Application for Divorce Kit

FEDERAL MAGISTRATES COURT
OF AUSTRALIA

FEDERAL MAGISTRATES COURT OF AUSTRALIA

USE THIS KIT WHEN ASKING FOR COURT ORDERS TO END A MARRIAGE.

THIS KIT COMPRISES:

- A checklist (inside front cover)
- Information (pages A-E)
- Application for Divorce (pages 1-12)
- Notice of application
- Where to file (inside back cover)
- Help in other languages (back cover)

CHECKLIST

This checklist is provided as a guide to completing the form correctly. It highlights particular questions which the Court has found people do not always answer correctly or fully.

- ☐ At Part B, Item 2 on page 1, if this is a joint application and there are children under 18 years, have you informed us about whether either or both of you wish to attend Court when your case is being considered?
- ☐ At Part B, Item 2 on page 1, if you are applying on your own and there are no children under 18 years, have you informed us as to whether you wish to attend Court when your case is being considered?
- ☐ At Part C, Item 3 on page 1, if you are now known by a different name to that on your marriage certificate, you will need to provide proof of change of name. This does not apply if you have reverted to your maiden name.
- ☐ At Part C, Item 12 on page 2, have you marked all the boxes that apply to both you and your spouse about citizenship, residency and where you usually live?
- ☐ At Part C, Item 14 on page 3, have you clearly stated your contact address (address for service) in Australia?
- ☐ At Part D, Item 15 on page 3, have you given the details of your marriage date and place exactly as they are shown on your marriage certificate? You will need to provide the Court with a photocopy of your marriage certificate when you lodge the application for divorce.
- ☐ At Part E, Item 18 on page 4, have you prepared, ready to file affidavits by yourself and another person to support your claims that you and your spouse were separated under the one roof?
- ☐ At Part F on page 5, if it has been less than two years since you married, have you participated in the required counselling and attached the certificate (signed by the counsellor) to the application?
- ☐ At Part G on pages 5 and 6, have you provided details of any other Court cases or orders concerning you, your spouse or the children?
- ☐ At Part H on pages 6–10, have you given us separate information for each child under the age of 18? If you do not have the information yourself you should obtain an affidavit from the person with whom the children live.
- ☐ At Part I on page 11, have you sworn or affirmed and signed the application in the presence of a Justice of the Peace, notary public or lawyer?
- ☐ If you are applying on your own, have you completed the Notice of Application attached to the application form?
- ☐ Have you provided the appropriate fees or exemption or waiver with this form?
- ☐ Have you answered every question that applies to you?
- ☐ Have you made two photocopies of the completed application?

APPLICATION FOR DIVORCE
- what you need to know

WHO USES THE FORM

- You - if you are applying for a divorce by yourself.
- You and your spouse - if you are applying jointly.

FILLING IN THE FORM

- Type or print clearly in ink.
- Mark [X] boxes where this is needed.

Alternatively, you may complete the interactive divorce application. The Federal Magistrates Court interactive divorce application is available at www.divorce.gov.au

YOUR RESPONSIBILITIES

As the person/s making the application for divorce you are responsible for making sure that all your paperwork is organised before your court hearing.

The questions asked and information required when you complete the form are to help make sure that you meet the requirements of the Family Law Act and rules of court. This is essential, otherwise your application may be adjourned or dismissed.

Registry staff can help you, they cannot give you legal advice and they are not responsible for the accuracy of your documents.

WHO CAN APPLY FOR A DIVORCE IN AUSTRALIA

You can apply for a divorce if either you or your spouse:

- is an Australian citizen, or
- is ordinarily resident in Australia and has been for the year immediately before the application is filed (lodged), or
- is domiciled (place of residence) in Australia, and
- you have lived separately and apart from your spouse for at least 12 months, and there is no reasonable likelihood of resuming married life.

Note : It is possible to live under the one roof and still be seperated, for further details see Part E (on page 4) of the attached application form.

MARRIAGES UNDER TWO YEARS

If it has been less than 2 years since you married and you want to apply for a divorce see Part F (on page 5) of the attached application form.

ABOUT THE WORDS USED IN THIS KIT

- Affidavit is a written statement which is sworn or affirmed by you before a Justice of the Peace, notary public or lawyer. You must have the affidavit at Part I attached to the Application for Divorce sworn or affirmed before filing it with the Court.
- Certificate of divorce is the document issued by the Court once the divorce becomes final.
- Contact address (address for service) in Australia means the address in Australia that a party in a case nominates as being the place where documents are to be left for them or mailed, faxed or emailed to them.
- Court date means the date on which the application is to be heard. This date, the time and the location appear in the box in the top right corner of the Application for Divorce.
- Decree nisi is the order made when the Court grants your divorce. After one month and one day, this decree automatically becomes absolute (final) but there are exceptions to this (see Step 7A on page E).
- Filing is the procedure of you lodging an application or other document with a registry of the Court. You can do this by hand or post.
- Party means a person involved in a case before the Court. Once the Application for Divorce is filed, both you and your spouse become parties to the application.
- Registry is how Court offices are known, for example, the Melbourne Registry is in the Commonwealth Law Courts building on William Street. The services of both the Family Court and the Federal Magistrates Court are provided through the family law registries.
- Service means the process of giving or delivering divorce or other documents to a party after they have been filed. You should obtain from the registry a kit telling you about service.
- Spouse means your husband or wife.

IF YOU INTEND TO REMARRY

You should not make arrangements to remarry until the divorce has become final. You should also not assume that the divorce will be granted at the first hearing. For example, you may be told by the Court at the hearing that you will need to provide more information.

If you intend to remarry, you must give your 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 is granted (decree nisi) the Marriage Celebrant may accept the Notice of Intended Marriage, however you must show the Certificate of Divorce to the Marriage Celebrant before the wedding can take place.

THE STEPS IN APPLYING FOR AND OBTAINING A DIVORCE

STEP 1 COMPLETING THE APPLICATION FORM AND HAVING THE AFFIDAVIT SWORN OR AFFIRMED

STEP 1A Have your details either typed or clearly printed in ink on the attached application form. Please take time to read the information contained in the checklist on the inside front cover as it will help you to correctly complete the form.

STEP 1B Once you have completed the application you need to **swear or affirm and sign it in the presence of a Justice of the Peace, notary public or lawyer**. This means that you do not put your signature on the application until such time as you are being witnessed (watched) by this person. If you do not have a lawyer assisting you with this application, you may be able to find a list of Justices of the Peace in the Yellow Pages. Registry staff may be able to advise you where you can find a Justice of the Peace – in some registries volunteers who are Justices of the Peace provide a service for swearing or affirming affidavits. Please ask registry staff whether this facility is available.

STEP 1C You make 2 photocopies of your completed and signed application form (so that you have one original and two copies in total). The photocopies must be clear and easy to read. You are now ready to file the application.

STEP 2 FILING YOUR APPLICATION AND RECEIVING A HEARING DATE AND PLACE

STEP 2A An application for divorce should generally be filed in the Federal Magistrates Court in all states and territories, except Western Australia. In Western Australia, applications for divorce should be filed in the Family Court of Western Australia.

- **The original application form** plus two copies of it. You may file the application by attending the court registry in person or by post. A fee is payable, ask registry staff for details. However, you may not have to pay the fee depending on your circumstances. Ask registry staff for the relevant form that you need to fill in and provide to the Court.
- **A photocopy of your marriage certificate.** If you do not have your marriage certificate to photocopy a certified copy can be obtained from the Registry of Births, Deaths and Marriages in the country, state or territory where you were married.

  If you cannot provide a copy of your marriage certificate, then the Court will need evidence from you in an affidavit proving that you are married. You should obtain legal advice about how to do this.

  If your marriage certificate is not in English, then you must also lodge:

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

The Commonwealth Department of Immigration and Multicultural and Indigenous Affairs can tell you how to get a translation.

STEP 2B The registry puts a file number and the time, date and place for the hearing of your application on the divorce form. The application may be heard at the location where you file it, or you can ask about having the application listed for hearing at a place more convenient to you, if it is visited by the Court on circuit.

Ask registry staff for circuit locations and dates or visit the Court's website www.fmc.gov.au

You receive back from the Court:

- 2 copies of the application, and
- 2 copies of the information brochure Marriage, Families and Separation. This sets out the legal and possible social effects of applying for a divorce and the mediation and welfare facilities available to assist you.

STEP 3 WHAT TO DO WITH THE COPIES OF THE APPLICATION AFTER FILING

If you and your spouse have made a joint application, you both keep a copy of the completed application and the brochure, Marriage, Families and Separation. You should carefully note the date of hearing which will be clearly marked on the application.

If you are applying on your own, you keep one copy of the completed application and one brochure. You must arrange to have the other copy of the brochure and completed application and any other documents filed with the application, except the photocopy of the marriage certificate, served on your spouse. Service refers to the process of giving or delivering court documents to your spouse after they have been filed.

The completed application and brochure must be served on your spouse by:

- handing it to your spouse (you must arrange for someone other than yourself to hand it to your spouse) or
- sending it to your spouse by post at their last know address.

If you serve the documents by post, you must also include:

- a stamped self addressed envelope and
- a form of acknowledgment of service.

You should only send the documents to your spouse by post if you are confident they will complete and send back to you a signed acknowledgment of service. If your spouse signs and returns the acknowledgment of service in the self addressed envelope, you will need to complete an affidavit for service by post (divorce) and affidavit of proof of signature and file these service documents with the court.

If you are not confident your spouse will complete and send back to you a signed acknowledgment of service or you unsuccessfully attempted service by post, you will need to arrange for the documents to be personally served on your spouse.

You can not personally serve the documents on your spouse: instead, you must arrange for a third person (over 18 years of age) to serve the documents. This third person may be a family member, friend or process server.

The person serving the documents should obtain an acknowledgment of service, signed by your spouse, and complete an affidavit of service (divorce). You will need to complete an affidavit of proof of signature and then file these service documents with the court.

If your spouse is in Australia, the application and brochure must be served at least 28 days before the hearing date. If your spouse is overseas, the application must be served at least 42 days before the hearing date (you do not need to send the brochure overseas).

It is possible to apply to the Court to dispense with service of the application if:

- you have made all reasonable attempts to serve your spouse but they refuse to accept service or
- you do not know your spouse's address and after making all reasonable inquiries you cannot find it out.

You should obtain legal advice about how to make an application to dispense with service.

STEP 4 WHAT HAPPENS IF YOUR SPOUSE AGREES FOR THE DIVORCE TO BE GRANTED?

Your spouse will not have to do anything unless the Court requires additional information about any child.

If your spouse agrees that the divorce should be granted but wishes to dispute any of the facts in the application your spouse may file a response with the Court.

STEP 5 WHAT HAPPENS IF YOUR SPOUSE DOES NOT AGREE THAT THE DIVORCE SHOULD BE GRANTED?

Your spouse must then file a response to your application:

- if it is served in Australia, **within 28 days of service of the application**
- if it is served outside Australia, **within 42 days of service of the application**.

After filing the response at the Court registry, your spouse must serve a copy of the response on you. It is possible for the Court to extend the time for your spouse to file a response.

STEP 6 THE COURT HEARING

If you do not have any children you do not need to attend the hearing if you have requested that the application be heard in your absence, and your spouse has not objected to this.

If you have children and are applying on your own, you must come to the Court for your hearing at the time and date entered on your application form.

You do not have to attend the hearing if:

- you are making a joint application together with your spouse

AND

- you request the application be heard in your absence by answering 'no' to Question 2 in Part B of the attached application form.

If you have to come to Court and it is difficult for you to attend in person, you may ask the Court to allow you to attend by telephone or video link. To do this you must make a request in writing to the Court at the registry where your application for divorce is filed at least 7 days before the hearing. You may be required to pay the costs of the video link.

If you do not attend the divorce hearing, the Court may adjourn or dismiss your application.

If you are making a joint application and you decide after filing the application that you wish the Court to hear your application in your absence, it is possible to ask the Court to do this by both of you writing to the Court.

You should arrive at least 15 minutes before the time shown on your application form and be neatly dressed to appear in Court.

Court staff will help you on your arrival. Ask them beforehand how to address the judicial officer hearing the application, for example as 'your Honour' or 'Registrar'. You should stand when the judicial officer enters or leaves the courtroom and remain standing until he or she sits down. You should also stand whenever you are speaking to the judicial officer.

Children under 18 are generally not allowed in the courtroom.

STEP 7 DECREE NISI AND THE DIVORCE BECOMING FINAL

STEP 7A If your divorce is granted, an order called a decree nisi is made. After one month and one day, this decree automatically becomes absolute (final) unless within this time:

- an appeal or an application to rescind (set aside) the decree is filed and cannot be determined in that period of one month; or
- one of you has died; or
- the Court has declared that it is not satisfied that there are proper arrangements for all children aged under 18 years.

You may apply to the Court to reduce this period to less than 1 month and 1 day, if there are special circumstances. You may apply in writing before the hearing date, but usually you ask at the hearing.

This period is more likely to be shortened if your spouse agrees to it and tells the Court, either in person or in writing.

Note: You should not assume that the divorce will be granted at the first hearing. For example, you may be told by the Court at the hearing that you will need to provide more information. In particular, you should not make arrangements to remarry until the divorce has become final.

STEP 7B After the divorce has become final, the Court will automatically send a Certificate of Divorce to you and your spouse or to your lawyer if you have one.

ARRANGEMENTS FOR CHILDREN, MAINTENANCE OR PROPERTY

The granting of a divorce does not decide issues of maintenance, child support, property or parenting arrangements for your children. If you want to apply for orders about these issues, you must make an application for final orders with the Court.

NOTE: If you need to apply for maintenance for yourself or a division of property you must apply to the Court within 12 months of your divorce becoming final. After that time you will need the Court's permission to apply.

CHANGE OF NAME OR ADDRESS

If you change address after the application is filed you must file a Notice of Address for Service so the Court can send any papers to the correct address. This form is available from registries. If you change your name after the application has been filed, you must inform the Court in writing.

LEGAL ADVICE

Court staff cannot provide legal advice, although they can help with questions about legal procedure and the Court process.

It is important that you understand the meaning and effect of the orders you seek.

Even if you have decided to make your application without the help of a lawyer, you should obtain independent legal advice about the effect and consequences of the orders you propose and the rules of evidence that may apply to your affidavit.

If you are unsure of how to seek legal advice or how to choose a lawyer, the Law Society or Institute in your State or Territory may be able to help you.

If you think you may be eligible for legal aid, contact your nearest Legal Aid office. If you are an Aboriginal or Torres Strait Islander you can also contact your local Aboriginal, or Aboriginal and Torres Strait Islander Legal Service.

You may also be able to obtain assistance from your nearest Community Legal Centre.

APPLICATION FOR DIVORCE

COURT USE ONLY
Client ID
File number
Filed at
Filed on
Court location
Court date
Time

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

FILED IN:

- ☐ Federal Magistrates Court of Australia
- ☐ Family Court of Western Australia
- ☐ Family Court of Australia

PART A ABOUT THE APPLICANT/S

1 WHO IS MAKING THIS APPLICATION?

☐ Both of us together ☐ The husband alone ☐ The wife alone

PART B ABOUT COURT ATTENDANCE

- IF YOU ARE THE SOLE APPLICANT AND THERE ARE CHILDREN OF THE MARRIAGE UNDER 18 YEARS YOU MUST ATTEND AT COURT.
- IF THERE ARE NO CHILDREN OF THE MARRIAGE UNDER 18 YEARS OR YOU ARE MAKING A JOINT APPLICATION, WITH OR WITHOUT CHILDREN, YOU MAY APPLY TO HAVE THE APPLICATION HEARD IN YOUR ABSENCE.

2 DO YOU WANT TO ATTEND THE COURT WHEN IT DECIDES YOUR APPLICATION?

HUSBAND ☐ Yes ☐ No WIFE ☐ Yes ☐ No

Please note:

- If you do not mark any box, you must attend Court.
- Even if you mark the 'No' box, if the Court requires more information you may still be required to attend Court and the application may be adjourned to enable your attendance.

PART C ABOUT THE HUSBAND AND WIFE

- A sole applicant – complete your column and as much of the other column as you can
- Joint applicants – complete both columns

3

HUSBAND	WIFE
Family name as used now	Family name as used now
Given names	Given names

4

FULL NAME AS IT APPEARS ON THE MARRIAGE CERTIFICATE	FULL NAME AS IT APPEARS ON THE MARRIAGE CERTIFICATE
Family name	Family name
Given names	Given names

HUSBAND

5 WHEN AND IN WHAT COUNTRY WERE YOU BORN?

Day /Month /Year Country

/ /

*** 6** ARE YOU OF ABORIGINAL AND/OR OF TORRES STRAIT ISLANDER ORIGIN?

- ☐ No
- ☐ Yes Aboriginal
- ☐ Yes Torres Strait Islander
- ☐ Yes Aboriginal and Torres Strait Islander

*** 7** IN WHICH COUNTRY WAS YOUR MOTHER BORN?

*** 8** IN WHICH COUNTRY WAS YOUR FATHER BORN?

9 DO YOU NEED AN INTERPRETER?

☐ Yes ☐ No

10 IF AN INTERPRETER IS NEEDED, IN WHAT LANGUAGE AND WHAT DIALECT?

11 WHAT IS YOUR USUAL OCCUPATION?

WIFE

WHEN AND IN WHAT COUNTRY WERE YOU BORN?

Day /Month /Year Country

/ /

ARE YOU OF ABORIGINAL AND/OR OF TORRES STRAIT ISLANDER ORIGIN?

- ☐ No
- ☐ Yes Aboriginal
- ☐ Yes Torres Strait Islander
- ☐ Yes Aboriginal and Torres Strait Islander

IN WHICH COUNTRY WAS YOUR MOTHER BORN?

IN WHICH COUNTRY WAS YOUR FATHER BORN?

DO YOU NEED AN INTERPRETER?

☐ Yes ☐ No

IF AN INTERPRETER IS NEEDED, IN WHAT LANGUAGE AND WHAT DIALECT?

NOTE : If you require an interpreter, you must advise Court staff in advance of the divorce hearing.

WHAT IS YOUR USUAL OCCUPATION?

12 WHICH OF THE FOLLOWING APPLIES TO YOU AND YOUR SPOUSE?

MARK [X] EVERY BOX THAT APPLIES TO THE HUSBAND AND EVERY BOX THAT APPLIES TO THE WIFE.

☐ I regard Australia as my home and I intend to live indefinitely in Australia	☐ I regard Australia as my home and I intend to live indefinitely in Australia
☐ I have lived my whole life in Australia	☐ I have lived my whole life in Australia
☐ I am an Australian citizen	☐ I am an Australian citizen
☐ I ordinarily live in Australia and have done so for 12 months immediately before filing this application	☐ I ordinarily live in Australia and have done so for 12 months immediately before filing this application

- If the 'Australian citizen' box is the only one you have marked and you were not born in Australia, bring your passport or citizenship certificate with you when you file this form.
- If you are an Australian citizen by birth but have not resided in Australia for 12 months immediately before filing this application, bring your passport or a copy of your birth certificate when you file this form.

* You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

HUSBAND

13 IF YOU WERE BORN IN ANOTHER COUNTRY, WHEN DID YOU START TO LIVE IN AUSTRALIA AND HOW LONG HAVE YOU LIVED IN AUSTRALIA?

Date arrived	Total time	
/ /	Years	Months

14 WHAT IS YOUR CONTACT ADDRESS (ADDRESS FOR SERVICE) IN AUSTRALIA?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents.

State Postcode

Phone Fax*

DX

Lawyer's code

Email *

WIFE

IF YOU WERE BORN IN ANOTHER COUNTRY, WHEN DID YOU START TO LIVE IN AUSTRALIA AND HOW LONG HAVE YOU LIVED IN AUSTRALIA?

Date arrived	Total time	
/ /	Years	Months

WHAT IS YOUR CONTACT ADDRESS (ADDRESS FOR SERVICE) IN AUSTRALIA?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents.

State Postcode

Phone Fax*

DX

Lawyer's code

Email *

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

PART D ABOUT THE MARRIAGE

Provide the following information directly from your marriage certificate.

15 ON WHAT DATE, IN WHAT TOWN/CITY AND IN WHICH COUNTRY DID YOU GET MARRIED?

Day/Month/Year	Town/City	Country
/ /		

If it has been less than two years since you married and you want to apply for a divorce, there are specific requirements you must meet before making this application. See Part F for details.

PART E ABOUT THE SEPARATION

Before completing Items 16 to 20 please carefully read the following information about separation.

You must have been separated from your spouse for not less than 12 months **before you sign this application and file it with the Court.**

- **It is possible to live under the one roof and still be separated** (this is called 'separation under the one roof'). This can happen if you and your spouse had decided the marriage was over and were living independently from each other. For example, if you no longer shared the usual activities of marriage such as sex, eating meals together, performing domestic services for each other, sharing finances and going out together.

  If this is your situation, the Court will require evidence to support your claims that you and your spouse were separated under the one roof. This may include evidence from another person such as a neighbour, friend or relative who is familiar with the circumstances. You and the person who gives supporting evidence should each put your evidence into an affidavit which should be filed with your application.

- **It is possible to live physically separate and to not be 'separated'** – for example, if a spouse works away from home, is in hospital or in jail. In these situations, the date you separated will usually be the date on which one of you decided the marriage was over and told the other spouse.

- **The minimum period for separation is one year.** However, if you have lived together as husband and wife for 1 period of up to 3 months after separating then you can use the periods of separation before and after living together again as husband and wife to calculate the required 12 months separation for divorce.

Example 1		Example 2
First separation for 6 months Together again for 3 months Final separation for 6 months	OR	First separation for 3 months Together again for 2 months Final separation for 9 months

In both examples the total periods of separation equal 12 months and a divorce can be applied for.

If necessary add an extra page to the application to explain the circumstances, numbering it the same as the question to which it relates.

16 WHEN DID YOU SEPARATE?

Day /Month /Year

/ /

17 WAS THE DATE YOU WROTE AT ITEM 16 THE DATE ON WHICH YOU REGARDED THE MARRIAGE AS OVER?

☐ Yes GO TO ITEM 18

☐ No On what date did you regard the marriage as over?

HUSBAND	WIFE
Day /Month /Year	Day /Month /Year
/ /	/ /

If you are applying alone, you should not refer to the intention of your spouse unless you can provide further information as to how you know what your spouse 's intention was.

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

18 SINCE YOU AND YOUR SPOUSE SEPARATED, HAVE YOU LIVED UNDER THE ONE ROOF BUT NOT AS HUSBAND AND WIFE?

☐ No GO TO ITEM 19

☐ Yes Provide the following details

Day /Month /Year		Day /Month /Year	Length
From / /	to	/ /	
From / /	to	/ /	

19 AT ANY TIME AFTER YOU SEPARATED, HAVE YOU AND YOUR SPOUSE LIVED TOGETHER AS HUSBAND AND WIFE?

☐ No GO TO ITEM 20

☐ Yes Provide the following details

Day /Month /Year		Day /Month /Year	Length
From / /	to	/ /	
From / /	to	/ /	

20 DO YOU THINK IT LIKELY THAT YOU WILL LIVE TOGETHER AGAIN AS HUSBAND AND WIFE?

☐ No

☐ Yes

PART F COUNSELLING CERTIFICATE FOR APPLICANTS MARRIED LESS THAN 2 YEARS

21 IS IT LESS THAN TWO YEARS SINCE YOU MARRIED?

☐ No GO TO PART G

☐ Yes Before filing the application, EITHER:

- You and your spouse attend counselling with an approved family and child counsellor to discuss the possibility of reconciliation. You should have the counsellor complete and sign a certificate which is available from the registry which verifies you have undertaken this counselling. You then attach the certificate to the back of this application when you file it.

OR

- If you have not obtained a counselling certificate before filing the application the applicant/s must write to the Court requesting permission to file an Application for Divorce. You must file an affidavit setting out the facts upon which you rely to satisfy the court that there are special circumstances why you should be allowed to seek a divorce within 2 years of your marriage.

PLEASE NOTE: To proceed there still needs to be at least 12 months since the date you separated.

PART G ABOUT OTHER COURT CASES AND ORDERS

Before the Court can decide your Application for Divorce, it needs to know:

22 ARE THERE ANY ONGOING CASES IN THIS OR ANY OTHER COURT ABOUT FAMILY LAW, CHILD SUPPORT, DOMESTIC VIOLENCE OR CHILD WELFARE THAT INVOLVE ANY OF THE PARTIES OR ANY OF THE CHILDREN LISTED ON THIS FORM?

☐ No GO TO ITEM 23

☐ Yes Provide the following details

Court name and place	Next Court date
	/ /

Names of the parties to the order/agreement/parenting plan/undertaking

Orders sought

IF THERE IS MORE THAN ONE CASE, PLEASE ATTACH AN EXTRA PAGE, NUMBERING THE NEXT CASE ITEM 22, PAGE 2 AND SO ON.

23 ARE THERE ANY EXISTING ORDERS, AGREEMENTS, PARENTING PLANS OR UNDERTAKINGS TO A COURT ABOUT FAMILY LAW, CHILD SUPPORT, DOMESTIC VIOLENCE OR CHILD WELFARE CONCERNING ANY OF THE PARTIES OR CHILDREN LISTED ON THIS FORM?

☐ No GO TO ITEM 24

☐ Yes Either attach a full copy of the order, parenting plan, agreement or undertaking or set out details below (attach an extra page if you need more space, numbering the page/s Item 23 page 2 and so on).

☐ Attached is a copy/copies of the following (mark [X] all the boxes that apply):

☐ order ☐ undertaking

☐ parenting plan ☐ agreement

OR

☐ GIVE THE FOLLOWING DETAILS:

Court name and place Next Court date

/ /

Names of the parties to the order/agreement/parenting plan/undertaking

Details of the order/agreement/parenting plan/undertaking

PART H ABOUT CHILDREN UNDER 18

The information you need to provide in this part is only used by the Court to decide about your application for divorce. Any application to the Court for orders about the children must be made by a separate application.

The Court can only grant a divorce if it is satisfied that there are proper arrangements for all children aged under 18 years at the time of the application, or that there are special reasons why the divorce should be granted. This means that you need to provide detailed information about housing, supervision, contact, financial support, health and education for all children who are under 18 years of age at the time of the application, including for:

- any children of you and your spouse born before the marriage or after separation
- children adopted by you and your spouse
- any other child (including a child of neither of you) who was treated as a member of your family immediately before your final separation.

You must provide the information individually for each child (for example, for Child 1, Child 2, Child 3 and so on). If you cannot provide that information yourself, you should request that the person with whom the children are living complete an affidavit containing the information and file it in the Court. If you can not provide enough information then you should be prepared to inform the Court of the reasons and the attempts you have made to obtain that information. Otherwise the Court may adjourn your application until you do so.

24 HOW MANY CHILDREN ARE THERE OF YOUR MARRIAGE CURRENTLY UNDER 18 (INCLUDE CHILDREN TREATED AS MEMBERS OF YOUR FAMILY WHEN YOU LAST SEPARATED)?

_____

If none, go to Part I, on page 11, and remove pages 7 –10.

25 GIVE THE FOLLOWING DETAILS FOR EACH CHILD

	Family name	Given names	Date of birth	M/F
Child 1:			/ /	
Child 2:			/ /	
Child 3:			/ /	
Child 4:			/ /	

CHILD 1

CHILD 2

26 CHILD'S ADDRESS

If the child lives at more than one address then include both addresses (you may need to attach an extra page). **If you do not want to give the address because you fear violence from your spouse, you do not need to include it but you may be asked to give your reasons in Court.**

State Postcode

State Postcode

27 WHO ELSE LIVES IN THE CHILD'S HOME WHEN THE CHILD IS LIVING WITH THE HUSBAND AND WHEN THE CHILD IS LIVING WITH THE WIFE? DO NOT INCLUDE THE OTHER CHILDREN LISTED IN ITEM 25.

☐ **Husband**

☐ Other person Age _____

☐ Male ☐ Female

Name and relationship to the child

☐ **Wife**

☐ Other person Age _____

☐ Male ☐ Female

Name and relationship to the child

☐ **Husband**

☐ Other person Age _____

☐ Male ☐ Female

Name and relationship to the child

☐ **Wife**

☐ Other person Age _____

☐ Male ☐ Female

Name and relationship to the child

28 CURRENT DETAILS CONCERNING THE CHILD.

WHERE DETAILS FOR CHILD 2 ARE THE SAME AS CHILD 1 WRITE "AS FOR CHILD 1"

Housing (for example, 3 bedroom house - child has own room)

Supervision (who looks after the child? For example, if the parent who lives with the child is working outside the home who looks after the child during parents absence).

Child 1 continued	Child 2 continued WHERE DETAILS FOR CHILD 2 ARE THE SAME AS CHILD 1 WRITE "AS FOR CHILD 1"

Contact (the arrangements for the child to have contact with the other spouse, if they are not living with them, for example, how often contact occurs and what type. Contact can be face to face, or by phone, email or letters. If a natural parent is not a party to the marriage identify him or her, state the contact and state the reasons if the child has limited or no contact with that person).

Financial support (details about maintenance and child support, including details of maintenance orders or child support assessments and what is actually being paid or proposed to be paid by any person who does not live with the child).

Health (details of the health of the child and any treatment or ongoing medication needs).

Education (details about what school the child attends, what year he/she is in and what progress is being made).

Do you propose any changes to these arrangements?

☐ No GO TO PART I	☐ No GO TO PART I
☐ Yes	☐ Yes

If yes, please provide details of any significant changes that are planned – for example, changing residence, schooling arrangements or supervision.

CHILD 3	CHILD 4

29 CHILD 'S ADDRESS

If the child lives at more than one address then include both addresses (you may need to attach an extra page). **If you do not want to give the address because you fear violence from your spouse, you do not need to include it but you may be asked to give your reasons in Court.**

_____	_____
_____	_____
_____	_____
State _____ Postcode _____	State _____ Postcode _____

30 WHO ELSE LIVES IN THE CHILD'S HOME WHEN THE CHILD IS LIVING WITH THE HUSBAND AND WHEN THE CHILD IS LIVING WITH THE WIFE? DO NOT INCLUDE THE OTHER CHILDREN LISTED IN ITEM 25.

☐ **Husband**	☐ **Husband**
☐ Other person Age _____	☐ Other person Age _____
☐ Male ☐ Female	☐ Male ☐ Female
Name and relationship to the child	Name and relationship to the child
_____	_____
_____	_____
☐ **Wife**	☐ **Wife**
☐ Other person Age _____	☐ Other person Age _____
☐ Male ☐ Female	☐ Male ☐ Female
Name and relationship to the child	Name and relationship to the child
_____	_____
_____	_____

31 CURRENT DETAILS CONCERNING THE CHILD.
WHERE DETAILS FOR CHILD 3 & 4 ARE THE SAME AS CHILD 1 WRITE "AS FOR CHILD 1"

Housing (for example, 3 bedroom house - child has own room)

_____	_____
_____	_____
_____	_____

Supervision (who looks after the child? For example, if the parent who lives with the child is working outside the home who looks after the child during parents absence).

_____	_____
_____	_____
_____	_____

WHERE DETAILS FOR CHILD 3 & 4 ARE THE SAME AS CHILD 1 WRITE "AS FOR CHILD 1"

Child 3 continued	Child 4 continued

Contact (the arrangements for the child to have contact with the other spouse, if they are not living with them, eg. how often contact occurs and what type. Contact can be face to face, or by phone, email or letters. If a natural parent is not a party to the marriage identify him or her, state the contact and state the reasons if the child has limited or no contact with that person).

Financial support (details about maintenance and child support, including details of maintenance orders or child support assessments and what is actually being paid or proposed to be paid by any person who does not live with the child).

Health (details of the health of the child and any treatment or ongoing medication needs).

Education (details about what school the child attends,what year he/she is in and what progress is being made).

Do you propose any changes to these arrangements?

☐ No GO TO PART I	☐ No GO TO PART I
☐ Yes	☐ Yes

If yes, please provide details of any significant changes that are planned – for example, changing residence, schooling arrangements or supervision.

If you have more than four children, please attach extra pages, and provide the details for each extra child, Child 5, Child 6, etc.

PART I AFFIDAVIT OF APPLICANT(S)

PLEASE DO NOT COMPLETE THIS PART OF THE FORM UNTIL YOU ARE WITH A PERSON WHO IS LEGALLY ABLE TO WITNESS YOUR SIGNATURE - PLEASE DO NOT SIGN UNLESS IT IS AT LEAST12 MONTHS SINCE THE DATE YOU SEPARATED.

You must complete the following affidavit. You must sign it in the presence of a Justice of the Peace, notary public, or lawyer. The person witnessing the affidavit will fill in the place and date.

Both the husband and wife are to sign the affidavit ONLY if you are applying together. You may do so before different persons and at different times or before the same witness on the same occasion. If only one of you is applying for the divorce, only you are to sign the affidavit. You do not have to ask your spouse.

HUSBAND

I swear*/affirm* that:

- ☐ I am the applicant
- ☐ I have read this application
- ☐ The facts of which I have personal knowledge are true
- ☐ All other facts are true to the best of my knowledge, information and belief

Signature of husband

/ /

Place Date

Before me (signature of witness)

Full name of witness (please print)

- ☐ Justice of the Peace
- ☐ Notary public
- ☐ Lawyer

WIFE

I swear*/affirm* that:

- ☐ I am the applicant
- ☐ I have read this application
- ☐ The facts of which I have personal knowledge are true
- ☐ All other facts are true to the best of my knowledge, information and belief

Signature of wife

/ /

Place Date

Before me (signature of witness)

Full name of witness (please print)

- ☐ Justice of the Peace
- ☐ Notary public
- ☐ Lawyer

* Delete whichever is not applicable

PART J YOUR LAWYER 'S DECLARATION

If you are filing the application yourself then you do not need to complete this part. However make sure you receive a copy of the information brochure Marriage, Families and Separation. Registry staff will give you this brochure when you file your application. If a lawyer is filing the application for you then the lawyer must give you a copy of the brochure and complete and sign the declaration that follows.

☐ I gave the applicant(s) a copy of the brochure Marriage, Families and Separation.

Signature of lawyer	Print full name	Date / /

This application was prepared by ☐ applicant/s ☐ lawyer

PRINT NAME AND LAWYER 'S CODE

Please complete the attached Notice of Application – Divorce

NOTICE OF APPLICATION - DIVORCE

COMPLETE THIS NOTICE IF YOU ARE APPLYING ON YOUR OWN, THEN PIN THE NOTICE TO THE FRONT OF THE COPY OF THE APPLICATION FOR DIVORCE TO BE SERVED ON YOUR SPOUSE.

To (name of spouse) _____

Contact address (address for service) in Australia _____

_____

In the attached application your spouse is applying for divorce. The Court has set down the hearing of this application at the time and place shown on page 1 of the Application for Divorce.

WHAT STEPS YOU NEED TO TAKE AS THE RECIPIENT OF THIS NOTICE

1 You should check the details given by your spouse in the attached application to make sure that they are correct to the best of your knowledge. You should also carefully read the enclosed brochure Marriage, Families and Separation. It sets out the legal and possible social effects of this case and the mediation and welfare facilities available in Australia.

2 You should sign, date and return the Acknowledgment of Service to the person who served the Application for Divorce.

3 If you want the divorce to be granted, you do not have to attend at Court or do anything else. The Court will send you a Certificate of Divorce when your divorce is finalised.

4 If you want the divorce to be granted, but you disagree with facts contained in the application, you may file a Response and appear in person on the hearing date.

5 If you do not want the divorce to be granted you must complete a Response asking for the application to be dismissed. You will need to set out grounds on which you seek the dismissal. You will need to file the Response with the Court:

- if it was served in Australia, within 28 days of the application being served; or
- if it was served overseas, within 42 days of the application being served.

After filing the Response with the Court you must also serve a copy of it on your spouse in accordance with the rules of court. You can obtain a copy of the Response form and instructions on how to serve it from the registry.

You must come to the hearing. If you do not attend, the Court may determine the Application for Divorce in your absence. If it is difficult for you to attend in person, you may ask the Court to allow you to attend by telephone or video link. To do so, you must make a request in writing to the Court where your divorce is filed at least 7 days before the hearing. You may be required to pay the cost of the video link.

PROPERTY AND MAINTENANCE

If you want to apply to the Court about property or your own maintenance, you must do so by a separate application within 12 months of the date the divorce becomes final. After that time you must obtain the permission of the Court to apply.

_____ / /

Signature of registry officer Date

WHERE TO FILE YOUR APPLICATION

You can file your application in the Federal Magistrates Court at the registries listed below.

ACT		
Canberra Registry	Cnr University Ave & Childers St, Canberra, ACT 2600 (PO Box 9991 Canberra ACT 2601)	(02) 6267 0511
NSW		
Albury Registry	463 Kiewa St, Albury, NSW, 2640 (PO Box 914 Albury NSW 2640)	(02) 6021 8944
Dubbo Registry	Cnr Macquarie & Wingewarra Sts Dubbo, NSW 2830 (PO Box 1567 Dubbo NSW 2830)	(02) 6841 5000
Lismore Registry	29 – 31 Molesworth St, Lismore, NSW 2480 (PO Box 9 Lismore NSW 2480)	(02) 6621 8977
Newcastle Registry	61 Bolton St, Newcastle, NSW 2300 (PO Box 9991 Newcastle NSW 2300)	(02) 4926 1255
Parramatta Registry	1 – 3 George St, Parramatta, NSW 2150 (PMG CC10 Parramatta NSW 2123)	(02) 9893 5555
Sydney Registry	97 – 99 Goulburn St, Sydney, NSW 2000 (PO Box 9991 Sydney NSW 2001)	(02) 9217 7111
Wollongong Registry	43 Burelli St, Wollongong, NSW 2500 (PO Box 825 Wollongong NSW 2500)	(02) 4226 8200
NT		
Darwin Registry	80 Mitchell St, Darwin, NT 0800 (PO Box 9991 Darwin NT 0800)	(08) 8981 1488
Alice Springs	Registry Centrepoint Building, Hartley St, Alice Springs NT 0871 (PO Box 9991 Alice Springs NT 0871)	(08) 8952 8222
QLD		
Brisbane Registry	119 North Quay, Brisbane, Qld 4000 (PO Box 9991 Brisbane QLD 4001)	(07) 3248 2200
Cairns Registry	L-4,Commonwealth Centre, 104 Grafton St, Cairns, Qld, 4870 (PO Box 9991 Cairns QLD 4870)	(07) 4041 2377
Rockhampton Registry	L-4, Cnr East &Fitzroy Sts, Rockhampton, Qld 4700 (PO Box 9991 Rockhampton QLD 4700)	(07) 4921 2939
Townsville Registry	L-2, Commonwealth Center, 143 Walker St, Townsville, Qld 4810 (PO Box 9991 Townsville QLD 4810)	(07) 4722 9333
SA		
Adelaide Registry	25 Grenfell St, Adelaide, SA 5000 (PO Box 9991 Adelaide SA 5001)	(08) 8205 2666
TAS		
Hobart Registry	39 – 41 Davey St, Hobart, Tas 7000 (PO Box 9991 Hobart TAS 7001)	(03) 6232 1725
Launceston Registry	Cnr Brisbane & George Sts, Launceston TAS 7250 (PO Box 9991 Launceston TAS 7250)	(03) 6334 2111
VIC		
Dandenong Registry	53 – 55 Robinson St, Dandenong, Vic 3175 (PO Box 9991 Dandenong VIC 3175)	(03) 9767 6200
Melbourne Registry	305 William St, Melbourne, Vic 3000 (PO Box 9991 Melbourne VIC 3001)	(03) 8600 3777
WA		
Family Court of Western Australia	150 Terrace Rd, Perth, WA 6000 (PO Box 9991 Perth WA 6848)	(08) 9224 8222

The Federal Magistrates Court does not operate in Western Australia. For information about divorce and filing an application, contact the court directly.

Arabic
إذا كنت تواجه صعوبة في التواصل بالإنكليزية، إتصل بخدمة الترجمة الخطية والشفهية التابعة لدائرة الهجرة وشؤون الشعب الأصلي والتعدّدية الثقافية على الرقم **131 450**. وإذا كنت بحاجة إلى مترجم بخصوص مسألة تتعلق بالمحكمة، إطلب من موظفي المحكمة الترتيب لخدمات مترجم من أجلك.

Cantonese
如果您有英語困難，請與移民、多元文化及土著事務部的口筆譯服務處聯絡，電話：**131 450**。如果您因爲法庭活動而需要口譯員，請要求法院工作人員爲您安排口譯員。口譯員。

Croatian
Ako imate poteškoća s engleskim, nazovite službu tumača i prevoditelja Ministarstva useljeništva, multikulturalnih i starosjedilačkih poslova na **131 450**. Ako vam je potreban tumač za sud, zamolite osoblje suda da vam osiguraju tumača.

Greek
Αν δυσκολεύεστε στα αγγλικά, επικοινωνήστε με την υπηρεσία διερμηνέων και μεταφραστών του Υπουργείου Μετανάστευσης και Υποθέσεων Μεταναστών και Αβορίγινων (Department of Immigration and Multicultural and Indigenous Affairs) στον αριθμό **131 450**. Αν χρειάζεστε διερμηνέα για μια υπόθεση στο Δικαστήριο ζητήστε απ' το προσωπικό του Δικαστηρίου να κανονίσει διερμηνέα για εσάς.

Italian
Se avete delle difficoltà con l'inglese mettetevi in contatto con il servizio di interpretariato e traduzioni del Dipartimento dell'Immigrazione e degli Affari Multiculturali ed Indigeni telefonando al numero **131 450**. Se avete bisogno di un interprete per un caso in Corte chiedete al personale della Corte di procurarvi un interprete.

Korean
영어에 어려움이 있으신 경우, Department of Immigration, Multicultural and Indigenous Affairs (이민성)의 통역 및 번역 서비스에 **131 450**으로 연락하십시오. 법정에서 통역관이 필요하신 경우 법정 직원에게 귀하를 위해 통역관을 주선해 주도록 요청하십시오.

Macedonian
Ако имат тешкотии со англискиот јазик, јавт е во придувачката служба на Одделот за дослуван, мултикултурни и домородни работи (Department of Immigration, Multicultural and Indigenous Affairs) на **131 450**. Ако ви трба прдувач за суд замолт го персоналот во судот да повика прдувач.

Mandarin
如果您有英语困难，请与移民、多元文化及土著事务部的口笔译服务处联络，电话：**131 450**。如果您因为法庭活动而需要口译员，请要求法院工作人员为您安排口译员。口译员。

Polish
Jeśli mają Państwo trudności w porozumieniu się po angielsku, prosimy skontaktować się ze służbą tłumaczy departamentu imigracji, wielokulturowości i do spraw rdzennej ludności – Department of Immigration, Multicultural and Indigenous Affairs, dzwoniąc pod numer: **131 450.** Jeśli potrzebują Państwo pomocy tłumacza w sądzie, poproście pracownika sądu o zorganizowanie jes dla Was.

Russian
Если вы не говорите по-английски, то позвоните в службу устного и письменного перевода Департамента иммиграции, мультикультурных отношений и по делам аборигенов по номеру **131 450.** Если переводчик нужен вам во время судебной процедуры, то попросите работников Суда вызвать для вас переводчика.

Serbian
Ако имат потшкоћа с нгласким јзиком, назовит службу прводиоца и тумача Одска за дославань, мултикултури и домородачк послов (Department of Immigration, Multicultural and Indigenous Affairs) на **131 450**. Ако вам трба прводилац за суд, замолит персонал у суду да организуј да добијт прводиоца.

Spanish
Si usted tiene dificultades con el idioma inglés, póngase en contacto con el servicio de interpretación y traducción del Departamento de Inmigración y Asuntos Multiculturales e Indígenas al **131 450**. Si usted necesita un intérprete para algún asunto en la Corte, pida al personal de la Corte que le consigan un intérprete.

Tagalog
Kung ikaw ay nahihirapan sa Ingles, kontakin ang serbisyo para sa pag-iinterprete at pagsasaling-wika ng Department of Immigration, Multicultural and Indigenous Affairs (Kagawaran ng Imigrasyon, Ibaít-ibang Kultura at Katutubong Pamumuhay) sa **131 450**. Kung kailangan mo ng interprete sa Hukuman, humiling ka sa kawani ng Hukuman na mag-ayos ng isang interprete para sa iyo.

Thai
หากท่านมีปัญหาภาษาอังกฤษ กรุณาติดต่อกับหน่วยบริการล่ามและการแปลของกระทรวงตรวจคนเข้าเมือง พหุวัฒนธรรมและเรื่องเกี่ยวกับชาวพื้นเมือง ได้ที่โทรศัพท์หมายเลข **131 450** หากท่านต้องการล่ามสำหรับการขึ้นศาล โปรดสอบถามเจ้าหน้าที่ศาลเพื่อจัดหาล่ามให้ท่าน

Turkish
İngilizce'de güçlük çekiyorsanız, Göç, Çokkültürlülük ve Yerli Halk İşleri Bakanlığı'nın (Department of Immigration, Multicultural and Indigenous Affairs) yazılı ve sözlü tercümanlık servisi ile **131 450** numaralı telefondan görüşünüz. Bir Mahkeme işlemi için tercümana ihtiyacınız varsa Mahkeme görevlilerinden sizin için bir tercüman ayarlamalarını talep ediniz.

Vietnamese
Nếu quí vị gặp trở ngại về tiếng Anh, xin liên lạc với dịch vụ thông ngôn và phiên dịch của Bộ Di Trú, Đa Văn Hóa và Thổ Dân Sự Vụ qua số **131 450**. Nếu quí vị cần thông ngôn cho một việc tại Tòa Án, hãy yêu cầu nhân viên Tòa Án sắp xếp một thông ngôn viên cho quí vị.

If you have difficulty with English, contact the Department of Immigration and Multicultural and Indigenous Affairs' interpreting and translating service on **131 450**. If you need an interpreter for a Court event ask Court staff to arrange an interpreter for you.