

# The Gett Guide



## **MELBOURNE BETH DIN**

All you need to know about the why, how, when and where of getting a Gett.

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# Introduction

Nobody who gets married expects that it will end in divorce. The Beth Din is aware of the range of emotions that can flood a person whose marriage comes to an end in this way and all our personnel are extremely sensitive to people at this very difficult time.

Whenever two Jewish people are living together as man and wife, there are only two ways of ending that legal status. One is if one of them dies, but Jewish law does not insist that people who are unhappy in their marriage wait for one of them to die to find happiness. The Torah provides a second way to terminate an unhappy marriage: the gett. Even if the marriage did not take place under Orthodox auspices, and in some cases even if they have had no formal marriage ceremony, a Jewish man and woman living as a couple will be considered married to each other in Jewish law and a gett will be required if either one wishes to marry another person. Nothing that a civil court may say or do, no change in living arrangements or anything else will bring an end to that marriage and the parties can still be considered married to each other according to Jewish law. For this reason, if a couple does decide that their marriage is over, the writing and handing over of a gett is of utmost importance.

The term “gett” is used in two ways. It refers to the actual document, written with a quill pen in the age old manner, and which the husband gives to the wife, and which the wife receives, in order to bring an end to their marriage. It also colloquially refers to the entire process of Jewish divorce in such phrases as “giving the gett,” “getting your gett” and so on.

It is also extremely important that neither party commence an intimate relationship with another, until their marriage has been ended by the giving and receiving of a gett. In certain cases, commencing an intimate relationship with another person in illegitimate circumstances may mean it is never possible for those two people to be married according to Halacha. There may also be serious consequences for the children of a relationship which began whilst one party was still – in Jewish law – married to another. The Hebrew term “mamzer” refers to a child born to parents who were not halachically able to have a sexual relationship with each other (because, for example, one of them was married to someone else at the time). A mamzer is severely

restricted in who they can marry, and therefore, for the sake of possible future children, if for nothing else, the importance of obtaining a gett cannot be overstated.

## The Beth Din

A Beth Din (plural: Batei Din) is a panel of (usually) three rabbis who have specific functions in Jewish Law. Every Jewish community is expected to establish and maintain a Beth Din so that these functions can be discharged. Whilst some Batei Din undertake to arbitrate and rule in disputes that may arise between people, the Melbourne Beth Din has never had this role and does not have it now. The role of Melbourne Beth Din is limited to

- Overseeing the process of Jewish divorce (gett) to ensure that all halachic requirements are met;
- Overseeing the process of converting those born as gentiles to the Jewish faith;
- Issuing certificates of personal status to those who may require them.

The role of Melbourne Beth Din, therefore, is a facilitative one. It does not “decree” a divorce, but rather certifies that the couple themselves have done correctly what Jewish law requires of them to end their marriage. The laws of Jewish divorce are extremely complex and detailed, and this is the reason that the process must be overseen by very learned rabbis who have spent years becoming familiar with all of the halachic intricacies.

# The Gett Process

*What is the process for obtaining a gett at Melbourne Beth Din?*

## Stage 1 – The Paperwork

**1. Complete and return the Application Form. (NB This section is intended to be read together with the Application Form.)**

The Application Form asks for information that the Beth Din requires to assess and process your gett. It also asks that you submit **photocopies – not originals** – of a number of documents. (In some cases the Beth Din will require sight of the original documents, and you will be advised if this is the case.) If any of these documents (originals or copies) are not available, don't worry – discuss this with the Beth Din Office. The documents are:

- The Ketubah (Jewish Marriage Certificate).
  - The civil marriage certificate.
  - Where available, the civil divorce document.
  
  - The front page of both the husband and wife's passport OR each person's driver licence.
  - Documents relating to any previous marriages and/or divorces of either partner. This refers to documents issued by both a Civil Court or a Beth Din.
2. You should also include the completed Payment Form, and indicate how the payment of the non-refundable \$200 deposit will be made. You may pay by Cash, Cheque, Bank Transfer (including Internet banking) or Credit Card (MC or Visa only).
3. Both the man and the woman need to complete and return an Application Form, with its accompanying photocopies of documents, and it doesn't matter which one we receive first.

## Stage 2 – Arranging the Date and Clarifying the names

1. Once both parties have completed and returned all the documentation, the Beth Din Office will contact you to offer a date for the gett procedure. Gittin normally take place on a Thursday afternoon, between 2:30pm and 5:00pm. For the standard gett process (see below) the man will need to be present for about 90 minutes, and the woman for about 30 (see On The Day, and see Alternatives below).
2. Some time before the set date, a Dayan will telephone you to clarify the way that your name should be written in the gett. This is an extremely important aspect of the writing of the gett and the Dayan will ask you about various names that have been applied to you, including nicknames. He will need to know similar information about your father. If you miss the Dayan's phone call, it is extremely important that you call him back so that the names can be clarified in advance. This is so that the documentation to be used on the day of the gett can be prepared in good time.

## Stage 3 – On The Day

Note: Paragraphs 1 to 17 in this section describe the **standard gett process**. For possible variants, continue reading.

Each party has a distinct but equally crucial role to play in the Gett process.

1. The gett process normally commences around 2:30pm. The Dayanim will have been present some time before this to make sure that all necessary documentation has been prepared correctly and that the names are correctly written.
2. On arrival at the property please inform the guard of your appointment with the Beth Din and request him to guide you to the Beth Din. Please feel free to enter the building and take a seat in the first room on your right.

3. Feel free to make a cup of tea or coffee, or take a cup of chilled water using the facilities in the entrance. We'll do our best not to keep you waiting too long.
4. Melbourne Beth Din works with the Unchain My Heart organisation, who provide a trained support person to be with you on the day of your Gett process. Please indicate on your Application Form if you do not wish to avail yourself of this service.
5. You may bring someone along to accompany you throughout the Gett process. Please do not bring children or a group of people.

### A. The Man's Role

6. Once the Dayanim are satisfied that everything is correct, you will be asked to enter the Beth Din itself. There is a large table at which the three Dayanim sit along one side. A second table is set perpendicular to the other side, at which you will be invited to sit. Also in the room will be:



- Two *eidim* (witnesses)
  - One *sofer* (scribe)
  - If required, one *shaliach*
  - Also, sometimes, the Registrar
  - The Unchain My Heart volunteer
7. The presiding Rabbi will commence proceedings by welcoming you and explaining the process. He will cover the following points:
    - a) In giving a gett, you must be acting of your own free will;
    - b) Ideally, the husband himself should write the gett. However, since very few husbands know all the laws of writing the Hebrew letters required, we always ask the husband to appoint a *sofer* to write on his behalf.



8. The Rabbi will then work his way through a series of questions to confirm that you are acting purely out of your own free will and that nothing is forcing you to give the gett. Some of these require a simple Yes or No answer from you; for others you will need to read a statement which will be provided for you to read in English. (If it is easier for you to read Hebrew, you may request the statements be provided in Hebrew. See the relevant question on the Application Form.)
9. During the course of this procedure, you will complete the following parts of the process:
  - a) Confirm you are acting of free will and nothing is forcing you to be there;
  - b) Acquire pens and paper for the scribe to write the gett with; (the gett must be written with materials that belong to the husband. You will be offered, as a free gift, a briefcase containing these items, and once you raise it beyond shoulder height, it becomes yours.)
  - c) Appoint the scribe to write the gett for you and your wife;
  - d) Appoint the eidim to witness and sign the gett.
10. The scribe will then go to another room to write the gett for you, which will take about an hour. You are welcome to wait in the waiting room during this period, or leave the building if you wish. It is important that you do not discuss the gett or any aspect of the proceedings with anyone during this break.
11. Once the gett has been written and checked and the *eidim* have signed it, all three personnel are questioned by the Dayanim to ensure they have discharged their duties correctly.

## **B. The Woman's Role**

12. You will normally be asked to attend at around 4:00pm. By this time, your (ex-) husband will have completed the stages above, and the gett will have been written, checked and signed. The scribe and witnesses are questioned to ensure they have done everything correctly.

13. It is then time for you to enter the Beth Din. You will be asked three questions to make sure that

a) You are receiving the gett willingly;

b) You have not made any kind of oath or promise that would force you to receive or not receive a gett;

and you will be asked to make a statement cancelling any words you may have previously said that could cast doubt on the validity of the proceedings.

### **C. The Handing Over of the gett**

14. The husband re-enters the room and is asked to confirm the statements he made prior to the writing of the gett.

15. The wife is asked to make sure she has no rings on her hands. This is to make sure that when she receives the gett, it goes directly to her hand with nothing intervening.

16. The man and woman stand facing each other. The woman holds her hands in front of her to receive the gett. The man holds the folded gett over her hands and makes a short statement declaring that by his giving and her receiving this document their marriage will end. He drops the gett into her hands. She closes her hands to hold the gett, raises it up, then places it inside her jacket or under her arm and takes a few steps away from him. This is to ensure that she has legally acquired the document according to halacha, which is the moment the divorce actually happens.

17. The rabbi asks her to hand him the gett so that it can be read out loud, just to confirm that it is the correct document and to publicly announce the finalisation of the process.

18. The gett itself remains on file at the Beth Din. As long as all required fees have been paid, a certificate is given to the man and the woman. This document, printed in Hebrew and English, is accepted anywhere in the world as evidence that the Jewish divorce has been conducted correctly according to halacha.

19. The parties leave the building separately, to indicate their newly separate status.

## Alternatives to the Standard Procedure

The procedure above is the one that should ideally be followed. However there are alternative procedures that may be followed if circumstances require it.

### Alternative 1 – Shaliach

Sometimes the man and woman (or one of them) do not wish to be in the same room together, or see each other. Sometimes there is an Intervention Order that prohibits this. Sometimes one of them lives some distance away, or in another country. In any of these situations, with the assistance of the Beth Din, a *Shaliach* is appointed by the husband to be an intermediary between them. Using a *Shaliach*, the procedure above is followed except that:

In Step 13, the husband repeats many of the statements he made in Step 8, including the appointment of the *Shaliach*.

In Step 15, the man faces the *Shaliach* and drops the gett into his hands.

At a later date, in Step 15, the *Shaliach* stands facing the woman, and – making a statement on behalf of the husband – drops the gett into her hands.

### Alternative 2 – Kitvu U'Tenu

On rare occasions a husband is unable or unwilling to spend 90 minutes at the Beth Din. In such cases, he may enact a document empowering the Beth Din to instruct that a gett be written and given on his behalf (in Hebrew – Kitvu U'Tenu – write and give). This document is like a Power of Attorney and means that by reading a single sheet of English text, he has completed all he needs to in order for the gett to be written. This is the least preferable of the options, and is used rarely when there is no other alternative.

# Fees

The fees for all services offered by Melbourne Beth Din are fixed by the Board. Currently the fee for a standard gett is \$1,500. In some cases one party pays the entire cost and in others they pay half each. This is a matter that the two parties must work out between themselves, and the Beth Din does not get involved in such negotiations.

The fee above does not fully cover the costs of the Beth Din, which is supported by a subsidy from the Council of Orthodox Synagogues of Victoria (COSV). For this reason, current financial members of COSV synagogues qualify for a discount of \$200. This discount is per applicant with a total of \$400 discount where both applicants are a current financial member of a COSV synagogue. All the Beth Din requires for the discount to be applied, is our Certificate of Synagogue Membership form to be stamped and signed by the relevant synagogue and returned to us.

If a *shaliach* is involved, an additional fee of \$140 is added to cover his costs.

The Beth Din is not funded to the extent that we are able to offer a discount on fees in any circumstances. In cases of financial hardship, we never refuse to facilitate a gett solely because people cannot pay, but we ask that payment be completed over a period of time by manageable instalments. In addition, some of the charitable organisations of Melbourne have, in the past, assisted those of limited financial means to pay for the gett. As stated above, the certificate attesting to the gett will not be released until all financial obligations of a party have been met.

## Frequently Asked Questions

### **What if my ex won't co-operate?**

The Beth Din is set up to provide a service to couples who both want a gett. The Beth Din has no coercive powers to force someone to give or receive a gett. Nevertheless, the Dayanim understand the dreadful situation of an *Aguna* – a woman who cannot remarry because her husband will not cooperate with the gett process, and the similar predicament of an *Agun*, a

man whose wife refuses to receive a gett, and will do everything in their power to prevent it. The Beth Din takes a very firm view opposing violent or controlling behaviour between couples who have been married, and in 2015 supported a Beth Din client whose husband's refusal to give a gett was judged by a Magistrate to be an extension of the controlling behaviour he exhibited during the marriage, and thus a breach of the Intervention Order she had against him. (The husband agreed to give the gett at the County Court which prevented his appeal coming before a Judge.) The Dayanim oppose the use of a gett as "leverage" or as a means to gain financial or other advantage. The issue of a gett should never be involved in such negotiations, which should be argued on their own merits.

The important thing in a situation of non-cooperation is to remain in contact with the Beth Din. The Dayanim welcome each party to appear before them to explain their situation, and whenever this happens, the Dayanim have so far always been able to help work out a solution that each party can accept.

### **How long does it take?**

Demand for gittin varies over time. If both parties co-operate, from the date we first receive the application, the entire process can be completed in about three months.

### **What if I don't live in Melbourne?**

See Alternative 1, above. You should apply at the nearest Beth Din to where you live and, if your (former) spouse resides in Melbourne, they will contact us and liaise with us throughout the process. Melbourne Beth Din has facilitated gittin for people who live in most parts of the world, and this presents us with no difficulty. If there is no Beth Din within reach, please contact us for advice.

### **What should I wear?**

The Beth Din is a formal venue, and it would be appreciated if you would dress in a smart manner, as you would when attending any Court. Men should make sure that they have a hat, kippah or some form of head-covering; women should ensure they are modestly covered.

### **How should I address the Dayanim?**

The terms Dayan or Rabbi are acceptable. During the formal part of the proceedings, when the Dayan addresses you, you should stand, out of respect.

### **What does the text of the gett actually say?**

The text of the gett is very ancient. It is quite simple and says that on the particular date, in Melbourne, the man (who is named) released, discharged, and divorced the woman (who is named), and she is therefore permitted to marry any man. This statement is confirmed in various ways in the remainder of the document.

### **Do I have to meet my spouse during the gett process?**

As explained above, there is no necessity for the parties to see each other, or even be in the building at the same if this is difficult or uncomfortable.

### **Should I ask the Family Court to order my ex to give/receive a gett?**

A gett which is given or received under coercion from an external source is invalid. Therefore it is very important that no court issues an order requiring a party to give or receive a gett. However, it can be very useful if court orders include clauses requiring the parties to attend at the Beth Din and comply with the instructions of the Rabbis. The Beth Din can supply appropriate wording for such clauses on request.

### **Should I complete my civil divorce first, or apply for the gett first?**

The two things are independent of each other, so it doesn't really matter which is completed first. The Beth Din is working with legislators in Australia to bring it in line with other jurisdictions around the world which will not complete a civil divorce until the gett process has been completed.

### **I can't read/speak Hebrew. Is this a problem?**

No. The entire process is conducted in English, and the one or two Hebrew words which you may have to read are spelt out in English letters.

### **I am not very fluent in English and mainly speak Hebrew. Can the proceedings be done in Hebrew?**

Yes, statements you need to read can be provided in Hebrew.

### **May I bring a friend/support person?**

Yes, you are most welcome to bring someone who may stay by your side throughout the entire process.

### Why does it cost this much?

Many personnel are required to ensure that the *gett* process is enacted correctly, and they are all entitled to remuneration for their time. The three Dayanim have spent many years studying to be able to respond to any situation or question that arises and have a level of expertise in Jewish law equivalent to any lawyer in civil law. The scribe similarly has studied and practised his art to attain a high level. They all, along with the witnesses, agent and so on are all entitled to appropriate compensation. When compared to the amount that some people spend on civil legal costs, the cost of a *gett* may not seem very large at all.

## Glossary

Agun – man who remains married to his wife because she is unable or unwilling to receive a *gett*.

Aguna – woman who cannot remarry because her husband's whereabouts are unknown, or for some other reason he is unable or unwilling to give her a *gett*.

Agunot – plural of Aguna

Beth Din – A panel of (usually) three highly trained and experienced rabbis who ensure that procedures required by halacha are conducted correctly. In some cases they also arbitrate disputes.

Dayan – A rabbi who has achieved a higher level qualification which enables him to sit on a Beth Din.

Eid/Eidim – Witness/Witnesses. A man who is observant of Jewish law, unrelated to any of the parties involved who witnesses halachic procedures.

Gett – Jewish divorce document. When a man willingly gives this document to his wife and she willingly receives it, the marriage ends.

Gittin – Plural of *gett*.

Halacha – Jewish law.

Mamzer – A person born from a forbidden union. A mamzer is not permitted to marry a regular Jewish person or a non-Jew. They can only marry another mamzer.

Shaliach – Agent. When someone instructs an agent to perform an act on their behalf, it is as if they, themselves, performed the act.

Sofer – Scribe. Someone who is trained and experienced in all the halachic requirements and intricacies of writing Hebrew letters.

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