

# Information pursuant to the Family Law (FDRP) Regulations



**Please ensure that you have read the following information prior to attending a Family Law Conference**

## **28 Information to be given to parties before family dispute resolution**

- (1) Before family dispute resolution is started under sub-regulation 25 (3), each party to the family dispute resolution must be given the following information:
  - (a) that it is not the role of the family dispute resolution practitioner to give people legal advice (unless the family dispute resolution practitioner is also a legal practitioner);
  - (b) the family dispute resolution practitioner's confidentiality and disclosure obligations under section 10H of the Act;
  - (c) that, provided section 10J of the Act applies, evidence of anything said, or an admission made, at family dispute resolution is not admissible:
    - (i) in any court (whether exercising federal jurisdiction or not); or
    - (ii) in any proceedings before a person authorised by a law of the Commonwealth or a State or Territory, or by the consent of the parties, to hear evidence;
  - (d) the qualifications of the family dispute resolution practitioner to be a family dispute resolution practitioner;
    - (i) **All family dispute resolution practitioners (chairpersons) conducting family law conferences at the Legal Services Commission are accredited and registered with the Attorney-General's Department. They have each undertaken training in mediation and have a background in Family Law.**
  - (e) the fees (including any hourly rate) charged by the family dispute resolution practitioner in respect of the family dispute resolution;
    - (i) **A contribution towards costs is assessed and payable by each client upon the grant of Legal Aid. You will have received notification of your contribution in writing.**
    - (ii) **Where a Statutory Charge is to be taken by the Legal Services Commission, such Statutory Charge will include a contribution being not more than one half of the cost of the chairperson. One half of**

**the chairperson costs for the first conference is \$408. One half of the chairperson costs for a subsequent conference is \$306.**

- (f) that family dispute resolution must be attended if required under section 60I of the Act, before applying for an order under Part VII of the Act;
- (g) that, if a person wants to apply to the court for an order under Part VII of the Act, the family dispute resolution practitioner may provide a certificate under subsection 60I (8) of the Act, including a certificate to the effect that the person:
  - (i) did not attend family dispute resolution due to the refusal, or the failure, of the other party or parties to the proceedings to attend; or
  - (ii) attended family dispute resolution with the other party or parties to the proceedings but that the person, the other party or another of the parties did not make a genuine effort to resolve the issue or issues;
- (h) if a certificate under subsection 60I (8) of the Act is filed, the court may take it into account in considering whether to make an order under section 13C of the Act referring the parties to family dispute resolution or to award costs against a party under section 117 of the Act;
- (i) information about the complaints mechanism that a person who wants to complain about the family dispute resolution services may use.

**The Legal Services Commission has a complaints mechanism. Should you wish to register a complaint, you may do so in the first instance to the Coordinator/Team Leader of the Family Dispute Resolution Unit. If the complaint is not addressed satisfactorily in the first instance, it may be referred to the Legal Services Commission, Client Relations Officer.**

*Note 1* Paragraphs (b) and (c) outline the general rule that communications during family dispute resolution are confidential and not admissible in court. However, sections 10H and 10J of the Act specify exceptions to the general rule when disclosure by a family dispute resolution practitioner is permitted.

*Note 2* Sections 12G and 63DA of the Act may impose additional information giving obligations.

- (2) A family dispute resolution practitioner must not start family dispute resolution until sub-regulation (1) is complied with.

## **29 Obligations of family dispute resolution practitioner — General**

In providing family dispute resolution services under the Act, a family dispute resolution practitioner:

- (a) must ensure that, as far as possible, the family dispute resolution process is suited to the needs of the parties involved (for example, by ensuring the suitability

of the family dispute resolution venue, the layout of the family dispute resolution room and the times at which family dispute resolution is held); and

- (b) must ensure that:
  - (i) family dispute resolution is provided only in accordance with this Part; and
  - (ii) any record of the family dispute resolution is stored securely to prevent unauthorised access to it; and
- (c) must terminate the family dispute resolution:
  - (i) if requested to do so by a party; or
  - (ii) if the family dispute resolution practitioner is no longer satisfied that family dispute resolution is appropriate; and
- (d) must not provide legal advice to any of the parties unless:
  - (i) the family dispute resolution practitioner is also a legal practitioner; or
  - (ii) the advice is about procedural matters; and
- (e) must not use any information acquired from a family dispute resolution:
  - (i) for personal gain; or
  - (ii) to the detriment of any person.

### **30 Obligations of family dispute resolution practitioner — avoidance of conflicts of interests**

- (1) This regulation applies if, in relation to a person who is a party to a dispute that is the subject of family dispute resolution, or any other party to that dispute, a family dispute resolution practitioner:
  - (a) has acted previously in a professional capacity (otherwise than as a family dispute resolution practitioner, a family counsellor or an arbitrator); or
  - (b) has had a previous commercial dealing; or
  - (c) is a personal acquaintance.
- (2) A family dispute resolution practitioner may provide family dispute resolution services to a party mentioned in sub regulation (1) only if:
  - (a) each party to the family dispute resolution agrees; and
  - (b) the previous professional dealing (if any) does not relate to any issue in the dispute; and

- (c) the previous commercial dealing or acquaintance (if any) is not of a kind that could reasonably be expected to influence the family dispute resolution practitioner in the provision of his or her family dispute resolution services.

**I certify that I have received and read this document:**

**NAME:** .....

**(print)**

**SIGNED:** ..... **DATE:** .....