

COVID-19: Getting a divorce – what has changed?

FACTSHEET

This factsheet is part of a series from Legal Aid NSW that aims to help answer your questions about COVID-19 and family law.

In times of crisis and hardship, new legal problems can emerge and existing legal problems can become more urgent. During this pandemic, many people are experiencing stress, financial worries, or issues associated with measures designed to slow the spread of the disease, such as the need to stay home. Parents may be worried or confused about what COVID-19 means for them, and how it will affect their children and parenting arrangements.

Changes to court processes due to COVID-19 may affect the way you apply for divorce and your divorce hearing. If you plan to apply for a divorce or have applied for divorce and have a hearing date, this factsheet aims to help you understand the changes.

This factsheet gives you information about completing a divorce application online at home, how to use the Commonwealth Courts Portal, how divorce hearings have changed, and where you can get help.

Applying for a divorce

Before you can apply for a divorce, you need to be separated for more than 12 months. For more information about the requirements you need to meet, you can read [our factsheet about applying for a divorce](#).

How do I apply online?

The courts have now closed their face-to-face registry services. Applying for a divorce must be done online through the Commonwealth Courts Portal at www.comcourts.gov.au.

To apply for a divorce online you will need:

- a computer or laptop (not a phone or tablet)
- a printer
- a scanner, and
- a current credit or debit card.

To apply for a divorce online, you will need to first scan and save your documents on your computer in a file where you can easily find them. When you have finished filling in your application online, you will be asked to upload the scanned documents. If you do not have access to a computer or other equipment you need to apply for a divorce online, you can call the [National Enquiry Centre](#) for the Federal Circuit Court of Australia and Family Court of Australia on 1300 352 000 for advice.

What documents will I need to provide?

To apply for a divorce, you will need

- a copy of your marriage certificate, and
- your citizenship certificate or passport, if you were born outside of Australia.

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How do I pay for the divorce?

You will need to pay a court fee when you have finished your application. Courts accept Mastercard and Visa.

If you apply for a reduced fee due to financial hardship or because you have a government concession card, you will need to upload supporting documents.

Is there any other information I need to provide?

You may need to file an affidavit to provide more information to the court if:

- you and your spouse were [separated but living under the same roof](#)
- your name or your spouse's name is different from the names on the marriage certificate
- you have been married less than two years and are unable to go to marriage counselling
- you are unable to get a copy of your marriage certificate, or
- you [do not know the address of your spouse](#).

For more information on the requirements for a divorce and how to apply for a divorce, see our series of divorce factsheets, which are available [on our website](#).

Using the Commonwealth Courts Portal

Online applications for divorce are done using the Commonwealth Courts Portal. You can view detailed instructions in our [factsheet about how to use the Commonwealth Courts Portal](#).

Usually, as part of the application process, you will need to sign documents in front of a Justice of the Peace (JP) or a lawyer. This is called having your documents witnessed. Because of COVID-19, it may be harder to find a JP or a lawyer to witness your documents. If you cannot find someone to witness your document, the courts have indicated they will temporarily accept some documents that have not been witnessed.

Your divorce hearing

There have been changes that apply to people making new applications for divorce and those who already have hearing dates. From 19 March 2020 until the end of June 2020, divorce hearings will happen by telephone. For more information you can read our factsheet on [changes to court processes and for tips on representing yourself](#).

Joint applications

This is an application made by you and your spouse together.

Joint applications for divorce will be decided by court registrars “on the papers”. This means that you don't need to attend court because the court will look at your application without you there. If you selected that you would attend court in your divorce application, you will be contacted by the court and advised that attendance is not required.

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Sole applications

This is an application that you make without your spouse.

If you have made a sole application, you do not need to attend court if you do not have children from the marriage or your children are over the age of 18. In this situation, you and the lawyers should not attend court in person.

You still need to go to court if you have children from the marriage and they are under the age of 18. In this situation, attendance will happen by telephone. You and the lawyers will not need to attend court in person. Registry staff will send an email to you with details of how you can attend a virtual courtroom. You will be given an AAPT number to dial in to the virtual courtroom.

Sometimes, if you find you cannot serve your divorce application on your spouse, you can apply to the court for “substituted service” or “dispensation of service”. Substituted service means you can serve court documents on another person who will bring them to the attention of your spouse. Dispensation of service is when a court decides you do not need to serve court documents on your spouse. Applications seeking orders for substituted or dispensation of service will be dealt with by telephone. For more information about serving your divorce application please read our factsheet about [serving your divorce documents](#).

For telephone hearings, documents that would usually be handed up in court during a hearing, need to be provided to the court well before the hearing. If you have written proposed consent orders, you should send these as a Microsoft Word file in an email.

Changes to the divorce list

Divorce lists have changed. They will be in three timeslots per day. Each timeslot will have a maximum of 10 to 12 matters listed. The list will be split between two registrars who will do the telephone listings.

Interpreters during hearings

If you had a booking for an interpreter for your divorce hearing or require an interpreter for your telephone hearing, please speak to registry staff. In-person interpreters have been cancelled, and you may need to organise a telephone interpreter for yourself.

How can I get help?

For more information on how to apply for a divorce, serving your divorce documents and separation under the same roof, [visit the Legal Aid NSW website](#) and view our divorce factsheets.

The court can give you information about their forms, the online filing system, and their procedures. Call the [National Enquiry Centre](#) on 1300 352 000 or see www.federalcircuitcourt.gov.au for more information about divorce.

For more information, or to get legal advice about your specific situation, contact LawAccess NSW on 1300 888 529 or [call your local Legal Aid NSW office](#).

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If you need an interpreter, call the Translating and Interpreting Service on 131 450 and ask for LawAccess NSW. If you find it hard to hear or speak, call the National Relay Service on 133 677 and ask for LawAccess NSW or visit www.relayservice.gov.au.

The Family Relationship Advice Line is a national telephone service that helps families affected by relationship or separation issues. You can call the Family Relationship Advice Line on 1800 050 321.

This factsheet is intended as a general guide to the law. Do not rely on this information as legal advice. We recommend you talk to a lawyer about your situation. This information is correct at the time of writing, however, it may change.

CVFAM13 | 9 April 2020 | © Legal Aid NSW