



## Divorce

### Obtaining a divorce

To obtain a divorce, an application for divorce is filed in the Federal Circuit Court of Australia.

You can apply for a divorce if:

- Your marriage has broken down irretrievably.
- There is no reasonable likelihood of resuming cohabitation.
- You have been separated from your spouse for at least 12 months before the application for divorce is filed.

### Process of obtaining a divorce

The process to obtain a divorce is:

- Complete and sign an Application for Divorce (the application).
- File the original application and two copies plus a copy of your marriage certificate in the Federal Circuit Court of Australia and pay the applicable filing fee. The filing fee may be reduced if you hold a concession card or can demonstrate financial hardship.
- When you file the application, the application will be given a hearing date.
- You will need arrange for someone other than yourself to serve a copy of the application plus the information brochure 'Marriage, Families and Separation' on

your spouse at least 28 days before the hearing date if your spouse lives in Australia, or 42 days if they live overseas.

- On the hearing date, your application will ordinarily be considered by a Court Registrar or Judicial Officer who will grant a divorce if satisfied that:
  - your marriage has broken down irretrievably and that you have been separated for at least 12 months before the application for divorce was filed;
  - your spouse was properly served and there is evidence of this (such as an affidavit of service and signed acknowledgement of service); and there are appropriate arrangements in place for the children of the marriage under 18 years (if applicable).

You do not need to be present on the hearing date if you do not have children under 18 years of age. If there are children under 18 years, you will need to be present on the hearing date unless it is a joint application for divorce made by you and your spouse.

Your divorce will become final one month and one day after the Court determines your application. Once your divorce is final, a certificate of divorce will be issued providing that your marriage is legally at an end and from that time you can re-marry.

### Time limit

Once a divorce is granted, the time limit within which proceedings for property settlement or spousal maintenance may be brought (without an application for leave to proceed out of time) is 12 months from the date of the divorce.

### Other considerations

Upon separation and divorce, it is important that you reconsider the terms of your Will, whether you and your former spouse hold any property as joint tenants which should be changed to tenants in common, any powers of attorney you have and the nomination of any beneficiaries under any superannuation or life insurance policies you may hold.

For more information, please contact: [contactus@hopgoodganim.com.au](mailto:contactus@hopgoodganim.com.au) or visit [hgprivate.com.au](http://hgprivate.com.au)

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