

## Divorce - What's Involved in Getting Divorced?

Obtaining a divorce legally puts an end to your marriage and enables you to remarry. The grounds for divorce in Australia are straightforward, you can apply for a divorce if:

- Your marriage has broken down irretrievably; and
- You and your spouse have separated and have been living separately and apart for a continuous period of not less than twelve (12) months prior to filing the Application for Divorce.

The Court will not grant a divorce if it is satisfied that there is a reasonable likelihood of co-habitation between yourself and your partner being resumed. Also, if there are children under the age of 18 years, the Court must be informed of and satisfied that reasonable arrangements have been made for the care of the children. These details will be included on your Application form.

The procedure for obtaining a divorce is as follows:

- If the grounds for divorce are satisfied (as above) then an Application is prepared and signed by you (it may also be signed jointly by your partner if they agree to do so);
- The Application is then filed in the Federal Circuit Court (filing fees will apply unless you meet certain criteria);
- The Application is allocated a hearing date in Court (usually some six (6) weeks after filing). If there are no children under the age of 18 years there is no requirement for either party to attend court;
- If there are children under 18 years of age and the Application is a joint application neither party needs to attend Court;
- If the children are under 18 years of age and the Application was a sole Application by one of the parties, that party who made the Application must attend Court;
- The Application is then served upon your spouse (either through the mail or by a process server);
- On the hearing date a Registrar in the Federal Circuit Court will read your Application and provided that they are satisfied as to the grounds for the divorce, the arrangements for the children (if applicable) and that your partner was properly served, then they will grant a Divorce.
- The divorce hearing before the Registrar is straightforward and usually lasts for five (5) to ten (10) minutes;
- There will usually not be any need for you to give any evidence during the divorce hearing;
- After your Divorce is granted by the Registrar on the hearing date then exactly one (1) month and one (1) day after that date, your Divorce will be final and your Divorce Order will issue. In other words in one (1) month and one (1) day's time after your divorce hearing you will then be in a position to remarry;

If you have any concerns or queries regarding your divorce, it is imperative that you engage a Family Law Solicitor to ensure that you achieve the best outcome for your situation.

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