

Federal Circuit Court Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020

We, Judges of the Federal Circuit Court of Australia, make the following Rules of Court.

Dated 11 August 2020

Chief Judge Alstergren

Judge Altobelli

Judge Baker

Judge Bender

Judge Betts

Judge Blake

Judge Boyle

Judge Boymal

Judge Brown

Judge Cameron

Judge Carter

Judge Coates

Judge Cole

Judge Demack

Judge Driver

Judge Dunkley

Judge Emmett

Judge Harland

Judge Heffernan

Judge Howard

Judge Humphreys

Judge Jarrett

Judge Kari

Judge A Kelly

Judge C Kelly

Judge Kemp

Judge Kendall

Judge Kirton

Judge Lapthorn

Judge McGuire

Judge McNab

Judge Mercuri

Judge Middleton

Judge Monahan

Judge Morley

Judge Myers

Judge M Neville

Judge W Neville

Judge Purdon-Sully

Judge Smith

Judge Spelleken

Judge Stewart

Judge Street

Judge Tonkin

Judge Vasta

Judge Willis

Judge Young

Judges of the Federal Circuit  
Court of Australia

David Pringle

Chief Executive Officer and Principal Registrar

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1 Name

These Rules are the *Federal Circuit Court 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Note: This table relates only to the provisions of these Rules as originally made.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 *Federal Circuit Court of Australia Act 1999.*

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Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.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

Federal Circuit Court Rules 2001

1 Subrule 2.04(1B)

Repeal the subrule, substitute:

(1B) A reference in these Rules to the 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 Judge directs.

2 Subrule 4.01(4) (note)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

3 Subrule 4.03(3) (note)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

4 Part 22A (heading)

Omit “**risk**”, substitute “**Child Abuse, Family Violence or Risk**”.

5 Division 1 of Part 22A (heading)

Omit “**risk**”, substitute “**Child Abuse, Family Violence or Risk**”.

6 Rule 22A.02 (heading)

Omit “**risk**”, substitute “**Child Abuse, Family Violence or Risk**”.

7 Subrule 22A.02(1)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

8 Subrule 22A.02(1) (note 1)

Repeal the note, substitute:

Note 1: A Notice of Child Abuse, Family Violence or Risk must be in accordance with the form in Schedule 2, with any variations that are necessary or as the Chief Judge directs: see subrule 2.04(1B).

9 Subrule 22A.02(2)

Repeal the subrule (not including the notes), substitute:

(2) If the Notice of Child Abuse, Family Violence or Risk includes one or more allegations of child abuse, family violence or risk of harm to a child, the affidavit filed with the application or response, in accordance with rule 4.05, must state the evidence on which each allegation set out in the notice is based.

10 Subrule 22A.02(2) (notes 1 and 2)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

11 Rule 22A.03 (heading)

Omit “**risk**”, substitute “**Child Abuse, Family Violence or Risk**”.

12 Paragraph 22A.03(a)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

13 Paragraph 22A.03(b)

Omit “of risk”.

14 Rule 22A.03

Omit “of risk” (third occurring).

15 Rule 22A.04 (heading)

Omit “**notice of risk**”, substitute “**Notice of Child Abuse, Family Violence or Risk**”.

16 Paragraphs 22A.04(a) and (b)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

17 Paragraph 22A.04(b)

Omit “those facts”, substitute “those new facts”.

18 Paragraph 22A.04(c)

Omit “new notice of risk setting out those”, substitute “Notice of Child Abuse, Family Violence or Risk setting out those new”.

19 Rule 22A.04 (notes 1 and 2)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

20 Paragraph 22A.05(2)(a)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

21 Subrule 22A.05(3)

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

22 Rule 22A.06 (heading)

Omit “**notice of risk**”, substitute “**Notice of Child Abuse, Family Violence or Risk**”.

23 Rule 22A.06

Omit “notice of risk”, substitute “Notice of Child Abuse, Family Violence or Risk”.

24 Rule 22A.07 (heading)

Omit “**risk**”, substitute “**Child Abuse, Family Violence or Risk**”.

25 Rule 22A.07

Omit “notice of risk” (wherever occurring), substitute “Notice of Child Abuse, Family Violence or Risk”.

26 In the appropriate position in Chapter 9

Insert:

Part 47—Transitional provisions relating to the Federal Circuit Court Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020

47.01 Definitions

In this Part:

***amending Rules*** means the *Federal Circuit Court 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 notice of risk within the meaning of these Rules as in force immediately before the commencement day.

47.02 Application of amendments of rule 22A.02

Rule 22A.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.

47.03 Application of amendments of rule 22A.03

Rule 22A.03, as amended 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.

47.04 Application of amendments of rule 22A.04

(1) Rule 22A.04, as amended 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 22A.04(b) as amended by Schedule 1 to the amending Rules;

then rule 22A.04, as amended by Schedule 1 to the amending Rules, applies as if the reference in paragraph 22A.04(a) to a Notice of Child Abuse, Family Violence or Risk were a reference to the old format notice of risk.

47.05 Application of amendments of rule 22A.05

Rule 22A.05, as amended by Schedule 1 to the amending Rules, applies in relation to a proceeding that is transferred to the Court on or after the commencement day.

47.06 Application of amendments of rule 22A.07

(1) Subrule 22A.07(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.

(2) Subrule 22A.07(2), as amended 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.

27 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 Judge directs.

Part 2—Prescribed form

Federal Circuit Court Rules 2001

28 Schedule 2

Repeal the Schedule, substitute:

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

Note: See subrule 2.04(1B) and Division 1 of Part 22A.

























