

**FAMILY LAW (FAMILY DISPUTE RESOLUTION PRACTITIONERS)
REGULATIONS 2025**

EXPLANATORY STATEMENT

Issued by Authority of the Attorney-General

under subsection 125(1) of the *Family Law Act 1975*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Family Law Act 1975* (Family Law Act) provides the legislative framework relating to divorce, parenting arrangements for children, and the division of finances and property following relationship breakdown.

Subsection 125(1) of the Family Law Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Division 3 in Part IIIB of the Family Law Act establishes that a court, in exercising its jurisdiction under the Act, can make orders requiring parties in dispute to attend family dispute resolution. Division 1 in Part VII of the Act establishes a requirement to attempt family dispute resolution before applying for an order in relation to parenting matters - unless an exception applies.

Subsection 10A(1) of the Family Law Act provides that the regulations may prescribe Accreditation Rules. These are rules relating to, among other things, the accreditation of persons as family dispute resolution practitioners. Subsection 10A(2) of the Act provides examples of matters the Accreditation Rules may deal with, such as the standards that are to be met by persons who seek to be accredited and how accreditation is to be recognised and maintained.

Section 10F of the Family Law Act defines family dispute resolution as being a process (other than a judicial process) in which a family dispute resolution practitioner helps people affected, or likely to be affected, by separation or divorce resolve their disputes about parenting (unless an exception applies), and financial and property matters.

Section 10G of the Family Law Act establishes who a family dispute resolution practitioner is, including an accredited family dispute resolution practitioner, and sections 10H and 10J provide a framework for confidentiality and admissibility of communications made in family dispute resolution (respectively).

The *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (2008 Regulations) currently support the framework for the accreditation of family dispute resolution practitioners, which sets out competency-based accreditation criteria, first introduced in 2009.

The purpose of the *Family Law (Family Dispute Resolution Practitioners) Regulations 2025* (2025 Regulations) is to replace and update the 2008 Regulations, which are scheduled to sunset on 1 April 2025. Sunsetting is an automatic repeal of instruments after a fixed period, under the *Legislation Act 2003*. The purpose of sunsetting is to ensure instruments remain fit for purpose and are only in force for so long as required.

Paragraph 4(c) of the *Legislation (Family Law Instruments) Sunset-altering Declaration 2018* aligned the deferral of the sunset date for the 2008 Regulations and related family law instruments to 1 April 2023. Paragraph 4(a) of the *Legislation (Deferral of Sunsetting—Family Law Instruments) Certificate 2022* (as amended by the *Legislation (Deferral of Sunsetting—Family Law Instruments) Amendment Certificate 2023*) further deferred the sunset date for the 2008 Regulations and related instruments to 1 April 2025.

The 2025 Regulations provides transitional provisions to allow for decisions made under the 2008 Regulations to remain in force once the new regulations commence. This will provide for the continuing availability of accredited family dispute resolution practitioners to the community and avoid unnecessary disruption to families seeking to negotiate post-separation arrangements without going to court.

The Family Law Act specifies no conditions that need to be satisfied before the power to make the 2025 Regulations may be exercised.

The Regulations will commence on 1 April 2025.

CONSULTATION

The Attorney-General's Department (AGD) engaged with key stakeholders across the legal assistance and family law profession. This included state and territory Legal Aid Commissions, the Law Council of Australia, Women's Legal Services, as well as peak bodies such as the Federal Circuit and Family Court of Australia, Family Relationships Services Australia, Relationships Australia (National), Mediator Standards Board, current complaints management bodies and higher education providers, and existing family dispute resolution practitioners.

Consultation with stakeholders tested the sector's readiness to remove redundant provisions, resolve uncertainty and make the administration and oversight of family dispute resolution more effective. It also sought feedback on the accreditation criteria and ongoing obligations on practitioners, ensuring that they remain relevant and fit for purpose. Feedback was largely supportive of the transparency the 2025 Regulations aim to achieve.

IMPACT ANALYSIS

The Attorney-General's Department has certified that the the instrument is unlikely to have more than a minor regulatory impact and that the preparation of an Impact Analysis is not required (OBPR22-03626).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The 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). A Statement of Compatibility with Human Rights is set out in **Attachment A**.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (Cth). Details of the instrument are set out in **Attachment B**.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

This disallowable 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 *Family Law (Family Dispute Resolution Practitioners) Regulations 2025* (the Regulations) repeal and replace the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (the existing Regulations) that are due to sunset on 1 April 2025.

The accreditation framework under the Regulations remains substantially the same as the framework under the existing Regulations. However, the Regulations contain a number of changes that are intended to clarify provisions and ensure that the accreditation framework creates a system that best services vulnerable people undertaking family dispute resolution. It also contains formatting changes intended to improve readability.

The *Family Law Act 1975* (Family Law Act) provides for the establishment of an accreditation framework for family dispute resolution practitioners. Section 10A of the Family Law Act provides that regulations may prescribe rules relating to the accreditation of family dispute resolution practitioners, as well as examples of what the regulations may deal with, such as the standards that must be met by those applying to be accredited practitioners and how accreditation should be maintained.

The Regulations therefore provide a framework for the accreditation of family dispute resolution practitioners, including:

- the accreditation criteria, including the required competencies and qualifications and the application process for applying for accreditation
- the maintenance of a family dispute resolution register
- ongoing requirements of accreditation, including requirements relating to standards of practice
- the process for the imposition of conditions on, and the suspension or cancellation of, accreditation, and the process for lifting the conditions or suspension
- the certification of courses and units of study relating to family dispute resolution, and
- the regulation of complaints mechanisms.

Human Rights Implications

The regulations engage the following human rights:

- Right to privacy: Article 17 of the International Covenant on Civil and Political Rights (ICCPR)
- Right to respect for the family: Article 23 of the ICCPR
- Rights of parents and children:

- Best interests of the child: Article 3 of the Convention on the Rights of the Child (CRC)
- Right of the child to recognition that both parents have common responsibilities for the child: Article 18 of the CRC
- Right of non-discrimination against women in matters relating to family: Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Right to Privacy: Article 17 of the ICCPR

Article 17 of the ICCPR prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. It also prohibits unlawful attacks on a person's reputation. It provides that people have the right to the protection of the law against such interference or attacks.

Various sections of the Regulations engage the right to privacy.

To be able to be considered for accreditation, information about the person must be provided to the Secretary. Section 10 requires that a person must apply for accreditation in order to be an accredited family dispute resolution practitioner, and that the Secretary may specify the manner or form of that application. This would include the name and contact details of the practitioner as well as how they meet the accreditation criteria. This information is essential to be able to reliably identify persons suitable to provide family dispute resolution. Paragraph 10(2)(iii) requires an applicant to provide consent for the Secretary to take action to verify the information provided in support of an application, which includes verifying a person's criminal history, where this is disclosable and is not a spent conviction.

Section 12 of the Regulations further engages the right to privacy as the Secretary must keep a register of family dispute resolution practitioners, and this register contains information about a person, some of which may be accessible to the public. Information relating to an application for accreditation or maintaining ongoing compliance with conditions of accreditation may also be held in, or conveyed to, the Secretary via the register.

Section 12 provides that the register must contain the name and last known contact details of any person whose accreditation has been suspended or cancelled. Retention of this information allows the Secretary to efficiently contact practitioners, for example when wishing to convey information to them which relates to their accreditation.

Section 12 also provides for the register to retain a record of any application made for accreditation and any conditions imposed on their accreditation. This also allows the Secretary to efficiently administer the scheme, monitor compliance with the regulations, and ensure that only accredited family dispute resolution practitioners offer service to the community. This is a critical record, without which the scheme could not be effectively administered.

Section 13 of the Regulations also engages the right to privacy by prescribing that the name and contact details of practitioners must be made publicly available. Section 13 is limited by subsection 13(2), which would allow the Secretary to approve the use of a pseudonym where there may be a genuine reason for restricting public access to their name, such as safety concerns.

Sections 12 and 13 of the Regulations may limit the right to privacy. However, this is an appropriate and reasonable limitation, as it ensures there is a single source of information on accredited family dispute resolution practitioners. It supports public access to information and ensures that members of the public are able to determine if a person offering family dispute resolution services is an accredited family dispute resolution practitioner. For this reason, the limitation on the right to privacy is reasonable, necessary and proportionate.

Ensuring that a person accredited to provide family dispute resolution is suitable to perform the functions of a family dispute resolution practitioner is proposed as a protection for clients, who are engaging with the service at a challenging time in their life. Where this requires the applicant to provide information to demonstrate their suitability to be accredited, this is an important consumer protection.

Right to respect for family – Article 23 of the ICCPR

Article 23(4) of the ICCPR imposes an obligation on states to take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution of marriage, provisions shall be made for the necessary protection of any children.

The Regulations promote this obligation by establishing a framework that regulates the accreditation of family dispute resolution practitioners, ensuring that accredited family dispute resolution practitioners perform family dispute resolution to a high standard. This ensures that separating couples are supported through the process of dissolving their marriages, and can do this without the added expense and emotional impact of settling their post-separation arrangements in the court. The Regulations provide a framework for respecting the rights of the parties to the marriage to attempt to resolve their post-separation issues and identify outcomes that are mutually satisfactory, and give consideration to the safety of the parties, including children.

The Regulations also facilitate the conduct of family dispute resolution, including the decision as to whether family dispute resolution is appropriate (taking into account certain factors which might affect the ability of the parties to engage safely, fairly and equitably to resolve their post-separation matters). Sections 20 and 50 provides that where the accredited practitioner considers that the parties may not be able to equally engage in the family dispute resolution, the accredited practitioner may refuse to provide the mediation, or terminate the mediation, and provide a certificate (found in Schedule 1 of the Regulations) which allows those parties to have their matters considered in a court.

Rights of parents and children – Articles 3 and 18 of the CRC

Article 3 of the CRC provides that countries must apply the principle of best interests of the child. The principle requires active measures to protect children's rights and promote their survival, growth, and wellbeing, as well as measures to support and assist parents and others who have day-to-day responsibility for ensuring recognition of children's rights. It includes consideration of instances where children could be indirectly impacted by decisions and actions.

Article 18 of the CRC provides that States shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. The best interests of the child will be their basic concern.

Section 20 of the Regulations recognises that there may be circumstances that family dispute resolution may be inappropriate, including where the child may be at risk of abuse or at risk of family violence. In these situations, the practitioner would not conduct a family dispute resolution session, and the parties would need to resolve their dispute through other mechanisms, such as going to court. This is intended to ensure that children are not put at risk by their parents agreeing to unsafe arrangements through a process of family dispute resolution where that process is not appropriate for their circumstances.

Subsection 8(2) of the Regulations would promote the rights of children by providing that the Secretary may consider whether a person is prohibited from working with children and whether they comply with laws which apply to working with children. Keeping children safe is a paramount consideration under the Family Law Act, and it would not be appropriate for individuals to be accredited as family dispute resolution practitioners where they are prohibited from working with children, or to fail to comply with laws which apply to working with children.

Additionally, the Regulations promote the right of the child to recognition that both parents have common responsibilities by establishing a framework that puts the engagement of both parents at the centre of family dispute resolution in relation to parenting matters. Section 60I of the Family Law Act and Schedule 1 of the Regulations prescribe a certificate that a family dispute resolution practitioner can issue when family dispute resolution does not end with full agreement. In order to issue the certificate, the practitioner must, at least twice, have contacted each party who has failed to attend, with at least one contact in writing. This requirement ensures that both parties are given every opportunity to participate in the family dispute resolution process, which ultimately can have a significant bearing on a court's finding in relation to parental responsibility and time spent with children.

Right of non-discrimination against women in matters relating to family – Article 16 of the CEDAW

Article 16 of the CEDAW provides that discrimination against women in all matters relating to marriage and family relations should be eliminated to ensure the same rights and responsibilities for men and women during marriage and at its dissolution. Discrimination

against women includes gender-based violence, as it is violence perpetrated against a woman on the basis that she is a woman. While family violence is disproportionately experienced by women, it is perpetrated against both men and women. The Regulations are accordingly gender-neutral.

Section 20 of the Regulations allows for the accredited family dispute resolution practitioner to take into account the presence or history of family violence when determining if it is appropriate to proceed with family dispute resolution, on the basis that the party who has experienced the violence may not be able to be fairly involved in a mediation, due to trauma or fear. A history of family violence and coercive control could impede a party's ability to negotiate freely, which could result in unsafe arrangements, particularly relating to the care of children. Section 20 also provides a requirement for a practitioner to consider the safety of both parties, including any family violence, which will help ensure that victims are not required to participate in, or continue, family dispute resolution if doing so would perpetrate further harm.

Section 25 of the Regulations also promotes the right of non-discrimination against women, as it places an obligation on the accredited family dispute resolution practitioner to avoid conflicts of interest, which may unfairly bias the outcome of the dispute resolution. An unbiased process supports an outcome free from discrimination and ensures that all parties achieve a fair and equitable outcome.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because it protects the rights of parents and children, and promotes right to respect for the family and the right to equality and non-discrimination. To the extent that it may limit the right to privacy, those limitations are reasonable, necessary and proportionate.

Details of the proposed *Family Law (Family Dispute Resolution Practitioners) Regulations 2025*

Part 1 – Preliminary

Section 1 – Name

This section provides that the title of this instrument is the *Family Law (Family Dispute Resolution Practitioners) Regulations 2025* (the 2025 Regulations).

Section 2 – Commencement

This section provides that the 2025 Regulations commence on 1 April 2025.

Section 3 – Authority

This section provides that the 2025 Regulations are made under the *Family Law Act 1975* (the Family Law Act).

Section 4 – Schedule 2

This section provides that each instrument that is specified in Schedule 2 to this instrument is amended or repealed as set out in Schedule 2, and any other items in that Schedule has effect according to its terms. Schedule 2 repeals the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (the 2008 Regulations).

Section 5 – Definitions

This section provides definitions necessary to allow the 2025 Regulations to be understood and applied.

Paragraph 13(1)(b) of the *Legislation Act 2003* indicates that expressions used in an instrument have the same meaning as in the enabling legislation as in force from time to time.

The legislative note at the beginning of the section refers readers to the Family Law Act for additional definitions relevant to the 2025 Regulations, including *family dispute resolution* and *family dispute resolution practitioner*.

Section 5 provides the following definitions:

accreditation means an accredited family dispute resolution practitioner under Division 2 of Part 2 of this instrument. Part 2 of the 2025 Regulations prescribes the accreditation process for family dispute resolution practitioners, pursuant to section 10A of the Family Law Act.

accreditation criteria refers to subsection 8(1) of the 2025 Regulations, which outlines the proposed criteria that must be met (and maintained) in order to be eligible for accreditation.

accredited family dispute resolution practitioner has the meaning provided in section 7 of the 2025 Regulations.

Act means the *Family Law Act 1975*.

approved certified course means a course certified by a higher education provider under subsection 38(1), where the Secretary has approved that certification under subsection 40(1), and where the approval has not been revoked under subsection 42(1). Completion of an approved certified course is an option available in the first pathway to meet the competency requirements for consideration for accreditation as an accredited family dispute resolution practitioner as outlined in section 9 of the 2025 Regulations.

approved certified units means units that are certified by a higher education provider under subsection 38(2), where the Secretary has approved that certification under subsection 40(1), and where the approval has not been revoked. A person can complete approved certified units to meet part of the competency requirements of the second and third pathways for accreditation as an accredited family dispute resolution practitioner as outlined in section 9 of the 2025 Regulations.

approved complaints body means an entity that the Secretary has approved as a complaints body under subsection 44(3) of the 2025 Regulations. A legislative note explains that the entity could be a professional association, or an entity that receives government funding for the purposes of providing family dispute resolution.

Australian Qualifications Framework has the meaning provided in section 1 of the *Higher Education Support Act 2003*, which provides a framework for the recognition and endorsement of qualifications and specifies the standards for educational qualifications in Australia.

conduct means both the actions associated with a person's behaviour as well as any omission or failure to act.

disqualified person has the meaning provided in subsection 8(3) of the 2025 Regulations.

family dispute resolution session means a session conducted by an accredited family dispute resolution practitioner as part of a family dispute resolution process.

graduate diploma of family dispute resolution means the graduate diploma of that name that is delivered by registered training organisations (within the meaning of the *National Vocational Education and Training Regulator Act 2011*) under the Australian Qualifications Framework.

higher education provider has the meaning provided for in the *Higher Education Support Act 2003*.

legal practitioner has the meaning provided for in the *Family Law Regulations 2024*.

register means the Family Dispute Resolution Register maintained by the Secretary under section 12 of the 2025 Regulations.

Secretary means the Secretary of the Attorney-General's Department. In some circumstances, the Secretary has an implied power to authorise another person to exercise the power invested in them, known as the *Carltona* or 'alter ego' principle. The power is exercised by the authorised person for and on the Secretary's behalf.

Part 2 – Accreditation Rules

Division 1 – Introduction

Section 6 – Simplified outline of this Part

This section provides a general overview of the purpose and content of this Part.

Division 2 – Accreditation of family dispute resolution practitioners

Section 7 – Meaning of *accredited family dispute resolution practitioner*

Paragraph 10G(1)(a) of the Family Law Act provides that a family dispute resolution practitioner is a person that is accredited as a family dispute resolution practitioner under the Accreditation Rules.

Section 7 provides that an *accredited family dispute resolution practitioner* is a person who has been accredited under the Accreditation Rules contained in the 2025 Regulations, and their accreditation has not been suspended or cancelled.

Section 8 – Accreditation criteria

Accreditation criteria

Subsection 8(1) provides the criteria which must be met to become an accredited family dispute resolution practitioner. The person would need to:

- (a) demonstrate that they have the competencies and qualifications required in the accreditation criteria required by section 9 of the 2025 Regulations
 - Holding the necessary skills and qualifications is an essential threshold to be met as it provides the person with the knowledge to conduct family dispute resolution and supports the provision of safe, fair and appropriate services to the community.
- (b) maintain access to a complaints mechanism provided by an approved complaints body to ensure that complaints about their service can be appropriately investigated
 - The ability of clients of family dispute resolution practitioners to make complaints about the services they receive is an essential consumer protection mechanism.
- (c) have appropriate coverage of professional indemnity insurance in relation to the provision of family dispute resolution services
 - The amount of insurance required to provide adequate coverage will be a matter for the individual person and their preferred insurer to establish, based on the perception of risk associated with providing the insurance coverage. The person is able to establish their own insurance cover through membership, or can be covered by their employer's insurance.

Having professional indemnity insurance to provide family dispute resolution is a condition currently imposed on all practitioners under the 2008 Regulations and has been in place since its commencement on 1 January 2008. The 2025 Regulations include insurance cover as a part of the accreditation criteria, instead of it being required after accreditation. This reflects that insurance is an important element for consumer protection, and will eliminate a 'conditionally accredited' class of family dispute resolution practitioner that is not able to provide family dispute resolution due to its lack of insurance.

- (d) demonstrate that they are a fit and proper person to provide the service, to ensure the protection of their clients (further described at subsection 8(2) of the 2025 Regulations)

- (e) not be disqualified as an accredited practitioner (further described at subsection 8(3) of the 2025 Regulations).

Matters relevant to whether a person is fit and proper

Subsection 8(2) sets out a range of matters which could be considered by the Secretary when determining if a person should be accredited to provide family dispute resolution services. Ensuring that there is community trust in the practice of family dispute resolution is important. A person's past or current behaviour could bring the integrity of the process of family dispute resolution into question. For example, behaviour which indicated a tolerance for family violence would draw a person's impartiality into question when mediating between two separated parties where family violence was or had been present.

There is a need to ensure that there is trust in the impartiality and professionalism of accredited family dispute resolution practitioners. Therefore, it is appropriate that thresholds should be met in relation to behaviour.

The 2008 Regulations currently provide that a person is to be suitable to perform the functions and duties of a family dispute practitioner. The 2025 Regulations will provide further transparency as to what that is, by clearly stepping out the considerations and framing this as being a fit and proper person.

Paragraph 8(2)(a) provides that the Secretary may consider whether a person is prohibited under a Commonwealth, State or Territory law from working with children. It is not appropriate for people who are subject to this prohibition to work directly with families, particularly those seeking to negotiate appropriate parenting arrangements.

Paragraph 8(2)(b) provides that the Secretary may consider whether the person complies with laws which apply to working with children in each of the States or Territories in which the person would be providing family dispute resolution.

Individuals will need to undertake their own investigations to determine whether the laws of each state or territory apply to their particular circumstances. Where they do, the person must meet those requirements.

Paragraph 8(2)(c) provides that the Secretary may consider whether a person has made representations that they are an accredited family dispute resolution practitioner at any time when they did not hold this status (including following the suspension or cancellation of that status).

There will be some circumstances where this occurred as a result of a genuine error and can be quickly and comprehensively rectified. When considering this factor, the scale of the error or misrepresentation, willingness to correct the error, and other information available to explain how the error may have occurred can be considered in determining the person's suitability for accreditation. This is a proposed addition to the 2008 Regulations.

Paragraph 8(2)(d) provides that the Secretary may consider whether the person has been subject to disciplinary actions relating to their performance of family dispute resolution. For example, where a complaint has been made by a client to the family dispute resolution practitioner's approved complaints mechanism and the complaints body has made a finding of fault against the practitioner and imposed a disciplinary response.

The nature of the fault and disciplinary action may have bearing on the person's suitability to continue to be an accredited family dispute resolution practitioner. For example, minor issues able to be addressed by a period of professional mentoring may not impact on a person's overall suitability, while substantive findings which may result in more severe sanctions may

indicate that the person is not able to provide safe, unbiased and appropriate family dispute resolution and should not be considered to meet the standards expected of a family dispute resolution practitioner.

This provision aims to focus on existing practitioners and anyone whose accreditation has been suspended or cancelled should they wish to regain accreditation to be a family dispute resolution practitioner.

Paragraph 8(2)(e) provides that the Secretary may consider whether the person has a history of complaints in relation to the provision of family dispute resolution that have been substantiated by an approved complaints body.

This could indicate that the person does not possess the personal or educational requirements to provide a reliable and professional service, and that previously identified deficiencies have not been addressed. This is a proposed addition to the 2008 Regulations.

Paragraph 8(2)(f) provides that the Secretary may consider whether the person has been disqualified from other professional practice which is not family dispute resolution.

This may indicate that in other relevant fields the person has separately been assessed to not be suitable to provide those services, and there is a likelihood that those circumstances would be relevant to the consideration of appropriateness for accreditation as a family dispute resolution practitioner.

Paragraph 8(2)(g) provides that the Secretary may consider whether the person has engaged in conduct that may result in the reputation of accredited family dispute resolution practitioners being negatively impacted.

This can include a wide range of behaviours which may affect a person's trust in the process and outcome of family dispute resolution, or trust in their practitioner, and may include actions which occur in either a professional or personal capacity. Trust, integrity and professionalism are key principles to uphold in this regard.

Paragraph 8(2)(h) provides that the Secretary may consider whether the person has provided false or misleading information to the Secretary in the process of seeking accreditation or responding to requests for information.

This may demonstrate a willingness to provide inaccurate information in order to achieve personal gain or benefit.

Paragraph 8(2)(i) provides that the Secretary may also consider any other matter which would be relevant to an assessment of the suitability of a person to provide family dispute resolution, noting that subsection 8(3) relates to additional actions which could also result in a person being disqualified from being eligible for accreditation.

Meaning of disqualified person

Subsection 8(3) provides that a person is disqualified from being an accredited family dispute resolution practitioner if they are convicted of a violent offence or a sex-related offence, however defined by relevant laws including rape, sexual assault, indecent assault, unlawful sexual acts with or upon minors, child pornography, procuring or trafficking of a child for indecent purpose or being knowingly concerned with the prostitution of a child.

This subsection does not provide the authority to refuse accreditation on the basis of a potential conviction. However, the existence of the charge, depending on its nature, may still impact the assessment of the person's eligibility for accreditation. This could be taken into

consideration in relation to matters relevant to whether a person is fit and proper – for example as a relevant factor under paragraph 8(2)(g) in the 2025 Regulations.

For an applicant who may be subject to these charges, who has already lodged an application for accreditation, but where the outcome has not yet been determined, the applicant may elect to continue to pursue accreditation, or withdraw their application until a later date.

For existing accredited family dispute resolution practitioners, if faced with a charge in relation to these disqualifying offences, subsection 29(2) of the 2025 Regulations provides that the Secretary may suspend their accreditation while charges were being resolved. If convicted of an offence, paragraph 34(1)(a) of the 2025 Regulations provides that the Secretary may immediately cancel the person's accreditation.

Subsection 8(4) provides that nothing in subsection 8(3) of the 2025 Regulations affects the operation of Part VIIC of the *Crimes Act 1914*, which provides that in certain circumstances, a person is relieved of the requirement to disclose spent convictions, and for persons aware of spent convictions, to disregard them.

Section 9 – Accreditation criteria – competencies and qualifications

Section 9 provides for four different pathways (three main pathways and one historical pathway) for a person to be accredited as a family dispute resolution practitioner, for the purposes of paragraph 8(1)(a) of the 2025 Regulations. They will effectively be the same pathways in the 2008 Regulations and are framed around the competencies contained in the Graduate Diploma of Family Dispute Resolution (Graduate Diploma) as defined in section 5 of the 2025 Regulations.

The pathways are:

- *The first pathway* (subsection 9(2)) – the person has been assessed as competent in all of the requirements of the Graduate Diploma, as defined in section 5 of the 2025 Regulations.

The qualification framework for the Graduate Diploma requires the completion of all core units and the required number of elective units. The qualification includes supervised workplace application of the learning. This ensures that those who hold this qualification will have had experience applying skills and knowledge in a real working environment. The student's skills are assessed under the direct supervision of an accredited family dispute resolution practitioner who observes them working with clients across different matters relating to issues arising in family dispute resolution, including domestic and family violence, child abuse and child protection, finances – including child support, as well as property matters.

The full Graduate Diploma is delivered by registered training organisations under the vocational education and training sector of the Australian Qualifications Framework. Alternatively, per subsection 38(1), higher education providers can certify a postgraduate qualification they deliver as being equivalent to the full Graduate Diploma delivered by registered training organisations. This certification process is defined at section 5 and further explained in Division 5 of Part 2 of the 2025 Regulations.

In meeting the requirements of this pathway, evidence of the successful completion of the course is required. This applies whether or not the status has been officially conferred on the person (that is, through a graduation ceremony or equivalent). Where this evidence is not available, the person shall not be taken to have met this

qualification requirement. Where a formal certificate of attainment has not yet been provided, evidence may include an official transcript of course outcomes.

- *The second pathway* (subsections 9(3) and (4)) – the person has met the requirements (and can provide evidence) of the successful completion of the core units of the Graduate Diploma, or equivalent approved units as certified under Division 5 of the 2025 Regulations, and has (or is entitled to) an additional qualification that is at a level under the Australian Qualifications Framework equal to a bachelor’s degree (or a higher qualification of at least 12 months full time study, or equivalent part time study), where the field or discipline studied in that qualification is relevant to the provision of family dispute resolution. That qualification must also be a different qualification to the one in respect of the approved certified units.

The additional qualification used to meet the second pathway would need to be in an area relevant to family dispute resolution, such as conflict management, counselling, dispute resolution, law, mediation, psychology, social work, individual behaviour, child development, or family and domestic violence.

The qualification, if not obvious from its title, would be considered based on the relevance of the subject matter studied. For example, a person with a Bachelor of Arts may have studied a high number of psychology and social work subjects to gain the qualification, while another student with the same qualification may have studied mostly art history subjects. In this case the individual with the additional learning in psychology and social work may have additional skills and knowledge in relation to interpersonal dynamics (and could be considered to have an additional qualification related to family dispute resolution) while the other student may not. The case by case assessment would be undertaken by the Secretary.

The additional qualification cannot be the same qualification as the qualification achieved from the successful completion of units of the Graduate Diploma of Family Dispute Resolution or certified equivalent course. This will avoid double counting of units of learning and provide greater assurance that other learning, external to the core units, has been completed, to address the gap between the full Graduate Diploma and completing only the core units.

Evidence of the additional qualification would be a testamur or transcript showing that all course requirements have been completed. However, if a person can provide evidence that they are admitted to an Australian Supreme Court or High Court, including the date of admittance, this could be considered as an entitlement to a law degree. This is the practice under the accreditation process in the 2008 Regulations, and will ensure that people who completed alternative pathways to becoming a legal professional are not disadvantaged.

Paragraph 9(4) provides that the additional qualification can be a qualification awarded overseas if it is recognised by an Australian authority as meeting the requirements of an Australian qualification of a bachelor’s degree (or higher qualification of at least 12 months full time study, or equivalent part time study) where the field or discipline is mostly relevant to the provision of family dispute resolution.

- *The third pathway* (subsection 9(5)) – the person has met the requirements (and can provide evidence) of the successful completion of the core units under the Graduate Diploma, or equivalent units as certified under Division 5 of the 2025 Regulations and

the person is a registered practitioner with the Board of Australian Mediator and Dispute Resolution Accreditation Standards (AMDRAS) and has been registered for the two previous years.

Under this pathway, the person's additional skills relating to the provision of family dispute resolution is evidenced by holding, and maintaining for at least the two consecutive years immediately prior to applying to be an accredited family dispute resolution practitioner, accreditation under current, national mediation standards, as issued by recognised mediator accreditation bodies, however named under the AMDRAS (previously known as the National Mediator Accreditation System). This status may be validated through evidence issued by the accreditation body.

The requirement to have held this accreditation for at least two years prior to making an application to be an accredited family dispute resolution practitioner is a new requirement. It recognises the valuable experience gained from work experience in the general mediation sector.

If a person is accredited under this pathway, there is a requirement to maintain their accreditation under AMDRAS in order to continue to meet the accreditation criteria to be a family dispute resolution practitioner. Holding this status at the time that a decision is made regarding accreditation as a family dispute resolution practitioner is not sufficient to demonstrate ongoing compliance with the accreditation criteria.

- *The historical pathway* (subsection 9(6)) – the person has met the requirements of subregulations 5(1) or 5(2), or paragraph 5(3)(b) of the 2008 Regulations before 1 April 2025, and if relying on paragraph 5(3)(b) of the 2008 Regulations, also meets the requirements in paragraph 9(3)(b) or 9(5)(b) of the 2025 Regulations.

The historical pathway will ensure that people who had already completed the required courses or units prior to the commencement of the 2025 Regulations are not unfairly disadvantaged. People in this situation will be able to apply for accreditation without having to do additional study. It will also ensure that people applying for suspensions to be lifted will not be disadvantaged, as they will be able to use the same competencies and qualifications as before their accreditation was suspended.

This pathway will also support any previous decisions made by the Secretary in regard to the appropriateness of a person's qualification in order to have met subparagraph 5(3)(a)(i) of the 2008 Regulations.

The pathway will also provide that the Secretary could consider whether an individual had demonstrated exceptional circumstances for meeting the pathway. For example, a person may have been enrolled in certified units at the time of commencement, with the intention of applying under the old AMDRAS pathway (which did not require a 2 year registration period). In this instance, where a person chose to enrol in study without knowledge of the change, the Secretary may consider it appropriate to waive the 2 year AMDRAS registration period so the applicant is not unfairly disadvantaged by the change.

Notes in relation to a removed pathway: The 2025 Regulations remove an accreditation pathway which previously existed for people who were on the Register at 30 June 2009 and had until 30 June 2011 to complete three specified units of competency under the (then Vocational) Graduate Diploma or equivalent course. An accredited family dispute resolution practitioner that was accredited via this pathway prior to the commencement of this instrument will remain accredited, in line with the transitional provisions outlined at section 53(1) of the 2025 Regulations. However, if that accreditation is subsequently cancelled and

the person wishes to reapply for accreditation at a later stage, this pathway will no longer exist and the current accreditation requirements would need to be met in order to become reaccredited.

Similarly, a person whose accreditation is suspended at the time of commencement, and their accreditation had been determined on the basis of having been on the Register and had completed the three specified units of competency, would be eligible to return from suspension on this pathway, as outlined in subsection 33(2).

Section 10 – Application for accreditation

Person may apply for accreditation

Subsection 10(1) provides that a person wishing to be considered for accreditation as a family dispute resolution practitioner may apply to the Secretary.

Subsection 10(2) provides that the applicant must make that application in the manner or form approved by the Secretary, if one exists.

The application must include:

- (a) evidence, supplied by the applicant, which demonstrates how the accreditation criteria have been met
- (b) a declaration by the applicant that the information provided for the Secretary's consideration is true and correct. This makes it clear that the person has actively accepted responsibility for not providing false or misleading information in support of their application. Prior to making this declaration applicants should undertake any steps necessary to be confident that they are correct in making this declaration
- (c) the applicant's consent for the Secretary to verify material provided in support of the application, including a person's criminal history. This is an important step in validating that all the information provided is correct and supports the decision-making process in relation to granting accreditation.

Subsection 10(3) allows the Secretary to determine or approve the manner or form of the collection of the required information. The use of an approved form facilitates the collection of a common set of information to support the assessment of the application, and allows for appropriate records of government decision making to be maintained.

Secretary may request additional information or documents

Subsection 10(4) allows the Secretary to request additional information to support the assessment of a person's application. Where there is insufficient information available from which to make a decision, it is preferable to seek additional information rather than denying the application (and recommending that the person resubmit a new application with additional supporting material).

The Secretary is required to make the request for additional information in writing. In making a request for additional information, the applicant shall be given a reasonable amount of time to provide that information, taking into account the specific circumstances and the source of the information. For example, information which needs to be sourced from another country may take longer to obtain than documents which would be reasonably be expected to be easily accessible.

Subsection 10(5) requires that the Secretary request only information which would be relevant to the making of a decision, and would therefore assist the Secretary in making an

accreditation decision or determining if someone has continued to comply with the accreditation criteria. This protects the privacy of applicants.

Subsection 10(6) provides that the Secretary is not required to consider that application while waiting for additional information to be provided.

Subsection 10(7) provides that the applicant may request an extension of the period specified, and that the Secretary may extend the period if they consider that it would be reasonable in the circumstances.

Subsection 10(8) provides that where the applicant fails to comply with the notice within the specified time (whether or not that was the originally proposed timeframe or an extended timeframe if granted), that the application will be taken to have been withdrawn, and no decision is required to be made.

Section 11 – Secretary to decide application for accreditation

Secretary to decide whether person meets accreditation criteria

Section 11 provides that the Secretary will be the decision maker for an application for accreditation. It is a reasonable expectation that an applicant has a right to know the outcome of their application and for this to not remain unresolved. Failure to make a decision, where all the required information has been provided and a reasonable amount of time has elapsed to allow for the review of that information, would disadvantage the applicant from either commencing to provide family dispute resolution services, or, if the application was denied, appealing that decision.

Subsection 11(1) requires that the Secretary must make a decision as to whether an applicant for accreditation as a family dispute resolution practitioner meets or does not meet the accreditation criteria as soon as practicable after the day the application is received and any additional information, if sought, is provided. If the Secretary is satisfied that the applicant meets the accreditation requirements, the Secretary should grant accreditation. If the Secretary is not satisfied, accreditation must not be granted to the applicant.

Subsection 11(2) requires that in making a decision the Secretary must take into account the information received from the applicant through the application form or in response to any request for additional information under section 10(4) in the 2025 Regulations. This subsection also provides that the Secretary may take into account any other information, regardless of whether this was provided by the applicant, where this is relevant to determining suitability for accreditation.

Notification of decision

Subsection 11(3) requires that when a decision to grant accreditation is made, the Secretary must provide written advice to the applicant that accreditation has been granted, and advise them of the requirements for maintaining that status, including the standards and ongoing obligations to be met to maintain that status, as outlined in Division 3 of Part 2 of the 2025 Regulations.

Subsection 11(4) provides that a person is an accredited family dispute resolution practitioner as soon as the Secretary has advised that person that a decision to accredit them has been made.

Subsection 11(5) requires that where the Secretary determines that the person does not meet the accreditation criteria, and is therefore not eligible to be accredited as a family dispute resolution practitioner at that time, the Secretary must advise the person of this in writing,

including the reasons for the decision, and advising them of their right to seek a review of that decision in line with section 51 of the 2025 Regulations.

Section 12 – Family Dispute Resolution Register

Section 12 provides that the Secretary must keep a Family Dispute Resolution Register. The Family Dispute Resolution Register supports public access to information, ensuring members of the public are able to determine if a person offering family dispute resolution services is an accredited family dispute resolution practitioner. For clarity, court-appointed officers who undertake family dispute resolution (for example Registrars delegated to perform this function by the court) are not required to be on the register.

This is an addition to the 2008 Regulations. The 2008 Regulations recognised a register until 30 June 2009 in order to conceptualise the notion of having been ‘on the register’ at that date in order to be eligible for the three-unit pathway proposed for removal, as discussed above at section 9. A register has continued to be used to keep a record of accredited family dispute resolution practitioners. The 2025 Regulations ensure that the register remains a single source of information on accredited family dispute resolution practitioners to assist potential clients and referrers to confirm the accreditation status of a person claiming to provide family dispute resolution.

Subsection 12(1) requires that the Secretary establish and maintain such a register, and that it should be called the family dispute resolution register.

Information to be included in the register

Subsection 12(2) provides that the register must contain the name of the practitioner, the contact details for the practitioner, details of the conditions, if any, imposed by the Secretary on the practitioner’s accreditation, and information indicating how the practitioner meets the criteria for being an accredited family dispute resolution practitioner. These details must include:

- the competencies and qualifications of the practitioner that are relevant to the practitioner’s accreditation
- the approved complaints body that provides a complaints mechanism for the practitioner, and
- the professional indemnity insurance that covers the practitioner in relation to providing family dispute resolution services.

Subsection 12(3) provides that the register must also contain the name and last known contact details for any person whose accreditation is suspended or cancelled as well as a record of each application made under section 10 of the 2025 Regulations.

Additional information may be included in the register

Subsection 12(4) provides that the information which may be held in the register is not an exhaustive list and the register may hold additional information to support the administration of the accreditation scheme.

Section 13 – Family Dispute Resolution Register – certain information to be made public

Subsection 13(1) allows for certain additional information contained in the register to be made available to the public. This includes the name for each practitioner listed in the register, and subject to consent, contact details for each. This supports transparency and

assists the public to identify if a person is accredited as a family dispute resolution practitioner.

The legislative note provides that the register could be viewed, in 2025 at: <https://fdrr.ag.gov.au>.

Subsection 13(2) provides that the Secretary has the authority to approve a practitioner's name appearing on the register in an altered form or using a pseudonym for the purposes of complying with paragraph 13(1)(a) of the 2025 Regulations. It is expected that this would be approved only in exceptional circumstances, for example where a person could demonstrate that the publication of their actual name would expose them to risk of harm. To use this provision frequently, for example for personal convenience, would undermine the intent of publication of practitioner's names, which is to provide the public with a mechanism for identifying if a person from whom they may wish to receive services is authorised to provide the family dispute resolution service and are therefore afforded protections under the Family Law Act for confidentiality and inadmissibility for communications made to the practitioner.

Division 3 – Ongoing requirements of accreditation

Subdivision A – Preliminary

Section 14 – General Rule

Section 14 provides that an accredited family dispute resolution practitioner must comply with all obligations and conditions imposed by Division 3 of Part 2 of the 2025 Regulations in order to maintain their accreditation. It also requires accredited family dispute resolution practitioners to comply with any conditions imposed by the Secretary in relation to the practitioner's accreditation under section 28 of the 2025 Regulations.

Section 15 – Requirement to provide information to Secretary on request

Subsection 15(1) provides that the Secretary may request, by written notice, an accredited practitioner to provide information. The information must be relevant to the practitioner's compliance with the ongoing obligations and standards of accreditation under Division 3 of Part 2 of the 2025 Regulations.

Subsection 15(2) provides that the request must be in writing, and must specify the deadline for the information to be given to the Secretary. The deadline for providing information must not be less than 7 days after the date from which it was requested.

Subsection 15(3) allows the practitioner to request an extension to the period of time to respond to the request for information. The Secretary may grant that request if they consider that it is reasonable under the circumstances. If the Secretary does not think that the request to extend the period of time to respond to the request is reasonable, the Secretary does not have to agree to the request.

Subsection 15(4) provides that an accredited practitioner must comply with a request from the Secretary under subsection (1).

When requesting information, the Secretary should be guided by the relevance of the requested information to the performance of any functions or obligations under this instrument, for example relating to decisions to maintain, suspend, cancel or place conditions on a person's accreditation.

Subdivision B – Requirements relating to accreditation criteria

Section 16 – Requirement to notify Secretary if certain circumstances occur

Section 16 provides that an accredited family dispute resolution practitioner must notify the Secretary in a number of circumstances.

Subsection 16(1) sets out the events that, if they occur, require the accredited family dispute resolution practitioner to advise the Secretary, in writing, of the event. These are:

(a) that the accredited family dispute resolution practitioner has ceased to provide family dispute resolution

- There are circumstances where the person no longer intends to provide family dispute resolution, where at the point the decision was made this is likely to be permanent or for a lengthy duration, and they do not wish to maintain their status as an accredited family dispute resolution practitioner.

This is not intended to apply should the person be temporarily suspending offering services (for example for a holiday or changing employers) and the person intends to recommence services within a short period of time.

(b) the accredited family dispute resolution practitioner has been prohibited under a law of a State or Territory from working with children

- The State or Territory would pursue the action to officially impose the prohibition, for example a person became convicted under an offence or has triggered the prohibition under some other form of official sanction.

(c) the accredited family dispute resolution practitioner has failed to comply with a law of a State or Territory relating to employment of persons working with children

(d) the accredited family dispute resolution practitioner has become a disqualified person, in accordance with subsection 8(3) of the 2025 Regulations

(e) if a party has been charged with an offence which could, if convicted, result in any of the outcomes as outlined in subsections 16(1)(b) to (d) of the 2025 Regulations

- While charges, at this stage, have not yet been proven, a person continuing to provide services while the charges are pending could bring family dispute resolution into disrepute and therefore have a negative impact on the community's perception of the service. Charges of this nature are particularly serious and warrant early action by the Secretary in considering the implications for the person's ongoing accreditation status.

(f) the person no longer has access to an approved complaints mechanism

- This is considered to be an essential consumer protection mechanism and is a mandatory criterion to obtain and maintain accreditation as a family dispute resolution practitioner.

(g) the person no longer has appropriate professional indemnity insurance

(h) the person has failed to comply with a condition of the practitioner's accreditation as imposed under section 28 of the 2025 Regulations

- (i) the person no longer holds accreditation in line with national mediation standards, where the person attained accreditation as a family dispute resolution practitioner using the third pathway (as outlined at section 9(5) of the 2025 Regulations)
- (j) the practitioner has been disqualified from other professional practice (not including family dispute resolution)
- (k) the body approved to act as the person's complaints mechanism specified in paragraph 8(1)(b) of the 2025 Regulations has placed a condition on the practitioner's membership with the body
- (l) any other circumstance that may affect the practitioner's accreditation
 - This will be considered holistically within the context of all requirements and obligations which support the effective provision of family dispute resolution under the Family Law Act. This could include any issue which may affect a person's suitability to perform this function outside of those already listed, including administrative matters such the nature of complaints made against the person; other intersections with the legal or quasi-regulatory bodies which regulate personal or professional behaviour which may bring a person's character or judgement into question, or any significant or negative public exposure which may question the integrity of the provision of family dispute resolution by the community. This is not an exhaustive list.

Subsection 16(2) requires the accredited family dispute resolution practitioner to provide the Secretary with notice that they had ceased to provide family dispute resolution within 28 days of the day from when the circumstance first occurred. In all other events, the subsection provides that the practitioner must advise the Secretary within 7 days of when the circumstance first occurs.

Section 17 – Requirement to update register if certain event occurs

Subsection 17(1) provides an obligation for an accredited family dispute resolution practitioner to update the register, in the manner and form as required by the Secretary (if any), of:

- (a) any change in name
- (b) any change in contact details
- (c) any change in the practitioner's complaints mechanism(s), which may have occurred because:
 - (i) the person has renewed membership of their previous approved complaints mechanism, or
 - (ii) the person has commenced membership of a new approved complaints mechanism, or
 - (iii) the person no longer has access to an approved complaints mechanism
- (d) any change in relation to the professional indemnity insurance held by the practitioner, which may have occurred because:

- (i) the previous policy has been renewed, or
 - (ii) the practitioner is no longer covered by any professional indemnity insurance in relation to their role as an accredited family dispute resolution practitioner, or
 - (iii) the practitioner takes out a new professional indemnity policy with a different insurance provider
- (e) where the practitioner met the third pathway for accreditation in section 9(5) of the 2025 Regulations, any changes to the status of the person’s registration as per subparagraph 9(5)(b)(i) of the 2025 Regulations, which may have changed because:
- (i) the registration has been renewed,
 - (ii) the registration has been suspended, or
 - (iii) the person no longer holds the registration.

The register is both an administrative tool and a way to ensure that the public can confirm if a person purporting to provide family dispute resolution services is an accredited practitioner. Currency of information on the register is therefore vital to ensuring it appropriately meets these public and professional needs. These requirements ensure that the Secretary can maintain up to date and accurate records of accredited family dispute resolution practitioners.

It also ensures that there is effective communication of information relevant to family dispute resolution, including issues or information which may affect a person’s accreditation. It is therefore also to the benefit of the practitioner to maintain current contact details to allow for the receipt of this information.

Subsection 17(2) provides that the Secretary may approve the manner or form in writing for updating the register.

Subsection 17(3) requires that the register must be updated within 28 days of the change of contact details, and 7 days for all other changes.

Section 18 – Requirement to undertake continuing professional development

Section 18 sets out the requirement for accredited family dispute resolution practitioners to undertake continuing professional development. Professional practice in relation to family law and family dispute resolution will continue to evolve. To provide effective professional services in this environment, it is important that practitioners have current skills and knowledge.

Paragraph 18(1)(a) provides that it is a condition of accreditation for the practitioner to undertake at least 24 hours of education, training or professional development in family dispute resolution in each 24 month period starting on the day of the person’s accreditation as a family dispute resolution practitioner. This requirement continues for each subsequent period of 24 months where the person remains accredited. The requirements for continuing professional development to be eligible to be considered against this requirement are set out in Subsection 18(2).

On 30 June 2022, a condition was imposed on accredited family dispute resolution practitioners under the 2008 Regulations which required practitioners to onboard to, and engage with, the online family dispute resolution register in order to maintain their accreditation. This process in effect acted as a re-accreditation process, as all practitioners were required to provide current contact information, submit evidence towards having a

current complaints mechanism and insurance cover, and to make a declaration towards not being a disqualified or ineligible person for continuing their accreditation. Where a practitioner was accredited on the basis of having the national mediation accreditation, they were required to provide their current accreditation in order for that to be recorded in the register.

Practitioners onboarding to the register at that time were issued with a new registration number and were advised that the date of their education, training or professional development obligation started afresh on the day they received confirmation they had successfully onboarded to the new register. Subsequently, all new applications for accreditation approved after 30 June 2022 commenced their obligation to undertake continuing professional development from the date their accreditation commenced. The continuity of the obligation to undertake professional development will be seamless upon commencement of the 2025 Regulations, meaning that their professional development deadlines will not change.

For clarification, a person returning from having their accreditation suspended under the 2008 Regulations or the 2025 Regulations will have their obligation to undertake continuing professional development commence from the date their accreditation is reinstated.

Paragraph 18(1)(b) requires that records which can substantiate the completion of the continuing professional development must be maintained. This may include records of enrolment and completion of training, attendance at events, and dates and times of periods of study including self-directed study.

Paragraph 18(1)(c) provides that the accredited family dispute resolution practitioner must hold those records (of completion of continuing professional development) for a period of 7 years. This supports audit and compliance activity in relation to this ongoing obligation.

Subsection 18(2) requires that for continuing professional development activities to contribute towards the requirement to undertake the specified amount of development, it:

- (a) must be directly relevant to the provision of family dispute resolution; and
- (b) include content which increases knowledge and understanding of family violence;
and
- (c) may include a combination of a range of forms of education, training or professional development, including attending courses or seminars, or reading publications. This is not an exhaustive list, but accredited family dispute resolution practitioners should be conscious of the requirement for the activity to be directly relevant to family dispute resolution when considering the suitability of activities undertaken.

Subsection 18(3) provides a mechanism for the Secretary to allow a specified extra period in which the accredited practitioner must complete the required training. This reflects that there may be cases where a practitioner has failed to complete the required professional development where it is appropriate to provide the practitioner with extra time to complete the required hours of training, education or professional development rather than suspend or cancel the accreditation.

Subdivision C – Requirements relating to standards of practice

Section 19 – Requirement to uphold reasonable professional standards

Section 19 provides that the accredited family dispute resolution practitioner must uphold reasonable professional standards, that is, perform their functions in a manner which meets reasonable expectations of the delivery of family dispute resolution for separated and separated families. The provision of a family dispute resolution service should be an impartial facilitative mediation process conducted by an accredited family dispute resolution practitioner in a fair, safe and ethical manner, assisting separated or separating families to reach decisions or agreements about parenting, property or financial matters that can be dealt with under the Family Law Act.

Section 20 – Requirement to assess whether it is appropriate for persons to attend family dispute resolution sessions

Section 20 provides for the assessment by a family dispute resolution practitioner of whether it is appropriate for persons to attend, or continue to attend, family dispute resolution sessions. This requirement serves as an ultimate safeguard for families, and for practitioners themselves, ensuring that the people participating in family dispute resolution are not placed at unnecessary risk and are freely able to negotiate in the family dispute resolution.

Subsection 20(1) provides that the practitioner must determine whether it would or would not be appropriate to conduct family dispute resolution sessions, or to continue to conduct those sessions, with the parties involved.

Subsection 20(2) provides the matters that a practitioner must consider for the purposes of making a determination. The practitioner will be obliged to consider whether the ability of one or more of the parties to negotiate freely is affected by any of the following matters:

- (a) the presence or history of family violence amongst the parties, or the parties and their children
- (b) the likely safety of the parties, or of any other person involved in the conduct of the sessions
- (c) the equality of bargaining power amongst the parties
- (d) if the dispute involves children, the risk that a child may suffer abuse
- (e) the emotional, psychological and physical health of the parties
- (f) the undue bias or influence of a person (whether or not the person is a party to the dispute) on the parties
- (g) any other matter that the practitioner considers has a material impact on the ability of the parties to negotiate freely.

The presence or pattern of any of these issues could make it unlikely that both parties could engage in a fair and equitable discussion about post-separation arrangements in a way that promotes wellbeing and safety. Where these risk factors are present, it could be inappropriate to conduct or continue family dispute resolution sessions as, for example, there is a likelihood that a party may feel compelled to agree to an outcome, including an outcome that they do not feel is in the best interests of them or their children, rather than risk further retribution from the other party.

This does not mean that family dispute resolution session will be inappropriate in every instance where these risk factors may be present. The experience and professional judgement

of the practitioner will be an important element in determining whether the risks of family dispute resolution sessions are too high, or are manageable.

Depending on a range of circumstances, some risk factors may be more manageable, and family dispute resolution sessions remain a viable option, rather than going to court. Every family dynamic will be different, but issues such as the presentation of the parties (for example, displaying significant stress rather than appearing calm); support available to the parties (for example, having a support person, legal advisor or counsellor present); the length of time since events occurred; the mode of conduct of the family dispute resolution session (for example, face to face compared with shuttle); or the individual practitioner's own expertise (as enhanced through specialist training) could all play a role in a person's ability to freely and fairly engage in family dispute resolution sessions.

The practitioner should consider both the presence of these risk factors, and any factors which may act to mitigate those risks, in establishing whether it would be inappropriate to commence, or continue, with family dispute resolution sessions.

Subsection 20(3) provides that, subject to sections 21 and 25, the practitioner may conduct the sessions only if the practitioner has determined that it would be appropriate to conduct the sessions.

The 2008 Regulations specify that the suitability assessment is to be done before family dispute resolution can commence. This change includes the assessment for suitability as a part of the family dispute resolution process. Including the assessment in the family dispute resolution process means that the confidentiality and inadmissibility protections in the Family Law Act would apply to the assessment as well as the rest of the process. This is important because it will encourage clients to speak more freely and increases the likelihood of them raising matters that the practitioner should be aware of when considering if family dispute resolution is appropriate, or to make safety plans for the family dispute resolution session.

Section 21 – Requirement to provide information to persons attending family dispute resolution sessions

Section 21 provides that if a family dispute resolution practitioner makes a decision that it is appropriate to conduct family dispute resolution sessions, taking into account the factors which contribute to that decision as outlined in section 20 of the 2025 Regulations, the practitioner must ensure that parties to those sessions receive specific information. This section is crucial to ensure that parties undertaking family dispute resolution sessions are fully informed about the implications surrounding that session, including all of the relevant obligations upon the practitioner.

Subsection 21(1) provides that the practitioner must provide:

- (a) the information mentioned in subsection 21(2) of the 2025 Regulations, and
- (b) if some or all of the disputes are in relation to children—the information mentioned in subsection 21(3) of the 2025 Regulations.

The legislative note to subsection 21(1) refers users of the 2025 Regulations to sections 12B (prescribed information about non-court based family services and court's processes and services), 12G (obligations on family counsellors, family dispute resolution practitioners, and arbitrators) and 63DA (obligations of advisors) of the Family Law Act, which may impose additional requirements to give information.

Subsection 21(2) provides the specific information that an accredited family law practitioner must provide:

- (a) that the person providing the service is an accredited family dispute resolution practitioner
- (b) that it is not the role of the practitioner to give people legal advice (unless the practitioner is also a legal practitioner or the advice is about procedural matters)
 - Advice in this context should not be specific to the interests of one party, which would be creating an unfair negotiating position, but may include, for example, information on how a court may take family dispute resolution attempts into consideration if the matter proceeds to court.
- (c) the practitioner’s confidentiality and disclosure obligations under section 10H of the Family Law Act (confidentiality of communications in family dispute resolution)
- (d) that, unless an exception in subsections 10(J)(2) or (3) of the Family Law Act applies, evidence of anything said, or an admission made, in family dispute resolution is not admissible in any court (whether exercising federal jurisdiction or not), or in any proceedings before a person authorised by a law of the Commonwealth or a State or Territory, or by the consent of the parties, to hear evidence
- (e) the practitioner’s obligations to report suspected child abuse etc. under section 67ZA of the Family Law Act (as a mandatory reporter)
- (f) the fees (including any hourly rate) charged by the practitioner in respect of the family dispute resolution
- (g) information about the complaints mechanism that a person accessing the family dispute resolution may use.

The legislative note to subsection 21(2) provides that paragraphs 21(2)(c) and (d) point to the general rule that communications during family dispute resolution are confidential and not admissible in court, while also drawing attention to sections 10H (confidentiality of communications in family dispute resolution) and 10J (admissibility of communications in family dispute resolution and in referrals from family dispute resolution) of the Family Law Act, which specify exceptions to the general rule when disclosure by a family dispute resolution practitioner is permitted.

Subsection 21(3) identifies the specific information to be provided for the purposes of paragraph 21(1)(b) of the 2025 Regulations, including:

- (a) that family dispute resolution sessions must be attended as per section 60I of the Family Law Act before applying for an order under Part VII of the Act (relating to children and parenting), unless an exception applies.
- (b) that, if a certificate under subsection 60I(8) of the Family Law Act is filed, a court may take the certificate into account when determining whether to make an order under section 13C of the Act referring the parties to attempt, or reattempt, family dispute resolution, or in relation to awarding costs (in line with section 117 of the Act).

This reflects that where the courts are of the opinion that family dispute resolution could have been successful if both parties made an attempt to seek to reach agreement, the courts may require both parties to engage, or further engage, with family dispute resolution before a matter can proceed to a hearing. As the courts can consider that the failure to engage meaningfully with family dispute resolution was the fault of a party, parties should be

informed that there is the potential that the court could award costs to the other party associated with hearing the case in court. Given the significance of the financial implications of this action, it is important that parties be aware that they could be compelled to meaningfully engage in an attempt to reach agreement outside of the court, or face financial consequences.

Section 22 – Requirement to ensure suitability of family dispute resolution sessions

Section 22 provides that the family dispute resolution practitioner must undertake reasonable efforts to ensure that the family dispute resolution can be conducted in a way that suits the needs of the participants. This ensures that the sessions remain fit for purpose and nuanced to the particular circumstances of the parties and their relationship. This can take into account preferences, individual needs (for example for support people, translators or child care), suitable modes of delivery of family dispute resolution (which can include virtual services), ability to attend or access technology which allows for attendance, working schedules (including for fly-in/fly-out type working arrangements) or other matters relevant to the person's circumstances.

The legislative note provides three examples of issues that could be adjusted to ensure suitability, such as the mode of delivery including timing and whether the session is online or in-person, the manner of delivery, and the venue. A court may perceive a party's lack of engagement with family dispute resolution to be obstructionist (in the context of awarding costs), when in fact, failure to attend family dispute resolution could be because it was scheduled during that person's working hours and they were unable to attend at that time.

Section 23 – Requirement to end family dispute resolution on request

Section 23 provides that the family dispute resolution practitioner must cease to conduct family dispute resolution if a party to the family dispute resolution requests that it be ended. This will ensure that parties are not forced to participate unwillingly, and will ensure that no party is required to pay for a service (where fees are charged) they do not want to continue with.

Section 24 – Requirements for giving certificates under subsection 60I(8) of the Act

Section 24 set out the requirements for issuing a section 60I certificate.

A section 60I certificate is a certificate issued under subsection 60I(8) of the Family Law Act. The certificate is issued to indicate that a person:

- did not attend family dispute resolution due to the other party or parties involved in the dispute refusing or failing to attend family dispute resolution
- did not attend family dispute resolution because the practitioner considered that it would not be appropriate to conduct family dispute resolution
- attended family dispute resolution and all attendees made a genuine effort to resolve the issues in dispute
- did not make a genuine effort to resolve the issues in dispute
- attended family dispute resolution with the practitioner and the other party or parties, but the practitioner considered it would not be appropriate to continue family dispute resolution.

Subsection 24(1) provides that requirements must be met by the accredited family dispute resolution practitioner when issuing certificates under subsection 60I(8) of the Family Law Act.

A legislative note provides that in addition to the requirements outlined in this section, a practitioner must also have regard for the matters prescribed by section 50 of the 2025 Regulations.

Timeframe for giving certificate

Subsection 24(2) provides that a family dispute resolution practitioner must not give a certificate under subsection 60I(8) of the Family Law Act to a person more than 12 months after the person last attended family dispute resolution (or from the date the person attempted to attend) noting that the family dispute resolution must be about the issue or issues that a Part VII order (Part VII of the Act) would deal with. This requirement will ensure that a certificate only remains valid while the issues and matters are relevant.

Certificate about person not attending family dispute resolution

Subsection 24(3) provides the parameters under which a family dispute resolution practitioner may issue a certificate under paragraph 60I(8)(a) of the Family Law Act where a person has failed to attend family dispute resolution. Specifically, the practitioner (or a person acting for the practitioner) may only issue a certificate if they have, at least twice, contacted (or attempted to contact) each party who has failed to attend, with at least one contact being made in writing. Those contacts must:

- (a) give the party a reasonable choice of days and times for attendance at a family dispute resolution session; and
- (b) tell the party that, if the party does not attend a family dispute resolution session that the practitioner may give a certificate under paragraph 60I(8)(a) of the Family Law Act; and that the certificate may be taken into account by a court.

Certificate given on behalf of another practitioner

Subsection 24(4) provides that a practitioner may issue a certificate on behalf of another practitioner if they are familiar with the case and the other practitioner becomes incapable of giving the certificate. This avoids the need for the parties to reattempt family dispute resolution solely on the grounds that the practitioner who undertook the original family dispute resolution is unable to issue the certificate.

A legislative note provides an example of incapacity being the death of the practitioner.

In this instance, provided that another accredited family dispute resolution practitioner can become suitably familiar with the case, such as through reading detailed notes, they may be able to issue the certificate. Only accredited family dispute resolution practitioners can issue the certificate, and not general administrative or management staff where the accredited practitioner works.

Form of certificate

Subsection 24(5) provides that the accredited family dispute resolution practitioner can only issue a certificate where that certificate follows the form as outlined in Schedule 1 to the 2025 Regulations.

Subsection 24(6) provides that any proceedings in a relevant court on an application for an order under Part VII of the Family Law Act (relating to children), or any order made in those proceedings is not affected or invalidated by a failure to comply with the requirement of subsection 24(5) of the 2025 Regulations. This provides an essential protection to the clients of the family dispute resolution practitioner, who should not be disadvantaged or required to complete further family dispute resolution on the sole basis that the issued certificate is not in

the prescribed form. It will also ensure that subsequent court proceedings (which can be emotionally and financially challenging) are not rendered invalid by an administrative error. This is a necessary and appropriate measure to ensure that vulnerable families are not disadvantaged.

Section 25 – Requirement to avoid conflicts of interest

Section 25 establishes an expectation that a family dispute resolution practitioner will avoid, as much as possible, conflicts of interest when conducting family dispute resolution. To achieve fairness and equity to all parties, it is important that family dispute resolution is conducted in an impartial and unbiased manner. This is also a requirement under section 10F of the Family Law Act, which requires a family dispute resolution practitioner to be independent of all parties involved in the family dispute resolution process.

Subsection 25(1) provides that the section will apply if a family dispute resolution practitioner conducting, or intending to conduct, family dispute resolution, has one of the following relationships with a party to a dispute that is the subject of the family dispute resolution, or with any other party to that dispute:

- (a) has acted previously, or is currently acting in a professional capacity, except as a family dispute resolution practitioner, a family counsellor or an arbitrator, or
- (b) has had a previous, or has a current, commercial dealing, or
- (c) is, or was, a personal acquaintance.

Subsection 25(2) requires that if any of the circumstances outlined in subsection 25(1) apply, the family dispute resolution practitioner may only conduct family dispute resolution with those parties if:

- (a) each party accessing the family dispute resolution agrees in writing, and
- (b) where the relationship is in a professional capacity—the matter in respect of which the practitioner acted, or is acting, in a professional capacity does not relate to an issue in the dispute, and
- (c) where the relationship is commercial or personal—neither the commercial dealing or the acquaintance is of a kind that could reasonably be expected to influence the practitioner in the conduct of the family dispute resolution.

These exceptions recognise that there may have been a previous professional or personal relationship between the parties which has no relation to any issues in the dispute. All parties must agree that the practitioner is suitable in these circumstances to provide the family dispute resolution.

Section 26 – Requirements in relation to records and information

Section 26(1) provides that family dispute resolution practitioners must ensure that records relating to family dispute resolution conducted by the practitioner, including case notes and files, are stored securely to prevent unauthorised access and retained for at least 24 months. These will be essential protections for consumers, ensuring confidence that that information will be available in relation to complaints made after the completion of service.

Subsection 26(2) prohibits the use of any information acquired from family dispute resolution for personal gain or to the detriment of any person.

The inclusion of a specified minimum time period for retention of records is a new requirement, and will be an important protection for consumer rights. As the 2025 Regulations include a 12 month limitation on making a complaint (paragraph 45(2)(b)), a 24

month retention window is appropriate and will ensure that complaints can be investigated with all available information.

Section 27 – Requirements in relation to providing legal advice

Section 27 provides that an accredited family dispute resolution practitioner must not provide legal advice to a person undergoing family dispute resolution unless that practitioner is also a legal practitioner or the advice is about procedural matters.

Practitioners who do not have formal legal training do not have the skills to provide legal advice. However, it is important that a practitioner is able to give parties some information about procedural matters. For example, information about where to make an application at court or general information about a court process. This does not include helping people prepare court documents.

Division 4 – Imposition of conditions on, and suspension or cancellation of, accreditation

Section 28 – Secretary may impose, vary or revoke conditions

Paragraph 28(1)(a) provides that the Secretary, by written notice, may impose a condition on the accreditation of an accredited family dispute resolution practitioner. This will, for example, give the Secretary the authority to require that the practitioner do a certain thing, in order to be able to provide family dispute resolution. This could be in response to emerging practice issues, or to address the behaviour of an individual practitioner.

Paragraph 28(1)(b) provides the Secretary with the authority to vary or revoke a condition imposed on the practitioner's accreditation by written notice. This provides the Secretary with flexibility to adjust the requirements placed on one or more accredited practitioners. For example, a condition may be extended due to the person not meeting a deadline imposed under paragraph 28(1)(a) of the 2025 Regulations, rather than having their accreditation considered for cancellation for failing to meet the condition, or to allow the Secretary to end a condition that is no longer required.

Accredited practitioners must comply with all conditions of accreditation, whether they are set out in Divisions 2 or 3 of Part 2 of the 2025 Regulations, or added at a later date.

Paragraph 28(2)(a) provides that the notice to impose, vary or revoke a condition, must be given to the practitioner within 7 days of making the decision.

Paragraph 28(2)(b) provides that the Secretary must, in issuing the notice, outline the reasons for imposing, varying or revoking the condition, the date when the condition or revocation or variation of the condition takes effect, what the person needs to do in order for the condition to be revoked (if one is imposed), and information about the practitioner's review rights under section 51 of the 2025 Regulations.

Subsection 28(3) provides that the Secretary must try to contact the practitioner at least twice to give the practitioner an opportunity to provide comments on the intention to make the decision. The attempts to contact the practitioner must be no later than 28 days before the decision, and at least one contact must be in writing.

Section 29 – Secretary may suspend accreditation

Section 29 sets out the circumstances in which the Secretary may suspend the accreditation of a family dispute resolution practitioner.

Subsection 29(1) provides that the Secretary is able to suspend a practitioner's accreditation if they are satisfied:

- that the practitioner has failed to comply with the Family Law Act or any obligation imposed on the practitioner by the Act or this instrument (subparagraph 29(1)(a)(i))
 - Family dispute resolution practitioners play an important role in the family law system. Taking action to suspend an accreditation may be warranted as it would generally be inappropriate for practitioners to continue to be accredited when they have failed to comply with the obligations imposed on them by the Family Law Act or the 2025 Regulations.
- the practitioner does not meet the accreditation criteria as set out in paragraphs 8(1)(a), (b), (c) or (d) of the 2025 Regulations (subparagraph 29(1)(a)(ii))
 - For example, if a practitioner no longer has access to an appropriate complaints mechanism for the provision of their family dispute resolution service, noting this is an accreditation criterion at 8(1)(b) of the 2025 Regulations, the Secretary may suspend the practitioner’s accreditation due to them not being appropriately able to provide services to their clients.

It is not appropriate for persons who no longer meet the accreditation criteria to retain their accreditation or purport to provide services which are covered by the protections of the Family Law Act or requirements of the 2025 Regulations.

- the practitioner has failed to comply with any condition of the accreditation (subparagraph 29(1)(a)(iii))
 - The accreditation of a practitioner may be subject to compliance with a number of conditions, which may be changed, added to, or revoked. The conditions are imposed in order to ensure that people who are accredited as family dispute resolution practitioners are appropriate people to be delivering services to families. If accredited practitioners do not comply with these conditions, it may be appropriate to suspend their accreditation.
- the practitioner has engaged in conduct that is likely to bring family dispute resolution into disrepute (subparagraph 29(1)(a)(iv)).
 - The Secretary may suspend the accreditation of a family dispute resolution practitioner who behaves in a manner which negatively affects the public’s perception of family dispute resolution. For example, where a family dispute resolution practitioner disseminates propaganda denying the existence of family or domestic violence or coercive control.

Legislative prescription of behaviour that is likely to bring a profession or body into ‘disrepute’ is not unusual, at both the Commonwealth and State and Territory level.

Paragraph 29(1)(b) provides that suspension of accreditation is only appropriate if the Secretary was of the belief that any issues which gave rise to the application of the suspension could be rectified in a reasonable time. For example, a practitioner who ceases to have access to a complaints process may be suspended in order to give them an opportunity to arrange for membership of a different complaints body, or renew a lapsed membership to an existing complaints body. In this scenario, consideration towards cancellation would not be necessary as the matter can be remedied in a reasonable time. However, if there was no reasonable prospect of remediation, cancellation in accordance with section 34 of the 2025 Regulations may be a more appropriate option.

Subsection 29(2) provides that if a person is charged with an offence that, if they were convicted, would result in the person failing to comply with the accreditation requirement as outlined in paragraph 8(1)(e) of the 2025 Regulations, their accreditation may be suspended while the case is open. If the charge does not proceed or the practitioner is found not guilty, their accreditation may be reactivated. If the practitioner is convicted of the offence, their accreditation will be cancelled under section 34 of the 2025 Regulations.

Section 30 – Suspension of accreditation– notice to show cause

Subsection 30(1) provides that if the Secretary intends to suspend a family dispute resolution practitioner’s accreditation, the Secretary must notify the practitioner in writing of their intention to make the decision and the reasons for it, and ask the practitioner to show cause in writing as to why their accreditation should not be suspended. The practitioner’s response to the notice must be provided to the Secretary within a specified period of at least 28 days of the date of the notice being issued.

This process ensures the practitioner receives comprehensive information about the circumstances leading to the suspension. This also provides the practitioner with an opportunity, if they choose, to explain the situation, which could involve correcting misconceptions or detailing extenuating circumstances.

For example, a practitioner may fail to update their contact details on the family dispute resolution register within 28 days of the change occurring (as required under section 17 of the 2025 Regulations). However, this may be due to the death of a family member, which would be relevant to the Secretary’s decision.

Subsection 30(2) provides that the Secretary must not make a decision to suspend the accreditation until either the person responds to the notice, or the period specified in the notice ends, whichever is earliest. This allows the practitioner time to respond to the Secretary and also provides for the matter to be dealt with within a reasonable time frame should the practitioner fail to respond.

Subsection 30(3) requires the Secretary, in making a decision on whether to suspend the accreditation, to have regard to any information or documents received in response to the notice to show cause and any other matters the Secretary considers relevant. However, should the practitioner’s response fail to satisfy the Secretary, the Secretary may suspend the practitioner’s accreditation.

Section 31 – Suspension of accreditation on request

Section 31 provides that the Secretary must suspend an accredited family dispute resolution practitioner’s accreditation if the practitioner requests the Secretary, in writing, to do so.

Voluntary suspension allows a practitioner to not maintain compliance with all of the accreditation requirements for the period of the suspension. This offers a benefit to the practitioner, for example if they intended to take a lengthy break from the provision of services.

Section 32 – Suspension of accreditation – notice of suspension

Where the Secretary suspends a person’s accreditation, section 32 provides that the Secretary must give the practitioner written notice of the suspension. The notice must include:

- (a) the reasons for, and the effect of, the suspension
 - This includes whether the suspension was made as a decision of the Secretary or if it was requested by the person, and that the suspension prohibits the person from

providing family dispute resolution or from purporting to be an accredited family dispute resolution practitioner while the suspension is in place.

(b) the date when the suspension takes effect

- This provides clarification as to when the action to suspend the person's accreditation commenced, or commences.

(c) what the practitioner must do, or what event or circumstances must occur to lift the suspension.

- This reflects the process provided in section 33 of the 2025 Regulations so the person understands what is required in order to regain their accreditation.

(d) that the person's accreditation will be cancelled if the person's suspension is not lifted within 5 years

- This is a new addition to the 2025 Regulations. It will limit the time that a person's accreditation can stay in a suspended state. It is appropriate due to the likelihood that after 5 years, a practitioner's skills and knowledge in family dispute resolution would no longer be current.

As of January 2025, there are over 500 people who have remained suspended for a significant period of time, rather than cancelling their accreditation upon retirement or long-term illness, with many having been suspended from as early as 2010.

A 5-year maximum balances the need for practitioners to manage personal circumstances (such as caring duties for young children, elderly or people with long-term illnesses) with the importance of maintaining their skills and knowledge of family dispute resolution.

(e) where the person's accreditation was suspended by a decision made by the Secretary under section 29 of the 2025 Regulations, they must be provided with information about the practitioner's review rights under section 51 of the 2025 Regulations.

The legislative note provides that the Secretary must cancel an accreditation that has been suspended for at least 5 years, in accordance with paragraph 37(2)(b) of the 2025 Regulations.

It is important to ensure that practitioners are afforded natural justice and procedural fairness. Written notification allows people to ensure that they are able to properly understand why a decision has been made, or an action taken, and have a firm basis on which to pursue an appeal of the decision, if they seek to do so.

Section 33 – Suspension of accreditation – requirements for lifting suspension

Section 33 provides the requirements for lifting a practitioner's suspension. Where a practitioner requests suspension be lifted, this is not an automatic outcome. Before agreeing to lift the suspension, the Secretary must be satisfied that all required conditions and that all accreditation criteria are met.

Subsection 33(1) provides that if a person requests that the Secretary lifts their suspension of accreditation, the Secretary must make a decision to either lift or not lift the suspension. If the Secretary has approved a manner or form to make the request, then the person would have to use that manner or form when making the request.

Subsection 33(2) establishes the requirements that will need to be demonstrated to enable the Secretary to return a suspended practitioner's accreditation to a fully accredited status. The person making the request must provide:

- (a) evidence about how the person meets the accreditation criteria

The person will need to demonstrate that they still meet the accreditation criteria in paragraph 8(1)(a) as the criteria were at the time they were accredited.

The person will also need to demonstrate that they meet the criteria in paragraphs 8(1)(b) to (e).

- (b) in relation to an accreditation suspended on the discretion of the Secretary under section 29 of the 2025 Regulations, evidence about how the person has complied with a requirement set by the Secretary, in circumstances where the notice of suspension stated what the person must do to lift the suspension or evidence that the relevant event has occurred in circumstances where the notice of suspension states the event that must occur to lift the suspension.
- (c) a declaration that any information or documents provided as evidence are true and correct
- (d) the person's consent for the Secretary to verify any information or documents provided, including information relating to the person's criminal history.

Subsection 33(3) provides that for the purposes of demonstrating the criteria in paragraph 2(a):

- (a) if the person was accredited before 1 April 2025, the person would be taken to meet the requirements of section 9 of the 2025 Regulations if they meet the requirements in regulation 5 of the 2008 Regulations at the time they were accredited

This will ensure that practitioners who were accredited prior to the commencement of the 2025 Regulations are able to suspend and lift their suspensions without needing to demonstrate competencies or qualifications they were not required to have when they gained accreditation.

- (b) if the person was registered under the third pathway (see section 9(5) of the 2025 Regulations) they must demonstrate that they are currently on the register administered under the Australian Mediator and Dispute Resolution Accreditation Standards.

Subsection 33(4) allows the Secretary to approve in writing the manner or form for giving evidence, declaration or consent. This allows for consistency in information gathering.

This section is a new addition to the 2025 Regulations. It provides transparency for a person seeking to have the suspension lifted from their accreditation. It is also in line with current procedures.

Section 34 – Secretary may cancel accreditation

Section 34 provides for the Secretary to either immediately cancel a person's accreditation, or to cancel accreditation following the proposed show cause process outlined in section 35 of the 2025 Regulations.

Immediate cancellation if person is a disqualified person

Subsection 34(1) provides that where a practitioner ceases to meet the accreditation criterion under paragraph 8(1)(e) of the 2025 Regulations by becoming a disqualified person (as

defined in subsection 8(3) of the 2025 Regulations), or the practitioner is prohibited under a Commonwealth, State or Territory law from working with children (per paragraph 8(2)(a) of the 2025 Regulations), the accreditation may be cancelled immediately.

Where a person has been convicted of an offence involving violence or has become prohibited from working with children, it is appropriate to immediately cancel accreditation to provide essential protections to the community. Early and immediate action is required to reduce risk to families, as it is inappropriate for the practitioner to retain their accreditation in these circumstances.

The legislative note provides that the Secretary is not required to undertake the show cause process set out in section 35 of the 2025 Regulations in these circumstances.

Cancellation subject to show cause process

In other circumstances it is appropriate that additional information be sought to support a decision to cancel a practitioner's accreditation.

Subsection 34(2) provides the circumstances which require the Secretary to seek information before making a decision to cancel a practitioner's accreditation. These circumstances are:

- (a) the practitioner fails to comply with the Family Law Act or any obligation imposed on the practitioner by the Act, or
- (b) the practitioner no longer meets accreditation criteria, as outlined in 8(1)(a), (b), (c) or (d) of the 2025 Regulations, relating to competencies and qualification; maintaining access to an approved complaints mechanism, coverage by professional indemnity insurance, and being a fit and proper person, or
- (c) the practitioner has failed to comply with any condition of the practitioner's accreditation, or
- (d) the practitioner has engaged in conduct that is likely to bring family dispute resolution into disrepute, or
- (e) the practitioner knowingly gave false or misleading information, or failed to disclose material information, in order to be accredited or in purported compliance with a condition of the practitioner's accreditation.

As practitioners play an important role in the family law system, it is inappropriate for people to continue to be accredited where they have been found to be non-compliant with the relevant accreditation requirements or to be deliberately dishonest, or have failed to uphold the good reputation of family dispute resolution in the community.

Section 35 – Cancellation of accreditation – notice to show cause

Subsection 35(1) provides that before the Secretary makes a decision to cancel the accreditation of a family dispute resolution practitioner, the Secretary must notify the practitioner in writing of their intention to cancel the accreditation and the reasons for it, and to ask the practitioner to show cause why their accreditation should not be cancelled. The response to the notice to show cause must be provided to the Secretary within a specified period of at least 28 days of the notice.

Subsection 35(2) provides that the Secretary must not make a decision to cancel the accreditation until either the person responds to the notice or the period specified in the notice ends, whichever is earliest. This allows the practitioner time to respond to the Secretary and

also provide for the matter to be dealt with within a reasonable time frame should the practitioner fail to respond.

Subsection 35(3) provides that the Secretary must have regard to the information or documents received in response to the notice, and may have regard to other matters the Secretary considers relevant, when deciding whether to cancel the accreditation.

If the practitioner does not respond during the specified period, or if they attempt to show cause as to why their accreditation should not be cancelled, but fails to satisfy the Secretary, the Secretary may cancel the practitioner's accreditation.

This process will ensure the practitioner receives comprehensive information about the circumstances that have led to the Secretary's opinion that the practitioner's accreditation should be suspended. This will also allow the practitioner, if they chose, to fully explain the situation, which may involve correcting misconceptions or detailing extenuating circumstances.

Section 36 – Cancellation of accreditation– notice of cancellation

Section 36 requires that, once the Secretary has made a decision to cancel the accreditation of a practitioner under section 34 of the 2025 Regulations, the Secretary must give the practitioner notice, in writing, of the cancellation. The notice must include the following:

- (a) the reasons for, and the effect of, the cancellation, and
 - The cancellation removes the person's accreditation, which then prohibits the person from providing family dispute resolution services as an accredited practitioner under the provisions specified for family dispute resolution outlined in the Family Law Act.
- (b) the date when the cancellation takes effect, and
- (c) information about the practitioner's review rights under section 51 of the 2025 Regulations.

It is important for practitioners to receive written notice of a decision and the reasons for it to ensure natural justice and procedural fairness. Written notification allows people to properly understand why a decision has been made and have a firm basis on which to pursue an appeal of the decision, if they seek to do so.

Section 37 – Circumstances in which Secretary must cancel accreditation

Section 37 provides the circumstances where the Secretary must cancel a practitioner's accreditation without discretion.

Cancellation on request or death

Subsection 37(1) requires the Secretary to cancel accreditation in the event that the practitioner requests this in writing, or dies.

Cancellation of suspended accreditations

Subsection 37(2) provides an obligation on the Secretary to cancel an accreditation that is suspended if:

- (a) the person requests the cancellation in writing
- (b) the person's accreditation has been suspended for a continuous period of 5 years
 - This 2025 inclusion is a new addition to the 2025 Regulations. A person whose accreditation is cancelled under these circumstances may seek to reapply for

accreditation in the future, and would be required to demonstrate compliance with all eligibility criteria at the time that the application was made for the person to be considered for accreditation.

For people whose accreditation is suspended at the time of commencement, the 5-year period will begin on 1 April 2025.

(c) the Secretary is satisfied that the person has died.

Subsection 37(3) provides that notice must be given by the Secretary no later than 28 days before a decision is made to cancel a person's suspended accreditation under paragraph 37(2)(b). The Secretary must make at least two attempts to contact the person, with at least one in writing, providing them an opportunity to provide comments on the intention to make the decision.

Division 5 – Approved certified courses and units

Section 38 – Higher education providers may certify courses or units of courses

Section 38 provides the framework for higher education providers (for example, Universities and Institutes of Higher Education) to be able to certify that a postgraduate course that they offer, or intend to offer, is equivalent to the learning contained in the Graduate Diploma delivered by registered training organisations under the vocational education and training framework. Section 9 of the 2025 Regulations details the pathways to accreditation, including through completion of a certified course.

Not all people will have access to a registered training organisation delivering the Graduate Diploma, but may have access to an equivalent course provided by an alternate institution. Providing multiple entry paths to this profession benefits the community, enhances the development of the workforce and enables students to access a wider range of government subsidies if they are available.

The certification of equivalence would be either just for the core units (a partial completion) or for the full Graduate Diploma. This is in line with the same delivery outcomes available for students of registered training organisations.

Certification of courses

Subsection 38(1) provides for a higher education provider (as defined in section 5) to certify that a postgraduate qualification that it provides, or intends to provide, is equivalent to the Graduate Diploma.

Paragraph 38(1)(a) specifies that the course of study being certified by the higher education provider must lead to a postgraduate qualification (other than an honours degree) which is at least a level 8 qualification specified under the Australian Qualification Framework.

Paragraph 38(1)(b) specifies that the content of the postgraduate course that it provides or intends to provide, is equivalent to that of the Graduate Diploma.

For the course to be equivalent, a unit of study under the certified course may not need to contain identical content, be delivered in the same way or in the same order, as a unit of the Graduate Diploma. However, all of the units of learning must be delivered within the certified course, and the provider must be able to clearly map the content to the performance criteria required under the Graduate Diploma.

Paragraph 38(1)(c) requires that the entry and assessment requirements for students are equivalent to the Graduate Diploma.

Having the same entry eligibility as the Graduate Diploma will ensure that students have a base level of required skills to support them in undertaking the course.

The assessment requirements for students must be clearly mapped to illustrate the evidence (both performance and knowledge) that a student needs to demonstrate when they are being assessed under the Graduate Diploma framework.

Paragraph 38(1)(d) provides that the certified course must also include work placement and supervision requirements which are equivalent in duration and nature as those which must be completed in order to be awarded the Graduate Diploma.

Failure to meet all of these requirements may result in the Secretary choosing not to approve the certification made by the higher education provider in accordance with section 40 of the 2025 Regulations.

A legislative note provides that if the Secretary approved the certification of the course, that course would be considered an *approved certified course*, until the approval is revoked.

Certification of units of courses

Subsection 38(2) provides for the certification of units of study which are equivalent to the core units of competency required to count towards achievement of the full Graduate Diploma (with the core units specified in the packaging rules for the Graduate Diploma, as defined at <https://training.gov.au>). This provides a similar framework as subsection 38(1).

Paragraph 38(2)(a) provides that the study must be undertaken as part of a course that leads to a postgraduate qualification at Australian Qualification Framework level 8 or above.

Paragraph 38(2)(b) provides that the units studied must contain equivalent content to the core units of the Graduate Diploma.

Paragraph 38(2)(c) provides that the entry and assessment requirements to the course must be equivalent to that of the Graduate Diploma.

Paragraph 38(2)(d) provides that the course must include equivalent work placement and supervision requirements to the graduate diploma.

A legislative note provides that if the Secretary approves the units, the units would be considered to be *approved certified units* until the approval is revoked.

Section 39 – Application for approval of certification

Section 39 provides for an application and approval process for the Secretary to approve that a course or unit of study is equivalent if certified under section 38 of the 2025 Regulations.

Application for certification

Subsection 39(1) provides that a higher education provider may apply for approval of the certification by the provider of a course or units of a course described in section 38 of the 2025 Regulations.

Subsection 39(2) provides that the application must be made in a form or manner approved by the Secretary (if any) and include evidence that the course or unit of study is equivalent.

Subsection 39(3) allows the Secretary to determine the manner or form in which applications may be made.

Secretary may request additional information or documents

Subsection 39(4) provides that the Secretary may request in writing that the higher education provider provide additional information or material to support the assessment. This request

must be made in writing, and provide the applicant with a reasonable amount of time to produce the requested material. Depending on the nature of the material requested, the amount of time to compile the information may vary. The process of obtaining all of the information required to make an assessment of the adequacy or accuracy of the higher education provider's assessment may require more than one request for information, and multiple requests may be made if necessary.

Subsection 39(5) provides that the Secretary may only request information or documents if it will assist in making a decision to accept the higher education provider's assessment of equivalency to the Graduate Diploma.

Subsection 39(6) provides that the Secretary is not required to consider an application made under subsection 38(1) or 38(2) of the 2025 Regulations where a request for further information has been made under subsection 39(5). As the Secretary does not have all of the information required to make an assessment, there should not be an obligation to continue to process an application until all of the necessary information is available.

Subsection 39(7) provides the opportunity for an applicant to request additional time to comply with a request for information in relation to that application. The Secretary will be able to grant an extension of time to comply with the request for additional information where they consider that this is reasonable in the circumstances. There would not be an obligation for the Secretary to approve an extension of time, for example where small amount of additional information is required and there is no indication why the previously allocated time to provide the information was not sufficient.

Subsection 39(8) provides that should the applicant fail to provide the additional requested information within the time allowed (whether that is the original time or a timeframe amended as a result of seeking an extension to the original timeframe) the application will be taken to be withdrawn. In this case, the higher education provider's assessment of equivalency to the Graduate Diploma will not be taken to be approved by the Secretary. There would be no prohibition on the higher education provider submitting a further application, noting that the information requested by the Secretary in previous application processes is still likely to be required and should be provided for consideration.

Section 40 – Secretary to decide application for approval of certification

Secretary to decide whether to approve certification

Subsection 40(1) provides that the Secretary, when receiving an application under section 39, must decide either to approve the certification of the course or units or refuse to certify the course or units.

Subsection 40(2) provides that in making the decision outlined in subsection 40(1), the Secretary must only approve the certification if the requirements for the certification of courses or units of courses (outlined in subsection 38(1) or 38(2) of the 2025 Regulations) have been met.

Notification of decision

Subsection 40(3) provides that the Secretary, if they decide to approve the application for certification, must give the provider written notice of their decision to approve the application for certification made under subsection 40(1). The notification will need to include the date on which the approval takes effect.

If the course was being delivered before an application for approval of certification was approved, the higher education provider may be at risk of their course not being approved,

which may expose students to the risk that subjects studied have not fully met the requirements of the Graduate Diploma.

For example, in the mapping process to demonstrate that the content of the course is equivalent to the Graduate Diploma, the higher education provider may be required to modify the content of some units. Students who have already completed those units would therefore not have studied that additional or modified content, and will therefore be unable to claim that they have studied a course equivalent to the Graduate Diploma.

Where a course or units of a course were completed prior to the approval of a certification, the onus will be placed on the applicant for accreditation to provide sufficient evidence issued by the training institute to demonstrate that they have met the competency and qualification requirements as set out in section 9 of the 2025 Regulations.

Subsection 40(4) provides that where the Secretary decides not to approve the application, the Secretary must give the provider written notice of the decision, the reasons for it, and the provider's review rights under section 51 of the 2025 Regulations.

Secretary to publish list of certified courses and certified units

Subsection 40(5) provides that the Secretary must publish and maintain a list of certified courses and units on AGD's website. This provides transparency and certainty for students and practitioners.

Section 41 – Approved certified courses and units – notification requirements

Section 41 provides that a higher education provider providing an approved certified course must notify the Secretary, in writing, as soon as possible, if:

- the content of the certified course or certified units are no longer equivalent to the content of the Graduate Diploma
- the entry and assessment requirements or work placement requirements are no longer equivalent to that of those specified in the framework of the Graduate Diploma
- the provider no longer offers the course or units of the course.

Early advice to the Secretary of any changes ensures that the Secretary is aware that students completing the course after that point do not meet accreditation requirements and that the course or unit is no longer a study option for potential applicants. It will also allow for the information published in accordance with subsection 40(5) of the 2025 Regulations to be updated to reflect correct up to date information.

Section 42 – Approved certified courses and units – Secretary may revoke approval

Circumstances in which Secretary may revoke approval of certification

Subsection 42(1) provides that the Secretary may revoke the approval of the certification of a course or units offered by a higher education provider if the provider has advised the Secretary, or the Secretary is reasonably satisfied, that the approval of the certification is no longer valid because the content, entry or assessment requirements, or work placement requirements are no longer equivalent to the Graduate Diploma. The Secretary does not have discretion around the revocation of the approval if the higher education provider has stopped offering the course (as outlined at section 43 of the 2025 Regulations).

Show cause procedure

Subsection 42(2) provides that the Secretary, before making a decision to revoke the approval of the certification, must notify the provider in writing of their intention to make the decision that the content, entry or assessment requirements, or work placement requirements are no longer equivalent to the Graduate Diploma. The Secretary would be required to provide reasons.

The Secretary would also be required to request that the provider show cause in writing as to why this decision should not be made. The Secretary must provide at least 28 days for a response to this request for information.

This will ensure that the provider has an adequate opportunity to justify, in writing, why the approval of certification should remain, and to explain how and when any issues, which gave rise to a concern that the approval should be revoked, can be ameliorated.

Subsection 42(3) provides that the Secretary must not make a decision to revoke the approval until either the information requested is provided, or the timeframe for providing that information has expired.

Subsection 42(4) provides that the Secretary must give consideration to the material provided in response to the show cause notice, and may also consider any other relevant matters (which may include material or information from other sources) when making a decision.

Notification of decision

Subsection 42(5) provides that the Secretary must notify the provider in writing if they decide to not revoke the approval.

Subsection 42(6) provides that where the Secretary decides to revoke the approval, the Secretary must give the provider both written notice of the decision and the reasons why that decision was made and information on the provider's right of review, as outlined in section 51 of the 2025 Regulations.

Subsection 42(7) requires that a notice issued under 42(5) or (6) must be issued within 7 days of making the decision. This will reduce the time between a decision being made and action being able to be taken, such as informing students of the decision.

Section 43 – Approved certified courses and units – circumstances in which Secretary must revoke approval

Subsection 43(1) imposes an obligation on the Secretary to revoke the approval of an approved certified course or units if the provider has requested that the Secretary do so or the provider stops offering the course.

For example, a higher education provider may self-identify that the course or units of a course it provides is no longer equivalent to the Graduate Diploma of Family Dispute Resolution because of a change of content in the course, or may no longer intend to provide the course due to low enrolments.

Subsection 43(2) provides that the Secretary must give written notice of the revocation of the approval within 7 days. Ensuring that the approval is revoked in a timely fashion, and that the provider is aware that this has occurred, will reduce uncertainty as to the status of the course and ensures that the provider no longer advises potential students of the equivalency to the

Graduate Diploma. This will reduce the risk that students believe they are studying an equivalent course that is no longer approved.

A more robust and transparent application process (Division 5 of the 2025 Regulations) is a new addition in the 2025 Regulations. The additional steps and scrutiny ensure that the assessing agency is informed about the course (or units of a course) being certified as equivalent to the Graduate Diploma. It also holds higher education providers accountable for the courses they deliver or propose to deliver. The new sections also require the responsible agency to take action should it be required, which is not currently specified in the 2008 Regulations.

Division 6 – Approved complaints bodies

Section 44 – Approval of complaints body

Section 44 provides an approval process for bodies that review complaints made against accredited family dispute resolution practitioners. Having a robust and reliable complaints management process is integral to the public perception of, and trust in, family dispute resolution services. To ensure that the bodies offering the complaints investigation service appropriately focus their review activity on the role of an accredited practitioner, the Secretary would be able to determine whether a body is appropriate to act as a complaints mechanism for family dispute resolution practitioners.

This is a new addition in the 2025 Regulations. Under the 2008 Regulations, complaints management approvals are informally managed. Formalising the process provides transparency and accountability for practitioners and people taking part in family dispute resolution.

Application for approval as a complaints body

Subsection 44(1) provides that a professional association or an entity that receives government funding for the purposes of conducting family dispute resolution under the Family Law Act may apply to the Secretary to be approved as a complaints body.

To meet the accreditation criterion at paragraph 8(1)(b) of the 2025 Regulations, a person would have to be a member of a professional association or employee of a funded government entity, either of which must be an approved complaints body.

Subsection 44(2) provides that the Secretary may, in writing, approve a manner or form for the application.

Secretary to decide whether to approve entity as a complaints body

Subsection 44(3) provides that upon receiving an application for approval as a complaints body, the Secretary must decide to either approve or not approve the applicant as a complaints body.

Subsection 44(4) provides that the Secretary must approve an applicant as an approved complaints body if:

- (a) the applicant provides a complaints mechanism to accredited family dispute resolution practitioners for use by clients undertaking family dispute resolution with the practitioner
- (b) the Secretary is satisfied that the complaints mechanism is suitable for dealing with complaints by people undertaking family dispute resolution, and

- (c) the body certifies in writing that it will comply with the ongoing requirements for being an approved complaints body, as outlined in section 45 of the 2025 Regulations.

When determining whether the body is suitable, the Secretary may have regard to the policies and practices of the complaints mechanism body, such as whether the body's practices allow for: clear establishment of the date at which a family dispute resolution practitioner becomes, or ceases to become, a member of or subscriber to the complaints mechanism; the extent to which the complaints investigation process reflects an investigation of the family dispute resolution practitioner's adherence to the requirements of family dispute resolution as described in the Family Law Act and the 2025 Regulations; and any other factors in the body's policies and practices which would demonstrate that the body should be considered to be a suitable complaints mechanism.

Notification of decision

Subsection 44(5) requires the Secretary to provide written notice of a decision to approve an application, including notice of the approval and the date from which the approval takes effect.

Subsection 44(6) requires the Secretary to provide written notice of a decision to not approve an application, including notice of the decision, the Secretary's reasons for making that decision and the right to seek a review of that decision, as outlined in section 51 in the 2025 Regulations.

Subsection 44(7) requires that the applicant must be advised within 7 days of a decision to either approve the application or to not approve the application.

Secretary to publish list of approved complaints bodies

Subsection 44(8) provides that the Secretary must publish and maintain a list of approved complaints bodies.

This will ensure procedural fairness as it allows current and potential family dispute resolution practitioners to be able to identify those bodies who are approved to act as a complaints body. This will ensure they are able to demonstrate and maintain compliance with the accreditation criterion outlined at paragraph 8(1)(b) of the 2025 Regulations.

Section 45 – Approved complaints bodies – ongoing requirements

Subsection 45(1) provides that an approved complaints body must comply with the requirements of this section when providing a complaints mechanism to an accredited family dispute resolution practitioner.

Requirement to investigate complaints

Subsection 45(2) provides that the body must, to the extent practicable, accept and investigate complaints that are properly made in relation to services provided by an accredited family dispute resolution practitioner:

- (a) from the day that the family dispute resolution practitioner is engaged to provide family dispute resolution to the client
- (b) and for a period of no less than 12 months following when the family dispute resolution ends.

Discretion may need to be applied to determining when the family dispute resolution ends, depending on the particular circumstances of the case. The minimum of 12 months to lodge a complaint is therefore an important inclusion to ensure that an affected party has enough time to reflect and feel comfortable raising their complaint even in situations where the end date is

uncertain. The minimum time will not create an open-ended right to raise a complaint for an extended period (beyond 12 months).

Subsection 45(3) provides that the body investigating the complaint must consider whether any requirement of the Family Law Act or the 2025 Regulations, in relation to the provision of family dispute resolution, has been contravened.

Requirements if complaint is substantiated

Subsection 45(4) provides that if a complaint is substantiated, the body may arrange supervisory services for the practitioner to improve the practitioner's capacity to provide family dispute resolution. This may involve coaching, mentoring and further training or direct supervision.

The duration and nature of any coaching, mentoring, training or supervision is at the discretion of the approved complaints body. Where there are disagreements between the family dispute resolution practitioner and the complaints body, this would be resolved internally.

Subsection 45(5) provides that the body may only arrange supervisory services if they were satisfied that it was the appropriate outcome. For example, a minor complaint such as a practitioner providing the incorrect contact details would not merit supervision. However, a practitioner failing to consider family violence in a matter may require supervision.

Requirement to provide information to Secretary about substantiated complaints

Subsection 45(6) provides that the approved complaints body must advise the Secretary of a finding of a serious substantiated complaint against a practitioner in writing and within a reasonable period. A complaint would be serious if the practitioner may no longer be considered suitable to be an accredited family dispute resolution practitioner.

Subsection 45(7) provides that the approved complaints body must take the following considerations into account when considering whether a substantiated complaint is serious:

- (a) whether the substantiated complaint involves a material contravention of section 20 of the 2025 Regulations (which outline the requirement for a practitioner to consider the factors that may impact whether any of the parties are able to negotiate freely), or section 25 of the 2025 Regulations (which outline a requirement to avoid conflicts of interest)
- (b) whether the body considers it necessary to arrange for the practitioner to have supervision, training, or professional development in response to the complaint.

This will assist the Secretary in determining if action to impose a condition, or suspend or cancel a person's accreditation in accordance with Division 4 of Part 2 of the 2025 Regulations, is required.

Subsection 45(8) requires the approved complaints body to notify the Secretary, in writing, including the date on which the event occurred, if either the body ceases to provide a complaints mechanism for any individual practitioner, or ceases to provide services as an approved complaints body (for all family dispute resolution practitioners).

Section 46 – Approved complaints bodies – Secretary may impose conditions on approval

Section 46(1) provides that the Secretary may impose a condition on the approval of a complaints body if they are satisfied that the body has not complied with the requirements at

section 45 of the 2025 Regulations and that it would be possible to remedy or mitigate the failure to comply in a reasonable time by complying with the condition.

This provides the approved complaints body with time to resolve the problem and would ensure that accredited family dispute resolution practitioners are not unreasonably required to move their membership to a different body.

Show cause procedure

Section 46(2) provides that before making the decision, the Secretary must notify the body in writing of their intention to make a decision and the reasons for it. The Secretary must request that the body show cause in writing as to why the condition should not be imposed. There is a specified period for the body to respond, of no less than 28 days.

Subsection 46(3) provides that the Secretary must not make the decision to impose a condition until the body responds to the notice or the end of the specified period, whichever is earlier.

Subsection 46(4) provides that when deciding whether to impose a condition, the Secretary must have regard for any information or documents they received in response to the request for information. They may also have regard for any other relevant information.

Notification of decision

Subsection 46(5) provides that the Secretary must provide written notice to the body if they decide not to impose a condition. This ensures transparency, and that the body is not unfairly waiting for a response.

Subsection 46(6) provides that the Secretary must provide written notice to the body if they do decide to impose a condition. The notice must include the decision and the reasons for it, as well as the review rights available to the body under section 51 of the 2025 Regulations. This will ensure that the body has access to procedural fairness and can make an informed decision about their options.

Subsection 46(7) provides that the Secretary must provide a notice within 7 days of making the decision. This will further ensure procedural justice for the body.

Section 47 – Approved complaints bodies – Secretary may revoke approval

Subsection 47(1) provides that the Secretary may revoke the approval of an approved complaints body where the Secretary is satisfied that the body has not complied with a requirement under section 45 of the 2025 Regulations or a condition under section 46 of the 2025 Regulations.

Show cause procedure

Subsection 47(2) provides that the Secretary, before deciding to revoke the approval of an approved complaints body, must notify the body in writing of the decision and the reasons for the decision. The Secretary must also request that the body show cause in writing, and within at least 28 days after receipt of the notice, why the approval should not be revoked.

This provides the body with adequate opportunity to justify or ameliorate the circumstances which may have resulted in the Secretary forming the opinion that it is no longer suitable to act as a complaints management body for family dispute resolution practitioners.

Failure to provide reasonable information to the Secretary to allow for a determination of ongoing suitability may result in the Secretary revoking the approval as an approved complaints body, where the body is not able to demonstrate ongoing compliance with the requirements.

Subsection 47(3) provides that the Secretary must not revoke the approval until the earlier of, when the body responds to the notice, or the end of the period specified in that notice.

Subsection 47(4) requires the Secretary, in making a decision to revoke an approval, to have regard to the information or documents received in response to the notice, or any other matters the Secretary considers to be relevant to the decision.

Notification of decision

Subsection 47(5) requires the Secretary to give the approved complaint body written notice of a decision to not revoke the approval of the body to act as a complaints body for family dispute resolution practitioners.

Subsection 47(6) provides that where the Secretary decides to revoke the approval, the Secretary must give the body written notice of the decision, the reasons for it, and information about the body's review rights under section 51 of the 2025 Regulations.

Subsection 47(7) provides that a notice issued under subsection 47(5) or (6) must be given within 7 days of making the decision.

Section 48 – Approved complaints bodies – circumstances in which Secretary must revoke approval

Paragraph 48(1)(a) provides that the Secretary must revoke the approval of an approved complaints body if the Secretary is notified by the body that it is no longer providing complaints management services to accredited family dispute resolution practitioners.

Paragraph 48(1)(b) provides that where the Secretary is satisfied that an approved complaints body has ceased providing services, the Secretary must revoke the approval of the complaints body.

Subsection 48(2) requires the Secretary to advise the body in writing of the decision to revoke the approval within 7 days of making that decision.

Part 3 – Other matters

Section 49 – Simplified outline of this Part

This section provides a general overview of the purpose and content of this Part.

Section 50 – Section 60I certificates - prescribed matters

Section 50 provides, for the purposes of paragraphs 60I(8)(aa) and (d) of the Family Law Act, the matters provided in subsection 20(2) of the 2025 Regulations are prescribed.

The legislative note provides that family dispute resolution practitioners must have regard to those matters when considering if it is appropriate to conduct, or to continue to conduct, family dispute resolution sessions with a person that may apply for court orders under Part VII of the Family Law Act.

Section 51 – Review by Administrative Review Tribunal

Section 51 provides that an application may be made to the Administrative Review Tribunal for the review of the following decisions made under the 2025 Regulations:

- (a) a decision under paragraph 11(1)(b) to not accredit a person as a family dispute resolution practitioner
- (b) a decision under paragraph 28(1)(b) to impose or vary a condition on the accreditation of an accredited family dispute resolution practitioner

- (c) a decision under subsection 29(1) to suspend the accreditation of a person
- (d) a decision under paragraph 33(1)(b) to not lift a suspension of a person's accreditation
- (e) a decision under subsection 34(1) or (2) to cancel the accreditation of a person
- (f) a decision under paragraph 40(1)(b) to not approve the certification by a higher education provider of a course or units of a course
- (g) a decision under subsection 42(1) to revoke the approval of the certification by a higher education provider of a course or units of a course
- (h) a decision under paragraph 44(3)(b) to not approve an entity as an approved complaints body
- (i) a decision under subsection 46(1) to impose a condition on the approval of a complaints body
- (j) a decision under subsection 47(1) to revoke the approval of an approved complaints body.

Providing an explicit administrative review avenue is important from a natural justice and procedural fairness perspective, ensuring that affected parties are able to seek review of important decisions affecting their professional practice and with which they may disagree.

Part 4—Transitional arrangements

Division 1 – Transitional provisions in relation to the commencement of this instrument

Section 52 – Definitions

Section 52 provides the following definitions:

commencement time means the time at which the 2025 Regulations will commence.

old regulations means the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008*, as in force immediately before the commencement time.

Section 53 – Accredited family dispute resolution practitioners

Section 53 provides the transitional arrangements for people who are existing accredited family dispute resolution practitioners and who have had their accreditations suspended under the 2008 Regulations.

Transitional—existing accreditations

Section 53(1) provides that a person will continue to be an accredited family dispute resolution practitioner if they were an accredited family dispute resolution practitioner under the 2008 Regulations, and that accreditation was not suspended or cancelled.

This will ensure continuity and guarantee certainty for practitioners about the status of their accreditation and ability to provide family dispute resolution.

Accreditations suspended under the old regulations—lifting of suspensions

Subsection 53(2) provides that if a person is suspended under the 2008 Regulations, then the period of suspension will be taken to commence at the commencement period. The person will be able to apply for the suspension to be lifted within the 5 year period beginning at the

commencement time. If their suspension is lifted, then they would be considered to be an accredited family dispute resolution practitioner for the purposes of the 2025 Regulations.

The legislative note directs the reader to paragraph 37(2)(b) of the 2025 Regulations, which provides that if the suspension is not lifted before 1 April 2030 (5 years after commencement), then the Secretary must cancel the accreditation.

Subsection 53(3) provides that if the person is suspended at the commencement time and requests that the Secretary lifts the suspension under section 33 of the 2025 Regulations:

- (a) then paragraph 33(2)(b) of the 2025 Regulations does not apply, and
- (b) the person must provide the Secretary with evidence about how the person has complied with a requirement to end the suspension (if the notice of suspension under regulation 20 of the 2008 Regulations stated any requirements) or that the necessary event has occurred to end a suspension (if the notice of suspension under regulation 20 of the 2008 Regulations stated that an event must occur to end the suspension).

This means that the suspended person would still be required to meet any criteria provided when the accreditation was suspended under the 2008 Regulations. This is an important inclusion to ensure procedural fairness, as the applicant will still be required to meet any requirements provided upon suspension.

Section 54 – Applications for accreditation made, but not determined, before the commencement time

Section 54 provides that the 2008 Regulations will continue to apply to applications for accreditation that were made but not determined before the commencement time.

This will ensure that applicants are not disadvantaged by the commencement of the 2025 Regulations and repeal of the 2008 Regulations, and have certainty around their application and the application criteria that apply at the time of making and assessing applications.

Section 55 – Board of the Australian Mediator and Dispute Resolution Accreditation Standards

Section 55 provides that where there is a reference to a person being registered as a registered practitioner on the register administered by the Board of the Australian Mediator and Dispute Resolution Accreditation Standards, it also refers to a person accredited under the National Mediator Approval Standards as defined in the 2008 Regulations.

This reflects the replacement of the National Mediator Accreditation System with the Australian Mediator and Dispute Resolution Accreditation Standards in 2024.

Section 56 – Approved certified courses and approved certified units

Subsection 56(1) provides that for two years after commencement, a person will be able to rely on this section when making an application under section 10 of the 2025 Regulations. This recognises that students enrolled in a certified course (under the 2008 Regulations) should have some certainty that, when they complete the course, this would still be recognised for the purposes of applying for accreditation. The transition period also allows the course provider to continue to provide a previously approved course to students while seeking to obtain status as an approved course under section 39 of the 2025 Regulations.

Subsection 56(2) provides that an applicant may meet the criterion in paragraph 9(2)(b) of the 2025 Regulations if at the time of making the application, they have, or are entitled to the award of, an approved course or a certified postgraduate award within the meaning of the 2008 Regulations. This allows for evidence of completion of either the previously approved course (under the 2008 Regulations) or a newly approved course (under the 2025 Regulations) to be suitable evidence of a person holding the relevant qualification necessary for consideration of accreditation under the 2025 Regulations.

Subsection 56(3) provides that an applicant may meet the criterion in subparagraph 9(3)(a)(ii) if the applicant has been assessed as competent in approved certified units or has completed the units of a postgraduate degree or diploma certified by a higher education provider under subregulation 8(1) of the 2008 Regulations.

This transitional provision ensures that students have 2 years to complete a course or unit of study that is certified under the 2008 Regulations and apply for accreditation, without needing to rely on the course having approval under the 2025 Regulations. After this period, applicants will need to demonstrate that they have completed an approved certified course or approved certified unit of study that has been approved under the 2025 Regulations.

For clarity, students enrolled in a course that had been approved under the 2008 Regulations, but had not yet been approved under the 2025 Regulations, would need to complete their course, have their supporting documents issued, and submit their application before 30 March 2027.

Section 57 – Approved complaints bodies

Section 57 provides that during the 6-month period beginning on commencement, a person will be considered to meet the accreditation criterion in paragraph 8(1)(b) of the 2025 Regulations (that the person is covered by professional indemnity insurance) if they have access to a suitable complaints mechanism (as mentioned in paragraph 6(1)(c) of the 2008 Regulations).

This will ensure that complaints bodies have time to complete the approval process. Current organisations providing a complaints mechanism will have 6 months to apply and be assessed, as well as to advise current members of the outcome.

Section 58 – Family Dispute Resolution Register

Subsection 58(1) provides that where paragraph 12(3)(a) of the 2025 Regulations refers to someone whose accreditation is suspended or cancelled, the reference is also referring to a person who was an accredited family dispute resolution practitioner on or after 30 June 2022 and their accreditation was suspended or cancelled immediately before the commencement time.

This information forms part of the official record kept about the status of family dispute resolution practitioners, in particular, the dates of when their accreditation was suspended or cancelled and their last known contact details.

Subsection 58(2) provides that where paragraph 12(3)(b) refers to an application, it also includes a reference to an application made under regulation 9 of the 2008 Regulations on or after 30 June 2022.

Schedule 1—Section 60I certificates

Certificate by accredited family dispute resolution practitioner—section 60I of the *Family Law Act 1975 (Cth)*

Schedule 1 of the 2025 Regulations provides the section 60I certificate, which is the certificate in the approved form for the purposes of section 24 of the 2025 Regulations. This is the certificate that may be issued by the practitioner in accordance with section 60I of the Family Law Act, and sets out the circumstances listed at paragraphs 60I(a) to(d) of the Act.

A section 60I certificate indicates where the family dispute resolution process ends, when it does not end with full agreement. The certificate may be relied upon for a court to determine if firstly, the person applying for a court order has attempted to engage with family dispute resolution, and secondly the level of engagement with the process the person has had, as indicated by the type of certificate issued.

Schedule 2 – Repeals

Family Law (Family Dispute Resolution Practitioners) Regulations 2008

Item 1 – The whole of the instrument

This Schedule provides for the whole of the 2008 regulations being repealed and being replaced by the 2025 Regulations.