

SCHETZER PAPALEO

FAMILY LAWYERS

Have you updated your report template?

On 1 September 2021, the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 came into effect. The new Rules apply to all proceedings, whether they were commenced before the introduction of the Rules or after.

[The 2004 Single Expert Rules were found in Division 15.5.2 of the Family Law Rules and now in the 2021 Rules it is Division 7.1.2](#)

Here is a table of the changes for your quick reference

Old (Family Law Rules 2004) Rules		New (Federal Circuit and Family Court of Australia (Family Law) Rules	
15.44	Appointment of single expert witness by parties	7.03	Appointment of Single Expert Witness by Parties Jointly
15.45	Order for single expert witness	7.04	Order for single expert witness
15.46	Orders the court may make	7.05	Orders made by the Court
15.47	Single expert witness's fees and expenses	7.06	Single Expert witness's fees and expenses
15.48	Single expert witness's report	7.07	Expert witness's report
15.49	Appointing another expert witness	7.08	Appointing another expert witness
15.50	Cross-examination of single expert witness	7.09	Cross-examination of single expert witness
15.51	Permission for expert's reports and evidence	7.10	Permission for expert's reports and evidence
15.52	Application for permission for expert witness	7.11	Application for permission for expert witness
15.53	Application for Division 15.5.4	7.12	Application for Division 7.1.4
15.54	Instructions to expert witness	7.13	Instructions to expert witness
15.55	Mandatory disclosure of expert's report	7.14	Mandatory disclosure of expert's report
15.56	Provision of information about fees	7.15	Provision of information about fees
15.57	Application for provision of information	7.16	Application for provision of information
15.58	Failure to disclose report	7.17	Failure to disclose report
15.59	Expert witness's duty to the Court	7.18	Expert witness's duty to the Court
15.60	Expert witness's right to seek orders	7.19	Expert witness's right to seek orders
15.61	Expert witness's evidence in chief	7.20	Expert witness's evidence in chief
15.62	Form of expert's report	7.21	Form of expert's report
15.63	Contents of expert's report	7.22	Contents of expert's report
15.64	Consequences of non-compliance	7.23	Consequences of non-compliance
15.64A	Purpose	7.24	Purpose of Division 7.1.6
15.64B	Conference	7.25	Conference
15.65	Questions to single expert witness	7.26	Questions to single expert witness
15.66	Single expert witness's answers	7.27	Single expert witness's answers
15.67	Single expert witness's costs	7.28	Single expert witness's costs
15.67A	Application for Directions	7.29	Application for Directions

The noticeable differences

7.03 there are two additional paragraphs where:

- (1) a party must not communicate unilaterally with a single expert witness; and
- (2) any communication between a party and a single expert witness must, at the same time, also be provided to all other parties engaging that single expert witness.

7.09 the additional paragraph now states:

"unless the court otherwise orders, a party who requires a single expert witness to attend court for cross-examination must pay the reasonable fees and expenses of the single expert witness's attendance."

7.13 there are two additional paragraphs in relation to instructions to single experts:

- (1) this rule applies to any expert witness, whether a single expert witness or an expert witness engaged by only one party for the purpose of a procedural hearing or conference; and
- (2) if a single expert witness is appointed, **the parties must give the expert an agreed statement of facts on which to base the report.**

7.27 there are additional subparagraphs under paragraph (1) requiring single experts to answer a question within 21 days of:

- (a) the date the expert witness received the question; or
- (b) the date the fees and expenses for answering the question are paid or secured.



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