



Family Law Act 1975

No. 53, 1975

EXTRACTS

10H Confidentiality of communications in family dispute resolution

- (1) A family dispute resolution practitioner must not disclose a communication made to the practitioner while the practitioner is conducting family dispute resolution, unless the disclosure is required or authorised by this section.
- (2) A family dispute resolution practitioner must disclose a communication if the practitioner reasonably believes the disclosure is necessary for the purpose of complying with a law of the Commonwealth, a State or a Territory.
- (3) A family dispute resolution practitioner may disclose a communication if consent to the disclosure is given by:
 - (a) if the person who made the communication is 18 or over—that person; or
 - (b) if the person who made the communication is a child under 18:
 - (i) each person who has parental responsibility (within the meaning of Part VII) for the child; or
 - (ii) a court.
- (4) A family dispute resolution practitioner may disclose a communication if the practitioner reasonably believes that the disclosure is necessary for the purpose of:
 - (a) protecting a child from the risk of harm (whether physical or psychological); or
 - (b) preventing or lessening a serious and imminent threat to the life or health of a person; or
 - (c) reporting the commission, or preventing the likely commission, of an offence involving violence or a threat of violence to a person; or
 - (d) preventing or lessening a serious and imminent threat to the property of a person; or
 - (e) reporting the commission, or preventing the likely commission, of an offence involving intentional damage to property of a person or a threat of damage to property; or
 - (f) if a lawyer independently represents a child's interests under an order under section 68L—assisting the lawyer to do so properly.
- (5) A family dispute resolution practitioner may disclose a communication in order to provide information (other than personal information within the meaning of section 6 of the *Privacy Act 1988*) for research relevant to families.
- (6) A family dispute resolution practitioner may disclose information necessary for the practitioner to give a certificate under subsection 60I(8).
- (7) Evidence that would be inadmissible because of section 10J is not admissible merely because this section requires or authorises its disclosure.

Note: This means that the practitioner's evidence is inadmissible in court, even if subsection (2), (3), (4), (5) or (6) allows the practitioner to disclose it in other circumstances.

- (8) In this section:

communication includes admission.

10J Admissibility of communications in family dispute resolution and in referrals from family dispute resolution

- (1) Evidence of anything said, or any admission made, by or in the company of:
 - (a) a family dispute resolution practitioner conducting family dispute resolution; or
 - (b) a person (the **professional**) to whom a family dispute resolution practitioner refers a person for medical or other professional consultation, while the professional is carrying out professional services for the person;is not admissible:
 - (c) in any court (whether or not exercising federal jurisdiction); or
 - (d) in any proceedings before a person authorised to hear evidence (whether the person is authorised by a law of the Commonwealth, a State or a Territory, or by the consent of the parties).
- (2) Subsection (1) does not apply to:
 - (a) an admission by an adult that indicates that a child under 18 has been abused or is at risk of abuse; or
 - (b) a disclosure by a child under 18 that indicates that the child has been abused or is at risk of abuse;unless, in the opinion of the court, there is sufficient evidence of the admission or disclosure available to the court from other sources.
- (3) Subsection (1) does not apply to information necessary for the practitioner to give a certificate under subsection 60I(8).
- (4) A family dispute resolution practitioner who refers a person to a professional (within the meaning of paragraph (1)(b)) must inform the professional of the effect of this section.

65DAB Court to have regard to parenting plans

When making a parenting order in relation to a child, the court is to have regard to the terms of the most recent parenting plan (if any) that has been entered into between the child's parents (to the extent to which that plan relates to the child) if doing so would be in the best interests of the child.