



FEDERAL CIRCUIT COURT OF AUSTRALIA

Practice Direction No 2 of 2017

Interim Family Law Proceedings

Part 1 Preliminary

1. This Practice Direction sets out arrangements for the management of interim proceedings in the family law jurisdiction in the Federal Circuit Court of Australia.
2. This Practice Direction commences **1 January 2018** and supersedes the following Information Notices:

*Notice to Litigants and Practitioners – Interim Proceedings- Adelaide Registry;
Notice to Litigants and Practitioners – Interim Parenting Proceedings – Sydney,
Newcastle and Canberra Registries.*

3. The conduct of proceedings in the Court is governed by the *Federal Circuit Court of Australia Act 1999* and the *Federal Circuit Court Rules 2001*. Consistent with its legislative mandate, the Court applies the rules of court flexibly and with the objective of simplifying procedures to the greatest possible extent.
4. ***It is expected that parties and their representatives will assist the Court to ensure that proceedings are conducted expeditiously and consistently with the objectives of early identification of the issues in dispute requiring adjudication and the efficient use of judicial resources.***

Commencing proceedings

5. Proceedings in the Court are commenced by an Initiating Application supported by an affidavit. Interim orders may be sought at the time of filing an Initiating Application for final orders or during the proceedings by way of an Application in a Case. Applications for any interim orders must be supported by an affidavit. In financial matters they must also be supported by a financial statement or an affidavit of financial circumstances.
6. Pursuant to section 51 of the *Federal Circuit Court of Australia Act 1999* the Court directs that, unless express leave is granted by the Judge into whose docket the matter has been allocated, affidavit material in support of an interim application must not:
 - exceed 10 pages in length for each affidavit;
 - contain more than 5 annexures.

Interim hearing

7. The Judge determines whether to conduct an interim hearing on the first return date of an Initiating Application, or Application in a Case. The Judge will also determine whether to deal with all or part of the application and/or the Response as filed.
8. Any interim hearing will be conducted as an abridged process with a circumscribed scope of inquiry. Only those issues, specifically identified by the Judge as the subject matter of the interim hearing, will be dealt with.
9. The relevant facts to be relied on by a party at an interim hearing must be set out succinctly in their affidavit material complying with paragraph 6 above. Division 15.4 of the *Federal Circuit Court Rules 2001* sets out the rules in relation to affidavits.
10. Where the respondent seeks interim orders additional to those sought by the applicant, and the applicant opposes the orders sought, the applicant may file a second affidavit in answer, complying with paragraph 6 above, and setting out:
 - a. any additional orders sought;
 - b. any additional relevant facts relied on in opposition to the respondent's orders.

Failure to comply

11. Parties and practitioners should expect that failure to comply with any part of this Practice Note will result in loss of hearing priority, or adjournment of an interim hearing with costs orders.
12. In particular, if a party proposes to rely upon an affidavit which does not comply with paragraph 6 above, parties and practitioners should expect that:
 - a. in the discretion of the Judge,
 - i. non complying affidavits will not be read; or
 - ii. the responsible party will be required to select 10 pages out of their non complying material that they seek to rely upon;
 - b. Specific costs orders may be made.
13. Documents filed less than 48 hours prior to hearing (electronically or otherwise) ('a late document') cannot be relied upon at the hearing without leave of the Court. A party or practitioner seeking to rely upon a late document must seek leave to tender a copy of it at the commencement of the hearing.
14. This Notice can be found on the Court's website: www.federalcircuitcourt.gov.au

W Alstergren

Chief Judge
Federal Circuit Court