

## Obtaining a divorce

To obtain a divorce, an application for divorce is filed in the Federal Magistrates Court or the Family Court. Most applications are dealt with in the Federal Magistrates Court.

You can get divorced if:

- your marriage has broken down irretrievably; and
- you have been separated from your spouse for at least 12 months before the application for divorce is filed.

## Process of obtaining a divorce

- Prepare and sign an application for divorce (the application).
- File the original application and two copies in either the Federal Magistrates Court or the Family Court and pay the filing fee of \$432 or \$682, respectively.
- When you file the application, the application will be given a hearing date.
- You will need to serve a copy of the application on your spouse.
- On the hearing date, your application will be considered by a Court Registrar (not a Judge). The Court Registrar will read your application and will grant a divorce if satisfied that:
  - your marriage has broken down irretrievably and you have been separated for at least 12 months before the application for divorce is filed;
  - your spouse was properly served and there is evidence of this (such as an affidavit of service and acknowledgement of service); and
  - there are appropriate arrangements in place for the children of the marriage under 18 years (if applicable).
- You do not need to be present on the hearing date if you do not have children under 18 years. If there are children under 18 years, you will need to be present on the hearing date unless it is a joint application for divorce of you and your former spouse.
- Your divorce will become final one month and one day after the Registrar hears your application. Once your divorce is final, a certificate of divorce will be issued providing that your marriage is legally at an end and you can re-marry.

## Time limit

Once a divorce is granted, the time limit within which proceedings for property settlement or spousal maintenance may be brought (without an application for leave to proceed out of time) is 12 months.

## Other Considerations

Upon separation and divorce, it is important that you reconsider the terms of your will, any powers of attorney you have, and the nomination of any beneficiaries under any superannuation or life insurance policies you may hold.