



Family Law Amendment (Information Sharing) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 13 December 2023

David Hurley
Governor-General

By His Excellency's Command

Mark Dreyfus KC
Attorney-General

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1 Name

This instrument is the *Family Law Amendment (Information Sharing) Regulations 2023*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the start of the day after this instrument is registered; and (b) the same time as the <i>Family Law Amendment (Information Sharing) Act 2023</i> commences.	6 May 2024 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Family Law Act 1975*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Family Law Regulations 1984

1 After regulation 12CB

Insert:

12CBA Information sharing agencies

For the purposes of section 67ZBC of the Act, each of the following is prescribed as an information sharing agency:

- (a) the police force or police service of a State or Territory;
- (b) the part of the police force or police service of a State or Territory that has primary responsibility for firearms licensing;
- (c) the part of the Australian Federal Police that provides police services in relation to the Australian Capital Territory;
- (d) the part of the Australian Federal Police that has primary responsibility for firearms licensing in relation to the Australian Capital Territory;
- (e) either:
 - (i) the Department of a State or Territory that has primary responsibility for child protection in that State or Territory; or
 - (ii) if, in a State or Territory, only a part of a Department has primary responsibility for child protection—that part of the Department.

12CBB Information sharing safeguards

- (1) For the purposes of subsection 67ZBI(1) of the Act, this regulation prescribes information sharing safeguards that:
- (a) an information sharing agency must have regard to when providing particulars, documents or information (the *shared material*) under an order made under section 67ZBD or 67ZBE, or under subsection 67ZBD(5) or 67ZBE(5), of the Act; and
 - (b) the court must have regard to when using particulars, documents or information (the *shared material*) provided by an information sharing agency under an order made under section 67ZBD or 67ZBE, or under subsection 67ZBD(5) or 67ZBE(5), of the Act.

Note: For the purposes of paragraph (b), *use* includes handle, store and access: see subsection 67ZBI(3) of the Act.

Extent material is to be provided, stored or used

- (2) Particulars and documents are, and information is, only to be provided, and shared material is only to be stored and used, to the extent:
- (a) that the material relates to a matter mentioned in subsection 67ZBD(2) or 67ZBE(2) of the Act; or
 - (b) required or authorised by a law of the Commonwealth, State or Territory or a court order (including an order made under section 67ZBD or 67ZBE of the Act).

Reasonable care to be taken to protect from physical and psychological harm

- (3) The shared material is to be provided, stored and used in good faith and with reasonable care to protect persons who are involved in, or could be affected by, the provision, storage or use of the shared material from physical and psychological harm.

Prevention of improper provision, storage and use

- (4) The shared material is to be provided, stored and used in a manner that prevents improper access to or disclosure of the shared material.
- (5) Reasonable steps are to be taken to prevent the shared material being accessed by or disclosed to a person who poses, or potentially, poses a risk of subjecting or exposing any of the following to abuse, neglect or family violence:
- (a) a party to the proceedings;
 - (b) a child to whom the proceedings relates;
 - (c) another person to whom the shared material relates;
- unless the access or disclosure is in accordance with an order of a court.
- (6) The shared material is not to be provided by or used by a person who has a personal relationship with or has any other actual or potential conflict of interest in relation to:
- (a) a party to the proceedings; or
 - (b) a child to whom the proceedings relates; or
 - (c) another person to whom the shared material relates.

Correction of errors

- (7) If the information sharing agency becomes aware that the shared material is incorrect, then as soon as possible:
- (a) the information sharing agency is to notify the court of the correction; and
 - (b) subject to subregulation (10), the court is to correct its records accordingly.

Requests for documents or information not in possession or control

- (8) If:
- (a) an information sharing agency receives an order under section 67ZBD or 67ZBE of the Act relating to a matter; and
 - (b) the information sharing agency does not have in its possession or control any documents or information relating to the matter;
- then, subject to subregulation (10), the information sharing agency is to destroy or redact its records relating to the order after responding to the order.
- (9) If:
- (a) a person requests access to the shared material or to material that is purported to be shared material provided to the court; and
 - (b) the court does not have such material in its possession or control;
- then, subject to subregulation (10), the court is to destroy or redact its records relating to the request.

Schedule 1 Amendments

Record-keeping obligations not affected

- (10) Subregulations (7), (8) and (9) are subject to any record-keeping obligations imposed on the information sharing agency or the court by a law of the Commonwealth, a State or a Territory or an order of a court.

2 Regulation 12CD

Repeal the regulation.

3 Schedule 9

Repeal the Schedule.