

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA
(DIVISION 2) (GENERAL FEDERAL LAW) RULES 2021

EXPLANATORY STATEMENT

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Issued by the authority of the Chief Judge of the Federal Circuit and Family Court of Australia (Division 2)

The Federal Circuit and Family Court of Australia bills were passed on 18 February 2021. The *Federal Circuit and Family Court of Australia Act 2021* (the Federal Circuit and Family Court Act) unifies the administrative structure of the Family Court of Australia and the Federal Circuit Court of Australia to create the Federal Circuit and Family Court of Australia. The Federal Circuit and Family Court Act commences operation on 1 September 2021.

Section 8 of the Federal Circuit and Family Court Act provides that from the commencement day of the Federal Circuit and Family Court Act, the Family Court of Australia is continued in existence as the Federal Circuit and Family Court of Australia (Division 1). The Federal Circuit Court is continued in existence as the Federal Circuit and Family Court of Australia (Division 2). General federal law proceedings will be heard only in Division 2. The general federal law jurisdiction in Division 2 of the Federal Circuit and Family Court Act is the same as the general federal law jurisdiction in the Federal Circuit Court of Australia and is concurrent with the jurisdiction of the Federal Court of Australia.

Subsection 217(1) of the Federal Circuit and Family Court Act provides that the Chief Judge may make Rules of Court providing for, or in relation to, the practice and procedure to be followed in the Federal Circuit and Family Court of Australia (Division 2). The rules may also provide for all matters and things incidental to any such practice or procedure, or necessary or convenient to be prescribed for the conduct of any business of the Court.

The power to make Rules of Court under section 217 of the Federal Circuit and Family Court Act will be amended 18 months after section 217 commences to provide for the Rules to be made by the Judges of the Federal Circuit and Family Court (Division 2), or a majority of them (see Part 4 of Schedule 1 to the *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021*).

The existing *Federal Circuit Court Rules 2001* (Federal Circuit Court Rules) were made on 10 July 2001 and commenced on 30 July 2001. They were made under subsection 81(1) of the *Federal Circuit Court of Australia Act 1999* (Cth) (the Federal Circuit Court Act). They have been regularly reviewed and updated since that date, and applied to all proceedings in the Federal Circuit Court of Australia. These new Rules, the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021* have been made by the Chief Judge of the Federal Circuit and Family Court (Division 2), in consultation with the Judges of the FCFCOA (Division 2), to replace the Federal Circuit Court Rules in so far as they applied to general federal law proceedings with effect from the commencement date of the Federal Circuit and Family Court, being 1 September 2021.

Subsection 217(3) of the Federal Circuit and Family Court 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, a reference to a legislative instrument is to be read as a reference to a rule of court.

The Court has proceeded on the basis that a statement of compatibility with human rights is not required to be included in an explanatory statement to rules of court, as whilst the Federal Circuit and Family Court Act applies the *Legislation Act 2003* (Cth) to rules of court, it does not expressly translate a reference to a legislative instrument in legislation other than the *Legislation Act 2003* (Cth) into a reference to rules of court, such as in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

The Court notes that different views are held as to whether a statement of compatibility with human rights is formally required to be included in an explanatory statement to rules of court. However for the avoidance of doubt, a statement of compatibility with human rights is included below.

Development and consultation on these Rules

The *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021* (Cth) repeals the Federal Circuit Court Act in its entirety on the day the Federal Circuit and Family Court Act commences. All Rules of Court made under the Federal Circuit Court Act will lapse on that day, including the Federal Circuit Court Rules.

The Federal Circuit and Family Court, in consultation with the Office of Parliamentary Counsel, has developed new rules to apply to all general federal law proceedings, including migration proceedings, in the Federal Circuit and Family Court. The new rules do not apply to family law and child support proceedings. A separate set of rules has been developed for family law and child support proceedings.

The new general federal law rules are substantially the same as the Federal Circuit Court Rules as they apply to general federal law proceedings. These Rules do not substantially alter existing arrangements.

Broadly, the new rules differ from the Federal Circuit Court Rules in the following ways:

- content related to family law and child support matters has been removed;
- the numbering has been updated, although the sequence from the Federal Circuit Court Rules is retained;
- references to provision of the Federal Circuit and Family Court Act replace references to provisions of the Federal Circuit Court Act;
- notes to certain rules have been updated or, in some cases, removed, and new notes have been inserted;
- rule 1.05 in Part 1, containing an updated set of definitions, replaces the Dictionary;
- eLodgment replaces the Commonwealth Courts Portal for electronic filing of documents (see rule 2.08);
- an *application in a case* is now an *application in a proceeding*;
- the table in rule 21.01 setting out the powers delegated to Registrars has been updated and the entries have been renumbered;
- rules relating to migration proceedings in Part 29 have been updated;
- references to the Workplace Relations Act have been removed;

- rules dealing with transitional provisions that are no longer relevant have been removed;
- the drafting of some rules has been amended for clarity or to accord with modern drafting style.

Consultation with Judges and Registrars of the Court occurred in the development of the Rules, as well as consultation with the Harmonised Bankruptcy Rules Monitoring Committee – a joint committee with the Federal Court of Australia.

Due to the minimal changes being made, limited consultation occurred with the legal profession via the Australian Bar Association and Law Council of Australia.

Cross-reference table

As noted above, these Rules are substantially the same as the Federal Circuit Court Rules with some amendments. Annexure A is a cross-reference table that sets out where provisions of the Federal Circuit Court Rules can be found in these Rules.

Statement of Compatibility with Human Rights

Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Overview of the Legislative Instrument

The *Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021* (the Rules) are made under the Federal Circuit and Family Court Act. The Federal Circuit and Family Court Act brings together the Family Court of Australia and the Federal Circuit Court of Australia as the Federal Circuit and Family Court of Australia (the Court). It continues in existence the Federal Circuit Court as Division 2 of the Court.

The Rules address the practice and procedure to be followed in the conduct of general federal law proceedings in the Court. Accordingly, the Rules are procedural in nature and are essential for the efficient administration of general federal law proceedings governed by the Act. ‘General federal law proceeding’ is defined in rule 1.05 of the Rules as meaning ‘a proceeding in the Court other than a family law or child support proceeding’. The Rules remake the *Federal Circuit Court Rules 2001* in substantially the same form but applying only to general federal law proceedings.

Human rights implications

The impact of the Rules on the following human rights has been considered:

- the rights of equality and non-discrimination,
- the right to a fair trial,
- the right to privacy and reputation, and
- the right to security of the person and freedom from arbitrary detention.

As most of the provisions in the Rules replicate or are drawn from existing provisions of the *Federal Circuit Court Rules 2001*, there is almost no change in the treatment of the rights mentioned above. As such, while the Rules promote human rights by increasing access to justice, the limitations the Rules impose on human rights largely maintain existing limitations. The Rules do not substantially alter the substantive powers of the judiciary or the rights of parties to have a matter heard by the Court.

Right to equality and non-discrimination

Article 26 of the International Covenant on Civil and Political Rights (ICCPR) states that ‘[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’

Section 217 of the Federal Circuit and Family Court Act permits the Chief Judge of the Court to make Rules of Court providing for the practice and procedure to be followed in Division 2 of the Court (including the practice and procedure to be followed in Registries of the Court).

The Rules address procedural matters relevant to all general federal law proceedings. Certain provisions in the Rules seek to promote equality and non-discrimination by ensuring people of diverse backgrounds are provided more flexible means of engaging with court processes. In particular, certain provisions make the court system more accessible for people with a disability, or those who speak a language other than English.

For example, rule 15.14 of the Rules makes special provision for a person making an affidavit where the person is unable to read the affidavit due to:

- blindness or low vision
- illiteracy or partial illiteracy
- insufficient familiarity with the English language, or
- physical incapacity.

The rule also recognises that a person who is vision impaired may use technology for the vision impaired to read the affidavit. In this way, the Rules provide flexibility, making court processes more accessible for applicants of diverse backgrounds, thereby promoting equality and non-discrimination before the law.

Right to a fair trial and fair hearing rights

Article 14 of the ICCPR enshrines the right of a person to a fair trial. Specifically, article 14(1) provides that ‘all persons shall be equal before courts and tribunals’ and ‘everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law’. The right to a fair trial is engaged by laws that regulate the conduct of court proceedings.

What constitutes a fair hearing requires recognition of the interests of all parties in a civil proceeding and requires that all parties to a proceeding have a reasonable opportunity of presenting their case in circumstances that do not disadvantage them as against other parties to the proceedings.

The right to a public hearing incorporates the principle that justice should not only be done, but be seen to be done, by subjecting legal proceedings to public scrutiny. A decision made in chambers, such as that provided for in paragraph 29.11(2)(a) of the Rules, rather than on the basis of a public hearing, will not breach the right to a public hearing if the material on which the court bases its decision is publicly available, as is the decision itself.

The Rules aim to address the legitimate objective of improving the efficiency of court proceedings. Rule 1.04 adopts the overarching purpose of the civil practice and procedure provisions as articulated in section 190 of the Act: to facilitate the just resolution of disputes according to law and as quickly, inexpensively and efficiently as possible, thus increasing access to justice and promoting equality and non-discrimination before the law.

Prohibition on interference with privacy

Article 17 of the ICCPR prohibits unlawful or arbitrary interference with a person's privacy and correspondence. It provides that persons have the right to the protection of the law against such interference.

The prohibition on interference with privacy may be engaged by legislation that involves the mandatory disclosure of information. Relevantly, the right may be impacted by Part 16 of the Rules,

which deals with the mandatory disclosure of information that may be personal, in the context of a subpoena. (Section 221 of the Federal Circuit and Family Court Act provides that the Rules of Court may make provision for subpoenas.)

Laws that affect privacy should be precise, and not give decision-makers too much discretion in authorising interferences with privacy. They should provide proper safeguards against arbitrary interference. To avoid being considered arbitrary, any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the circumstances. Part 16 of the Rules and other individual rules, such as rule 6.18, are sufficiently precise and circumscribe the scope of the power. For example:

- a subpoena must clearly identify the person subpoenaed, by specifying that person's name or designation by office or position;
- the documents or things to be produced must be adequately described and must be produced at a specified time and place;
- a subpoena must be served within 3 months after it is issued.

While the requirement to produce documents or things or give evidence might interfere with a person's privacy, the requirement aims to achieve the legitimate objective of administering justice through the courts. For the proper conduct of proceedings, relevant information must be before the Court.

As such, while the requirement to provide documents or things that may include personal information may interfere with the right to privacy, the limitation is reasonable, necessary and proportionate to achieve the legitimate aim of administering justice.

The right to security of the person and freedom from arbitrary detention

Article 9 of the ICCPR requires that persons not be subject to arrest and detention, except as provided for by law, and provided that neither the arrest nor the detention is arbitrary. Anyone who is arrested must be informed, at the time of arrest, of the reasons for the arrest and must be promptly informed of any charges against them. The right applies to all forms of detention where people are deprived of their liberty. This right may be engaged by policies and laws which grant a power of arrest.

The Rules may impact this right to freedom from arbitrary detention, as certain provisions relate to arrest powers. For example:

- Rule 20.01 permits a Court to issue a warrant for the arrest of a person if an application has been made to the Court for the person to be dealt with for a contempt of the Court and the Court considers that the person is likely to leave the jurisdiction of the Court.
- Rule 25.06 permits a Court to issue a warrant for a person who, despite a subpoena or other court order requiring attendance at Court, fails to attend before the Court. The rule provides for the production of the person before the Court and permits the person's arrest and detention in custody until the person is brought before the Court.

The legitimate objective of rules 20.01 and 25.06 is to ensure that court officers have the powers they need to enforce orders of the Court and maintain effective justice. The rules are reasonable and necessary, as they can only be exercised in limited circumstances and require that the person is

brought before the Court. They cannot, therefore, be considered arbitrary or as otherwise contravening article 9 of the ICCPR.

Conclusion

The Rules are compatible with human rights because they promote the rights to equality and non-discrimination, and place limits on the Act's ability to interfere with a person's freedom from arbitrary arrest and detention. To the extent that the Regulations may limit certain human rights, those limitations are reasonable, necessary and proportionate.

Details of rules

Structure

The Rules are divided into 5 chapters.

Chapter 1 applies to all general federal law proceedings.

Chapter 2 applies to proceedings under the *Australian Human Rights Commission Act 1986*.

Chapter 3 applies to proceedings under other Acts including the *Administrative Decisions (Judicial Review) Act 1977*, the *Administrative Appeals Tribunal Act 1975* and the *Migration Act 1958*.

Chapter 4 applies to proceedings in the Fair Work Division.

Chapter 5 applies to proceedings under the *National Consumer Credit Protection Act 2009*.

The Rules also contain 2 Schedules. Schedule 1 lists provisions of the *Federal Court Rules 2011* that apply to general federal law proceedings in the Federal Circuit and Family Court. Schedule 2 contains details of costs in general federal law proceedings other than migration proceedings and costs in migration proceedings.

Notes appear after some rules and provide references to legislation, related rules, words or expressions defined in the Dictionary and other relevant information, such as examples.

Chapter 1—All proceedings

Chapter 1 contain Parts 1–25.

Part 1 - Introduction

Part 1 deals with introductory matters. Rules 1.01–1.03 cover the name, commencement and authority of the Rules.

Rule 1.04 addresses the overarching purpose of the Rules, consistent with the overarching purpose in civil practice and procedure set out in subsection 190(1) of the Federal Circuit and Family Court Act.

Two notes to subrule 1.04(1) serve as a reminder that the parties to a proceeding must conduct the proceeding (including negotiations for settlement of the dispute to which the proceeding relates) consistently with the overarching purpose and that the Rules must be interpreted and applied in the way that best promotes the overarching purpose. A further note is a reminder that the Court has the power to dispense with the Rules and make orders inconsistent with them.

To assist the Court, the parties must avoid undue delay, expense and technicality and to consider options for primary dispute resolution as early as possible. Subrule 1.04(3) provides that, if appropriate, the Court will help to implement primary dispute resolution.

Rule 1.05 defines certain words and expressions for the purpose of the Rules. It incorporates definitions that appeared in individual definition rules in the Federal Circuit Court Rules. It is otherwise substantially the same as the Dictionary in the Federal Circuit Court Rules.

Rule 1.06 deals with the application of the Rules. The practice and procedure of the Court in general federal law proceedings is intended to be governed principally by the Rules. The Court may apply the *Federal Court Rules 2011* or the *Federal Court (Criminal Proceedings) Rules 2016* if in a particular case the Rules are insufficient or inappropriate. Subrule 1.06(5) expressly excludes family law and child support proceedings from the application of the Rules.

Rule 1.07 deals with the Court's power to dispense with compliance with any of the Rules.

Rule 1.08 provides that a person who wants to start a proceeding, or take a step in a proceeding, may apply to the Court for an order about the procedure to be followed if the procedure is not prescribed or the person is in doubt about the procedure.

Rules 1.07 and 1.08 are the same as rules 1.06 and 1.07 of the Federal Circuit Court Rules.

Part 2 – Documents

Part 2 deals with documents that are filed with the Court.

Rule 2.01 sets out the requirements for documents filed with the Court. The rule also provides that the requirements do not need to be strictly complied with if the document is readable and can be easily scanned and photocopied. Subrule 2.01(3) provides that this rule does not apply to a document annexed to an affidavit. A note serves as a reminder that under section 182 of the Federal Circuit and Family Court Act, the Court has the power to limit the length of documents to be filed. Rule 2.01 is substantially the same as rule 2.01 of the Federal Circuit Court Rules.

Rule 2.02 requires a document filed in connection with a particular proceeding to bear the distinctive number of the proceeding. The rule is the same as rule 2.02 of the Federal Circuit Court Rules.

Rule 2.03 requires a document that is to be filed to be signed by a party or by the lawyer for the party unless the nature of the document is such that signature is inappropriate. A document that is not an affidavit may be signed electronically. The rule is the same as rule 2.03 of the Federal Circuit Court Rules.

Rule 2.04 permits the Chief Judge of the Court to approve a form for the Rules. The rule provides that strict compliance with forms is not usually required and that the forms prescribed for a similar purpose in the Federal Court will be taken to substantially comply with the appropriate form, but they must have a heading that relates to the Federal Circuit and Family Court. Rule 2.04 is substantially the same as rule 2.04 of the Federal Circuit Court Rules.

Rule 2.05 deals with how a document may be filed, requiring it to be filed by electronic communication unless it is not reasonably practicable to do so. The rule also deals with when a document is filed or is taken to have been filed. A note to the rule points out that because of the Court's computer security firewall, there may be a delay between the time a document is sent by

electronic communication and the time the document is filed. The rule is substantially the same as rule 2.05 of the Federal Circuit Court Rules.

Rule 2.06 describes the circumstances in which a registrar may refuse to accept a document for filing and is the same as rule 2.06 of the Federal Circuit Court Rules.

Rule 2.07 contains the details of filing by fax and is substantially the same as rule 2.07 of the Federal Circuit Court Rules.

Rule 2.08 contains the details of filing by electronic communication, requiring the use of eLodgment for filing. The rule is substantially the same as rule 2.07A of the Federal Circuit Court Rules, but eLodgment replaces the Commonwealth Courts Portal as the vehicle for electronic filing.

Rule 2.09 contains additional requirements of electronic filing and is the same as rule 2.07B of the Federal Circuit Court Rules.

Rule 2.10 provides that the District Registry of the Federal Court has custody of, and control over, documents filed in a proceeding. The rule describes the circumstances in which a person may remove a document from a registry. Rule 2.10 is substantially the same as rule 2.08A of the Federal Circuit Court Rules.

Rule 2.11 deals with a party's right to inspect documents in a proceeding and the circumstances in which a person who is not a party to the proceeding may inspect documents. The rule also covers the circumstances in which a person may be given a copy of a document. Rule 2.11 is substantially the same as rule 2.08B of the Federal Circuit Court Rules.

Rule 2.12 requires the seal of the Court to be attached to Rules of Court and any other documents that the Court or a Judge directs or the law requires. The rule is substantially the same as rule 2.09 of the Federal Circuit Court Rules.

Rule 2.13 provides that the Registrar must keep, in the Registrar's custody, a stamp designed to be the same as the design of the Court seal and requires the stamp to be attached to all process filed in the Court and orders entered by the Court. A note provides a reminder that a document marked with the stamp is as valid as if sealed with the Court seal. The rule is substantially the same as rule 2.10 of the Federal Circuit Court Rules.

Rule 2.14 permits the seal or stamp to be attached to a document by hand, by electronic means, or in another way. The rule is the same as rule 2.11 of the Federal Circuit Court Rules.

Part 3 – Sittings, registry hours and time

Part 3 deals with Court sittings, registry hours and time. In particular rules 3.03–3.05 deal with month as a calendar month, how time is calculated and the extending or shortening of a time fixed by the Rules. Part 3 is substantially the same as Part 3 of the Federal Circuit Court Rules.

Part 4 – Starting proceedings

Part 4 addresses how a proceeding is started and is substantially the same as Part 4 of the Federal Circuit Court Rules.

Rule 4.01 deals with applications, including the application that starts a proceeding and an application in a proceeding before final orders have been made.

Rule 4.02 deals with the content of an application, which must state the orders sought and the basis on which the orders are sought.

Rule 4.03 deals with the response to an application. The rule is substantially the same as rule 4.03 of the Federal Circuit Court Rules. A new note refers to the additional requirements in rule 29.06 for a response in a migration matter.

Rule 4.04 requires an affidavit stating the facts relied on to be filed with an application or response except in specified circumstances. Rules of Court made under the *Federal Court of Australia Act 1976* apply, with necessary modifications, to the practice and procedure of the Court for particular jurisdictions of the Court if the Rules are insufficient, and the *Federal Court Rules 2011* may be used to direct how pleadings are to be dealt with in the Court if a statement of claim or points of claim are filed.

Rule 4.05 deals with the filing of a reply in certain circumstances.

Rule 4.06 deals with the filing and serving of an application in a proceeding.

Rule 4.07 requires an applicant to a proceeding to file a genuine steps statement in the approved form if Part 2 of the *Civil Dispute Resolution Act 2011* applies to the proceeding. A party who wants to start a proceeding must have regard to the *Civil Dispute Resolution Act 2011* and a lawyer must comply with the *Civil Dispute Resolution Act 2011* if that Act applies to the proceeding.

Rule 4.08 requires a respondent to a proceeding to file a genuine steps statement in the approved form if the applicant has filed a genuine steps statement.

Part 5 – Urgent applications

Part 5 covers urgent applications and is substantially the same as Part 5 in the Federal Circuit Court Rules.

Rule 5.01 deals with the making of an urgent application without serving the respondent.

Rule 5.02 requires an urgent application to be made in the approved form unless the Court otherwise orders.

Rule 5.03 deals with evidence required in an urgent application.

Part 6 – Service

Part 6 deals with service of documents and is substantially the same as Part 6 of the Federal Circuit Court Rules.

Division 6.1 contains provisions that apply to service generally.

Rule 6.01 requires a party to a proceeding to give an address for service. The rule also deals with how the address for service may be given, the requirements that an address for service must satisfy, and the address for service when a party is represented by a lawyer.

Rule 6.02 requires a party whose address for service changes for any reason during a proceeding to file a notice of address for service and serve the notice on each other party, within 7 days of the change.

Rule 6.03 requires that a document must be filed and sealed before it can be served. An application and each document filed with it must be served on each party to the proceeding within the time mentioned in rule 6.19. If a document, other than an application and its related documents, is required to be served, the person who files the document must serve a copy of it on each other party to the proceeding who has an address for service in the proceeding.

Rule 6.04 provides that nothing in Part 6 affects the Court's power to authorise service in a way not provided for in Part 6 or to find that a document has been served or has been served on a particular day.

Rule 6.05 requires that evidence of service be given by affidavit unless the Court otherwise orders. The approved form of the affidavit of service may be used.

Division 6.2 contains provisions related to service by hand.

Rule 6.06 requires service by hand for an application starting a proceeding and for a subpoena requiring attendance of a person. Subrule 6.06(2) deals with circumstances in which service by hand is not required.

Rule 6.07 deals with how service by hand is effected on an individual.

Rule 6.08 deals with how service by hand is effected on a corporation, unincorporated association or organisation.

Rule 6.09 deals with how service is effected on a business that is not registered under an applicable State or Territory law.

Rule 6.10 deals with how service is effected on a partnership. The rule requires that the application be served on any person who the applicant seeks to make liable as a partner and who is not a partner when the application is filed.

Division 6.3 contains provisions dealing with ordinary service.

Rule 6.11 deals with how a document may be served if it is not required to be served by hand. The rule is substantially the same as rule 6.11 of the Federal Circuit Court Rules, with the addition of service by email as an option where a person does not have an address for service.

Rule 6.12 deals with when a document served by post, fax or electronic communication is taken to have been served.

Rule 6.13 deals with special requirements when a document is served by fax, including the requirements related to a cover page and a transmission report.

Division 6.4 addresses substituted service and dispensing with service.

Rule 6.14 contains the Court's power to dispense with service or substitute another way of serving documents if, for any reason, it is impracticable to serve a document in a way required under Part 6.

Rule 6.15 sets out factors that the Court may have regard to in making an order for dispensing with service or for substituted service.

Rule 6.16 provides that failure to comply with a condition of an order for substituted service does not prevent the Court from finding that the document is taken to have been served on a date specified in the order.

Division 6.5 deals with time limits for service.

Rule 6.17 provides that a document must be served within 12 months after it is filed unless the Court otherwise orders.

Rule 6.18 provides that a subpoena must be served within 3 months after it is issued.

Rule 6.19 states that unless the Court otherwise orders, an application and any document filed with it must not be served less than 3 days before the day fixed for the hearing of an application in a proceeding or less than 7 days before the day fixed for the hearing of any other application.

Part 7 - Amendment

Part 7 deals with the amendment of documents and is substantially the same as Part 7 of the Federal Circuit Court Rules.

Rule 7.01 provides that the Court or a Registrar may allow or direct a party to amend a document (other than an affidavit) as the Court or the Registrar thinks fit.

Rule 7.02 states that the Court may order a party, a Registrar, a Judge's associate or another appropriate person to make an amendment that the Court has ordered to be made.

Rule 7.03 deals with the circumstances in which the Court may grant leave to amend a document after a relevant limitation period has ended.

Part 8 – Transfer of proceedings

Part 8 addresses the transfer of proceedings between registries and between the Court and the Federal Court and is substantially the same as Part 8 of the Federal Circuit Court Rules.

Rule 8.01 deals with the transfer of a proceeding between registries of the Court and the factors the Court must have regard to in considering an application to transfer a proceeding to another registry.

Rule 8.02 deals with the transfer of a proceeding from the Court to the Federal Court and the factors the Court must have regard to in considering an application to transfer a proceeding to the Federal Court.

Rule 8.03 deals with the handling of documents filed and orders made in a proceeding if the proceeding is transferred from the Court to the Federal Court.

Rule 8.04 deals with the handling of a proceeding if the proceeding is transferred from the Federal Court to the Court.

Part 9 – Lawyers

Part 9 deals with lawyers and is substantially the same as Part 9 of the Federal Circuit Court Rules.

Rule 9.01 requires that a notice be filed and served if a party changes between acting in person and being represented by a lawyer.

Rule 9.02 permits a party to appoint another lawyer in place of the lawyer then acting for the party. The rule also specifies the notices that must be filed and served when another lawyer is appointed.

Rule 9.03 deals with a lawyer for a party withdrawing from the record in a proceeding and the requirement to file and serve a notice of intention to withdraw before filing and serving the notice of withdrawal.

Rule 9.04 provides that a corporation may not start or carry on a proceeding otherwise than by a lawyer except as provided by an Act or regulations made under an Act, or with the leave of the Court.

Part 10 – How to conduct proceedings

Part 10 addresses how proceedings are to be conducted and is substantially the same as Part 10 of the Federal Circuit Court Rules.

Rule 10.01 deals with what the Court or a Registrar must do on the first court date and lists some of the orders and directions the Court or a Registrar may make.

Rule 10.02 permits the parties to request, by agreement, that, because of short service or other special circumstances, the first court date be adjourned. The rule also permits the Registrar to adjourn the first court date in those circumstances.

Rule 10.03 describes the steps the Court or a Registrar may take in fixing a date for final hearing or removing a matter from the list.

Rule 10.04 provides that the parties to a proceeding who resolve the issues between them following a dispute resolution process may discontinue the proceeding or ask the Court to make consent orders. A note to the rule restates the duty of the Court, lawyers and designated court officers to advise parties to use dispute resolution processes. A further note is a reminder of the Court's power to refer a matter for conciliation, mediation or arbitration.

Rule 10.05 deals with conciliation, for which the Court may refer a proceeding, or a part of a proceeding or a matter arising out of a proceeding.

Rule 10.06 requires a party to a proceeding who becomes aware that the proceeding involves a matter arising under the Constitution or involving its interpretation to file a notice of a constitutional matter.

Part 11 – Parties and litigation guardians

Part 11 deals with parties and litigation guardians and is substantially the same as Part 11 of the Federal Circuit Court Rules.

Rule 11.01 deals with the inclusion in a proceeding of a person whose participation is necessary for the Court to fully determine all matters in dispute.

Rule 11.02 addresses a party's inclusion of a person in a proceeding as a party.

Rule 11.03 permits a person to apply to the Court to be included as a party to a proceeding and deals with the requirements surrounding such an application.

Rule 11.04 permits a party to a proceeding to apply to the Court to be removed as a party and deals with the requirements surrounding such an application.

Rule 11.05 provides that the Court may order a party, or a person applying to be included as a party, to notify any person of the proceeding or of the application to be included as a party.

Rule 11.06 deals with intervention by the Attorney-General.

Rule 11.07 deals with when a person needs a litigation guardian. A minor in a proceeding is taken to need a litigation guardian in relation to the proceeding unless the Court otherwise orders. The rule is the same as rule 11.08 of the Federal Circuit Court Rules.

Rule 11.08 provides that a person who needs a litigation guardian may start, continue, respond to or seek to be included as a party to a proceeding only by the person's litigation guardian. The rule is the same as rule 11.09 of the Federal Circuit Court Rules.

Rule 11.09 addresses who may be a litigation guardian and is the same as rule 11.10 of the Federal Circuit Court Rules.

Rule 11.10 deals with the appointment of a litigation guardian, whether at the request of a party or on the Court's own initiative, and with the removal of a litigation guardian at the request of the litigation guardian.

Rule 11.11 permits a person who is authorised to conduct legal proceedings for a person who needs a litigation guardian to be the litigation guardian in any proceeding to which the authority extends.

Rule 11.12 requires a person appointed as the litigation guardian in a proceeding to give notice of the appointment to each other party to the proceeding.

Rule 11.13 provides that the Court may make orders for the payment of the costs and expenses of a litigation guardian by a party or from the income or assets of the person for whom the litigation guardian is appointed.

Rule 11.14 covers service of documents required to be served by hand on a person who needs a litigation guardian.

Part 12 – Court referral for legal assistance

Part 12 deals with the Court's referral for legal assistance and is substantially the same as Part 12 of the Federal Circuit Court Rules, other than the definitions, which have been moved to rule 1.05, the general definition rule in Part 1.

Rule 12.01 deals with the Court's referral of a party to a lawyer for legal assistance and the requirements of a referral certificate issued in that context. The Registrar will try to arrange for the provision of pro bono legal assistance in accordance with the referral certificate.

Rule 12.02 provides that a party is not entitled to apply to the Court for a referral under rule 12.02.

Rule 12.03 provides that a lawyer who agrees to accept a referral under rule 12.02 must provide legal assistance in accordance with the referral certificate.

Rule 12.04 provides that a pro bono lawyer who no longer wishes to provide legal assistance must withdraw in accordance with rule 9.03.

Part 13 – ending a proceeding early

Part 13 sets out the ways in which a proceeding may be ended early.

Rule 13.01 deals with a party's discontinuance of an application or a response, including the requirement to obtain the leave of the Court to discontinue a creditor's petition. The rule is substantially the same as rule 13.01 of the Federal Circuit Court Rules.

Rule 13.02 permits a party to a proceeding to apply for costs if another party discontinues an application. The rule requires the application to be made within 28 days after service on the party of the notice of discontinuance and permits a stay of any further proceeding on the same or substantially the same matter until the costs are paid. The rule is the same as rule 13.02 of the Federal Circuit Court Rules.

Rule 13.03 defines, for the purposes of Division 13.2 (which deals with orders or judgments on default) the meaning of *applicant*, *claim* and *respondent*. The rule is the same as rule 13.03 of the Federal Circuit Court Rules.

Rule 13.04 outlines when an applicant is in default and when a respondent is in default. The rule is substantially the same as rule 13.03A of the Federal Circuit Court Rules.

Rule 13.05 covers the orders that the Court may make and the directions the Court may give, and the Court's power to specify consequences for non-compliance with the orders, if a party to a proceeding is in default. The rule is the same as rule 13.03B of the Federal Circuit Court Rules.

Rule 13.06 deals with the action the Court or a Registrar may take if a party to a proceeding is absent from a hearing. The rule is substantially the same as rule 13.03C of the Federal Circuit Court Rules.

Rule 13.07 provides that nothing in rule 13.04, 13.05 or 13.06 is intended to limit the Court's powers in relation to contempt or sanctions for failure to comply with an order. The rule is substantially the same as rule 13.03D of the Federal Circuit Court Rules.

Rule 13.08 deals with the filing and making of consent orders. The rule is the same as rule 13.04 of the Federal Circuit Court Rules.

Rule 13.09 provides that at any time before making a consent order, the Court or a Registrar may require a party to provide additional information. The rule is the same as rule 13.05 of the Federal Circuit Court Rules.

Rule 13.10 deals with the circumstances in which a Court may dispose of a proceeding by summary judgment and the Court's power to stay execution on, or other enforcement of, such a judgment. The rule is the same as rule 13.07 of the Federal Circuit Court Rules.

Rule 13.11 deals with the Court's power in relation to the residue of a proceeding if a proceeding is not wholly disposed of by judgment or dismissal or is not wholly stayed. The rule is the same as rule 13.08 of the Federal Circuit Court Rules.

Rule 13.12 requires that the appropriate form be filed in an application for judgment or for an order that a proceeding be stayed or dismissed. The rule is the same as rule 13.09 of the Federal Circuit Court Rules.

Rule 13.13 provides that the Court may order that a proceeding be stayed or dismissed if the Court is satisfied that the party prosecuting the proceeding has no reasonable prospect of success, or the proceeding is frivolous or vexatious, or the proceeding is an abuse of process. The rule is substantially the same as rule 13.10 of the Federal Circuit Court Rules.

Rule 13.14 deals with a request for, and the issuing of, a certificate stating that a person is or has been the subject of a vexatious proceedings order. The rule is substantially the same as rule 13.11 of the Federal Circuit Court Rules.

Rule 13.15 provides that a person who is subject to a vexatious proceedings order may apply for leave to institute a proceeding. The rule is substantially the same as rule 13.11A of the Federal Circuit Court Rules.

Rule 13.16 deals with the Court's power to order that a proceeding, or a part of a proceeding, be dismissed if a party has not taken a step in the proceeding for 6 months. Written notice must be given to each party to the proceeding before the Court makes an order to dismiss. The rule is substantially the same as rule 13.12 of the Federal Circuit Court Rules.

Part 14 – Disclosure

Part 14 contains rules addressing disclosure and is substantially the same as Part 14 of the Federal Circuit Court Rules.

Rule 14.01 allows for a declaration to be made to allow interrogatories on the application of a party or on the Court's own initiative. If a declaration is made, the Court or a Registrar may make appropriate orders in relation to answers to specific questions, having regard to any relevant rule of the Federal Court. A note to the rule provides a reminder that under subsections 176(2) and (3) of the Federal Circuit and Family Court Act, interrogatories are not allowed in a proceeding unless the Court or a Judge declares that it is appropriate in the interests of the administration of justice.

Rule 14.02 allows for a declaration to be made to allow discovery on the application of a party or on the Court's own initiative. If a declaration is made, the Court or a Registrar may make appropriate orders for disclosure. A note to the rule provides a reminder that under subsections 176(2) and (3) of the Federal Circuit and Family Court Act, discovery is not allowed in a proceeding unless the Court or a Judge declares that it is appropriate in the interests of the administration of justice.

Rule 14.03 requires a party who is ordered to disclose documents to file an affidavit of documents.

Rule 14.04 provides that the Court may order a party to a proceeding to produce to it a document in the party's possession, custody or control.

Rule 14.05 deals with the Court's power to inspect a document for the purpose of determining whether a claim of privilege or objection on any other ground is valid.

Rule 14.06 deals with the Court's power to order a party to a proceeding to disclose whether a document or a class of document is or has been in the party's possession, custody or control and if the document or class of document has been, but is not then, in the party's possession, custody or control—when the party parted with it and what has become of it.

Rule 14.07 addresses the inspection of documents produced under an order.

Rule 14.08 permits a party who inspects a document under this Division to make a copy of the document or an extract from the document unless the Court otherwise orders.

Rule 14.09 requires the Court's leave for a party to put a document or a copy of a document in evidence if the document has not been disclosed in an affidavit of documents or produced pursuant to a subpoena and the document was in the possession, custody or control of the party.

Rule 14.10 deals with the production of documents referred to in a document or affidavit.

Rule 14.11 provides that an order or undertaking not to use a document for any purpose other than for the proceeding in which it is disclosed does not apply to the document after it has been read to or by

the Court or referred to in open Court so as to disclose its contents. The right to use a document after it has been disclosed in open Court is subject to any order of the Court on the application of a party or person to whom the document belongs.

Part 15 – Evidence

Part 15 deals with evidence and is substantially the same as Part 15 of the Federal Circuit Court Rules. Division 15.1 contains general provisions relating to evidence. Division 15.2 addresses expert evidence, Division 15.3 covers affidavits and Division 15.4 deals with admissions.

Rule 15.01 provides that the Court may give directions as to the order of evidence and addresses, and generally as to the conduct of a hearing.

Rule 15.02 provides that the Court or a Judge may make a decision in a proceeding without an oral hearing if the parties to the proceeding consent to the making of the decision without an oral hearing.

Rule 15.03 provides that the Court may on its own initiative call any person as a witness in proceedings and give directions as to examination and cross-examination. The Court may order a party to pay the expenses of the attendance of the witness. A note to the rule restates the Court's power under section 198 of the Federal Circuit and Family Court Act to put a question to any witness to resolve or expedite proceedings.

Rule 15.04 provides that a transcript of proceedings prepared at the direction of the Court may be received in evidence as a true record of the proceedings except to the extent that it is shown not to be a true record.

Rule 15.05 defines, for the purposes of Division 15.2, the meaning of *expert*.

Rule 15.06 provides that for an expert's duty to the Court and for the form of expert evidence, an expert witness should be guided by the Federal Court practice note for expert witnesses. A note to the rule highlights key points in the practice note.

Rule 15.07 deals with the circumstance where 2 or more parties to a proceeding call expert witnesses to give opinion evidence about the same, or a similar, question. A note to the rule contains an example of how the Court might direct that the expert evidence be given.

Rule 15.08 deals with the appointment of a court expert, whether at the request of a party or on the Court's own initiative.

Rule 15.09 deals with the report of the court expert.

Rule 15.10 provides that the parties are jointly liable to pay the reasonable remuneration and expenses of the court expert for preparing a report unless the Court otherwise directs.

Rule 15.11 provides that if a court expert has made a report on a question, a party may adduce evidence of another expert on the question with the leave of the Court.

Rule 15.12 requires the body of an affidavit to be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct part of the subject.

Rule 15.13 deals with the requirements involved in making an affidavit, including the signing requirements and the requirement to initial any alteration in the affidavit.

Rule 15.14 deals with the requirements involved in making an affidavit if the person making the affidavit is unable to read, or is physically incapable of signing the affidavit, or does not have an adequate command of English. The rule also addresses how such an affidavit may be used in a proceeding.

Rule 15.15 deals with the annexing and exhibiting of documents to an affidavit. A note to subrule 15.15(4) provides an example of how annexures are to be paginated.

Rule 15.16 deals with the circumstances in which the Court or a Registrar may order material to be struck out of an affidavit.

Rule 15.17 deals with the Court's power to allow an affidavit to be used without cross-examination of the maker of the affidavit.

Rule 15.18 provides that if a party makes an admission, the Court may, on the application of another party, make an order to which the party applying is entitled on the admission.

Rule 15.19 covers notices to admit facts or documents and circumstances in which a party is taken to admit, for the proceeding only, a fact or the authenticity of a document.

Part 16 – subpoenas and notices to produce

Part 16 deals with subpoenas and notices to produce. It is substantially the same as Part 15A of the Federal Circuit Court Rules, other than the definitions, which have been moved to rule 1.05, the general definition rule in Part 1.

Rule 16.01 deals with the issuing of a subpoena for production or a subpoena to give evidence or a subpoena for production and to give evidence.

Rule 16.02 provides that the Court must not issue a subpoena requiring the production of a document or thing in the possession of the Court or another court. The rule also addresses the way in which a party may seek production of a document or thing in the possession of another court.

Rule 16.03 deals with the time limits on making a subpoena returnable and serving a subpoena.

Rule 16.04 provides that a party must not request the issue of more than 5 subpoenas in a proceeding unless the Court directs otherwise.

Rule 16.05 provides that a subpoena must be served in accordance with Part 6. A note to subrule 16.06(1) is a reminder that service by hand is required for a subpoena requiring the attendance of a person.

Rule 16.06 requires the person serving a subpoena to give the person subpoenaed conduct money of at least \$25 or an amount otherwise sufficient for return travel between the place of residence or employment (as applicable) of the person subpoenaed and the court.

Rule 16.07 provides that the issuing party for a subpoena may, by notice in writing served on the person subpoenaed and on each other party, undertake not to require the person subpoenaed to comply with the subpoena.

Rule 16.08 provides that on application, the Court may make an order setting aside all or part of a subpoena.

Rule 16.09 provides that, subject to rule 16.11, the Court may, on application, make an order for the payment of any loss or expense incurred in complying with a subpoena.

Rule 16.10 deals with the amount payable by the issuing party if a person who is not a party to the proceeding will incur substantial loss or expense in complying with a subpoena.

Rule 16.11 provides that Division 16.2 applies to a subpoena for production and does not apply to a subpoena for production and to give evidence. The rule also deals with the way in which a person who inspects or copies a document under the Rules or an order may use a document or disclose the content of a document, including as between solicitor and client.

Rule 16.12 addresses the right of each other party to the proceeding and any interested person to inspect and copy a subpoenaed document.

Rule 16.13 deals with objections to the production, inspection or copying of a document subpoenaed by a party to the proceedings. The rule deals specifically with objections to the production of a person's medical records. A subpoena that is the subject of a notice of objection under this rule must be referred to the Court or Registrar for the hearing and determination of the objection.

Rule 16.14 deals with the requirement to produce a document or thing if a person is served with a subpoena for production and the circumstances in which a copy of the document or thing may be produced.

Rule 16.15 contains the action the Court or a Registrar may take if a person fails, without lawful excuse, to comply with a subpoena.

Rule 16.16 requires a party to produce a document at a hearing if another party has, by notice in writing, required that party to produce, at the hearing of the proceeding, a specified document that is in the possession, custody or control of that party.

Part 17 – Judgments and orders

Part 17 deals with judgments and orders and is substantially the same as Part 16 of the Federal Circuit Court Rules.

Rule 17.01 provides that the Court may, at any stage in a proceeding on the application of a party, give any judgment or make any order even if the claim was not made in an originating process.

Rule 17.02 states that unless the Court otherwise orders, a judgment or order takes effect on the day it is given or made.

Rule 17.03 addresses the time within which a person must comply with an order of the Court.

Rule 17.04 deals with orders to pay fines to a Registrar and the requirement that the Registrar pay into the Consolidated Revenue Fund all money paid to the Registrar as a fine imposed by the Court.

Rule 17.05 covers the power of the Court or a Registrar to vary or set aside a judgment or order, both before and after the judgment or order has been entered.

Rule 17.06 provides that unless the Court otherwise orders, an undertaking to the Court has the same force and effect as an order of the Court.

Rule 17.07 deals with when an order must be entered and circumstances in which it need not be entered.

Rule 17.08 addresses how an order may be entered.

Part 18 – Separate decision on question

Part 18 covers a separate decision on a question and is the same as Part 17 of the Federal Circuit Court Rules.

Rule 18.01 defines, for the purposes of Part 18, the meaning of *question*.

Rule 18.02 provides that the Court may make an order for the decision by the Court on a question separately from another question at any time in a proceeding.

Rule 18.03 provides that a separate question must set out the question or questions to be decided and must be divided into paragraphs numbered consecutively.

Rule 18.04 provides that if a question is decided under Part 18, the Court may make the orders and directions that the nature of the case requires.

Rule 18.05 deals with how the Court may dispose of a proceeding under Part 18.

Part 19 – Referral of matter to officer of Court

Part 19 deals with the referral of a matter to an officer of the Court.

Rule 19.01 deals with the power of the Court to refer to a Registrar any claim or application relating to any matter before the Court for investigation, report and recommendation. The rule also outlines the power of a Registrar to whom a claim or application is referred for investigation. The rule is the same as rule 18.01 of the Federal Circuit Court Rules.

Part 20 - Contempt

Part 20 addresses contempt and is the same as Part 19 of the Federal Circuit Court Rules.

Rule 20.01 deals with the power of the Court if it appears to the Court that a person is guilty of contempt in the face of or in the hearing of the Court.

Rule 20.02 deals with an application to the Court if it is alleged that a person has committed a contempt of the Court (other than contempt in the face or hearing of the Court).

Part 21 – Registrars' powers

Part 21 deals with the delegation of powers to Registrars and is substantially the same as Part 20 of the Federal Circuit Court Rules.

Rule 21.01 deals with the delegation of powers to a Registrar who is approved, or is in a class of Registrars who are approved, by the Chief Judge for the exercise of the power. A table sets out the specific powers that have been delegated.

Rule 21.02 deals with the time within which an application to review a Registrar's exercise of a power must be made. Subrule 21.02(2) permits an extension of time by the Court or a Registrar or with the parties' consent.

Rule 21.03 deals with the making of an application for review, the application's listing for hearing and service of the application on each other party to the proceeding. The application does not operate as a stay of the exercise of the power under review unless the Court or a Registrar otherwise orders.

Rule 21.04 deals with the procedure for review of an exercise of power by a Registrar.

Part 22 – Costs

Part 22 covers costs and disbursements and is substantially the same as Part 21 of the Federal Circuit Court Rules.

Rule 22.01 deals with an application by a respondent for an order for security for the respondent's costs of the proceeding. A note to the rule is a reminder that the Court's power to order that an applicant give security for costs derives from section 215 of the Federal Circuit and Family Court Act.

Rule 22.02 deals with when an application for costs may be made and the ways in which the Court might determine costs.

Rule 22.03 deals with the Court's power to specify the maximum costs that may be recovered on a party and party basis, amounts that must not be included in the costs and the Court's power to vary the maximum costs.

Rule 22.04 provides that if the costs of a motion, application or other proceeding are reserved, the costs reserved follow the event unless the Court otherwise orders.

Rule 22.05 deals with the costs in a proceeding if the proceeding is transferred to the Court from the Federal Court.

Rule 22.06 deals with orders for costs against a lawyer if the lawyer, or an employee or agent of the lawyer, has caused costs to be incurred or to be thrown away because of undue delay, negligence, improper conduct or other misconduct or default.

Rule 22.07 stipulates that interest is payable on outstanding costs at the rate prescribed by rule 39.06 of the *Federal Court Rules 2011*. A note to the rule is a reminder that, while the rate applies to all proceedings, the Court may in a particular case determine a lower rate in the interests of justice. The rule is substantially the same as rules 21.08 and 26.01 of the Federal Circuit Court Rules, when those rules are read together.

Rule 22.08 provides that Division 22.3 applies to costs payable, or to be taxed, in a proceeding. The Rules do not regulate the fees to be charged by lawyers as between lawyer and client. A note to the rule clarifies that for a dispute about the fees charged by a lawyer, the legislation of the State or Territory governing the profession where the lawyer practises applies.

Rule 22.09 states that unless the Court otherwise orders, a party entitled to costs in a general federal law proceeding (other than a proceeding to which the *Bankruptcy Act 1966* applies) is entitled to costs in accordance with Schedule 2 and disbursements properly incurred.

Rule 22.10 provides that in taxing a statement of costs, a Registrar must apply the scale of costs set out in Schedule 3 to the *Federal Court Rules 2011*.

Rule 22.11 deals with the circumstances in which an amount paid, or to be paid, for attendance by a witness at a hearing is a disbursement properly incurred for a proceeding.

Rule 22.12 addresses the circumstances in which an amount paid, or to be paid, to an expert for preparation of a report for a party is a disbursement properly incurred for a proceeding.

Rule 22.13 deals with the amount to which a party is entitled for a hearing if a solicitor appeared for the party at the hearing alone or as instructed by another solicitor.

Rule 22.14 provides that the Court or a Registrar may certify that it was reasonable to employ an advocate, or more than one advocate, to appear for a party to a proceeding.

Rule 22.15 provides that if the employment of an advocate is certified as reasonable, the amount payable for counsel to appear is the daily hearing fee and advocacy loading in accordance with Part 1 of Schedule 2.

Part 23 – Dispute resolution

Part 23 addresses dispute resolution, separately from dispute resolution that results in consent orders, as set out in rule 10.04. Part 23 does not apply if the Court refers a Fair Work proceeding to a mediator for mediation; rule 30.14 deals with mediation in Fair Work proceedings. Part 23 is substantially the same as Part 27 of the Federal Circuit Court Rules

Rule 23.01 requires that, if a proceeding is referred to a mediator or, with the consent of the parties, to an arbitrator, the mediation or arbitration proceed in accordance with Part 23.

Rule 23.02 deals with the adjournment of a proceeding if an order for mediation or arbitration is made or an order is made requiring a mediator or arbitrator to report to the Court on progress in the mediation or arbitration.

Rule 23.03 addresses the Court's power to end a mediation or arbitration or terminate the appointment of a mediator or arbitrator or appoint a new mediator or arbitrator.

Rule 23.04 deals with the nomination of a mediator by a Registrar and the fixing of a time and date for the mediation.

Rule 23.05 deals with the mediation conference and the requirement that it be conducted in accordance with any directions of the Court and as a structured process in which the mediator assists the parties.

Rule 23.06 provides that if the mediator considers that a mediation should not continue, the mediator must, subject to any order of the Court, end the mediation and advise the Court of the outcome.

Rule 23.07 deals with the nomination and appointment of an arbitrator. The rule also deals with matters that the parties may agree to in relation to the conduct, timing and cost of the arbitration and the arbitrator's report.

Part 24 – Crossclaims

Part 24 covers cross-claims and is substantially the same as Part 28 of the Federal Circuit Court Rules.

Rule 24.01 provides that in a proceeding, a respondent may make a cross-claim against an applicant instead of bringing a separate proceeding.

Rule 24.02 allows for a cross-claim to be made where a matter arises after the start of the proceeding.

Rule 24.03 deals with the circumstances in which a respondent may make a cross-claim against a person other than the applicant (whether or not already a party to the proceeding) and the documents that the respondent must serve on that person and the application of the Rules in those circumstances.

A person who is not a party to the original proceeding and is included as a respondent to a cross-claim becomes a party to the proceeding on being served with the response and cross-claim.

Rule 24.04 requires a cross-claim to be included in the respondent's response.

Rule 24.05 deals with a cross-respondent's filing and serving of a response to the cross-claim.

Rule 24.06 deals with the application of the Rules to a cross-claim, including service on the respondent to the cross-claim and the hearing of the cross-claim.

Rule 24.07 provides that the Court may at any time exclude a cross-claim from the proceeding in which it is made and give directions that the Court considers appropriate about the conduct of the cross-claim.

Rule 24.08 provides that a cross-claim may proceed after judgment is given in the original proceeding or after the original proceeding is stayed, dismissed or discontinued.

Rule 24.09 provides that if a respondent establishes a cross-claim against the applicant and there is a balance in favour of one of the parties, the Court may give judgment for the balance.

Rule 24.10 provides that the Court may stay the enforcement of a judgment given against a respondent until a cross-claim by the respondent is decided.

Rule 24.11 deals with the circumstances in which an applicant on a cross-claim makes a claim for contribution or indemnity in relation to a claim made against the applicant.

Rule 24.12 deals with the situation in which a party makes an offer of contribution to an amount of debt or damages.

Part 25 – Enforcement

Part 25 contains rules about enforcement and is substantially the same as Part 29 of the Federal Circuit Court Rules.

Rule 25.01 defines, for the purposes of Part 25, the meaning of *without notice*.

Rule 25.02 permits a party or an interested person to apply to the Court, without notice, for directions about the enforcement or execution of an order.

Rule 25.03 deals with an order made in favour of a party subject to the fulfilment of a condition.

Rule 25.04 provides that a party bound by a judgment or order may apply to the Court for an order that the judgment or order be stayed. A note to the rule clarifies that the party may rely on events occurring after the judgment or order takes effect.

Rule 25.05 provides that if a person is ordered by the Court to do, or not to do, an act or thing or undertakes to the Court to do, or not to do, an act or thing, the person must comply with the order or undertaking. A note to the rule clarifies that if a person does not comply with an order of the Court, the Registrar may bring the person's failure, neglect or disobedience to the attention of the Court.

Rule 25.06 deals with a person's failure to attend Court in response to a subpoena or order to attend Court to give evidence, or produce any document or thing, or answer a charge of contempt, or for any other reason.

Rule 25.07 deals with the requirement for an endorsement on an order that the person to be served with the order will be liable to imprisonment, sequestration of property or punishment for contempt where the consequences of failing to comply with the order may be committal, sequestration or punishment for contempt.

Rule 25.08 deals with service of an order mentioned in rule 25.07.

Rule 25.09 deals with the applications that a party may make to the Court if a person fails to comply with an order that the person is bound to comply with.

Rule 25.10 deals with the applications that a party may make to the Court for substituted performance if a person is bound, but neglects or refuses, to do an act or thing.

Rule 25.11 permits a party to apply to the Court to issue a writ, order or any other means of enforcement of a judgment or order that can be issued in the Supreme Court of the State or Territory in which the judgment or order was made. The rule also deals with enforcement of an order in more than one State or Territory.

Rule 25.12 permits a party to apply to the Court for a stay of execution of a judgment or order.

Chapter 2—Human rights proceedings

Part 26 – Proceedings alleging unlawful discrimination

Part 26 is the only Part in Chapter 2. Part 26 deals with proceedings alleging unlawful discrimination and is substantially the same as Part 41 of the Federal Circuit Court Rules.

Rule 26.01 provides that Chapter 2 applies to a proceeding alleging unlawful discrimination. Chapter 1 of the Rules also applies, so far as it is relevant and not inconsistent with Chapter 2. A note to subrule 26.01(1) is a reminder that section 46PO of the *Australian Human Rights Commission Act 1986* permits an affected person to apply to the Court for an order in relation to a complaint alleging unlawful discrimination if the complaint has been terminated by the President of the Commission.

Rule 26.02 defines, for the purposes of Chapter 2, the meaning of **Commission** and **special-purpose Commissioner**. The rule also adopts expressions from the *Australian Human Rights Commission Act 1986*.

Rule 26.03 requires an application to be in the approved form.

Rule 26.04 requires that at least 5 days before the date fixed for the first court date, the applicant give to the Commission a sealed copy of the application showing the date, time and place of the first court date, and a copy of any other documents filed.

Rule 26.05 requires a response to an application to be in the approved form.

Rule 26.06 provides that if the Court gives leave to a special-purpose Commissioner to assist the Court in a proceeding, the special-purpose Commissioner must file and serve a notice of address for service.

Chapter 3—Judicial review proceedings and administrative appeals

Part 27 – Judicial review

Part 27 is the first of three Parts in Chapter 3. Part 27 deals with judicial review and is substantially the same as Part 42 of the Federal Circuit Court Rules. Part 28 deals with applications arising in the Administrative Appeals Tribunal. Migration proceedings are specifically dealt with in Part 29.

Rule 27.01 provides that Part 27 applies to a proceeding under the *Administrative Decisions (Judicial Review) Act 1977*, as does Chapter 1, so far as it is relevant and not inconsistent with Chapter 3.

Rule 27.02 requires a person who wants to apply for an order of review under subsection 11(1) of the *Administrative Decisions (Judicial Review) Act 1977* to file an originating application in the approved form. If the grounds of the application include an allegation of fraud or bad faith, the originating application must include details of the alleged fraud or bad faith.

Rule 27.03 deals with an application for an extension of time within which to lodge an application for an order of review under the *Administrative Decisions (Judicial Review) Act 1977*.

Rule 27.04 deals with the documents to be filed and served with an application.

Rule 27.05 provides that a party to an application may apply to the Court for an order that the application be served on the Attorney-General or on a specified person or class of persons in a specified manner.

Rule 27.06 deals with a notice of objection to competency.

Part 28 – Administrative Appeals Tribunal

Part 28 is substantially the same as Part 43 of the Federal Circuit Court Rules.

Rule 28.01 defines, for the purposes of Part 28, the meaning of *without notice*.

Rule 28.02 provides that Part 28 applies to an appeal from the Administrative Appeals Tribunal transferred to the Court from the Federal Court. The rule also provides that Chapter 1 applies, so far as it is relevant and not inconsistent with Chapter 3, to an appeal from the Administrative Appeals Tribunal.

Rule 28.03 requires a person who wants to make an application for an order under section 44A of the *Administrative Appeals Tribunal Act 1975* staying or otherwise affecting the operation or implementation of an Administrative Appeals Tribunal decision to file an application in a proceeding. The rule permits the application to be made without notice in an urgent case.

Rule 28.04 deals with the application of Part 28 to a cross-appeal and the requirements for the preparation of a notice of cross-appeal and the filing and serving of the notice of cross-appeal.

Rule 28.05 deals with the circumstances in which a notice of contention must be filed.

Rule 28.06 deals with directions given by the Court or a Registrar on the first court date for the conduct of the proceeding.

Rule 28.07 deals with the requirements in preparing and filing appeal papers.

Part 29 –Administrative Appeals Tribunal

Part 29 addresses migration proceedings.

Rule 29.01 defines, for the purposes of Part 29, the meaning of *Migration Act* and *migration decision*. The rule is the same as rule 44.01 of the Federal Circuit Court Rules.

Rule 29.02 provides that Part 29 applies to a proceeding for a remedy to be granted in the exercise of the Court's jurisdiction under section 476 of the *Migration Act 1958* in relation to a migration decision. Part 29 also applies to a matter, or part of a matter, remitted to the Court by the High Court under section 44 of the *Judiciary Act 1903*, subject to any order of the High Court in the matter. The rule is the same as rule 44.02 of the Federal Circuit Court Rules.

Rule 29.03 provides that Chapter 1 applies, so far as it is relevant and not inconsistent with Part 29, to a proceeding to which Part 29 applies. The rule is substantially the same as rule 44.03 of the Federal Circuit Court Rules.

Rule 29.04 provides that Division 29.2 applies to a matter started in the Court. The rule is substantially the same as rule 44.04 of the Federal Circuit Court Rules.

Rule 29.05 requires an application for judicial review of a migration decision to be made in the approved form and supported by an affidavit. The rule is substantially the same as rule 44.05 of the Federal Circuit Court Rules, but with the reference to *order to show cause* replaced with *judicial review of migration decision*.

Rule 29.06 deals with information that must be included in the response, in addition to the requirements in rule 4.03, and requires that the response be filed and served within 8 weeks after service of the application to which it relates. No equivalent rule exists in the Federal Circuit Court Rules.

Rule 29.07 provides that Division 29.3 (rules 29.06–29.08) applies to a matter remitted to the Court by the High Court, subject to any direction of the High Court in the matter. The rule is the same as rule 44.07 of the Federal Circuit Court Rules.

Rule 29.08 deals with the filing of an order of remittal from the High Court and the registry in which the order must be filed. The rule is the same as rule 44.08 of the Federal Circuit Court Rules.

Rule 29.09 deals with the notice a Registrar must affix to the High Court's order. The notice and the High Court's order must be served on each party to the proceeding in the High Court and on any other person who the Court or a Registrar directs should be so served. The rule is the same as rule 44.09 of the Federal Circuit Court Rules.

Rule 29.10 provides that the Court may grant, discharge or vary a stay of the proceedings to which an application for judicial review of a migration decision relates. The rule is substantially the same as rule 44.10 of the Federal Circuit Court Rules, but with the reference to *order to show cause* replaced with *judicial review of a migration decision*.

Rule 29.11 deals with the orders and directions that the Court or a Registrar may give for the conduct of a proceeding under Part 29. Subrule 29.11(2) provides that the Court or a Registrar may give orders or directions in chambers without a hearing and may, at the discretion of the Court or a Registrar, require the parties to an application to attend a hearing. Subrule 29.11(1) is substantially the same as rule 44.11 of the Federal Circuit Court Rules. No equivalent to subrule 29.11(2) exists in the Federal Circuit Court Rules.

Rule 29.12 provides that a writ of a particular kind issued by the Court under Part 29 must be substantially in the form of a writ of that kind issued under the *High Court Rules 2004* and must be

served and complied with in accordance with those Rules. The rule is the same as rule 44.14 of the Federal Circuit Court Rules.

Rule 29.13 deals with costs in a proceeding under Part 29 and the costs orders that the Court or a Judge or a Registrar may make, including orders in chambers in accordance with Division 2 of Part 2 of Schedule 2. The rule is substantially the same as rule 44.15 of the Federal Circuit Court Rules.

Chapter 4—Fair Work Division

Part 30 – Proceedings in the Fair Work Division

Part 30 is the only Part in Chapter 4. It deals with proceedings brought in the Fair Work Division of the Federal Circuit and Family Court (Division 2).

Division 30.1 of the Rules contains general provisions for Fair Work proceedings. Division 30.2 addresses contraventions of the *Fair Work Act 2009*, Division 30.3 deals with contraventions of the *Fair Work (Registered Organisations) Act 2009* and Division 30.4 covers Fair Work small claims. Division 30.5 deals with mediation for Fair Work claims. Division 30.6 addresses proceedings under the *Building and Construction Industry (Improving Productivity) Act 2016*.

Rule 30.01 defines, for the purposes of Part 30, various terms used in Part 30. The rule is substantially the same as rule 45.01 of the Federal Circuit Court Rules.

Rule 30.02 adopts, for the purposes of Divisions 30.2, 30.3 and 30.4, as appropriate, expressions from the *Fair Work Act 2009*, the *Fair Work (Registered Organisations) Act 2009* and the *Building and Construction Industry (Improving Productivity) Act 2016*. The rule is substantially the same as rule 45.02 of the Federal Circuit Court Rules.

Rule 30.03 deals with the application of Part 30 to a proceeding to which the *Fair Work Act 2009*, the *Fair Work (Registered Organisations) Act 2009* or the *Building and Construction Industry (Improving Productivity) Act 2016* applies. Chapter 1 applies to Part 30, to the extent that it is relevant and not inconsistent with Chapter 4. The rule is substantially the same as rule 45.03 of the Federal Circuit Court Rules.

Rule 30.04 deals with the requirements for lodging an application for an order in relation to an allegation that an employee was dismissed in contravention of a general protection mentioned in Part 3 1 of the *Fair Work Act 2009* (subsection 539(2), table item 11). The rule is substantially the same as rule 45.06 of the Federal Circuit Court Rules.

Rule 30.05 deals with the requirements for lodging an application for an order in relation to an alleged unlawful termination of an employee's employment (Fair Work Act, subsection 539(2), table item 35). The rule is substantially the same as rule 45.07 of the Federal Circuit Court Rules.

Rule 30.06 deals with the requirements for lodging an application for an order in relation to an alleged contravention, or an alleged proposed contravention, of a general protection mentioned in Part 3 1 of the *Fair Work Act 2009* (other than a contravention mentioned in rule 30.04). The rule is substantially the same as rule 45.08 of the Federal Circuit Court Rules.

Rule 30.07 requires that an application for an order in relation to an alleged contravention of the *Fair Work Act 2009* (other than a contravention mentioned in rule 30.04, 30.05 or 30.06) be in the approved form. The rule is substantially the same as rule 45.09 of the Federal Circuit Court Rules.

Rule 30.08 requires that an application for an order under section 337BB of the *Fair Work (Registered Organisations) Act 2009* in relation to an allegation that a person took or threatened to take, or is taking or threatening to take, a reprisal against another person be in the approved form and be accompanied by a claim in the approved form. The rule is substantially the same as rule 45.10 of the Federal Circuit Court Rules.

Rule 30.09 defines, for the purposes of the Fair Work small claims regime, the meaning of *small claim* and *small claims application*. The rule is substantially the same as rule 45.10 of the Federal Circuit Court Rules.

Rule 30.10 deals with the circumstances in which an applicant may request that an application be dealt with as a Fair Work small claim and the manner in which the Court may act when dealing with such a small claim. The rule is substantially the same as rule 45.11 of the Federal Circuit Court Rules, with a new subrule 30.10(2) to address proceedings relating to casual employment and its conversion to full-time or part-time employment

Rule 30.11 requires that a Fair Work small claims application be in the approved form and be accompanied by a claim in the approved form. The rule is substantially the same as rule 45.12 of the Federal Circuit Court Rules.

Rule 30.12 provides that a party to a small claims application may not be represented by a lawyer without the leave of the Court. The rule also provides that a party is not taken to be represented by a lawyer if the lawyer is an employee or officer of the party. The rule is substantially the same as rule 46.04 of the Federal Circuit Court Rules.

Rule 30.13 provides that despite rule 9.04, an officer or employee of a corporation may represent the corporation in a Fair Work small claims proceeding if the officer or employee is authorised by the corporation to represent the corporation in the proceeding. The rule is substantially the same as rule 45.13A of the Federal Circuit Court Rules.

Rule 30.14 deals with the conduct of mediation if the Court refers for mediation a proceeding, or a part of a proceeding, or a matter arising out of a proceeding where the proceeding arises under the *Fair Work Act 2009* or the *Fair Work (Registered Organisations) Act 2009*. A note to subrule 30.14(1) is a reminder that the Court may refer a proceeding for mediation with or without the parties' consent. The rule is substantially the same as rule 45.13B of the Federal Circuit Court Rules.

Rule 30.15 requires that an application under the *Building and Construction Industry (Improving Productivity) Act 2016* be in the approved form. The rule is substantially the same as rule 45.14 of the Federal Circuit Court Rules.

Chapter 5—Proceedings under the National Consumer Credit Protection Act

Part 31 – Small claims application under the National Consumer Credit Protection Act

Part 31 is the only Part in Chapter 5. It deals with small claims under the *National Consumer Credit Protection Act 2009* and is substantially the same as Part 46 in the Federal Circuit Court Rules

Rule 31.01 defines, for the purposes of Part 31, various terms used in this Part, including *National Consumer Credit Protection Act*.

Rule 31.02 deals with the circumstances in which an applicant may request that an application be dealt with as a small claim under Part 31 and the manner in which the Court may act when dealing with a small claims application.

Rule 31.03 requires that a small claims application be made in the approved form.

Rule 31.04 provides that a party to a small claims application may not be represented by a lawyer without the leave of the Court. The rule also provides that a party is not taken to be represented by a lawyer if the lawyer is an employee or officer of the party.

Rule 31.05 provides that despite rule 9.04, an officer or employee of a corporation may represent the corporation in a small claims proceeding under Part 31 if the officer or employee is authorised by the corporation to represent the corporation in the proceeding.

Schedule 1 – Federal Court Rules applied

Schedule 1 lists provisions of the *Federal Court Rules 2011* that apply, with necessary changes, to general federal law proceedings in the Federal Circuit and Family Court. The Schedule is substantially the same as Part 2 of Schedule 3 to the Federal Circuit Court Rules.

Schedule 2 – Costs

Schedule 2 deals with costs. Part 1 deals with costs in general federal law proceedings other than migration proceedings and is substantially the same as Part 1 of Schedule 1 to the Federal Circuit Court Rules. Part 2 has 2 divisions: Division 1 deals with costs in migration proceedings that have concluded; Division 2 deals with costs in migration proceedings that have been discontinued. The 2 divisions are substantially the same as Division 1 and Division 2 of Part 3 of Schedule 1 to the Federal Circuit Court Rules.

Annexure A

FEDERAL CIRCUIT COURT RULES 2001	FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2) (GENERAL FEDERAL LAW) RULES 2021
Chapter 1—All proceedings	Chapter 1—All proceedings
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1.01 Name of Rules	1.01 Name
	1.02 Commencement
1.02A Authority	1.03 Authority
1.03 Objects	1.04 Overarching purpose
1.04 Dictionary	1.05 Definitions
1.05 Application	1.06 Application
1.06 Court may dispense with rules	1.07 Court may dispense with rules
1.07 Applications for orders about procedures	1.08 Applications for orders about procedures
<i>Part 2—Documents</i>	<i>Part 2—Documents</i>
Division 2.1—General	Division 2.1—General
2.01 Requirements for documents	2.01 Requirements for documents
2.02 Document must have distinctive number	2.02 Document must have distinctive number
2.03 Document to be signed	2.03 Document to be signed
2.04 Forms	2.04 Forms
Division 2.2—Filing documents	Division 2.2—Filing documents
2.05 How documents may be filed	2.05 How documents may be filed
2.06 Registrar may refuse to accept document	2.06 Registrar may refuse to accept document
2.07 Filing by fax	2.07 Filing by fax
2.07A Filing by electronic communication	2.08 Filing by electronic communication
2.07B Other requirements for filing by electronic communication	2.09 Other requirements for filing by electronic communication
Division 2.3—Custody and inspection of documents	Division 2.3—Custody and inspection of documents
2.08 Searching records in family law or child support proceedings	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
2.08A Custody of documents in general federal law proceedings	2.10 Custody of documents

FEDERAL CIRCUIT COURT RULES 2001**FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA
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2.08B Inspection of documents in general federal law proceedings	2.11 Inspection of documents
Division 2.4—Seal and stamp of Court	Division 2.4—Seal and stamp of Court
2.09 Use of seal of Court	2.12 Use of seal of Court
2.10 Stamp of Court	2.13 Stamp of Court
2.11 Methods of attaching the seal or stamp	2.14 Methods of attaching the seal or stamp
<i>Part 3—Sittings, registry hours and time</i>	<i>Part 3—Sittings, registry hours and time</i>
Division 3.1—Sittings, holidays and registry hours	Division 3.1—Sittings, holidays and registry hours
3.01 Sittings	3.01 Sittings
3.02 Registry hours	3.02 Registry hours
Division 3.2—Time	Division 3.2—Time
3.03 Meaning of <i>month</i>	3.03 Meaning of <i>month</i>
3.04 Calculating time	3.04 Calculating time
3.05 Extension or shortening of time fixed	3.05 Extension or shortening of time fixed
<i>Part 4—Starting proceedings</i>	<i>Part 4—Starting proceedings</i>
Division 4.1—General rules about starting proceedings	Division 4.1—General
4.01 Application	4.01 Application
4.02 Content of application	4.02 Content of application
4.03 Response to application	4.03 Response to application
4.05 Affidavit to be filed with application or response	4.04 Affidavit to be filed with application or response
4.07 Reply in certain circumstances	4.05 Reply in certain circumstances
4.08 Application in a case	4.06 Application in a proceeding
Division 4.2—Rules for proceedings if Civil Dispute Resolution Act applies	Division 4.2—Rules for proceedings if Civil Dispute Resolution Act applies
4.09 Applicant’s genuine steps statement	4.07 Applicant’s genuine steps statement
4.10 Respondent’s genuine steps statement	4.08 Respondent’s genuine steps statement

FEDERAL CIRCUIT COURT RULES 2001**FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA
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5.01 Urgent application

5.01 Urgent application

5.02 Form of application

5.02 Form of application

5.03 Evidence

5.03 Evidence

Part 6—Service***Part 6—Service***

Division 6.1—General

Division 6.1—General

6.01 Address for service

6.01 Address for service

6.02 Change of address for service

6.02 Change of address for service

6.03 Service of documents

6.03 Service of documents

6.04 Court’s discretion in relation to service

6.04 Court’s discretion in relation to service

6.05 Affidavit of service

6.05 Affidavit of service

Division 6.2—Service by hand in particular cases

Division 6.2—Service by hand in particular cases

6.06 When is service by hand required

6.06 When is service by hand required

6.07 Service by hand

6.07 Service by hand on an individual

6.08 Service by hand on a corporation, unincorporated assocn or organisation

6.08 Service by hand on a corporation, unincorporated association or organisation

6.09 Service of application on unregistered business

6.09 Service of application on unregistered business

6.10 Service of application on partnership

6.10 Service of application on partnership

Division 6.3—Ordinary service

Division 6.3—Ordinary service

6.11 Service other than by hand

6.11 Service other than by hand

6.12 When service is effected

6.12 When service is effected

6.13 Special requirements for service by fax

6.13 Special requirements for service by fax

Division 6.4—Substituted service and dispensing with service

Division 6.4—Substituted service and dispensing with service

6.14 Substituted service

6.14 Substituted service

6.15 Matters to be taken into account

6.15 Matters to be taken into account

6.16 Failure to comply with condition

6.16 Failure to comply with condition

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Division 6.5—Time for service	Division 6.5—Time for service
6.17 General time limit	6.17 General time limit
6.18 Time for service of subpoena	6.18 Time for service of subpoena
6.19 Time for service of applications	6.19 Time for service of applications
<i>Part 7—Amendment</i>	<i>Part 7—Amendment</i>
Division 7.1—General	HEADING DELETED (NO DIVISIONS NEEDED)
7.01 Power to amend	7.01 Power to amend
7.02 Who may be required to make amendment	7.02 Who may be required to make amendment
Division 7.2—General federal law proceedings	NO DIVISIONS NEEDED
7.03 Amendment after limitation period	7.03 Amendment after limitation period
<i>Part 8—Transfer of proceedings</i>	<i>Part 8—Transfer of proceedings</i>
8.01 Change of venue	8.01 Change of venue
8.02 Transfer to Federal Court or Family Court	8.02 Transfer to Federal Court
8.03 Proceeding transferred to Federal Court or Family Court	8.03 Proceeding transferred to Federal Court
8.04 Proceeding transferred from Federal Court or Family Court	8.04 Proceeding transferred from Federal Court
8.05 Proceeding transferred from Federal Court or Family Court	Content incorporated into rule 8.04
<i>Part 9—Lawyers</i>	<i>Part 9—Lawyers</i>
9.01 Change between acting in person and by lawyer	9.01 Change between acting in person and by lawyer
9.02 Change of lawyer	9.02 Change of lawyer
9.03 Withdrawal as lawyer	9.03 Withdrawal as lawyer
9.04 Corporation must be represented	9.04 Corporation must be represented
<i>Part 10—How to conduct proceedings</i>	<i>Part 10—How to conduct proceedings</i>
Division 10.1—First court date	Division 10.1—First court date

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10.01 Directions and orders	10.01 Directions and orders
10.02 Adjournment of first court date	10.02 Adjournment of first court date
10.03 Fixing date for final hearing	10.03 Fixing date for final hearing
Division 10.2—Dispute Resolution	Division 10.2—Dispute resolution
10.04 Agreement reached by dispute resolution	10.04 Agreement reached by dispute resolution
10.05 Conciliation conference	10.05 Conciliation conference
Division 10.3—Notice of constitutional matter	Division 10.3—Notice of constitutional matter
10.06 Party to file notice of constitutional matter	10.06 Party to file notice of constitutional matter
<i>Part 11—Parties and litigation guardians</i>	<i>Part 11—Parties and litigation guardians</i>
Division 11.1—Parties	Division 11.1—Parties
11.01 Necessary parties	11.01 Necessary parties
11.02 Party may include another person as a party	11.02 Party may include another person as a party
11.03 Person may apply to be included	11.03 Person may apply to be included
11.04 Party may apply to be removed	11.04 Party may apply to be removed
11.05 Court may order notice to be given	11.05 Court may order notice to be given
11.06 Intervention by Attorney General	11.06 Intervention by Attorney General
11.07 Child to whom state welfare law applies	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
Division 11.2—Litigation guardian	Division 11.2—Litigation guardian
11.08 Person who needs a litigation guardian	11.07 Person who needs a litigation guardian
11.09 Starting, continuing, defending or inclusion in proceeding	11.08 Starting, continuing, defending or inclusion in proceeding
11.10 Who may be a litigation guardian	11.09 Who may be a litigation guardian
11.11 Appointment of litigation guardian	11.10 Appointment of litigation guardian
11.12 Manager of the affairs of a party	11.11 Manager of the affairs of a party
11.13 Notice of becoming litigation guardian	11.12 Notice of becoming litigation guardian
11.14 Costs and expenses of litigation guardian	11.13 Costs and expenses of litigation guardian
11.15 Service	11.14 Service

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<i>Part 12—Court referral for legal assistance</i>	<i>Part 12—Court referral for legal assistance</i>
12.01 Definitions for Part 12	INCORPORATED INTO <i>Rule 1.05 Definitions</i>
12.02 Referral for legal assistance	12.01 Referral for legal assistance
12.03 A party has no right to apply for a referral	12.02 A party has no right to apply for a referral
12.04 Acceptance of referral certificate and provision of legal assistance	12.03 Acceptance of referral and provision of legal assistance
12.05 Ceasing to provide legal assistance	12.04 Ceasing to provide legal assistance
<i>Part 13—Ending a proceeding early</i>	<i>Part 13—Ending a proceeding early</i>
Division 13.1—Discontinuance	Division 13.1—Discontinuance
13.01 Discontinuance	13.01 Discontinuance
13.02 Costs	13.02 Costs
Division 13.1A—Order or judgment on default	Division 13.2—Order or judgment on default
13.03 Definitions	13.03 Definitions for Division 13.2
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13.03B Orders on default	13.05 Orders on default
13.03C Default of appearance of a party	13.06 Default of appearance of a party
13.03D Court’s powers in relation to contempt etc not affected	13.07 Court’s powers in relation to contempt etc not affected
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13.04 Application for order by consent	13.08 Application for order by consent
13.04A Consent parenting orders and allegations of abuse etc	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
13.05 Additional information	13.09 Additional information
Division 13.3—Summary disposal and stay	Division 13.4—Summary disposal and stay
13.07 Disposal by summary judgment	13.10 Disposal by summary judgment
13.08 Residue of proceeding	13.11 Residue of proceeding
13.09 Application	13.12 Application
13.10 Disposal by summary dismissal	13.13 Disposal by summary dismissal

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13.11 Certificate of vexatious proceedings order	13.14 Certificate of vexatious proceedings order
13.11A Application for leave to institute proceedings	13.15 Application for leave to institute proceedings
13.12 Dormant proceedings	13.16 Dormant proceedings
<i>Part 14—Disclosure</i>	<i>Part 14—Disclosure</i>
Division 14.1—Answers to specific questions	Division 14.1—Answers to specific questions
14.01 Declaration to allow specific questions	14.01 Declaration to allow specific questions
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14.02 Declaration to allow discovery	14.02 Declaration to allow discovery
14.03 Affidavit of documents	14.03 Affidavit of documents
14.04 Production of documents to Court	14.04 Production of documents to Court
14.05 Claim for privilege	14.05 Claim for privilege
14.06 Order for particular disclosure	14.06 Order for particular disclosure
14.07 Inspection of documents	14.07 Inspection of documents
14.08 Copies of documents inspected	14.08 Copies of documents inspected
14.09 Documents not disclosed or produced	14.09 Documents not disclosed or produced
14.10 Documents referred to in document or affidavit	14.10 Documents referred to in document or affidavit
14.11 Use of documents	14.11 Use of documents
<i>Part 15—Evidence</i>	<i>Part 15—Evidence</i>
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15.01 Court may give directions	15.01 Court may give directions
15.02 Evidence if there is an independent children’s lawyer	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
15.03 Decisions without oral hearing	15.02 Decisions without oral hearing
15.04 Court may call evidence	15.03 Court may call evidence
15.06 Transcript receivable in evidence	15.04 Transcript receivable in evidence
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15.06A Definition	15.05 Definition for Division 15.2
15.07 Duty to Court and form of expert evidence	15.06 Duty to Court and form of expert evidence
15.08 Expert evidence for 2 or more parties	15.07 Expert evidence for 2 or more parties
15.09 Court expert	15.08 Court expert
15.10 Report of court expert	15.09 Report of court expert
15.11 Remuneration and expenses of court expert	15.10 Remuneration and expenses of court expert
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15.26 Making an affidavit	15.13 Making an affidavit
15.27 Affidavit of illiterate or vision impaired person etc	15.14 Affidavit of illiterate or vision impaired person etc
15.28 Documents annexed or exhibited	15.15 Documents annexed or exhibited
15.29 Objectionable material may be struck out	15.16 Objectionable material may be struck out
15.29A Use of affidavit without cross examination of maker	15.17 Use of affidavit without cross-examination of maker
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15.31 Notice to admit facts or documents	15.19 Notice to admit facts or documents
<i>Part 15A—Subpoenas and notices to produce</i>	<i>Part 16—Subpoenas and notices to produce</i>
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15A.01 Definitions for Part 15A	INCORPORATED INTO <i>Rule 1.05 Definitions</i>
15A.02 Issue of subpoena	16.01 Issue of subpoena
15A.03 Documents and things in possession of another court	16.02 Documents and things in possession of another court
15A.04 Time limits	16.03 Time limits
15A.05 Limit on number of subpoenas	16.04 Limit on number of subpoenas
15A.06 Service	16.05 Service
15A.07 Conduct money	16.06 Conduct money

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15A.08 Undertaking not to require compliance with subpoena	16.07 Undertaking not to require compliance with subpoena
15A.09 Setting aside subpoena	16.08 Setting aside subpoena
15A.10 Order for cost of complying with subpoena	16.09 Order for cost of complying with subpoena
15A.11 Cost of complying with subpoena if not a party	16.10 Cost of complying with subpoena if not a party
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15A.12 Application of Division 15A.2	16.11 Application of Division 16.2
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15A.14 Objection to production or inspection or copying of document	16.13 Objection to production or inspection or copying of document
15A.15 Subpoena for production of documents or things	16.14 Subpoena for production of documents or things
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16.02 Date of effect	17.02 Date of effect
16.03 Time for compliance	17.03 Time for compliance
16.04 Fines	17.04 Fines
16.05 Setting aside or varying judgments or orders	17.05 Setting aside or varying judgments or orders
16.06 Undertakings	17.06 Undertakings
16.07 When must an order be entered	17.07 When must an order be entered
16.08 Entry of orders	17.08 Entry of orders
<i>Part 17—Separate decision on question</i>	<i>Part 18—Separate decision on question</i>
17.01 Definition	18.01 Definitions for Part 18
17.02 Order for decision	18.02 Order for decision
17.03 Separate question	18.03 Separate question

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17.04 Orders, directions on decision	18.04 Orders, directions on decision
17.05 Disposal of proceeding	18.05 Disposal of proceeding
<i>Part 18—Referral of matter to officer of Court</i>	<i>Part 19—Referral of matter to officer of Court</i>
18.01 Court may refer matter	19.01 Court may refer matter
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19.01 Contempt in the face or hearing of Court	20.01 Contempt in the face or hearing of Court
19.02 Contempt other than in the face or hearing of Court	20.02 Contempt other than in the face or hearing of Court
<i>Part 20—Registrars’ powers</i>	<i>Part 21—Registrars’ powers</i>
Division 20.1—Delegation of powers to Registrars	Division 21.1—Delegation of powers to Registrars
20.00A Delegation of powers to Registrars	21.01 Delegation of powers to Registrars
Division 20.2—Review of exercise of Registrars’ powers	Division 21.2—Review of exercise of Registrars’ powers
20.01 Time for application for review	21.02 Time for application for review
20.02 Application for review	21.03 Application for review
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21.01 Security for costs	22.01 Security for costs
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21.02 Order for costs	22.02 Order for costs
21.03 Determination of maximum costs	22.03 Determination of maximum costs
21.04 Costs reserved	22.04 Costs reserved
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21.07 Order for costs against lawyer	22.06 Order for costs against lawyer

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21.08 Interest on outstanding costs	22.07 Interest on outstanding costs
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21.09 Application	22.08 Application of Division 22.3
21.10 Costs and disbursements	22.09 Costs and disbursements
21.11 Taxation of costs	22.10 Taxation of costs
21.12 Expenses for attendance by witness	22.11 Expenses for attendance by witness
21.13 Expenses for preparation of report by expert	22.12 Expenses for preparation of report by expert
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21.15 Advocacy certificate	22.14 Advocacy certificate
21.16 Counsel as advocate	22.15 Counsel as advocate
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26.01 Rate of interest	Content integrated into <i>Rule 22.07 Interest on outstanding costs</i>
<i>Part 27—Dispute resolution</i>	<i>Part 23—Dispute resolution</i>
Division 27.1—General	Division 23.1—General
27.01 Proceeding referred to mediator or arbitrator	23.01 Proceeding referred to mediator or arbitrator
27.02 Adjournment of proceeding	23.02 Adjournment of proceeding
27.03 Court may end mediation or arbitration	23.03 Court may end mediation or arbitration
Division 27.2—Mediation	Division 23.2—Mediation
27.04 Nomination of mediator	23.04 Nomination of mediator
27.05 Mediation conference	23.05 Mediation conference
27.06 Mediator may end mediation	23.06 Mediator may end mediation
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27.07 Appointment of arbitrator	23.07 Appointment of arbitrator
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28.01 Cross claim against applicant	24.01 Cross-claim against applicant
28.02 Cross claim after application	24.02 Cross-claim after application
28.03 Cross claim against additional party	24.03 Cross-claim against additional party
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28.05 Response to cross claim	24.05 Response to cross-claim
28.06 Conduct of cross claim	24.06 Conduct of cross-claim
28.07 Exclusion of cross claim	24.07 Exclusion of cross-claim
28.08 Cross claim after judgment etc	24.08 Cross-claim after judgment etc
28.09 Judgment for balance	24.09 Judgment for balance
28.10 Stay of claim	24.10 Stay of claim
28.11 Cross claim for contribution or indemnity	24.11 Cross-claim for contribution or indemnity
28.12 Offer of contribution	24.12 Offer of contribution
<i>Part 29—Enforcement</i>	<i>Part 25—Enforcement</i>
29.01 Definition for Part 29	25.01 Definitions for Part 25
29.02 Application without notice for directions	25.02 Application without notice for directions
29.03 Condition precedent not fulfilled	25.03 Condition precedent not fulfilled
29.04 Application for stay of judgment or order	25.04 Application for stay of judgment or order
29.05 Failure to comply with Court order	25.05 Failure to comply with Court order
29.06 Failure to attend Court in response to subpoena or order	25.06 Failure to attend Court in response to subpoena or order
29.07 Endorsement on order	25.07 Endorsement on order
29.08 Service of order	25.08 Service of order
29.09 Application where person fails to comply with order	25.09 Application where person fails to comply with order
29.10 Substituted performance	25.10 Substituted performance

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29.11 Execution generally	25.11 Execution generally
29.12 Stay of execution	25.12 Stay of execution
Chapter 5—Human rights proceedings	Chapter 2—Human rights proceedings
<i>Part 41—Proceedings alleging unlawful discrimination</i>	<i>Part 26—Proceedings alleging unlawful discrimination</i>
41.01 Application of Chapter	26.01 Application of Chapter 2
41.02 Interpretation	26.02 Interpretation
41.02A Form of application	26.03 Form of application
41.03 Copy of application to be given to Commission	26.04 Copy of application to be given to Commission
41.04 Form of response to application	26.05 Form of response to application
41.05 Appearance by special purpose Commissioner	26.06 Appearance by special-purpose Commissioner
Chapter 6—Judicial review proceedings and administrative appeals	Chapter 3—Judicial review proceedings and administrative appeals
<i>Part 42—Judicial review</i>	<i>Part 27—Judicial review</i>
42.01 Application of Part	27.01 Application of Part 27
42.02 Application for order of review	27.02 Application for order of review
42.03 Application for extension of time	27.03 Application for extension of time
42.04 Documents to be filed and served	27.04 Documents to be filed and served
42.05 Service	27.05 Service
42.06 Notice of objection to competency	27.06 Notice of objection to competency
<i>Part 43—Administrative Appeals Tribunal</i>	<i>Part 28—Administrative Appeals Tribunal</i>
43.01 Definitions for Part 43	28.01 Definitions for Part 28
43.02 Application of Part	28.02 Application of Part 28
43.03 Form of application for stay of Tribunal decision	28.03 Form of application for stay of Tribunal decision
43.04 Notice of cross appeal	28.04 Notice of cross-appeal
43.05 Notice of contention	28.05 Notice of contention

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43.06 Directions	28.06 Directions
43.07 Preparation of appeal papers	28.07 Preparation of appeal papers
<i>Part 44—Proceedings under the Migration Act 1958</i>	<i>Part 29—Proceedings under the Migration Act 1958</i>
Division 44.1—Preliminary	Division 29.1—Preliminary
44.01 Definitions for Part 44	29.01 Definitions for Part 29
44.02 Application of Part 44	29.02 Application of Part 29
44.03 Application of Chapters 1 and 3	29.03 Application of Chapter 1
Division 44.2—Matters commenced in the Court	Division 29.2—Matters started in the Court
44.04 Application of Division 44.2	29.04 Application of Division 29.2
44.05 Application for order to show cause	29.05 Application for judicial review of migration decision
	29.06 Response to application for judicial review of migration decision
Division 44.3—Matters remitted by the High Court	Division 29.3—Matters remitted by the High Court
44.07 Application of Division 44.3	29.07 Application of Division 29.3
44.08 Filing of order of remittal	29.08 Filing of order of remittal
44.09 Service of notice and order	29.09 Service of notice and order
Division 44.4—General	Division 29.4—General
44.10 Stay of proceedings	29.10 Stay of proceedings
44.11 First court date	29.11 Directions and orders
44.12 Show cause hearing	REMOVED
44.13 Relief and grounds	REMOVED
44.14 Writs	29.12 Writs
44.15 Costs	29.13 Costs
Chapter 7—Fair Work Division	Chapter 4—Fair Work Division
<i>Part 45—Proceedings in the Fair Work Division</i>	<i>Part 30—Proceedings in the Fair Work Division</i>
Division 45.1—General	Division 30.1—General

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45.01 Definitions for Part 45	30.01 Definitions for Part 30
45.02 Expressions used in Part 45	30.02 Expressions used in Part 30
45.03 Application of Part 45	30.03 Application of Part 30
Division 45.2—Unlawful termination of employment (Workplace Relations Act)	REMOVED – NO FURTHER APPLICATION
45.04 Application in relation to alleged unlawful termination of employment (Workplace Relations Act)	REMOVED – NO FURTHER APPLICATION
45.05 Application in relation to other alleged contraventions of the Workplace Relations Act	REMOVED – NO FURTHER APPLICATION
Division 45.3—Contraventions of the Fair Work Act	Division 30.2—Contraventions of the Fair Work Act
45.06 Application in relation to dismissal from employment in contravention of a general protection (Fair Work Act, s 539(2), table, item 11)	30.04 Application in relation to dismissal from employment in contravention of a general protection (Fair Work Act, s 539(2), table, item 11)
45.07 Application in relation to alleged unlawful termination of employment (Fair Work Act, s 539(2), table, item 35)	30.05 Application in relation to alleged unlawful termination of employment (Fair Work Act, s 539(2), table, item 35)
45.08 Application in relation to other alleged contraventions of Fair Work Act general protections	30.06 Application in relation to other alleged contraventions of the Fair Work Act general protections
45.09 Application in relation to other alleged contraventions of the Fair Work Act	30.07 Application in relation to other alleged contraventions of the Fair Work Act
Division 45.3A—Contraventions of the Registered Organisations Act	Division 30.3—Contraventions of the Registered Organisations Act
45.09A Application in relation to taking a reprisal (Registered Organisations Act, s 337BB)	30.8 Application in relation to taking a reprisal (Registered Organisations Act, s 337BB)
Division 45.4—Small claims	Division 30.4—Small claims
45.10 Definitions for Division 45.4	30.09 Definitions for Division 30.4
45.11 Small claims procedure	30.10 Small claims procedure
45.12 Starting proceedings	30.11 Starting proceedings
45.13 Lawyers—Fair Work Act small claims proceeding	30.12 Lawyers—Fair Work Act small claims proceeding
45.13A Representation for corporations—Fair Work Act small claims proceeding	30.13 Representation for corporations—Fair Work Act small claims

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Division 45.4A—Dispute resolution	Division 30.5—Dispute resolution
45.13B Mediation—Fair Work Act and Registered Organisations Act proceedings	30.14 Mediation—Fair Work Act and Registered Organisations Act proceedings
Division 45.5—Proceedings under the Building and Construction Industry Act	Division 30.6—Proceedings under the Building and Construction Industry Act
45.14 Applications for orders etc. under the Building and Construction Industry Act	30.15 Applications for orders etc. under the Building and Construction Industry Act
Chapter 8—Proceedings under National Consumer Credit Protection Act	Chapter 5—Proceedings under the National Consumer Credit Protection Act
<i>Part 46—Small claims application under National Consumer Credit Protection Act</i>	<i>Part 31—Small claims application under the National Consumer Credit Protection Act</i>
46.1 Definitions	31.01 Definitions for Part 31
46.2 Small claims proceeding—National Consumer Credit Protection Act	31.02 Small claims proceeding—National Consumer Credit Protection Act
46.3 Starting a small claims proceeding	31.03 Starting a National Consumer Credit Protection Act small claims proceeding
46.4 Lawyers—National Consumer Credit Protection Act small claims proceeding	31.04 Lawyers—National Consumer Credit Protection Act small claims proceeding
46.5 Representation for corporations—National Consumer Credit Protection Act small claims proceeding	31.05 Representation for corporations—National Consumer Credit Protection Act small claims proceeding
Chapter 9—Transitional provisions	REMOVED – NO FURTHER APPLICATION
Part 47—Transitional provisions relating to the Federal Circuit Court Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020	REMOVED – NO FURTHER APPLICATION
47.01 Definitions	REMOVED – NO FURTHER APPLICATION
47.02 Application of amendments of rule 22A.02	REMOVED – NO FURTHER APPLICATION
47.03 Application of amendments of rule 22A.03	REMOVED – NO FURTHER APPLICATION

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47.04 Application of amendments of rule 22A.04	REMOVED – NO FURTHER APPLICATION
47.05 Application of amendments of rule 22A.05	REMOVED – NO FURTHER APPLICATION
47.06 Application of amendments of rule 22A.07	REMOVED – NO FURTHER APPLICATION
Part 48—Transitional provisions relating to the Federal Circuit Court Amendment (Powers Delegated to Registrars) Rules 2020	REMOVED – NO FURTHER APPLICATION
48.01 Application—powers delegated to Registrars	REMOVED – NO FURTHER APPLICATION
Schedule 1—Costs	Schedule 2—Costs
<i>Part 1A—Application of this Schedule</i>	REMOVED – NO FURTHER APPLICATION
1 Application of this Schedule	REMOVED – NO FURTHER APPLICATION
<i>Part 1—Family law proceedings and general federal law proceedings</i>	<i>Part 1—General federal law proceedings other than migration proceedings</i>
<i>Part 2—Child support proceedings</i>	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
Division 1—Application for enforcement order in relation to child support proceedings	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
Division 2—Costs for appeal of a Tribunal or Child Support Registrar decision	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
<i>Part 3—Migration proceedings</i>	<i>Part 2—Migration proceedings</i>
Division 1—Costs for migration proceedings that have concluded	Division 1—Costs for migration proceedings that have concluded
Division 2—Costs for migration proceedings that have been discontinued	Division 2—Costs for migration proceedings that have been discontinued
Schedule 2—Notice of Child Abuse, Family Violence or Risk	FAMILY LAW APPLICATION ONLY – See Family Law Rules 2021
Schedule 3—Family Law Rules and Federal Court Rules applied	Schedule 1—Federal Court Rules applied
Part 1—Family Law Rules	REMOVED – NO FURTHER APPLICATION
Part 2—Federal Court Rules	HEADING REMOVED – No parts needed
Dictionary	MOVED TO Rule 1.05 Definitions