



# Time with children at Christmas, after separation – cut off date for court applications

Author: [Ben Smith](#)

Email: [ben@smithfamilylaw.com.au](mailto:ben@smithfamilylaw.com.au)

Date: **Monday October 18, 2021**

The Christmas holidays are a joyful time for families to get together and celebrate. However, this period can also be a stressful time for some families; especially for separated parents. If you have been unable to resolve parenting arrangements and it is necessary to apply to the Court to assist, you will need to file your Application for Parenting Orders by 4.00 pm on the second Friday of November if it is to be heard before Christmas. In 2021, this is **Friday 12 November 2021**.

If you do not have Parenting Orders in place for the Christmas period, there may be disagreements between parents concerning the amount of time children are to spend with each parent. Although this conflict can be challenging, it can be managed with prior planning to ensure that the festive season is child-focused and a jolly good time.

## Negotiating your Christmas parenting arrangements

If you and your former spouse are on amicable terms and can communicate effectively and appropriately with each other post-separation, it can be a great idea to speak with each other to reach an agreement about how the children will spend the Christmas holidays (and other special occasions too). These informal parenting agreements are not legally binding and can be altered or revoked at any time by either party.

When negotiating, some important considerations to keep in mind include:

- When the school holiday period begins and ends;
- How time over the holiday period will be divided between each parent;

- How your children will spend time with you on Christmas Eve and Christmas Day;
- When and where changeovers will take place; and
- If your children will travel with either parent during the holidays.

You can learn more about co-parenting, in our previous blog, [“Top 10 tips for co-parenting”](#).

## What to do if you cannot agree on Christmas parenting arrangements

Depending on the circumstances of your particular situation, it may not be possible to reach agreement with your former partner.

If you cannot agree about your Christmas plans, you may need to seek Parenting Orders from the Federal Circuit and Family Court of Australia. You should only apply to the Court as a last resort, if all genuine efforts to resolve the issue have failed. Either party can apply to the Court for a Parenting Order, in which a Judge will make a decision about parenting arrangements.

## What are Parenting Orders?

Parenting Orders are orders of the Court that provide for parenting arrangements. They are legally binding and there are consequences for [failure to comply with Parenting Orders](#). They can be made on an interim or final basis.

Generally, Parenting Orders set out responsibilities regarding children and may be necessary to decide issues such as:

- Who the child will live with (and where they will live);
- How much time the child will spend with each parent and other people [like grandparents for example](#) (and where and for how long);
- Who the child will communicate with and how; and/or
- Any other issues relevant to the care, welfare or development of the child (for example, schooling and medical treatment).

It is important to remember that when making a decision about Parenting Orders, the Court's main consideration is the best interests of the child.

## Parenting Orders for Christmas time

Christmas time might bring these issues to the forefront if there have been no prior arrangements made by parents. In most cases, the Court makes Orders allowing children to spend part of the Christmas period with both parents. However, it is important to remember that this decision is based on what is in the best interests of the children, rather than what parents want.

If a Parenting Order is made, it is important that every person affected by it follows it. Where there are Orders in place, it is especially important that parents consider circumstances such as busier travel times during Christmas, as withholding children,

even if unintentionally, could be considered a contravention of those Orders.

## When is the cut-off date for Parenting Orders before Christmas?

The last day for filing an application seeking Parenting Orders for the Christmas holiday period with the Federal Circuit and Family Court of Australia is 4.00 pm on the second Friday of November in each year. In 2021, this is **Friday 12 November 2021**.

It is important that you lodge your application before this date, as applications filed after this deadline are likely to be heard after Christmas. In urgent cases, there is no cut-off date for applications seeking urgent Parenting Orders from the Court. Urgent cases include, for example, cases involving [family violence or a risk of harm to children](#).

## How a family lawyer can help

Smith Family Law can advise you as to whether you should make an application to the Court seeking Parenting Orders, and can assist you with the application process.

## Contacting Smith Family Law

[03 8625 8957](tel:0386258957)

[info@smithfamilylaw.com.au](mailto:info@smithfamilylaw.com.au)

---

*This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*