



FEDERAL CIRCUIT  
AND FAMILY COURT  
OF AUSTRALIA  
DIVISION 1 | DIVISION 2

# Divorce Service Kit



[www.fccoa.gov.au](http://www.fccoa.gov.au)

Live chat on the website

1300 352 000

It is important to read this kit before serving an Application for Divorce on your spouse

#### This kit includes:

- Glossary of legal words
- Helpful information (pages A-B)
- Step by step guide (pages C-F)
- *Affidavit of Service by Post (Divorce)*
- *Affidavit of Service by Hand (Divorce)*
- *Acknowledgment of Service (Divorce)*
- *Affidavit Proving Signature (Divorce)*

This kit 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 court cannot provide legal advice.

**NOTE:** Divorce service documents should be filed online via the Commonwealth Courts Portal [www.comcourts.gov.au](http://www.comcourts.gov.au)

For more information see *How do I serve a divorce?* at [www.fccoa.gov.au/howdoi](http://www.fccoa.gov.au/howdoi)

## Legal words used in court

**Address for service** – the address given by a party where documents can be served on them by hand, post or certain circumstances, by email.

**Adjourn** – defer or postpone a court event to another day.

**Affidavit** – a written statement by a party or witness. It is the main way of presenting the facts of a case to the Court. An affidavit must be sworn or affirmed before a person who is authorised to witness affidavits; for example, a lawyer or Justice of the Peace.

**Applicant** – the person who applies to the Court for orders.

**Court hearing** – the date and time when a case is scheduled to come before the Court.

**Dispensation of service** – a court order that excuses you from serving court documents on a party.

**Divorce order** – an order made by the Court that ends a marriage. The divorce order becomes final one month and one day after it is made, unless it is shortened by order of the Court (or extended with an appeal). A digital divorce order will be made available to you through the Commonwealth Courts Portal after the order has become final. A digital order has an electronic seal and signature and is an original order.

**eFiling** – the procedure of lodging a document through the Commonwealth Courts Portal

**Family Law Act 1975** – the law in Australia which covers family law matters.

**Family law registry** – a public area at the courts where people can obtain information about the court process and where parties file documents in relation to their case.

**Family violence** – means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful. A child is exposed to family violence if the child sees or hears family violence or is otherwise exposed to family violence. See the Family Law Act, section 4AB, which gives examples. Family violence may also amount to abuse of a child.

**Abuse** - in relation to a child means,

- (a) an assault, including a sexual assault, of the child; or
- (b) a person (the first person) involving the child in a sexual activity with the first person or another person in which the

child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or

- (c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or
- (d) serious neglect of the child.

**Family violence order** – an order made under Commonwealth, state or territory legislation to protect a person, including a child, from violence.

**Filing** – the procedure of lodging a document at a family law registry.

**Judicial officer** – a person who has been appointed to hear and decide cases; for instance, a judge.

**Party or parties** – a person or people involved in a court case; for example, the applicant and/or respondent.

**Judicial or Deputy Registrar** – a court lawyer who has been delegated power to perform certain tasks; for example, grant divorces, sign consent orders and decide the next step in a case.

**Respondent** – a person named as a party to a case. A respondent may or may not respond to the orders sought by the applicant.

**Rules** – a set of directions that outlines court procedures and guidelines. The formal name for the rules is the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*.

**Sealed copy** – a copy of a document which has the original court seal stamped on it.

**Service** – the process of delivering or posting court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with the Court.

## Legal advice

You should seek legal advice before deciding what to do. A lawyer can help you understand your legal rights and responsibilities, and explain how the law applies to your case.

You can seek legal advice from a legal aid office, community legal centre or private law firm.

Court staff can help you with questions about court forms and the court process, but cannot give you legal advice.

## What you need to know

### WHAT IS SERVICE?

Service is the process of notifying the other party (your spouse) that legal proceedings have been commenced that involve them. This is done by delivering or posting court documents to a party after they have been filed, in accordance with the rules of court. Service ensures that all parties have received the documents filed with the Court and know about the proceedings.

### SHOULD YOU SERVE YOUR APPLICATION?

If you have made a sole application, you must arrange to serve the following documents on your spouse:

- a sealed copy of the Application for Divorce
- a copy of the Marriage, Families and Separation brochure, and
- any other documents filed with the Court, except the copy of your marriage certificate.

If you have made a joint application, you do not need to serve your spouse with any documents.

### TIME LIMITS

If you have filed a sole application, you are required to serve your spouse and should do so as soon as possible after filing.

If your spouse is in Australia, the documents must be served at least 28 days before the court hearing.

If your spouse is overseas, the documents must be served at least 42 days before the court hearing.

### HOW CAN YOU SERVE DOCUMENTS?

You can serve the documents on your spouse in two ways:

#### 1. Service by Post

You should only attempt service by post if you are confident your spouse will return the signed *Acknowledgment of Service (Divorce)* to you. Without this, the Court cannot be sure your spouse has received the documents. If you attempt service by post and do not receive the signed *Acknowledgment of Service (Divorce)*, you may need to arrange service by hand.

#### 2. Service by Hand

**You cannot serve the documents on your spouse yourself.**

You must arrange for a person over 18 to serve the documents on your spouse (the server). The server can be a family member, friend or professional process server.

### FILING THE SERVICE DOCUMENTS

After the documents have been served on your spouse, you will need to file the completed service forms with the court electronically (eFile) through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). For more information see *How do I serve a divorce?* at [www.fcfoa.gov.au/howdoi](http://www.fcfoa.gov.au/howdoi)

If for any reason you cannot eFile the service documents, email a copy to the Court registry where the Application for Divorce was filed. For filing email addresses see, [www.fcfoa.gov.au/court-locations](http://www.fcfoa.gov.au/court-locations).

## **SERVING YOUR SPOUSE'S LAWYER**

If your spouse has a lawyer and they are willing to accept service, you can serve the documents on your spouse's lawyer. A signed and dated *Acknowledgment of Service (Divorce)* from your spouse's lawyer is proof of service. You need to file this acknowledgment with the Court. If it has been properly completed, you do not need to file any other service documents.

## **WHAT IF YOU CANNOT SERVE YOUR SPOUSE?**

If you are having trouble serving the divorce application on your spouse, and have taken all reasonable steps to serve your spouse, you can apply to the Court for:

- an order to serve the application in another way such as by email or using social media (known as substituted service), or
- an order to dispense with service (with or without conditions) (known as dispensation of service).

If you wish the Court to make an order for substituted service or dispensation of service, you must file an *Application in a Proceeding* and affidavit in support. For more information, see the fact sheet '[Are you having trouble serving your divorce application?](#)'. You can get this fact sheet from [www.fccoa.gov.au](http://www.fccoa.gov.au)

The legal issues about service and dispensation of service are complex. You should seek legal advice.

**Please refer to the [Family Law Practice Direction – Divorce proceedings](#) on the Court's website [www.fccoa.gov.au](http://www.fccoa.gov.au) for more information.**

## Step by step guide

This step by step guide explains how to serve your *Application for Divorce* and how to complete the service forms.

This guide only applies if you have made a sole application. It does not apply if you have made a joint application because you do not need to serve a joint application.

Once your divorce application has been filed at a family law registry, it must be served on your spouse. You need to decide which way to serve your application; by post or by hand. There are different steps to follow for each type of service.

## SERVICE BY POST

### STEP 1 Obtain service forms

You need the following forms:

- *Affidavit of Service by Post (Divorce)*, and
- *Acknowledgment of Service (Divorce)*.

These forms are in this Kit. You can also get these forms from [www.fcfoa.gov.au](http://www.fcfoa.gov.au)

### STEP 2 Post documents to your spouse

You need to post to your spouse at their last known address, using registered or express post:

- a sealed copy of the *Application for Divorce* and any other documents you have filed with the Court, except the copy of your marriage certificate
- the *Marriage, Families and Separation* brochure
- an *Acknowledgment of Service (Divorce)*
- a letter asking your spouse to sign the *Acknowledgment of Service (Divorce)* and return it to you, and
- a stamped self-addressed envelope for the return of the signed *Acknowledgment of Service (Divorce)*.

**Helpful hint – remember to record the date you posted the documents to your spouse, or keep a copy of any tracking information or receipt from the postage documents.**

### STEP 3 The signed Acknowledgment of Service (Divorce) is returned to you

If this document is not returned to you, you will need to serve your divorce application by hand. See instructions on page D.

### STEP 4 Complete the Affidavit of Service by Post (Divorce)

You must answer all questions on the *Affidavit of Service by Post (Divorce)*, including question 6 which confirms that your spouse has signed the *Acknowledgment of Service (Divorce)*.

Attach the signed *Acknowledgment of Service (Divorce)* to the *Affidavit of Service by Post (Divorce)*.

## **STEP 5** Sign the Affidavit of Service by Post (Divorce)

You need to swear or affirm the *Affidavit of Service by Post (Divorce)* before a person who is authorised to witness affidavits; for example, a lawyer or Justice of the Peace. The person witnessing the *Affidavit of Service by Post (Divorce)* must also complete the annexure note on the *Acknowledgment of Service (Divorce)*.

## **STEP 6** Scan the service forms

You will need to make a copy of the completed service forms so that you can eFile them on the Commonwealth Courts Portal.

## **STEP 7** File service forms at court

You need to file the following prior to the hearing date:

- *Affidavit of Service by Post (Divorce)*, and
- *Acknowledgment of Service (Divorce)*

You can eFile using the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)) or if you are filing at a family law registry you will need to file the originals and a photocopy of each form listed above.

**Helpful hint – You should keep a copy of your service documents because you may need to refer to them at the divorce hearing.**

## **SERVICE BY HAND**

### **STEP 1** Obtain service forms

You need the following forms:

- *Affidavit of Service by Hand (Divorce)*
- *Acknowledgment of Service (Divorce)*, and
- *Affidavit Proving Signature (Divorce)*.

These forms are in this Kit. You can also get these forms from [www.fcfcoa.gov.au](http://www.fcfcoa.gov.au)

### **STEP 2** Choose a person to serve the documents

**You cannot serve the documents on your spouse yourself.**

You must arrange for a person over 18 to serve the documents on your spouse (the server). The server can be a family member, friend or professional process server. To find a professional process server, search for 'process server near me' with your preferred internet search engine (fees apply).

### **STEP 3** Give documents to the server

You need to give the following documents to the server:

- a sealed copy of the *Application for Divorce* and any other documents you have filed with the Court, except the copy of your marriage certificate
- the *Marriage, Families and Separation* brochure, and
- an *Acknowledgment of Service (Divorce)*.

## STEP 4 Serving the documents

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The server hands the documents to your spouse.

The server must identify your spouse so the Court knows that the documents have been given to the right person. If the server is a family member or friend who knows your spouse, this is enough proof of identity – they must write how they know your spouse in the *Affidavit of Service by Hand*.

If the server does not know your spouse, then they must identify them. The server can identify your spouse by:

- a photograph
- asking questions; for example, ‘What is your full name?’ or ‘Are you the husband/wife of [state name of applicant]?’ , or
- having another person present at the time of service who knows your spouse.

## STEP 5 The server asks your spouse to sign the Acknowledgment of Service (Divorce)

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If your spouse accepts the documents, the server must ask them to sign the *Acknowledgment of Service (Divorce)*.

If your spouse refuses to accept the documents, the server can put them down in the presence of your spouse and state what they are. For example, ‘Your spouse is applying for a divorce and I am serving you with the divorce application. The divorce application is listed for hearing on [state date] at [state court location]’.

## STEP 6 Server signs the Affidavit of Service by Hand (Divorce)

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The server must include any information or attach any documents to the *Affidavit of Service by Hand (Divorce)* which helped them to identify your spouse.

The server must then swear or affirm the *Affidavit of Service by Hand (Divorce)* before a person who is authorised to witness affidavits; for example, a lawyer or Justice of the Peace.

If your spouse signed the *Acknowledgment of Service (Divorce)*, it must be attached to the *Affidavit of Service by Hand (Divorce)*. The witness is also required to complete the annexure note at the bottom of the *Acknowledgment of Service (Divorce)*. Note: Question 3 – Date of documents served must be completed.

## STEP 7 Sign the Affidavit Proving Signature (Divorce)

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If your spouse signed the *Acknowledgment of Service (Divorce)* and the server **did not know them**, then you must complete the *Affidavit Proving Signature (Divorce)*, confirming you recognise the signature on the *Acknowledgment of Service (Divorce)* as that of your spouse. You will need to swear or affirm the *Affidavit Proving Signature (Divorce)* before a person who is authorised to witness affidavits; for example, a lawyer or Justice of the Peace.

Attach a copy of the signed *Acknowledgment of Service (Divorce)* to the *Affidavit Proving Signature (Divorce)*.

## **STEP 8** Scan the service forms

You will need to make a copy of the completed service forms before eFiling them on the Commonwealth Courts Portal.

## **STEP 9** File the service forms at court

You need to file the following prior to the hearing date:

- *Affidavit of Service by Hand (Divorce)*
- *Acknowledgement of Service (Divorce)* (if signed by the respondent), and
- *Affidavit Proving Signature (Divorce)* (if required)

You can eFile using the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)) or if you are filing at a family law registry you will need to file the originals and a photocopy of each form listed above.

**Helpful hint – You should keep a copy of your service documents because you may need to refer to them at the divorce hearing.**

## **Information about divorce hearings**

All divorce hearings are now heard electronically. You will only need access to a telephone to attend the divorce hearing electronically. If you are required to attend the hearing, the details for electronic attendance will be available on the Commonwealth Courts Portal and on the court list from 4pm (AEST) the day before the hearing.

It is important to remember that electronic hearings are an electronic courtroom and courtroom formalities should be observed. All Court Rules, responsibilities and restrictions remain applicable, including:

- You are not permitted to record a hearing, or part of a hearing pursuant to rule 15.23 of the Rules
- Part XIVB of the Family Law Act imposes a number of restrictions on the communication of accounts and lists of proceedings to the public, a breach of this Part may be an indictable offence
- You should address the Judicial Registrar or Deputy Registrar as ‘Registrar’

Please dial-in to the hearing 5 minutes prior to the commencement of your hearing. Please keep your telephone on mute until your name is called.

You should have all documents in front of you for the hearing, including a copy of your Application for Divorce and service forms (if applicable).

Generally, courts are not appropriate places for children. Please ensure any child/ren are not present or within earshot of the hearing.

You should be aware that a number of cases will also be listed at the same time as your case. The Judicial Registrar or Deputy Registrar will deal with each case individually, which usually takes between 3-5 minutes. Once your case is dealt with, you are free to hang up or disconnect from the hearing.

## **The court and your privacy**

The court respect your right to privacy and the security of your information. You can read more about the court’s commitments and legal obligations in the fact sheet ‘The court and your privacy’. The fact sheet includes details about information protection under the privacy laws and where privacy laws do not apply.



# AFFIDAVIT OF SERVICE BY POST (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia (Division 1)
- Federal Circuit and Family Court of Australia (Division 2)
- Other (specify):

**You must attach the signed Acknowledgment of Service (Divorce) to this form.**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A The applicant

1. Name

Family name
Given names

## Part B Details of service

2. Person served (respondent)

Family name
Given names

3. Postal address of respondent

State
Postcode

4. Date of posting

/ /
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5. What documents were posted?

<input type="checkbox"/> Application for Divorce
<input type="checkbox"/> Marriage, Families & Separation brochure
<input type="checkbox"/> Other (give details):

6. Acknowledgment of Service signed

<input type="checkbox"/> The Acknowledgment of Service (Divorce) is signed by the person named in question 2 above. It is attached to this affidavit.
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## Part C Signing

**Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature.**

I  swear /  affirm that:

1. I am the applicant.
2. The person served is my spouse (respondent).
3. The facts set out are true.
4. I recognise the signature on the Acknowledgment of Service (Divorce) as that of my spouse.

Signature
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Place  
Date / /

Before me (signature of witness)
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Full name of witness (print name)

- Lawyer  Justice of the Peace  Authorised Staff Member of the Court
- Other (specify):

**The witness must also sign the annexure note on the Acknowledgment of Service (Divorce).**

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# AFFIDAVIT OF SERVICE BY HAND (DIVORCE)

Filed in:

- Federal Circuit and Family Court of Australia (Division 1)
- Federal Circuit and Family Court of Australia (Division 2)
- Other (specify):

**The applicant cannot personally serve the respondent.**

**If the respondent signed the Acknowledgment of Service (Divorce), it must be attached to this form.**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A Person serving documents

1. Name
2. Address
3. Occupation
4. Relationship to person served

Family name
Given names
State
Postcode

## Part B Details of service

5. Person served (respondent)
6. Date documents served
7. What documents were served?
8. How were the documents served?

Family name
Given names
/ /
<input type="checkbox"/> Application for Divorce
<input type="checkbox"/> Marriage, Families & Separation brochure
<input type="checkbox"/> Other (give details):
<input type="checkbox"/> I handed them to the person at (give address):
<input type="checkbox"/> I attempted to hand them to the person at (give address):
<input type="checkbox"/> The person refused to accept them. I put them down and left them in the presence of the person and told the person what they were.

## Part C Identity of person served

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**9. How was the person served identified?**

**(Please tick all that apply)**

- The person is shown in the attached photograph
- I saw the person sign the attached Acknowledgment of Service (Divorce)
- I know the person (explain how you know the person below):
- I spoke to the person at the time of service (give details of the conversation you had with the person relating to identity):

## **Part D                      Signing**

**Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature.**

I  swear /  affirm that:

1. I am the server.
2. The facts set out are true.

Signature

Place  
Date     /     /

Before me (signature of witness)

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other (specify):

**The witness must also sign the annexure note on the Acknowledgment of Service (Divorce).**

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# ACKNOWLEDGMENT OF SERVICE (DIVORCE)

Filed in:

Federal Circuit and Family Court of Australia (Division 1)

Federal Circuit and Family Court of Australia (Division 2)

Other (specify):

**This form must be attached to EITHER: an Affidavit of Service by Post (Divorce) OR an Affidavit of Service by Hand (Divorce), if the respondent signs it. and Affidavit Proving Signature (Divorce).**

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

## Part A The applicant

1. Name

Family name
Given names

## Part B

### Details of service

2. Person served (respondent)

Family name
Given names

3. Date documents served

/ /
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4. What documents were served?

<input type="checkbox"/> Application for Divorce
<input type="checkbox"/> Marriage, Families & Separation brochure
<input type="checkbox"/> Other (give details):

## Part C

### Signing

I acknowledge service of the documents named in question 4 above.

Signature
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Date / /

OR

I am the lawyer for the person served. On behalf of my client, I acknowledge service of the documents named in question 4 above.

Lawyer's signature
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Date / /

Name of lawyer (print name):

Lawyer's code:

Address of lawyer:

**ANNEXURE NOTE — Witness to complete only if this form is attached to an affidavit.**

This Acknowledgment of Service (Divorce) is referred to in the affidavit of (name):

Sworn/affirmed at (place):

On (date):

Before me (witness to sign):

Lawyer       Justice of the Peace       Authorised Staff Member of the Court

Other (specify):

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# AFFIDAVIT PROVING SIGNATURE (DIVORCE)

- Filed in:
- Federal Circuit and Family Court of Australia (Division 1)
  - Federal Circuit and Family Court of Australia (Division 2)
  - Other (specify):

Client ID
File number
COURT USE ONLY
Filed at
Filed on
Court date
Court time

**You must complete this form when:**

- the server has not stated how they identified the respondent in their Affidavit of Service by Hand; and
- the respondent has signed the Acknowledgment of Service (Divorce).

You must attach the signed Acknowledgment of Service (Divorce) to this form.

## Part A The applicant

1. Name

Family name
Given names

## Part B Identifying signature

2. Acknowledgment of service signed (respondent)

The attached Acknowledgment of Service (Divorce) is signed by:
Family name
Given names

## Part C Signing

**Do not swear/affirm this affidavit until you are with a person who is authorised to witness your signature. You must show them the signed Acknowledgment of Service.**

I  swear /  affirm that:

1. The facts set out are true.
2. I recognise the signature on the Acknowledgment of Service (Divorce) as that of my spouse.

Signature
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Place  
Date     /     /

Before me (signature of witness)

Full name of witness (print name)

- Lawyer
- Justice of the Peace
- Authorised Staff Member of the Court
- Other (specify):