



Genuine Steps Certificate

When should this form be filed?

An applicant seeking final and/or interlocutory orders must file this form with an *Initiating Application*.

A respondent seeking final and/or interlocutory orders must file this form with a *Response to Initiating Application*.

Note: this form is not required to be filed with an *Application in a Proceeding*. A party filing an *Application in a Proceeding* must explain how they have made a reasonable and genuine attempt to settle the issue to which the application relates in their affidavit filed in support of the application.

Why is this form required?

This form is required to confirm each parties' compliance with the pre-action procedures, outlined at Schedule 1 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (the Rules).

Before an application to start a proceeding is filed with the Court, each party is required to make a genuine effort to resolve the issues in dispute by following the pre-action procedures, unless an exception applies:

- Each party must make a genuine effort to resolve the dispute through dispute resolution by:
 - giving a copy of the pre-action procedures to the other party/ies;
 - making inquiries about the dispute resolution services available to assist with resolving your dispute;
 - inviting the other party/ies to participate in dispute resolution with an agreed person or organisation, where it is safe to do so;
 - cooperating with the other party/ies to agree on an appropriate dispute resolution service;
 - participating in dispute resolution with the other party/ies; and
 - providing written notice to the other party/ies of your intention to start proceedings in the Court. If you are given a written notice, you must respond within the timeframe indicated in the notice.
- In financial proceedings, each party should begin exchanging their financial information.

- In parenting proceedings, each party should begin exchanging copies of documents relevant to an issue in dispute with the other party/ies.

More information about pre-action procedures is available in the Court's brochures [Before you file – pre-action procedure for financial cases](#), and [Before you file – pre-action procedure for parenting cases](#).

A party may be exempt from complying with the pre-action procedures if:

- In parenting proceedings, a party alleges child abuse or family violence, or a risk of child abuse or family violence;
- In property proceedings, a party allege family violence, or a risk of family violence;
- The *Initiating Application* or *Response to Initiating Application* has been assessed as urgent;
- The applicant would be unduly prejudiced if required to comply with the pre-action procedures;
- Either party filed a family law application in the Court less than 12 months ago; or
- The application relates to divorce, nullity or validity of marriage, child support or bankruptcy.

These exemptions are found at Rule 4.01(2). If you have not complied with the relevant pre-action procedures, you must explain which exception you are seeking to rely on at question 4 of this form.

How to complete this form

If you are the **applicant**, you must:

- complete **Parts A, B and D** of this form; and
- file this form with your *Initiating Application* to confirm you have complied with the pre-action procedures.

If you are the **respondent**, you must:

- complete **Parts A, C and D** of this form; and
- file this form with your *Response to Initiating Application* to confirm you have complied with the pre-action procedures.

Failure to comply with the pre-action procedures may result in your application being stayed.

Finding dispute resolution services

Dispute resolution processes are non-judicial events and processes in which an independent and appropriately qualified person helps parties to reach agreement about some or all of the issues in dispute.

Visit Family Relationships Online to obtain a list of family dispute resolution (FDR) services, go to www.familyrelationships.gov.au.

More information about dispute resolution is also available on the Court's website – www.fccoa.gov.au/fl/family-dispute-resolution

About the words used in this form

Abuse – in relation to a child means,

- (a) an assault, including a sexual assault, of the child; or
- (b) a person (the first person) involving the child in a sexual activity with the first person or another person in which the child is used, directly or indirectly, as a sexual object by the first person or the other person, and where there is an unequal power in the relationship between the child and the first person; or
- (c) causing the child to suffer serious psychological harm, including (but not limited to) when that harm is caused by the child being subjected to, or exposed to, family violence; or
- (d) serious neglect of the child.

Act – means the *Family Law Act 1975* (Cth).

Applicant – the person who seeks to have the court make orders in the *Initiating Application*.

Dispute resolution – are a non-judicial event and process in which an independent and appropriately qualified person helps people affected by separation to reach agreement about some or all of the issues in dispute. Dispute Resolution processes can include family dispute resolution and mediation and are, with limited exceptions, conducted on a confidential basis.

Dispute resolution services – service providers that offer dispute resolution. These providers may be private practitioners or be linked to Commonwealth Family Relationships Centres or other community organisations.

Family dispute resolution – is a non-judicial process in which a registered family dispute resolution practitioner helps parties to resolve some or all of the issues in dispute. The family dispute resolution practitioner is independent from the parties involved.

Family dispute resolution practitioner – is a person who has completed specific training and is registered with the Commonwealth Attorney-General's Department. Only a registered family dispute resolution practitioner can conduct formal family dispute resolution and issue certificates pursuant to section 60I of the Family Law Act.

Family violence – means violent, threatening or other behaviour by a person including behaviour that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful. A child is exposed to family violence if the child sees or hears family violence or is otherwise exposed to family violence. See the Family Law Act, section 4AB, which gives examples. Family violence may also amount to child abuse.

Filing – the procedure of you lodging an application or other document with a registry of the Court. You can do this by hand, post or electronic means.

Genuine steps – includes participating in dispute resolution to resolve or narrow the issues in dispute. Examples of what the Court considers genuine steps are:

- Working with the other party to locate an appropriate dispute resolution service
- Arranging an appointment with an agreed dispute resolution service
- Actively engaging in the dispute resolution process to resolve or narrow the issues in dispute
- Formalising an agreement with respect to any resolved issues

Genuine Steps Certificate – a form to be filed by each party confirming they have complied with the pre-action procedures in Schedule 1 of the Rules. The applicant must file the *Genuine Steps Certificate* at the same time as the *Initiating Application*. The respondent must file the *Genuine Steps Certificate* at the same time as the *Response to Initiating Application*.

Initiating Application – the form to be completed when commencing family law proceedings in the Court. Please note your application may not be accepted if a *Genuine Steps Certificate* is not filed together with your *Initiating Application*.

Orders – a statement of what must be done to carry out a court decision. They can include an order made after a hearing by a Judge or Judicial Registrar, or an order made after parties who have reached their own agreement have applied to a court for consent orders. When an order is made, each person bound by the order must follow it.

Party – a person involved in a proceeding before the Court. Generally known as the applicant or the respondent.

Pre-action procedures – steps that must be completed by each party before starting proceedings with the Court, unless an exception applies. Refer to Schedule 1 of the Rules for a list of the pre-action procedures.

Proceeding – the process of a case that has been filed in the Court.

Registry – how the offices of the Federal Circuit and Family Court of Australia are known. For example, the Melbourne Registry is in the Commonwealth Law Courts building on William Street.

Relevant documents – documents to be exchanged between the parties that are relevant to an issue in dispute. For a guide as to what information should be exchanged:

- in financial proceedings, parties should refer to the Financial Statement, Rule 6.06(3) and *Family Law Practice Direction – Financial proceedings*; and
- in parenting proceedings, parties should refer to Rule 6.05(2) and *Family Law Practice Direction – Parenting proceedings*.

Respondent – party to an *Initiating Application* who is named in the application as a respondent.

Response to Initiating Application – the form to be completed by the party responding to an *Initiating Application* filed in the Court. Please note your application may not be accepted if a *Genuine*

Steps Certificate is not filed together with your *Response to Initiating Application*.

Rules – the rules referred to in this kit are the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*.

Section 60I certificate – is a certificate issued by a family dispute resolution practitioner after parties to a dispute have requested and/or attended and/or been invited to attend family dispute resolution. Except in certain circumstances, section 60I certificates are required before court proceedings can be commenced.

Stay of proceedings – the Court may order that the proceeding not continue until the party/ies comply with the pre-action procedures.

Statement of Truth – is a written statement which you must sign to confirm that the contents of your application is truthful. You must sign the Statement of Truth before this form will be accepted for filing.

Written notice – before filing an *Initiating Application* with the Court, the applicant must provide notice in writing to all other parties of your intention to start proceedings. The written notice should set out:

- the issues in dispute between you and the other party/ies;
- what orders you are seeking in your application;
- a genuine offer from you to resolve the dispute; and
- a time for the other party/ies to respond to your notice.

Upon receipt of the written notice, the respondent should reply to the notice stating whether the offer is accepted. If not, the respondent should also set out:

- the issues in dispute between the respondent and the applicant;
- what orders the respondent will seek in any response filed by them;
- a genuine counter offer to resolve the dispute; and
- a time for the applicant to respond.

Rules

You can access a copy of the *Family Law Act 1975* and the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*, including Schedule 1, at www.fccoa.gov.au or www.legislation.gov.au.

Genuine Steps Certificate

Central Practice Direction – Family Law Case Management

Please type or print clearly. Attach extra pages if you need more space to answer any questions.

Note: This document must be filed at the same time as an *Initiating Application* or *Response to Initiating Application*.

Failure to comply with the relevant pre-action procedures may result in the application being stayed.

Filed on behalf of: Shalini Weerasinghe

(specify full name of party)

COURT USE ONLY

Client ID _____

File number

Filed at

Filed on

Court location

Part A About the parties

APPLICANT 1

Family name as used now

Weerasinghe

Given names

Shalini

RESPONDENT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

If you are the **applicant**, please complete **Parts A, B and D** of this form.

If you are the **respondent**, please complete **Parts A, C and D** of this form.

Filed on behalf of: Applicant

Prepared by Dinesh Weerakkody

Lawyer's Code _____

Name of law firm (if applicable) Victory Law

Address for service in Australia PO Box 203

LYNBROOK

State VIC

Postcode 3975

Tel 0425 725 570

Email dinesh@victorylaw.com.au

Part B

Pre-Action Procedures and Genuine Steps (to be completed by the applicant)

Note: See Schedule 1 of the Rules for the required pre-action procedures, and rule 4.01(2) for exemptions from compliance with the pre-action procedures.

1. I, the applicant, have read and understood the **pre-action procedures**: Yes No

2. I, the applicant, have complied with the following pre-action procedures: *(Tick all that apply)*

- Given a copy of the pre-action procedures to all other parties to the proceeding
- Made inquiries about available **dispute resolution services**
- Invited the other party/ies to participate in **dispute resolution**
- Participated in **dispute resolution** with the other party/ies
- Given the other party/ies **written notice** of their intention to start proceedings
- Cooperated with the other party/ies to agree on an appropriate dispute resolution service
- Exchanged copies of **relevant documents** with the other party/ies

3. I, the applicant, have taken **genuine steps** to resolve the dispute before filing the *Initiating Application*: Yes No
 It is not safe to do so

Note: you must explain why it is not safe for you to comply with the pre-action procedures in the affidavit filed in support of your *Initiating Application*.

4. I, the applicant, am seeking an exemption from either or both of (2) and (3) for the following reason/s:

(Tick all that apply)

- There are allegations of child abuse or family violence or risk of child abuse or family violence
- My application is urgent
- I would be unduly prejudiced if required to complete the pre-action procedures
- A previous family law application has been filed by one of the parties in the last 12 months

Note: you must provide the factual basis for the exemption sought in the affidavit filed in support of your *Initiating Application*.

Part C

Pre-Action Procedures and Genuine Steps (to be completed by the respondent)

Note: See Schedule 1 of the Rules for the required pre-action procedures, and rule 4.01(2) for exemptions from compliance with the pre-action procedures.

1. I, the respondent, have read and understood the **pre-action procedures**: Yes No

2. I, the respondent, have complied with the following pre-action procedures: *(Tick all that apply)*

- Cooperated with the other party/ies to agree on an appropriate **dispute resolution services**
- Participated in **dispute resolution** with the other party/ies
- Exchanged copies of **relevant documents** with the other party/ies
- Responded to the other party/ies **written notice** of their intention to start proceedings

3. I, the respondent, have taken genuine steps to resolve the dispute before filing the *Response to Initiating Application*: Yes No
 It is not safe to do so

Note: you must explain why it is not safe for you to comply with the pre-action procedures in the affidavit filed in support of your *Response to Initiating Application*.

4. I, the respondent, am seeking an exemption from either or both of (2) and (3) for the following reason/s: *(Tick all that apply)*

- There are allegations of child abuse or family violence or risk of child abuse or family violence
- My application is urgent
- A previous family law application has been filed by one of the parties in the last 12 months

Note: you must provide the factual basis for the exemption sought in the affidavit filed in support of your *Initiating Application* or *Response to Initiating Application*.

5. I agree with the contents of the *Genuine Steps Certificate* filed by the applicant: Yes No

Note: if you disagree with the contents of the *Genuine Steps Certificate* filed by the applicant, you must explain why in the affidavit filed in support of your *Response to Initiating Application*.

Part D

Statement of Truth

I certify that the contents of this *Genuine Steps Certificate* are true and correct.

I acknowledge there may be consequences for any non-compliance with the pre-action procedures.

Signed

Date

Signed by

the applicant

the respondent

lawyer for the applicant/respondent