



Family Law Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020

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

Dated 10 August 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 (Notice of Child Abuse, Family Violence or Risk) 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.	31 October 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Note: This table relates only to the provisions of these Rules as originally made.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Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.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

Part 1—Main amendments

Family Law Rules 2004

1 Subrule 2.02(1) (table 2.2, item 2A, column headed “Documents to be filed with application”, paragraph (a))

Before “a certificate”, insert “unless paragraph (b) applies—”.

2 Subrule 2.02(1) (table 2.2, item 2A, column headed “Documents to be filed with application”, paragraph (a))

Omit “or”.

3 Subrule 2.02(1) (table 2.2, item 2A, column headed “Documents to be filed with application”, after paragraph (c))

Insert:

; (d) a Notice of Child Abuse, Family Violence or Risk

4 Subrule 2.02(1) (table 2.2, after item 2B)

Insert:

2C Response to Initiating Application (Family Law) in which an order is sought under Part VII of the Act, for example, a parenting order a Notice of Child Abuse, Family Violence or Risk

5 Subrule 2.02(1) (table 2.2, at the end of the cell at item 9, column headed “Documents to be filed with application”)

Add:

; (c) if an order is sought under Part VII of the Act—a Notice of Child Abuse, Family Violence or Risk

6 Rule 2.04

Insert:

interested person:

- (a) in a proceeding to which section 67Z of the Act applies—has the meaning given by subsection (4) of that section; and
- (b) in a proceeding to which section 67ZBA of the Act applies—has the meaning given by subsection (4) of that section.

7 After rule 2.04A

Insert:

2.04B Amendment of Notice of Child Abuse, Family Violence or Risk

If:

- (a) a person who is a party to a proceeding, or an interested person in a proceeding, has filed a Notice of Child Abuse, Family Violence or Risk in the proceeding; and

(b) after filing the notice, the person becomes aware of new facts or circumstances that would require the person to file a Notice of Child Abuse, Family Violence or Risk for the purposes of subsection 67Z(2) or 67ZBA(2) of the Act in relation to those new facts or circumstances;

the person must file:

- (c) a Notice of Child Abuse, Family Violence or Risk setting out those new facts or circumstances; and
- (d) an affidavit stating the evidence relied on to support each allegation set out in the notice.

Note 1: A true copy of a Notice of Child Abuse, Family Violence or Risk that is filed for the purposes of subsection 67Z(2) or 67ZBA(2) of the Act must be served on the person to whom the allegations relate: see subsections 67Z(2) and 67ZBA(2) of the Act.

Note 2: If a Notice of Child Abuse, Family Violence or Risk alleges that a child has been abused or is at risk of being abused, the Registry Manager must notify a prescribed child welfare authority: see subsection 67Z(3) and paragraph 67ZBA(3)(b) of the Act.

8 Subrules 2.04D(1) and (2)

Repeal the subrules, substitute:

- (1) The prescribed form for a notice mentioned in subsection 67Z(2) or 67ZBA(2) of the Act is the Notice of Child Abuse, Family Violence or Risk.

Note: The Notice of Child Abuse, Family Violence or Risk is set out in Schedule 2.

- (2) A person who files a Notice of Child Abuse, Family Violence or Risk that includes one or more allegations of child abuse, family violence or risk of harm to a child must file an affidavit stating the evidence on which each allegation set out in the notice is based, no later than the time the notice is filed.

Note 1: If a Notice of Child Abuse, Family Violence or Risk filed in a proceeding alleges that a child to whom the proceeding relates has been abused or is at risk of being abused by a person, or that there has been family violence or that there is a risk of family violence by one of the parties to the proceeding, a true copy of the notice must be served on the person to whom the allegations relate: see subsections 67Z(2) and 67ZBA(2) of the Act. The requirements for service of filed documents are set out in rule 7.04.

Note 2: If a Notice of Child Abuse, Family Violence or Risk filed in a proceeding alleges that a child to whom the proceeding relates has been abused or is at risk of being abused, the Registry Manager must notify a prescribed child welfare authority: see subsection 67Z(3) and paragraph 67ZBA(3)(b) of the Act.

- (3) Subrule (2) does not apply to a notice filed with an Application for Consent Orders.

9 Subrules 10.15A(2), (3) and (4) (note)

Repeal the note.

10 Paragraph 19.41(2)(b)

Omit “a form”, substitute “the form”.

11 Paragraph 24.01(1)(g)

Omit “form in Schedule 2”, substitute “Notice of Child Abuse, Family Violence or Risk”.

12 Subrule 24.04(2)

Repeal the subrule, substitute:

- (2) A reference in these Rules to a Notice of Child Abuse, Family Violence or Risk is a reference to the form in Schedule 2, with any variations that are necessary or as the Chief Justice directs.

13 Subrule 24.04(3)

Omit “a form”, substitute “the form”.

14 In the appropriate position in Chapter 27

Insert:

Part 27.4—Transitional provisions relating to the Family Law Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020

27.09 Definitions

In this Part:

amending Rules means the *Family Law Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020*.

commencement day means the day the amending Rules commence.

old format notice of risk means:

- (a) a Notice of Child Abuse, Family Violence or Risk of Family Violence (Current Case); or
- (b) a Notice of Child Abuse, Family Violence or Risk of Family Violence (Application for Consent Orders);

both within the meaning of these Rules as in force immediately before the commencement day.

27.10 Application—documents to be filed with applications

Rule 2.02, as amended by Schedule 1 to the amending Rules, applies in relation to:

- (a) an application that is filed on or after the commencement day; and
- (b) a response that is filed on or after the commencement day, even if it is a response to an application that was filed before the commencement day.

27.11 Application—amendment of Notice of Child Abuse, Family Violence or Risk

- (1) Rule 2.04B, as inserted by Schedule 1 to the amending Rules, applies in relation to:
 - (a) a proceeding that is instituted on or after the commencement day; and
 - (b) a proceeding that was instituted, but not concluded, before the commencement day.

- (2) For the purposes of a proceeding that was instituted, but not concluded, before the commencement day, if:
- (a) before the commencement day, a person who is a party to the proceeding, or an interested person in the proceeding, had filed an old format notice of risk in the proceeding; and
 - (b) on or after the commencement day, the person becomes aware of new facts or circumstances as mentioned in paragraph 2.04B(b) as inserted by Schedule 1 to the amending Rules;
- then rule 2.04B, as inserted by Schedule 1 to the amending Rules, applies as if the reference in paragraph 2.04B(a) to a Notice of Child Abuse, Family Violence or Risk were a reference to the old format notice of risk.

27.12 Application—prescribed form

Subrule 2.04D(1), as amended by Schedule 1 to the amending Rules, applies in relation to an allegation that is made on or after the commencement day, even if the proceeding in which the allegation is made was instituted before the commencement day.

15 Paragraph 6.42(2)(b) of Schedule 6

Omit “a Form”, substitute “the form”.

16 Dictionary

Insert:

Notice of Child Abuse, Family Violence or Risk means the form set out in Schedule 2, with any variations that are necessary or as the Chief Justice directs.

Part 2—Prescribed form

Family Law Rules 2004

17 Schedule 2

Repeal the Schedule, substitute:

Schedule 2—Notice of Child Abuse, Family Violence or Risk

Note: See Division 2.3.1 and subrule 24.04(2).

Notice of child abuse, family violence or risk

Family Law Act 1975

Sections 67Z, 67ZBA, 69ZQ(1)(aa)

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

You must file this form if you:

- file an Initiating Application or Response seeking parenting orders, including an *Application for Consent Orders*, or
- make new allegations of child abuse or family violence in parenting proceedings **after** filing an Initiating Application or Response.

To be completed by the court

Filed in:

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

Client ID _____

File number _____

Date filed ____ / ____ / ____

Statement of truth

*[I believe] that the facts contained in this Notice are true. I understand that a Judge or Registrar of the Court and the other parties stated in this application will rely on the facts that I have provided in this Notice as being true.

Your signature	Date ____ / ____ / ____
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Part A About you (the person completing this form)

<p>1 Your given names _____</p>	<p>Your surname _____</p>
<p>2 Your date of birth ____ / ____ / ____</p>	<p>Your gender _____</p>
<p>3 Are you the applicant or respondent? _____</p>	<p>What is your relationship with the child? _____</p>
<p>4 Full name of person who prepared this form _____</p>	<p>Name of law firm (if applicable) _____</p>
<p>Address for service (number and street name) _____</p>	
<p>City, state and postcode _____</p>	<p>Lawyers code (if applicable) _____</p>
<p>Email _____</p>	

1

Part B Children named in the application

5 Child 1

Given names	Surname	Date of birth	Gender
		/ /	

Aboriginal	Torres Strait Islander	Is the child currently in Australia? (if yes, which state)
Yes <input type="checkbox"/>	Yes <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Child 2

Given names	Surname	Date of birth	Gender
		/ /	

Aboriginal	Torres Strait Islander	Is the child currently in Australia? (if yes, which state)
Yes <input type="checkbox"/>	Yes <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Child 3

Given names	Surname	Date of birth	Gender
		/ /	

Aboriginal	Torres Strait Islander	Is the child currently in Australia? (if yes, which state)
Yes <input type="checkbox"/>	Yes <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Child 4

Given names	Surname	Date of birth	Gender
		/ /	

Aboriginal	Torres Strait Islander	Is the child currently in Australia? (if yes, which state)
Yes <input type="checkbox"/>	Yes <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Part C **Child abuse or neglect or risk of child abuse or neglect**

6 Has a child to whom proceedings relate been abused (or are they at risk of abuse) by a party to proceedings or any other person relevant to these proceedings?

IF YOU ANSWERED YES TO QUESTION 6, the registry manager must report the allegation to the relevant child welfare authority pursuant to section 67Z(3) and section 67ZA of the *Family Law Act 1975*. In that case, the registry manager may provide such other information as he or she reasonably believes is necessary to enable the child welfare authority to manage the allegations properly.

7 Name the person you allege has subjected or exposed the child to abuse or neglect or who poses a risk to the child.

What is the relationship of this person (named in 7) to the child?

8 Have the allegations been reported to an outside authority (such as police, child welfare authority, school, hospital, a medical practitioner)?

9 If you reported the allegations to an outside authority, identify to which authority the allegations were reported.

Date you made the report / /

10 If you did not report the allegations to an outside authority, is there a reason?

Provide details.

Schedule 1 Amendments
Part 2 Prescribed form

11 Identify the kind of abuse or neglect the child have experienced (or are at risk of experiencing).

Child's name	Physical abuse	Emotional/ Psychological abuse	Sexual abuse	Neglect	Exposure to family violence
Child 1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12 Have any orders or agreements been made, or formal undertakings given, related to child abuse or neglect?

If 'yes', provide details.

Child Protection order, undertaking or agreement:

Date	Type of Order	Name of Court	Current?
/ /			
/ /			
/ /			
/ /			
/ /			

A copy of the above mentioned order/s should be provided to the Court. Indicate which document the copy is attached to:

- Initiating Application
- Response
- Application for Consent Orders
- Affidavit
- Other (please specify):

Provide details of the alleged abuse or neglect, or alleged risk of abuse or neglect in part I.

Part D Family violence or risk of family violence

- 13 a. Do you allege that **you, or another party to the proceedings**, have experienced family violence?
- b. Do you allege that **you, or another party to the proceedings**, are at risk of experiencing family violence?
- c. Do you allege that a **child to whom the proceedings relate** has experienced family violence?
- d. Do you allege that a **child to whom the proceedings relate** is at risk of experiencing family violence?
- e. Do you allege that a **child to whom the proceedings relate** has suffered (or is at risk of suffering) serious psychological harm from experiencing family violence directly or indirectly?

IF YOU ANSWERED YES TO QUESTION 13e. the registry manager must report the information to the relevant child welfare authority pursuant to section 67Z(3) and section 67ZA of the *Family Law Act 1975*. In that case, the registry manager may provide such other information as he or she reasonably believes is necessary to enable the child welfare authority to manage the allegations properly.

- 14 Name the person you allege has subjected or exposed you or the child to family violence
- What is the relationship of this person (named in 14) to the child?

- 15 Have the allegations been reported to an outside authority (such as police, child welfare authority, school, hospital, a medical practitioner)?

- 16 If you reported the allegations to an outside authority, identify to which authority the allegations were reported.
- Date you made the report

Schedule 1 Amendments
Part 2 Prescribed form

17 Identify the kind of family violence that you allege that you, or the child have experienced:

Name	Physical	Emotional/ Psychological	Sexual	Financial	Property damage	Threatening comments	Exposure to family violence
You	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18 Have you had or do you have any of the following types of orders and are they current?

Family Violence Order, Personal Protection Injunction, undertaking or agreement in place of order:

Date	Type of Order	Name of Court	Current?
/ /			
/ /			
/ /			
/ /			
/ /			

A copy of the above mentioned order/s, injunction, undertakings or agreements should be provided to the Court. Indicate which document the copy is attached to:

- Initiating Application
- Response
- Application for Consent Orders
- Affidavit
- Other (please specify):

Provide details of the family violence experienced by you or the child, or risk of family violence in part I.

19 Have you, or the other parent, or a party to the proceedings, been charged with, or convicted of, a criminal offence related to family violence, or been the subject of those charges?

20 Name the person you allege has been charged or convicted

What is the relationship of this person (named in 20) to the child?

Alleged charge/s or conviction/s:

Date	Court	Charge or conviction	Penalty
/ /			
/ /			
/ /			
/ /			

Part E Drug, alcohol or substance misuse

21 Do you allege that drug, alcohol or substance misuse by you, or the other parent or a party to the proceedings, has caused harm or poses a risk of harm to the child?

22 Provide the name of the person you allege has caused harm or poses a risk of harm.

What is the relationship of this person (named in 22) to the child?

23 Provide details of the alleged harm or risk of harm to the child arising from drug, alcohol or substance misuse.

Schedule 1 Amendments
Part 2 Prescribed form

24 Have you, or the other parent or a party to the proceedings, been charged with, or convicted of, a criminal offence or traffic offence related to drug, alcohol or substance misuse?

25 Name the person you allege has been charged or convicted

What is the relationship of this person (named in 24) to the child?

Alleged charge/s or conviction/s:

Date	Court	Charge or conviction	Penalty
/ /			
/ /			
/ /			
/ /			

Part F Mental health issues

26 Do you allege that the mental health issues of the other parent, or a party to the proceedings have caused harm or pose a serious risk of harm to the child?

27 Provide the name of the person you allege has caused harm or poses a serious risk of harm to the child arising from mental health issues.

What is the relationship of this person (named in 27) to the child?

28 Provide details of the alleged harm or risk of harm to the child arising from the mental health issues.

Part G Abduction or threats of harm

29 Do you believe that the child is at risk of being abducted?

If 'yes', why do you believe the child may be abducted? Provide details

30 Have there been any recent attempts to abduct the child?

If 'yes', provide details

31 Have there been any recent threats to harm the child or another person relevant to the proceedings?

If 'yes', provide details

32 Name the person you allege has recently threatened to abduct or harm the child or another person.

What is the relationship of this person (named in 32) to the child?

33 Does the child have a valid passport?

Country of issue

Describe the threats of abduction of the child or threats to harm the child or another person in part I.

Part H Other concerns about the child

34 Do you have any other significant concerns about the safety and wellbeing of the child?

If 'yes', provide details.

Part 1 Details of the alleged abuse

35 If you have provided information related to abuse, neglect or family violence, or risks posed by substance misuse, mental health issues or abduction in this form, provide details of what caused you to become concerned about those matters.

1. Briefly describe what happened and when	What action (if any) was taken and by whom?

2. Briefly describe what happened and when	What action (if any) was taken and by whom?

3. Briefly describe what happened and when	What action (if any) was taken and by whom?

Part J Steps or orders required to protect safety and wellbeing

36 Which orders do you want the court to make to protect the safety of the **child**?

Provide details.

37 Which orders do you want the court to make to protect **your** safety?

Provide details.

Part K How the proposed orders deal with the matters raised

- 38** If you are filing an Application for Consent Orders, and you have provided information related to abuse, neglect or family violence, or risks posed by substance misuse, mental health issues or abduction, state briefly how the proposed orders attempt to deal with those matters.

Provide details.

Part L Attending court

In most cases, you are required to attend court in person, unless the court has given permission for you to be excused. If you do not attend court, the court may make orders in your absence on the information available. If you have concerns for your safety, the court can make a safety plan and, in some circumstances, may be able to make special arrangements for the hearing.

- 39** Do you feel unsafe being in the same room as the other parent or a party to the proceedings?

If yes, provide details of any special arrangements you would like to be made for your safety.
