Why you should speak to family law lawyers about travelling overseas with children after separation

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Before you put down the non-refundable deposit on your dream overseas holiday, it is best to check with family law lawyers whether you may need your former partner's consent to take your children. While it is common for Orders to include mention about who holds the passports, how they are to be renewed and what is permissible overseas travels, they are not compulsory. This may mean you will need to seek the consent of your former partner to take your child overseas. You may also need to seek their consent in applying for or renewing your child's passport.

Renewing or applying for a passport

If your Orders are silent on getting your children a passport or ensuring they remain valid, you will need to obtain the consent of your former partner in getting a passport. This will require you to complete a passport application or renewal application which shows the consent (generally the signature) of both parents. If your former partner refuses to sign the application, you may still able to apply for a passport.

Making an Application to the Department of Foreign Affairs and Trade

One of the ways to apply without full parental consent is making a special circumstances application. This will include an outline of reasons why you do not have full parental consent and the details of your overseas travel. To ensure your special circumstances application is accepted with minimal fuss, we suggest you seek legal advice before completing the application. It is best to deal with any passport issues well before making your travel plans, as urgent applications for a children's passport without full parental consent are not possible in Australia.

My ex is refusing to let me take our children overseas, can I just go anyway?

So you have a valid passport for your children, but not your former partner's consent. You may have booked your overseas trip, or feel it is an experience for you and your children that is too good to pass up. If you are unable to obtain your former partner's consent for your children to travel overseas, it is not recommended that you continue with your holiday plans. The risks of continuing your plans and taking your children overseas without your former partner's consent are serious and may include:

- Your former partner making an application for a Recovery Order seeking the return of your children to Australia and / or their primary care; and
- Your former partner may place your children on the Family Law Watchlist form with the Australian Federal Police, preventing them from leaving Australia without further Order

of the Court.

To avoid making travelling with children harder than it needs to be, ensure your child has a valid passport and you have your former partner's consent to take them on holidays (if needed). Our specialist family law lawyers are experts in dealing with the 'what if' intricacies of parenting arrangements. They can help guide you to the path of least resistance to your dream holiday.

Speak to one of them today!

Contact us on 1800 300 170 or email us at familylaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.