



INFORMATION ABOUT HOW TO APPLY FOR A DIVORCE

To obtain a divorce an Application for Divorce must be filed in the Federal Magistrates Court of Australia.

Many people find it simpler and less time-consuming to instruct us to prepare and file their divorce papers and appear at the Hearing.

The sole legal ground of separation is irretrievable breakdown of marriage and an Application for Divorce may be filed after one year from the date of separation.

An Application can be filed in one of three ways;

1. By you alone
2. By your spouse alone
3. Or by both of you together (Jointly)

If you file an application jointly the cost is reduced, as your partner does not have to be served with the application for Divorce. However, not all parties are agreed and often one party will file an application without their spouses knowledge or consent. After the application is filed we must then locate the spouse and have them formally served with the Application for Divorce.

How Much Does It Cost?

Solicitor's fees consist of professional costs and disbursements.

Our legal costs vary depending on the solicitor engaged to conduct your matter and their charge out rate. Depending on the complexity of the Divorce application, (ie if service of the documents is difficult or if a special application needs to be filed or one or more Court attendances is necessary) the legal costs may vary. We will assist you by giving you an estimate regarding these costs when you provide us with your instructions.

In addition, you will need to pay disbursements as follows:

Disbursements:

The various disbursements which are incurred and an estimate of their costs are:

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| 1. | Filing fee for the Divorce Application in the Federal Magistrates Court | \$845.00 |
| 2. | Postage and telephone | \$ 15.00 |
| 3. | Photocopying | \$ 15.00 |
| 4. | Process Server's fees | <u>\$100.00</u> |
| | | \$975.00 |

The original or a certified copy of the Marriage Certificate must be filed with the Divorce Application. If you do not have the original Marriage Certificate a copy will have to be obtained at an approximate cost of \$51.00 for a non-urgent application and \$75 for an urgent application.

Therefore the total of disbursements, including the \$800.00 filing fee, may range from the sum of \$975.00 to \$1,026.00 depending on the circumstances of each case. (**NOTE** however that the Court will reduce the filing fee in cases of hardship, ie, if you have a health care card.)

Other Issues:

Welfare of Children

To grant a divorce, the Court must generally be satisfied that proper arrangements have in all of the circumstances been made for any children of the marriage under the age of 18 years.

The living arrangements of the children and child support are the two most common considerations with which particular care and attention must be given.

Division of Property

Proceedings for the dissolution of marriage are separate to the issue of property settlement. It is not necessary to be divorced or separated for at least one year before a property settlement can be undertaken. A property settlement can be undertaken at any time after separation, (and in fact at any time during marriage).

The sole effect of divorce upon the question of property settlement is that an application for property settlement or spousal maintenance **must** be filed within 12 months of the date of the Decree Nisi becoming absolute. Failure to file an application for property settlement and/or spousal maintenance within this 12 month period means that the leave of the Family Court has to be sought for filing an application for property settlement or spousal maintenance out of time. This is best avoided because the court does not always grant leave.

We welcome your questions in relation to obtaining a divorce and invite you to telephone **Greg Miller or Pamela Wood** both of whom specialise in family law. A consultation may be arranged at a time that is convenient to you.

If you require our assistance with any aspect of your Divorce please do not hesitate to contact us on 9525 8100.

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BOWRING
SOLICITORS AND ATTORNEYS