

***FEDERAL CIRCUIT COURT AMENDMENT (POWERS DELEGATED TO
REGISTRARS) RULES 2020***

EXPLANATORY STATEMENT

FEDERAL CIRCUIT COURT AMENDMENT (POWERS DELEGATED TO REGISTRARS) RULES 2020

EXPLANATORY STATEMENT

Issued by the authority of the Judges of the Federal Circuit Court of Australia

Section 81 of the *Federal Circuit Court of Australia Act 1999* (Cth) ('the Act') provides that the Judges of the Federal Circuit Court of Australia ('the Federal Circuit Court'), or a majority of them, may make Rules of Court making provision for or in relation to the practice and procedure to be followed in the Federal Circuit Court. The Judges of the Federal Magistrates Court (as the Federal Circuit Court was then called) made the *Federal Magistrates Court Rules 2001* which commenced on 18 April 2002. On 12 April 2013 the *Federal Magistrates Court Rules 2001* were amended to the *Federal Circuit Court Rules 2001* ('the Rules'). These amending Rules, the *Federal Circuit Court Amendment (Powers Delegated to Registrars) Rules 2020* ('the amendments'), have now been made by the Judges to amend the Rules.

Subsection 81(3) of the Act provides that the *Legislation Act 2003* (Cth) (other than sections 8, 9, 10, 16 and Part 4 of Chapter 3) 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 Judge acting on behalf of the Judges.

Paragraph 8(8)(d) of the *Legislation Act 2003* (Cth) provides that the Rules of Court made for the Federal Circuit Court are not legislative instruments for the purposes of that Act. As a result the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) 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 – Amendments

The amendments delegate a number of additional powers to Registrars of the Federal Circuit Court, including:

- to transfer a proceeding to the Family Court of Australia;
- to give directions about practice and procedure under the *Family Law Act 1975* (Cth) ('the Family Law Act'), the Rules and the *Family Law Regulations 1984* in relation to a proceeding or part of a proceeding that is within the power of a Registrar to hear and determine;
- to give directions about how testimony is to be given in a proceeding that is within the power of a Registrar to hear and determine, including orally or by affidavit, by video link or by audio link;
- to make orders with respect to family counselling, family dispute resolution and other family services;
- to grant leave for proceedings to be instituted out of time;
- to make a parenting order where the order is made in an undefended case and the order is to come into effect at least 21 days after being served on the non-appearing party;
- to make an urgent or interim de facto or spousal maintenance order, or vary or discharge a de facto or spousal maintenance order, where the order is made in an undefended case and is to come into effect at least 21 days after being served on the non-appearing party;
- to make a property order or declaration in relation to the property interests of the parties to a marriage or a de facto relationship, where the order or declaration is made in an undefended case and is to come into effect at least 21 days after being served on the non-appearing party;
- to make consent orders following dispute resolution;
- to appoint or remove a litigation guardian and add additional parties to a proceeding;
- to make limited enforcement orders relating to a Third Party Debt Notice, the sequestration of property; the appointment of a receiver, the enforcement of an obligation, or the warrant for arrest, but only in relation to a case within a Registrar's power; and
- to make limited orders in relation to child support under the *Child Support (Assessment) Act 1989* (Cth) and the *Child Support (Registration and Collection) Act 1988* (Cth) if the order is made in an undefended case or with the consent of all the parties to the case.

In addition, the amendments delegate a number of additional powers to Registrars of the Federal Circuit Court who are also concurrently Registrars of the Family Court of Australia (known in practice as Senior Registrars), including:

- to make a parenting order where the order is an order until further order, or made in an undefended case;
- to make a recovery order;
- to make a child maintenance order or urgent child maintenance order pending the disposal of the proceedings for a child maintenance order;
- to order a passport or other travel document to be delivered to the court;
- to make an order or grant an injunction;
- to make an order in relation to a parentage testing procedure, issue a declaration of the parentage of a child or make an order requiring a person to give evidence in relation to the parentage of a child or in relation to a report of a parentage testing procedure;
- to make certain orders to enforce compliance with orders under the Family Law Act affecting children, only if the order is made until further order, or the power is exercised in an undefended case or with the consent of all parties to the case;
- to make an order for the maintenance of a party to a marriage;
- to make a de facto or spousal maintenance order, an urgent or interim de facto or spousal maintenance order, or vary or discharge a de facto or spousal maintenance order;
- to make a property order or declaration in relation to the property interests of the parties to a marriage or a de facto relationship where the order or declaration is an order or declaration until further order, or made in an undefended case;
- to make an order allowing a child to swear an affidavit or be called as a witness in, or be present during, proceedings;
- to give leave for a child to be examined;
- to make certain orders in relation to imposing sanctions for failure to comply with orders, and other obligations that do not affect children, where the order is an order until further order, or is made in an undefended case, or is made with the consent of all the parties to the case; and
- to make certain orders in relation to child support under the *Child Support (Assessment) Act 1989* (Cth) and the *Child Support (Registration and Collection) Act 1988* (Cth).

The amendments, in conjunction with concurrent amendments to the *Family Law Rules 2004*, have the effect of harmonising the delegation of powers to family law Registrars in the Family Court of Australia and the Federal Circuit Court.

2. Consultation

The *Legislation Act 2003* (Cth) provides for certain consultation obligations when Rules are made. The issue of an increased role for Registrars and the harmonisation of the delegation of powers to family law Registrars in the Family Court of Australia and the Federal Circuit Court, has been discussed broadly with peak bodies of the legal profession.

3. Summary of major changes

The major changes introduced by the amendments to the Rules are set out below in relation to Schedule 1.

- 1) To amend the table in rule 20.00A(1) to delegate additional powers to Registrars in the Federal Circuit Court.
- 2) To amend the table in rule 20.00A(1) to delegate additional powers to Registrars in the Federal Circuit Court who are also concurrently Registrars in the Family Court of Australia (other than Deputy Registrars).
- 3) To insert Part 48 in relation to transitional provisions.

4. Details of Amendments

Rule 1 Name of Rules

The name of the rules is the *Federal Circuit Court Amendment (Powers Delegated to Registrars) Rules 2020*.

Rule 2 Commencement

The whole of the Rules commence the day after the Rules are registered.

Rule 3 Authority

The Rules are made under the *Federal Circuit Court of Australia Act 1999* (Cth) ('the Act').

Rule 4 Schedules

Schedule 1 amends the *Federal Circuit Court Rules 2001*.

Schedule 1 – Amendments

[1] and [2] Rule 13.10

The amendments omit the words 'or a Registrar' and 'or the Registrar' when referring to the Court's power to summarily dismiss a claim for relief in proceedings. Power under rule 13.10 of the Rules is now delegated by new item 31BS of the amendments.

[3] Subrule 20.00A(1) (before the table)

The amendment inserts a note referring to new subrule 20.00A(1A) clarifying that certain delegations mentioned in the table may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia, other than a Deputy Registrar. Operationally, a Registrar of the Family Court of Australia is known as a Senior Registrar.

[4] Subrule 20.00A(1) (before table item 1)

The amendment inserts new items 1AA, 1AB and 1AC into the table, which delegate to Registrars the Court's powers in sections 39 and 51 and subsection 43(2) of the Act.

The delegation of power under section 39 to Registrars is qualified to the extent that it gives the Court power to transfer proceedings to the Family Court of Australia. The powers under subsection 43(2) and section 51 are only delegated to Registrars if the power is exercised in a proceeding that is within the power of a Registrar to hear and determine.

[5] Subrule 20.00A(1) (after table item 1)

The amendment inserts new items 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1J and 1K into the table. Items 1A to 1J delegate to Registrars the Court's powers in sections 55, 56, 62 and 72, subsections 57(2), 64(2), 66(1), 67(1) and 68(1) of the Act. Save for subsection 57(2) of the Act, these powers are only delegated to Registrars if the proceeding is within the power of a Registrar to hear and determine.

Item 1K delegates to Registrars the Court's powers in subparagraphs 102(2)(k)(iv) and (l)(i) to make an order under paragraph 70NEB(1)(a) of the Family Law Act and in family law and child support proceedings, to make an order under section 66Q or section 67E of the Family Law Act. The powers in item 1K are qualified by new subrule 20.00A(1A) to only be exercised by a Registrar of the Court who is also a Registrar of the Family Court (as defined in subrule 18.01A of the *Family Law Rules 2004*).

[6] Subrule 20.00A(1) (cell at table item 2, column headed 'Legislative Provision')

The amendment repeals the cell at table item 2 in the column headed 'Legislative Provision' and substitutes the words 'subject to items 19D, 19F, 19Q and 19S of this table, subsection 102(2) (except subparagraph (k)(iv) and the reference in subparagraph (l)(i) to an order under section 66Q or 67E)'. The delegation of the Court's power in subsection 102(2) of the Family Law Act to Registrars is qualified by items 19D, 19F, 19Q and 19S.

Powers under paragraph 70NEB(1)(a) and sections 66Q and 67E of the Family Law Act are now delegated at item 1K, and also items 19A, 15J and 15N of the table respectively, to Registrars who are also Registrars of the Family Court of Australia (other than Deputy Registrars), pursuant to new subrule 20.00A(1A) of the Rules.

[7] Subrule 20.00A(1) (table item 2, column headed 'Description of power (for information only)', subparagraph (k)(iv))

The amendment repeals subparagraph 102(2)(k)(iv) from item 2 in the table, which delegated power to Registrars under paragraph 70NEB(1)(a) of the Family Law Act. This power under paragraph 70NEB(1)(a) is now delegated at item 1K and item 19A of the table to a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[8] Subrule 20.00A(1) (table item 2, column headed 'Description of power (for information only)', subparagraph (l)(i))

The amendment omits reference to sections 66Q and 67E of the Family Law Act in subparagraph 102(2)(l)(i) at item 2 in the table. The power under section 66Q is now delegated to Registrars at item 1K and item 15J in the table and the power under section 67E is now delegated to Registrars at item 1K and item 15N in the table.

The powers in Items 1K, 15J and 15N are qualified by new subrule 20.00A(1A) to only be exercised by a Registrar of the Court who is also a Registrar of the Family Court (other than a Deputy Registrar).

[9] Subrule 20.00A(1) (before table item 3)

The amendment inserts new items 3AA and 3AB into the table, which delegate to Registrars the Court's powers in sections 11F and 11G of the Family Law Act.

[10] Subrule 20.00A(1) (after table item 3)

The amendment inserts new items 3A and 3B into the table, which delegate to Registrars the Court's powers in sections 13C and 13D of the Family Law Act.

[11] Subrule 20.00A(1) (after table item 5)

The amendment inserts new items 5A and 5B into the table, which delegate to Registrars the Court's powers in paragraphs 44(3A)(d) and (3B)(d) and subsection 44(6) of the Family Law Act.

The power to grant leave for proceedings to be instituted out of time pursuant to paragraphs 44(3A)(d) and 44(3B)(d) of the Family Law Act, and for leave to be granted for certain applications to be made out of time pursuant to subsection 44(6) of the Family Law Act, is only delegated to Registrars if all parties consent to leave being granted.

[12] Subrule 20.00A(1) (after table item 6)

The amendment inserts new item 6A into the table, which delegates to Registrars the Court's power in subsection 46(3A) of the Family Law Act to order that proceedings be removed from a court of summary jurisdiction to the Court.

This power may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[13] Subrule 20.00A(1) (after table item 15)

The amendment inserts new items 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15J, 15K, 15L, 15M and 15N into the table, which delegate to Registrars the Court's powers in sections 63H, 65D, 65L, 66G, 66M, 66P, 66Q, 66S, 67D and 67E, subsection 66W(2) and paragraph 65G(2)(b) of the Family Law Act.

The delegation of powers under items 15A, 15B and 15E to 15N may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

Items 15B and 15C delegate to Registrars the Court's power to make parenting orders (except an excluded child order) under section 65D of the Family Law Act.

The power to make a parenting order (except an excluded child order as defined in subsection 37A(2A) of the Family Law Act) under item 15B may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

Item 15C delegates power to Registrars to make a parenting order (except an excluded child order as defined in subsection 37A(2A) of the Family Law Act). The delegation of the power in item 15C is qualified to only if (a) both of the following apply (i) the order is made in an undefended case; (ii) the order is to come into effect at least 21 days after the order is served on the non-appearing party; or (b) the order is made with the consent of all the parties to the case.

[14] Subrule 20.00A(1) (after table item 17)

The amendment inserts new item 17AA into the table, which delegates to Registrars the Court's power to make a recovery order pursuant to section 67U of the Family Law Act. This power may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[15] Subrule 20.00A(1) (after table item 17A)

The amendment inserts new items 17B and 17C into the table, which delegate to Registrars the Court's powers in section 67ZD and subsections 68B(1) and (2) of the Family Law Act. These powers may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[16] Subrule 20.00A(1) (after table item 18)

The amendment inserts new items 18A, 18B, 18C, 18D, 18E and 18F into the table, which delegate to Registrars the Court's powers in sections 69V, 69VA and 69X, and subsections 68M(2), 69W(1) and 69ZC(2) of the Family Law Act.

The delegation of powers in items 18B, 18C, 18D, 18E and 18F may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[17] Subrule 20.00A(1) (after table item 19)

The amendment inserts new items 19A, 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19J, 19K, 19L, 19M, 19N, 19P, 19Q, 19R, 19S, 19T, 19U, 19V and 19W into the table, which delegate to

Registrars certain powers in Parts VII, VIII, VIIIA and VIIIAB of the Family Law Act, specifically sections 74, 77, 78, 79, 79A, 90SE, 90SG, 90SI, 90SL, 90SM and 90SN, and subsections 83(1), 87(3), 87(8), 90J(3), 90K(1), 90UL(3) and 90UM(1).

The delegation of powers under items 19A, 19B, 19C, 19E, 19G, 19J, 19L, 19M, 19P, 19R, 19T and 19V may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

Items 19A and 19B

The amendment inserts new items 19A and 19B into the table, which delegate to Registrars the Court's powers in Division 13A of Part VII of the Family Law Act (except paragraph 70NFB(2)(e)). These powers are only delegated to Registrars if (a) the order made is an order until further order; or (b) the power is exercised in an undefended case; or (c) the power is exercised with the consent of all the parties to the case.

The inclusion of item 19B into the table delegates to Registrars the Court's powers in sections 70NBA and 70NFD of the Family Law Act. The powers are only delegated to Registrars if the order to be varied or discharged (a) was made by a Registrar; or (b) is an order until further order; or (c) was made in an undefended case; or (d) was made with the consent of all the parties to the case.

The delegation of powers under items 19A and 19B may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

Items 19C, 19D, 19E and 19F

The amendment inserts new items 19C, 19D, 19E and 19F into the table, which delegate to Registrars the Court's powers in sections 74 and 77 of the Family Law Act.

The power to make an order for maintenance or urgent order for maintenance under items 19C and 19E may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the power in section 74 of the Act under item 19D is qualified to only if (a) all of the following apply: (i) the order is an order until further order; (ii) the order is made in an undefended case; (iii) the order is to come into effect at least 21 days after the order is served on the other party; or (b) the order is made with the consent of all the parties to the case.

The delegation of the power in section 77 of the Act under item 19F is qualified to only if (a) both of the following apply: (i) the order is made in an undefended case; (ii) the order is to come into effect at least 21 days after the order is served on the non-appearing party; or (b) the order is made with the consent of all the parties to the case.

Items 19G and 19H

The amendment inserts new items 19G and 19H into the table, which delegate to Registrars the Court's powers in sections 78, 79 and 79A of the Family Law Act.

The powers under item 19G are only delegated to Registrars if (a) the declaration or order is made until further order; or (b) the power is exercised in an undefended case, and may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the Court's powers in sections 78, 79 and 79A of the Act is qualified to only if (a) both of the following apply: (i) the power is exercised in an undefended case; (ii) the declaration or order is to come into effect at least 21 days after the declaration or order is served on the non-appearing party; or (b) the power is exercised with the consent of all the parties to the case.

Items 19J, 19K, 19L, 19M and 19N

The amendment inserts new items 19J, 19K, 19L, 19M and 19N into the table, which delegate to Registrars the Court's powers in subsections 83(1), 87(3), 87(8), 90J(3) and 90K(1) of the Family Law Act.

The delegation to Registrars of the Court's power in subsection 83(1) in item 19J may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation to Registrars of the Court's power in subsection 83(1) in item 19K is qualified to only if (a) all of the following apply: (i) the order to be discharged, suspended, revived or varied is an order until further order; (ii) the order to discharge, suspend, revive or vary is made in an undefended case; (iii) the order to discharge, suspend, revive or vary is to come into effect at least 21 days after the order is served on the other party; or (b) the order to discharge, suspend, revive or vary is made with the consent of all the parties to the case.

The delegation to Registrars of the Court's power in subsection 87(3) in item 19L may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation to Registrars of the Court's powers in subsections 87(8), 90J(3) and 90K(1) in item 19M is qualified to only if the order is (a) an order until further order; or (b) made in an undefended case. The powers in item 19M may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation to Registrars of the Court's powers in subsections 87(8), 90J(3) and 90K(1) in item 19N is qualified to only if (a) both of the following apply: (i) the order is made in an undefended case; (ii) the order is to come into effect at least 21 days after the order is served

on the non-appearing party; or (b) the order is made with the consent of all the parties to the case.

Items 19P and 19Q

The amendment inserts new items 19P and 19Q into the table, which delegate to Registrars the Court's power in section 90SE of the Family Law Act.

The power delegated under item 19P may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the power in section 90SE in item 19Q is qualified to only if (a) all of the following apply: (i) the order is an order until further order; (ii) the order is made in an undefended case; (iii) the order is to come into effect at least 21 days after the order is served on the other party; or (b) the order is made with the consent of all the parties to the case.

Items 19R and 19S

The amendment inserts new items 19R and 19S into the table, which delegate to Registrars the Court's power in section 90SG of the Family Law Act.

The power delegated under item 19R may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the power in section 90SG in item 19S is qualified to only if (a) both of the following apply: (i) the order is made in an undefended case; (ii) the order is to come into effect at least 21 days after the order is served on the non-appearing party; or (b) the order is made with the consent of all the parties to the case.

Items 19T and 19U

The amendment inserts new items 19T and 19U into the table, which delegate to Registrars the Court's power in section 90SI of the Family Law Act.

The power delegated under item 19T may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the power in section 90SI in item 19U is qualified to only if (a) all of the following apply: (i) the order to be discharged, suspended, revived or varied is an order until further order; (ii) the order to discharge, suspend, revive or vary is made in an undefended case; (iii) the order to discharge, suspend, revive or vary is to come into effect at least 21 days after the order is served on the other party; or (b) the order to discharge, suspend, revive or vary is made with the consent of all the parties to the case.

Items 19V and 19W

The amendment inserts new items 19V and 19W into the table, which delegate to Registrars the Court's powers in sections 90SL, 90SM and 90SN and subsections 90UL(3) and 90UM(1) of the Family Law Act.

The delegation to Registrars of the Court's powers in item 19V is qualified to only if (a) the declaration or order is a declaration or order until further order; or (b) the power is exercised in an undefended case. The powers in item 19V may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

The delegation of the Court's powers in item 19W is qualified to only if (a) both of the following apply: (i) the power is exercised in an undefended case; (ii) the declaration or order is to come into effect at least 21 days after the declaration or order is served on the non-appearing party; or (b) the power is exercised with the consent of all the parties to the case.

[18] Subrule 20.00A(1) (table item 22, column headed 'Legislative Provision')

The amendment omits the words 'subsection 92(1)' and substitutes 'subsections 92(1) and (2)' in item 22 of the table. The inclusion of the power in subsection 92(2) makes clear that Registrars have the power to impose conditions that may be considered appropriate when granting leave to a person to intervene under subsection 92(1) of the Family Law Act.

[19] Subrule 20.00A(1) (after table item 25)

The amendment inserts new item 25A into the table, which delegates to Registrars the Court's power in section 100B of the Family Law Act. This power to make an order allowing a child to swear an affidavit, be called as a witness in, or be present during, proceedings, may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

[20] Subrule 20.00A(1) (after table item 26)

The amendment inserts new item 26A into the table, which delegates to Registrars the Court's power in subsection 102A(3) of the Family Law Act. This power to make an order granting leave for a child to be examined may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia, pursuant to new subrule 20.00A(1A) of the Rules.

[21] Subrule 20.00A(1) (after table item 27)

The amendment inserts new items 27A and 27B into the table. The powers delegated in items 27A and 27B may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia (other than a Deputy Registrar), pursuant to new subrule 20.00A(1A) of the Rules.

Item 27A delegates to Registrars, subject to item 27B, the Court's powers in Part XIIIA of the Family Law Act (except paragraph 112AD(2)(d)). The powers in item 27A are only delegated to Registrars if (a) the order is until further order; or (b) the power is exercised in

an undefended case; or (c) the power is exercised with the consent of all the parties to the case.

Item 27B delegates to Registrars the Court's power in subsection 112AK(1) of the Family Law Act. The power in item 27B is only delegated to Registrars if the order to be varied or discharged (a) was made by a Registrar; or (b) is an order until further order; or (c) was made in an undefended case; or (d) was made with the consent of all the parties to the case.

[22] Subrule 20.00A(1) (after table item 28)

The amendment inserts new item 28A into the table, which delegates to Registrars the Court's power in subsection 117(2) of the Family Law Act. The power to make an order for costs or security for costs is only delegated to Registrars if the proceeding is within the power of a Registrar to hear and determine.

[23] Subrule 20.00A(1) (after table item 30)

The amendment inserts new items 30A, 30B and 30C into the table, which delegate to Registrars the Court's power in paragraph 6(1)(a) and subregulations 23(6) and 67Q(4) of the *Family Law Regulations 1984*.

[24] Subrule 20.00A(1) (before table item 31)

Items 31AA, 31AB and 31AC

The amendment inserts new items 31AA, 31AB and 31AC into the table, which delegate to Registrars certain powers under Part 1 of the Rules, specifically subrules 1.05(2), 1.06(1) and 1.07. The power delegated under item 31AA is qualified to the extent that it gives the Court the power to apply the *Family Law Rules 2004*.

Items 31AD, 31AE, 31AF, 31AG, 31AH and 31AI

The amendment inserts new items 31AD, 31AE, 31AF, 31AG, 31AH and 31AI into the table, which delegate to Registrars certain powers under Part 2 of the Rules, specifically subrules 2.01(1A), 2.04(1), 2.07B(3), 2.09(b) and 2.10(2), and paragraph 2.07(5)(b).

Items 31AJ, 31AK, 31AL, 31AM, 31AN, 31AO, 31AP, 31AQ, 31AR, 31AS and 31AT

The amendment inserts new items 31AJ, 31AK, 31AL, 31AM, 31AN, 31AO, 31AP, 31AQ, 31AR, 31AS and 31AT into the table, which delegate to Registrars certain powers under Part 6 of the Rules, specifically rules 6.04, 6.15, 6.16, 6.17 and 6.19, subrules 6.05(1) 6.08(1), 6.14(1), (2) and (3) and paragraph 6.06(2)(b).

Items 31AU, 31AV, 31AW, 31AX and 31AY

The amendment inserts new items 31AU, 31AV, 31AW, 31AX and 31AY into the table, which delegate to Registrars the Court's powers under rules 7.02, 8.01 and 8.02 of the Rules.

The power delegated to Registrars in rule 7.02 under item 31AU is qualified to the extent that the Court has the power to order a party or another appropriate person to amend a document.

The power delegated to Registrars in subrule 8.02(1) under item 31AW is qualified to the extent that the Court has power to transfer a proceeding to the Family Court of Australia. The power in subrules 8.02(2), (3) or (4) under items 31AX and 31AY is only delegated to Registrars in relation to a request for a transfer of a proceeding to the Family Court of Australia.

Items 31AZ, 31BA, 31BB and 31BC

The amendment inserts new items 31AZ, 31BA, 31BB and 31BC into the table, which delegate to Registrars the Court's powers under subrules 9.03(2), 10.04(b) and 10.05(1), and paragraph 10.05(2)(c) of the Rules.

Items 31BD, 31BE, 31BF, 31BG, 31BH, 31BI, 31BJ, 31BK, 31BL and 31BM

The amendment inserts new items 31BD, 31BE, 31BF, 31BG, 31BH, 31BI, 31BJ, 31BK, 31BL and 31BM into the table, which delegate to Registrars certain powers under Part 11 of the Rules, specifically rules 11.05 and 11.14, subrules 11.01(1) and (2), 11.02(2) and (3), 11.03(2), 11.04(1), 11.08(2), 11.11(1) and (3).

Items 31BN, 31BO, 31BP, 31BQ, 31BR, 31BS and 31BT

The amendment inserts new items 31BN, 31BO, 31BP, 31BQ, 31BR, 31BS and 31BT into the table, which delegate to Registrars certain powers under Parts 12 and 13 of the Rules, specifically rule 13.10, and subrules 12.02(1) and (2), 13.02(3), 13.04(3), 13.07(3), 13.08(3), 13.12(1), (2) and (3).

The power in subrule 13.04(3) under item 31BP is only delegated to Registrars if the order is made with the consent of all parties in the case.

Items 31BU, 31BV, 31BW, 31BX, 31BY, 31BZ, 31CA, 31CB and 31CC

The amendment inserts new items 31BU, 31BV, 31BW, 31BX, 31BY, 31BZ, 31CA, 31CB and 31CC into the table, which delegate to Registrars certain powers under Parts 14 and 15 of the Rules, specifically rules 14.04, 14.05, 14.06, 14.08, 15.09, 15.11, 15.12, and subrules 15.08(2) and 15.10(3).

Items 31CD, 31CE, 31CF, 31CG, 31CH and 31CI

The amendment inserts new items 31CD, 31CE, 31CF, 31CG, 31CH and 31CI into the table, which delegate to Registrars certain powers under Part 15A of the Rules, specifically rules 15A.05, 15A.09, 15A.10 and 15A.11, subrule 15A.04(3), and paragraph 15A.12(2)(b).

Items 31CJ, 31CK, 31CL, 31CM, 31CN, 31CO, 31CP, 31CQ, 31CR and 31CS

The amendment inserts new items 31CK, 31CL, 31CM, 31CN, 31CO, 31CP, 31CQ, 31CR and 31CS into the table, which delegate to Registrars certain powers under Part 21 of the Rules, specifically rules 21.04, 21.08, 21.10, subrules 21.01(1), 21.02(2), 21.03(1) and (3), and paragraphs 21.02(1)(c), 21.12(b) and 21.13(b).

Items 31CT and 31CU

The amendment inserts new items 31CT and 31CU into the table, which delegate to Registrars the Court's powers under rules 23.01A and 23.02 of the Rules.

[25] Subrule 20.00A(1) (cell at table item 31, column headed 'Legislative Provision')

The amendment repeals the cell and substitutes 'Division 25B.2' in item 31 of the table. This delegates the full suite of powers in Division 25B.2 of the Rules to Registrars to enforce financial orders and obligations under the Rules.

[26] Subrule 20.00A(1) (after table item 31)

The amendment inserts new item 31A into the table, which delegates to Registrars the Court's powers in Division 25B.4 of the Rules to make orders in relation to warrants for arrest and to do any other thing referred to in Division 25B.4. The delegation of power in item 31A is qualified by new subrule 20.00A(2A).

[27] Subrule 20.00A(1) (after table item 55)

This amendment inserts new items 55A, 55B, 55C and 55D into the table, which delegate to Registrars the Court's powers in section 139 and Divisions 4 and 5 of Part 7 of the *Child Support (Assessment) Act 1989* (Cth).

The powers delegated under items 55A and 55C may only be exercised by a Registrar who is also a Registrar of the Family Court of Australia, pursuant to new subrule 20.00A(1A) of the FCC Rules.

The delegation of the Court's power to make an order relating to child support in Divisions 4 and 5 of Part 7 of the *Child Support (Assessment) Act 1989* (Cth) in item 55B is only delegated to Registrars if the order is made (a) in an undefended case; or (b) with the consent of all the parties to the case.

The delegation of the Court's power to order payment of maintenance if a child is in urgent need of financial assistance in section 139 of the *Child Support (Assessment) Act 1989* (Cth) in item 55D is only delegated to Registrars if the order is made (a) in an undefended case; or (b) with the consent of all the parties to the case.

[28] Subrule 20.00A(1) (before table item 56)

This amendment inserts new items 56AA and 56AB into the table, which delegate to Registrars the Court's powers in section 111B and subsection 105(2) of the *Child Support (Registration and Collection) Act 1988* (Cth).

[29] After subrule 20.00A(1)

The amendment inserts a new subrule 20.00A(1A) to the Rules, which provides that certain delegated powers of the Court listed in paragraphs 20.00A(1A)(a) to (k) may only be exercised by a Registrar who is also a Registrar (other than a Deputy Registrar) of the Family Court of Australia.

Subrule 20.00A(1A) effectively creates two classes of delegated powers; one for approved Registrars of the Federal Circuit Court and one for approved Registrars of the Federal Circuit Court who are also concurrently Registrars of the Family Court of Australia (known in practice as Senior Registrars).

The effect of this amendment is to harmonise the delegated powers of Registrars and Senior Registrars exercising family law jurisdiction in the Family Court of Australia and Federal Circuit Court.

[30] After subrule 20.00A(2)

The amendment inserts a new subsection (2A) to rule 20.00A of the Rules. New subsection 20.00A(2A) provides that a power of the Court mentioned in item 31A of the table may only be exercised by an approved Registrar who is also a Registrar (other than a Deputy Registrar) of the Family Court, or by an approved Registrar when dealing with a case in relation to which a Registrar has, or has been delegated, the power to exercise the Court's jurisdiction.

[31] Paragraph 20.01(1)(a)

The amendment omits '3 to 30' in paragraph 20.01(1)(a) of the Rules and substitutes '3AA to 30C'.

[32] Paragraph 20.01(1)(a)

The amendment omits '28 days' in paragraph 20.01(1)(a) of the Rules and substitutes '21 days'. The application for review of the exercise by a Registrar of a power of the Court under the Family Law Act or the Family Law Regulations mentioned in items 3AA to 30C of the table must be made within 21 days.

[33] In the appropriate position in Chapter 9

The amendment inserts Part 48 for transitional provisions relating to the *Federal Circuit Court Amendment (Powers Delegated to Registrars) Rules 2020*.

Rule 48.01 inserts a transitional provision clarifying that the amended rules 20.00A and 20.01 apply to the exercise of a power on or after the commencement day, even if the

exercise of the power relates to a proceeding instituted before, on or after the commencement day.