



Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021

made under Chapter 4 of the

Federal Circuit and Family Court of Australia Act 2021

Compilation No. 1

Compilation date:	1 January 2023
Includes amendments up to:	F2022L01585
Registered:	14 January 2023

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021* that shows the text of the law as amended and in force on 1 January 2023 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1.01 Name.....	1
1.03 Authority.....	1
1.04 Court may make orders or dispense with these Rules.....	1
Part 2—Application of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021	2
2.01 Application of the <i>Federal Circuit and Family Court of Australia (Family Law) Rules 2021</i>	2
2.02 Modifications of the <i>Federal Circuit and Family Court of Australia (Family Law) Rules 2021</i>	2
Part 3—Transferring proceedings	5
3.01 Transfer to Federal Circuit and Family Court (Division 1).....	5
3.02 Proceeding transferred to Federal Circuit and Family Court (Division 1)—transfer of documents.....	5
Part 4—Costs	7
4.01 Costs in family law and child support matters.....	7
Part 5—Delegation	8
5.01 Delegation of additional powers to Senior Judicial Registrars and Judicial Registrars.....	8
Schedule 1—Scale of costs in family law and child support matters	9
1 Application of this Schedule.....	9
2 Scale of costs in family law and child support matters.....	9
Schedule 2—Additional delegated powers	11
Endnotes	13
Endnote 1—About the endnotes	13
Endnote 2—Abbreviation key	14
Endnote 3—Legislation history	15
Endnote 4—Amendment history	16

Part 1—Preliminary

1.01 Name

These Rules are the *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021*.

1.03 Authority

These Rules are made under Chapter 4 of the *Federal Circuit and Family Court of Australia Act 2021*.

1.04 Court may make orders or dispense with these Rules

- (1) The court may, in the interests of justice, dispense with compliance, or full compliance, with any of these Rules at any time.
- (2) If, in a proceeding, the court gives a direction or makes an order that is inconsistent with any of these Rules, the direction or order of the court prevails in that proceeding.

Rule 2.01

Part 2—Application of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021

2.01 Application of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*

The *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (other than rules 1.01 to 1.03), as modified in accordance with these Rules, apply to the exercise of the Court’s jurisdiction in family law or child support proceedings as if the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* were provisions of these Rules.

2.02 Modifications of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*

For the purposes of rule 2.01 of these Rules, the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* apply as if the modifications in the following table were made.

Table 2.1—Modifications of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*

Item	Provision	Omit (wherever occurring)	Substitute
1	Subrule 1.04(1)	section 67	section 190
2	Subrule 1.04(1) (note 1)	subsection 67(3)	subsection 190(3)
3	Subsection 1.04(2) (note)	subsection 68(1)	subsection 191(1)
4	Rule 1.05 (paragraph (a) of the definition of Judicial Registrar)	Division 1	Division 2
5	Subrules 1.07(1) and 1.08(1)	Chief Justice	Chief Judge
6	Subrule 3.08(2)	section 57	section 175
7	Subrule 5.08(2)	25 pages	10 pages
8	Subrule 5.08(3)	10 annexures	5 annexures
9	Rule 9.04	Part 9.2	Part 9.2, or Part 3 of the <i>Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021</i> ,
10	Paragraph 10.21(1)(a)	in the Federal Circuit and Family Court (Division 1)—under an arrangement under section 79	in the Federal Circuit and Family Court (Division 2)—under an arrangement under section 246

Table 2.1—Modifications of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*

Item	Provision	Omit (wherever occurring)	Substitute
11	Subrule 10.23(1)	section 102QC of the Family Law Act	section 240 of the Federal Circuit and Family Court Act, or section 102QC of the Family Law Act,
12	Subrule 10.24(1)	subsection 102QE(2) of the Family Law Act	subsection 242(2) of the Federal Circuit and Family Court Act, or subsection 102QE(2) of the Family Law Act,
13	Rule 14.01 (definition of <i>Judicial Registrar</i>)	Division 1	Division 2
14	Rule 14.01 (paragraph (b) of the definition of <i>Senior Judicial Registrar</i>)	Division 1	Division 2
15	Subrule 14.02(2)	Division 1	Division 2
16	Subrule 14.02(2)	subsection 98(1)	subsection 254(1)
17	Subrule 14.02(2)	Chief Justice	Chief Judge
18	Subrule 14.02(2) (note)	section 85	section 251
19	Subrules 14.03(1) and (2)	Division 1	Division 2
20	Subrule 15.21(1)	Chief Justice	Chief Judge
21	Subrule 15.21(1)	Division 1	Division 2
22	Rule 15.22	Division 1	Division 2
23	Rule 15.22	Chief Justice	Chief Judge
24	Schedule 1, Part 1, paragraph 1(4)(f)	section 67	section 190
25	Schedule 1, Part 2 paragraph 1(4)(f)	section 67	section 190
26	Schedule 4, clause 2	Division 1	Division 2
27	Schedule 4, clause 2, table item 2.1	98(2)(q)	254(2)(q)
28	Schedule 4, clause 2, table items 3.1, 3.2 and 3.3	98(3)(d)	254(3)(d)
29	Schedule 4, clause 2, table item 5.2	Paragraph 98(2)(p) (qualified by subsection 98(7))	Paragraph 254(2)(p) (qualified by subsection 254(7))
30	Schedule 4, clause 2, table items 12.1 and 12.2	Paragraph 98(2)(i) and subsection 98(6)	Paragraph 254(2)(i) and subsection 254(6)
31	Schedule 4, clause 2,	Paragraph 98(2)(j)	Paragraph 254(2)(j)

Rule 2.02

Table 2.1—Modifications of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*

Item	Provision	Omit (wherever occurring)	Substitute
	table item 12.3		
32	Schedule 4, clause 2, table item 14.1	Subsection 68(3)	Subsection 191(3)
33	Schedule 4, clause 2, table item 14.2	Section 69	Section 192
34	Schedule 4, clause 2, table item 14.5	Paragraph 98(2)(k)	Paragraph 254(2)(k)
35	Schedule 4, clause 2, table item 15.1	Section 63	Section 182
36	Schedule 4, clause 2, table item 16.1	Paragraph 98(2)(d)	Paragraph 254(2)(d)
37	Schedule 4, clause 2, table item 16.2	Paragraph 98(2)(e)	Paragraph 254(2)(e)
38	Schedule 4, clause 2, table items 21.2, 21.3 and 21.7	Paragraph 98(2)(n)	Paragraph 254(2)(n)
39	Schedule 4, clause 2, table item 23.5	Subsection 66(2)	Subsection 189(2)
40	Schedule 4, clause 2, table item 23.6	Paragraph 98(2)(h)	Paragraph 254(2)(h)
41	Schedule 4, clause 2, table item 24.2	Paragraph 98(2)(g)	Paragraph 254(2)(g)
42	Schedule 4, clause 2, table item 27.5	Rule 8.04 FCFCOA Rules	Subsection 199(2) FCFCOA Act and rule 8.04 FCFCOA Rules
43	Schedule 4, clause 2, table item 27.6	Section 102C FLA	Section 201 FCFCOA Act and section 102C FLA
44	Schedule 4, clause 2, table item 27.7	Section 102D FLA	Section 202 FCFCOA Act and section 102D FLA
45	Schedule 4, clause 2, table item 27.8	Section 102E FLA	Section 203 FCFCOA Act and section 102E FLA
46	Schedule 4, clause 2, table item 27.9	Section 102K FLA	Section 204 FCFCOA Act and section 102K FLA
47	Schedule 4, clause 2, table items 28.1 and 28.2	Paragraph 98(2)(n)	Paragraph 254(2)(n)
48	Schedule 4, clause 2, table item 28.3	Paragraph 98(2)(o)	Paragraph 254(2)(o)
49	Schedule 4, clause 2, table item 29.3	Section 65	Section 184

Part 3—Transferring proceedings

3.01 Transfer to Federal Circuit and Family Court (Division 1)

- (1) The Federal Circuit and Family Court (Division 2) may, on the application of a party or on its own initiative, transfer a family law or child support proceeding pending in the Court to the Federal Circuit and Family Court (Division 1) under section 149 of the Federal Circuit and Family Court Act.
- (2) Unless the Federal Circuit and Family Court (Division 2) otherwise orders, an application under this rule must be made by application supported by an affidavit or included in a response supported by an affidavit.
- (3) In addition to the factors to which the Federal Circuit and Family Court (Division 2) must have regard under subsection 149(3) of the Federal Circuit and Family Court Act in deciding whether to transfer a proceeding to the Federal Circuit and Family Court (Division 1), the Federal Circuit and Family Court (Division 2) must have regard to the following matters:
 - (a) whether the proceeding is likely to involve questions of general importance, such that it would be desirable for there to be a decision of the Federal Circuit and Family Court (Division 1) on one or more of the points in issue;
 - (b) the financial value of the claim;
 - (c) the complexity of the facts, legal issues, remedies and procedures involved;
 - (d) whether the proceeding, if transferred, is likely to be dealt with:
 - (i) at less cost to the parties; or
 - (ii) at more convenience to the parties; or
 - (iii) earlier;
 - (e) the availability of a judicial officer specialising in the type of proceeding to which the application relates;
 - (f) the availability of particular procedures appropriate for the class of proceeding;
 - (g) the adequacy of the available facilities, having regard to any disability of a party or witness, and any safety concerns;
 - (h) the wishes of the parties.

3.02 Proceeding transferred to Federal Circuit and Family Court (Division 1)—transfer of documents

If a proceeding is transferred to the Federal Circuit and Family Court (Division 1), the Registry Manager of the Federal Circuit and Family Court (Division 2) must:

- (a) send to the Registry Manager of the Federal Circuit and Family Court (Division 1) all documents filed and orders made in the proceeding; and

Part 3 Transferring proceedings

Rule 3.02

- (b) retain in the Federal Circuit and Family Court (Division 2) a copy of all orders made in the proceeding.

Part 4—Costs

4.01 Costs in family law and child support matters

- (1) In applying Chapter 12 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* in relation to family law or child support proceedings, the Court may apply the scale of costs in Schedule 3 to those Rules or the scale of costs in Schedule 1 to these Rules.
- (2) In item 12 of the table in Schedule 1 to these Rules:
 - (a) the reference to rule 11.15 is a reference to rule 11.15 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* as that rule applies because of rule 2.01 of these Rules; and
 - (b) the reference to rule 11.34 is a reference to rule 11.34 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* as that rule applies because of rule 2.01 of these Rules.

Part 5—Delegation

5.01 Delegation of additional powers to Senior Judicial Registrars and Judicial Registrars

Schedule 4 to the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* applies as if that Schedule included the items in the table in Schedule 2 to these Rules.

Schedule 1—Scale of costs in family law and child support matters

Note: See rule 4.01.

1 Application of this Schedule

This Schedule, as substituted by the *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Amendment (Costs) Rules 2022*, applies to work done or services performed on or after 1 January 2023.

2 Scale of costs in family law and child support matters

The following table sets out the scale of costs in family law and child support matters.

Scale of costs in family law and child support matters		
Item	Column 1 Description	Column 2 Amount (including GST)
1	Initiating or opposing an application up to the completion of the first court date	Both: (a) \$2,512.56; and (b) the daily hearing fee specified in item 13 that applies to the hearing
2	Initiating or opposing an application that includes interim orders (other than procedural orders) up to the completion of the first court date	Both: (a) \$3,141.50 and (b) the daily hearing fee specified in item 13 that applies to the hearing
3	Initiating or opposing an application for interlocutory orders (including an interim hearing) that is not otherwise described in item 1 or 2	Both: (a) \$2,093.62; and (b) the daily hearing fee specified in item 13 that applies to the hearing
4	Procedural or summary hearing—as a discrete event	\$2,093.62
5	Conciliation conference (including preparation)	\$2,093.62
6	Other dispute resolution (including preparation)	\$2,093.62
7	Preparation for final hearing—1 day matter	\$5,353.45
8	Preparation for final hearing—2 day matter	\$6,637.98
9	Preparation for final hearing—each additional hearing day after the second hearing day	\$1,422.04
10	Attendance at hearing to take judgment and explain orders	Both: (a) \$342.19; and

Schedule 1 Scale of costs in family law and child support matters

Scale of costs in family law and child support matters		
Item	Column 1 Description	Column 2 Amount (including GST)
		(b) the daily hearing fee specified in item 13 that applies to the hearing
11	Application for location order, recovery order or enforcement of an order (other than an application for enforcement by a Registrar under item 12)	Both: (a) \$1,062.80; and (b) the daily hearing fee specified in item 13 that applies to the hearing
12	Application for enforcement by a Registrar of: (a) a warrant under rule 11.15; or (b) a third party debt notice under rule 11.34	\$702.49
13	Daily hearing fee	(a) for a short mention—\$342.19; or (b) for a half day hearing—\$1,255.75; or (c) for a full day hearing—\$2,512.56
14	Advocacy loading	50% of the daily hearing fee specified in item 13 that applies to the hearing
15	Drafting, conferences and chamber work (not otherwise covered by other items in the table)	(a) Senior Counsel—\$721.68 per hour; (b) Junior Counsel—\$384.83 per hour; (c) Solicitor—\$277.16 per hour
16	Disbursements—Court fees and other fees and payments to the extent that they have been reasonably incurred	The amount of the fees and payments
17	Disbursements—photocopying for each page	\$0.86
18	Agents' fees and travelling costs	\$706.76
	Note: For 2 or more hours travel.	

Schedule 2—Additional delegated powers

Note: See rule 5.01.

Additional delegations to Senior Judicial Registrars and Judicial Registrars				
Item	Column 1 Provision	Column 2 Description of power	Column 3 Senior Judicial Registrar	Column 4 Judicial Registrar
14.2A	Subsection 174(2) FCFCOA Act	To give directions about the practice and procedure to be followed in relation to a proceeding or a part of a proceeding in the Federal Circuit and Family Court (Division 2)	✓	✓
14.6A	Rule 1.04 of these Rules	On application, or on own initiative, to dispense with compliance with any of these Rules	✓	✓
27.4A	Section 187 FCFCOA Act but only for a proceeding that is being heard by a Senior Judicial Registrar or Judicial Registrar, or with the consent of the parties	To give directions about limiting the time for oral argument in a proceeding in the Federal Circuit and Family Court (Division 2)	✓	✓
27.4B	Section 188 FCFCOA Act but only for a proceeding that is being heard by a Senior Judicial Registrar or Judicial Registrar, or with the consent of the parties	To give directions about the use of, or length of, written submissions in a proceeding in the Federal Circuit and Family Court (Division 2)	✓	✓
27.4C	Section 197 FCFCOA Act but only for a proceeding that is being heard by a Senior Judicial Registrar or Judicial Registrar, or with	To give directions about limiting the time for giving testimony in a proceeding in the Federal Circuit and Family Court (Division 2)	✓	✓

Schedule 2 Additional delegated powers

Additional delegations to Senior Judicial Registrars and Judicial Registrars				
Item	Column 1 Provision	Column 2 Description of power	Column 3 Senior Judicial Registrar	Column 4 Judicial Registrar
	the consent of the parties			
29.2A	Section 149 FCFCOA Act	To transfer a proceeding from the Federal Circuit and Family Court (Division 2) to the Federal Circuit and Family Court (Division 1)	✓	✓
29.5	Part 3 of these Rules	To transfer a proceeding from the Federal Circuit and Family Court (Division 2) to the Federal Circuit and Family Court (Division 1) and documents filed in the proceeding	✓	✓

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021	30 Aug 2021 (F2021L01205)	1 Sept 2021 (r 2(1) item 1)	
Federal Circuit and Family Court of Australia (Division 2) (Family Law) Amendment (Costs) Rules 2022	7 Dec 2022 (F2022L01585)	1 Jan 2023 (r 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
r 1.02	rep LA s 48D
Schedule 1	
Schedule 1	rs F2022L01585
