



THE FAMILY JUSTICE RULES

AN OVERVIEW

DIALOGUE SESSION

27 JANUARY 2015

FAMILY JUSTICE RULES

- Made by the Family Justice Rules Committee constituted under s46(2) Family Justice Act

- FJR : Omnibus Rules for all proceedings in the Family Justice Courts
 - ❖ *No more ROC*
 - ❖ *No more MPR and WC (Garnishee Proceedings) Rules*
 - ❖ *Supplements the CPC*

- FJR came into effect from **1 January 2015**

NEW PROVISIONS AND CHANGES TO EXISTING RULES : MAIN OBJECTIVES

- To provide for a judge led approach for all proceedings
- To protect children's interests
- To simplify court forms
- To streamline procedures for a differentiated case management approach
- To plug existing gaps for greater clarity and transparency of process

OVERALL STRUCTURE

- **Overall** : Divided into Parts and within each Part, further divided into divisions
- **Part 1** : Preliminary
- **Part 2**: Modes of Commencement of Proceedings
- **Parts 3 and 4** : New Provisions applicable to all proceedings in FJC
- **Part 5** : Proceedings under Women's Charter
 - ❖ **old MPR** (*Division 2, rules 39-99; Division 3, rules 102-113*) +
 - ❖ **new provisions for proceedings under Parts VII and VIII WC** (*Divisions 3 and 4, rules 114-117*) +
 - ❖ **old WC (Garnishee Proceedings) Rules** (*Division 5, rules 118-131*)

OVERALL STRUCTURE

- **Parts 6 – 17** : Provisions applicable to proceedings under respective legislation within jurisdiction of the FJC
 - ❖ **ROC** provisions ported over except for Parts 7, 12 and 17 which are new

- **Part 18** : General Provisions on civil process, appeals and enforcement
 - ❖ **ROC** provisions applicable to FJC + changes to appeals

- **Part 19** : Fees
 - ❖ Consolidated (ROC Appendix B, MPR Second Schedule, Fees Act) and re-organised

- **Forms** : Now in Practice Directions

NEW PROVISIONS – PART 3

- **Judge Led Approach** *extended to all proceedings and at any stage of proceedings (rule 22, rules 23-28)*
 - ❖ Including directions on :
 1. Calling of witnesses on court's own motion;
 2. Limit number of affidavits;
 3. Disclosure of documents or information
 4. Make such orders as court thinks fit on failure to comply with courts' directions

NEW PROVISIONS – PART 4

➤ **Provisions Relating to Children** *extended to all proceedings involving children:*

- ❖ New Rules on Appointment of Child Representative (*rules 30-34*)
- ❖ Examination of child (*rules 35, 36*)

SIMPLIFIED UNCONTESTED DIVORCE

➤ **New procedure for uncontested divorce cases where all AMs have been settled** (*rule 83*)

- ❖ Allow one step filing for simplified uncontested hearing
 - (*set down at commencement*)

- ❖ Interim Judgment to be granted with Consent Orders

LIMITING AFFIDAVITS ON ANCILLARY MATTERS

- Ancillary matters **limited** to filing and exchange of the Affidavits of Assets and Means and reply affidavits only. Leave of court would be required for further reply (*rule 89*)
- **Rationale** : to keep parties focussed on bringing up all relevant evidence in their affidavits upfront and prevent a proliferation of irrelevant evidence for ancillary matters hearing

MSS AND SS PROCEEDINGS

➤ For SS proceedings

- Specific judge led powers (*rule 101*):
 - ❖ Judge may question or examine any witness in the trial
 - ❖ Judge may direct that proceedings be conducted without oral testimony or examination of witnesses if no dispute on the facts and parties agree that there is only a question of law to be tried before judge

➤ For MSS proceedings

- Specific judge led powers (*rule 115*):
 - ❖ power to direct maintenance trials be heard solely on affidavits without cross-examination
 - ❖ power to hear a variation application and an enforcement application together

CHANGES TO APPEALS PROCEDURE

➤ DCA appeals procedure will be applicable to :

- ❖ *All orders listed in Part 18, Division 59 rule 821 made after a substantive hearing including orders on ancillary matters subsequent to a divorce*
- ❖ *Examples of such final orders are (a) order for ancillary relief; (b) variation of ancillary order; (c) order for IJ, judgment of judicial separation or nullity; (d) PPO or DEO orders and maintenance orders under Part VIII of the Women's Charter (including rescission and variation)*
- ❖ *Appellant would need to put up security for Respondent's costs (rule 824)*
- ❖ *Parties will need to comply with timelines for filing of ROA and Appellant's and Respondent's case (rules 827 and 828).*
- ❖ *In default of the above timelines, Appellant's appeal is deemed withdrawn (rule 827(5)). Respondent may only be heard to with leave of Court (rule 828(16))*

- **RAS appeals procedure applies to all other orders from a judge of a Family Court (*Part 18, Division 60*)**

- **Appeals against Registrar's decision**
 - ❖ **To a District Judge in Chambers for appeals from Registrar's decision generally (*Part 18, Division 57*)**

 - ❖ **To a High Court (Family Division) if order or decision is made in the Family Division of the High Court (*Part 18, Division 58*)**

PROCEDURE FOR BPC AND CPO CASES UNDER THE CYPA (NEW PART 7)

- Hearing to be in Chambers (*rule 149*)
- Judge-led approach to evidence : court may direct for evidence to be by affidavits or by giving of evidence orally with or without cross-examination (*rule 150*)

CHANGES TO MCA RULES

- Part 11 of the FJR
- Some provisions have been moved from the PD to the FJR
- Simplified MCA Forms
- Templates for affidavit of the expert witness and the affidavit of the applicant

CHANGES TO PROBATE RULES

- Not required to deposit the will with the Registry
- New Order made by the Chief Justice under s 26(4) Family Justice Act for following matters to be heard and determined in the HC(FD)
 - ❖ Probate and probate-related proceedings (including proceedings for the administration of the estate of a deceased person) in which the estate is believed to exceed \$5m



APPLICATIONS TO TRANSFER PROCEEDINGS FROM FAMILY COURT TO FAMILY DIVISION OF THE HIGH COURT AND VICE VERSA – S29 FJA

- **From FC to HC(FD) and From HC(FD) to FC**
 - ❖ Via Summons for Transfer filed in the HC (FD)

NEW FEE SCHEDULE

- New consolidated Fee Schedule
- 2-tier fees for uncontested probate filings in Family Court – present fee quantum for filings with estate value below \$3m and HC fees for filings with estate value between \$3m and \$5m.



THANK YOU

