

SEPARATION TO DIVORCE

HEAD AND HEART ESTATE PLANNING



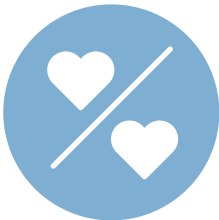
THE MINIMUM TIMELINE: 15 MONTHS

There is no way around it, or to speed it up!
In Australia the time from separation to finalising your divorce is no less than 15 months, and very often much longer.



YOU MAKE THE DECISION

You make the decision to end the relationship. For some people they do this more than once before finally separating, or make the decision a long time before separating to prepare for the separation.



YOU SEPARATE FOR 12 MONTHS

You and your spouse separate, more commonly by living apart, but sometimes under one roof. The separation must meet some financial, public, and personal, criteria to count. You cannot start your application for divorce until you have been separated for 12 months.



MAKE AN APPLICATION FOR DIVORCE

You can now file your Application for Divorce, and comply with the service and legal requirements of this. A Hearing Date will be given for your matter, these are usually no sooner than 2 months after filing your Application.



COURT HEARING DATE

Even though you may not need to attend on the day, there will be an actual Hearing for your Application for Divorce. Your Divorce may be granted in the Hearing, but an Order needs to be made to make the Divorce legal.



DIVORCE IS GRANTED

An Order for your Divorce is only granted 1 month (28 days) after your Hearing. Taking the total, minimum period from separation to Divorce to 15 months!

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SEPARATED BUT NOT YET DIVORCED: THE RISKS

Accepting that it is at least 15 months from separation to Divorce, why should you create a new Will in contemplation of Divorce?

WHEN YOU SEPARATE, AT THAT TIME YOU WILL EITHER:

HAVE A WILL:



If you have a Will made during your marriage the gifts and appointments (for example, as executor) to your spouse in it will remain valid during your separation until your divorce.



NOT HAVE A WILL:

If you don't have a Will the intestacy laws of your State will determine how your estate is divided and gifted, and your spouse is the first beneficiary provided for.

BOTH CIRCUMSTANCES WILL MEAN THAT YOUR EX WILL INHERIT SOME, IF NOT ALL OF YOUR ESTATE UPON YOUR DEATH.

THE INTESTACY LAWS OR A WILL **TREAT ESTRANGED SPOUSES THE SAME AS HAPPILY MARRIED COUPLES!** NO MATTER THE LENGTH OF SEPARATION, OR IF ONE OF YOU HAS RE-PARTNERED SINCE THE SEPARATION.

WHAT IS THE IMPACT OF DIVORCE ON MY ESTATE PLAN?

HAVE A WILL:



Divorce revokes any gift or appointment in your Will you your ex-spouse, and the Will remains valid but treats that person as if they had predeceased you, skipping to the next beneficiary.



NOT HAVE A WILL:

Because your ex is no longer your "spouse" after your Divorce, they are no longer entitled to anything from your Estate under the intestacy laws.

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ALWAYS AN ESTATE PLAN, NOT JUST A WILL

A Will can only deal with some of your assets, and only operates once you have died. Every client should consider an Estate Plan that has greater flexibility and impact than just a Will.

WHAT CAN'T BE CONTROLLED OR GIFTED BY A WILL:

- JOINTLY OWNED PROPERTY, SHARES, BANK ACCOUNTS
- SUPERANNUATION (AND MOST OFTEN LIFE INSURANCE)
- TRUSTS CONTROLLED BY YOU OR OF WHICH YOU'RE A BENEFICIARY
- WHO HAS POWER OF ATTORNEY OVER YOUR FINANCES, & MEDICAL TREATMENT IF YOU ARE ALIVE BUT UNABLE TO MAKE DECISIONS FOR YOURSELF

AN ESTATE PLAN WOULD TYPICALLY INCLUDE:

- CLOSING JOINTLY OWNED BANK ACCOUNTS
- CHANGING THE OWNERSHIP OF PROPERTY & SHARES TO TENANTS IN COMMON PENDING A PROPERTY SETTLEMENT
- UPDATING YOUR BINDING DEATH BENEFIT NOMINATION (FOR SUPERANNUATION) & POLICY OWNER (FOR LIFE INSURANCE)
- CREATING NEW POWER OF ATTORNEY DOCUMENTS FOR YOURSELF

[BOOK A FREE CALL TO DISCUSS YOUR NEEDS](#)