



Obtaining a Divorce

Some of the most commonly asked questions about obtaining a Divorce are discussed on this page.

1. How long do I need to be separated from my spouse before I can file an application for divorce?

The Family Law Act requires that you be separated for not less than twelve months before you can file an application for divorce.

2. In which Court do I file an application for divorce?

Now, you should file an application for divorce in the Federal Magistrates Court.

3. What if my spouse and I were separated but residing under the same roof during the period of separation?

In some situations, although you and your spouse may reside under the same roof, you may still be classified as separated. You will, however, need to prove to the Court, that the marriage relationship had broken down. This can be shown, for example, by sleeping in separate bedrooms, not going out socially as a couple and not preparing each other meals or performing household duties for each other. It may be advantageous if an independent adult third party would be willing to provide evidence in relation to their observations about you and your spouse being separated.

4. Do I need to let my spouse know about my divorce application and, if so, how?

You are required to serve your spouse with a copy of the application for divorce. You can do this one of two ways:-

- (a) By personally serving your spouse with a copy of the application, which will have on it the time and date of the divorce hearing. Please note that you are not allowed to serve your spouse yourself. You may either engage the services of a licensed commercial agent or have an adult friend serve your spouse; or alternatively,
- (b) You may serve your spouse by post. You will need to enclose a form, known as an Acknowledgment of Service, which your spouse will need to sign and return to you.

You will need to provide the Court with proof that your spouse has been served with your divorce application.

5. What if I cannot locate my spouse?

Sometimes, a spouse may move interstate or overseas and you may not be aware of their current address. An application can be made to the Court to dispense with service or to serve the application upon a relative or someone who you know is in regular contact with your spouse.



6. Will I be divorced on the day of the hearing?

On the day of the hearing a Divorce Order will be made but the Divorce Order will not take effect until the expiration of one month from the date of the making of the Order. Please note that you will not be able to remarry before the Divorce Order takes effect.

7. How can Bateman Battersby assist me with my Divorce application?

Oliver Hagen and his team have vast experience in handling divorce applications. We can provide initial advice on your divorce application and the likely success of that application. We can also prepare your divorce application and appear if necessary in the Federal Magistrate's Court.

If you would like further information, or require assistance, please contact us on (02) 4731 5899 or send us an email by clicking on the 'Contract Us' page on our website.