



FEDERAL MAGISTRATES COURT OF AUSTRALIA

Federal Magistrates Court of Australia
Commonwealth Law Courts
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Melbourne Vic 3000

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18 February 2008

Law Societies
Bar Associations
National Legal Aid and Legal Aid Commissions
The Family Law Section, Law Council of Australia

COMPULSORY FAMILY DISPUTE RESOLUTION

Practitioners are aware of the provisions of ss 60I and 60J and the requirement of a party to an application for a parenting order to provide a certificate from a registered family dispute resolution practitioner before filing an application for an order under Part VII of the Act in relation to a child.

Currently, Practice Direction No 2 of 2007 - *Family Dispute Resolution - applications for orders under Part VII Family Law Act 1975*, provides that a certificate must be filed with an application unless the applicant is seeking an exception, in which event the applicant must set out the evidence supporting the exception in the affidavit filed with their application. Applications without a certificate are considered by a Federal Magistrate on the first return date.

The current Practice Direction will be replaced to ensure consistency of practice with the processes adopted by the Family Court of Australia.

Commencing 1 March 2008, the *Federal Magistrates Court of Australia* will be adopting the same processes as the *Family Court of Australia* for the filing of applications for an order under Part VII of the *Family Law Act 1975*. This means that a certificate will be required at the point of filing unless an exemption has been granted by a Registrar.

- Practice Direction No 2 of 2007 - *Family Dispute Resolution - applications for orders under Part VII Family Law Act 1975* will be substituted with another Practice Direction to come into effect 1 March 2008 which will require the certificate to be filed at the same time as the application unless an exemption has been granted. Where a certificate is required and is not produced, **the application will not be accepted for filing.**
- The new Practice Direction will also provide that where an exemption is sought it can be identified by way of the pro forma Affidavit approved under the Family Law Rules 2004 or by an existing Affidavit accompanying the Application, in which event the Applicant must identify the relevant portions of the Affidavit.

- The *Federal Magistrates Court Rules 2001* will be amended to delegate powers under ss 60I and 60J to Registrars to make determinations under these provisions. Registrars will be available to determine requests for exemptions as they currently do for the Family Court of Australia, rather than by a Federal Magistrate on the first court date.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adele Byrne', followed by a horizontal line.

Adele Byrne
Principal Registrar
Federal Magistrates Court of Australia

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