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LawTalk Blog



## Can I get a divorce in Australia if I am living overseas?

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We are often contacted by clients living overseas to assist them with matters arising from the breakdown of their marriage or relationship. It's important to not only think about the divorce but also the division of property and the living arrangements of the children.

In respect of the divorce, the question of whether the application for divorce can be filed in Australia is based on the connection of the parties to the Australian Family Law jurisdiction. There are several criteria to establish that connection and either of the parties only needs to satisfy one of those criteria in order for the divorce to be granted in Australia.

### **Australian Citizen**

If either of the parties is an Australian citizen, then they are entitled to file an Application for Divorce in Australia even if they are not living here.

### **Domiciled in Australia**

If you are living overseas but your spouse is domiciled in Australia, you can file an Application for Divorce in Australia. A person is deemed to be domiciled in Australia if they have abandoned their previous place of residence and intend to make Australia their permanent place of residence for an unlimited time; for example if someone had left their previous country and moved to Australia with the intention of starting a new life.

## Ordinary Resident in Australia

If you are living overseas but your spouse has been an ordinary resident in Australia for 12 months immediately prior to filing the Application, you can file an Application for Divorce in Australia. This requires that your spouse would have had to decide to voluntarily live in Australia as part of the regular order of their life.

So, if you are living overseas and want to get divorced in Australia it can only occur on the following basis:

1. If either one of the parties is an Australian citizen;
2. If the other party is domiciled in Australia; or
3. If the other party has been an ordinary resident in Australia and had been a resident for one year immediately before filing the Application for Divorce

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