



GUIDE TO SERVING AN APPLICATION FOR DIVORCE

FAMILY COURT OF WESTERN AUSTRALIA

This brochure will tell you

This brochure will tell you about the procedures for service of a copy of your divorce application on your former spouse.

This brochure includes information about:

- Service by Post
- Service by personal delivery by another person

General information

If you are applying for a divorce on your own, it is essential that your spouse knows that the application has been made and what you have said in the application. **Service** of the application on your spouse must be done as soon as possible after filing.

The application may be served:

- by post; or
- personally delivered by another person.

Service by post should only be used if your spouse is likely to sign the Acknowledgement of Service (Form 6). If you service by post and the Acknowledgement of Service is not returned to you, the finalisation of your application may be delayed. It will be necessary to serve further copies of the documents on your spouse by personal delivery.

If your spouse is represented by a solicitor who holds instructions to accept service of the documents, the solicitor can then sign the Acknowledgement of Service on your spouse's behalf. The solicitor will then file an Acknowledgement of Service. You can contact the solicitor to arrange this.

For service of the application outside of Australia, there are special requirements in some countries. Registry staff can advise you of these.

The application form and the *Marriage, Families and Separation* brochure **must** be served:

- **at least 28 days** before the date of hearing, if your spouse is in **Australia**; or
- **at least 42 days** before the date of hearing, if your spouse is **overseas**.

If you are unable to serve the application within these time limits, the application may still be able to proceed on the hearing date if your spouse consents in writing, or your spouse (or their solicitor) attends the hearing and indicates consent.

If you do not know your spouse's address you may apply to the Court to dispense with service of the application. You can ask Registry staff about this and you may need some legal advice.

NOTE: Forms relating to the service documents are available from the Registry or the Family Court of Western Australia website (www.familycourt.wa.gov.au). Registry staff will advise you of the correct form to use.

Service by post

STEP 1 - You should send by pre-paid post addressed to your spouse at their address:

- (1) a copy of the Application for Divorce form stamped by the Court;
- (2) the Family Court brochure *Marriage, Families and Separation*;
- (3) the Acknowledgement of Service (Form 6). You should fill in parts “A” and “B” before posting; and
- (4) a stamped self-addressed envelope to enable the signed Acknowledgement of Service to be returned to you. The envelope should be addressed to you at the address for service printed on your application for divorce form.

STEP 2 - When the Acknowledgement of Service is returned, you should as soon as possible:

- (1) fill in the Affidavit of Service (Form 7);
- (2) swear or affirm the affidavit (Form 7) before a Justice of the Peace. You **must also** take the Acknowledgement of Service with you; and
- (3) lodge at the Court Registry the completed affidavit (Form 7) with the attached Acknowledgement of Service (Form 6).

NOTE: You should keep a photocopy of the completed documents for your own reference.

Service by personal delivery

Although you may be present when the divorce documents are served, **YOU cannot personally deliver the application to your spouse.** A friend or relative may serve the documents for you, provided he/she is over the age of 18 years. Alternatively a process server or bailiff may be employed to serve your documents for a fee. Process servers are listed in the Yellow Pages telephone directory under the heading of “Process Servers”.

STEP 1 - You should give the person who is going to serve the documents for you:

- (1) a copy of the Application for Divorce stamped by the Court;
- (2) the Family Court brochure *Marriage, Families and Separation*;
- (3) **TWO** Acknowledgements of Service (2 x Form 6). You should fill in parts “A” and “B” before giving them to the server;
- (4) you should also provide the server with an Affidavit of Service (Form 7);
- (5) if the server does not know your spouse, it is helpful to provide a recent photograph. You should also provide any information as to where your spouse may be located.

STEP 2 - The server should then visit your spouse and deliver the documents.

If the server does not know your spouse, the server should ask the person being served:

“What is your full name?”

“Are you the husband/wife of the applicant?”

The server should ask **your spouse to date and sign the two Acknowledgement of Service** (2 x Form 6). If your spouse refuses to take the documents, the server may then put them down in your spouse’s presence and tell them what the documents are.

STEP 3

The person who served the documents should complete the Affidavit of Service (Form 7) and then staple **ONE** of the Acknowledgement for Service (Form 6) to the back of the affidavit. He/she should then swear or affirm the affidavit before a Justice of the Peace.

STEP 4

If you (the applicant) are familiar with your spouse's signature, you should then complete an Affidavit of Proof of Signature and attach the Acknowledgement of Service (Form 6) to the back of the affidavit. You then swear or affirm the affidavit before a Justice of the Peace.

IF YOUR SPOUSE DID NOT SIGN THE ACKNOWLEDGEMENTS OF SERVICE (2 x Form 6), the server did not know your spouse, and a photograph of your spouse is not available, then you or another person who knows your spouse and was also present at the time of service should prepare a brief Affidavit confirming that your spouse was the person served.

Otherwise, it will be necessary for a photograph of your spouse to be attached to the Affidavit of Service.

You must then prepare a further brief affidavit (called Affidavit of Proof of Identity) stating the person in the photograph is your spouse.

STEP 5 - Lodge at the Court Registry the completed:

Affidavit of Service (Form 7), together with an Acknowledgement of Service (Form 6) attached;
Affidavit of Proof of Signature with another Acknowledgement of Service (Form 6) attached; and
Any other affidavits you have to file (see above).

NOTE: You should keep a photocopy of the completed documents for your own reference.

Family law registries

The Family Court of Western Australia, Family Court of Australia and the Federal Magistrates Court deal with family law matters. For more information about Family Courts:

- ❑ Western Australia: go to www.familycourt.wa.gov.au
- ❑ All other States/Territories: go to www.familylawcourts.gov.au
- ❑ For Western Australia call **08 9224 8222** or **1800 199 228**
- ❑ For all other States/Territories call 1300 352 000, or
- ❑ Visit a family law registry near you.

WESTERN AUSTRALIA

Perth ~ Family Court of Western Australia
150 Terrace Road Perth WA 6000
08 9224 8222
1800 199 228 (country area free call)

AUSTRALIAN CAPITAL TERRITORY

Canberra ~ Cnr University Ave & Childers St
Canberra ACT 2600

NEW SOUTH WALES

Albury ~ 463 Kiewa St Albury NSW 2640
Dubbo ~ Cnr Macquarie & Wingewarra Sts
Dubbo NSW 2830
Lismore ~ L2/29-31 Molesworth St Lismore NSW 2480
Newcastle ~ 61 Bolton St Newcastle NSW 2300
Parramatta ~ 1-3 George St Parramatta NSW 2150
Sydney ~ 97-99 Goulburn St Sydney NSW 2000
Wollongong ~ L1/43 Burelli St Wollongong NSW 2500

NORTHERN TERRITORY

Alice Springs ~ Centrepoint Building Hartley St
Alice Springs NT 0870
Darwin ~ 80 Mitchell St Darwin NT 0800

QUEENSLAND

Brisbane ~ 119 North Quay Brisbane Qld 4000
Cairns ~ L3/104 Grafton St Cairns Qld 4870
Rockhampton ~ L4/Cnr East & Fitzroy Sts
Rockhampton Qld 4700
Townsville ~ L2/143 Walker St Townsville Qld 4810

SOUTH AUSTRALIA

Adelaide ~ 3 Angas St Adelaide SA 5000

TASMANIA

Hobart ~ 39-41 Davey St Hobart Tas 7000
Launceston ~ Cnr Brisbane & George Sts
Launceston Tas 7250

VICTORIA

Dandenong ~ 53-55 Robinson St Dandenong Vic 3175
Melbourne ~ 305 William St Melbourne Vic 3000

Who else can help?

Legal Aid

WESTERN AUSTRALIAN

- www.legalaid.wa.gov.au
- 1300 650 579

NEW SOUTH WALES

- www.legalaid.nsw.gov.au
- 02 9219 5000 or 1300 888 529
(LawAccess NSW)

VICTORIA

- www.legalaid.vic.gov.au
- 03 9269 0234 or 1800 677 402
(country callers)

SOUTH AUSTRALIA

- www.lsc.sa.gov.au
- 1300 366 424

AUSTRALIAN CAPITAL TERRITORY

- www.legalaid.canberra.net.au
- 1300 654 314

NORTHERN TERRITORY

- www.ntlac.nt.gov.au
- 08 8999 3000 or 1800 019 343
(country callers)

QUEENSLAND

- www.legalaid.qld.gov.au
- 1300 651 188

TASMANIA

- www.legalaid.tas.gov.au
- 1300 366 611

Community Legal Centres

WESTERN AUSTRALIA

- 08 9221 9322

NEW SOUTH WALES

- 1300 888 529 (LawAccess NSW)

VICTORIA

- 03 9654 2204

For referrals in all other states and territories contact the National Association of Community Legal Centres:

- www.nacclc.org.au
- 02 9264 9595

Aboriginal and Torres Strait Islander Legal Services

AUSTRALIAN CAPITAL TERRITORY/NEW SOUTH WALES

Coalition of Aboriginal Legal Services

- www.coalsnsw.com.au
- 02 9318 2122

NORTHERN TERRITORY

Central Australian Aboriginal Legal Aid Service - Alice Springs

- 08 8950 9300 or 1800 636 079
- North Australian Aboriginal Justice Agency - Darwin
- 08 8982 5100 or 1800 898 251

QUEENSLAND

Aboriginal and Torres Strait Islander Corporation for Legal Services - Brisbane

- 07 3025 3888 or 1800 012 255

Aboriginal and Torres Strait Islander Community Legal Services

– Townsville

- 07 4722 5111 or 1800 074 463

SOUTH AUSTRALIA
 Aboriginal Legal Rights Movement
 ■ www.alrm.org.au
 ■ 08 8211 8824 or 1800 643 222

TASMANIA
 Tasmanian Aboriginal Centre
 ■ 03 6234 8311 or 1800 132 260

VICTORIA
 Victorian Aboriginal Legal Service
 ■ www.vals.org.au
 ■ 03 9419 3888 or 1800 064 865

WESTERN AUSTRALIA
 Aboriginal Legal Services of Western Australia
 ■ www.als.org.au
 ■ 08 9265 6666 or 1800 019 900

Law Council of Australia – Family Law Section

■ www.familylawsection.org.au
 ■ 02 6246 3788

Law Societies

WESTERN AUSTRALIAN ■ www.lawsocietywa.asn.au ■ 08 9322 7877	AUSTRALIAN CAPITAL TERRITORY ■ www.lawsocact.asn.au ■ 02 6247 5700
NEW SOUTH WALES ■ www.lawsociety.com.au ■ 02 9926 0333	VICTORIA (INSTITUTE) ■ www.liv.asn.au ■ 03 9607 9311
QUEENSLAND ■ www.qls.gov.au ■ 07 3842 5888	SOUTH AUSTRALIA ■ www.lssa.asn.au ■ 08 8229 0222
NORTHERN TERRITORY ■ www.lawsocnt.asn.au ■ 08 8981 5104	TASMANIA ■ www.taslawsociety.asn.au ■ 03 6234 4133

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This brochure provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Family Court cannot provide legal advice.

The Family Court respect your right to privacy and the security of your information.