



FEDERAL CIRCUIT  
AND FAMILY COURT  
OF AUSTRALIA

# Applying to the Court for orders – family law

This fact sheet is for people who want to file an application with the Federal Circuit and Family Court of Australia for orders. Applying to the Court for orders should be a last resort and only considered after all genuine efforts to resolve the matter have failed. The exception is consent orders (see below).



For help resolving a dispute out of court, go to [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au) or call **1800 050 321**. These services provide assistance to anyone who is affected by family relationship or separation issues.

For more information about what you must do before applying to the Federal Circuit and Family Court of Australia (the Court) see the following brochures:

For parenting orders:

- [Compulsory pre-filing Family Dispute Resolution – court procedures and requirements](#), and
- [Before you file – pre-action procedure for parenting cases](#).

For financial orders:

- [Before you file – pre-action procedure for financial cases](#).

## What are orders?

When you apply to the Court, you need to list the specific orders you are asking the Court to make. The orders may relate to parenting or financial issues, or in some cases, both.

There are three main types of orders:

- Final orders bring a matter to a close.
- Interlocutory orders are usually made in urgent cases and last until other orders or final orders are made. Generally, you cannot file an application for interlocutory orders unless you have filed an application for final orders.
- Consent orders are orders that you and the other party agree on. You and the other party can apply for consent orders to be made without going to court. Consent orders have the same legal effect as if they had been made by a judicial officer after a court hearing.

The Court may not grant the orders that you request. The Court considers the facts of each case and in making orders:

- in parenting cases, considers the best interests of the child, and
- in financial cases, that the terms are just and equitable.

Applications for final orders and consent orders attract a filing fee.

## Who can apply for orders?

### Parenting

Any person concerned with the care, welfare and development of a child can apply for parenting orders. This may include the child's parents, grandparents or other relatives.

You can apply for parenting orders at any time. You can apply before or after separation or divorce.

### Financial

#### Married couples

Any person who is, or has been married can apply for financial orders in the Court. However, you must do so within 12 months of your divorce order taking effect. After this time, you need the Court's permission to apply.

#### De facto couples

A person who has been a party to a de facto relationship may be able to apply for financial orders in the Court. However, your application for de facto financial orders must be made within two years of the breakdown of your relationship. After this time, you need the Court's permission to apply.

## How do you apply for orders?

This section relates to applications for parenting and financial orders. There are some specific applications which require different documents; for example, contravention and financial enforcement.

For more information about specific applications

- go to [www.fcfcoa.gov.au](http://www.fcfcoa.gov.au)
- live chat on the website, or
- call 1300 352 000.

Live Chat

## Commencing proceedings

For final orders, you must pay the relevant fee and file:

1. [Initiating Application \(Family Law\)](#).
2. An [Affidavit](#) if you are seeking interlocutory orders (see below) or are otherwise required to file an affidavit (see the Practice Directions relevant to your proceedings) for more information).
3. A [Financial Statement](#) (for financial cases only).
4. A certificate from a Family Dispute Resolution practitioner (for parenting cases only, unless one of the exceptions outlined in the brochure [Compulsory pre-filing Family Dispute Resolution – court procedures and requirements](#) applies).
5. A [Notice of child abuse, family violence or risk](#) (this is a mandatory form which must be filed in all parenting cases only).
6. A [Genuine Steps Certificate](#).
7. A [Questionnaire - Parenting](#) and/or a [Questionnaire - Financial](#) (depending on the orders sought).

For **interlocutory orders**, you must file:

1. An [Initiating Application \(Family Law\)](#) for new proceedings, or if proceedings have commenced file an [Application in a Proceeding](#) (set out the interlocutory orders you seek).

2. An [Affidavit](#) in support of the interlocutory orders (for parenting orders your affidavit needs to address those matters set out in section 60CC).

For **consent orders**, where no **Initiating Application (Family Law)** has been filed, you must pay the relevant fee and file:

1. An [Application for Consent Orders](#).
2. A [Notice of child abuse, family violence or risk](#) (this is a mandatory form which must be filed by both parties when seeking parenting orders by consent).
3. Terms of settlement prepared in accordance with the [Application for Consent Orders - proposed orders template](#).
4. If you are unable to eFile, enough copies of the consent order for **all** parties involved. These must be certified as true copies of the original consent order.

For more information about consent orders, see the [Application for Consent Orders](#) Kit. Applications for Consent Orders attract a filing fee. If you are seeking consent orders you should refer to Part 10.2 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*. The Rules may require you to meet additional requirements.

## Fees

If a fee applies to the application, you must pay the fee. The registry cannot accept an application for filing without payment of the fee.

In some cases, a reduced fee may be sought for a divorce application, or decree of nullity, or in respect of other fees, an exemption if you hold certain government concession cards or you can demonstrate financial hardship.

For more information see the **fees** section at [www.fcfcoa.gov.au](http://www.fcfcoa.gov.au).



## What if someone else has started the case first?

If you have been served with an application filed by someone else and you are named as a respondent, you may still apply for orders. You do so by setting out the orders that you seek in a document called a [Response to Initiating Application](#).

Once you have filed this document, you are in the same position as the other party who started the case by filing an application document in the first place. You are not at a disadvantage just because the other party started the case first.

## Where do you apply?

The Court deals with family law matters.

The Court's Division 1 deals with more complex matters. These may include, for example:

- in parenting cases, if the case involves a child welfare agency and/or allegations of serious sexual abuse, severe family violence or mental health issues, international child abduction or special medical procedures
- in financial cases, if the case involves multiple parties, valuation of complex interests in trust or corporate structures including minority interests or complex issues concerning superannuation.

All matters commence in the Court's Division 2. If the Court considers that a matter is better suited to be dealt with by Division 1, it can transfer the proceedings. This can be done on application by a party, or on the Court's own initiative.

## Things to remember

- You can eFile the following applications online at [www.comcourts.gov.au](http://www.comcourts.gov.au):
  - Application for divorce
  - Initiating application for final and interim
  - Response to an initiating application
  - Applications in a proceeding on active final orders applications
  - Response to an application in a proceeding
  - Application for consent orders
- If a filing fee applies you must pay the fee when filing. The Court accepts the following methods of payment:
  - Credit/debit cards (Visa and Mastercard) *in person or by mail*
  - Debit cards other than Visa or Mastercard *only if paid in person*
  - NO cash payments are accepted.
- If you are seeking parenting orders (including parenting and property orders) you must file a [A Notice of child abuse, family violence or risk](#) with your application or response. If you make an allegation of child abuse or family violence or risk in the notice, you must also file an affidavit setting out the evidence on which the allegation is based.
- If you are unable to eFile, you must file the original and at least two photocopies of all documents (a copy for each party), except for your marriage/ divorce order or the child/ren's birth certificates. If there are more than two parties, make additional copies.
- Once filed, you must arrange to serve the documents on the other party or parties.

## Legal advice

You can seek legal advice from a legal aid office, community legal centre or private law firm. Court staff can help you with questions about court forms and the Court process, but cannot give you legal advice.