provide is not required to be an original or certified.
- You also need to pay a fee or you may be eligible for a fee reduction. You can apply for this by filing an *Application for reduction of payment of divorce or decree of nullity* form.

## STEP 5 Receive a hearing date and documents

- The Court will give you a file number and a time and date for a hearing.
- **Joint application** – the Court will keep your original Application for Divorce and give you and the other party to the marriage a sealed copy of the application and an information brochure ‘*Marriage, Families and Separation*’.
- **Sole application** – the Court will keep your original Application for Divorce and give you two copies of the sealed application and information brochure ‘*Marriage, Families and Separation*’.

## STEP 6 Serve documents

- If you applied for a divorce together with the other party to the marriage (a joint application), you and the other party each keep a sealed copy of the Application for Divorce and the information brochure.
- If you applied for a divorce on your own (sole application), you must serve a sealed copy of the Application for Divorce and the information brochure on the other party (the respondent):
  - at least 28 days before the hearing date if the respondent is in Australia
  - at least 42 days before the hearing date if the respondent is overseas.
- For more information on service, see *How do I...? serve a divorce* at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi) or the Divorce Service Kit.

## STEP 7 Attend the hearing

- If there is no child of the marriage currently under 18, you are not required to attend the hearing. This applies for both sole and joint applications.
- If you make a joint application and there is a child of the marriage currently under 18, neither you nor the other party are required to attend the hearing.
- If you make a sole application and there is a child of the marriage currently under 18, you must attend the hearing. In certain circumstances, you can apply to the Court in writing to appear by telephone.

## STEP 8 Outcome of hearing

- If your divorce application is successful, the Court will grant a divorce order. The order becomes final one month and one day after it is made, unless it is shortened by order of the Court.
- Your divorce order will be made available to you through the Commonwealth Courts Portal after the order has become final. The divorce order has an electronic seal and signature and is an original order. For a step-by-step guide to accessing orders, see ‘Applications and orders’ at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi).

# What you need to know

## WHO CAN APPLY?

**You** – if you are applying for a divorce by yourself (sole application)

**You and the other party to the marriage** – if you are applying together (joint application)

You may prepare your own divorce application or ask a lawyer to do it for you.

## WHEN CAN I APPLY?

You can apply for a divorce in Australia if either you or the other party to the marriage:

- regard Australia as your home and intend to live in Australia indefinitely, or
- are an Australian citizen by birth, descent or by grant of Australian citizenship, or
- ordinarily live in Australia and have done so for 12 months immediately before filing for divorce.

You also need to satisfy the Court that you and the other party to the marriage have lived separately and apart for at least 12 months, and there is no reasonable likelihood of resuming married life. It is possible to live together in the same home and still be separated. For more information about this, see page F.

## YOUR RESPONSIBILITIES

You must make sure all your paperwork is organised before filing your divorce application. The accuracy of documents is your responsibility, not the responsibility of the Court.

The questions asked in the Application for Divorce are to help make sure that you meet the requirements of the *Family Law Act 1975* and the rules of the Court. It is important to answer all the questions; if you do not, your divorce application may be sent back to you. If you need more information or are unsure about any questions

 **LIVE CHAT** on the website [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au), email [enquiries@familylawcourts.gov.au](mailto:enquiries@familylawcourts.gov.au) or call **1300 352 000**.

If you need more space to answer any questions, please attach an extra page/s to the back of the Application for Divorce. If you use attachments, you need to put the question number at the top of the extra page/s.

## FILING

You can file an *Application for Divorce* electronically using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete the form in this kit if you wish to eFile. Visit the *How do I...? Apply for a Divorce* page at [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) for more details.

You can also file by post or hand at your nearest family law registry. You will need to file:

- the original and two photocopies of the Application for Divorce and any supporting documents, and
- a copy of your marriage certificate. The marriage certificate you provide is not required to be an original or certified.

In most situations, your case will be listed for a hearing at the location where you filed your divorce application.

Alternatively, you can ask the Court to list your case at a circuit location visited by the Court. For more information about circuits, go to [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au),  **LIVE CHAT** on the website or call **1300 352 000**.

## FEES

There is a filing fee for Application for Divorce.

In some cases a reduced fee may be sought for a divorce application, or decree of nullity, or in respect of other fees, an exemption if you hold certain government concession cards or can demonstrate financial hardship.

If you want to know more about fees, visit the fees page at [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

## PERSONAL SAFETY

If you fear for your safety or the safety of your children, you do not need to disclose your residential address on the Application for Divorce. You may be required to provide more information to the Court.

You must tell the Court about any pending, current or existing family violence orders, as they may affect the orders the Court makes; see part E of the Application for Divorce.

If you have any concerns about your safety when attending court, please call **1300 352 000** or speak to staff at a family law registry before your court appointment or hearing. Options for your safety at court will be discussed and arrangements put in place. More detail is in the flyer 'Do you have fears for your safety when attending court?'.

## IF YOU ARE PLANNING TO REMARRY

You should not plan to remarry until the divorce order is finalised (in most cases, one month and one day after the divorce hearing).

If you intend to remarry, you must give the marriage celebrant a Notice of Intended Marriage at least one month before the wedding date, and comply with other requirements of the *Marriage Act 1961*.

As soon as the divorce order is granted, the marriage celebrant may accept the Notice of Intended Marriage. You must show a copy of the divorce order to the marriage celebrant before the wedding can take place.

## CHANGE OF ADDRESS OR NAME

If you change address after filing your divorce application, you must file a Notice of Address for Service with the Court. You can get this form from [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) and [www.familycourt.gov.au](http://www.familycourt.gov.au)

If you change your name after filing your divorce application, you must inform the Court in writing. If you have changed your name since the marriage (other than using the other party to the marriage's surname) you need to provide the Court with evidence of your change of name.

## FAMILY RELATIONSHIP AND SEPARATION ISSUES

When you separate, you and the other party to the marriage need to make important decisions about the future care of your children and how to divide your property, money and belongings. For help working through and resolving these issues, go to Family Relationships Online at [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au), call the Family Relationship Advice Line on **1800 050 321** or visit a Family Relationship Centre near you.

## ARRANGEMENTS FOR CHILDREN, PROPERTY AND MAINTENANCE

The granting of a divorce does not decide issues about property and maintenance or parenting arrangements for your children. If you want to make arrangements about these issues you can:

- make an agreement and file it with the Court, or
- seek orders from the Court, where you cannot reach an agreement.

For parenting cases, you also have the option to make a parenting plan. For more information about parenting plans, go to [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au), call **1800 050 321** or visit a Family Relationship Centre near you.

## ELECTRONIC FILING OF APPLICATIONS FOR DIVORCE

Applications for Divorce can be electronically filed using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete the form in this kit if you wish to eFile. Visit the *How do I...? Apply for a Divorce* page at [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) for more details.

**If you want to apply for maintenance for yourself or a division of property, you must file a separate application within 12 months of the date the divorce becomes final. Otherwise, you will need the Court's permission to apply.**

# Help completing the Application for Divorce

## QUESTION 1

You can apply for a divorce by yourself (sole application) or together with the other party (joint application). If you make a sole application, you are known as the applicant. The other party is known as the respondent. For a joint application, both parties are known as joint applicants.

**Sole application** – if you are applying on your own, you need to answer all the questions that relate to you and the other party to the marriage. If you do not know the answer and have made all attempts to find the answer, insert ‘not known’. If you do not answer all the questions, your divorce application may not be accepted by the Court and may be sent back to you.

**Joint application** – if you are applying together, all questions must be answered. There are a number of ways this can be done:

- you and the other party can sit down together and fill in the application, or
- one of you may fill in the entire application and have the other party check it, or
- one party may answer most of the application, leaving aside the questions directly relating to the other party, and have the other party answer the questions relating to them.

The affidavit section (Part G) cannot be signed until all questions have been answered.

## QUESTION 2

**If there is no child of the marriage currently under 18**, you are not required to attend the hearing. This applies for both sole and joint applications.

**If you make a joint application and there is a child of the marriage currently under 18**, neither you nor the other party are required to attend the hearing.

**If you make a sole application and there is a child of the marriage currently under 18**, you must attend the hearing.

In certain circumstances you can ask the court to appear by telephone. For example, if you live some distance from the Court, you have an illness or disability, the costs of attending will cause you financial hardship or you have safety concerns.

You must complete the *Telephone Link Attendance Request* form which you can then eFile on the Portal to make your request.

**If you are required to attend the hearing and fail to do so, the Court may adjourn or dismiss your application.**

## QUESTION 11

You need to provide an address where documents can be delivered or posted to you. This may or may not be the address you provided in question 10. If you are the applicant, you must provide an address for service in Australia.

If you are a sole applicant and have taken all reasonable steps to serve your divorce application on the respondent and you are unable to do so, you can apply to the Court for:

- substituted service, or
- dispensation of service.

For more information, see the fact sheet ‘Are you having trouble serving your divorce application?’.

## QUESTION 12

To be eligible to apply for a divorce in Australia, you or the other party to the marriage must answer yes to at least one of the four questions.

The fact that you were married in Australia is not grounds enough to apply for a divorce in Australia.

If you were married overseas, you may still be entitled to apply for a divorce in Australia.

**Sole application** – if you are applying on your own, you must answer all the questions about you and all the questions about the other party to the marriage, answering them to the best of your ability.

**Joint application** – if you are applying together, you and the other party must answer all the questions.

**(a) Regard Australia as your home and intend to live indefinitely in Australia**

Answer yes to this question only if you are lawfully present in Australia and you intend continuing to live in Australia.

If you are applying on your own, you should not refer to the intention of the respondent unless you can provide further information as to how you know what their intentions are.

**(b) Australian citizen by birth or descent**

In most situations, you are an Australian citizen if:

- ~ you were born in Australia and at the time of your birth at least one parent was an Australian citizen or a permanent resident, or
- ~ you were born outside Australia and at least one parent was an Australian citizen and registered your birth in Australia.

**(c) Australian citizen by grant of an Australian citizenship**

Answer yes to this question only if you have been granted a certificate of Australian citizenship.

**You must provide the Court with a copy of your Australian citizenship certificate, Australian passport or other proof of citizenship.**

**(d) Ordinarily live in Australia and have done so for 12 months immediately before filing for divorce**

Answer yes to this question only if you have lived in Australia for a continual period of 12 months immediately before filing for divorce. You may still answer yes if you have had temporary periods of absence from Australia; for example, an overseas holiday or business trip.

## QUESTION 13

You must provide the Court with a copy of your marriage certificate. If you do not have your marriage certificate, you will need to get a copy. If you were married in Australia, you must provide a certificate which can be obtained by contacting the Registry of Births, Deaths and Marriages in the capital city where you were married.

If you were not married in Australia and cannot get a copy of your marriage certificate, you need to prepare an affidavit and file it with the Court. You should seek legal advice about how to do this. The affidavit needs to explain the details of your marriage and the reasons why you cannot get a copy of your marriage certificate.

If your marriage certificate is not in English, you need to file:

- an English translation of it, and
- an affidavit from the translator which:
  - states their qualifications to translate
  - attaches a copy of the marriage certificate
  - attaches the translated marriage certificate
  - states that the translation is an accurate translation of the marriage certificate, and
  - states that the attached copy of the marriage certificate is a true copy of the marriage certificate translated.

You can get a copy of an Affidavit Translation of Marriage Certificate from [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) or [www.familycourt.gov.au](http://www.familycourt.gov.au)

## QUESTION 15

You cannot sign and file the Application for Divorce until you have been separated from the other party to the marriage for at least 12 months. For example, if you separated on 7 November 2017 you cannot apply for a divorce until 8 November 2018.

## QUESTION 16

At least one party to the marriage must regard the marriage as over on the date of separation and have in some way communicated this to the other party.

If you are applying on your own, you should not refer to the intention of the respondent unless you can provide further information as to how you knew what their intention was at the time.

You should be prepared to provide the Court with information about what happened or what was said on the date of separation to show that one or both of you intended to end the marriage.

## QUESTION 17

It is possible for you and the other party to the marriage to be separated but to continue living in the same home during the 12 months before applying for divorce. This is known as 'separation under the one roof'. If this applies to your situation, you need to prove to the Court that you were separated during this time.

If you are applying for a divorce on your own, you must file an affidavit yourself. You should also file an affidavit by an independent person; such as, a family member, friend or neighbour.

If you and the other party are applying together, you must each file a separate affidavit. If only one of you is able to file an affidavit, then you should file an affidavit by an independent person (see above).

In your affidavit, you need to prove that there has been a change in the relationship, gradual or sudden, demonstrating you and the other party have separated.

For more information, see the fact sheet 'Separated, but living under one roof?'



## QUESTION 18

The minimum period for separation is 12 months. You can, however, live together as a married couple for one period of up to three months after separating. If you separate for a second time, you can use the time before and after living together as a married couple to calculate the 12 month separation period.

### **Example one**

- First separation for six months
- Together again for three months
- Final separation for six months

### **Example two**

- First separation for three months
- Together again for two months
- Final separation for nine months

In both examples, the time of separation totals 12 months. If you lived together as a married couple for more than three months and separate for a second time, you must start counting the 12 months separation again.

## QUESTION 19

The Court can only grant a divorce if it is satisfied that:

- a marriage has broken down irretrievably (permanently), and
- there is no reasonable likelihood of the couple resuming married life.

This means that if there is any chance of you and the other party living together again as a married couple, the Court cannot grant a divorce.

## QUESTION 20

If you have been married less than two years and want to apply for a divorce, you must either:

- Attend counselling with a family counsellor or nominated counsellor to discuss the possibility of reconciliation with the other party to the marriage.

### **OR**

- If you do not attend counselling, seek permission of the Court to apply for a divorce.

**The two years is calculated from the date of the marriage to the date of applying to the Court for a divorce. You and the other party must also be separated for at least 12 months before applying for a divorce.**

For more information, see the fact sheet 'Have you been married less than two years?'

## QUESTION 23

The Court can only grant a divorce if it is satisfied that:

- proper arrangements are made for all children currently under 18, or
- there are special reasons why the divorce should be granted even though proper arrangements for all the children are not made.

This means that you need to provide information about who lives, spends time and communicates with the children and about financial support, health and education for all children who are currently under 18 listed on the Application for Divorce.

A child of the marriage includes:

- any child of you and the other party, including children born before the marriage or after separation
- any child adopted by you and the other party, or
- any child who was treated as a member of your family prior to your final separation; for example, a step-child or foster child.

You must provide the information individually for each child; for example, child one, child two and so on. If you have more than four children, attach an extra page/s and answer the same questions for each child.

If you cannot provide the information yourself, you should make all attempts to find out the information. For example, by contacting the person with whom the child is living. If you cannot provide the information requested, you should be prepared to tell the Court what attempts you have made to obtain the information.

## QUESTION 25, 26, 32 and 33

If you are not the child's birth or adoptive parent/s and do not know who the child's birth or adoptive parent/s are, insert 'not known'. You may need to provide the Court with more information.

## QUESTION 27 and 34

You need to indicate who the child lives with for most of the time. This may be one or both parents or some other significant person in the child's life; for example, a grandparent or other relative.

## QUESTION 28 and 35

Provide the address or addresses where the child lives for most of the time. If the child spends equal time or substantial and significant time with both parents, provide both addresses.

## QUESTION 29 and 36

It is important that you provide current details about the child. You only need to provide a short statement. If you need more space, attach an extra page/s.

**Time and communication with the child** – state the amount and frequency of time the child spends with the parent (or other significant person) with whom the child does not live. This time may be face to face, telephone, emails, letters or other forms of communication.

**Financial support** – state who pays for the costs of raising the child; include details of any child support or maintenance being:

- actually paid, or
- agreed, assessed or ordered to be paid and not being paid by any person with whom the child does not live.

**Health** – provide details of the child's health and any diagnosis, treatment or ongoing medical needs.

**Education** – state which school the child attends, the year level and how the child is progressing at school.

## QUESTION 30 and 37

You should include details of any significant changes planned in the foreseeable future. For example, a change in living arrangements, schooling or financial support.

# Service

If you have made a sole application, you must arrange to serve the following documents on the respondent:

- a sealed copy of the Application for Divorce
- a copy of the 'Marriage, Families and Separation' brochure, and
- any other documents filed with the Court, except the copy of your marriage certificate.

**Service is the process of delivering or posting court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with the Court.**

There are two ways you can serve documents on the respondent. The documents may be served by:

- posting it to the respondent at their last known address, or
- arranging another person over 18 years of age to hand it to them (you are not allowed to serve the documents yourself).

If the respondent is in Australia, the documents must be served at least 28 days before the hearing date.

If the respondent is overseas, the documents must be served at least 42 days before the hearing date.

For more information on service, see 'How do I...? serve a divorce' at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi) or the Divorce Service Kit. The kit provides a step-by-step service guide and includes the forms required to serve your divorce application and is available from [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au).

# Court hearing

The date and time of your court hearing is located on the top right hand corner of the Application for Divorce. If you are required to attend the hearing (see page A, Step 7), you should arrive at least 30 minutes early to give yourself plenty of time to clear security and find the right courtroom. If you have any problems finding the right courtroom, ask court staff.

You should bring all documents with you to court, including a copy of your Application for Divorce and service forms (if applicable).

You can bring a family member or friend (who is over the age of 18) to sit with you and provide support. Unless approved by the judicial officer or registrar, your support person cannot sit with you at the bar table and cannot speak on your behalf.

Generally, courts are not appropriate places for children. Please make other arrangements for your child's care when you come to court.

Before you enter the courtroom you should:

- turn off electronic equipment, including mobile phones, and
- remove hats or sunglasses, unless for medical or religious reasons.

Do not bring any food or drink into the courtroom.

When you enter the courtroom, give your name to the person assisting the judicial officer or registrar (either the court officer or associate). It is a good idea to ask them how you should address the person hearing your divorce application. You refer to a judicial officer as 'Your Honour' and a registrar as 'Registrar'.

You should stand when the judicial officer or registrar enters and leaves the courtroom and remain standing until he or she sits down. You should also stand, unless told otherwise, whenever you are speaking to the judicial officer or registrar.

You should be aware that a number of cases will also be listed at the same time as your case. The judicial officer or registrar will deal with each case individually, which usually takes between 3-5 minutes. Once your case is dealt with, you are free to leave the courtroom.

If you have any concerns about your personal safety at court, please notify court staff.

## The courts and your privacy

The courts respect your right to privacy and the security of your information. You can read more about the Courts' commitments and legal obligations in the fact sheet 'The courts and your privacy'. The fact sheet includes details about information protection under the privacy laws and where privacy laws do not apply.

# Checklist

Use the checklist to make sure you have done everything you need to do.

Tick if completed

## HAVE YOU:

- If you are applying on your own, answered all the questions that relate to you and the respondent?
- If you are applying together, answered all the questions that relate to both of you?
- Indicated whether or not you wish to attend the court hearing?
- Provided an address where documents can be delivered or posted to you? The applicant must provide an address for service in Australia.
- Answered **yes** or **no** to **ALL** the boxes that apply to both you and the other party to the marriage, about citizenship, residency and where you usually live? You may need to provide the Court with a copy of your Australian citizenship certificate, Australian passport or other proof of citizenship.
- Given the details of your marriage date and place exactly as they are shown on your marriage certificate? You need to provide the Court with a copy of your marriage certificate when you file your divorce application.
- If your marriage certificate is not in English, filed an English translation of it and an affidavit from the translator?
- If you and the other party have lived under the one roof for any time during the 12 month separation period, prepared an affidavit yourself and also arranged for an independent person to prepare an affidavit?
- If it has been less than two years since you married, participated in the required counselling and attached the signed counselling certificate or prepared an affidavit?
- Provided details of any other court cases or orders concerning you and the other party or the children?
- Provided information for each child currently under 18? If more than four children, have you attached extra pages?
- Signed the Application for Divorce before a lawyer, Justice of the Peace, or other person who is authorised to witness affidavits in your state or territory?
- Organised the appropriate fee or completed an Application for a Reduction of Court Fees form?
- Made two photocopies of the completed and signed Application for Divorce and any supporting documentation?
- If you are applying on your own (sole application), you have the *Notice to Respondent of Application for Divorce* ready from page 8 of this kit ready to attach to the service documents?

You should tick all the boxes that relate to your case before you file your Application for Divorce with the Court.

# APPLICATION FOR DIVORCE

Filed in:

- Federal Circuit Court of Australia
- Family Court of Australia
- Family Court of Western Australia
- Other (specify): \_\_\_\_\_



**NOTE:** Applications for Divorce can be electronically filed using a separate interactive online form through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). There is no need to complete this form if you wish to eFile. Visit the *How do I...? Apply for a Divorce* page at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi) for more details.

Client ID	
File Number	
<b>COURT USE ONLY</b>	
Filed at	
Filed on	
Court location	
Court date	
Court time	

## Part A The applicant/s

**1. Who is/are making this application?**

<input type="checkbox"/> Applicant	<input type="checkbox"/> Applicant and Applicant 2 together (joint)
------------------------------------	---

**2. Do you want to attend the hearing?**

It may be compulsory for you to attend.  
*Page D – Divorce Kit*

Applicant	Applicant 2
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

## Part B The parties

**3. Family name as used now**

**4. Full given names**

**5. Gender\***

**6. Date of birth**  
(day / month / year)

**7. Country of birth**

**8. If born outside Australia, date you started living in Australia**  
(day / month / year)

**9. What is your occupation?**

Applicant	Applicant 2/Respondent
<input type="checkbox"/> Choose not to answer	<input type="checkbox"/> Choose not to answer
<input type="checkbox"/> M (male)	<input type="checkbox"/> M (male)
<input type="checkbox"/> F (female)	<input type="checkbox"/> F (female)
<input type="checkbox"/> X (indeterminate/intersex/unspecified)	<input type="checkbox"/> X (indeterminate/intersex/unspecified)
/ /	/ /
/ /	/ /

\* You are not required to answer this question. The information assists to understand the diversity of family relationships in Australia and contributes to gender disaggregated data. The courts' privacy policies can be found on the websites [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au) and [www.familycourt.gov.au](http://www.familycourt.gov.au)

**10. Residential address**

If you have safety concerns, you do not need to disclose a residential address.

*Page C – Divorce Kit*

State                      Postcode Phone (     )	State                      Postcode Phone (     )
--	--

**11. Address for service**

*Page D – Divorce Kit*

If you do not have a service address for the other party and have taken all reasonable steps to find it, insert 'not known'.

*Page D – Divorce Kit*

<input type="checkbox"/> Same as residential address <input type="checkbox"/> Lawyer’s address (below) <input type="checkbox"/> Other address (below)	<input type="checkbox"/> Same as residential address <input type="checkbox"/> Lawyer’s address (below) <input type="checkbox"/> Other address (below)
---	---

State                      Postcode	State                      Postcode
-------------------------------------	-------------------------------------

**Name of lawyer**  
(if applicable)

**Name of law firm**  
(if applicable)

**Lawyer’s code**  
(if applicable)

**Phone**

**Fax**

**DX**

**Email**

(     )	(     )
(     )	(     )
(     )	(     )
(     )	(     )
(     )	(     )
(     )	(     )
(     )	(     )

**Part C**

**Jurisdiction**

**12. Mark yes or no to each statement below**

*Page E – Divorce Kit*

**(a) regards Australia as their home and intends to live indefinitely in Australia**

**(b) is an Australian citizen by birth or descent**

**(c) is an Australian citizen by grant of Australian citizenship**

**(d) ordinarily lives in Australia & has done so for 12 months immediately before filing this application**

Applicant	Applicant 2/Respondent
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

# Part D Marriage and separation

**13. Date and place of marriage on your marriage certificate** (day / month / year)

*Pages E & F – Divorce Kit*

Date	/	/
Town/city		
Country		

**14. Full names of both parties as they appear on the marriage certificate**

Applicant
Applicant 2/Respondent

**15. Date of separation** (day / month / year)

*Page F – Divorce Kit*

Date	/	/
------	---	---

**16a. At the date of separation, did you regard the marriage as over?**

*Page F – Divorce Kit*

Applicant	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Applicant 2/Respondent	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**16b. If you answered no to question 16(a), on what date did you regard the marriage as over?** (day / month / year)

Applicant	Date	/	/
Applicant 2/Respondent	Date	/	/

**17a. Since the date of separation, have you and the other party lived together in the same home but not as a married couple?**

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

**17b. If you answered yes to question 17(a), give dates of each period you and the other party lived together in the same home after separation.** (day / month / year)

If relying on any period outlined here as part of the 12 months separation, go to *Page F – Divorce Kit*.

From	/	/
to	/	/
From	/	/
to	/	/

**18a. Since the date of separation, have you and the other party lived together as a married couple?**

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

**18b. If you answered yes to question 18(a), give dates of each period you and the other party lived together as a married couple.**

(day / month / year)

If relying on any period outlined here as part of the 12 months separation, go to *Page G – Divorce Kit*.

From	/	/
to	/	/
From	/	/
to	/	/

**19. Do you think it is likely that you and the other party will live together again as a married couple?**

If yes, go to *Page G – Divorce Kit*.

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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**20. At the date of filing this application, is it less than two years since you married?**

If yes, go to *Page G – Divorce Kit*.

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------



## Part E Other court cases

21. Are there any current or pending cases in this or any other court about family law, child support, family violence, or abuse in relation to a child (including orders which have applied to a child or a member of the child's family), or child welfare, involving any of the parties and/or children listed in this application?

Court name and place

Next court date

Names of parties and/or children

Brief summary of current or pending case/s

Yes  No

If yes, provide the following details for each current or pending case. Attach extra pages as required.

22. Are there any existing orders, binding agreements, parenting plans or undertakings to a court about family law, child support, family violence, or abuse in relation to a child (including orders which have applied to a child or a member of the child's family), or child welfare, involving any of the parties and/or children listed in this application?

Court name and place (if applicable)

Date

Names of parties and/or children

Details of the order, binding agreement, parenting plan or undertaking

No

Yes, attach document/s

Yes, provide the following details for each item. Attach extra pages as required.

## Part F Children

23. Are there any children currently under 18 who:

a) are children of you and the other party?  Yes  No

b) were treated as members of your family when you and the other party separated?  Yes  No

*Page G – Divorce Kit*

If you answered no to both question 23 (a) and (b) go to Part G and remove pages 5-6.

If you answered yes to either question 23 (a) or (b) indicate the total number of children: \_\_\_\_\_

	Family name	Given names	Date of birth (day / month / year)	Gender (M/F)
Child 1			/ /	
Child 2			/ /	
Child 3			/ /	
Child 4			/ /	

	<b>Child 1</b>	<b>Child 2</b>
<b>24. Name of child</b>		
<b>25. Name of parent</b> <i>Page H – Divorce Kit</i>		
<b>26. Name of parent</b> <i>Page H – Divorce Kit</i>		
<b>27. Who does the child live with?</b> <i>Page H – Divorce Kit</i>	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):
<b>28. Child’s address</b> <i>If the child lives at more than one address, please include both addresses. Page H – Divorce Kit</i>  <i>If you have safety concerns, you do not need to disclose a residential address. Page C – Divorce Kit</i>	<b>Address 1</b>	<b>Address 1</b>
	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode
	<b>Address 2</b>	<b>Address 2</b>
	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode
<b>29. Current details for the child</b> <i>Page H – Divorce Kit</i>		
<b>Time and communication with the child</b>		
<b>Financial support</b>		
<b>Health</b>		
<b>Education</b>		
<b>30. Do you plan to make any changes to these current arrangements?</b> <i>Page H – Divorce Kit</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach extra pages providing details of significant changes planned.	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach extra pages providing details of significant changes planned.

	Child 3	Child 4
<b>31. Name of child</b>		
<b>32. Name of parent</b> <i>Page H – Divorce Kit</i>		
<b>33. Name of parent</b> <i>Page H – Divorce Kit</i>		
<b>34. Who does the child live with?</b> <i>Page H – Divorce Kit</i>	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):
<b>35. Child’s address</b> <i>If the child lives at more than one address, please include both addresses. Page H – Divorce Kit</i>  <i>If you have safety concerns, you do not need to disclose a residential address. Page C – Divorce Kit</i>	<b>Address 1</b>	<b>Address 1</b>
	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode
	<b>Address 2</b>	<b>Address 2</b>
	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode	<input type="checkbox"/> Applicant <input type="checkbox"/> Applicant 2/ Respondent <input type="checkbox"/> Other (specify):  State                      Postcode
<b>36. Current details for the child</b> <i>Page H – Divorce Kit</i>		
<b>Time and communication with the child</b>		
<b>Financial support</b>		
<b>Health</b>		
<b>Education</b>		
<b>37. Do you plan to make any changes to these current arrangements?</b> <i>Page H – Divorce Kit</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach extra pages providing details of significant changes planned.	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach extra pages providing details of significant changes planned.

# Part G Affidavit of applicant/s

Do not swear or affirm this affidavit until:

1. you and the other party have been separated for at least 12 months, and
2. you are with a person who is authorised to witness your signature.

If you are applying as a sole applicant, you only need to sign your part of the affidavit. You do not have to ask or arrange for the respondent to sign their part of the affidavit.

If you are applying together (joint application), each person must sign their part of the affidavit. You may do so at different times and before different witnesses or before the same witness at the same time.

## Applicant

I  swear /  affirm that:

1. I am the applicant.
2. I have read this application.
3. The facts of which I have personal knowledge are true.
4. All other facts are true to the best of my knowledge, information and belief.

Signature

Place  
Date / /

Before me (signature of witness)

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other authorised person (specify):

## Applicant 2

I  swear /  affirm that:

1. I am the applicant.
2. I have read this application.
3. The facts of which I have personal knowledge are true.
4. All other facts are true to the best of my knowledge, information and belief.

Signature

Place  
Date / /

Before me (signature of witness)

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other authorised person (specify):

# Part H Lawyer's declaration

If you are representing yourself for this application, you do not need to sign this part. However, make sure you receive a copy of the information brochure 'Marriage, Families and Separation'. You will be provided with a copy when you file your application.

If a lawyer is representing you for this application, then your lawyer must give you a copy of the brochure 'Marriage, Families and Separation' and complete and sign the declaration below.

I gave the applicant/s a copy of the brochure 'Marriage, Families and Separation'.

Signature of lawyer \_\_\_\_\_

Full name of lawyer:

Date: / /

# Notice to Respondent of Application for Divorce

If you have made a **sole** application for divorce you must attach this notice to the front page of the Application for Divorce to be served on the respondent.

## TO THE RECIPIENT OF THIS NOTICE

In the attached application the applicant is applying for a divorce. The Court has set down the hearing of this application at the time and place shown on page one of the application. You are only required to attend court if you do not want the divorce to be granted.

## WHAT TO DO NEXT

1. Sign and date the *Acknowledgement of Service (Divorce)* at Part C.
2. Return the *Acknowledgement of Service (Divorce)* to the person who served the application on you. Keep the other documents for your records.
3. Check the details given by the applicant in the application to make sure they are correct to the best of your knowledge.
4. Carefully read the *Marriage, Families and Separation* brochure provided. It sets out the legal and possible social effects of divorce and the services provided to families by the court and other government and community agencies.

## AFTER THE DIVORCE IS FINALISED

**One month and one day** after the divorce is granted, a **divorce order** will be available for you to download from the Commonwealth Courts Portal (the Portal). Divorce orders are digital orders with an electronic seal and signature and are the only type of proof of divorce the Court provides. The Portal also allows you to check the progress of the application and select to receive notifications.

To register for the Portal or if you need assistance, provide your file number (located on the front page of the application), full name, date of birth and name of the other party so we can verify your identity by:

- Emailing [registerme@comcourts.gov.au](mailto:registerme@comcourts.gov.au)
- LiveChat on the website [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)
- Calling the National Enquiry Centre on **1300 352 000**



## WHAT TO DO IF YOU:

### WANT THE DIVORCE GRANTED BUT DISAGREE WITH SOME OF THE FACTS IN THE APPLICATION

File a *Response to Divorce* and outline the facts you disagree with. You do not need to attend the court hearing.

### DO NOT WANT THE DIVORCE GRANTED

File a *Response to Divorce* and outline the reasons why you oppose the divorce. You should attend the hearing. If you do not attend, the court may make a decision about the divorce in your absence.

In certain circumstances you can ask the court to appear by telephone. For example, if you live some distance from the Court, you have an illness or disability, the costs of attending will cause you financial hardship or you have safety concerns. You must complete the *Telephone Link Attendance Request* form which you can then eFile on the Portal to make your request.

### YOU MUST file and serve the *Response to Divorce*:

- within **28 days** of the application being served on you if you are **in Australia**, or
- within **42 days** of the application being served on you if you are **outside of Australia**.

You can eFile the *Response to Divorce* on the Portal. See 'Commonwealth Courts Portal' at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi) for more information.

After filing the response **you must** serve a copy on the other party. For a step-by-step guide to service see 'Service' at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi)

**PROPERTY AND MAINTENANCE** is dealt with separately. If you want to apply to the Court about property or maintenance you must file a separate application **within 12 months** of the date the divorce is finalised. Otherwise you will need the Court's permission to apply. For more information see 'Applications and orders' at [www.federalcircuitcourt.gov.au/howdoi](http://www.federalcircuitcourt.gov.au/howdoi)

**ALL** the Court forms mentioned in this notice are available on the website [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

**LEGAL ADVICE** – You can obtain free legal advice by contacting the Family Relationships Advice Line on 1800 050 321 (+61 7 3423 6878) or Legal Aid in your state or territory. A lawyer can help you understand your rights and responsibilities.

# Where to file your divorce application

You can file your divorce application, online via [www.comcourts.gov.au](http://www.comcourts.gov.au), by post, or in person at any one of the following family law registries.

## AUSTRALIAN CAPITAL TERRITORY

### Canberra

(Nigel Bowen Commonwealth Law Courts)  
Cnr University Ave and Childers St  
Canberra ACT 2600  
GPO Box 9991 Canberra 2601

## NEW SOUTH WALES

### Albury

Level 1, 463 Kiewa St Albury NSW 2640  
PO Box 914 Albury NSW 2640

### Dubbo

Cnr Macquarie and Wingewarra Sts Dubbo NSW  
2830  
PO Box 1567 Dubbo NSW 2830

### Lismore

Level 2, 29-31 Molesworth St Lismore NSW 2480  
PO Box 9 Lismore NSW 2480

### Newcastle

61 Bolton St Newcastle NSW 2300  
PO Box 9991 Newcastle NSW 2300

### Parramatta

1-3 George St Parramatta NSW 2123  
PO Box 9991 Parramatta NSW 2123

### Sydney

(Lionel Bowen Commonwealth Law Courts)  
97-99 Goulburn St, Sydney NSW 2000  
GPO Box 9991 Sydney NSW 2001

### Wollongong

Level 1, 43 Burelli St, Wollongong NSW 2500  
PO Box 825 Wollongong NSW 2500

## NORTHERN TERRITORY

### Darwin

Supreme Court Building, State Square,  
Darwin NT 0800  
GPO Box 9991 Darwin NT 0801

## QUEENSLAND

### Brisbane

(Harry Gibbs Commonwealth Law Courts)  
119 North Quay Brisbane QLD 4000  
GPO Box 9991 Brisbane QLD 4001

### Cairns

Level 3 and 4, 104 Grafton St Cairns QLD 4870  
PO Box 9991 Cairns QLD 4870

### Rockhampton

46 East St (Cnr Fitzroy St) Rockhampton QLD 4700  
PO Box 9991 Rockhampton QLD 4700

### Townsville

Level 2, 143 Walker St Townsville QLD 4810  
PO Box 9991 Townsville QLD 4810

## SOUTH AUSTRALIA

### Adelaide

(Roma Mitchell Commonwealth Law Courts)  
3 Angas St Adelaide SA 5000  
GPO Box 9991 SA 5001

## TASMANIA

### Hobart

(Edward Braddon Commonwealth Law Courts)  
39-41 Davey St Hobart Tas 7000  
GPO Box 9991 Hobart Tas 7001

### Launceston

Level 3, ANZ Building,  
Cnr Brisbane and George Sts Launceston Tas 7250  
PO Box 9991 Launceston Tas 7250

## VICTORIA

### Dandenong

53-55 Robinson St Dandenong Vic 3175  
PO Box 9991 Dandenong Vic 3175

### Melbourne

(Owen Dixon Commonwealth Law Courts)  
305 William St Melbourne Vic 3000  
GPO Box 9991 Melbourne Vic 3001

## WESTERN AUSTRALIA

### Perth

Family Court of Western Australia  
150 Terrace Rd Perth WA 6000  
GPO Box 9991 Perth WA 6848  
08 9224 8222