



# Family Law Amendment (Arbitration) Regulations 2024

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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 12 June 2024

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 (Arbitration) Regulations 2024*.

## 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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	15 June 2024
2. Schedule 1	1 August 2024.	1 August 2024

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Regulation 67B

Repeal the regulation, substitute:

#### 67B Prescribed requirements for arbitrator (Act s 10M)

- (1) For the purposes of the definition of *arbitrator* in section 10M of the Act, this regulation prescribes the requirements that must be met for a person to be an arbitrator.

*Requirement for name to be included in list of arbitrators*

- (2) The person's name must be included in a list (the *list*), kept by the Law Council of Australia or by another body nominated by the Law Council of Australia, of persons who are prepared to provide arbitration services under the Act.
- (3) At the time of applying to be included in the list, the person must give a statutory declaration to the body keeping the list to the effect that the person meets the requirements mentioned in subregulation (4).

*Requirements to be met to become an arbitrator*

- (4) During the 6-year period ending immediately before the time the person applies to be included in the list:
- (a) the person must have, for at least 5 of those years:
    - (i) practised as a legal practitioner; or
    - (ii) held office as a judge or magistrate of one or more of the courts mentioned in subregulation (5); or
    - (iii) either practised as a legal practitioner or held such office; and
  - (b) the person must have, for at least 5 of those years, spent at least 25% of the person's time in such practice or office on family law matters; and
  - (c) the person must have gained the necessary experience in family law matters that is sufficient for the person to be an arbitrator; and
  - (d) the person must have successfully completed specialist arbitration training conducted by a tertiary institution or a professional association of arbitrators.
- (5) For subparagraph (4)(a)(ii), the courts are the following:
- (a) the Federal Circuit and Family Court of Australia (Division 1);
  - (b) the Federal Circuit and Family Court of Australia (Division 2);
  - (c) the Family Court of Western Australia;
  - (d) the Magistrates Court of Western Australia constituted by a magistrate who is not a Family Law Magistrate of Western Australia, sitting at a place outside the metropolitan region (within the meaning of the *Family Court Act 1997* (WA));
  - (e) the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia, sitting at any place in Western Australia;
  - (f) the former Family Court of Australia;

(g) the former Federal Circuit Court of Australia.

Note: For the definition of *Family Law Magistrate of Western Australia*, see subsection 4(1) of the Act.

*Requirements to be met to continue to be an arbitrator*

- (6) During the 2-year period beginning on the day mentioned in subregulation (7), and during each subsequent 2-year period:
- (a) the person must complete at least 10 hours of continuing professional development; and
  - (b) at least 25% of the person’s practice as a legal practitioner must be in relation to family law matters; and
  - (c) the person must maintain the necessary experience in family law matters that is sufficient for the person to be an arbitrator.
- (7) For subregulation (6), the day is:
- (a) if, immediately before 1 August 2024, the person’s name is included in the list—1 August 2024; or
  - (b) otherwise—the day the person’s name is included in the list.
- (8) Within a month of the end of each 2-year period mentioned in subregulation (6), the person must give a statutory declaration to the body that keeps the list to the effect that the person has met the requirements of that subregulation for that period.

*Continuing professional development*

- (9) For paragraph (6)(a), continuing professional development undertaken in a State or Territory by a person who does not hold a practising certificate must be of at least a similar standard to the continuing professional development required to be undertaken, in that State or Territory, as a condition of a legal practitioner’s practising certificate.

## **2 Part VI (heading)**

Omit “**Repeal and savings**”, substitute “**Application, saving and transitional provisions**”.

## **3 In the appropriate position in Part VI**

Insert:

### **84 Amendments made by the *Family Law Amendment (Arbitration) Regulations 2024***

- (1) Subregulation 67B(3), as amended by Schedule 1 to the *Family Law Amendment (Arbitration) Regulations 2024* (the **amending instrument**), applies on and after the commencement of that Schedule in relation to applications:
  - (a) made, but not decided, before that commencement; or
  - (b) made on or after that commencement.
- (2) Subregulation 67B(4), as amended by Schedule 1 to the amending instrument, applies on and after the commencement of that Schedule in relation to persons who make applications mentioned in subregulation (1) of this regulation.

- (3) To avoid doubt, a person meets the requirement in subregulation 67B(2) on the commencement of Schedule 1 to the amending instrument if, immediately before that commencement, the person's name is included in the list mentioned in that subregulation.