



# Family Law Rules 2004

Statutory Rules 2003 No. 375 as amended

made under the

*Family Law Act 1975*

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This compilation was prepared on 31 March 2005  
taking into account amendments up to SR 2004 No. 351

This document has been split into 3 volumes

Volume 1 contains Chapters 1 - 25 (Rr 1.01 - 25.06) and Schedule 1

Volume 2 contains Schedule 2 (Forms 1, 1A-1B, 2, 2A, 3, 3A,  
4 – 20 and 60)

**Volume 3** contains Schedules 3 – 5, the Dictionary, and the Notes  
Each volume has its own Table of Contents

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## Schedule 3 Itemised scale of costs

(rule 19.18)

*Note* The amounts in this Schedule include GST.

### Part 1 Fees for lawyer's work done

Item	Matter for which charge is made	Charge
101	Drafting documents (other than letters)	\$15.55 per 100 words
102	Producing documents in printed form (other than letters)	\$5.35 per 100 words
103	Drafting and producing letters (including fax or e-mail transmissions)	\$17.85 per 100 words
104	Reading documents	\$7.25 per 100 words
105	Scanning of documents (where reading is not necessary)	\$2.90 per 100 words
106	For a document or letter mentioned in item 101, 102, 103, 104 or 105 containing more than 3 000 words	The amount allowed by the Registrar
107	Photocopy or other reproduction of a document	50 cents per page
108	Time reasonably spent by a lawyer on work requiring the skill of a lawyer (except work to which any other item in this Part applies)	\$182 per hour
109	Time reasonably spent by a lawyer, or by a	\$118 per hour

	clerk of a lawyer, on work (except work to which any other item in this Part applies)	
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## Part 2 Fees for counsel's work done

Item	Matter for which charge is made	Charge
201	Chamber work (including preparing or settling any necessary document, opinion, advice or evidence, and any reading fee (if allowed))	\$209–\$298 per hour
202	Conferences (including court appointed conferences), if necessary	\$209–\$298 per hour
203	Short attendances (for example, procedural hearings, summary hearings taking less than 3 hours)	\$187–\$876
204	A hearing or trial taking at least 3 hours but not more than 1 day	\$639–\$1 477
205	Other hearings or trials	\$1 477–\$2 171 per day
206	Reserved judgment	\$209–\$298 per hour

## Part 3 Basic composite amount for undefended divorce

Item	Matter for which charge is made	Charge
301	If the lawyer employed another lawyer to attend at court for the applicant and there is a child of the marriage under 18 years old	\$793
302	If the lawyer employed another lawyer to attend at court for the applicant and there is no child of the marriage under 18 years old	\$590
303	If the lawyer did not employ another lawyer to attend at court for the applicant and there is a child of the marriage under 18 years old	\$744
304	If the lawyer did not employ another lawyer to attend at court for the applicant and there is no child of the marriage under 18 years old	\$557
305	If the lawyer did not attend at court for the hearing under section 98A of the Act	\$479

## Part 4 Basic composite amount for application for Enforcement Warrant or Third Party Debt Notice

Item	Matter for which charge is made	Charge
401	An Enforcement Warrant under rule 20.16	\$479
402	A Third Party Debt Notice under rule 20.32	\$479

## Schedule 4 Conduct money and witness fees

(rules 15.23 and 19.18)

### Part 1 Conduct money

Item	Matter for which allowance is paid	Amount of allowance
101	Minimum amount	The minimum amount for conduct money is \$10
102	Travel	<p>(a) the amount to be paid for fares on public transport for return travel between the place of employment or residence and the court; or</p> <p>(b) if no public transport is available, the amount calculated at the rate of 80 cents per kilometre required to be travelled between the place of employment or residence and the court</p>
103	Accommodation and meals	A reasonable allowance for accommodation and meals to be incurred during the estimated time of the hearing or trial

**Part 2      Witness fees**

<b>Item</b>	<b>Type of witness</b>	<b>Amount of fee</b>
201	All witnesses	\$75 per day, or part of a day, for necessary absence from the witness's place of employment or residence
202	Expert witnesses	Such further amount as the court allows for the preparation of a report and absence from the expert witness's place of employment

## Schedule 5      **Experts' Conferences — Guidelines for expert witnesses and those instructing them in cases in the Family Court of Australia**

(rule 15.69)

### **Part 1      Introduction**

#### **1.1      Purpose of guidelines**

These guidelines are intended to encourage compliance with the provisions of Part 15.5 of the *Family Law Rules 2004* and should be read with those Rules.

#### **1.2      Effect of Division 15.5.7 of Rules**

Division 15.5.7 of the *Family Law Rules 2004* provides that if 2 or more parties intend to tender an expert's report or adduce evidence from different expert witnesses about the same, or a similar, question:

- (a) the parties must arrange for the expert witnesses to confer at least 14 days before the pre-trial conference; and
- (b) each party must give to the expert witness the party has instructed, a copy of these guidelines.

### **Part 2      Experts' conference**

#### **2.1      Object of experts' conference**

The objects of an experts' conference include:

- (a) the just, quick and cost effective disposal of the case to which the conference relates;
- (b) identifying and narrowing issues for determination;
- (c) shortening the trial and enhancing the prospects of settlement;
- (d) requiring the expert witnesses to reach a conclusion on the evidence (the joint statement given under paragraph 15.69 (3) (e) of the *Family Law Rules 2004* may be used in cross-examination of an expert witness at the trial); and
- (e) avoiding or reducing the need for the expert witnesses to attend court to give evidence.

#### **2.2      Preparation for an experts' conference**

- (1) Separate experts' conferences may be required between experts in different specialities in relation to different issues arising in the case.
- (2) Subrule 15.69 (2) of the *Family Law Rules 2004* provides that the court may, in relation to an experts' conference, order:
  - (a) which expert witnesses are to attend;
  - (b) where and when the conference is to occur;
  - (c) which issues the expert witnesses must discuss;
  - (d) the questions to be answered by the expert witnesses; and
  - (e) the documents to be given to the expert witnesses, including:
    - (i) Part 15.5 of the *Family Law Rules 2004*;
    - (ii) relevant affidavits;

- (iii) a joint statement of the assumptions to be relied on by the expert witnesses during the conference, including any competing assumptions; and
  - (iv) all expert's reports already disclosed by the parties.
- (3) Any questions to be answered by the expert witnesses at an experts' conference should be:
    - (a) questions specified by the court or agreed to by the parties and any other question a party wishes to submit for consideration; and
    - (b) framed to resolve an issue or issues in the case.
  - (4) If possible, questions should be capable of being answered with a 'yes' or 'no' response or, if not, by a very brief response.
  - (5) The documents mentioned in paragraph (2) (e) and any other documents agreed to by the parties should be given to the expert witnesses at least 7 days before the experts' conference.

### **2.3 Convening an experts' conference**

- (1) If the court has not fixed a place and date for an experts' conference, the parties should fix a mutually convenient date, time and place for the conference.
- (2) The party who appointed an expert witness must ensure that the expert witness is given a reasonable opportunity to prepare for the experts' conference and, in particular, the party must ensure that the expert witness is given:
  - (a) an opportunity to clarify with the instructing lawyers or the court any question put to the expert witness; and
  - (b) access to any additional material that the parties are able to provide and that the expert witness considers relevant.
- (3) The conference should not normally take place until at least 7 days after the expert witnesses have received the documents mentioned in paragraph 2.2 (2) (e) and any other documents agreed to by the parties.

### **2.4 The role of expert witnesses at an experts' conference**

- (1) Each expert witness should respond to the questions asked.
- (2) Each answer by an expert witness must:
  - (a) be based on the facts in the witness statements or affidavits; and
  - (b) set out the assumption on which it is based.
- (3) For paragraph (2) (b), if there is an alternative result on a different assumption, the expert witness must state this in his or her answer.
- (4) The expert witnesses may specify in the joint statement required by paragraph 15.69 (3) (e) of the *Family Law Rules 2004*, other questions that the expert witnesses believe would be useful for them to consider.
- (5) If an expert witness has a contrary view to another expert witness, the expert witness should express it.
- (6) An expert witness should accept as fact the matters stated in witness statements or assumptions submitted to the expert witness.
- (7) It is not an expert witness's role to decide any disputed question of fact or the credibility of any witness.
- (8) If there are competing assumptions, alternative answers may have to be given to a question or questions, specifying which of the assumptions are adopted for each answer.

## 2.5 Conduct of experts' conference

- (1) An experts' conference should be conducted in a manner that is flexible, free from undue complexity and fair to all parties.
- (2) The expert witnesses may:
  - (a) appoint one of their number as a chairperson; or
  - (b) if one of the expert witnesses so requests and the parties agree or the court orders, appoint another person to act as chairperson.
- (3) If secretarial or administrative assistance is requested by the expert witnesses, the parties should provide that assistance.
- (4) If the expert witnesses agree, one of them or a secretarial assistant may be appointed to take notes at the conference about matters agreed, matters not agreed and reasons for disagreement.
- (5) The conference may be adjourned and reconvened as necessary.
- (6) Subrule 15.69 (3) of the *Family Law Rules 2004* provides that, at the experts' conference, the expert witnesses must:
  - (a) identify the issues that are agreed and not agreed;
  - (b) if practicable, reach agreement on any outstanding issue;
  - (c) identify the reason for disagreement on any issue;
  - (d) identify what action (if any) may be taken to resolve any outstanding issues; and
  - (e) prepare a joint statement specifying the matters mentioned in paragraphs (a) to (d) and deliver a copy of the statement to each party.

## 2.6 Joint statement

- (1) The joint statement required by paragraph 15.69 (3) (e) of the *Family Law Rules 2004* should:
  - (a) be written by the expert witnesses participating in the experts' conference (the *participating expert witnesses*); and
  - (b) be signed by all participating expert witnesses immediately after the conference ends or as soon as practicable after the conference.
- (2) The participating expert witnesses should not seek advice or guidance from the parties or their lawyers before signing the joint statement.
- (3) Subrule 15.69 (4) of those Rules provides that if the participating expert witnesses reach agreement on an issue, the agreement does not bind the parties unless the parties expressly agree to be bound by it.
- (4) Subrule 15.69 (5) of those Rules provides that the joint statement may be tendered by consent as evidence of matters agreed on and to identify the issues on which evidence will be called.

## 2.7 Role of lawyers

- (1) Lawyers attending a conference by order of the court or who are approached for advice by an expert witness participating in an experts' conference should respond jointly and not individually, unless authorised to do so by the lawyers for all other parties with an interest in the conference.
- (2) Advice may be provided by:
  - (a) responding to any questions in relation to the legal process applicable to the case;



- (b) identifying documents relevant to the case or experts' conference;
- (c) providing further materials on request; and
- (d) correcting any misapprehensions of fact or any misunderstanding concerning the conference process.

## Dictionary

(rule 1.16)

*Note 1* This dictionary is part of these Rules. There is also an explanatory guide that does not form part of these Rules but explains the meaning of other words and expressions used in these Rules.

*Note 2* Section 18A of the *Acts Interpretation Act 1901* provides that other forms of a word or phrase have a corresponding meaning, therefore other forms of a word or phrase defined in this dictionary are not included, for example, **file** is defined but **filed** and **filing** are not. Those terms are assumed to have a corresponding meaning to **file**.

*Note 3* An expression used in these Rules has the same meaning as in the Act, unless these Rules state otherwise (see paragraph 46 (1) (b) of the *Acts Interpretation Act 1901*).

**abuse**, in relation to a child, has the meaning given by subsection 60D (1) of the Act.

**Act** means the *Family Law Act 1975*.

**address for service** means the address given by a party where documents may be left for the party or to where documents may be sent for the party (see rule 8.05).

**affidavit** means a document that complies with rules 15.08, 15.09 and 24.01.

**affirmation** — see the definition of **oath** in this dictionary.

**appeal** includes:

- (a) an appeal to the Full Court of the Family Court of Australia from a Family Court or the Federal Magistrates Court:
  - (i) under subsection 94 (1), 94 (1AA) or 94AAA (1) of the Act;
  - (ii) with permission, under section 102 or 102A of the Assessment Act; or
  - (iii) with permission, under section 107 or 107A of the Registration Act;
- (b) an appeal to a Family Court from a court of summary jurisdiction:
  - (i) under section 96 of the Act; or
  - (ii) with permission, under section 105 of the Assessment Act; or
  - (iii) with permission, under section 110 of the Registration Act; and
- (c) a cross-appeal.

*Note* An appeal is the procedure that enables a person to challenge an order made in relation to the person's case.

**Appeal Registrar**, for an appeal, means the Registrar at the Appeal Registry for that appeal, and includes the Regional Appeal Registrar.

**Appeal Registry** means:

- (a) for an appeal to the Full Court or from a decision of the Federal Magistrates Court — the registry determined by the Regional Appeal Registrar to be the registry for that appeal; and
- (b) for an appeal from a court of summary jurisdiction — the registry in which the Notice of Appeal (Form 20) for the appeal was filed.

*Note* A Form 20 for an appeal from a decision of a court of summary jurisdiction must be filed in the registry of a Family Court that is closest to the court that made the order appealed from (see rule 22.02).

**appellant** includes a cross-appellant.

**applicant** includes a cross-applicant who is seeking other orders in a response to an application.

**application** includes:

- (a) an Application for Final Orders (Form 1);
- (b) an Application in a Case (Form 2);
- (c) an Application for Divorce (Form 3);
- (d) an Application for Consent Orders (Form 11);
- (e) an Application for Contempt (Form 19);

- (f) a Notice of Appeal (Form 20); and
- (g) a cross-application set out in a response to an application (see Form 1A or 2A).

**Assessment Act** means the *Child Support (Assessment) Act 1989*.

**assessment hearing** means a hearing conducted by a Registrar at which the amount to be paid on an itemised costs account is assessed (see rule 19.32).

**attend** means present at a court event, including by electronic communication.

*Note* See rules 5.06, 12.12, 16.08 and 22.39 for attendance by electronic communication.

**bankrupt** has the meaning given by subsection 5 (1) of the *Bankruptcy Act 1966*.

**case:**

- (a) means a proceeding under the Act, the Regulations, these Rules or any other law that vests jurisdiction in the Family Court; and
- (b) for Part 10.2 — see rule 10.10.

**case guardian** means a person appointed by the court under rule 6.10 to manage and conduct a case for a child or a person with a disability, and includes a next friend, guardian ad litem, tutor or litigation guardian (see Part 6.3).

**certified copy** means a copy of a document certified to be an exact copy by the person having custody or control of the document, or by another person at the direction of that person, and includes a copy of the document bearing the seal of a court or other form of authentication.

**child representative** means a person appointed under section 68L of the Act to represent a child.

**Child Support Agency** means the part of the Department of Family and Community Services known by that name that administers the Assessment Act and the Registration Act.

**child support agreement** has the meaning given by section 81 of the Assessment Act.

**Child Support Application or Appeal** means an application or appeal in which the only orders sought are under the Assessment Act or the Registration Act (see Division 4.2.5).

**child support assessment** includes:

- (a) an administrative assessment for child support under Part 5 of the Assessment Act; and
- (b) an amended assessment to give effect to an order.

**child support liability** means an amount owing under the Assessment Act or the Registration Act (including a child support assessment or registered child support agreement) that may be registered for collection by the Child Support Agency.

**Child Support Registrar** means the Child Support Registrar under section 10 of the Registration Act.

**conciliation conference document** means a document in a form approved by the Principal Registrar that is required to be completed and exchanged by the parties before a conciliation conference.

**conduct money** means money paid by a party to a witness, before the witness appears at a court event for the party, for:

- (a) travel between the witness's place of residence or employment and the court; and
- (b) if necessary, reasonable accommodation expenses for the witness; and
- (c) in the case of a subpoena for production — the reasonable costs of complying with the subpoena.

**contact** has the same meaning as in Part VII of the Act.

**contravened** an order under the Act affecting children has the meaning given by section 70NC of the Act.

**corporation** includes:

- (a) a company;
- (b) a body corporate; and
- (c) an unincorporated body that may sue or be sued or hold property in the name of its secretary or of an officer of the body appointed for that purpose.

**Corporations Rules** means the *Federal Court (Corporations) Rules 2000*.

**costs** means an amount paid or to be paid for work done by a lawyer, and includes expenses.

**costs agreement** means a written agreement in accordance with rule 19.14 between a party and the party's lawyer about the costs to be charged by the lawyer for work done for a case for the party.

**costs assessment order** means an order made by a Registrar fixing the total amount payable for costs (see rules 19.31 and 19.32).

**costs notice** means a brochure, approved by the Principal Registrar, setting out a party's rights and responsibilities under Chapter 19.

**counsel** includes a barrister and a solicitor acting as a barrister.

*Note* See section 122 of the Act and sections 55A and 55B of the *Judiciary Act 1903*.

**court** means a court that:

- (a) has jurisdiction under the Act; and
- (b) is presided over by a judicial officer who has, or has been delegated, the power to exercise the jurisdiction.

**court event** includes a hearing, trial, conference or mediation.

**court of summary jurisdiction** means a magistrates' or local court of a State or Territory.

**Cross-vesting Act** means the *Jurisdiction of Courts (Cross-vesting) Act 1987*.

**cross-vesting law** means a law relating to cross-vesting jurisdiction of:

- (a) the Commonwealth, other than Part 9 of the *Corporations Act 2001*; or
- (b) a State or Territory.

**declaration as to validity**, of a marriage, divorce or annulment, means an order that the marriage, divorce or nullity order is valid or invalid.

**discontinue**, for a case, means to withdraw all or part of the case.

**divorce** means dissolution of marriage (see section 48 of the Act).

**draft consent order** means a document that complies with subrule 10.15 (2).

**each person to be served** — see subrule 7.04 (4).

**earnings** includes:

- (a) wages, salary, fees, bonus, commission or overtime pay;
- (b) other money payable in addition to or instead of wages or salary;
- (c) a pension, annuity or vested superannuation money;
- (d) money payable instead of leave;
- (e) royalties;
- (f) retirement benefits due or accruing;
- (g) any salary sacrifice arrangement; and
- (h) performance-based incentives and non-monetary benefits.

**electronic communication** means:

- (a) video link;
- (b) audio link; or
- (c) another appropriate electronic means of communication.

*Examples of electronic communication*

Telephone or video conferencing; closed circuit television; facsimile; e-mail.

**eligible carer** has the meaning given by section 7B of the Assessment Act.

**enforcement officer** includes the Marshal, a delegate of the Marshal or any other officer of the court, or a person appointed by the court for the purpose of enforcing an order.

**enforcement order** means an order requiring a person to comply with an obligation, including an Enforcement Warrant, a Third Party Debt Notice, an order for the seizure and sale of real or personal property and an order varying an enforcement order.

**expedited trial** means a trial that is listed and heard sooner than it ordinarily would have been (see rule 16.01).

**expense** means an amount paid to a third party, other than a lawyer, for work done in a case or services provided for a party.

**Family Court** means:

- (a) in a reference to the Family Court — the Family Court of Australia; or
- (b) in a reference to a Family Court — the Family Court of Australia or a Family Court of a State.

**family report** means a report concerning the best interests of a child, prepared under subsection 55A (2), or section 62G or 65G, of the Act (see rule 15.03).

**family violence** has the meaning given by section 60D of the Act.

**family violence order** has the meaning given by section 60D of the Act.

**Federal Magistrates Court** means the court of that name created under the *Federal Magistrates Act 1999*.

**file** means to lodge in a court registry (see Part 24.2).

**filing registry** means the registry of a court in which a case is started or to which a case is transferred.

**final order** means the order of the court that finally decides a case commenced by an Application for Final Orders (Form 1).

**final resolution event** means:

- (a) for a property case — a conciliation conference; and
- (b) for a parenting case — conciliation, counselling or, if referred for further mediation, that mediation (counselling).

**financial agreement** means an agreement that is a financial agreement under section 90B, 90C or 90D of the Act, other than an ante-nuptial (pre-marriage) or post-nuptial (after marriage) settlement to which section 85A of the Act applies.

**financial case** means a case (other than an appeal) involving an application:

- (a) relating to the maintenance of one of the parties to a marriage, including an application for permission to start a spouse maintenance case;
- (b) relating to the property of the parties to a marriage or of either of them, including:
  - (i) an application for permission to start a property case;
  - (ii) an application to set aside an order altering property interests under section 79A of the Act;
  - (iii) an application under section 85A of the Act in relation to a financial agreement;
  - (iv) an application under section 90K of the Act in relation to a financial agreement; and
  - (v) an application under section 106B of the Act in relation to a transaction to defeat a claim;
- (c) relating to the maintenance of children;
- (d) under section 98, 116, 123 or 129 of the Assessment Act;
- (e) relating to child bearing expenses (see section 67B of the Act); or
- (f) for the purposes of Part 13.1 that includes an application for the enforcement of a financial obligation.

**financial orders** includes orders in relation to:

- (a) maintenance;
- (b) a Child Support Application under section 98, 116, 123 or 129 of the Assessment Act;
- (c) contribution to child bearing expenses; or
- (d) property.

**gross value**, of property, means the value of the property excluding any mortgage, lien, charge or other security over the property.

**hearing** means the process, other than a trial, of determining:

- (a) an Application in a Case (Form 2);
- (b) an Application for Divorce (Form 3);
- (c) an application mentioned in rule 4.27;
- (d) part of a case; or
- (e) an enforcement application.

**holding period**, for a person arrested in accordance with a warrant, has the meaning given by subsection 65S (4) of the Act.

**itemised costs account** means a document prepared in accordance with rule 19.22.

**judicial officer** includes a Judge, Judicial Registrar and Registrar.

**lawyer** means a solicitor, barrister or other legal practitioner who is entitled to practise in a Family Court.

*Note* See section 122 of the Act and sections 55A and 55B of the *Judiciary Act 1903*.

**legislative provision** includes a provision in an applicable Act, these Rules, the Regulations, any other regulations made under the Act and any conventions mentioned in a regulation made under the Act.

**Maintenance Application** means an Application for Final Orders (Form 1) in which the only orders sought are for maintenance (including a variation of a previous maintenance order) or a contribution towards child bearing expenses (see section 67B of the Act).

**Marshal** has the same meaning as in section 38P of the Act.

**mediator** includes a family and child counsellor and family and child mediator, and welfare officer (see subsection 4 (1) of the Act).

**Medical Procedure Application** means an Application for Final Orders (Form 1) seeking an order authorising a major medical procedure for a child that is not for the purpose of treating a bodily malfunction or disease.

*Example*

An example of a major medical procedure for a child that is not for the purpose of treating a bodily malfunction or disease is a procedure for sterilising or removing the child's reproductive organs.

**non-convention country** means a country with which Australia does not have a convention as to service of documents (see rule 7.19).

**oath** includes affirmation (see the definition of *sworn* and sections 21 to 25 of the *Evidence Act 1995*).

*Note* Subject to sections 4 and 5 of the *Evidence Act 1995*, that Act does not apply to the Family Court of Western Australia or any other court of a State.

**order** includes:

- (a) a decree, decision, declaration and judgment; and
- (b) for an appeal or review of a decision — a refusal to grant an application or make an order.

**order**, relating to a passport, includes:

- (a) an order permitting a child to leave Australia; and
- (b) an order relating to the issue, control or surrender of a passport.

**parenting case** means a case in which parenting orders are sought under Part VII of the Act.

**payee** means a person who is entitled to take action against a payer to enforce an obligation to pay money, created by an assessment, order or agreement, with which the payer has not complied.

*Note* The Child Support Registrar is a payee in relation to a registered child support liability.

**payer** means a person who has an obligation to pay money to, or do an act to financially assist, a payee under an assessment, order or agreement.

**penalty unit** has the meaning given by section 4AA of the *Crimes Act 1914*.

*Note* The amount of a penalty unit at the commencement of these Rules is \$110.

**permission** means the leave or consent of the court.

**person** includes a corporation, authority or party.

**person with a disability**, in relation to a case, means a person who, because of a physical or mental disability:

- (a) does not understand the nature or possible consequences of the case; or
- (b) is not capable of adequately conducting, or giving adequate instruction for the conduct of, the case.

**post-separation parenting program** has the meaning given by section 70NB of the Act.

**pre-action procedure** means the set of principles and procedures, the text of which is set out in Schedule 1, with which the parties must comply before starting a case.

**pre-argument statement** means a document in an appeal in which an appellant must state concisely the issues to be raised at the hearing of the appeal (see rule 22.14).

**prescribed child welfare authority** has the meaning given by subsection 60D (1) of the Act.

**prescribed property**, for a person, means:

- (a) clothes, bed, bedding, kitchen furniture (not including an automatic dishwasher or microwave) and washing machine; and
- (b) ordinary tools of trade, plant and equipment, professional instruments and reference books, the combined value of which is not more than \$5 000.

**primary dispute resolution method** has the meaning given by section 14E of the Act.

**primary order** has the meaning given by section 70NB of the Act.

**property** includes real and personal property and superannuation.

**property case** means a case in which orders (other than consent orders) are sought relating to the property of the parties to a marriage or of either of them.

**protected earnings rate** means the actual threshold income amount that would apply to a payer under Part VI, Division 4B of the *Bankruptcy Act 1966* if the payer were a bankrupt.

**recovery order** has the meaning given by section 67Q of the Act.

**Regional Appeal Registrar** means the Registrar at the Regional Appeal Registry for an appeal.

**Regional Appeal Registry** means:

- (a) for an appeal other than an appeal from the Federal Magistrates Court or a court of summary jurisdiction:
  - (i) from an order in a case heard in the Brisbane, Darwin or Townsville Registry of the court — the Brisbane Registry;
  - (ii) from an order in a case heard in the Canberra, Newcastle, Parramatta or Sydney Registry of the court — the Sydney Registry; and
  - (iii) from an order in a case heard in the Adelaide, Dandenong, Hobart, Launceston or Melbourne Registry of the court — the Melbourne Registry;
- (b) for an appeal from the Federal Magistrates Court or a court of summary jurisdiction:
  - (i) from an order in a case heard in the Northern Territory or Queensland — the Brisbane Registry;
  - (ii) from an order in a case heard in the Australian Capital Territory or New South Wales — the Sydney Registry; and
  - (iii) from an order in a case heard in South Australia, Tasmania or Victoria — the Melbourne Registry; and
- (c) for an appeal to the Family Court of Western Australia — the Registry of the Family Court of Western Australia.

**registered**, for a document, means accepted for filing (see rule 24.05).

**Registrar** includes Principal Registrar and Deputy Registrar (except in Chapters 18 and 25).

**Registration Act** means the *Child Support (Registration and Collection) Act 1988*.

**Regulations** means the *Family Law Regulations 1984*.

**seal** means a stamp or other impression that the court puts on a document to indicate that the document has been issued by the court.

**sealed copy** means a document that bears a court seal.

**security for costs** means the security that a respondent may ask the court to order the applicant to pay for costs that may be awarded to the respondent.

**serve** means to give or deliver a document to a person in the manner required by these Rules.

**service by electronic communication** includes service by facsimile, e-mail or any other form of electronic transmission.

**sign** means write a person's name, including a mark by a person who is unable to write his or her name.

**special federal matter** has the meaning given by subsection 3 (1) of the *Jurisdiction of Courts (Cross-vesting) Act 1987*.

**State child order** has the meaning given by section 70B of the Act.

**step** means a procedural act taken in the conduct or management of a case.

**step-parent** has the meaning given by subsection 60D (1) of the Act.

**superannuation information form** means a form approved by the Principal Registrar for obtaining information from the trustee of a superannuation fund in family law cases.

**sworn**, for an affidavit or evidence, means an oath by a witness that the witness is telling the truth (see also *affirmation* and *oath*).

**termination agreement** has the meaning given by subsection 90J (1) of the Act.

**Third Party Debt Notice** means a notice given to a third party who holds money for, or owes money to, a payer demanding that the money be paid to a payee to satisfy an obligation that the payer owes the payee.

**third party debtor** means a person from whom a payee claims a debt that is owed to the payer.

**transcript** mean a written record of a hearing or a trial prepared by a contractor providing transcription services to the court for the case.

**trial** means the final determination of a case commenced by an Application for Final Orders (Form 1), other than an application mentioned in rule 4.27.

**trial notice** means a document produced by the court after the final resolution event specifying the date for the pre-trial conference and setting out the procedural orders with which the parties must comply to ensure that the case is ready to proceed to a trial (see rule 12.07).

**unreasonable**, in relation to costs for work done in a case, means costs for work that would not normally be done in a case of a particular type.

**work done for a case** includes work done in relation to the case (including in relation to the pre-action procedure) and work done in anticipation of starting the case.

**written notice** means a document (for example, a letter) that complies with subrule 24.01 (1).

*Note* A number of words and expressions commonly used in Commonwealth legislation, and in these Rules, have, unless otherwise stated, the meaning or effect set out in certain Acts of general application. See, for example, the *Acts Interpretation Act 1901* and the *Crimes Act 1914*.



## Explanatory Guide

*Note* This explanatory guide, unlike the dictionary, is not part of the Rules and is offered only as an explanation of the words and expressions mentioned in this guide.

**adduce** — to bring evidence before a court.

**adjourn** — to defer to another time a conference, hearing or trial that has started. Some events, such as a case assessment conference or trial, will not be adjourned unless unforeseen or exceptional circumstances arise. Usually, an adjournment is granted on terms that may include an order that the party who asked for the adjournment pay the other party's costs thrown away.

**Anton Piller order** — an interim injunction used to preserve evidence.

*Note* See *Anton Piller KG v Manufacturing Processes Ltd* [1976] Ch 55.

**application without notice** — an application that is heard by the court without first being served on the respondent.

**arbitration** — a dispute resolution process involving parties to a case and a neutral third party (an **arbitrator**). If agreement is not reached, the arbitrator determines the case and the decision (an **award**) is binding on the parties (see Part III, Division 5, Subdivision B of the Act).

**assessor** — a person specially qualified in the subject matter in which the assessor is appointed under Part 15.4. The assessor's function is to assist and advise the court on technical questions or issues arising in a case. Despite any advice or assistance that the court may receive from an assessor, the sole responsibility for the final decision in a case remains with the Judge presiding over the case. The Judge is not bound by an assessor's advice.

**bond** (or **recognisance**) — a written obligation to do or not to do a particular act specified in the obligation.

**business activity statement** — a statement of a business's activities that allows the business to report its obligations for:

- (a) goods and services tax;
- (b) luxury car tax;
- (c) wine equalisation tax;
- (d) pay as you go (PAYG) withholding and instalments;
- (e) fringe benefits tax instalments;
- (f) deferred company instalments; and
- (g) superannuation fund instalments.

**case assessment conference** — a conference conducted by a court counsellor or Registrar at the start of a case (see rule 12.03).

**case stated** — a procedure in which a question of law is determined by the Full Court (see Part 22.10).

**cause of action** — a claim seeking an order, other than for interim or procedural relief, for which a court has jurisdiction, for example, a claim relating to the property of the parties, the parenting of a child, child support or maintenance (see definition of matrimonial cause in subsection 4 (1) of the Act).

**chambers** — a private room other than a court room in which a judicial officer makes a decision in relation to a case, on the papers, in the absence of the parties and their lawyers (if any) and without a transcript being taken of the hearing and determination.

**child** — a person under the age of 18 years.

**closing address** — the final statement made by a party to the court at the end of a hearing or trial in which the party summarises the evidence for the party's case and states the reasons why the party considers the order sought should be made (see rule 16.07).

**common law** — the law established by precedent from judicial decisions.

**conciliation** — a dispute resolution process in which an impartial third person assists the parties to the dispute to reach an agreement in the dispute.

**conciliation conference** — a conference held with a Registrar during the resolution phase of the court process (see rules 12.05 and 12.06).

*Note 1* The purpose of a conciliation conference is to give parties an opportunity to resolve a dispute in a property case. Section 131 of the *Evidence Act 1995* (which deals with exclusion of evidence of settlement negotiations) applies to conciliation conferences.

*Note 2* Subject to sections 4 and 5 of the *Evidence Act 1995*, that Act does not apply to the Family Court of Western Australia or any other court of a State.

**conference** — includes a case assessment conference, conciliation conference and pre-trial conference.

*Note* A conference:

- may be conducted by a Deputy Registrar and mediator; and
- must be attended by the parties and their lawyers (see rule 12.11).

**consent order** — an order that:

- (a) is made if all parties:
  - (i) have reached agreement on an issue; and
  - (ii) lodge the written agreement in the form of a draft consent order for approval by the court; and
- (b) is as binding as any other order made by the court.

**control**, in relation to a document — a person's enforceable right to obtain possession of a document from another person.

**convention country** — a country other than Australia to which a convention for service of documents applies.

**costs thrown away** — costs unnecessarily incurred by a party because of an action or omission by another party.

**counselling** — a conference held with a mediator to help parties to a case:

- (a) to understand the needs of their children;
- (b) to reach agreement about arrangements for their children; or
- (c) to adjust to a separation or to court orders.

**court record** — includes the documents filed by the parties, a family report, orders and the settled reasons for judgment.

**credit** — reliability having regard to a witness's honesty and ability to observe or remember the fact or event about which the witness is giving evidence which is well capable of belief.

**cross-appellant** — a respondent to an appeal who wishes to appeal against orders.

**cross-examine** — the questioning of a witness by a party other than the party who called the witness to give evidence.

**current case** — a case in which final orders have not been made on the application.

**deponent** — a person whose evidence is set out in an affidavit and who swears that the contents of the affidavit are true.

**determination phase** — the period of case management that starts when a trial notice is issued (see flow chart in Chapter 12).

**e-mail address** — the mailing address to and from which an electronic communication may be sent and received using the Internet, an intranet or other similar network.

**enforcement hearing** — a hearing conducted on the application of a payee when a payer and any witness is cross-examined about the payer's financial affairs and ability to pay a financial obligation.

**Enforcement Warrant** — a warrant, used to enforce the payment of a sum of money, by which an enforcement officer is commanded to seize and sell sufficient of the payer's property to satisfy an obligation (including interest and costs).

**evidence** — a statement to a court that is oral or written and tends to prove or disprove a fact.

**evidence in chief** — the evidence of a witness set out in an affidavit or given in court on being questioned by the party who called the witness to give evidence, other than evidence given in response to questioning on re-examination.

**examination** — questioning of a witness on oath.

**exhibit** — a document or thing that is tendered in evidence during a hearing or trial.

**facsimile** — a copy of a document that has been sent and reproduced by facsimile transmission.

**financial institution** — includes a bank, building society and credit union.

**first court date** — the first court date set when an application or appeal is filed.

**foreign court** — a court of a foreign country (see the definition in the dictionary to the *Evidence Act 1995*).

*Note* Subject to sections 4 and 5 of the *Evidence Act 1995*, that Act does not apply to the Family Court of Western Australia or any other court of a State.

**frivolous** — not worthy of serious consideration, insupportable in law, disclosing no cause of action or groundless (see also **vexatious**).

**image** — a picture that has been created, copied, stored or transmitted in electronic form.

**indemnity basis** — an entitlement to costs, including costs under a costs agreement, for all costs incurred, other than costs that are unreasonable in amount or that have been incurred unreasonably.

**information session** — a session during which information is given about the procedures involved in a case in the Family Court.

**injunction** — an order requiring a person to do or refrain from doing a thing (see section 114 of the Act).

**interim order** — an order that operates until a final order is made (see Chapter 5).

**interlocutory order** — an order, not being a final order, made before trial (see regulation 15A of the Regulations).

**intervener** — a person who is entitled to, or is given permission to, become a party in a case, for example, the Attorney-General or any other person intervening under section 91 or 92 of the Act.

**issue** — includes any question of fact or law or both, being part of a case.

**joint application** — an Application for Divorce in which the husband and wife are the applicants.

**Judicial Registrar** — see sections 26A to 26N of the Act.

**lawyer and client costs** — the costs payable by a client to the client's lawyer.

**legal personal representative**, for a deceased party — the executor or administrator of the party's estate.

**location order** — an order that requires information to be provided by a third party about the location of a child (see subsection 67J (1) of the Act).

**maintenance** — money paid by a person to:

- (a) a spouse or former spouse (**spousal maintenance**); or
- (b) a child (child maintenance).

**Mareva order** — an order preventing a person from removing property from Australia or dealing with property either in or outside Australia.

**mediation** — a conference, including counselling, held with a mediator to help parties:

- (a) to understand the needs of their children;
- (b) to reach agreement about arrangements for their children;
- (c) to reach agreement about financial arrangements; or
- (d) to adjust to a separation or to court orders.

**Notice to Admit** — a notice requiring a party to admit certain facts or the authenticity of certain documents for a case.

**Notice to Produce** — a notice requiring a party to bring certain documents to a hearing or trial.

**nullity** — nullity of marriage (see section 51 of the Act and sections 23 and 23B of the *Marriage Act 1961*).

**open court** — a court in which a judicial officer is sitting that is open to the public (see section 97 of the Act).

**opening address** — the introductory statement made by a party at the beginning of a hearing or trial, outlining the argument that will be presented and the evidence that will be introduced (see rule 16.07).

**parental responsibility** — all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children (see section 61B of the Act).

**parenting order** — includes orders for residence, contact, child maintenance and parental responsibility (see subsection 64B (1) of the Act).

**parenting plan** — a written plan agreed between parents about arrangements for the ongoing care, welfare and development of a child.

**party and party costs** — the costs payable by one party to another party under these Rules or by order.

**personal property** — all property except land and other real estate.

**postpone, for an event** — to put off or to delay to a future fixed time before the start of the event.

**practice direction** — a direction about procedure that is published with the authority of the Chief Justice.

**pre-trial conference** — the event at which the readiness of parties for a trial is explored and, if a case is ready for trial, a trial date is allocated.

**Principal Registrar** — the most senior legal officer of the Family Court of Australia.

**privilege from disclosure** — the right of a party to refuse to disclose a document or answer a question on the ground of some special interest recognised by law, for example, legal professional privilege.

**procedural hearing** — a hearing at which procedural orders are made to progress a case.

**procedural order** — an order made about the practice or procedure to be taken by a party to progress a case.

**producing, for disclosure of a document** — includes searching for, arranging, copying and providing the document, if necessary.

**proportionate, for a case** — balancing the costs and expenses of the case with achieving a satisfactory outcome.

**public interest** — the importance of the outcome of a case to the public.

**real property** — land, structures and rights arising from land.

**reasons for judgment** — the reasons given by a judicial officer for the making of orders.

**re-examination** — the questioning of a witness by the party who called the witness to give evidence after the cross-examination of the witness.

**registry** — the office of the court, including the courtrooms.

**Registry Manager** — the officer of the court who is responsible for the management of a Registry.

**resolution phase** — the period of case management starting on the filing of an Application for Final Orders (Form 1) (the end of the prevention phase) and ending when a trial notice is issued (the start of the determination phase) (see flowchart in Chapter 12).

**respondent** — a party named in an application or Notice of Appeal (Form 20) as a respondent.

**response**, in relation to an application — a form that a respondent uses to answer the orders sought in the application, including:

- (a) for an Application for Final Orders (Form 1) — Form 1A;
- (b) for an Application in a Case (Form 2) — Form 2A; and

(c) for an Application for Divorce (Form 3) — Form 3A.

**security** — a form of guarantee of or safeguard for compliance, for example, the payment of a sum of money into court that is returned if the obligation is met and forfeited if it is not.

**self-executing order** — an order, a term of which requires an act to be done and provides that non-compliance will automatically result in a stated consequence.

**sequestration** — temporary possession or occupation of property and collection of income.

**sequestrator** — a person appointed by the court under rule 20.43.

**set aside** — cancelled.

**specialist family court program** — a specific program offered by a Family Court to help people, for example, parenting after separation, group program or intractable contact program.

**specific questions** — written questions relevant to an issue in a case served by a party to the case on another party.

**statement made on information and belief** — a statement, in an affidavit filed in an Application in a Case (Form 2), made on information received from another source that is believed to be true.

**stay**, for a case — to suspend the case.

**struck out:**

- (a) for a case — removed from the list of cases to be heard on a day, but able to continue with the court's permission; and
- (b) for the contents of a document — not considered or relied on by the court in the determination of a case.

**subpoena** — a witness summons issued by the court that requires a named person to attend the court to give evidence or bring documents, books or other things to the court.

**subpoena for production** — a witness summons requiring a named person to attend as directed and produce a document or other thing.

**subpoena to give evidence** — a witness summons requiring a named person to attend as directed for the purpose of giving evidence.

**summary judgment** — a judgment given in favour of an applicant if there is evidence to prove the claim and the respondent has no real defence.

**tender**, for a hearing or trial — to hand a document to the judicial officer during the hearing or trial with a request that the document be filed or admitted into evidence.

**trial Judge** — the Judge listed to determine a trial or who finally determines a case.

**undefended basis** — the court may order that a hearing or trial may proceed, because of the respondent's failure to comply with a rule or order, as if a response has not been filed. The court may make the orders set out in the application on being satisfied by evidence that the orders should be made.

**undertaking as to damages** — an undertaking that may be sought by the court from an applicant seeking orders without notice to the respondent.

*Note* An undertaking as to damages is usually in the following form:

I, (full name), personally (or by my solicitor) undertake to the court to abide by any order the court may make as to damages should the court in the future find that the respondent (or as the case may be) has sustained any damage by reason of this order for which I should accept responsibility.

**vest** — to pass legal ownership, rights or powers to another person.

**vexatious**, in relation to an application — having no reasonable prospect of success (see section 118 of the Act for the court's powers in relation to a vexatious case; see also **frivolous**).

**without prejudice**, in relation to an offer to settle — an offer made, orally or in writing, during settlement negotiations between parties that may not be revealed to the court (unless the parties agree otherwise) until the only outstanding issue is costs (see section 131 of the *Evidence Act 1995*).

*Note* Subject to sections 4 and 5 of the *Evidence Act 1995*, that Act does not apply to the Family Court of Western Australia or any other court of a State.

*witness* — a person who gives evidence, orally or by affidavit, to the court.



## Notes to the *Family Law Rules 2004*

### Note 1

The *Family Law Rules 2004* (in force under the *Family Law Act 1975*) as shown in this compilation comprise Statutory Rules 2003 No. 375 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

### Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
2003 No. 375	23 Dec 2003	29 Mar 2004	
2004 No. 53	26 Mar 2004	29 Mar 2004	R. 4
2004 No. 351	17 Dec 2004	Rr. 1–3 and Schedule 1: 17 Dec 2004 Schedule 2: 31 Jan 2005 Schedule 3: 31 Mar 2005	—



## Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
<b>Chapter 2</b>	
<b>Part 2.1</b>	
R. 2.01.....	am. 2004 No. 351
<b>Chapter 4</b>	
<b>Part 4.2</b>	
<b>Division 4.2.3</b>	
R. 4.09.....	am. 2004 No. 351
<b>Division 4.2.4</b>	
Note to r. 4.17.....	rs. 2004 No. 351
<b>Division 4.2.5</b>	
R. 4.21.....	am. 2004 No. 351
<b>Division 4.2.7</b>	
R. 4.30.....	am. 2004 No. 351
R. 4.31.....	rs. 2004 No. 351
<b>Chapter 5</b>	
<b>Part 5.1</b>	
R. 5.06.....	rs. 2004 No. 351
R. 5.07.....	am. 2004 No. 351
<b>Part 5.3</b>	
R. 5.12.....	am. 2004 No. 351
<b>Chapter 6</b>	
<b>Part 6.1</b>	
R. 6.02.....	am. 2004 No. 351
<b>Part 6.2</b>	
R. 6.06.....	am. 2004 No. 351
R. 6.07.....	am. 2004 No. 351
<b>Chapter 7</b>	
<b>Part 7.1</b>	
R. 7.03.....	am. 2004 No. 351
<b>Part 7.4</b>	
R. 7.13.....	am. 2004 No. 351
<b>Chapter 8</b>	
<b>Part 8.2</b>	
R. 8.05.....	am. 2004 No. 351
<b>Chapter 9</b>	
<b>Part 9.1</b>	
R. 9.01.....	am. 2004 No. 351
<b>Chapter 10</b>	
<b>Part 10.1</b>	
<b>Division 10.1.1</b>	
R. 10.04.....	am. 2004 No. 351
<b>Part 10.4</b>	
R. 10.16A.....	ad. 2004 No. 351
<b>Chapter 11</b>	
<b>Part 11.1</b>	
R. 11.01.....	am. 2004 No. 351
<b>Part 11.2</b>	
<b>Division 11.2.2</b>	
R. 11.10.....	am. 2004 No. 351
Note to r. 11.10 (3).....	rep. 2004 No. 351
<b>Division 11.2.3</b>	
R. 11.15.....	am. 2004 No. 351

**Part 11.3****Division 11.3.2**

Division 11.3.2.....	rs. 2004 No. 351
R. 11.17.....	rs. 2004 No. 351
R. 11.18.....	rs. 2004 No. 351
R. 11.19.....	rep. 2004 No. 351

**Chapter 12****Part 12.1**

R. 12.01.....	am. 2004 No. 351
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**Part 12.2**

R. 12.02.....	am. 2004 No. 351
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**Part 12.4**

R. 12.12.....	rs. 2004 No. 351
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**Part 12.5**

R. 12.14.....	am. 2004 No. 351
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**Chapter 13****Part 13.2****Division 13.2.1**

R. 13.12.....	am. 2004 No. 351
R. 13.15.....	am. 2004 No. 351
R. 13.16.....	am. 2004 No. 53

**Part 13.4****Division 13.4.2**

R. 13.33.....	am. 2004 No. 351
R. 13.34.....	am. 2004 No. 351
R. 13.35.....	rs. 2004 No. 351
R. 13.37A.....	ad. 2004 No. 351
R. 13.39.....	rs. 2004 No. 351
R. 13.39A.....	ad. 2004 No. 351
R. 13.40.....	rs. 2004 No. 351

**Chapter 14**

Note to r. 14.06 (3).....	rep. 2004 No. 351
Note 1 to r. 14.06 (3).....	ad. 2004 No. 351
Note 2 to r. 14.06 (3).....	ad. 2004 No. 351

**Chapter 15****Part 15.2**

R. 15.07.....	am. 2004 No. 351
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**Part 15.3****Division 15.3.2**

R. 15.29.....	am. 2004 No. 351
R. 15.30.....	am. 2004 No. 53
R. 15.35.....	am. 2004 No. 351

**Part 15.5****Division 15.5.1**

R. 15.41.....	rs. 2004 No. 351
R. 15.43.....	am. 2004 No. 351

**Division 15.5.2**

Note 2 to r. 15.47.....	rs. 2004 No. 351
R. 15.49.....	am. 2004 No. 351

**Division 15.5.4**

R. 15.54.....	am. 2004 No. 351
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**Division 15.5.5**

R. 15.62.....	am. 2004 No. 351
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**Division 15.5.7**

R. 15.69.....	am. 2004 No. 351
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**Chapter 16****Part 16.3**

R. 16.08.....	am. 2004 No. 351
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R. 17.03.....	am. 2004 No. 351
<b>Chapter 18</b>	
<b>Part 18.1</b>	
<b>Division 18.1.2</b>	
R. 18.02.....	am. 2004 No. 351
<b>Division 18.1.3</b>	
R. 18.05.....	am. 2004 No. 351
R. 18.06.....	am. 2004 No. 351
<b>Chapter 19</b>	
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R. 19.03.....	am. 2004 No. 351
R. 19.04.....	am. 2004 No. 351
<b>Part 19.5</b>	
Part 19.5.....	rs. 2004 No. 351
R. 19.18.....	rs. 2004 No. 351
R. 19.19.....	rs. 2004 No. 351
<b>Part 19.6</b>	
<b>Division 19.6.1</b>	
R. 19.24.....	am. 2004 No. 351
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Heading to r. 19.26.....	rs. 2004 No. 351
<b>Part 19.7</b>	
R. 19.47.....	rep. 2004 No. 351
R. 19.48.....	rep. 2004 No. 351
<b>Chapter 20</b>	
<b>Part 20.1</b>	
R. 20.05.....	rs. 2004 No. 351
Heading to r. 20.06.....	rs. 2004 No. 351
R. 20.06.....	am. 2004 No. 351
R. 20.08.....	am. 2004 No. 351
<b>Part 20.2</b>	
<b>Division 20.2.2</b>	
Note to r. 20.11 (3).....	ad. 2004 No. 351
<b>Part 20.3</b>	
<b>Division 20.3.1</b>	
R. 20.15.....	am. 2004 No. 351
R. 20.16.....	am. 2004 No. 351
Note to r. 20.16 (3).....	ad. 2004 No. 351
Heading to r. 20.17.....	rs. 2004 No. 351
R. 20.18.....	am. 2004 Nos. 53 and 351
Note to r. 20.18 (1).....	ad. 2004 No. 351
R. 20.21.....	am. 2004 No. 351
R. 20.21A.....	ad. 2004 No. 351
R. 20.21B.....	ad. 2004 No. 351
R. 20.22.....	rs. 2004 No. 351
R. 20.23.....	am. 2004 No. 351
Note to r. 20.23 (2).....	ad. 2004 No. 351
R. 20.24.....	am. 2004 No. 351
<b>Division 20.3.2</b>	
Note to r. 20.29.....	rs. 2004 No. 351
<b>Part 20.4</b>	
R. 20.32.....	am. 2004 No. 351
<b>Part 20.5</b>	
Note to r. 20.42 (4).....	ad. 2004 No. 351
R. 20.43.....	am. 2004 No. 351

Note to r. 20.43 (2).....	ad. 2004 No. 351
<b>Part 20.6</b>	
R. 20.46.....	am. 2004 No. 351
Note to r. 20.46 (3).....	ad. 2004 No. 351
Note to r. 20.47 (5).....	ad. 2004 No. 351
<b>Part 20.7</b>	
Heading to Part 20.7.....	rs. 2004 No. 351
R. 20.56.....	am. 2004 No. 351
<b>Part 20.8</b>	
R. 20.60.....	ad. 2004 No. 351
<b>Chapter 21</b>	
<b>Part 21.1</b>	
R. 21.02.....	am. 2004 No. 351
R. 21.06.....	rs. 2004 No. 351
R. 21.07.....	am. 2004 No. 351
R. 21.08.....	am. 2004 No. 351
<b>Part 21.4</b>	
R. 21.16.....	am. 2004 No. 351
R. 21.17.....	am. 2004 No. 351
<b>Part 22.2</b>	
Note 2 to r. 22.12 (3).....	rs. 2004 No. 351
Note 3 to r. 22.12 (3).....	rep. 2004 No. 351
<b>Part 22.3</b>	
Part 22.3.....	am. 2004 No. 53
Note 4 to r. 22.14.....	rs. 2004 No. 351
R. 22.22.....	am. 2004 No. 351
<b>Part 22.7</b>	
<b>Division 22.7.1</b>	
R. 22.42.....	am. 2004 No. 351
<b>Chapter 24</b>	
<b>Part 24.1</b>	
R. 24.01.....	am. 2004 No. 351
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<b>Schedule 2</b>	
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Form 11.....	am. 2004 No. 53 rs. 2004 No. 351
Form 12.....	rs. 2004 No. 351
Form 13.....	rs. 2004 No. 53; 2004 No. 351
Form 14.....	am. 2004 No. 53; 2004 No. 351
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<b>Schedule 3</b>	
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## Table A Application, saving or transitional provisions

### Statutory Rules 2004 No. 53

#### 4 Transitional

- (1) If:
  - (a) a case was commenced in accordance with the 1984 Rules; and
  - (b) the case not finally determined before the repeal of those Rules; the case must be continued in accordance with the 2004 Rules.
- (2) If:
  - (a) an act or thing was done under the 1984 Rules before the repeal of those Rules; and
  - (b) the act or thing is of a kind that could be done under the 2004 Rules; the act or thing is taken to have been done under the 2004 Rules.
- (3) If:
  - (a) an obligation was incurred, or an undertaking was given, under the 1984 Rules before the repeal of those Rules; and
  - (b) the obligation is of a kind that could be incurred, or the undertaking is of a kind that could be given, under the 2004 Rules; the obligation is taken to have been incurred, or the undertaking is taken to have been given, under the 2004 Rules.
- (4) If:
  - (a) an act or thing was required to be done under the 1984 Rules before the repeal of those Rules; and
  - (b) the act or thing was not done before the repeal of those Rules; and
  - (c) the act or thing is of a kind that is required to be done under the 2004 Rules; the act or thing is taken not to have been done for the purposes of the 2004 Rules.
- (5) The 2004 Rules do not operate to revive any period of time for doing an act or thing that was required to be done under the 1984 Rules, if the period had expired before the repeal of those Rules.
- (6) If:
  - (a) a period of time was running in relation to a matter under the 1984 Rules before the repeal of those Rules; and
  - (b) the period had not expired before the repeal of those Rules; and
  - (c) the matter is of a kind to which the 2004 Rules apply; the period continues to run as if the 1984 Rules had not been repealed.
- (7) In this rule:
 

**1984 Rules** means the *Family Law Rules 1984*, as in force immediately before the commencement of these Rules.

**2004 Rules** means the *Family Law Rules 2004*.

**case** has the meaning given by the dictionary to the *Family Law Rules 2004*.