



Family Dispute Resolution Regulations 2013

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 21st day of October 2013

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 15 of the Family Dispute Resolution Act 2013, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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FDR providers

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Regulations

1 Title

These regulations are the Family Dispute Resolution Regulations 2013.

2 Commencement

These regulations come into force on the day after the date of their notification in the *Gazette*.

3 Interpretation

In these regulations, the **Act** means the Family Dispute Resolution Act 2013.

*Dispute resolution organisations***4 Criteria for approving dispute resolution organisations**

The following criteria are prescribed for the Secretary to apply in deciding whether to approve an organisation under section 6(1) of the Act as an approved dispute resolution organisation:

- (a) the organisation does not provide family dispute resolution services to the public, either directly or through other organisations that, if they and the organisation were incorporated under the Companies Act 1993, would be subsidiary or related companies within the meaning of that Act:
- (b) the organisation has—
 - (i) an established code of conduct; and
 - (ii) established complaints processes; and
 - (iii) established disciplinary processes; and
 - (iv) a proven track record in assessing people's competence in mediation:

- (c) the organisation has systems and processes in place that enable it to—
 - (i) assess people competently against the requirements of regulation 7; and
 - (ii) ensure that its FDR providers continue to be assessed against those requirements; and
 - (iii) ensure that the appointment of any of its FDR providers who no longer meets those requirements (or turns out never to have met them) is cancelled;
- (d) there is a need for an organisation of the organisation's size and other characteristics to be available as an approved dispute resolution organisation.

5 Kinds of condition on which approvals of dispute resolution organisations can be made

- (1) The approval under section 6(1) of the Act of an organisation as an approved dispute resolution organisation may be made on a condition of a kind stated in subclause (2) (or any 2 or more conditions, each of which is a condition of a kind stated in subclause (2)).
- (2) The kinds of condition referred to in subclause (1) are—
 - (a) a condition requiring the organisation to report (at stated times or intervals) to the Secretary on stated matters;
 - (b) a condition requiring the organisation to notify the Secretary of the occurrence of events of stated kinds, and stating the times after the occurrence of the events within which the Secretary must be notified;
 - (c) a condition providing that an approval expires a stated period after it is given, or on a stated day;
 - (d) a condition requiring the organisation to be reassessed against the criteria prescribed by regulation 4 at stated intervals;
 - (e) a condition requiring the organisation to be reassessed against the criteria prescribed by regulation 4 if an event of a stated kind occurs;
 - (f) a condition requiring the organisation to ensure that prospective providers are competently assessed against the requirements of regulation 7:

- (g) a condition requiring the organisation to ensure that—
 - (i) its FDR providers continue to be competently assessed against the requirements of regulation 7; and
 - (ii) the appointment of any of its FDR providers who no longer meets those requirements (or turns out never to have met them) is cancelled:
- (h) a condition requiring the organisation to maintain a publicly available list of its FDR providers, and to make reasonable efforts to ensure that it is up-to-date:
- (i) a condition requiring the organisation to promote and facilitate continuing development for its FDR providers.

6 Grounds for suspension or cancellation of organisation's approval

The following are grounds on which the Secretary may suspend or cancel the approval of an organisation as an approved dispute resolution organisation:

- (a) that the organisation was approved on the basis of false or misleading information supplied by or on behalf of the organisation:
- (b) that the organisation no longer satisfies the criteria for approval in regulation 4(a) to (d):
- (c) that the organisation has asked for its approval to be suspended or cancelled:
- (d) that the organisation has been wound up or dissolved, or has otherwise ceased to exist:
- (e) that the organisation has failed to comply with a condition on which the approval was made:
- (f) that the organisation has failed to comply with a term of a contract with the Ministry.

FDR providers

7 Qualification and competency requirements

The following qualification and competency requirements must be applied in deciding whether a person meets the criteria in section 9(1) of the Act:

- (a) the person must,—

- (i) in the case of an appointment by the Secretary, be a member of or affiliated to an approved dispute resolution organisation; and
 - (ii) in the case of an appointment by an approved dispute resolution organisation, be a member of or affiliated to that organisation:
- (b) the person must have enough experience of resolving disputes using mediation to provide reasonable assurance of competence in providing dispute resolution services in the context of Family Court processes:
- (c) the person must be able to determine and facilitate appropriate processes to help parties to mediation reach agreements that best promote the welfare of children:
- (d) the person must be able to help people to participate effectively in mediation:
- (e) the person must be able to help participants in mediation to develop skills and strategies for managing future disagreements:
- (f) the person must have knowledge and understanding of Family Court processes and family law, particularly—
 - (i) the Care of Children Act 2004 and the effect of sections 4, 5, and 6 of that Act; and
 - (ii) the Act:
- (g) the person must be able to apply and communicate laws, rules, and purposes of the family justice system:
- (h) the person must have adequate knowledge and understanding of child development and its relevance to day-to-day care and contact issues:
- (i) the person must be culturally aware, in particular of Māori values and concepts:
- (j) the person must be able to address diversity in parties to mediation:
- (k) the person must be able to—
 - (i) assess parties to mediation, and their circumstances and history, for factors (in particular, in relation to possible domestic violence) indicating risks that may arise during, or in the context of, mediation sessions; and
 - (ii) manage any risks likely to arise.

8 Matters disqualifying people from appointment as FDR providers

The following are matters disqualifying a person from appointment as an FDR provider:

- (a) not being of good character:
- (b) not being a fit and proper person to be an FDR provider.

9 Grounds for suspension or cancellation of appointment of FDR provider appointed by Secretary

The following are grounds on which the Secretary may suspend or cancel the appointment of an FDR provider appointed by him or her:

- (a) that the provider was appointed on the basis of false or misleading information supplied by or on behalf of the provider:
- (b) that the provider no longer satisfies the criteria for appointment:
- (c) that the provider has, by virtue of regulation 8, become disqualified from appointment:
- (d) that the provider has failed to comply with a condition on which the appointment was made.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force the day after notification in the *Gazette*, prescribe—

- criteria that the Secretary for Justice must apply in deciding whether to approve organisations as approved dispute resolution organisations under section 6 of the Family Dispute Resolution Act 2013:

- grounds on which the Secretary can suspend or cancel the approval of an organisation as an approved dispute resolution organisation:
- qualification and competency requirements that the Secretary and approved dispute resolution organisations must apply in deciding whether people are qualified and competent to provide dispute resolution services under the Act (and can thus be appointed as family dispute resolution providers):
- matters that disqualify people from appointment as family dispute resolution providers:
- grounds on which the Secretary may suspend or cancel the appointment of a provider appointed by him or her.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 24 October 2013.

These regulations are administered by the Ministry of Justice.
