



COMPULSORY FAMILY DISPUTE RESOLUTION

Changes have been made to the family law system to encourage parents to develop cooperative parenting solutions without going to court. Family dispute resolution is a practical way for separating families to try to resolve any disagreements and make arrangements for the future.

Procedures

The Family Law Act 1975 (the Act) requires you to obtain a certificate from a registered family dispute resolution practitioner before you file an application for an order in relation to a child under Part VII of the Act. Part VII of the Act covers applications for several different types of orders relating to children. The most common are applications for parenting orders; that is, an application asking a court to make orders about the parenting arrangements for a child.

When do I need to provide a certificate?

If your application is an application for a parenting order, then you must provide a certificate with your application to the Court. This requirement applies even if you have pre-existing orders in relation to the child that is the subject of the current application. However, in certain circumstances the court may grant you an exemption from the requirement to file a certificate. Refer to “What are the exceptions to providing a certificate?”.

When don't I need to provide a certificate?

You do not have to provide a certificate if you are seeking:

- interim or procedural orders only (generally these are orders to operate until your case has a final hearing) unless you are applying for these orders at the same time as filing an Initiating Application (Family Law)
- financial orders only
- consent orders
- Hague Abduction Convention orders
- property settlement only, even if you have a child/ren
- child support, or
- an amended application (relating to a child the subject of the current application).

What are the exceptions to providing a certificate?

Under section 60I(9) of the Act, you can seek an exemption from providing a certificate in the following circumstances:

- if your matter is urgent
- if the Court is satisfied that there are reasonable grounds to believe that:



- there has been child abuse and/or family violence by a party
- there is a risk of family violence by a party, and/or
- there is a risk of child abuse if there were to be a delay in applying to the Court
- where a party is unable to participate effectively in family dispute resolution (for example, due to an incapacity to do so or physical remoteness from a family dispute resolution provider)
- if your application relates to an alleged contravention of an existing order that was made within the last 12 months, and there are reasonable grounds to believe that the person who has allegedly contravened the order has behaved in a way that shows a serious disregard for his or her obligations under that order.

To apply for an exemption for any of the reasons above – In the **Family Court**, you must either:

- prepare and file an **Affidavit - Non-Filing of Family Dispute Resolution Certificate** or,
- if you are filing an *Initiating Application (Family Law)* seeking interim orders at the same time, you can include the same information in the affidavit that you must file with this application.

In the **Federal Circuit Court**, you must either:

- prepare and file an **Affidavit - Non-Filing of Family Dispute Resolution Certificate** or,
- include this information in the affidavit filed in support of your application.

Family Violence or Child Abuse Exemption

If you seek to apply for an exemption relating to family violence or child abuse, you may need to obtain information from a family counsellor or family dispute resolution practitioner about the services and options (including alternatives to court action) available to you in circumstances of abuse or violence. You can get this information by calling the Family Relationship Advice Line on 1800 050 321 or by talking to a family counsellor or family dispute resolution practitioner.

This does not mean that you must attend family dispute resolution or make endeavours to do so. All that you are required to do is obtain information about services and options that are available.

You must provide written acknowledgment of receiving the information. You can do this by completing the form Acknowledgment - Information from a Family Counsellor or Family Dispute Resolution Practitioner. This form is available on the Family Court's website at www.familycourt.gov.au. In Federal Circuit Court, you may instead include this information in the affidavit filed in support of your application.

Obtaining the information is not required where, in addition to the grounds listed above, the Court is satisfied there are reasonable grounds to believe that:

- there would be a risk of abuse of a child if there were a delay in applying for the order, or
- there is a risk of family violence by one of the parties to the proceedings.



What happens if I don't file a certificate or an affidavit applying for an exemption?

A certificate is required when you file your application unless the matter falls within one of the exceptions outlined above, in which case you must file an affidavit. If these requirements are not met, the Court cannot accept your application.

Source: Family Court of Australia website, www.familycourt.gov.au