



## What happens at a divorce hearing?

**Date: Tuesday February 2, 2021**

After an application for divorce has been made by a party (or the parties jointly), a divorce hearing is allocated by the Court. Whether attendance at the divorce hearing is required is dependent on whether there are children of the marriage (or children that were treated as children of the marriage, such as adopted children) under the age of 18 years and whether the application was made solely or jointly.

We also discussed the distinction between a sole application and joint application in our previous blog, [‘How do I get a divorce in Australia?’](#).

## Do I have to attend the divorce hearing?

You must attend the divorce hearing if:

the application is a sole application, and there is a child or children of the marriage under the age of 18 years, at the time of filing; and/or

if you have indicated on your application that you wish to attend.

Otherwise, attendance is not required. However, of course, it's always permitted.

## When do I not have to attend the divorce hearing?

You do not need to attend the divorce hearing if you have filed a joint application (with your former partner), whether or not there is a child or children of the marriage under the age of 18 years.

You do not need to attend the divorce hearing if you have filed a sole application and there is no child or children of the marriage under the age of 18 years.

## What happens at the divorce hearing?

At the divorce hearing, the only issue for determination by the Registrar hearing the application for divorce is whether or not to grant a Divorce Order. The Registrar cannot deal with any other matters, [such as parenting orders, financial orders](#) or [child support](#).

The Registrar is not concerned with the reasons for the breakdown of the marriage. As discussed in our blog, '[How do I get a divorce?](#)', in Australia, divorce is determined on a non-fault basis. Accordingly, the reason for the breakdown of the marriage is not relevant to determining whether a divorce order should be made.

The Registrar will only consider whether the relationship has irretrievably broken down. This is demonstrated by 12 months of separation. The Registrar will need to be satisfied that procedural matters have been complied with, such as the requirements of service (of divorce papers) and that the Court has jurisdiction to make a divorce order in Australia (i.e., the parties have sufficient ties to Australia).

If the Registrar is satisfied that the requirements for divorce are met, the Registrar will grant a Divorce Order.

## When will the divorce become final?

If divorce is granted by the Court, after a period of 1 month and 1 day following the divorce hearing, the divorce will become final.

## Beware the effects of divorce on other matters

Once a divorce becomes final, both parties are free to remarry.

If either party [has a Will in place](#) prior to the Divorce Order (and it was not executed in contemplation of divorce), the Will becomes automatically void.

The date of divorce is also relevant with respect to time limitation periods for applying to the Family Court for financial, [property settlement](#) and [spousal maintenance](#) orders.

You should ensure to diarise your date of divorce and the tasks you need to attend to, including:

Your Will;

Your death nominations in respect of your superannuation entitlements; and

Whether a property settlement is required or you intend to seek spousal maintenance.

## Get help from a family lawyer

If you need advice in respect of your divorce or if you'd like to discuss your divorce or any other family law issues with a lawyer or arrange an initial consultation, feel free to get in touch directly with one of our team members.

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*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*