



ArchivesACT

Finding Aid

Divorce Records

There are three phases in the making of divorce records in the ACT, the New South Wales era before 1933, the ACT era from 1933-1975 and the Commonwealth era from 1976. These different jurisdictional eras determine where the records are held and how to access them.

New South Wales legacy records

For divorce records up to 1933 in the area that now comprises the ACT, but was part of New South Wales, the New South Wales records should be checked.

The colony of New South Wales, enacted the *Matrimonial Causes Act 1873*, which enabled a man and a woman to 'break the bonds of matrimony' and seek the legal remedy of divorce, based on the English *Matrimonial Causes Act 1857* (UK) 20 & 21 Vict, c 85.

State Records of New South Wales provides aids to assist in researchers in locating records. The relevant *Archives in brief* documenting archives on divorce may be found at:

<http://www.records.nsw.gov.au/state-archives/guides-and-finding-aids/archives-in-brief/archives-in-brief-77/>

There is also an online index to the papers covering the period 1873–1923 to be found at:

<http://www.records.nsw.gov.au/state-archives/indexes-online/court-records/index-to-divorce-case-papers/>

In New South Wales, divorce records that are more than 30 years old are open to public access.

ACT records

It is only from 1933-1975 that divorce records are held by the ACT Government.

Although the Governor-General acting with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1931* could make ordinances for the governance of the ACT, it was not until 1932 that a divorce ordinance was made. The Commonwealth introduced the *Matrimonial Causes Ordinance 1932* which applied the

Matrimonial Causes Act, 1899, of the State of New South Wales, as amended by the *Matrimonial Causes (Amendment) Act 1929*, (NSW), in the Territory as a law of the Territory.

The ACT Supreme Court holds records relating to relating to petitions for divorce that were heard in the ACT Supreme Court from **** to 1975. There is an index to these records which the Court will check to locate the file. Copies of the records are available at the Court's standard research charges. They can be requested by writing to the ACT Supreme Court or by email quoting the relevant details from the index; your postal address should also be included so that the copies can be posted to you. The contact details for the Court are at http://www.courts.act.gov.au/supreme/content/telephones_administration.asp

Commonwealth records

Section 51 of the Constitution gives the Commonwealth power to legislate on '(xxi) marriage and (xxii) divorce and matrimonial causes'. The two Commonwealth Acts, the *Matrimonial Causes Act 1945* and the *Matrimonial Causes Act 1955* were repealed by the *Matrimonial Causes Act 1959*. That Act together with the *Marriage Act 1961* consolidated the laws of marriage, nullity of marriage and divorce into one federal code.

The *Family Law Act 1975* (Cwlth) abolished the fault concept in divorce law. It repealed all *Matrimonial Causes Acts* and replaced parts of the *Marriage Act*. A new specialist federal Family Court of Australia was established with newly appointed judges, and its own counselling, conciliation and research facilities.

Since 1976, divorce records of the ACT are held by the Family Court of Australia Canberra Registry.

<http://www.familylawcourts.gov.au/wps/wcm/connect/FLC/Home/Separation+and+Divorce/I+need+to+prove+we+are+divorced/>