

DIVORCE

Divorce is the legal method of ending your marriage.

To file an Application for Divorce you must be separated for at least 12 months.

At least one spouse must regard the marriage as over on the date of separation and in some way communicated this to the other spouse.

You can apply for a divorce if you have been married for more than 2 years.

You have been married for less than 2 years and want to apply for Divorce you must either:

- Attend counseling with a family counselor or nominated counselor to discuss the possibility of reconciliation
- If you do not attend counseling, seek permission of the Court to apply for Divorce.

Who Can apply for a Divorce?

You (Sole application): if you are applying for a Divorce by yourself

You and Your partner (joint): if you are applying together

To be eligible to apply for a Divorce in Australia, you or your spouse must:

- Regard Australia as your home and intend to live indefinitely in Australia
- Australian Citizen by birth or decent
- Ordinarily live in Australia and have done so for 12 months immediately before filing for Divorce

Do both parties have to agree to the Divorce?

No. You can either lodge a joint application or a sole application for Divorce. Your spouse does not need to agree with the Divorce application.

Do I have to go to Court?

If there is no child of the marriage under 18, you are **not** required to attend the hearing. This applies for both sole and joint applications. If you are required to attend the hearing and fail to do so, the Court may adjourn or dismiss your application.

How long before I can legally remarry?

Divorces are usually finalised one month and

one day after the Court grants a Divorce. You cannot remarry until after the Divorce is finalised.

Arrangements for Children, Property and Child Support

The granting of a Divorce does not decide issues about property, child support and parenting arrangements for Children. These issues will need to be dealt with separately with your lawyer.

Fees

Filing fees are payable by the party/parties applying for the Divorce. If you suffer from financial hardship or are on a Centrelink benefit you may apply for a reduction of fees.

This fact sheet is for information purposes only and is not to be taken as legal advice. The information relates to law within the state of Victoria, Australia and is current as at January 2016.