

Family Law (Child Abduction Convention) Amendment Regulations 2000 (No. 1) 2000 No. 208

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 208

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

Family Law Act 1975

Family Law Amendment Regulations 2000 (No. 3)

Family Law (Child Abduction Convention) Amendment Regulations 2000 (No. 1)

Section 125 of the *Family Law Act 1975* (the Act) provides for the Governor-General to make regulations prescribing, amongst other matters, all matters that are required or permitted by the Act. Pursuant to this power, the Family Law Regulations 1984 (the Family Law Regulations) and the Family Law (Child Abduction Convention) Regulations 1986 (the Child Abduction Regulations) were made, prescribing certain matters concerning the practice and procedure of the Family Court of Australia.

The purpose of the Regulations is to make consequential amendments to the Family Law Regulations and the Child Abduction Regulations to allow for the application of the Family Law Regulations and the Child Abduction Regulations to the Federal Magistrates Service, established by the *Federal Magistrates Act 1999*.

The Regulations omit the definitions of "Rules of Court" and "Family Law Rules", replacing them with definitions of "applicable Rules of Court" and "standard Rules of Court" where appropriate. These amendments are required as section 81 of the *Federal Magistrates Act 1999* allows the Federal Magistrates Service to make its own rules in relation to the practice and procedure to be followed in the Federal Magistrates Service. As the Federal Magistrates Service will make its own rules, the Family Law Regulations and the Child Abduction Regulations have been amended to reflect that both the Family Court of Australia and the Federal Magistrates Service will be exercising jurisdiction under the Regulations, but that each court has its own rules.

Details of the Regulations are contained in separate attachments.

Both sets of Regulations commence on gazettal.

Attachment

Family Law Amendment Regulations 2000 (No. 3)

Regulation 1 provides the name of the Regulations.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 to the Regulations amends the Family Law Regulations.

Item 1 of Schedule 1 omits the definition of "Rules of Court" from the Family Law Regulations.

Item 2 of Schedule 1 inserts a note indicating that the definitions of "applicable Rules of Court", "related Federal Magistrates Rules" and "standard Rules of Court" can be found in section 4(1) of the Act.

Item 3 of Schedule 1 amends Regulation 11 of the Family Law Regulations, which imposes fees in respect of all proceedings under the Act, so that it specifically excludes family law proceedings in the Federal Magistrates Service. Fees for proceedings in the Federal Magistrates Service are imposed by the Federal Magistrates Regulations 2000.

Item 4 of Schedule 1 amends Regulation 16 of the Family Law Regulations to ensure that it covers fees for appeals from the Federal Magistrates Service to the Family Court under section 94AAA of the Act.

Item 5 of Schedule 1 inserts a note into subregulation 39(3) of the Family Law Regulations indicating that service is dealt with by the applicable Rules of Court.

Item 6 of Schedule 1 corrects a minor typographical error in subregulation 53(4) of the Family Law Regulations, by replacing the word "Court" with the word "court".

Item 7 of Schedule 1 amends the Family Law Regulations by replacing each mention of "Rules of Court" and "Family Law Rules" in the Family Law Regulations with either "applicable Rules of Court" or "standard Rules of Court." As the Federal Magistrates Service will make its own rules in relation to the practice and procedure to be followed in the Federal Magistrates Service, the Family Law Regulations have been amended to reflect that both the Family Court of Australia and the Federal Magistrates Service will be exercising jurisdiction under the Regulations, but that each court has its own rules.

Attachment

Family Law (Child Abduction Convention) Amendment Regulations 2000 (No. 1)

Regulations 1 provides the name of the Regulations.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 to the Regulations amends the Child Abduction Regulations.

Item 1 of Schedule 1 amends Regulation 2 of the Child Abduction Regulations by inserting a reference to the Federal Magistrates Service's jurisdiction under section 39(5A)(a) of the Act. Regulation 2 defines "court" as a court having jurisdiction under certain sections of the Act. Item 1 of Schedule 1 will add the Federal Magistrates Service's jurisdiction under section 39(5A)(a) of the Act.

Item 2 of Schedule 1 omits the definition of "Rules of Court" from the Child Abduction Regulations.

Item 3 of Schedule 1 inserts a note indicating that the definitions of "applicable Rules of Court", "related Federal Magistrates Rules" and "standard Rules of Court" can be found in section 4(1) of the Act.

Item 4 of Schedule 1 corrects a minor typographical error in clause 3 of Form 1, Schedule 3 of the Child Abduction Regulations, by replacing the word "or" with the word "of".

Item 5 of Schedule 1 amends the Child Abduction Regulations by replacing each mention of "Rules of Court" and "Family Law Rules" in the Child Abduction Regulations with "applicable Rules of Court." As the Federal Magistrates Service will make its own rules in relation to the practice and procedure to be followed in the Federal Magistrates Service, the Child Abduction Regulations have been amended to reflect that both the Family Court of Australia and the Federal Magistrates Service will be exercising jurisdiction under the Regulations, but each court has its own rules.