

## **CIVIL RESOLUTION ACT 2011**

The Civil Resolution Act 2011 commenced on 1 August 2011. Lawyers must now advise their clients of the requirements of this Act in the appropriate cases.

The Act imposes an obligation on potential litigants to take 'genuine steps' to resolve their matter before initiating proceedings in the Federal Magistrates Court or the Federal Court.

The Federal Magistrates Court has a wide range of jurisdiction including: family law and child support matters (but not in Western Australia), administrative law, bankruptcy, human rights, consumer matters, privacy, migration, copyright, industrial law and admiralty law matters.

The Federal Court's jurisdiction covers almost all federal law matters and includes hearing appeals from the Federal Magistrates Court.

Before commencing proceedings in the above courts, applicants must file a Genuine Steps Statement. The Act requires that the statement specify:

1. The steps that have been taken by the parties to try and resolve the issues in dispute in the proceedings;

OR

2. Reasons why no such steps were taken (such as the urgency of the matter or for the safety of persons and/or property).

Respondents are then required to file a statement specifying parts of the Genuine Steps Statement which they agree or disagree with.

Genuine steps the applicants may be required to take may include:

1. Notifying the other party of the issues in dispute with a view to discussing and resolving them.
2. Providing documents and information which may assist the other party in understanding and resolving the dispute.
3. Considering alternative dispute resolution (such as mediation or arbitration).
4. Attempting negotiations to resolve the issues in dispute.

Should the parties fail to take the required steps, it seems the court has the power to:

1. Account for this in awarding costs.
2. Refer the matter to alternative dispute resolution.
3. Strike out, amend or restrict part of either party's claim or defence.

If you are considering commencing litigation in the Federal Court or the Federal Magistrates Court, it may now be the case that your solicitor advises such 'genuine steps' be taken to ensure compliance with the new legislation.