

# Divorce

## What is a divorce?

Divorce is the process of legally ending a marriage. Divorce is separate from property settlement, parenting orders, and child support/maintenance.

## When can I apply for a divorce?

- When you have been separated for a minimum of twelve months and one day.
- If the marriage has broken down and there is no chance of getting back together.
- When appropriate arrangements have been made for the children, or there are circumstances to explain why these arrangements have not been made.
- You, or your spouse, is an Australian citizen or resident and regard Australia as your permanent home.

## Married overseas

If you were married overseas you can apply for a divorce in Australia in certain circumstances. You can call our free and confidential advice line to better understand the requirements.

## Married for less than two years

If you have been married for less than two years, you may be required to attend counselling before you apply for a divorce.

## How do I apply for a divorce?

Your application must be completed and filed on the Commonwealth Courts Portal. You need to set up an account name and password. You can register for an account with the portal by visiting [comcourts.gov.au](http://comcourts.gov.au) and select 'Register Now'.

You will need a copy of your marriage certificate to upload onto the Portal.

You can apply for a divorce by yourself (this is called a sole application) or together with the other party to the marriage (this is called a joint application).

If your application is a sole application, you will need to have the divorce documents served on the other party. You can pay a Process Server to do this for you, or you can have a friend or family member do it, but there are a few specific processes that must be followed for the document to be properly served. For more information about the service of documents, you can read more information on the Federal Circuit Court website, [federalcircuitcourt.gov.au](http://federalcircuitcourt.gov.au) and select 'How do I serve a divorce?', or call our legal advice line for more information.

If you have lived under the same roof while separated, you will need to include an affidavit (a type of legal document) to explain the circumstances of your relationship.

## Can my application for divorce be opposed?

A divorce application can be opposed if there has not been twelve months separation.

## How much does it cost?

The fee for filing a divorce application is \$940. If you have a concession card you are eligible for a reduced fee of \$310.

## What else do I need to know?

If you want to divide the items owned during the marriage through a property settlement, you should speak to a lawyer to get more information and to learn more about any time constraints that may apply in your specific circumstances.

Divorcing your partner can also have implications for your superannuation and your Will. You should speak to a lawyer to understand what this means for you.

## **Contacts**

Additional help is available by contacting the following organisations:

- Women's Legal Service Tasmania can be contacted on **1800 682 468**.

*This publication is intended to give general information. Whilst we have made every effort to ensure the contents of this publication are accurate at the time of writing, the law and services can change. Legal and service exactness is not possible in a publication of this nature, and this publication should not be used as a substitute for legal advice.*

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