



Final Parenting Orders in Family Law proceedings

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Proceedings in the Family Court for [children and parenting matters](#) end when Final Orders are made (save for when proceedings are discontinued or dismissed). But are Final Orders ever really “final”?

Final Orders can be made:

by consent - when agreement is reached as to the parenting arrangements that are in the best interest of the children; or

by a Judicial Officer exercising their decision-making power after hearing all of the relevant evidence during a trial.

Final Parenting Orders can be varied or set aside

When Final Parenting Orders are made, there is actually an option to change them. However, there is a barrier that must be overcome before either party can come back to the court and ask for the Final Orders to be varied or set aside.

This barrier is referred to as “the rule in Rice v Asplund”.

What is the rule in Rice v Asplund?

In Rice v Asplund, the Full Court of the Family Court decided that before it would review Final Orders in relation to parenting matters (with a view to varying them), it would first need to be satisfied that there had been a significant change in circumstances since the making of the Final Orders.

The purpose of the rule in Rice v Asplund is to protect children from being exposed to ongoing litigation.

What is a “significant change in circumstances”?

Examples of what may be considered a significant change in circumstances include the following:

A party is seeking to relocate with a child;

The current Final Orders were made without all the relevant information having been made available to the Court prior to the making of those Final Orders;

The parties have since consented to new parenting arrangements, and therefore, the current Final Orders are no longer reflective of the original arrangements;

A substantial period of time has elapsed between the Final Orders being made and the Application to set aside or vary the Final Orders being brought;

A party has re-partnered or re-married, causing a significant change for the child or children;

There has been abuse of a child or children; or

Either of the parties or child/ren are suffering significant ill health.

Whilst Final Parenting Orders can never be completely final, the rule in *Rice v Asplund* sets out the threshold that must be met before parenting proceedings can be re-opened.

The threshold is that there must be a significant change in circumstances. It is important to note that the change in circumstances must be significant. This is not an easy bar to overcome.

The rule in *Rice v Asplund* means that parties cannot continue to ask the court to reconsider Final Orders in circumstances where they are simply not pleased with the Final Orders or, for example, where a change would make things more convenient for one parent.

This provides some certainty and finality for parties and children following the conclusion of proceedings in the Family Court.

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