

Ballarat Lawyers

Publications | Family Law

Getting Divorced

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The Facts

The Family Law Act 1975 gives the Court power to deal with the dissolution of marriage, also known as getting divorced.

Parties seeking a divorce need to satisfy the Court that they have been separated for at least 12 months and that there is no reasonable likelihood of married life resuming.

If the parties are on good terms, sometimes a joint application for divorce will be made, with both parties signing the papers. Otherwise, one party can apply for the divorce on their own.

The Process

A basic breakdown of the divorce process is as follows:

- 1 Fill out the form found online.
- 2 File the form with the Court along with a filing fee.
- 3 Serve the sealed Court documents on your former partner (see below as to whether required).
- 4 A hearing is held (see below as to whether you need to attend).
- 5 An Order of the Court is made to grant the divorce.

Married for less than two years?

If you are applying for a divorce and have been married for less than two years, you must have attended counselling and filed a counselling certificate with your application.

If you do not attend counselling, you will need the Court's permission to apply for the divorce.

Separated but living under the same roof in the past 12 months?

If the parties have lived under the same roof at any time in the 12 months since separation, they will need to provide further evidence to the Court that they were not living together as husband and wife, generally by Affidavit.

If this applies to you, you need to show there was a change in your marriage and explain any:

- 1 Changes in sleeping arrangements.
- 2 Reduction in family outings or activities.
- 3 Decline in assisting each other in the home.
- 4 Division of finances.
- 5 Anything else that shows the marriage has broken down.

You should also explain why you continued to live together and, if you still do, when that will likely change. The Court should also be advised of the living arrangements for any child of the marriage under 18 years of age.

Sole or Joint Application?

There are two main benefits of filing a joint application for divorce. You do not need to attend Court if you apply together. You will be notified when the Order is made. Also, you do not need to arrange a process server to serve the documents to the other party.

If you file yourself, you will need to have the documents adequately served on the other party in accordance with the requirements of the law so that they know what is occurring. You cannot drop them at their front door.

Attendance at the hearing?

Going to Court can be a daunting experience. Thankfully, you only need to attend the hearing if you have filed a sole application for divorce and the child of the marriage is under 18 years old at the time of filing or if you have indicated that you wish to attend on the application form.

Otherwise, barring any issue with the paperwork, the Order can be made in the parties' absence.

Do I need a lawyer?

People can apply for divorce by following the instructions on the Application for Divorce form. However, if you need clarification or help understanding what is required of you, contact us, and we can assist you in making the process as quick and stress free as possible.

Contact

If you have any questions about the above information or would like assistance applying for a divorce, please get in touch with us at 5303 0281 or familylaw@ballaratlawyers.com.au.

Disclaimer

The information on this website is general only. It is not legal advice, nor is it intended to be. You should consult a lawyer for individual advice about your particular circumstances.

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Ballarat Lawyers

We have a team of dedicated legal professionals who will manage your legal affairs with enthusiasm and accountability.

Our Advantages

- Skilled legal advice
- Customer focused
- Upfront on costs
- Tailored solutions
- Local knowledge of the area
- Flexible to assist in meeting client needs

Contact Us

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