



How do I serve divorce papers in Australia?

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Date: Monday August 17, 2020

E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

[CALL US IF YOU'D LIKE A REFERRAL TO A FAMILY LAWYER: 02 9997 2111](#)

When you [divorce in Australia](#) and you lodge your Application for Divorce, you are required to notify the other party (your husband or wife) that you have done this; unless you make a joint application. This notification is referred to as 'service'. The purpose of service is twofold:

1. To ensure that the other party is aware of the Application for Divorce and the divorce hearing date; and
2. To prove to the Court that the other party is aware of the Application for Divorce and the divorce hearing date.

If the Court is not satisfied that your husband/wife are aware of the Application for Divorce then, unless there are special circumstances, your Application for Divorce will not proceed at the divorce hearing.

How do I serve the divorce papers?

The method of service and requirements for service will vary depending on the individual circumstances of your matter.

Joint applications

If your Application for Divorce is a joint application, then there is no need to prove service. Because both parties have signed the Application for Divorce, the Court will be satisfied that both parties are aware of its existence.

Sole applications

If your Application for Divorce is a sole application, the Court must be satisfied that your husband/wife is aware of the Divorce Application and that they have had a chance to respond if they want to.

For this purpose, it is recommended that the Application for Divorce and other required documents are physically served on the other party. But if you cannot personally serve your husband/wife, you can ask a family friend or relative over the age of 18 years or engage a professional process server.

To prove service, you will need to file an Affidavit setting out how service was affected and, if signed by your husband/wife, [file the Acknowledgement of Service \(Divorce\) Form which you can access here](#).

If you and your husband/wife are amicable, then another option is to post the Application for Divorce to them together with an Acknowledgment of Service (Divorce) Form. They can then sign that form and return it to you for you to attach to an [Affidavit Proving Signature \(Divorce\)](#) and file both documents together with the Court to prove service.

Are there time limits for service?

The other party must be served no less than 28 days before the divorce hearing date if they are in Australia.

If the other party is not in Australia, they must be served no less than 42 days before the divorce hearing date.

Substituted services for when you cannot serve your husband/wife

Your husband/wife may be overseas or avoiding service or simply cannot be found and your previous attempts to serve him or her, are unsuccessful. Time is running out and you need to know what to do next.

You will need to file an [Application in a Case form](#) and a supporting Affidavit asking the Court for "substituted service". Substituted service just means that the Court approves a different method for service such as by email or Facebook.

Another alternative, although difficult to obtain, is an order for "dispensation of service". This is where you ask the Court to dispense with the requirement of service on your husband or wife as they simply cannot be served with the documents but you

have made all reasonable attempts to serve them and evidenced this to the Court.

Get help from a family lawyer

If you have any questions about serving your husband/wife with your divorce application or you require assistance obtaining a substituted service order, please do not hesitate to [contact Bridget of our office who will be happy to assist](#).

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

[02 9997 2111](tel:0299972111)

info@ealawyers.com.au

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