



Family Law Amendment (2014 Measures No. 1) Rules 2014

Select Legislative Instrument No. 213, 2014

We, Judges of the Family Court of Australia, make the following Rules.

Dated 17 December 2014

D Bryant CJ

J Faulkes J

M May J

A Ainslie-Wallace J

J Ryan J

J Stevenson J

M Le Poer Trench J

R Benjamin J

J Crisford J

S Austin J

S Moncrieff J

M Cleary J

W Johnston J

I Loughnan J

C Forrest J

M Kent J

K Macmillan J

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M Aldridge J
J Walters J
S Duncanson J
P Tree J
J Hogan J
D Berman J
G Foster J
C Thornton J
H Hannam J

Judges of the Family Court
of Australia

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1 Name

These are the *Family Law Amendment (2014 Measures No. 1) Rules 2014*.

2 Commencement

These Rules commence on 1 January 2015.

3 Authority

These Rules are made under the *Family Law Act 1975*.

4 Schedules

Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.

Schedule 1—Amendments

Family Law Rules 2004

1 At the end of Part 1.4

Add:

1.22 Methods of attaching the seal of the Court

The seal of the Court may be attached to a document:

- (a) by hand; or
- (b) by electronic means; or
- (c) in any other way.

2 Subrule 2.04D(1)

Omit “A Notice of Child Abuse or Family Violence (Form 4)”, substitute “Form 4”.

3 Paragraph 2.04E(1)(c)

Omit “Notice of Child Abuse or Family Violence (Form 4)”, substitute “Form 4”.

4 After rule 11.03

Insert:

11.04 Certificate of vexatious proceedings order

- (1) A request under subsection 102QC(1) of the Act for a certificate relating to a vexatious proceedings order must:
 - (a) be in writing; and
 - (b) include the following:
 - (i) the name and address of the person making the request;
 - (ii) the person’s interest in making the request.
- (2) The request must be lodged in the Registry in which the vexatious proceedings order was made.
- (3) For the purposes of paragraph 102QC(2)(b) of the Act, the certificate must specify the following information:

-
- (a) the name of the person subject to the vexatious proceedings order;
 - (b) if applicable, the name of the person who applied for the vexatious proceedings order;
 - (c) the orders made by the court under subsection 102QB(2) of the Act.

Note: The certificate must also specify the date of the vexatious proceedings order: see paragraph 102QC(2)(a) of the Act.

5 Division 15.3.4

Repeal the Division.

6 Paragraph 16.06(1)(a)

Repeal the paragraph.

7 Paragraph 16.06(1)(b)

Repeal the paragraph, substitute:

- (b) that the party has made appropriate inquiries to determine the attitude of the foreign country's government to the taking of evidence by electronic communication; and

8 At the end of paragraphs 16.06(1)(c) and (d)

Add "and".

9 Rule 17.03

Omit "87(11)(b) and 90KA(b)", substitute "87(11)(b), 90KA(b) and 90UN(b)".

10 Subrule 18.06(2) (at the end of table 18.5)

Add:

44 Chapter 26A

11 At the end of paragraph 20.04(d)

Add "or the Assessment Act".

12 Rule 20.04 (at the end of the note)

Add "and section 79 of the Assessment Act".

13 Rule 22.02 (note 3)

Omit “For the number of copies of a document to file, see rule 24.08.”.

14 Subrule 22.22(2) (note)

Repeal the note.

15 Rule 22.36 (note 2)

Repeal the note.

16 Rule 22.36 (note 3)

Omit “Note 3”, substitute “Note 2”.

17 Paragraph 24.01(1)(g)

Omit “include the following on the first page”, substitute “have a coversheet, in a form approved by the Principal Registrar, that includes the following”.

18 Subparagraph 24.01(1)(g)(iv)

Omit “document; and”, substitute “document.”.

19 Paragraph 24.01(1)(h)

Repeal the paragraph.

20 Rule 24.06 (note 1)

Omit “Note 1”, substitute “Note”.

21 Rule 24.06 (note 2)

Repeal the note.

22 Rule 24.08

Repeal the rule.

23 After paragraph 24.13(1)(b)

Insert:

(ba) if the case affects, or may affect, the welfare of a child—a child welfare officer of a State or Territory;

24 After Chapter 26

Insert:

Chapter 26A—Cases to which the Trans-Tasman Proceedings Act 2010 applies

Summary of Chapter 26A

Chapter 26A sets out the rules about a case in a Family Court to which the *Trans-Tasman Proceedings Act 2010* applies. Delegation of the Family Court's power in such cases is set out in Chapter 18 of these Rules.

The rules in Chapter 1 relating to the court's general powers apply in all cases and override all other provisions in these Rules.

A word or expression used in this Chapter may be defined in the dictionary at the end of these Rules.

26A.01 Application of Division 34.4 of the *Federal Court Rules 2011*

Division 34.4 of the *Federal Court Rules 2011*, as modified by rule 26A.02 or an order, applies to a proceeding in a Family Court as if the rules in that Division were provisions of these Rules.

26A.02 Modification of the *Federal Court Rules 2011*

- (1) For the purposes of rule 26A.01, Division 34.4 of the *Federal Court Rules 2011* is modified as follows:
 - (a) a reference to an originating application is taken to be a reference to an Initiating Application;
 - (b) a reference to an interlocutory application is taken to be a reference to an Application in a Case;
 - (c) a reference to an application or subpoena being in accordance with a Form is to be disregarded.
- (2) For the purposes of rule 26A.01, Division 34.4 of the *Federal Court Rules 2011* is also modified in accordance with Table 26A.1.

Table 26A.1—Additional modifications of the *Federal Court Rules 2011*

Item	Provision	Omit	Substitute
1	Paragraph 34.63(1)(b)	rules 8.01 and 8.03	rule 2.01
2	Subparagraph 34.64(a)(ii)	rule 17.01	rule 5.01
3	Subrule 34.68(2)	the whole of the subrule	

26A.03 Service of subpoena

A subpoena to which Division 2 of Part 5 of the *Trans-Tasman Proceedings Act 2010* applies must also be accompanied by an information sheet in a form approved by the Principal Registrar.

Note 1: Subsection 32(2) of the *Trans-Tasman Proceedings Act 2010* requires the subpoena to be accompanied by a copy of the order giving leave for service and a notice in the prescribed form.

Note 2: Section 33 of the *Trans-Tasman Proceedings Act 2010* requires the reasonable expenses of complying with the subpoena to be paid at the time of service of the subpoena or at some other reasonable time before compliance with the subpoena is required.

25 At the end of Chapter 27

Add:

Part 2—Transitional provisions relating to the Family Law Amendment (2014 Measures No. 1) Rules 2014

27.02 Application of Schedule 3 (itemised scale of costs)

Schedule 3, as substituted by the *Family Law Amendment (2014 Measures No. 1) Rules 2014*, applies to work done on or after 1 January 2015.

26 Schedule 2

Repeal the Schedule, substitute:

Schedule 2—Forms

Note: See subrule 24.04(2).

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Notice of Child Abuse, Family Violence, or Risk of Family Violence

FORM 4 Family Law Rules ~ RULE 2.04D

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Family Court of Australia
 Family Court of Western Australia
 Federal Circuit Court of Australia
 Other (specify) _____

Filed on behalf of:

Full name: _____

MARK [X] IN THE BOX THAT APPLIES TO YOU

- Father
 Mother
 Other (specify) _____

Applicant's Client ID _____

Respondent's Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Next Court date (if known) _____

This form is to be used in all proceedings for orders under Part VII:

- a) when allegations of child abuse or risk of child abuse are made and a prescribed child welfare authority must be notified of the allegations (sections 67Z and 67ZBA of the *Family Law Act 1975*);
b) whether the proceedings commenced before, on or after 7 June 2012.

Parties must summarise in Parts E, F and G the evidence on which the allegations are based in the affidavit to be filed with this Form.

Part A About the notice

This notice alleges:

- Child abuse or risk of child abuse
 Family violence or risk of family violence
 Child abuse or risk of child abuse and family violence or risk of family violence

MARK [X] IN THE BOX THAT APPLIES

Part B About the person filing this notice and parties

1 Who is giving this notice?

Family name as used now

Given names

Family name as used now

Given names

1

2 At what address can you be contacted? (THIS NEED NOT BE WHERE YOU LIVE) If you give a lawyer's address, include the name of the law firm.

		State	Postcode
Phone	Fax*		
DX			
Email*	Lawyer's code		

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

3 What are the names of the other interested persons and parties?

Family name as used now	Given names
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Family name as used now	Given names
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>

Part C About the independent children's lawyer

4 Independent children's lawyer family name Given names

Firm name

Part D About the children to whom the notice relates

Child 1	Child 2
5 Child's family name <input style="width: 150px;" type="text"/>	Child's family name <input style="width: 150px;" type="text"/>
Given names <input style="width: 150px;" type="text"/>	Given names <input style="width: 150px;" type="text"/>
<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
Child's date of birth <input style="width: 100px;" type="text"/>	Child's date of birth <input style="width: 100px;" type="text"/>
Child's address	Child's address
<input style="width: 150px;" type="text"/>	<input style="width: 150px;" type="text"/>
State <input style="width: 50px;" type="text"/> Postcode <input style="width: 50px;" type="text"/>	State <input style="width: 50px;" type="text"/> Postcode <input style="width: 50px;" type="text"/>
Name of the person with whom the child lives	Name of the person with whom the child lives
<input style="width: 150px;" type="text"/>	<input style="width: 150px;" type="text"/>
<input style="width: 150px;" type="text"/>	<input style="width: 150px;" type="text"/>

IF THERE ARE MORE CHILDREN ATTACH EXTRA PAGES ANSWERING PART D

Part E About the alleged abuse

Before you complete Items 6-13 you should carefully read the definition of 'abuse' in section 4(1) of the Family Law Act:

For proceedings commenced prior to 7 June 2012:

Abuse, in relation to a child, means:

- (a) an assault, including a sexual assault, of the child which is an offence under a law, written or unwritten, in force in the State or Territory in which the act constituting the assault occurs; or
- (b) a person involving the child in a sexual activity with that person or another person in which the child is used, directly or indirectly, as a sexual object by the first-mentioned person or the other person, and where there is unequal power in the relationship between the child and the first-mentioned person.

For proceedings commenced on or after 7 June 2012:

Abuse, in relation to a child, means:

- (a) an assault, including a sexual assault, of the child; or
- (b) a person (the **first person**) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is unequal power in the relationship between the child and the first person; or
- (c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to*, family violence*; or
- (d) serious neglect of the child.

*Family Violence – has the meaning given by subsection 4AB(1)

*Exposed to family violence – in relation to a child, has the meaning given by subsection 4AB(3).

6 Describe any acts or omissions that you allege constitute abuse. Please include the identity of the alleged abuser(s), if known.

NUMBER EACH PARAGRAPH AND ATTACH EXTRA PAGE/S IF YOU NEED MORE SPACE.

1. []
[]
[]
[]
[]
[]
[]
[]
[]
[]
[]
[]
[]
[]
[]

7 Identify the application/response where you seek orders to which the allegation(s) described in Item 6 are relevant.

Application/response	Date filed
█	█
█	█

8 Identify the affidavit(s) containing evidence of the allegations described in Item 6.

Name of the person swearing or affirming the affidavit	Date of filing	The paragraphs of the affidavits which relate to each allegation
█	█	█
█	█	█
█	█	█

9 What is the last known address of the alleged abuser(s) if known?

█		
State █	Postcode █	Phone █

NOTE: A copy of this notice must be served on the person identified in Item 6 as the alleged abuser (section 67Z(2) of the *Family Law Act 1975*).

Part F About the alleged risk of abuse

Before you complete Part F you should carefully read the definition of 'abuse' in section 4(1) of the Family Law Act (set out in Part E of this form for your information)

- 10 Describe the facts alleged to constitute any risk of abuse. Include the name of any person(s) from whom a child is alleged to be at risk of abuse, if known.

NUMBER EACH PARAGRAPH AND ATTACH EXTRA PAGE/S IF YOU NEED MORE SPACE.

1. [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

- 11 Identify the application/response where you seek orders to which the allegation(s) described in Item 10 are relevant.

Application/response	Date filed
[redacted]	[redacted]
[redacted]	[redacted]

- 12 Identify the affidavit(s) containing evidence of the allegations described in Item 10.

Name of the person swearing or affirming the affidavit	Date of filing	The paragraphs of the affidavits which relate to each allegation
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

- 13 What is the last known address of the person(s) from whom the child is alleged to be at risk of abuse?

[redacted]		
State [redacted]	Postcode [redacted]	Phone [redacted]

NOTE: A copy of this notice must be served on the person identified in Item 10 as the person from who a child is alleged to be at risk of abuse (section 67Z(2) and 67ZBA of the Family Law Act 1975).

Part G About the alleged family violence

Before you complete items 14-21 you should carefully read the definition of 'abuse' in section 4(1) and 'family violence' in section 4AB (1) and (3) of the Family Law Act as follows:

For proceedings commenced before 7 June 2012:

Family violence means conduct, whether actual or threatened, by a person towards, or towards the property of, a member of the person's family that causes that or any other member of the person's family reasonably to fear for, or reasonably to be apprehensive about, his or her personal wellbeing or safety.

NOTE: A person reasonably fears for, or reasonably is apprehensive about, his or her personal wellbeing or safety in particular circumstances if a reasonable person in those circumstances would fear for, or be apprehensive about, his or her personal wellbeing or safety.

When proceedings commenced on or after 7 June 2012:

Family violence means:

*Violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the **family member**), or causes the family member to be fearful.*

*A child is **exposed** to family violence if the child sees or hears family violence or otherwise experiences the effects of family violence.*

Abuse, in relation to a child, means:

- a) *an assault, including a sexual assault, of the child; or*
- b) *a person (the **first person**) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or*
- c) *causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to*, family violence*; or*
- d) *serious neglect of the child.*

***Family Violence** – has the meaning given by subsection 4AB(1)

***Exposed to family violence** – in relation to a child, has the meaning given by subsection 4AB(3).

- 14 Describe any acts or omissions that you allege constitute family violence. Please include the identity of the alleged perpetrator(s).

NUMBER EACH PARAGRAPH AND ATTACH EXTRA PAGE/S IF YOU NEED MORE SPACE.

1.	

Schedule 1 Amendments

- 15 Identify the application/response where you seek orders to which the allegation(s) described in Item 14 are relevant.

Application/response	Date filed
█	█
█	█

- 16 Identify the affidavit(s) containing evidence of the allegations described in Item 14.

Name of the person swearing or affirming the affidavit	Date of filing	The paragraphs of the affidavits which relate to each allegation
█	█	█
█	█	█
█	█	█

- 17 What is the last known address of the alleged perpetrator(s), if known?

█		
State █	Postcode █	Phone █

Part H About the alleged risk of family violence

Whether proceedings commenced before, on or after 7 June 2012 and before you complete Part H you should carefully read the definition of 'abuse' in sections 4(1) and 'family violence' 4AB of the *Family Law Act* (set out in Part G of this form for your information)

- 18 Describe the facts alleged to constitute any risk of family violence. Include the name of any person(s) from whom a child is alleged to be at risk of family violence.

NUMBER EACH PARAGRAPH AND ATTACH EXTRA PAGE/S IF YOU NEED MORE SPACE.

1. []
[]
[]
[]
[]
[]
[]

- 19 Identify the application/response where you seek orders to which the allegation(s) described in Item 18 are relevant.

Application/response	Date filed
[]	[]
[]	[]

- 20 Identify the affidavit(s) containing evidence of the allegations described in Item 18.

Name of the person swearing or affirming the affidavit	Date of filing	The paragraphs of the affidavits which relate to each allegation
[]	[]	[]
[]	[]	[]
[]	[]	[]

- 21 What is the last known address of the person(s) from whom it is alleged there is a risk of family violence?

[]
State [] Postcode [] Phone []

Schedule 1 Amendments

Part I Signature of person filing notice

Signed Date

This notice was signed by person(s) filing this notice
 lawyer for person(s) filing this notice

This notice was prepared by person(s) filing this notice
 lawyer

PRINT NAME AND LAWYER'S CODE

27 Schedule 3

Repeal the Schedule, substitute:

Schedule 3—Itemised scale of costs

Note 1: See rule 19.18 and clause 6.19 of Schedule 6.

Note 2: This Schedule applies generally to work done on or after 1 January 2015 (see rule 27.02). Different amounts, set out in superseded versions of this Schedule, may continue to apply to work done before that date.

Part 1—Costs allowable for lawyer’s work done and services performed

Costs—lawyer’s work		
Item	Matter for which charge is made	Amount (including GST)
101	Drafting a document (other than a letter)	\$19.67 per 100 words
102	Producing a document (other than a letter) in printed form	\$6.72 per 100 words
103	Drafting and producing a letter (including a fax or an email)	\$22.60 per 100 words
104	Reading a document	\$9.21 per 100 words
105	Scanning a document (where reading is not necessary)	\$3.62 per 100 words
106	For a document or letter mentioned in item 101, 102, 103, 104 or 105 containing more than 3 000 words	The amount allowed by the Registrar
107	Photocopy or other reproduction of a document	78 cents per page
108	Time reasonably spent by a lawyer on work requiring the skill of a lawyer (except work to which any other item in this Part applies)	\$230.78 per hour
109	Time reasonably spent by a lawyer, or by a clerk of a lawyer, on work (except work to which any other item in this Part applies)	\$149.63 per hour

Note: See rule 19.43 in relation to item 104.

Part 2—Costs allowable for counsel’s work done and services performed

Schedule 1 Amendments

Costs—counsel’s work			
Item	Matter for which charge is made	Amount (including GST)—senior counsel	Amount (including GST)—junior counsel
201	Chamber work (including preparing or settling any necessary document, opinion, advice or evidence, and any reading fee (if allowed))	\$443.84– \$760.88 per hour	\$264.99– \$377.92 per hour
202	Attendance at a conference (including a court-appointed conference), if necessary	\$443.84– \$760.88 per hour	\$264.99– \$377.92 per hour
203	Attendance of less than 3 hours (for example, a procedural hearing or a summary hearing)	\$443.84– \$3 170.16	\$237.06– \$1 110.82
204	A hearing or trial taking at least 3 hours but not more than 1 day	\$824.25– \$6 340.92	\$785.92– \$1 816.68
205	Other hearings or trials	\$2 092.40– \$6 340.92 per day	\$1 873– \$2 753.04 per day
206	Reserved judgment	\$443.84– \$760.88 per hour	\$264.99– \$377.92 per hour

Part 3—Basic composite amount for undefended divorce

Costs—undefended divorce		
Item	Matter for which charge is made	Amount (including GST)
301	If the lawyer employed another lawyer to attend at court for the applicant and there is a child of the marriage under 18	\$974.74
302	If the lawyer employed another lawyer to attend at court for the applicant and there is no child of the marriage under 18	\$725.21
303	If the lawyer did not employ another lawyer to attend at court for the applicant and there is a child of the marriage under 18	\$915.11
304	If the lawyer did not employ another lawyer to attend at court	\$684.76

Costs—undefended divorce		
Item	Matter for which charge is made	Amount (including GST)
	for the applicant and there is no child of the marriage under 18	
305	If the lawyer did not attend at court for the hearing under section 98A of the Act	\$589.18

Part 4—Basic composite amount for request for Enforcement Warrant or Third Party Debt Notice

Costs—Enforcement Warrant or Third Party Debt Notice		
Item	Matter for which charge is made	Amount (including GST)
401	An Enforcement Warrant under rule 20.16	\$589.18
402	A Third Party Debt Notice under rule 20.32	\$589.18

28 Dictionary (definition of *Federal Magistrates Court*)

Repeal the definition.

29 Amendments of listed provisions relating to the Federal Magistrates Court of Australia

Amendments relating to the Federal Magistrates Court of Australia			
Item	Provision	Omit	Substitute
1	Division 4.2.4 (note to Division heading)	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
2	Division 4.2.5 (overview of Division 4.2.5)	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
3	Rule 6.16 (definition of <i>bankruptcy</i>)	Federal Magistrates Court	Federal Circuit Court

Schedule 1 Amendments

Amendments relating to the Federal Magistrates Court of Australia			
Item	Provision	Omit	Substitute
<i>proceedings</i>			
4	Subrule 11.18(1) (note)	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
5	Chapter 21 (summary of Chapter 21)	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
6	Paragraph 22.01(1)(b)	a Federal Magistrates Court	the Federal Circuit Court
7	Part 22.2 (note to Part heading)	Federal Magistrates Court	Federal Circuit Court
8	Subrule 22.11(3)	Judge, Federal Magistrate	Judge of the Family Court, Judge of the Federal Circuit Court
9	Rule 22.14	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
10	Part 22.4 (heading)	Federal Magistrates Court	Federal Circuit Court
11	Rule 22.23	Federal Magistrates Court (wherever occurring)	Federal Circuit Court
12	Subparagraph 22.26(1)(c)(i)	Federal Magistrate	Judge of the Federal Circuit Court
13	Rule 22.27	Federal Magistrate (wherever occurring)	Judge of the Federal Circuit Court
14	Subrule 24.04(4)	Federal Magistrates Court	Federal Circuit Court
15	Dictionary (paragraph (a) of the definition of <i>appeal</i>)	Federal Magistrates Court	Federal Circuit Court
16	Dictionary (paragraph (a) of the definition of <i>Appeal Registry</i>)	Federal Magistrates Court	Federal Circuit Court