



Do I need a lawyer to get divorced?

If you have separated from your ex, you may be asking the question “do I need a lawyer to get divorced?”.

The short answer is ‘no’. You can apply for a divorce by yourself without engaging a lawyer but there are some things that you must think about if you decide to apply for a divorce by yourself.

Associate in Family Law Joel Niles shares 3 things to think about if you want to get a divorce.

I need to be separated for 12 months.

In Australia you need to show that your marriage has broken down and that there is no reasonable chance of reconciliation. This is shown by being separated for a period of 12 months which means that you cannot apply for a divorce until at least 12 months after separation.

However, if you have been separated for 12 months but have been living under the same roof for any part of those 12 months, you will need to provide extra evidence to prove your separation by preparing and filing an Affidavit along with your application.

You may need a lawyer to help you prepare this Affidavit.

Am I applying for a divorce by myself or jointly with my ex?

This is relevant to 'service' which is the process by which you put your ex on notice of your application for a divorce. This would usually involve your application being 'served' on your ex by an independent third party such as a process server.

If you are applying for a divorce by yourself, service is a requirement to allow your ex to be notified of your application for divorce from them.

Depending on how long it takes you to serve the application on your ex, you may experience a delay in obtaining your divorce.

If you are applying jointly with your ex, service is not required.

A divorce is not the same as a property settlement.

Getting a divorce only severs the 'legal' tie between you and your ex meaning that you can get married again in the future if you wish.

It does not sever the 'financial' tie between you. In most cases, you will still need to complete a binding property settlement, which is a separate process.

You do not have to be divorced to have a property settlement. You can initiate the process of obtaining a property settlement immediately after separation, while you are still legally married.

Once your divorce is final however, you have 12 months to finalise a property settlement or spousal maintenance claim. It is important that you seek advice from a family lawyer if you either apply for or are served with a divorce application as there may be important steps that must be taken before the time limit expires.

In some situations, if you do not have a property settlement before that 12-month timeframe expires, you will lose your automatic right to a property settlement and the Court may be unable to assist you in the future.

How can Andersons Solicitors help?

At Andersons, we have a highly experienced family law team who can help you through your separation or divorce including to help you understand your entitlement and how best to formalise your agreement.

At Andersons we work a little differently from many law firms in that we offer a 90-minute Family Road Map meeting tailored to your personal situation.

All your concerns and questions will be addressed in this appointment and your lawyer will explain the process and outline a plan for next steps. All for a set fee.

There is no obligation to engage our team after this meeting but at the very least you will have a solid plan to progress through your separation.

For more information or to book your 90-minute Family Road Map appointment, please call 8238 6666 or email enquiry@andersons.com.au