

# **Family Law Regulations Amendment 2001 (No. 3) 2001 No. 264**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2001 No. 264**

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

*Family Law Act 1975*

Family Law Regulations Amendment 2001 (No. 3)

Section 125 of the *Family Law Act 1975* (the Act) provides that the Governor-General may make regulations prescribing matters, amongst others, necessary or convenient to be prescribed for the carrying out or giving effect to the Act, including prescribing certain fees in respect of proceedings in the Court. Pursuant to this power, the Family Law Regulations 1984 (the Principal Regulations) were made, prescribing certain matters concerning the practice and procedure of the Family Court of Australia.

The purpose of the Regulations is to amend the Principal Regulations to provide a filing fee of \$250 for an application for a dissolution of marriage that is instituted in or transferred to a court prescribed under paragraph 10A(2)(a) or (c) of the Principal Regulations and to prescribe an amount under section 45A of the Act dealing with the Federal Magistrates Court's jurisdiction in property disputes.

Under the Principal Regulations fees are imposed, under regulation 11, for proceedings under the Act other than proceedings in the Federal Magistrates Court. Paragraph 11(1)(a)(i) provides for a filing fee for a decree of dissolution of marriage. The Regulations amend regulation 11 to provide a filing fee of \$250 for a dissolution of marriage that is instituted in or transferred to a court prescribed under paragraph 10A(2)(a) or (c), that is a court constituted by a stipendiary magistrate who is the Registrar or a Deputy Registrar of the Family Court of Western Australia and the Court of Petty Sessions of Norfolk Island. This is the same fee that applies in the Federal Magistrates Court.

Section 45A of the Act gives the Federal Magistrates Court jurisdiction in property disputes where the property in dispute is worth less than \$300,000 or such other amount as prescribed, or in property disputes worth more than this with the consent of the parties. The Regulations will prescribe an amount of \$700,000. This amendment commences on 1 January 2002. The delayed start will allow the Federal Magistrates Court to make some changes to its Rules of Court.

Details of the Regulations are set out in the Attachment.

Regulations 1 to 3 and Schedule 1 commence on gazettal. Schedule 2 commences on 1 January 2002.

## Attachment

### Family Law Amendment Regulations 2001 (No. 3)

Regulation 1 provides the name of the Regulations.

Regulation 2 provides that regulations 1 to 3 and Schedule 1 commence on gazettal. Schedule 2 commences on 1 January 2002.

Regulation 3 provides that Schedule 1 to the proposed Regulations amends the Family Law Regulations 1984.

Item 2 of Schedule 1 inserts new subregulation 11(1A). Subregulation 11(1A) provides a filing fee of \$250 for a decree of dissolution of marriage for proceedings instituted in or transferred to a court prescribed under paragraph 10A(2)(a) or (c), that is a court constituted by a stipendiary magistrate who is the Registrar or a Deputy Registrar of the Family Court of Western Australia and the Court of Petty Sessions of Norfolk Island. This fee is the same fee that applies in the Federal Magistrates Court.

Items 1, 3, 4, and 5 of Schedule 1 make consequential amendments to regulation 11.

Item 1 of Schedule 2 inserts new regulation 12AC. Regulation 12AC prescribes an amount of \$700,000 for the purposes of paragraph 45A(1)(a)(ii) of the Act. The regulation applies in relation to proceedings instituted after 1 September 2001. This gives the Federal Magistrates Court jurisdiction in property disputes under the Act where the property in dispute is worth less than \$700,000. Section 45A of the Act provides that if the total value of the property exceeds this amount then, unless the parties consent to the Federal Magistrates Court hearing the proceeding, the Federal Magistrates Court must transfer the proceeding to the Family Court.