

Family Law Amendment (Powers Delegated to Registrars) Rules 2020

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

Dated 22 September 2020

W Alstergren CJ

R McClelland DCJ

G Watts J

S Austin J

P Tree J

R Benjamin J

V Bennett J

M Cleary J

C Forrest J

K Macmillan J

G Foster J

S Gill J

M Baumann J

L Henderson J

J Williams J

J Wilson J

R Harper J

C Mead J

N Hartnett J

T McEvoy J

Judges of the Family Court
of Australia

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1 Name

 These Rules are the *Family Law Amendment (Powers Delegated to Registrars) Rules 2020*.

2 Commencement

 (1) Each provision of these Rules specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of these Rules | The day after these Rules are registered. | 26 September 2020 |

Note: This table relates only to the provisions of these Rules as originally made. It will not be amended to deal with any later amendments of these Rules.

 (2) Any information in column 3 of the table is not part of these Rules. Information may be inserted in this column, or information in it may be edited, in any published version of these Rules.

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 Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.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 Subrule 18.05(1) (table 18.2, before item 1)

Insert:

|  |  |
| --- | --- |
| 1AA | subparagraph 37A(1)(e)(iv) and paragraph 37A(1)(f) |

2 Subrule 18.05(1) (table 18.2, after item 15)

Insert:

|  |  |
| --- | --- |
| 15A | subject to item 15B of this table, Division 13A of Part VII (except paragraph 70NFB(2)(e) and only 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) |
| 15B | sections 70NBA and 70NFD (but only 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) |

3 Subrule 18.05(1) (table 18.2, after item 16)

Insert:

|  |  |
| --- | --- |
| 16A | sections 78, 79 and 79A (but only if:(a) the declaration or order made is a declaration or an order until further order; or(b) the power is exercised in an undefended case) |

4 Subrule 18.05(1) (table 18.2, after item 18)

Insert:

|  |  |
| --- | --- |
| 18AA | subsections 87(8), 90J(3) and 90K(1) (but only if the order is:(a) an order until further order; or(b) made in an undefended case) |

5 Subrule 18.05(1) (table 18.2, items 18C and 18D)

Repeal the items, substitute:

|  |  |
| --- | --- |
| 18C | sections 90SL, 90SM and 90SN (but only if:(a) the declaration or order made is a declaration or an order until further order; or(b) the power is exercised in an undefended case) |
| 18D | subsections 90UL(3) and 90UM(1) (but only if the order is:(a) an order until further order; or(b) made in an undefended case) |

6 Subrule 18.05(1) (table 18.2, item 21A)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 21A | subject to item 21B of this table, Part XIIIA (except paragraph 112AD(2)(d) and only if:(a) the order 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) |
| 21B | subsection 112AK(1) (but only 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) |
| 21C | subsection 114(3) |

7 Subrule 18.05(1) (table 18.2, before item 22)

Insert:

|  |  |
| --- | --- |
| 22AA | Divisions 4 and 5 of Part 7 |

8 Subrule 18.05(1) (at the end of table 18.2)

Add:

|  |  |
| --- | --- |
| 23A | subsection 111B(1) |
| 23B | section 113 |

9 Subrule 18.05(2) (table 18.3, after item 3)

Insert:

|  |  |
| --- | --- |
| 3A | paragraphs 10.12(c) and (d) |
| 3B | paragraphs 10.14(d) and (e) |

10 Subrule 18.05(2) (table 18.3, after item 6)

Insert:

|  |  |
| --- | --- |
| 7 | paragraphs 17.02(1)(a) to (d) and (f) |

11 Subrule 18.06(1) (table 18.4, item 9)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 9 | subject to items 21, 21A, 21F and 21G of this table, subsection 37A(1) (except subparagraph (e)(iv) and the reference in subparagraph (f)(i) to an order under section 66Q or 67E) |

12 Subrule 18.06(1) (table 18.4, after item 18)

Insert:

|  |  |
| --- | --- |
| 18AAA | section 65D (but 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) |

13 Subrule 18.06(1) (table 18.4, item 21)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 21 | section 74 (but 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) |
| 21A | section 77 (but 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 other party; or(b) the order is made with the consent of all the parties to the case) |
| 21B | sections 78, 79 and 79A (except paragraph 79(9)(c) and 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) |
| 21C | paragraph 79(9)(c) |
| 21D | subsection 83(1) (but 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 non‑appearing party; or(b) the order to discharge, suspend, revive or vary is made with the consent of all the parties to the case) |
| 21E | subsections 87(8), 90J(3) and 90K(1) (but 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) |
| 21F | section 90SE (but 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) |
| 21G | section 90SG (but 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 other party; or(b) the order is made with the consent of all the parties to the case) |
| 21H | section 90SI (but 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 non‑appearing party; or(b) the order to discharge, suspend, revive or vary is made with the consent of all the parties to the case) |
| 21J | sections 90SL, 90SM and 90SN (except paragraph 90SM(9)(c) and 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) |
| 21K | paragraph 90SM(9)(c) |
| 21L | subsections 90UL(3) and 90UM(1) (but 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) |

14 Subrule 18.06(1) (table 18.4, after item 23)

Insert:

|  |  |
| --- | --- |
| 23A | paragraphs 94(2D)(a), (b), (c), (e), (g), (h), (i) and (j) |
| 23B | paragraph 94(2D)(d) (but only if all parties consent to the orders sought) |
| 23C | paragraphs 94AAA(10)(a), (b), (c), (e), (g), (h), (i) and (j) |
| 23D | paragraph 94AAA(10)(d) (but only if all parties consent to the orders sought) |

15 Subrule 18.06(1) (table 18.4, item 30)

Omit “(except an order as to security for costs)”.

16 Subrule 18.06(1) (at the end of table 18.4)

Add:

|  |
| --- |
| Assessment Act |
| 43 | section 139 (but only if the order is made:(a) in an undefended case; or(b) with the consent of all the parties to the case) |
| 44 | Divisions 4 and 5 of Part 7 (but only if the order is made:(a) in an undefended case; or(b) with the consent of all the parties to the case) |
| Registration Act |
| 45 | subsection 105(2) |
| 46 | subsection 111B(1) |
| 47 | section 113 |

17 Subrule 18.06(2) (table 18.5, item 10)

Omit “(except subrule (5))”.

18 Subrule 18.06(2) (table 18.5, after item 25)

Insert:

|  |  |
| --- | --- |
| 26 | Part 15.4 |

19 Subrule 18.06(2) (table 18.5, item 31B)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 31B | paragraphs 17.02(1)(e), (g) and (h) |

20 Subrule 18.06(2) (table 18.5, item 32)

Omit “Parts 19.3 and 19.8”, substitute “Part 19.8”.

21 Subrule 18.06(2) (table 18.5, item 32)

Omit “Parts 6.2 and 6.8 and clauses 6.17 and 6.18”, substitute “Part 6.8”.

22 Subrule 18.06(2) (table 18.5, item 33)

Repeal the item, substitute:

|  |  |
| --- | --- |
| 33 | Chapter 20 |
| 34 | Part 21.4 |

23 At the end of rule 18.06 (after the note)

Add:

 (3) A power of the court mentioned in item 34 of Table 18.5 may only be exercised by a Deputy Registrar when dealing with a case in relation to which a Deputy Registrar has, or has been delegated, the power to exercise the court’s jurisdiction.

24 Subrule 18.08(1) (table 18.6, item 2, column headed “Time within which application must be made”)

Omit “28 days”, substitute “21 days”.

25 Subrule 18.08(1) (table 18.6, items 3 and 4, column headed “Time within which application must be made”)

Omit “7 days”, substitute “21 days”.

26 In the appropriate position in Chapter 27

Insert:

Part 27.5—Transitional provisions relating to the Family Law Amendment (Powers Delegated to Registrars) Rules 2020

27.13 Application—powers delegated to Registrars

 Rules 18.05, 18.06 and 18.08, as amended by Schedule 1 to the *Family Law Amendment (Powers Delegated to Registrars) Rules 2020* (the ***amending Rules***), apply in relation to the exercise of a power on or after the commencement of the amending Rules (whether or not the exercise of the power relates to a proceeding instituted before, on or after that commencement).