

FAMILY LAW AMENDMENT (2018 MEASURES NO. 1)

RULES 2018

EXPLANATORY STATEMENT

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Issued by the authority of the Judges of the Family Court of Australia

Section 123 of the *Family Law Act 1975* (the Act) provides that the Judges of the Family Court of Australia (the Family Court), or a majority of them, may make Rules of Court providing for the practice and procedure to be followed in the Family Court and some other courts exercising jurisdiction under the Act. The Judges of the Family Court made the *Family Law Rules 2004* (the Rules) which commenced on 29 March 2004. These amending Rules, the *Family Law Amendment (2018 Measures No. 1) Rules 2018* (the amendments), have now been made by the Judges to amend the Rules.

Section 123(2) of the Act provides that the *Legislation Act 2003* (other than sections 8, 9, 10 and 16) applies to rules of court. In this application, references to a legislative instrument in the Act are to be read as references to Rules and references to a rule-maker as references to the Chief Justice.

Section 8(8)(d) of the *Legislation Act 2003* provides that the Rules of Court made for the Family Court are not legislative instruments for the purposes of that Act. As a result the *Human Rights (Parliamentary Scrutiny) Act 2011* does not apply to any such Rules of Court and no statement of compatibility for the purposes of that latter Act is included in this Explanatory Statement.

1. GENERAL OUTLINE

Schedule 1 — Consent orders

The amendments provide that if an Application for Consent Orders is filed seeking orders in relation to superannuation proof of value of the interest in accordance with s 90MT(2) of the Act must be filed with the Application.

The amendments provide that when an Application for Consent Orders is filed seeking parenting orders, the Application must certify whether the child concerned has been abused or is at risk of being abused and whether there has been, or there is a risk of, family violence by one of the parties. The Application must explain how the orders deal with any allegations and a notice in prescribed form must be filed as required by ss 67Z and 67ZBA of the Act.

Schedule 2 — Submitting notices and notices of contention

The amendments in relation to submitting notices enable a party to submit to the jurisdiction of the Family Court while retaining the right to be heard in relation to costs. The amendments enable a party who does not want to contest the relief sought to submit to any order the court may make. The amendments enable a party to avoid the undue expense of filing documents and remain informed about the proceedings. When the proceedings are finalised an application may be made for an order for costs (r 19.08).

The amendments harmonise with r 12.01 of the *Federal Court Rules 2011* (the Federal Court Rules) which rule is also applied by the Federal Circuit Court of Australia (the Federal Circuit Court) by pt 2 of sch 3 of the *Federal Circuit Court Rules 2001* (the Federal Circuit Court Rules).

The amendments in relation to notices of contention enable a respondent in an appeal who does not want to cross appeal from any part of the order to contend that the order should be affirmed on grounds other than those relied on by the court appealed from.

The amendments harmonise with r 36.24 of the Federal Court Rules.

Schedule 3 — Other amendments

Child support proceedings

As a consequence of the repeal of s 110B of the *Child Support (Registration and Collection) Act 1988* (the Registration Act) and other amendments made by the *Tribunals Amalgamation Act 2015* the Family Court does not have the jurisdiction (as it did under former s 110B of the Registration Act) to hear appeals, on a question of law, in relation to child support first reviews. The amendments amend div 4.2.5 on the basis that it no longer needs to deal with appeals under the Registration Act.

Transferring a case — safety concerns

The amendment of div 11.3.2 adds, as a factor that may be considered by a court in relation to transferring a case, the adequacy of available facilities having regard to any safety concerns.

Documents to be used in conjunction with affidavits

The amendment of pt 15.2 requires that documents to be used in conjunction with affidavits be identified in the affidavit but not filed. The documents must be served on the persons to be served at the same time as the affidavit is served and subsequently be tendered in evidence in the proceeding as required.

Compliance with subpoenas for production (general and in an arbitration) — electronic copies

The amendment of the rr 15.29(4) and 26B.23(3) definitions of “copy” for the purpose of compliance with a subpoena for production electronically provides that a copy in an electronic format must be approved by the Registry Manager and be capable of being printed without loss of content.

Undertakings

Chapter 17, about orders, is amended to add pt 17.2 to deal with the requirements for the provision of undertakings. The amendments regulate the requirements for the provision of oral undertakings, written undertakings and undertakings as to damages.

Additional delegations to Deputy Registrars

The amendments delegate additional powers to Deputy Registrars:

- To grant leave to commence proceedings out of time in certain financial proceedings with the consent of the parties;
- To make location orders other than Commonwealth information orders and to make Commonwealth information orders;
- To make an order directing a person to execute a deed or instrument;
- To register an overseas child order received other than from the Secretary of the Attorney-General’s Department;
- To dismiss an interim or procedural application or response if no party attends;
- To make orders in relation to case guardians;
- To dismiss all or part of a case if a party does not comply with the Rules, the Regulations or a procedural order;
- To dismiss a case if a party has not taken a step in a case for one year provided that at least 14 days before making the order the court has given the parties written notice of the date and time when it will consider the application.

Force and effect of a costs assessment order

The amendments of rr 19.31, 19.32, 19.37 and 19.38 clarify that a costs assessment order has the force and effect of an order of the court.

Schedule 4 — Application and transitional provisions

The amendments insert pt 27.3 in ch 27 to provide for transitional provisions in relation to the amendments about submitting notices, notices of contention, documents to be used in conjunction with affidavits, electronic compliance with subpoenas and undertakings.

2. CONSULTATION

Preface

The *Legislation Act 2003* provides for certain consultation obligations when Rules are made. The Chief Justice has authorised the Court’s Rules Committee to undertake consultation on Rules matters on his behalf. The consultation undertaken in relation to the amendments was as set out below in relation to the schedules.

Schedule 1 — Consent orders

The purpose of the amendment in relation to the requirement to file proof of value of superannuation when an Application for Consent Orders is filed seeking an order in relation to a superannuation interest is to advance compliance with s 90MT(2) of the Act and is a technical amendment. No consultation is required.

The purpose of the amendment in relation to the requirement to file a notice in prescribed form as required by ss 67Z and 67ZBA of the Act when an Application for Consent Orders is filed seeking parenting orders and allegations are made that the child concerned has been abused or is at risk of being abused or that there has been, or there is a risk of, family violence by one of the parties is to advance compliance with ss 67Z and 67ZBA of the Act and is a technical amendment. No consultation is required.

Schedule 2 — Submitting notices and notices of contention

The Court consulted with the Family Law Section of the Law Council of Australia and peak bodies of the legal profession about amendments to introduce the submitting notice procedure and the notice of contention procedure to harmonise with the Federal Court Rules and the Federal Circuit Court Rules.

Schedule 3 — Other amendments

Child support proceedings

The div 4.2.5 amendments are required solely as a consequence of the repeal of s 110B of the Registration Act and other amendments made by the *Tribunals Amalgamation Act 2015*. No consultation occurred or was required as the amendments are technical in nature.

Transferring a case — safety concerns

The amendment of div 11.3.2 includes as a factor that may be considered by a court when deciding to transfer a case the adequacy of available facilities having regard to any safety

concerns. This was considered by the Family Violence Committee undertaking a review of various provisions and the Family Court Best Practice Principles. The amendment particularises safety concerns as a relevant factor. No further consultation was necessary.

Documents to be used in conjunction with affidavits

The Court consulted with the Family Law Section of the Law Council of Australia (the Family Law Section) and peak bodies of the legal profession about the proposed amendments to pt 15.2 to require documents to be used in conjunction with affidavits to be identified in the affidavit but not filed. The documents must be served on the persons to be served at the same time as the affidavit is served.

Compliance with subpoenas for production (general and in an arbitration) — electronic copies

The amendments of rr 15.29(4) and 26B.23(3) are technical and modernise the existing provisions in relation to complying with a subpoena for production by the provision of electronic copies of the required documents. No consultation was required.

Undertakings

The amendments are technical and clarify the requirements for giving undertakings. The amendments that regulate the provision of undertakings as to damages are consistent with the provision of the Federal Court in a General Practice Note dated 25 October 2016. Also the decision of the Full Court of the Family Court in *Bain & Bain* (2017) FLC 93-772 was considered. No further consultation was required.

Additional delegations to Deputy Registrars

The issue of an increased role for Deputy Registrars has been discussed with the Family Law Section and peak bodies of the legal profession.

Force and effect of a costs assessment order

The amendments are technical and specify that when a costs assessment order is made it has the force and effect of an order of the court. The decision of Farrell J in *Van Gorp v Davy* [2016] FCA 1385 was considered. No further consultation was required.

Schedule 4 — Application and transitional provisions

No consultation occurred or was required in relation to the transitional provisions which are technical drafting amendments.

3. SUMMARY OF MAJOR CHANGES

Preface

The major changes introduced by the amendments to the Rules are set out below in relation to each of the Schedules.

Schedule 1 — Consent Orders

- 1) To provide that if orders are sought in relation to a superannuation interest by consent that proof of value of the interest in accordance with s 90MT(2) of the Act be filed with an Application for Consent Orders.
- 2) To provide for a prescribed form for a notice mentioned in ss 67Z(2) or 67ZBA(2) of the Act where a party certifies in an Application for Consent Orders seeking parenting orders that the child concerned has been abused or is at risk of being abused, or there has been, or there is a risk of, family violence by one of the parties.

Schedule 2 — Submitting notices and notices of contention

- 1) To provide for a party who has been served with an Initiating Application (Family Law) seeking final orders, a Response to an Initiating Application (Family Law), a Reply to a Response to an Initiating Application (Family Law) or a Notice of Appeal and who does not want to contest the relief sought to file a submitting notice in the approved form.
- 2) To provide for a respondent to an appeal who does not want to cross-appeal from any part of the order, but contends that the order should be affirmed on grounds other than those relied on by the court appealed from, to file a notice of contention in the approved form.

Schedule 3 — Other amendments

- 1) To amend div 4.2.5 (child support and child maintenance) to deal with the repeal of s 110B of the Registration Act and other amendments by the *Tribunals Amalgamation Act 20 2015* that remove the jurisdiction of the Family Court to hear appeals under the Registration Act.
- 2) To amend r 11.18(1)(g) in relation to the factors that may be considered by a court in deciding whether to have a case heard at another place or transferred to another registry or court having jurisdiction or whether to remove a case from another court under s 46(3A) of the Act to include the adequacy of available facilities and having regard to any safety concerns.
- 3) To amend pt 15.2 in relation to affidavits to require that any documents to be used in conjunction with an affidavit be identified in the affidavit. The documents must not be attached or annexed to the affidavit or filed as an exhibit to the affidavit. A hard copy of the documents must be served on each person at the same time as the affidavit.
- 4) To amend rr 15.29 and 26B.23 to provide that copies of documents required to be produced in compliance with a subpoena for production in electronic form must be in an electronic format approved by the Registry Manager and be capable of being printed in the form in which it was created without loss of content.
- 5) To amend ch 17 (orders) to add pt 17.2 to provide for the requirements for oral and written undertakings and undertakings as to damages.
- 6) To amend rr 18.06(1) table 18.4, 18.06(2) table 18.5 to delegate additional powers to Deputy Registrars.
- 7) To amend rr 19.31, 19.32, 10.37 and 19.38 to provide that when a costs assessment order is made it has the force and effect of an order of the court.

Schedule 4 — Application and transitional provisions

- 1) To insert Part 27.3 in relation to transitional provisions.
- 2) To provide that the amendments in relation to submitting notices apply to an application served on or after 1 March 2018.
- 3) To provide that the amendments in relation to notices of contention apply to a Notice of Appeal served on or after 1 March 2018.
- 4) To provide that the amendments in relation to documents to be used in conjunction with an affidavit apply in relation to an affidavit filed on or after 1 March 2018.
- 5) To provide that the amendments in relation to compliance with subpoena apply in relation to a subpoena for production that is issued on or after 1 March 2018.
- 6) To provide that the amendments in relation to undertakings apply in relation to undertakings given on or after 1 March 2018.

4. DETAILS OF AMENDMENTS

Rule 1 Name of Rules

The name of the rules is the *Family Law Amendment (2018 Measures No. 1) Rules 2018*.

Rule 2 Commencement

The whole of the Rules commence on the 1 March 2018.

Rule 3 Authority

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

Rule 4 Schedules

Schedules 1–4 amend the *Family Law Rules 2004*.

Schedule 1 — Consent orders

[1] Subrule 2.02(1) (table 2.2, item 9, column headed “Documents to be filed with application”, paragraphs (b) and (c))

The amendment repeals the requirement to file a completed superannuation information form with an Application for Consent Orders if the orders sought relate to a superannuation interest and substitutes a requirement to file proof of value of the interest in accordance with s 90MT(2) of the Act.

The amendment repeals the requirement to file the r 10.15A(3) annexure with an Application for Consent Orders if the orders sought relate to parenting.

[2] Subrule 2.04D(1)

The amendment repeals the provision prescribing the form of the notice mentioned in subsection 67Z(2) or 67ZBA(2) of the Act to be the Notice of Child Abuse, Family Violence or Risk of Family Violence and substitutes provisions prescribing the form of notice to be the Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case) if the

application relates to a current case or the Notice of Child Abuse, Family Violence or Risk of Family Violence (Application for Consent Orders) for an Application for Consent Orders.

[3] Subrule 2.04D(2)

The amendment clarifies that the requirement to file an affidavit setting out the evidence on which the allegations in the notice are based is limited to an application in a current case.

[4] Subrule 2.04E

The amendment repeals r 2.04E that if proceedings were instituted before 7 June 2012 and a party alleged family violence or a risk of family violence but had not filed a notice before 7 June 2012, the party must file a Notice of Child Abuse, Family Violence or Risk of Family Violence.

[5] After subrule 2.05(2)

The amendment clarifies that if a copy of a family violence order affecting a child or a member of the child's family is not available when an Application for Consent Orders is filed the party cannot file a written notice pursuant to r 2.05(2) undertaking to file the order and providing particulars of the order.

[6] Paragraph 10.15(2)(d)

The amendment removes the requirement to file additional certified copies of a draft consent order if the order relates to an Application for Consent Orders filed by electronic communication.

[7] Subrule 10.15A(1)

The amendment omits "in a current case" to clarify that r 10.15A applies to applications for parenting orders by consent.

[8] Before subrule 10.15A(2)

The amendment inserts the heading "*Application made orally in a current case*" to clarify that r 10.15A(2) relates to oral applications for consent parenting orders made in a current case.

[9] Subrule 10.15A(2)

The amendment substitutes "the application" for "an application" in relation to r 10.15A(2) oral applications for consent parenting orders.

[10] At the end of subrule 10.15A(2)

The amendment adds a note that if a party alleges abuse or risk of abuse of the child or family violence or risk of family violence by a party then a Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case) must be filed.

[11] Before subrule 10.15A(3)

The amendment inserts the heading "*Other applications made in a current case*" to clarify that r 10.15A(3) relates to applications for consent parenting orders made in a current case other than orally.

[12] Subrule 10.15A(3)

The amendment substitutes “If the application is made in a current case by lodging or tendering a draft consent orders” for “For any other application” to clarify that r 10.15A(3) applies to applications for consent parenting orders made in a current case by lodging or tendering a draft consent order.

[13] At the end of subrule 10.15A(3)

The amendment adds a note that that if a party alleges abuse or risk of abuse of the child or family violence or risk of family violence by a party then a Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case) must be filed.

[14] At the end of rule 10.15A

The amendment adds r 10.15A(4) which provides that when an application for consent parenting orders is made and there is no current case the Application for Consent Orders must certify whether or not the child concerned has been or is at risk of being exposed to abuse, neglect or family violence and if so how the orders attempt to deal with the allegations. The amendment adds a note that if allegations are made then a Notice of Child Abuse, Family Violence or Risk of Family Violence (Application for Consent Orders) must also be filed and served.

[15] Paragraph 19.41(2)(b)

The amendment substitutes “a form in Schedule 2” for “the form in Schedule 2” in r 19.41(2)(b) in relation to the costs a lawyer may charge for each page of a Form in sch 2 to acknowledge that there are two prescribed Notices in sch 2.

[16] Paragraph 24.01(1)(g)

The amendment to r 24.01(1)(g), that provides for documents to have a coversheet except sch 2 documents, changes the terminology to omit a reference to a document “that is not included in Schedule 2” and substitute “other than a form in Schedule 2”.

[17] Subrule 24.04(2)

The amendment repeals r 24.04(2), which provides that a reference in the Rules to a Notice of Child Abuse, Family Violence or Risk of Family Violence is a reference to the form in sch 2, and substitutes a provision which provides that a reference in the Rules to a Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case) or a Notice of Child Abuse, Family Violence or Risk of Family Violence (Application for Consent Orders) is a reference to the form of that name in sch 2.

[18] Subrule 24.04(3)

The amendment omits the reference to “the form in Schedule 2” and substitutes “a form in Schedule 2”.

[19] Subclause 3(3) of Part 2 of Schedule 1

The amendment omits the reference in sch 1 sub-cl 3(3), in relation to pre-action procedures in parenting cases, to “(Form 11)” in relation to an Application for Consent Orders that can be used to have an agreement made binding.

[20] Schedule 2

The amendment repeals the schedule and substitutes “Schedule 2—Forms” and the Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case) and the Notice of Child Abuse, Family Violence or Risk of Family Violence (Application for Consent Orders).

Schedule 2 — Submitting notices and notices of contention

[1] Chapter 8 (heading)

The amendment repeals the heading ‘Chapter 8—Right to be heard and address for service’ and replaces it with the heading ‘Chapter 8—Right to be heard, address for service and submitting notices’.

[2] Chapter 8 (summary)

The amendment of the Chapter 8 (summary) states that the Chapter also sets out the Rules in relation to submitting notices.

[3] At the end of Chapter 8

The amendment adds at the end of Chapter 8; r 8.07 in relation to submitting notices.

The amendment provides that a party who has been served with an Initiating Application (Family Law) seeking final orders (Initiating Application), a Response to an Initiating Application (Family Law) (Response), a Reply to a Response to an Initiating Application (Family Law) (Reply) or a Notice of Appeal and does not want to contest the relief sought may file a submitting notice in the approved form (rr 8.07(1), (2)).

The submitting notice must state that the party submits to any order that the court may make, state whether the party wants to be heard on the question of costs and must include an address for service (r 8.07(3)).

A submitting notice filed by a party in relation to an Initiating Application, Response or Reply must be filed before the first court date (r 4.03) or, if the party was added to the case after the first court date, before the date of the r 11.10(3) procedural hearing (r 8.07(4)(a)–(b)). A submitting notice filed by a party in relation to a Notice of Appeal must be filed within 14 days after the party was served with the Notice of Appeal (r 8.07(5)).

A party who has filed a submitting notice may apply for leave to withdraw the notice (r 8.07(6)). The application must be accompanied by an affidavit stating why the party wants to withdraw the submitting notice and stating the intentions of the party in relation to the further conduct of the proceedings (r 8.07(7)).

[4] At the end of rule 22.07

The amendment adds, at the conclusion of r 22.07 (cross-appeals), a Note that a party who does not want to contest the relief sought in the Notice of Appeal may file a submitting notice under r 8.07.

[5] After rule 22.08

The amendment inserts r 22.08A in relation to notices of contention. The amendment provides that if a respondent to an appeal does not want to cross-appeal from any part of an order, but contends that the order should be affirmed on grounds other than those relied on by the court appealed from, the respondent must file a notice of contention in the approved form within 14 days after service of the Notice of Appeal on the respondent.

[6] After paragraph 22.20(3)(f)

The amendment inserts after paragraph 22.20(3)(f) in relation to the order of arrangement of documents in appeal books any notice of contention (r 22.30(3)(fa)) or any submitting notice (r. 22.30(3)(fb)).

[7] Dictionary

The amendment inserts into the Dictionary a definition of ‘notice of contention’ to mean a notice of contention referred to in r 22.08A and a definition of ‘submitting notice’ to mean a submitting notice referred to in r 8.07.

Schedule 3 — Other amendments

[1] Division 4.2.5 (overview)

[2] Division 4.2.5 (overview)

These amendments amend div 4.2.5 (overview) to remove the reference to s 98 of the *Child Support (Assessment) Act 1989* (the Assessment Act) and the provision in relation to s 110B of the Registration Act. Both sections have been repealed.

[3] Paragraph 4.16(b)

The amendment repeals the paragraph that provides that div 4.2.5 applies to an appeal under the Registration Act other than an appeal from a court.

[4] Subrule 4.17(1)

[5] Subrule 4.17(2)

These amendments repeal the provision that an appeal under div 4.2.5 is made in accordance with a Notice of Appeal (Child Support).

[6] Subrule 4.18(1) (table 4.1, item 2, column headed “Application”)

The amendment removes the reference to the repealed s 98 of the Assessment Act.

[7] Rules 4.21 and 4.22

The amendment repeals rr 4.21 and 4.22 that deal with appeals on questions of law and the time limit for appeals on questions of law.

[8] Rule 4.23 (heading)

[9] Subrule 4.23(1)

[10] Paragraph 4.23(1)(b)

[11] Paragraph 4.23(1)(c)

[12] Paragraph 4.23(1)(d)

[13] Subrule 4.23(2)

[14] Subrule 4.23(3)

[15] Subrule 4.23(4)

The amendments amend r 4.23 about the service requirements of an application or notice of appeal and repeal all provisions that relate to a notice of appeal.

[16] Rule 4.24

The amendment omits the reference to the Registration Act in r 4.23 about service by the Child Support Registrar.

[17] Subrules 4.25(1) and (2)

The amendments omit references to appeals in r 4.25 about procedure on the first court date.

[18] Subrule 4.26(1)

The amendment removes the reference to the repealed s 98 of the Assessment Act.

[19] Subrule 11.05(2) (note 1)

[20] Subrule 11.05(2) (note 2)

The amendments are technical amendments consequential to the repeal of sch 7 which provides for the form of the rules for vexatious proceedings immediately before the commencement of sch 3 of the *Access to Justice (Federal Jurisdiction) Amendment Act 2012*. Schedule 7 is no longer required and also makes reference to r 27.01 which no longer exists.

[21] At the end of paragraph 11.18(1)(g)

The amendment amends the r 11.18 factors that may be considered by a court in deciding whether to have a case heard at another place or transferred to another registry or court having jurisdiction or whether to remove a case from another court under s 46(3A) of the Act to include the adequacy of the available facilities having regard to any safety concerns.

[22] Rule 15.08 (heading)

[23] Rule 15.08

[24] At the end of rule 15.08

The amendments amend r 15.08 to change the heading from “Form of affidavit” to “Requirements for affidavits”. The amendments add the requirement that a document to be used in conjunction with an affidavit must be identified in the affidavit and must not be attached or annexed to the affidavit or filed as an exhibit to the affidavit. A hard copy of the document must be served on each person to be served at the same time as the affidavit.

[25] Rule 15.12

The amendment repeals r 15.12 that previously dealt with documents to be used in conjunction with an affidavit.

[26] Subrule 15.29(4) (paragraphs (b) and (c) of the definition of *copy*)

The amendment repeals rr 15.29(4)(b), (c) in relation to the manner of compliance with a subpoena for production by provision of copies of the required documents in electronic form. The amendments substitute r 15.29(4)(b) that copies of the required documents can be provided in an electronic format approved by the Registry Manager and capable of being printed in the form in which it was created without loss of content.

[27] Chapter 17 (heading)

[28] Chapter 17 (summary)

[29] Before rule 17.01

[30] At the end of Chapter 17

The amendments to ch 17 add pt 17.2 to provide for the requirements of undertakings. The amendments regulate the requirements of written and oral undertakings as well as undertakings as to damages in r 17.06. The rule is subject to any requirements in the Rules for the giving of particular undertakings.

[31] Subrule 18.06(1) (table 18.4, after item 10)

The amendments delegate to Deputy Registrars the powers to grant leave to proceed out of time in certain financial proceedings pursuant to ss 44(3A)(d), 44(3B)(d) and 44(6) with the consent of the parties.

[32] Subrule 18.06(1) (table 18.4, after item 18A)

The amendments delegate to Deputy Registrars the powers to make location orders other than Commonwealth information orders and Commonwealth information orders pursuant to ss 67M(2) and 67N(2).

[33] Subrule 18.06(1) (table 18.4, after item 27)

The amendment delegates to Deputy Registrars the power to make an order pursuant to s 106A directing a person to execute a deed or instrument.

[34] Subrule 18.06(1) (table 18.4, after item 33)

The amendment delegates to Deputy Registrars the power under reg 23(6) of the *Family Law Regulations 1984* (the Regulations) to register an overseas child order received other than from the Secretary of the Attorney-General's Department.

[35] Subrule 18.06(2) (table 18.5, after item 4)

The amendment delegates to Deputy Registrars the power under r 5.11(2) to dismiss an interim or procedural application or response if no party attends.

[36] Subrule 18.06(2) (table 18.5, after item 6A)

The amendment delegates to Deputy Registrars the powers in pt 6.3 to make orders in relation to case guardians.

[37] Subrule 18.06(2) (table 18.5, after item 13)

The amendment delegates to Deputy Registrars the power under r 11.02(2)(a) to dismiss all or part of a case if a party does not comply with the Rules, the Regulations or a procedural order.

[38] Subrule 18.06(2) (table 18.5, after item 14)

The amendments delegate to Deputy Registrars the power under rr 11.06(1) and (2) to dismiss a case if a party has not taken a step in a case for one year provided that at least 14 days before making the order the court has given the parties written notice of the date and time when it will consider the application.

[39] Rule 19.31

[40] At the end of rule 19.31

[41] At the end of rule 19.32

[42] At the end of rule 19.37

[43] Rule 19.38(1)

The amendments provide that where a costs assessment order is made after a preliminary assessment (r 19.31), at the end of an assessment hearing (r 19.32) or where an itemised costs account is not disputed (r 19.37) the costs assessment order has the force and effect of an order of the court and also make necessary technical amendments.

[44] Subrule 22.01(2)

Rule 22.01(2)(a) that provided that ch 22 does not apply to an appeal under the Assessment Act or Registration Act is repealed.

[45] Subrule 26B.23(1)

[46] Subrule 26B.23(3) (paragraphs (b) and (c) of the definition of *copy*)

The amendment, in relation to the manner of compliance with a subpoena for production by provision of electronic copies of the required documents, provides that the documents must be produced in an electronic format approved by the Registry Manager and capable of being printed in the form in which it was created without loss of content

[47] Schedule 7

The amendment repeals sch 7 because it is no longer required.

[48] Dictionary (definition of *costs assessment order*)

The amendment amends the definition of “*Costs assessment order*” to add a reference to a costs assessment order pursuant to r 19.37.

[49] Dictionary (paragraph (d) of the definition of *financial case*)

The amendment amends the definition of “*Financial case*” to omit a case under s 98 of the Assessment Act.

[50] Dictionary (paragraph (b) of the definition of *financial orders*)

The amendment amends the definition of “*Financial orders*” to omit an order under s 98 of the Assessment Act.

[51] Dictionary

The amendment inserts the definition of “*undertaking as to damages*”.

[52] Explanatory Guide (definition of *undertaking as to damages*)

The amendment repeals the definition of “*undertaking as to damages*”.

Schedule 4 — Application and transitional provisions

[1] In the appropriate position in Chapter 27

The amendment inserts **Part 27.3 — Transitional provisions relating to the Family Law Amendment (2017 Measures No. 1) Rules 2017**.

Rule 27.04 provides that the amendments in relation to submitting notices apply in relation to an application served on or after 1 March 2018.

Rule 27.05 provides that the amendments in relation to notices of contention apply in relation to a Notice of Appeal served on or after 1 March 2018.

Rule 27.06 provides that the amendments in relation to documents to be used in conjunction with affidavits apply in relation to an affidavit filed on or after 1 March 2018.

Rule 27.07 provides that the amendments in relation to compliance with subpoena apply in relation to a subpoena for production issued on or after 1 March 2018.

Rule 27.08 provides that the amendments in relation to undertakings apply in relation to an undertaking given on or after 1 March 2018.