



# Family Dispute Resolution Act 2013

Public Act 2013 No 79  
Date of assent 24 September 2013  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Family Dispute Resolution Act 2013.

**2 Commencement**

- (1) This Act (except sections 12 and 13) comes into force on the day after the date on which this Act receives the Royal assent.
- (2) Sections 12 and 13 come into force on 1 October 2014 unless they are earlier brought into force on a date appointed by the Governor-General by Order in Council.

*Preliminary provisions***3 Purposes**

The purposes of this Act are—

- (a) to require the use of family dispute resolution in specified family disputes:
- (b) to provide for operational measures required for the use of family dispute resolution.

**4 Interpretation**

In this Act,—

**approved dispute resolution organisation** means a dispute resolution organisation that is approved by the Secretary under section 6

**domestic violence** has the meaning given to it in the Domestic Violence Act 1995

**family dispute** means a dispute that will require an application described in section 46F(1) of the Care of Children Act 2004 if a party to the dispute wants a court to resolve it

**family dispute resolution** means family dispute resolution provided by a family dispute resolution provider for the purposes of—

- (a) assisting parties to a family dispute to resolve the dispute without having to pursue court proceedings; and
- (b) ensuring that the parties' first and paramount consideration in reaching a resolution is the welfare and best interests of the children

**family dispute resolution form** means a form approved by the Secretary that is described in section 12(2), (4), (6), or (8)

**family dispute resolution provider** or **FDR provider** means a person who is appointed as a family dispute resolution provider under section 9

**Secretary** means the Chief Executive of the Ministry of Justice.

## 5 Act binds the Crown

This Act binds the Crown.

### *Dispute resolution organisations*

## 6 Approval of dispute resolution organisations

- (1) The Secretary may, by notice in the *Gazette*, approve an organisation (whether incorporated or unincorporated) as an approved dispute resolution organisation.
- (2) In deciding whether to approve an organisation under subsection (1), the Secretary must apply any criteria prescribed by regulations made under section 15(a).
- (3) An approval under subsection (1) may be made on any terms and conditions prescribed by regulations made under section 15(b) that the Secretary thinks fit.

## 7 Suspension or cancellation of approval of dispute resolution organisations

- (1) The Secretary may, by notice in the *Gazette*, suspend or cancel the approval of an organisation as an approved dispute resolution organisation on any ground prescribed by regulations made under section 15(c).

- (2) If under subsection (1) the Secretary suspends the approval of an organisation, the organisation is not an approved dispute resolution organisation during the period for which the approval is suspended.

**8 Effect of suspension or cancellation on FDR providers appointed by dispute resolution organisation**

- (1) If the approval of an organisation as an approved dispute resolution organisation is suspended under section 7 for any period (the **suspension period**),—
- (a) every appointment of an FDR provider made by the organisation under section 9(1) continues during the suspension period; and
  - (b) all terms or conditions of an appointment continue to apply in respect of that appointment.
- (2) If the approval of an organisation as an approved dispute resolution organisation is cancelled under section 7,—
- (a) every appointment of an FDR provider made by the organisation under section 9(1) continues for a period of 6 months from the date of cancellation of the organisation's approval; and
  - (b) the Secretary may—
    - (i) perform oversight in respect of those FDR providers; or
    - (ii) enter into an agreement with 1 or more other approved dispute resolution organisations for the performance of oversight in respect of those FDR providers.

*Family dispute resolution providers*

**9 Appointment of FDR providers**

- (1) The Secretary or an approved dispute resolution organisation may appoint a person as a family dispute resolution provider if that person is qualified and competent to provide services intended to resolve family disputes.
- (2) In deciding whether a person meets the criteria in subsection (1), the Secretary or approved dispute resolution organisation must apply the qualification and competency require-

ments prescribed by regulations made under section 15(d) and (e).

- (3) An appointment under subsection (1) may be made on any terms and conditions that the Secretary or the approved dispute resolution organisation (as the case may be) thinks fit.

#### **10 Suspension or cancellation of appointment of FDR providers**

- (1) The Secretary may, on any ground prescribed by regulations made under section 15(f), suspend or cancel the appointment of an FDR provider that is made by the Secretary.
- (2) An approved dispute resolution organisation may, on any ground prescribed by regulations made under section 15(f), suspend or cancel the appointment of an FDR provider that is made by the organisation.

#### **11 Duties of FDR providers**

- (1) An FDR provider must determine whether it is appropriate to start family dispute resolution for a family dispute.
- (2) If an FDR provider determines that it is appropriate to start family dispute resolution for a family dispute, the FDR provider must make every endeavour to—
  - (a) identify the matters in issue between the parties; and
  - (b) facilitate discussion between the parties in respect of those matters; and
  - (c) assist the parties to reach an agreement on the resolution of those matters that best serves the welfare and best interests of all children involved in the dispute.

#### *Family dispute resolution forms*

#### **12 Family dispute resolution forms**

- (1) Subsection (2) applies when an FDR provider decides that it is inappropriate to start or continue family dispute resolution for a family dispute because—
  - (a) at least 1 of the parties to the family dispute is unable to participate effectively in family dispute resolution; or

- (b) at least 1 of the parties to the family dispute, or a child of one of the parties, has been subject to domestic violence by one of the other parties to the dispute; or
  - (c) a situation exists that gives the FDR provider reasonable grounds for deciding that family dispute resolution is inappropriate for the parties to the family dispute.
- (2) The FDR provider must give each of the parties to the family dispute a form that states that family dispute resolution is inappropriate for the dispute.
- (3) Subsection (4) applies when an FDR provider decides that it is inappropriate to start or continue with family dispute resolution for a family dispute because 1 of the parties to the family dispute refuses to attend or to continue to attend family dispute resolution.
- (4) The FDR provider must give every other party to the family dispute a form that states that family dispute resolution was not possible because 1 party refused to attend or to continue to attend family dispute resolution.
- (5) Subsection (6) applies when an FDR provider decides that a family dispute with which the provider is dealing is unable to be resolved within a reasonable time.
- (6) The FDR provider must give each of the parties to the family dispute a form that states—
  - (a) the matters on which the parties reached, and did not reach, resolution while the FDR provider was dealing with the dispute; and
  - (b) if proceedings are commenced, or have been commenced, whether, in the opinion of the provider,—
    - (i) a settlement conference would be likely to facilitate settlement of the matters on which the parties did not reach resolution; and
    - (ii) at least 1 of the parties would need legal representation at a settlement conference in order to participate effectively in that hearing.
- (7) Subsection (8) applies when an FDR provider and the parties agree that resolution has been reached on all matters in dispute.
- (8) The FDR provider must give each of the parties to the family dispute a form that states—

- (a) all of the matters on which resolution has been reached; and
  - (b) the agreement reached in respect of those matters.
- (9) An FDR provider cannot be required to attend court to explain the opinion of the FDR provider given under subsection (6)(b).

### **13 Provision of family dispute resolution forms to court**

- (1) If the parties have attended family dispute resolution pursuant to a direction made under section 46F of the Care of Children Act 2004, the FDR provider must send to the court a copy of the form given to the parties under section 12(2), (4), (6), or (8).
- (2) In any other case where the parties have attended family dispute resolution and proceedings have been commenced, the FDR provider must send to the court a copy of the form given to the parties under section 12(2), (4), (6), or (8) if—
- (a) requested to do so by the court; and
  - (b) the request is received by the FDR provider no more than 12 months after completion of the family dispute resolution.

### *Miscellaneous*

### **14 Privilege**

- (1) This section applies to a statement that a party to a family dispute makes to an FDR provider for the purpose of enabling the FDR provider to deal with the dispute.
- (2) No evidence of the statement is admissible in any court or before any person acting judicially, unless the statement is recorded in a family dispute resolution form.
- (3) An FDR provider commits an offence and is liable on conviction to a fine not exceeding \$500 who discloses to any other person a statement made to the provider for the purpose of enabling the provider to deal with a family dispute.
- (4) However, an FDR provider does not commit an offence under subsection (3) if the disclosure of the statement is authorised by the person who made the statement.

**15 Regulations**

The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing for the purposes of section 6(2) any criteria that the Secretary must apply when deciding whether to approve an organisation as a dispute resolution organisation:
- (b) prescribing for the purposes of section 6(3) the kinds of terms and conditions on which the approval of an organisation may be made:
- (c) prescribing for the purposes of section 7 the grounds on which the Secretary may suspend or cancel the approval of an organisation as an approved dispute resolution organisation, which, without limitation, may include—
  - (i) that the approval was given on the basis of information that was false or misleading in a material respect:
  - (ii) that the organisation no longer satisfies any criteria for approval prescribed by regulations made under paragraph (a):
  - (iii) that the organisation has requested the suspension or cancellation of the approval:
  - (iv) that the organisation has been wound up or dissolved, or has otherwise ceased to exist:
  - (v) that the organisation has breached a term or condition on which the organisation's approval was made:
- (d) prescribing for the purposes of section 9(2) the qualification and competency requirements that must be met for a person to be appointed as an FDR provider, which, without limitation, may require a person—
  - (i) to be a member of a specified professional body:
  - (ii) to have a specified qualification:
  - (iii) to have a specified level of dispute resolution experience:
- (e) prescribing for the purposes of section 9(2) any matters that disqualify a person from being appointed as an FDR



- provider, which, without limitation, may include having a conviction for certain types of offences:
- (f) prescribing for the purposes of section 10 the grounds on which the Secretary or an approved dispute resolution organisation may suspend or cancel the appointment of an FDR provider, which, without limitation, may include that the dispute resolution provider—
- (i) was appointed on the basis of information that was false or misleading in a material respect:
  - (ii) no longer meets the qualification and competency requirements for appointment prescribed by regulations made under paragraph (d):
  - (iii) has become disqualified from appointment as an FDR provider by reason of any matter prescribed by regulations made under paragraph (e):
  - (iv) has breached a term or condition on which the FDR provider's appointment was made.
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### Legislative history

18 September 2013	Divided from the Family Court Proceedings Reform Bill (Bill 90–2) by committee of the whole House as Bill 90–3F
19 September 2013	Third reading
24 September 2013	Royal assent

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This Act is administered by the Ministry of Justice.

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