
Religious Divorce

For some of our clients, separation and divorce have religious implications.

A Jewish gett, a Sharia talaq and a Catholic annulment are of no effect in Australian civil law. A divorce under the *Family Law Act* will also be necessary.

Jewish Gett

Under Jewish law, a civil divorce is not recognised without a gett. A gett is generally drawn up by a *Beth Din* (Rabbinical council). A marriage is dissolved by the husband granting a gett voluntarily and the wife voluntarily receiving it. Without this, the religious divorce is not recognised.

The Family Court or Federal Magistrates Court may try to phrase the orders to assist a wife to obtain a gett from a husband who may otherwise be reluctant to give it.

Sharia Talaq

The aim of Islamic law is to establish a healthy family unit through marriage. However, if this fails then divorce is permitted. The husband must pronounce 'talaq' for the divorce to be effected. The general principle is that when the husband pronounces 'talaq' three times divorce is effected. A wife who seeks a divorce will usually need the consent of her husband.

If a wife has a genuine objection she may also obtain a divorce without the husband's consent. Reasons to ask for a divorce include a wife's disliking of a husband's treatment of her or him having failed to meet his responsibilities of the marriage. Divorce can be requested by a wife and is granted by a husband upon the wife paying a husband a sum of money. The amount is limited to the amount provided by a husband as a gift to a wife during the marriage.

Catholic Annulment

An annulment, or decree of nullity, is an official declaration made by the church. It declares that some of the necessary elements of a marriage were missing at the time of the wedding. A decree of nullity declares the marriage as recognised by the Catholic Church did not exist as it was invalid. The Catholic Church requires that a divorce under the *Family Law Act* before a marriage is annulled.