

Supreme Court Rules 1937—Form 1.1A

(see o 1AA r 3)

Subpoena

In the Supreme Court of the Australian Capital Territory

*[Criminal jurisdiction]

No of (*year*)

(*for civil matters*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*

(*for criminal matters*)

The Queen

and

(*name of accused person*)

**(delete if inapplicable)*

To (*name*)

 (*address*)

YOU ARE ORDERED:

- *to attend to give evidence—see section A of this form; or
- *to produce this subpoena or a copy of it and the documents or things specified in the schedule—see section B of this form; or
- *to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the schedule—see section C of this form

**(select 1 only of these 3 options)*

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last date for service of this subpoena is: *(see note 1)*

Please read notes 1 to 15 at the end of this subpoena.

(seal or stamp of the Court)

Date:

Issued at the request of *(name of party)*, whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence—

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

B. Details of subpoena to produce only

You must comply with this subpoena—

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the schedule below to the registrar (*or, for an arbitration under the Commercial Arbitration Act 1986, the *[arbitrator/umpire]*) at the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*see notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things—

Date:

Time:

Place:

Address where the subpoena (or copy) and documents or things may be delivered or posted—

Schedule

The documents and things you must produce are as follows:
(if insufficient space attach list)

**(delete if inapplicable)*

C. Details of subpoena both to attend to give evidence and to produce

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena—

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the schedule below to the registrar (or, for an arbitration under the Commercial Arbitration Act 1986, the *[arbitrator/umpire]) at the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (see notes 5-11)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things—

Date:

Time:

Place:

Address where the subpoena (or copy) and documents or things may be delivered or posted:

Schedule

The documents and things you must produce are as follows:
(if insufficient space attach list)

*(delete if inapplicable)

Notes

Last day for service

- 1 You need not comply with this subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

- 2 Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and its requirements.

Addressee a corporation

- 3 If this subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

- 4 You need not comply with this subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date when your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

- 5 In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the registrar at the address specified for the purpose in the subpoena so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.

- 6 If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or anyone else you must, at the time of production, notify the Court in writing of your objection and of the grounds of your objection.
- 7 Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to this subpoena being inspected by any party to the proceeding, the registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

- 8 If you produce more than 1 document or thing, you must, if asked by the registrar, produce a list of the documents or things produced.

Production of copy instead of original

- 9 You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that this subpoena requires you to produce.

(the issuing party, or that party's solicitor, should tick the following box if photocopies are acceptable)

photocopies of documents are acceptable

Return or destruction of documents or copies

- 10 You may inform the Court in writing that any document or copy of a document produced need not be returned and may be destroyed.

(the addressee should tick the appropriate box if applicable)

all original documents need not be returned and may be destroyed

some original documents need not be returned and may be destroyed *(please attach a list of the documents that may be destroyed)*

all photocopies need not be returned and may be destroyed

some photocopies need not be returned and may be destroyed (*please attach a list of the documents that may be destroyed*)

whether documents need not be returned and may be destroyed will be advised at the time of production of the documents

- 11 If you have so informed the Court, the registrar may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

- 12 You have the right to apply to the Court—
- (a) for an order setting aside this subpoena (or a part of it) or for relief in relation to the subpoena; and
 - (b) for an order in relation to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

- 13 If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to any conduct money and any witness expenses) for the loss or expense, including legal costs, reasonably incurred in complying with this subpoena.

Contempt of court—arrest

- 14 Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
- 15 Note 14 is without prejudice to any power of the court (including the power to issue a warrant for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Endnote

- 1 This form was originally in the *Supreme Court Rules 1937*. Under the *Court Procedures Act 2004* A2004-59, pt 8, the form became a form approved under that Act.

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