

Family Court of Western Australia

User Guide

eFiling Divorce Applications in family law



Applications for Divorce (and certain accompanying documents) can now be electronically filed through the Commonwealth Courts Portal (www.comcourts.gov.au).

April 2010

eFiling Divorce Applications in family law

Introduction

This user guide is to assist people who wish to file an Application for Divorce in the Family Court of Western Australia electronically via the Commonwealth Courts Portal (the portal) which is located at <u>www.comcourts.gov.au</u>.

The portal is an initiative of the Family Court of Australia, Family Court of Western Australia, Federal Court of Australia and Federal Magistrates Court of Australia. It enables parties and legal practitioners of these Courts to lodge certain applications and documents and to access information about cases that are before the courts.

This information describes the process for electronically submitting an application (eFiling) with the Family Court of Western Australia, pursuant to Rules 24.07 of the *Family Law Rules 2004* (see Information Note - Filing of supplementary documents and divorce application by electronic communication – eFiling – 31 March 2010). It does not include the subsequent legal process involved in the hearing and granting of a divorce.

For further information about the divorce process, see:

- <u>www.familycourt.wa.gov.au</u> Resolving your dispute Divorce or
- call the Call Centre on 08 9224 8222 or 1800 199 228.

For more information on divorce, refer to the following publications which can be accessed from **www.familycourt.wa.gov.au**:

- Information Note Filing of supplementary documents and divorce application by electronic communication eFiling 31 March 2010
- Application for Divorce Kit
- Serving an Application for Divorce
- Marriage, families and separation
- Married less than two years, or
- Separated but living under one roof

Overview

Registered parties and representatives from legal firms can log onto the Commonwealth Courts Portal and complete the divorce application online. Registered users will be prompted to enter their relevant details and upload a scanned copy of their marriage certificate or other documents (as required). They will then be prompted for payment or, if seeking an exemption from paying the fee, prompted to upload supporting evidence; eg scan copy of benefit entitlement card.

A list of hearing dates will appear which you can select from.

Once the application is complete, a sealed copy of the application form will be available from the Portal. The application form will include the file number and hearing date.

Your eFiled divorce application must be accompanied by the Affidavit for eFiling Application (Divorce), sworn or affirmed by the applicant(s) and witnessed by an appropriate person such as a Justice of the Peace and then uploaded as a scanned image to the Portal. Your application cannot proceed in court until you have completed these steps.

The affidavit will be automatically generated by the Portal as the last part of the printed application.

Once uploaded, a copy of this affidavit with a sealed 'confirmation notice' will be available from the Portal to download and print.

The Application for Divorce, Affidavit for eFiling Application (Divorce), sealed confirmation notice, along with the prescribed brochure called *Marriage, Families and Separation*, will then need to be served upon the respondent in accordance with the Family Law Rules (see the Serving an application for divorce kit).

For assistance please contact the Family Court's Call Centre on 08 9224 8222.

Who can eFile an Application for Divorce?

Parties and Legal firms who want to *eFile an Application for Divorce* in the Family Court of Western Australia via the Portal must first register with the Portal. Instructions on how to register are available from **www.comcourts.gov.au**

Important

Your divorce application must be accompanied by the *Affidavit for eFiling Application (Divorce)*, sworn or affirmed by the applicant(s) and witnessed

by an appropriate person such as a Justice of the Peace and then uploaded as a scanned image to the Portal.

What documents can you eFile in the Commonwealth Courts Portal?

The Application for Divorce and certain supplementary documents can be eFiled via the portal.

Documents that can be eFiled in divorce proceedings include:

- Affidavit for eFiling Application (Divorce)
- Affidavit of Service
- Affidavit of Proof of Signature
- Affidavit of Proof of Identity
- Acknowledgment of Service
- Affidavit Translation of Marriage Certificate
- Exemption Form
- Marriage Certificate
- Marriage Under Two Years Certificate
- Citizenship Certificate
- Affidavit

Documents that **cannot** be eFiled in divorce proceedings include:

- Application for Waiver of Court Fees on the basis of financial hardship
- Notice of Discontinuance*

* If you wish to discontinue an application for divorce that has been filed, you need to file a Notice of Discontinuance form, and this can only be done either in person at the registry or by post.

Fees and exemptions

For information on the current fee payable and information regarding exemptions from payment, see <u>www.familycourt.wa.gov.au</u> - Fees.

Where filing an Exemption Form you must include a copy of the supporting evidence, eg benefit entitlement card, in the uploaded document.

Waiver applications cannot presently be submitted via the portal. If you are seeking a waiver, your divorce application must be lodged with the Court either in person at the registry or by post.

What you need before you commence to eFile an Application for Divorce?

To prepare yourself, read a copy of the Divorce Kit and the Serving an Application for Divorce Kit which are available at **www.familycourt.wa.gov.au.**

You will also need:

- · Access to the internet and an email address
- Access to a printer and scanner
- A scanned copy of your marriage certificate which is saved to your hard drive or memory stick and can be accessed to upload onto the portal
- If your marriage certificate is not in English, you will need to provide a scanned copy of a translated version, together with an affidavit from the translator
- Proof of Australian citizenship (if required)
- Further Affidavits (if required)
- A valid credit card (Visa OR MasterCard can only be accepted)
- If seeking exemption from paying the fee, you need to download an Exemption form/s (see <u>http://www.familycourt.wa.gov.au</u> - Fees -Exemption Form), complete and scan the form(s) and attach evidence supporting your request for an exemption. If you are filing a joint application for divorce, both applicants need to be eligible for the exemption.

Applications for hearing at a circuit location

At this stage, parties are not able to file electronically if they wish to have their Application for Divorce heard at a circuit location.

For information on circuits see <u>www.familycourt.wa.gov.au</u> – Court List – Country circuits. Parties wishing to have their divorce heard at one of these locations must file their application either in person or by post.

Step-by-step process of eFiling an Application for Divorce via the portal

Stage 1

- Register yourself in the portal at www.comcourts.gov.au
- Complete the Application for Divorce eForm.
- Pay by Credit Card or submit an application for Exemption and a scanned image of your benefit entitlement card (BOTH SIDES) making sure it is signed and current.
- When your payment is approved a new file will be created and a file number provided.
- Select a Court Date from a range of dates provided.
- Print out the sealed Application for Divorce together with a copy of the *Marriage, Families and Separation* Brochure.

Stage 2

Important: your application cannot proceed in court until you have completed the following steps

- Complete the *Affidavit for eFiling Application (Divorce)*, and have this sworn or affirmed by an appropriate person, eg Justice of the Peace.
- Upload this Affidavit and print off with the accompanying confirmation notice.
- If only one party applied, arrange service on the respondent of the *Application for Divorce, Affidavit for eFiling Application (Divorce)*, the confirmation notice and a copy of the *Marriage, Families and Separation* brochure.
- Upload service documents prior to the Court date to enable your hearing to proceed.

For further information on the process of serving your application for Divorce, please refer to the Serving an Application for Divorce Kit at **www.familycourt.wa.gov.au**.

Time Considerations

Documents may be electronically uploaded at any time. However, parties and practitioners should note:

(a) Pursuant to Rule 24.05, documents uploaded after 4.30pm will be taken to have been filed on the following day.

(b) For documents filed less than 48 hours prior to a hearing, parties and/or practitioners:

(i) Will need to seek leave of the Court to rely upon that document at that hearing; and

(ii) Must provide a clean sealed copy of that document to the Court for consideration.

For the purposes of (a), times will be calculated according to the time zone of the filing registry, and not the location of the person uploading the document.

Hard Copy Documents

Hard copy documents are not required to be filed in addition to eFiled documents unless requested by the Judicial Officer.

The Court Seal

A Court Seal is automatically affixed to the Application for Divorce when it is printed out, and also to the cover sheet attached to the *Affidavit for eFiling* (*Divorce*).

Frequently Asked Questions

How does eFiling an Application for Divorce work?

An applicant will be able to eFile an Application for Divorce by completing the online form; uploading any required accompanying documents (such as a Marriage Certificate); paying the fee by Credit Card; and selecting a Court date for the matter to be dealt with by a judicial officer in Court.

What happens when I lodge my Application?

Once the transaction has been completed a new file will be created and you will receive a sealed Divorce Application complete with details of the Court date which can be printed out to serve on the respondent.

Note You need to serve the respondent with your Divorce Application and a separate accompanying '*Affidavit for eFiling (Divorce)*, in which you swear/affirm that the contents of the Application are true and correct, together with the Marriage, Families and Separation Brochure.

What can be seen in the Portal after I lodge my documents? Your eFiled documents, the next Court date and any other documents that have eFiled by the Respondent, are viewable in the Portal. Records of any other documents that have been lodged via the Portal or the Family Court's Registry can also be viewed.

How can I eFile a joint application for Divorce?

If both parties want to file an application together (eFile a "joint application"), one of the applicants will need to complete the Application for Divorce, and provide details for both parties. The application must be sworn or affirmed by both parties before a lawyer, Justice of the Peace or other authorised person.

Who do I contact if I have any questions regarding eFiling through the Portal?

If you want to know more, call the Call Centre on 08 9224 8222 or visit the registry.

What happens if I don't file the Affidavit for eFiling (Divorce) with my application?

Your application cannot proceed without this affidavit. Your eFiled divorce application MUST be accompanied by the *Affidavit for eFiling Application (Divorce)*, sworn by the applicant(s) and witnessed by an appropriate person such as a Justice of the Peace.

Do I need to serve the application and accompanying papers on my spouse if this is a joint application? No, you do not need to serve the application and papers if this is a Joint Application.

How long does my incomplete application stay on the Portal? You have 30 days to complete your Application. Unsubmitted applications will be removed from the Portal following 30 days of inactivity.

eFiling a New Application

Register in the portal at www.comcourts.gov.au

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Once registration is complete Click 'Register'

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Confirm Password	
Security Question:	* Father's Name
	You will be assed the question if you forget your property (5 - 60 chard)
Secret Answer	*
Confirm Secret Anower	(2 - 30 chars)

Click Create 'New File'



Read and confirm information is correct Click 'Confirm'



Select 'Application for Divorce (Western Australia)' from the dropdown list

Enter Title 'Surname and Initials of Both Parties' and Description e.g. Divorce Application Click 'Submit'

Available Files	Bookmarks	Court Diary	Rearch	New File
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A new Application has been created Click 'Open' to start the application process

Application Type	Title	Description	Started	1122	
Application for Divorce	Jackson A & L	Divorce	17/09/2009 11 23:05	Spen	Delete

To start lodging your application select 'Open Divorce Application' or Click 'Part A'



As you complete each Part and save it that part will display the percentage completed until it reaches 100%



Upon completion of each Part, either Save and/or Validate

Save, saves where you are up to in the eForm and Validate checks for missing detail input



After you have Saved and/or Validated to move to the next Part select 'Next' at the bottom of the screen or select the next Part from the boxes at the top of screen

Previous-	The applica	int(s)	Next-Juriso	diction O	R
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After completing all Parts Click 'Continue'



Answer questions 1 & 2.

- At Q1 if you are seeking an exemption you will be directed to browse and upload a copy of your Exemption Form/s and concession card/s details.
- At Q2 Click 'Browse' to search your computer's hard drive or memory stick for the copy of the PDF of your Marriage Certificate and Click 'Upload'.
- Tick the tick box after downloading and printing out the *Marriage, Families and Separation* brochure.
- Click 'Submit Application' which will take you to the Card Selection
 Screen

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At the 'Card Selection' Screen select either Visa OR MasterCard by Clicking on its Logo



At the Card Details Screen enter your 'Card Number', 'Expiry Date' and 'Security Code' details and Click on 'Pay' NOTE: Credit Card details are not stored on the portal



Wait for the transaction to be approved



Wait further until the 'Create a new file – Application complete' screen displays with payment receipt details. Your File number has now been created.

You can now select one of the highlighted dates from the 'Select a Court date' area

Create a new file - Application complete

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After choosing the date, a selection of times will be displayed Click on the 'time you want' then Click 'Submit'



Sessions available on 3/11/2009

Please select a session:

*	-	Date	Time	Location
1		3/11/2009 (Tuesday)	10.00 AM	Commonwealth Law Courts Cnr North Quay and Tank Street,
2	C	3/11/2009 (Tuesday)	11/15 AM	Commonwealth Law Courts Chr North Quay and Tank Street,
3	C	3/11/2008 (Tuesday)	2.15 PM	Commonwealth Law Courts Cor North Ouay and Tank Street
4	C	3/11/2009 (Tuesday)	3:00 PM	Commonwealth Law Courts: Cnr North Quay and Tank Street,

You now will see the 'Application Complete' Screen with 'Court Details' displayed. If you Click on 'Transaction Receipt' a receipt of your lodgement will display for printing

Application Type	Title	Description	Started	
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	You need to print a cop	ry of your application. Click the	file number above then Documents	Filed.
ourt Details				
Filed at	BRISBANE-FEDERAL	MAGISTRATES COURT		
Filed on	Thursday 17/09/2009 1	2:19 PM		
Court Location TRANSACTIO	Commonwealth Law C	courts. Ont North Quay and Tar	ik Street. Brisbane	
File Title:	Party P & J			
File number:	ADC1751/2009			
Filed on:	Tuesday 22/09/2009 11:4	13 AM		
Application:	FMC DIVORCE filed by	MR PARTY, PETE	R(A) on 22-SEP-2009	
4	Your eFile was successfu	1		

Status Description: Processed. File created. Access to file granted

To view details of your file, Click on 'File number'

Available Files	Bookmarks	Court Diary	Search	New File
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Application for Divorce	Jackson A & L	Divorce	17/09/2009 11:22 05	
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To see more detail Click on plus (+) to expand OR minus (-) to reduce the detail displayed.

To view and print off a sealed copy of your uploaded application Click its icon to open and print it.

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	Court Events and Or	ders						
	Date	Time	Event Type	Presiding Officer(s)	Location		Outcome	Order
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	Documents Filed	A C+	ld Document					
D	ate Filed	Do	cument Title			Filed By		
22	2-Sep-2009	Ce	rtificate			Mr Peter Party	() () () () () () () () () ()	1
22	2-Sep-2009	Fe	deral Magistrates A	oplication for Divorce		Mr Peter Party	r.	12
	Parties							
	Role			Name			End	
	Applicant			Mr Peter Party				
	Resnondent			Mrs Julie Party				

Prior to service

To print a copy of the 'Confirmation Notice' you first have to upload a copy of your sworn/affirmed 'Affidavit of Applicant/s' by logging into the portal and selecting 'Available Files'.

Click on your file number to open the Application screen to view the file details.

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				411

Next select 'Add Document'

Applications

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	01-Dec-2009	09:30	Hearing Divorce	Registrar Scholz	ADELAIDE COURT ROOM	5, LEVEL 1		
	Documents Filed Add Docum Parties		ld Document					

Select 'Affidavit of Applicant/s' from the list of 'Document Types'. Complete all the other details required and Click 'Upload'.

Document Type:	Affidavit of Appl Affidavit of Applicant/s	icant/s
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iled on behalf of.	Chan Nouses	Description
JACKSON	ALAN	Applicant
C JACKSON	JACKI	Respondent

You will receive a message that your transaction was successful with a 'Confirmation Notice'. This has to be printed out and attached to your 'Affidavit of Applicant/s' which you need to serve with your Divorce documents on the Respondent

File a document

Upload a document to this file. Note: There may be a short delay before your uploaded document will appear in the file.

File Title: Jackson A & J File Number: BRC2862/2009 Filing date: 17-Sep-2009 Finalised date:

Application: FMC DIVORCE filed by MR JACKSON, ALAN(A) on 17-SEP-2009

>>Back to applications

🥜 Your upload was	successful	Transaction Receipt 🖨 📬 Confirmation Notice 🖨 📬
Transaction Reference	#: FAM1738	
Status Description:	Processed, Supp	orting document lodged
Uploaded Document:	Test eFiling PDF.	odf
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Lodging further documents

To add further documents later, such as your service documents, log into the portal.

In the 'Documents Filed' area Click on 'Add Document'

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To add a new document Click on 'Browse' and search your hard drive/memory stick for the document you have scanned and saved previously. Select the 'Document Type' that you are lodging.

Tick the 'check box' for the person you are filing on behalf of (after reading the information about uploading documents), Click 'Upload'.

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Your document is confirmed as being uploaded you now can print off the Confirmation Notice

