



Australian Capital Territory

Supreme Court Amendment Rules 2004 (No 5)

Subordinate Law SL2004-54

We, Judges of the Supreme Court, make the following rules of court under the *Supreme Court Act 1933*, section 36.

Dated 8 December 2004.

T J HIGGINS
Chief Justice

K J CRISPIN
Judge

M F GRAY
Judge

T CONNOLLY
Judge



Australian Capital Territory

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made under the

Supreme Court Act 1933

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1 Name of rules

These rules are the *Supreme Court Amendment Rules 2004 (No 5)*.

2 Commencement

These rules commence on 31 December 2004.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

These rules amend the *Supreme Court Rules*.

Note These rules also amend the *Supreme Court (Admission of Legal Practitioners) Rules* (see r 82 and r 83).

4 Order 1 rule 1

substitute

1 Name of rules

These rules are the *Supreme Court Rules 1937*.

5 Order 1 rule 4, definition of Act, paragraphs (g), (h) and (i)

substitute

(g) for order 82 (Procedure for registration of interstate forfeiture orders)—see order 82 rule 1; and

(h) for order 83 (Evidence and Procedure (New Zealand) Act 1994 (Cwlth))—see order 83 rule 1.

6 Order 1 rule 4, new definitions

insert

addressee, for a subpoena—see order 1AA rule 1.

conduct money, for a subpoena, for order 1AA (Subpoenas)—see order 1AA rule 1.

issuing officer, for order 1AA (Subpoenas)—see order 1AA rule 1.

issuing party, for a subpoena—see order 1AA rule 1.

subpoena—see order 1AA rule 1.

subpoena to attend to give evidence, for order 1AA (Subpoenas)—see order 1AA rule 1 (2).

subpoena to produce—see order 1AA rule 1 (3).

7 New order 1AA

in part 1, after order 1, insert

Order 1AA Subpoenas

1 Definitions for o 1AA

(1) In this order:

addressee, for a subpoena, means the person who is the subject of the order expressed in the subpoena.

conduct money, for a subpoena, means an amount of money or its equivalent sufficient to meet the reasonable expenses of the addressee of attending as required by the subpoena and returning after attending.

Example of equivalent of money

prepaid travel

Note An example is part of the rules, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

issuing officer means an officer empowered to issue a subpoena on behalf of the court.

issuing party, for a subpoena, means the party at whose request the subpoena is issued.

subpoena means an order in writing requiring the addressee—

- (a) to attend to give evidence; or
 - (b) to produce the subpoena or a copy of it and a document or thing; or
 - (c) to do both of those things.
- (2) To the extent that a subpoena requires the addressee to attend to give evidence, it is called a **subpoena to attend to give evidence**.
- (3) To the extent that a subpoena requires the addressee to produce the subpoena or a copy of it and a document or thing, it is called a **subpoena to produce**.

2 Issuing subpoena

- (1) In any proceeding, the court may by subpoena order the addressee—
- (a) to attend to give evidence as directed by the subpoena; or
 - (b) to produce the subpoena or a copy of it and any document or thing as directed by the subpoena; or
 - (c) to do both of those things.
- (2) An issuing officer must not issue a subpoena—
- (a) without the court's leave if it appears to the issuing officer that the subpoena—
 - (i) is not substantially complete; or
 - (ii) does not substantially comply in form with these rules; or

Note The registrar may refuse to accept a subpoena for filing under o 66 r 10B (Refusal to accept documents—abuse of process etc). That rule is applied to criminal proceedings by o 80 r 3 (Application of civil rules to criminal proceedings).

- (b) if the court has made an order, or there is a rule of court, having the effect of requiring that the proposed subpoena—
 - (i) not be issued; or
 - (ii) not be issued without the court's leave and that leave has not been given; or
 - (c) requiring the production of a document or thing in the custody of the court or another court.
- (3) The issuing officer must seal with the seal of the court, or otherwise authenticate, a sufficient number of copies of the subpoena for service and proof of service.
 - (4) A subpoena is taken to be issued on its being sealed or otherwise authenticated under subrule (3).

3 Form of subpoena

- (1) A subpoena must be in accordance with form 1.1A.
- (2) A subpoena must not be addressed to more than 1 person.
- (3) Unless the court otherwise orders, a subpoena must identify the addressee by name or by description of position.

Note The Legislation Act, dict, pt 1 defines *position* to include office.
- (4) A subpoena to attend to give evidence must specify the date, time and place for attendance.
- (5) A subpoena to produce must—
 - (a) identify the document or thing to be produced; and
 - (b) specify the date, time and place for production.
- (6) The date specified in a subpoena must be the date of trial or any other date permitted by the court.
- (7) The place specified for production may be the court or the address of anyone authorised to take evidence in the proceeding.

- (8) A subpoena must specify the last date for service of the subpoena.
- (9) The last date for service must be—
 - (a) 5 clear days before the date specified in the subpoena for compliance with it; or
 - (b) if the court orders a different date—the date ordered.
- (10) If the addressee is a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

4 Setting aside subpoena or other relief

- (1) The court may, on the application of a party or someone else having a sufficient interest, set aside a subpoena completely or partly, or grant other relief in relation to it.
- (2) An application under subrule (1) must be made by motion on notice under order 54 (Motions) to the issuing party.
- (3) The court may order that the applicant give notice of the application to any other party or anyone else who has a sufficient interest.

5 Service of subpoena

- (1) Unless the court otherwise orders, a subpoena must be served personally on the addressee.
- (2) The issuing party must serve a copy of a subpoena to produce on each other party as soon as practicable after the subpoena has been served on the addressee.

6 Compliance with subpoena

- (1) An addressee need not comply with the requirements of a subpoena to attend to give evidence unless conduct money has been handed or tendered to the addressee a reasonable time before the date when attendance is required.

- (2) An addressee need not comply with the requirements of a subpoena unless it is served on or before the date specified in the subpoena as the last date for service of the subpoena.
- (3) Despite rule 5 (1), an addressee must comply with the requirements of a subpoena even if it has not been served personally on the addressee (or, if the court orders service in another way, it has not been served in that way) if the addressee has, by the last date for service of the subpoena, actual knowledge of the subpoena and its requirements.
- (4) The addressee must comply with a subpoena to produce—
 - (a) by attending at the date, time and place specified for production and producing the subpoena or a copy of it and the document or thing to the court or to the person authorised to take evidence in the proceeding; or
 - (b) 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.
- (5) For a subpoena that is both a subpoena to attend to give evidence and a subpoena to produce, production of the subpoena or a copy of it and the document or thing in any of the ways permitted by subrule (4) does not discharge the addressee from the obligation to attend to give evidence.

7 Production of subpoenaed document etc otherwise than on attendance

- (1) This rule applies if an addressee produces a document or thing under rule 6 (4) (b).
- (2) The registrar must, if asked by the addressee, give a receipt for the document or thing to the addressee.

- (3) If the addressee produces more than 1 document or thing, the addressee must, if asked by the registrar, provide a list of the documents or things produced.
- (4) The addressee may, with the consent of the issuing party, produce a copy, instead of the original, of any document required to be produced.
- (5) The addressee may, in the subpoena or at the time of production, inform the registrar in writing that any document or copy of a document produced need not be returned and may be destroyed.

8 Removal, return, inspection etc of subpoenaed documents and things

The court may give directions in relation to the removal from and return to the court, and the inspection, copying and disposal, of any document or thing that has been produced to the court in response to a subpoena.

9 Inspection of, and dealing with, subpoenaed documents and things produced otherwise than on attendance

- (1) This rule applies if an addressee produces a document or thing under rule 6 (4) (b).
- (2) On the request of a party, the registrar must tell the party whether production in response to a subpoena has happened and, if so, include a description, in general terms, of the documents and things produced.
- (3) The request mentioned in subrule (2) must be made orally on the return date for the subpoena or in writing after the return date.
- (4) Subject to this rule, no-one may inspect a document or thing produced unless the court has given leave and the inspection is in accordance with that leave.

- (5) Unless the court otherwise orders, the registrar may permit the parties to inspect at the registry any document or thing produced unless the addressee, a party or someone else having sufficient interest objects to the inspection under this rule.
 - (6) If the addressee objects to a document or thing being inspected by any party to the proceeding, the addressee must tell the court about the objection and the grounds of the objection.
 - (7) The objection mentioned in subrule (6) must be made orally to the court on the return date for the subpoena or in writing to the court before or after the return date.
 - (8) If a party or person having a sufficient interest objects to a document or thing being inspected by a party to the proceeding, the objector may tell the court on the return date for the subpoena or in writing about the objection and the grounds of the objection.
 - (9) If the court receives an objection under this rule, the registrar—
 - (a) must not permit any, or any further, inspection of the document or thing the subject of the objection; and
 - (b) must refer the objection to the court for hearing and decision.
- Note* The registrar may hear and decide the objection in some circumstances (see o 61 r 3AA (Jurisdiction of registrar—subpoenas)).
- (10) The registrar must notify the issuing party in writing about—
 - (a) the objection; and
 - (b) the date, time and place the objection will be heard.
 - (11) The issuing party must, a reasonable time before the date the objection will be heard, notify the addressee, the objector and each other party about—
 - (a) the objection; and

(b) the date, time and place the objection will be heard.

Note See o 39A r 8 (Power to allow removal of documents and things) for the procedure for the removal of documents and things from the registry.

10 Disposal of subpoenaed documents and things produced

(1) This rule applies in relation to a proceeding before the end of the hearing of the proceeding.

Note See o 39A r 6 (Return of subpoena document or thing) for the return of documents or things produced on subpoena at the end of the hearing of a proceeding.

(2) Unless the court otherwise orders, the registrar may return to the addressee any document or thing produced in the proceeding in response to the subpoena.

(3) Unless the court otherwise orders, the registrar must not return any document or thing under subrule (2) unless the registrar has given the issuing party at least 14 days notice of the intention to do so and that period has ended.

(4) If the addressee has told the court that a document or copy of a document produced need not be returned and may be destroyed, the registrar may, unless the court otherwise orders, destroy the document or copy instead of returning it.

(5) The registrar must not destroy a document or copy of a document unless the registrar has first given the issuing party and the addressee at least 14 days notice of the intention to destroy the document or copy.

11 Costs and expenses of compliance with subpoena

(1) This rule applies if the addressee for a subpoena in a proceeding is not a party to the proceeding.

(2) The court may order the issuing party to pay the amount of any reasonable loss or expense incurred in complying with the subpoena.

- (3) If an order is made under subrule (2), the court must fix the amount or direct that it be fixed according to the court's usual procedure in relation to costs.
- (4) An amount fixed under this rule is separate from and in addition to—
 - (a) any conduct money paid to the addressee; and
 - (b) any witness expenses payable to the addressee; and
 - (c) any amount that the addressee is entitled to under order 65 rule 7 (Scale of costs) and schedule 3 (Costs).

12 Failure to comply with subpoena—contempt of court

- (1) Failure to comply with a subpoena without lawful excuse is a contempt of court and the addressee may be dealt with accordingly.
- (2) Despite rule 5 (1), if a subpoena has not been served personally on the addressee, the addressee may be dealt with for contempt of court as if the addressee had been personally served if it is proved that the addressee had, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.
- (3) Subrules (1) and (2) are 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.

13 Documents and things in custody of court

- (1) A party who seeks production of a document or thing in the custody of the court or another court may notify the registrar in writing accordingly, identifying the document or thing.
- (2) If the document or thing is in the custody of the court, the registrar must produce the document or thing—

-
- (a) in court or to anyone authorised to take evidence in the proceeding, as required by the party; or
 - (b) as the court directs.
- (3) If the document or thing is in the custody of another court, the registrar must, unless the court has otherwise ordered—
- (a) ask the other court to send the document or thing to the registrar; and
 - (b) after receiving it, produce the document or thing—
 - (i) in court or to anyone authorised to take evidence in the proceeding, as required by the party; or
 - (ii) as the court directs.
- (4) Subrules (2) and (3) do not apply if order 66 rule 10B (Refusal to accept documents—abuse of process etc) applies.

Note Order 66 r 10B is applied to criminal proceedings by o 80 r 3 (Application of civil rules to criminal proceedings).

14 Banker's books

- (1) This rule applies if—
- (a) the addressee for a subpoena in a proceeding is an officer of a bank; and
 - (b) the bank is not a party to the proceeding; and
 - (c) the subpoena requires the addressee to produce a banker's book; and
 - (d) the contents of the banker's book can be proved under legislation in force in the ACT in a way other than the production of the book.
- (2) Unless the court otherwise orders, the subpoena allows the addressee to produce proof of the relevant entries in accordance with that legislation, instead of producing the banker's book.

15 Application of o 1AA—subpoena under Commercial Arbitration Act

- (1) This order applies in relation to a subpoena issued under the Arbitration Act for an arbitration as if—
- (a) a reference to a subpoena were a reference to a subpoena issued under the Arbitration Act; and
 - (b) a reference to a proceeding were a reference to the arbitration; and
 - (c) a reference to the registrar in rule 6 (4) (b), rule 7, rule 9 and rule 10 were a reference to the arbitrator or umpire for the arbitration; and
 - (d) a reference to the court in rule 8, rule 9, rule 10 and rule 11 were a reference to the arbitrator or umpire for the arbitration; and
 - (e) any other necessary changes were made.

- (2) In this rule:

Arbitration Act means the *Commercial Arbitration Act 1986*.

arbitrator, for a subpoena, means the arbitrator for the arbitration in relation to which the subpoena was issued.

umpire, for a subpoena, means the umpire for the arbitration in relation to which the subpoena was issued.

Note The court has wide powers to issue subpoenas under the Arbitration Act (see s 17).

8 Order 2 rule 5 (e)

substitute

- (e) if the body is a cooperative registered under the *Cooperatives Act 2002*—the address of the cooperative’s registered office;

9 Order 10 new rules 17 to 19*insert***17 Service of subpoenas**

- (1) If the addressee for a subpoena in a proceeding is a party and is represented by a solicitor in the proceeding, the subpoena may, with the solicitor's consent, be served on the addressee by leaving it at the addressee's address for service.
- (2) A subpoena is taken to be served personally on a medical expert if, at the place where the expert's practice is carried on—
 - (a) it is given to a person apparently engaged (whether as employee or otherwise) in the practice and apparently at least 16 years old; or
 - (b) if a person mentioned in paragraph (a) refuses to accept the subpoena—the subpoena is put down in the person's presence and the person is told of the nature of the subpoena.
- (3) If a subpoena requires a medical expert to attend to give evidence, it may be served later than 6 weeks before the date fixed for the hearing of the proceeding only if—
 - (a) the subpoena is a subpoena served in accordance with leave given under subrule (4); or
 - (b) the court otherwise orders.
- (4) If a medical expert to whom a notice has been given in accordance with rule 18 fails to attend the court on the date and at the time stated in the notice, the court may give leave for the service of a subpoena on the medical expert requiring the attendance of the medical expert.

18 Notice instead of subpoena to medical expert

- (1) In a proceeding, a notice stating the date and time fixed for the hearing for the proceeding and requesting a medical expert's attendance may be given to the expert instead of a subpoena.
- (2) However, a notice under subrule (1)—
 - (a) may be given in the same way as a subpoena may be served on a medical expert; and
 - (b) must not be given later than 6 weeks before the date set for the hearing.

19 No shortening of time for service

The parties to a proceeding may not, by consent, shorten the time for service of a subpoena on, or the giving of a notice under rule 18 to, a medical expert.

10 Order 34 new rule 3 (2A)

insert

- (2A) Also, a document is not discoverable by a party to an action if the document is—
 - (a) a written confidential communication in relation to the action between—
 - (i) the party and a lawyer for the party; or
 - (ii) 2 or more lawyers for the party; or
 - (b) a note of an oral confidential communication (made in person or by telephone) between—
 - (i) the party and a lawyer for the party; or
 - (ii) 2 or more lawyers for the party; or

- (c) a confidential document (whether delivered or not) and a solicitor for the party certifies in writing to the effect that evidence of the contents of the document would not be admissible in the action under the Commonwealth Evidence Act, part 3.10 (Privileges), division 1 (Client legal privilege) if the party were to object to the admission of the evidence.

11 Order 34 new rule 3 (5)

insert

- (5) In this rule:

confidential communication—see the Commonwealth Evidence Act, section 117.

confidential document—see the Commonwealth Evidence Act, section 117.

12 Order 34 rule 3

renumber subrules when rules next republished under Legislation Act

13 Order 34A rule 4

omit

Order 39 rule 27 applies

substitute

Order 1AA rule 6 (1) (Compliance with subpoena) and rule 11 (Costs and expenses of compliance with subpoena) apply

14 Order 39 rule 1A, definitions of *person named*, *subpoena for production* and *subpoena to give evidence*

omit

15 Order 39 rule 3

omit

section 18

substitute

section 20 (Territory courts may take evidence and submissions from outside ACT)

16 Order 39 rule 4 (g)

omit

section 18 (2)

substitute

section 20 (2) (Territory courts may take evidence and submissions from outside ACT)

17 Order 39 rule 6 (1)

omit

section 18

substitute

section 20

18 Division 39.6

omit

19 Order 39A heading

substitute

Order 39A Exhibits, documents and things

20 Order 39A rule 1

substitute

1 Meaning of *subpoena document or thing* for o 39A

In this order:

subpoena document or thing means a document or thing, produced in a proceeding because of a subpoena, by someone who is not a party to the proceeding.

21 Order 39A rule 3 (2) (a)

omit

object

substitute

thing

22 Order 39A rule 3 (2) (c) (ii)

substitute

- (ii) if the exhibit was produced because of a subpoena—the name of the addressee.

23 Order 39A rule 5 (3) and (4)

omit

subpoena document or object

substitute

subpoena document or thing

24 Order 39A rule 5 (5)

substitute

- (5) If a party applies for and is given a subpoena document or thing, the party must return the document or thing to the addressee.

25 Order 39A rule 5 (6)

omit

subpoena document or object

substitute

subpoena document or thing

26 Order 39A rule 6

substitute

6 Return of subpoena document or thing

- (1) This rule applies to a subpoena document or thing produced in a proceeding.
- (2) The registrar must return, or arrange for the return of, the document or thing to the addressee.
- (3) If the document or thing was not put into evidence as an exhibit in the proceeding (whether or not it was marked for identification), it must be returned as soon as practicable after the hearing of the proceeding.

-
- (4) If the document or thing was put into evidence as an exhibit in the proceeding, it must be returned as soon as practicable after—
- (a) if an appeal is begun in relation to the proceeding—the appeal is disposed of; or
 - (b) if there is no appeal—the end of 21 days after the day judgment is given in the proceeding.

27 Order 39A rule 7

omit

subpoena document or object

substitute

subpoena document or thing

28 Order 39A rule 8

substitute

8 Power to allow removal of documents and things

- (1) This rule applies to a document or thing that the registrar has in relation to a proceeding, whether or not the document or thing—
- (a) is an exhibit; or
 - (b) was produced on subpoena.
- (2) The registrar must not permit the document or thing to be removed from the registry except on application signed by the solicitor for a party to the proceeding.
- (3) The registrar may—
- (a) permit the document or thing to be removed from the registry either unconditionally or subject to conditions; or
 - (b) refuse to permit the document or thing to be removed.

- (4) If a solicitor removes the document or thing from the registry under a permission under subrule (3), the solicitor is taken to undertake to the court that—
- (a) the document or thing will be kept in the personal custody of the solicitor or a barrister briefed by the solicitor in the proceeding; and
 - (b) the document or thing will be returned to the registry in the same condition, order and packaging in which it was removed, when directed by the registrar; and
 - (c) the solicitor will comply with the conditions (if any) to which the permission is subject.

29 Order 44 rule 3A (4) (a)

substitute

- (a) the issue of subpoenas; and

30 Order 61 rule 3 (a)

omit

- order 39 rule 26

substitute

- order 1AA rule 3 (9) (b), rule 5, rule 8, rule 9 (other than subrule (5) and subrule (9) (b)) and rule 11

31 Order 61 new rule 3AA

before rule 3A, insert

3AA Jurisdiction of registrar—subpoenas

- (1) This rule applies to a subpoena issued in a proceeding if the jurisdiction of the court in the proceeding is to be, or is being exercised, by the registrar.

-
- (2) The registrar may hear and decide an objection under order 1AA rule 9 (Inspection of, and dealing with, subpoenaed documents and things produced otherwise than on attendance) in relation to the subpoena instead of referring the objection to the court.

32 Order 66 rule 2 (1)

substitute

- (1) A document in accordance with a form in schedule 1, part 1.1 (Civil proceedings forms) must be headed in the way set out in the form.

33 Order 66 rule 10B (4)

substitute

- (4) This rule applies to a written notification under order 1AA rule 13 (1) (Documents and things in custody of court) as if it were a document lodged for filing.

34 Order 66 rule 11 (2) (g)

substitute

- (g) a subpoena, or a document filed with the registrar in answer to a subpoena to produce;

35 Order 66 new rule 11 (3A)

insert

- (3A) However, subrule (3) does not apply to a subpoena that has been served on the party.

36 Order 66 new rule 11 (5)

insert

(5) In this rule:

document—to remove any doubt, **document** includes a document kept electronically or in any other way.

Note The Legislation Act, dict, pt 1, defines **document** to mean any record of information, and includes—

- (a) anything on which there is writing; or
- (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for persons qualified to interpret them; or
- (c) anything from which images, sounds, messages or writings can be produced or reproduced, whether with or without the aid of anything else; or
- (d) a drawing, map, photograph or plan.

37 Order 66 rule 11

renumber subrules when rules next republished under Legislation Act

38 Division 80.2 (Subpoena)

omit

39 Order 80 rule 3 (1) (Application of civil rules to criminal proceedings)

omit

- order 39A (Exhibits, documents and objects)

substitute

- order 39A (Exhibits, documents and things)

40 Order 80 rule 33 (2) (e) (Inspection of registry files)

substitute

- (e) a subpoena, or a document filed with the registrar in answer to a subpoena to produce;

41 Order 80 new rule 33 (3A) (Inspection of registry files)

insert

- (3A) However, subrule (3) does not apply to a subpoena that has been served on the party.

42 Order 80 rule 33 (Inspection of registry files)

renumber subrules when rules next republished under Legislation Act

43 Part 9 heading, order 81 heading and order 81 rule 1

substitute

Part 9 Registration of foreign forfeiture orders

Order 81 Procedure for registration of foreign forfeiture orders

1 Definitions for o 81

In this order:

foreign order means—

- (a) a foreign forfeiture order, foreign pecuniary penalty order or foreign restraining order, within the meaning of the *Mutual Assistance in Criminal Matters Act 1987* (Cwlth), section 3 (1); or

- (b) a forfeiture order within the meaning of the *International War Crimes Tribunals Act 1995* (Cwlth), section 4.

register means the register kept under rule 2.

44 Order 81 rule 3

omit

referred to in the Act, section 34 (9)

45 Order 81 rule 3, new note

insert

Note The *Mutual Assistance in Criminal Matters Act 1987* (Cwlth), s 34A (5), and the *International War Crimes Tribunals Act 1995* (Cwlth), s 45 (2) provide for foreign orders (and amendments) to be registered in the Supreme Court of a State or Territory where the property (or part of the property) that is the subject of the order is situated. Registration is required by those provisions to be in accordance with the rules of court.

46 Order 81 rule 4 (2)

substitute

- (2) For an application for the registration of a forfeiture order within the meaning of the *International War Crimes Tribunals Act 1995* (Cwlth), section 4, the applicant must file with the notice of motion an affidavit setting out particulars necessary to enable the court to comply with that Act, section 45 (1).

Note Section 45 (1) requires the court, on registration of the order, to direct the Commonwealth Director of Public Prosecutions to give notice of registration ‘to specified persons...the court has reason to believe may have an interest in the property [that is the subject of the order]’.

47 Part 10 heading, order 82 heading and order 82 rule 1

substitute

Part 10 Registration of interstate forfeiture orders**Order 82 Procedure for registration of interstate forfeiture orders****1 Definitions for o 82**

Act means the *Confiscation of Criminal Assets Act 2003*.

interstate order means any of the following, within the meaning of the Act:

- (a) an interstate restraining order;
- (b) an interstate automatic forfeiture decision;
- (c) an interstate civil forfeiture order;
- (d) an interstate conviction forfeiture order.

register means the register kept under rule 2.

48 Order 82 rule 3

omit

referred to in the Act, section 78 or 84

49 Order 82 rule 3, new note

insert

Note The Act, s 137 provides for interstate orders (and amendments) to be registered in court if the property (or part of the property) is situated in the ACT. They may be registered in the Supreme Court or the Magistrates Court (see the Act, s 238, s 240 and s 241). Registration is

required to be in accordance with the procedure of the relevant court (see the Act, s 137 (5)).

50 Order 82 rule 5

substitute

5 Filing of amendments to forfeiture orders

For the Act, section 141 (1) (b), details of any amendment of a forfeiture order, or any direction of the entity that made the order, may be given to the court only by filing a sealed copy of the amendment or direction.

Note The Act, s 141 (1) provides that unless details of these amendments or directions are given to the court in accordance with the procedures of the court, the registration of the forfeiture order may be cancelled.

6 Registration of interstate orders under Proceeds of Crime Act 1991 (repealed)—transitional

- (1) This order as in effect immediately before the commencement of this rule continues to apply in relation to—
 - (a) an interstate restraining order, or interstate forfeiture order, within the meaning of the *Proceeds of Crime Act 1991* (repealed), section 4 (1) registered under this order at that time; and
 - (b) an application for the registration of an order mentioned in paragraph (a), if the application had been made, but not finalised, at that time.

Note Continuing registration of interstate restraining orders and interstate forfeiture orders under the repealed Act is subject to the *Confiscation of Criminal Assets Act*, section 262 (Orders under repealed Act). That section provides for the continued application of the repealed Act to the orders. For example, this would allow the registration of interstate orders to be cancelled in the circumstances provided in the repealed Act, s 81 or s 87.

- (2) This rule expires 2 years after its date of commencement.

Note The expiry of transitional provisions does not end their effect (see Legislation Act, s 88).

51 Order 84 new rules 22 to 25

insert

22 Written summary and list for appeal hearing

- (1) A party to an appeal that has been set down for hearing must prepare a written summary of arguments in accordance with rule 23 and a list of authorities, legislation and texts in accordance with rule 24, unless the court otherwise orders.
- (2) At least 5 days before the day set down for the hearing of the appeal, the appellant must lodge for filing 2 copies of the appellant's summary and list, and serve a copy of each on each other party to the appeal.
- (3) At least 2 days before the day set down for the hearing of the appeal, the respondent must lodge for filing 2 copies of the respondent's summary and list, and serve a copy of each on each other party to the appeal.
- (4) At least 1 day before the day set down for the hearing of the appeal, the appellant may lodge for filing 2 copies of a written summary of arguments in reply, and serve a copy on each other party to the appeal.
- (5) This rule does not apply to appeals from interlocutory judgments of the master.

23 Summaries of arguments

- (1) A party's summary of arguments must state as briefly as possible—
 - (a) the issues in the appeal; and

- (b) an outline of the argument expected to be made on each issue, mentioning the steps in the argument and any legislation, authority or finding of fact to be relied on for each step; and
 - (c) if there is to be a challenge to any of the tribunal's findings of fact—
 - (i) the claimed error (including any failure to make a finding of fact); and
 - (ii) the reasons why the party considers the finding was an error; and
 - (iii) the finding that the party considers should have been made; and
 - (d) for an appellant—a chronology of the facts; and
 - (e) if a respondent disagrees with an appellant's chronology of facts—the respondent's chronology of facts that highlights where the respondent's chronology differs from the appellant's chronology.
- (2) If the summary relies on a matter in another document, the summary must—
- (a) for a document mentioned in rule 24 (3) (a) to (c)—identify the document as mentioned in the rule; and
 - (b) for other documents—if relevant, identify the page of the document relied on.

24 List of authorities, legislation and texts

- (1) A party's list of authorities, legislation and texts must list any authority, legislation or text that the party expects will be quoted from, or that may be referred to, by the party.
- (2) A party's list of authorities, legislation and texts may be divided into 2 parts (parts A and B) and list any authority, legislation or text—

-
- (a) in part A—that the party expects will be quoted from by the party; and
 - (b) in part B—that may be referred to by the party.
- (3) An authority, legislation or text must be identified as follows:
- (a) for an authority—by case, citation and relevant part;
 - (b) for legislation—by provision;
 - (c) for a text—by edition and page number.

25 Abandonment of ground of appeal

- (1) This rule applies if an appellant wants to abandon a ground of appeal.
- (2) The appellant must give notice to each other party that the ground of appeal will not be relied on.
- (3) The notice must be given—
 - (a) as soon as possible; but
 - (b) within a reasonable time before the day set down for the hearing.
- (4) The court may make any order the court considers just in relation to costs incurred because of a failure by the appellant to comply with this rule.

52 Order 86 rule 32 (4)

omit

order 39A (Exhibits, documents and objects) rule 8 (Power to lend documents and objects)

substitute

order 39A (Exhibits, documents and things) rule 8 (Power to allow removal of documents and objects)

53 Order 86 rule 42 (2) to (4)

omit

file

substitute

lodge for filing

54 Order 86 rule 43 (2) (a)

omit

rule 44 (2) (a) to (c)

substitute

rule 44 (3) (a) to (c)

55 Order 86 rules 44 and 45

substitute

44 List of authorities, legislation and texts

- (1) A party's list of authorities, legislation and texts must list any authority, legislation or text that the party expects will be quoted from, or that may be referred to, by the party.
- (2) A party's list of authorities, legislation and texts may be divided into 2 parts (parts A and B) and list any authority, legislation or text—
 - (a) in part A—that the party expects will be quoted from by the party; and
 - (b) in part B—that may be referred to by the party.
- (3) An authority, legislation or text must be identified as follows:
 - (a) for an authority—by case, citation and relevant part;
 - (b) for legislation—by provision;

- (c) for a text—by edition and page number.

45 Abandonment of ground of appeal

- (1) This rule applies if an appellant wants to abandon a ground of appeal.
- (2) The appellant must give notice to each other party that the ground of appeal will not be relied on.
- (3) The notice must be given—
 - (a) as soon as possible; but
 - (b) if the appeal is not to be decided by written cases under division 86.8 (Written cases)—within a reasonable time before the day set down for the hearing.
- (4) The Court of Appeal may make any order the court considers just in relation to costs incurred because of a failure by the appellant to comply with this rule.

56 Order 86 rule 53

substitute

53 Response by director of public prosecutions to application for leave to appeal out of time—conviction or sentence

- (1) The director of public prosecutions must lodge for filing a response to the application in accordance with form 6.11.
- (2) The response must state—
 - (a) whether the director opposes, consents to, or does not oppose, the application; and
 - (b) whether the director proposes to file any affidavits in response to the application; and
 - (c) an address for service.

- (3) The director of public prosecutions must lodge the response for filing, and serve a stamped copy of it on the applicant, within 7 days after the day the application is served on the director.

57 Order 86 rule 55 (3) (a) and (4) (a)

omit

form 6.11

substitute

form 6.12

58 Order 86 rule 62 (5)

omit

form 6.12

substitute

form 6.13

59 Order 86 rules 64 and 65

substitute

64 Solicitor's instructions to act for convicted person ended

- (1) This rule applies to a solicitor if the solicitor's instructions to act for a convicted person who is a party to an application or appeal are ended before—
- (a) for an application—the application is decided; or
 - (b) for an appeal—judgment is given in the appeal.
- (2) The solicitor must file and serve on each party to the application or appeal (including the convicted person) written notice that the solicitor is no longer acting for the convicted person.

-
- (3) The solicitor must file and serve the notice as soon as practicable after, but within 14 days after the day, the solicitor's instructions are ended.
 - (4) In this rule:
application—see rule 60 (Service of documents when unrepresented party in custody).

65 Solicitor wants to withdraw from acting for convicted person

- (1) This rule applies to a solicitor if the solicitor no longer wants to act for a convicted person who is a party to an application or appeal.
- (2) The solicitor must—
 - (a) give the registrar written notice that the solicitor intends to ask the Court of Appeal for leave to withdraw; and
 - (b) serve a copy of the notice on each party other than the convicted person; and
 - (c) serve a copy of the notice on the convicted person personally, or by registered letter addressed to the person's last-known address.
- (3) The copies of the notice must be served as soon as possible after the solicitor gives the notice to the registrar.
- (4) The solicitor may withdraw from acting for the convicted person only with the Court of Appeal's leave.
- (5) If the Court of Appeal gives the solicitor leave to withdraw, the solicitor must—
 - (a) lodge a notice in accordance with form 6.14 (Notice of solicitor ceasing to act—Court of Appeal) for filing; and

- (b) serve a copy of the notice on the convicted person personally, or by registered letter addressed to the person's last-known address; and
 - (c) serve a copy of the notice on the director of public prosecutions.
- (6) In this rule:
- application***—see rule 60 (Service of documents when unrepresented party in custody).

60 Order 86 rule 67 (2) (a)

omit

form 6.13

substitute

form 6.15

61 Order 86 rule 72 (1) (a)

omit

form 6.14

substitute

form 6.16

62 Order 86 rule 84 (1) (h)

omit

rule 44 (2)

substitute

rule 44 (3)

63 Part 14 heading

substitute

Part 14 Arbitration and referees

64 Order 88 rule 1, definition of *proceeding*

substitute

proceeding means a proceeding of any kind in the court under the Arbitration Act.

65 Division 88.2

omit

66 Division 88.3 heading and order 88 rule 12

substitute

Order 89 Court-appointed referees

1 Meaning of *question* in o 89

In this order:

question includes any question or issue of fact or law arising in any proceeding, whether raised by pleading, agreement of parties or otherwise.

67 Order 88 rule 13

renumber as order 89 rule 2

68 Order 88 rule 14

omit

rule 13 (1)

substitute

rule 2 (1)

69 Order 88 rule 14

renumber as order 89 rule 3

70 Order 88 rule 15 (1)

substitute

- (1) A proceeding under a reference mentioned in rule 2 (1) (d) (Order referring) is, subject to this rule, to be conducted as if the reference were an arbitration agreement under the *Commercial Arbitration Act 1986*.

71 Order 88 rule 15 (2)

omit

rule 13 (1)

substitute

rule 2 (1)

72 Order 88 rule 15 (3)

omit everything before paragraph (a), substitute

- (3) Subject to rule 3—

73 Order 88 rules 15 and 16

renumber as order 89 rules 4 and 5

74 Order 88 rule 17 (1) (b)

omit

rule 15 (3) (e)

substitute

rule 4 (3) (e)

75 Order 88 rule 17

renumber as order 89 rule 6

76 Order 88 rule 18 (1)

omit

rule 13 (1) (c)

substitute

rule 2 (1) (c) (Order referring)

77 Order 88 rules 18 and 19

renumber as order 89 rules 7 and 8

78 Order 88 rule 20

omit

rule 13

substitute

rule 2

79 Order 88 rule 20

renumber as order 89 rule 9

80 Division 88.4

renumber as division 88.2

81 Order 88 rule 21

renumber as order 88 rule 12

82 Supreme Court (Admission of Legal Practitioners) Rules, rule 9 (3)

substitute

- (3) An application for admission under this rule must be in accordance with form 7.1.
- (4) A reference to form 7.1 is a reference to the *Supreme Court Rules 1937*, schedule 1, form 7.1 as in force immediately before the commencement of the *Court Procedures Act 2004*.

Note The *Court Procedures Act 2004*, s 101 (3) provides that a form in the *Supreme Court Rules 1937*, sch 1, as in force immediately before the commencement of s 101, is taken to be a form approved under the Act, pt 2.

83 Supreme Court (Admission of Legal Practitioners) Rules, schedule

omit

Explanatory note

The form in the *Supreme Court (Admission of Legal Practitioners) Rules*, schedule is relocated to the *Supreme Court Rules 1937*, schedule 1 (as form 7.1) by a later amendment. The amendment creates a new part 1.7 in schedule 1 and updates the form.

Schedule 1 Amendments of forms

(see r 3)

[1.1] Schedule 1, new form 1.1A

insert

Form 1.1A Subpoena

(see o 1AA r 3)

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*)

Schedule 1 Amendments of forms

Amendment [1.1]

(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:

Schedule 1 Amendments of forms

Amendment [1.1]

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

No of (*year*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*

- 1 The defendant[s]*¹ mentioned below *[appears/appear] in this action.
- 2 Particulars of the defendant[s]* *[, the defendant's/defendants' solicitor] and the*[defendant's/defendants'] address for service are set out below.
- 3 *In an action for the recovery of land, particulars of the action are set out below.²
- 4 *The defendant[s]* submit[s]* to the orders of the Court, except as to costs.³

Particulars of defendant[s]*

Full name[s]*:

(if the particulars of the defendant/s set out in the originating application are incorrect)

The correct particulars are as follows:

(if the defendant is /defendants are represented by a solicitor)

Solicitor's full name:

Solicitor's full business address:

Solicitor's telephone no:

*Name, address and telephone no. of agent solicitor:

Service of documents⁴ —

Address for service:

(if represented by a solicitor, the following information may be provided)

*Document exchange box no:

*Postal address *(if different from address for service)*:

*Fax no:

*Email address:

***Particulars in action for recovery of land**

*The defendant *(if more than 1, name of defendant)* appears in the capacity of landlord of the property.

*The defence is limited to the following part of the property:⁵

Date:

Signature[s]* of *[defendant[s]/defendant's solicitor/defendants' solicitor]:

**(delete if inapplicable)*

Note 1 A single memorandum of appearance may be filed for a number of defendants appearing by the same solicitor—see the *Supreme Court Rules 1937*, order 13 rule 9.

Note 2 In an action for the recovery of land, **defendant** includes a person given leave to appear under the *Supreme Court Rules 1937*, order 13 rule 12.

Note 3 See the *Supreme Court Rules 1937*, order 13 rule 2 (5) to (8).

Note 4 See the *Supreme Court Rules 1937*, order 1 rule 4, def **address for service** and order 13 rule 2 (1) (c) and (2).

Note 5 See the *Supreme Court Rules 1937*, order 13 rule 15.

Form 1.7A Memorandum of conditional appearance

(see o 13 r 16A)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

- 1 The defendant[s]* mentioned below *[appears/appear] in this action.
- 2 Particulars of the defendant[s]* *[, the defendant's/defendants' solicitor] and the*[defendant's/defendants'] address for service are set out below.
- 3 *In an action for the recovery of land, particulars of the action are set out below.
- 4 The defendant[s]* submit[s]* conditionally to the orders of the Court.

Particulars of defendant[s]*

Full name[s]*:

(if the particulars of the defendant/s set out in the originating application are incorrect)

The correct particulars are as follows:

(if the defendant is /defendants are represented by a solicitor)

Solicitor's full name:

Solicitor's full business address:

Solicitor's telephone no:

*Name, address and telephone no. of agent solicitor:

Service of documents¹ —

Schedule 1 Amendments of forms

Amendment [1.5]

Address for service:

(if represented by a solicitor, the following information may be provided)

*Document exchange box no:

*Postal address *(if different from address for service)*:

*Fax no:

*Email address:

***Particulars in action for recovery of land**

*The defendant *(if more than 1, name of defendant)* appears in the capacity of landlord of the property.

*The defence is limited to the following part of the property:²

Date:

Signature[s]* of *[defendant[s]/defendant's solicitor/defendants' solicitor]:

**(delete if inapplicable)*

Note 1 See the *Supreme Court Rules 1937*, order 1 rule 4, def **address for service** and order 13 rule 2 (1) (c) and (2).

Note 2 See the *Supreme Court Rules 1937*, order 13 rule 15.

[1.5] Schedule 1, form 1.8

omit

[Heading as in form 1.1]

On *(date)* I, *(name)* of *(address)*, *(occupation)*, say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

No _____ of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

[1.6] Schedule 1, form 1.8

omit

Sworn by the deponent—

Signature:

Witness:

[*Signature, name and title of person before whom affidavit is sworn or affirmed*]

**Strike out where inapplicable.*

substitute

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

(*signature of person before whom affidavit is taken*)

Schedule 1 Amendments of forms

Amendment [1.7]

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

*(*delete if, or whichever is, inapplicable*)

[1.7] Schedule 1, form 1.9

omit

[*Heading as in form 1.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.8] Schedule 1, form 1.10

substitute

Form 1.10 Affidavit for entry of appearance as guardian

(see o 19 r 20)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(name/s)
Plaintiff[s]*

(name/s)
Defendant[s]*

On *(date, eg 14 June 2005)*, I *(name, address and occupation)* *[say on oath/solemnly affirm]—

- 1 *(Name)*, of *(address)*, is an appropriate person to act as litigation guardian of the defendant, and has no interest in the matters in question in this *[action/matter] adverse to that of the defendant.
- 2 The consent of *(name)* to act as litigation guardian of the defendant is attached.

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)
[Justice of the Peace/Barrister/Solicitor/(other)*]

**(delete if, or whichever is, inapplicable)*

Note The consent of the person to act as litigation guardian must be attached.

Schedule 1 Amendments of forms

Amendment [1.9]

[1.9] Schedule 1, form 1.11

omit

[*Heading as in form 1.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.10] Schedule 1, forms 1.12 and 1.13

omit

No of [*year*]

BETWEEN [*AB*] Plaintiff

and

[*CD*] Defendant

and

[*EF*] Third Party

THIRD-PARTY CLAIM

To *EF* of in the of .

substitute

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

(*name*)
Third party

Third party claim

To (*name of third party*) of (*address*)

[1.11] Schedule 1, forms 1.14 to 1.17

substitute

Form 1.14 Statement of claim—general form

(see o 23 r 5)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)

Defendant[s]*

Statement of claim

Originating application filed (*date*).

The plaintiff etc

(*or*)

The plaintiff's claim is etc

(*or*)

The plaintiff claims etc

(*Signed*)

**(delete if inapplicable)*

Form 1.15

***Defence—general form**

***Defence and counterclaim—general form**

(see o 23 r 5)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*

Defence

1 The defendant etc

***Counterclaim**

1 The defendant etc

The defendant counterclaims etc

(Signed)

**(delete if inapplicable)*

Form 1.16**Reply—general**

(see o 23 r 5)

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

Reply

The plaintiff, as to the defence, says that—

1 The defendant etc

*The plaintiff, as to the counterclaim, says that—

Schedule 1 Amendments of forms

Amendment [1.11]

1 The defendant etc

(Signed)

**(delete if inapplicable)*

Form 1.17 **Notice of counterclaim**

(see o 25 r 12)

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

To *(name)*

Take notice that, if you do not appear to the counterclaim of the defendant *(defendant's name)* within 8 days from the day this defence and counterclaim is served on you, you will be liable to have judgment given against you in your absence.

An appearance must be entered at the Supreme Court registry.

**(delete if inapplicable)*

[1.12] Schedule 1, forms 1.18 to 1.21

omit

[*Heading as in form 1.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*

[1.13] Schedule 1, form 1.22

substitute

Form 1.22 Confession of defence

(see o 28 r 3)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)

Plaintiff[s]*

Schedule 1 Amendments of forms

Amendment [1.14]

(name/s)

Defendant[s]*

The plaintiff confesses the defence stated in paragraph (*number eg 1*) of *[the defendant's defence/the defendant's further defence].

**(delete if, or whichever is, inapplicable)*

[1.14] Schedule 1, forms 1.23 to 1.35

omit

[Heading as in form 1.1]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

[1.15] Schedule 1, forms 1.36 to 1.38*substitute***Form 1.36 Order for examination within ACT**

(see o 39 r 12)

In the Supreme Court of the Australian Capital Territory

No of (*year*)*(name/s)*

Plaintiff[s]*

(name/s)

Defendant[s]*

The Court orders that:*(Name) of (address) be examined on oath or affirmation before (name and address of examiner, or description).***(delete if inapplicable)***Form 1.37 Order for examination outside ACT**

(see o 39 r 12, o 39 r 24B)

In the Supreme Court of the Australian Capital Territory

No of (*year*)*(name/s)*

Plaintiff[s]*

(*name/s*)
Defendant[s]*

The Court orders that:

- 1 (*Name*) of (*address*) be examined on oath or affirmation before (*name and address of examiner, or description*) in accordance with the *Supreme Court Rules 1937*.
- 2 The party obtaining this order must give each other party 7 days written notice of the date the party proposes to send this order to the examiner.
- 3 Not less than 4 days after that notice has been given, each party must give to each other party the name and address of the party's agent to whom notices may be sent.

**(delete if inapplicable)*

Form 1.38 Order for issue of letter of request

(see o 39 r 24B)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

The Court orders that:

A letter of request be issued to the judicial authorities of (*country*) to take, or cause to be taken, the evidence of (*name*) of (*address*).

**(delete if inapplicable)*

[1.16] Schedule 1, form 1.39

omit

[Heading as in form 1.1]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.17] Schedule 1, form 1.40

substitute

**Form 1.40 Order for examination under
interstate or foreign letter of request**

(see o 39 r 24J)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Schedule 1 Amendments of forms

Amendment [1.18]

(name/s)
Plaintiff[s]*

(name/s)
Defendant[s]*

The Court orders that:

(Name and address of examiner, or description) take the examination on oath or affirmation of *(name)* of *(address)* under the letter of request dated *(date of issue of letter of request)* in relation to the proceeding pending, or begun, before *(name of foreign or interstate court or tribunal)* between *(plaintiff's name)* and *(defendant's name)*.

**(delete if inapplicable)*

[1.18] Schedule 1, forms 1.42 to 1.45

omit

[1.19] Schedule 1, forms 1.49A to 1.49C

substitute

Form 1.49A Form of affidavit—general

(see o 40 r 2)

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)
Plaintiff[s]*

(name/s)

Defendant[s]*

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

1

2

(*etc*)

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

*(*delete if, or whichever is, inapplicable*)

Note 1 If there is more than 1 matter, state the first matter and then ‘and other matters’ (see *Supreme Court Rules 1937*, o 40 r 1 (2)).

Note 2 If a proceeding is entitled in a matter or matters and between parties, omit the part of the title about the matter or matters (see *Supreme Court Rules 1937*, o 40 r 1 (2)).

Note 3 If there is more than 1 plaintiff or defendant, state the full name of the first and then ‘and others’ (see *Supreme Court Rules 1937*, o 40 r 1 (3)).

Form 1.49B Annexures to affidavit—information on first page

(see o 40 r 4)

This (and the following (*number*) page/s) is the annexure marked ‘(*appropriate letter ie ‘A’ for the 1st annexure, ‘B’ for the 2nd annexure etc*)’ mentioned in the affidavit of (*name of person making affidavit*) *[sworn/affirmed] at (*place*) on (*date eg 14 June 2005*) before me:

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

*(*delete whichever is inapplicable*)

Form 1.49C Certificate identifying exhibit

(see o 40 r 4)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*¹

This is the exhibit marked (*initials of person and identifying number eg ABC 1*) shown to me when (*name of person making the affidavit*) made *[his/her] affidavit on (*date*).

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

*(*delete if, or whichever is, inapplicable*)

Note 1 The title should be the same as the affidavit's title (see form 1.49A).

[1.20] Schedule 1, forms 1.50 to 1.58

omit

[*Heading as in form 1.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.21] Schedule 1, form 1.59

omit

[*Heading as in form 1.1*]

Elizabeth the Second etc [*as in form 1.58*].

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Schedule 1 Amendments of forms

Amendment [1.22]

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other Realms and Territories, Head of the Commonwealth.

[1.22] Schedule 1, form 1.59

omit

[*Indorsement as in form 1.58*]

substitute

Indorsement

Levy \$ (*amount*) and \$ (*amount*) for costs of execution etc and also interest on \$ (*amount*) at 15% per annum (*or other agreed rate*) from (*date*) until payment, besides Sheriff's poundage, officers' fees, costs of levying, the fees, expenses, and costs mentioned in the *Supreme Court Rules 1937*, order 43 rule 14, if and when incurred, and all other legal incidental expenses.

This writ was issued by (*name*) of (*address*), agent for (*name*), solicitor for the (*party*) who lives at (*address*).

The (*name*) is a (*state*) and lives at (*address*) in your bailiwick.

*(*delete if inapplicable*)

[1.23] Schedule 1, form 1.60

omit

[*Heading as in form 1.1*]

Elizabeth the Second etc [*as in form 1.58*].

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other
Realms and Territories, Head of the Commonwealth.

Schedule 1 Amendments of forms

Amendment [1.24]

[1.24] Schedule 1, form 1.60

omit

[*Indorsement.* This writ was issued by etc]

substitute

This writ was issued by (*name*) of (*address*), agent for (*name*), solicitor for the (*party*) who lives at (*address*).

**(delete if inapplicable)*

[1.25] Schedule 1, form 1.61

omit

[*Heading as in form 1.1*]

THE COURT ORDERS THAT:

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)

Defendant[s]*

The Court orders that:

[1.26] Schedule 1, form 1.62

before

In the matter of [*here state*

insert

In the Supreme Court of the Australian Capital Territory

No of (*year*)

[1.27] Schedule 1, form 1.62

omit

On (*date*) I, (*name*) of (*address*), (*occupation*), say on oath that:

substitute

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm] that—

[1.28] Schedule 1, form 1.62

after

notice annexed.

insert

(*signature of person making affidavit*)

Schedule 1 Amendments of forms

Amendment [1.29]

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

[Justice of the Peace/Barrister/Solicitor/(other)*]

**(delete whichever is inapplicable)*

[1.29] Schedule 1, form 1.64

omit

[Heading as in form 1.1]

Elizabeth the Second, by the Grace of God etc *[as in form 1.58]*.

substitute

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other
Realms and Territories, Head of the Commonwealth.

[1.30] Schedule 1, forms 1.65 and 1.66

omit

[*Heading as in form 1.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.31] Schedule 1, form 1.67

omit

[*Heading as in form 1.1*]

On (*date*) I, (*name*) of (*address*), the receiver appointed in this cause, say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Schedule 1 Amendments of forms

Amendment [1.32]

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

On (*date, eg 14 June 2005*), I (*name*) of (*address*), the receiver appointed in this cause, *[say on oath/solemnly affirm]—

[1.32] Schedule 1, form 1.67

insert at the end

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

(*signature of person before whom affidavit is taken*)
*[Justice of the Peace/Barrister/Solicitor/(*other*)]

*(*delete if, or whichever is, inapplicable*)

[1.33] Schedule 1, form 1.67A

omit

ACTSC No of [*year*]

Between:

AB Plaintiff

and

CD Defendant

substitute

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.34] Schedule 1, form 1.67B

omit

ACTSC No of [*year*]

[**name of legislation*]

Between:

AB Plaintiff

and

CD Defendant

substitute

No of (*year*)

Schedule 1 Amendments of forms

Amendment [1.35]

**(name of legislation)*

(name/s)
Plaintiff[s]*

(name/s)
Defendant[s]*

[1.35] Schedule 1, form 1.67B

omit

Signature of *[applicant/applicant's solicitor]:

substitute

(signature of plaintiff or plaintiff's solicitor)
(name of plaintiff or plaintiff's solicitor)

[1.36] Schedule 1, form 1.68

omit

[Heading as in form 1.1]

Elizabeth the Second, by the Grace of God etc *[as in form 1.58]*.

substitute

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)
Plaintiff[s]*

(name/s)
Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other
Realms and Territories, Head of the Commonwealth.

[1.37] Schedule 1, form 1.68

omit

This writ was issued by etc

substitute

This writ was issued by *(name)* of *(address)*, agent for *(name)*, solicitor for the
(party) who lives at *(address)*.

**(delete if inapplicable)*

[1.38] Schedule 1, form 1.69

omit

[Heading as in form 1.1]

Elizabeth the Second, by the Grace of God etc *[as in form 1.58]*.

substitute

In the Supreme Court of the Australian Capital Territory

Schedule 1 Amendments of forms

Amendment [1.39]

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other
Realms and Territories, Head of the Commonwealth.

[1.39] Schedule 1, form 1.69

omit

By the Court

substitute

By the Court

**(delete if inapplicable)*

[1.40] Schedule 1, form 1.70

omit

[*Heading as in form 1.1*]

Elizabeth the Second, by the Grace of God etc [*as in form 1.58*].

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

Elizabeth the Second, by the Grace of God Queen of Australia and her other
Realms and Territories, Head of the Commonwealth.

[1.41] Schedule 1, form 1.70

omit

Witness etc

substitute

Witness etc

**(delete if inapplicable)*

[1.42] Schedule 1, form 1.73

omit

No of [*year*]

BETWEEN: [*name*] Plaintiff

and

[*name*] Defendant

substitute

Schedule 1 Amendments of forms

Amendment [1.43]

No _____ of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

[1.43] Schedule 1, form 1.74

substitute

**Form 1.74 Notice of appeal from master—
interlocutory judgment**

(see o 61A r 5)

In the Supreme Court of the Australian Capital Territory

No _____ of (*year*)

(*name/s*)
Plaintiff[s]*

(*name/s*)
Defendant[s]*

Take notice that the (*plaintiff, defendant or other party*) appeals from the interlocutory judgment of the Master given on (*date*).

Date:

(*signature of solicitor for plaintiff/defendant/other party*)

(name of solicitor for plaintiff/defendant/other party)

**(delete if inapplicable)*

[1.44] Schedule 1, form 1.75

omit

No of [year]

Between: [name] Applicant

and

[name] Respondent

substitute

No of (year)

(name)

Applicant

(name)

Respondent

[1.45] Schedule 1, forms 1.76 and 1.77

omit

[Heading as in form 1.75]

THE COURT ORDERS THAT:

substitute

Schedule 1 Amendments of forms

Amendment [1.46]

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name*)
Applicant

(*name*)
Respondent

The Court orders that:

[1.46] Schedule 1, forms 1.78 and 1.79

omit

[*Heading as in form 1.75*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

(*name*)
Applicant

(*name*)
Respondent

[1.47] Schedule 1, form 1.80

omit

No of [year]

Between:

AB Applicant
and

CD Respondent(s)

substitute

No of (year)

(*name*)
Applicant

(*name/s*)
Respondent[s]*

[1.48] Schedule 1, form 1.81

omit

No of [year]

BETWEEN: [*name*] Appellant
and
[*name*] Respondent

substitute

Schedule 1 Amendments of forms

Amendment [1.49]

No of (*year*)

(*name*)
Applicant

(*name*)
Respondent

[1.49] Schedule 1, forms 1.82 and 1.83

substitute

Form 1.82 Notice of payment into court in arbitration

(see o 88 r 6A)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Arbitration agreement dated (*date*)

(*name*)
Claimant

(*name*)
Respondent

(*Name of respondent*) has paid into court \$ (*amount*), and says that *[that amount/ \$ (*amount*), part of that amount]* [is enough to satisfy the claimant's claim/ is enough to satisfy the claimant's claim for (*state claim*) and

\$ (*amount*), the other part of that amount, is enough to satisfy the claimant's claim for(*state claim*)], *[and admits liability/but denies liability].

Date:

(*signature of respondent's solicitor*)

(*name of respondent's solicitor*)

To (*name*), the claimant's solicitor.

Form 1.83 Acceptance of amount paid into court in arbitration

(see o 88 r 6B)

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Arbitration agreement dated (*date*)

(*name*)

Claimant

(*name*)

Respondent

The claimant (*name*) accepts the amount of \$ (*amount*) paid by (*respondent's name*) into court in satisfaction of the claim in relation to which it was paid in, and abandons the claimant's other claims in the arbitration.

Date:

(*signature of claimant's solicitor*)

(*name of claimant's solicitor*)

Schedule 1 Amendments of forms

Amendment [1.50]

To *(name)* solicitor for *(respondent's name)*

And to *(name)*, solicitor for *(name)*

[1.50] Schedule 1, forms 1.84 to 1.87

omit

[1.51] Schedule 1, forms 2.2 and 2.3

omit

[*Heading as in form 2.1*]

In the estate of [*name*], late of [*last address, occupation*], deceased

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

In the estate of *(name)*, late of *(last address, occupation)*, deceased

[1.52] Schedule 1, form 2.4

omit

[*Heading as in form 2.1*]

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

[1.53] Schedule 1, form 2.5

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

[1.54] Schedule 1, forms 2.6 and 2.7

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of [*name*], late of [*last address, occupation*], deceased

substitute

In the Supreme Court of the Australian Capital Territory

Schedule 1 Amendments of forms

Amendment [1.55]

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

[1.55] Schedule 1, form 2.8

omit

[*Heading as in form 2.1*]

No P of [*year*]

In the estate of (*name*), late of (*last address, occupation*), deceased

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

[1.56] Schedule 1, form 2.9

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

Schedule 1 Amendments of forms

Amendment [1.57]

[1.57] Schedule 1, form 2.9

omit

SWORN at)

Before me)

**(Delete if, or whichever is, inapplicable)*

*** (Delete if deceased left property within the Australian Capital Territory)*

substitute

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

*[Justice of the Peace/Barrister/Solicitor/(other)]

**(delete if, or whichever is, inapplicable)*

*** (delete if deceased person left property in the ACT)*

[1.58] Schedule 1, form 2.10

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

Schedule 1 Amendments of forms

Amendment [1.59]

[1.59] Schedule 1, form 2.10

omit

SWORN at)

Before me)

**(Delete if, or whichever is, inapplicable)*

*** (Delete if deceased left property within the Australian Capital Territory)*

substitute

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

*[Justice of the Peace/Barrister/Solicitor/(other)]

**(delete if, or whichever is, inapplicable)*

*** (delete if deceased person left property in the ACT)*

[1.60] Schedule 1, form 2.11

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

Schedule 1 Amendments of forms

Amendment [1.61]

[1.61] Schedule 1, form 2.11

omit

SWORN at)

Before me)

**(Delete if, or whichever is, inapplicable)*

*** (Delete if deceased left property within the Australian Capital Territory)*

substitute

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

*[Justice of the Peace/Barrister/Solicitor/(other)]

**(delete if, or whichever is, inapplicable)*

*** (delete if deceased person left property in the ACT)*

[1.62] Schedule 1, form 2.12

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

Schedule 1 Amendments of forms

Amendment [1.63]

[1.63] Schedule 1, form 2.12

omit

SWORN at)

Before me)

**(Delete if, or whichever is, inapplicable)*

substitute

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

**(delete if, or whichever is, inapplicable)*

[1.64] Schedule 1, form 2.13

omit

[Heading as in form 2.1]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date*) I, (*name*) of (*address*) say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

[1.65] Schedule 1, form 2.13

omit

SWORN at)

Before me)

*(Delete if, or whichever is, inapplicable)

substitute

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

Schedule 1 Amendments of forms

Amendment [1.66]

**(delete if, or whichever is, inapplicable)*

[1.66] Schedule 1, form 2.14

omit

[Heading as in form 2.1]

No P of [year]

In the estate of [name], late of [last address, occupation], deceased

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (year)

In the estate of (name), late of (last address, occupation), deceased

[1.67] Schedule 1, form 2.15

omit

[Heading as in form 2.1]

No P of [year]

In the estate of [name], late of [last address, occupation], deceased.

On (date, eg 6 February 2004), I¹ [*say on oath/solemnly affirm]—

substitute

In the Supreme Court of the Australian Capital Territory
Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I¹ *[say on oath/solemnly affirm]—

[1.68] Schedule 1, form 2.15

omit

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

**strike out if inapplicable*

substitute

(*signature of person making affidavit*)

Schedule 1 Amendments of forms

Amendment [1.69]

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

[Justice of the Peace/Barrister/Solicitor/(other)*]

**(delete whichever is inapplicable)*

[1.69] Schedule 1, form 2.17

omit

[Heading as in form 2.1]

In the estate of

NOTICE

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of *(year)*

In the estate of *(name)*, late of *(last address, occupation)*, deceased

Notice

[1.70] Schedule 1, form 2.19*substitute***Form 2.19 Affidavit in support of application by public trustee**

(see o 72 r 60)

In the Supreme Court of the Australian Capital Territory
Probate jurisdiction

No P of (*year*)

In the intestate estate of (*name*), late of (*last address, occupation*), deceased

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

- 1 (*Name*) died at (*place of death*), on or about (*date of death*), intestate, and having at the time of * [his/her] death estate in the ACT liable to waste.
- 2 The deceased person died without leaving a spouse or any next of kin resident in the ACT.
- 3 (*if deceased person left a spouse or any next of kin resident outside ACT*) The deceased person left a *[spouse/next of kin (*if next of kin, state name and relationship to deceased person*)] resident in (*state jurisdiction*).

Schedule 1 Amendments of forms

Amendment [1.71]

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

[Justice of the Peace/Barrister/Solicitor/(other)*]

**(delete whichever is inapplicable)*

[1.71] Schedule 1, form 2.20

omit

[Heading as in form 2.1]

In the matter of the will of _____, late of _____, deceased.

On *(date)* I, *(name)* of *(address)*, *(occupation)*, say on oath:

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P _____ of *(year)*

In the will of *(name)*, late of *(last address, occupation)*, deceased

On *(date, eg 14 June 2005)*, I *(name, address and occupation)* *[say on oath/solemnly affirm]—

[1.72] Schedule 1, form 2.20*omit*

SWORN at)

Before me)

*substitute**(signature of person making affidavit)*

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

*[Justice of the Peace/Barrister/Solicitor/(other)]

*(delete whichever is inapplicable)

[1.73] Schedule 1, form 2.21*omit**[Heading as in form 2.1]*

In the matter of the will of , late of , deceased.

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

Schedule 1 Amendments of forms

Amendment [1.74]

No P of (*year*)

In the will of (*name*), late of (*last address, occupation*), deceased

[1.74] Schedule 1, form 2.22

omit

[*Heading as in form 2.1*]

In the matter of the estate of , late of ,
deceased (intestate).

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the intestate estate of (*name*), late of (*last address, occupation*), deceased

[1.75] Schedule 1, form 2.23

omit

[*Heading as in form 2.1*]

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

[1.76] Schedule 1, form 2.25

omit

[*Heading as in form 2.1*]

No P of [*year*]

In the estate of (*name*), late of (*last address, occupation*), deceased

PROBATE

PROBATE

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

Schedule 1 Amendments of forms

Amendment [1.77]

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

Probate

Probate

[1.77] Schedule 1, form 2.26

omit

[*Heading as in form 2.1*]

No P of [*year*]

In the estate of (*name*), late of (*last address, occupation*), deceased

LETTERS OF ADMINISTRATION WITH WILL ANNEXED

LETTERS OF ADMINISTRATION

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

Letters of administration with will annexed

Letters of administration

[1.78] Schedule 1, form 2.27

omit

[*Heading as in form 2.1*]

No P of [year]

In the estate of (*name*), late of (*last address, occupation*), deceased

LETTERS OF ADMINISTRATION

LETTERS OF ADMINISTRATION

substitute

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

Letters of administration

Letters of administration

[1.79] Schedule 1, form 2.28

substitute

Form 2.28 Reseal of foreign grant

(see o 72 r 70)

In the Supreme Court of the Australian Capital Territory

Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

Reseal of *[probate/letters of administration/order to collect and administer]

*[Probate of the will/ Letters of administration of the estate/ Order to collect and administer the estate] of the deceased person granted by (*name of court*) to (*name*), a true copy of which is attached, is sealed with the seal of this Court.

The deceased person died on (*date*):

Estate sworn under (\$ *value*):

Date:

By the Court

Signature of Registrar:

**(delete whichever is inapplicable)*

[1.80] Schedule 1, form 2.29

omit

THE COURT ORDERS THAT:

substitute

In the Supreme Court of the Australian Capital Territory
Probate jurisdiction

No P of (*year*)

In the estate of (*name*), late of (*last address, occupation*), deceased

The Court orders that:

[1.81] Schedule 1, form 3.1

omit

AUSTRALIAN CAPITAL TERRITORY
Adoption Act 1993

In the Supreme Court of the Australian Capital Territory

No of [*year*]

In the matter of the adoption of [full name to be given to the child]

substitute

In the Supreme Court of the Australian Capital Territory

Schedule 1 Amendments of forms

Amendment [1.82]

No of (*year*)

Adoption Act 1993

In the adoption of (*full name to be given to the child*)

[1.82] Schedule 1, forms 3.2 to 3.4

omit

AUSTRALIAN CAPITAL TERRITORY

Adoption Act 1993

In the Supreme Court of the Australian Capital Territory

No of [*year*]

In the matter of the adoption of [*full name to be given to the child*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Adoption Act 1993

In the adoption of (*full name to be given to the child*)

[1.83] Schedule 1, form 3.5

omit

AUSTRALIAN CAPITAL TERRITORY

Adoption Act 1993

In the Supreme Court of the Australian Capital Territory

No of [year]

In the matter of the adoption of [*full name to be given to the child*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (year)

Adoption Act 1993

In the adoption of (*full name to be given to the child*)

[1.84] Schedule 1, form 3.5

omit

THE COURT ORDERS THAT:

substitute

The Court orders that:

[1.85] Schedule 1, forms 3.6 to 3.9

omit

AUSTRALIAN CAPITAL TERRITORY

Adoption Act 1993

In the Supreme Court of the Australian Capital Territory

No of [year]

In the matter of the adoption of [*full name to be given to the child*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (year)

Adoption Act 1993

In the adoption of (*full name to be given to the child*)

[1.86] Schedule 1, forms 3.10 to 3.20

omit

AUSTRALIAN CAPITAL TERRITORY

Adoption Act 1993

In the Supreme Court of the Australian Capital Territory

No of [year]

In the matter of the adoption of

substitute

In the Supreme Court of the Australian Capital Territory

No of (year)

Adoption Act 1993

In the adoption of (*full name to be given to the child*)

**[1.87] Schedule 1, form 4.1 (Subpoena to give evidence),
form 4.2 (Subpoena for production for an individual),
form 4.3 (Subpoena for production and to answer
questions for a corporation and its proper officer) and
form 4.4 (Subpoena for production and to give evidence)**

omit

Schedule 1 Amendments of forms

Amendment [1.88]

[1.88] Schedule 1, form 5.1

omit

No of [year]

Between

[name] Plaintiff/Appellant

and

[name] Defendant/Respondent

substitute

No of (year)

Evidence and Procedure (New Zealand) Act 1994 (Cwlth)

(name)
Plaintiff/Appellant

(name)
Defendant/Respondent

[1.89] Schedule 1, form 5.2

omit

[*Heading as in form 5.1*]

substitute

In the Supreme Court of the Australian Capital Territory

No of (*year*)

Evidence and Procedure (New Zealand) Act 1994 (Cwlth)

(*name*)

Plaintiff/Appellant

(*name*)

Defendant/Respondent

[1.90] Schedule 1, form 5.3

omit

[*Heading as in form 5.1*]

substitute

In the Supreme Court of the Australian Capital Territory

Schedule 1 Amendments of forms

Amendment [1.91]

No of (*year*)

Evidence and Procedure (New Zealand) Act 1994 (Cwlth)

(*name*)
Plaintiff/Appellant

(*name*)
Defendant/Respondent

[1.91] Schedule 1, form 6.1

omit

No of [*year*]

On appeal from [*name of the relevant court, tribunal, body or person*]¹

Between:
[*name*] Appellant
and
[*name*] Respondent

substitute

No of (*year*)

On appeal from (*name of the relevant court, tribunal, body or person*)

(*name*)

Appellant

(name)

Respondent

[1.92] Schedule 1, form 6.2

omit

No of [year]

On appeal from [*name of the relevant court, tribunal, body or person*]¹

Between:

[name] Appellant

and

[name] Respondent

substitute

No of (year)

On appeal from (*name of the relevant court, tribunal, body or person*)

(name)

Appellant

(name)

Respondent

Schedule 1 Amendments of forms

Amendment [1.93]

[1.93] Schedule 1, form 6.3

omit

No of [year]

On appeal from the Magistrates Court

Between:

[name] Appellant

and

[name] Respondent

substitute

No of (year)

On appeal from the Magistrates Court

(name)
Appellant

(name)
Respondent

[1.94] Schedule 1, form 6.4

omit

ACTCA No of [year]

Interlocutory judgment of [Judge] (SC No of [year])

Between:

AB Applicant
and

CD Respondent

Notice of motion for leave to appeal from interlocutory judgment

Take notice

substitute

ACTCA No of (*year*)

Interlocutory judgment of (*Judge*) (SC No of (*year*))

(*name*)
Applicant

(*name*)
Respondent

Take notice

[1.95] Schedule 1, form 6.5

omit

ACTCA No of [*year*]

Judgment of [*Judge/Master*] (SC No of [*year*])

Schedule 1 Amendments of forms

Amendment [1.96]

Between:

AB Applicant
and

CD Respondent

Notice of motion for leave to appeal out of time from final judgment

Take notice

substitute

ACTCA No of (*year*)

Judgment of (*Judge/Master*) (SC No of (*year*))

(*name*)
Applicant

(*name*)
Respondent

Take notice

[1.96] Schedule 1, form 6.6

omit

ACTCA No of [*year*]

[*Appeal from [*Judge/Master*] / Appeal against [*conviction recorded/sentence imposed by [*Judge*]](SC No of [*year*])

Between

AB Appellant
and

CD Respondent

Notice of appeal

substitute

ACTCA No of (*year*)

*[Appeal from (*Judge/Master*)/ Appeal against *[conviction recorded/sentence imposed by (*Judge*)] (SC No of (*year*))

(*name*)
Appellant

(*name*)
Respondent

[1.97] Schedule 1, form 6.7

omit

ACTCA No of [*year*]

[*Appeal from [*Judge/Master*] / Appeal against [*conviction recorded/sentence imposed by [*Judge*]](SC No of [*year*])

Schedule 1 Amendments of forms

Amendment [1.98]

Between:

AB Appellant
and

CD Respondent

Notice of motion for striking out appeal

Take notice

substitute

ACTCA No of (*year*)

*[Appeal from (*Judge/Master*)/ Appeal against *[conviction recorded/sentence imposed by (*Judge*)] (SC No of (*year*))

(*name*)
Appellant

(*name*)
Respondent

Take notice

[1.98] Schedule 1, form 6.8

omit

ACTCA No of [*year*]

[*Appeal from [*Judge/Master*] / Appeal against [*conviction recorded/sentence imposed by [*Judge*]](SC No of [*year*])

Between:

AB Appellant
and

CD Respondent

Notice of discontinuance

substitute

ACTCA No of (*year*)

*[Appeal from (*Judge/Master*)/ Appeal against *[conviction recorded/sentence imposed by (*Judge*)] (SC No of (*year*))

(*name*)
Appellant

(*name*)
Respondent

[1.99] Schedule 1, form 6.9

omit

ACTCA No of [*year*]

[*Appeal from [*Judge/Master*] / Appeal against [*conviction recorded/sentence imposed by [*Judge*]](SC No of [*year*])

Between

Schedule 1 Amendments of forms

Amendment [1.100]

AB Appellant
and

CD Respondent

Certificate about appeal papers

substitute

ACTCA No of (*year*)

*[Appeal from (*Judge/Master*)/ Appeal against *[conviction recorded/sentence imposed by (*Judge*)] (SC No of (*year*))

(*name*)
Appellant

(*name*)
Respondent

[1.100] Schedule 1, form 6.10

omit

ACTCA No of [*year*]

Appeal against [*conviction recorded/sentence imposed by [*Judge*]]
(SC No of [*year*]).

Between:

AB Applicant
and

CD Respondent

Application for leave to appeal out of time against conviction or sentence

substitute

ACTCA No of (*year*)

Appeal against *[conviction recorded/sentence imposed by (*Judge*)]
(SC No of (*year*))

(*name*)
Appellant

(*name*)
Respondent

[1.101] Schedule 1, new form 6.11

insert

**Form 6.11 Response by director of public
prosecutions**

(see o 86 r 53)

In the Supreme Court of the Australian Capital Territory
Court of Appeal (jurisdiction exercised by the Registrar)

ACTCA No of (*year*)

Appeal against *[conviction recorded/sentence imposed by (*Judge*)]

Schedule 1 Amendments of forms

Amendment [1.101]

(SC No of *(year)*).

(name of applicant)

and

The Queen

The director of public prosecutions—

- (a) *[opposes/ consents to/ does not oppose] the application to extend time within which to appeal; and
- (b) *[proposes/ does not propose] to file any affidavits in response to the application.

Service of documents—

Business address:

Document exchange box no:*

Postbox no:*

Fax no:*

Email address:*

Date:

Signature of director:

**(delete if inapplicable)*

[1.102] Schedule 1, form 6.11 (Notice of motion to have application for extension of time decided by Court of Appeal)*omit*

ACTCA No of [year]

Appeal against [*conviction recorded/sentence imposed by [Judge]]
(SC No of [year]).

Between:

AB Applicant
and*CD* Respondent**Notice of motion to have application for extension of time decided by Court of Appeal****Take notice***substitute*

ACTCA No of (year)

Appeal against *[conviction recorded/sentence imposed by (Judge)]
(SC No of (year))*(name)*
Appellant*(name)*
Respondent

Schedule 1 Amendments of forms

Amendment [1.103]

Take notice

[1.103] Schedule 1, form 6.11 (Notice of motion to have application for extension of time decided by Court of Appeal)

renumber as form 6.12

[1.104] Schedule 1, form 6.12 (Order for production of prisoner)

omit

ACTCA No of [year]

Appeal against [*conviction recorded/sentence imposed by [Judge]]

(SC No of [year]).

Between

AB Appellant
and

CD Respondent

Order for production of prisoner

substitute

ACTCA No of (year)

Appeal against *[conviction recorded/sentence imposed by (Judge)]

(SC No of (year))

(name)

Appellant

(name)

Respondent

[1.105] Schedule 1, form 6.12

renumber as form 6.13

[1.106] Schedule 1, form 6.13 (Special case)

omit

ACTCA No of *[year]*

Special case from *[Judge/Master]*

(SC No of *[year]*).

Between:

AB Appellant

and

CD Respondent *[if any]*

Special case

substitute

ACTCA No of *(year)*

Special case from *(Judge/Master)*

(SC No of *(year)*)

(name)

Appellant

(name)
Respondent

[1.107] Schedule 1, form 6.13

renumber as form 6.15

[1.108] Schedule 1, new form 6.14

insert

**Form 6.14 Notice of solicitor ceasing to act—
Court of Appeal**

(see o 86 r 65)

In the Supreme Court of the Australian Capital Territory

Court of Appeal

ACTCA No of *(year)*

Appeal against *[conviction recorded/sentence imposed by *(Judge)*]

(SC No of *(year)*).

(name)
Appellant

(name)
Respondent

(Name of solicitor) has on *(date)* been given leave to withdraw from acting for *(name of convicted person)* in this matter.

The last-known address of *(name of convicted person)* is: *(last-known address)*.

Date:

(signature of solicitor)

(name of solicitor)

[1.109] Schedule 1, form 6.14 (Application for reference appeal)

omit

ACTCA No of [year]

Appeal from [*Judge*]

(SC No of [year]).

Between

The Queen (the appellant)

and

CD [*the respondent*]

Application for reference appeal

substitute

ACTCA No of (year)

Appeal from (*Judge*)

(SC No of (year))

The Queen (the appellant)

and

(name of respondent)

[1.110] Schedule 1, form 6.14 (Application for reference appeal)

renumber as form 6.16

[1.111] Schedule 1, new part 1.7

insert

Part 1.7 Legal practitioners—admission form

Form 7.1 Application for admission

(see Supreme Court (Admission of Legal Practitioners) Rules, r 9 (3))

In the Supreme Court of the Australian Capital Territory

No of *(year)*

Legal Practitioners Act 1970

In the application of *(full name of applicant)* to be admitted as a legal practitioner

Application is made to the Court that *(full name of applicant)* be admitted as a legal practitioner under the Legal Practitioners Act 1970, section 11 (1).

Date:

(signature of applicant or applicant's lawyer)

(name of applicant or applicant's lawyer)

The applicant's address for service is: (*state address*)

Schedule 2 Amendment of sch 3

(see r 3)

[2.1] Schedule 3

substitute

Schedule 3 Costs

(see o 65 r 7)

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
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Part 3.1 Instructions

1	to sue or defend, to appeal or oppose an appeal	125.30	
2	for statement of claim, petition, special case or counterclaim	125.30	or the additional amount the taxing officer considers appropriate
3	for defence	107.20	or the additional amount the taxing officer considers appropriate
4	for— (a) a reply; or (b) amending a pleading; or (c) a document to be	44.70	or the additional amount the taxing officer considers appropriate

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
	<p>brought into the registrar's office (for example, an account or deed); or</p> <p>(d) adding parties by order; or</p> <p>(e) a bond or other deed; or</p> <p>(f) retaining counsel, including preparing retainer</p>		
5	<p>for—</p> <p>(a) a pleading not otherwise provided for; or</p> <p>(b) interrogatories for the examination of a party or witness; or</p> <p>(c) an affidavit in answer to interrogatories or other special affidavit; or</p> <p>(d) discovery or an affidavit of discovery; or</p> <p>(e) an application for an order that a matter be heard before the Full</p>	89.40	or the additional amount the taxing officer considers appropriate

Schedule 2 Amendment of sch 3

Amendment [2.1]

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
	Court; or		
	(f) a brief on application in chambers		
6	for—	89.40	or the additional amount the taxing officer considers appropriate
	(a) an application whether in court, before the registrar or in chambers; or		
	(b) opposition to an application; or		
	(c) the taxing of a bill of costs		
7	for brief to advise on evidence	80.50	or the additional amount the taxing officer considers appropriate
8	for—	89.40	or the additional amount the taxing officer considers appropriate
	(a) a statement of facts in an action; or		
	(b) a request for particulars; or		
	(c) particulars		
9	for brief in preparation for trial	the amount the taxing officer considers appropriate	

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
Part 3.2 Drawing			
10	for an originating process or counterclaim	66.80	or, if longer than 7 folios, 9.40 per folio
11	for any other pleading, or an amendment of a pleading	44.70	or, if longer than 4 folios, 9.40 per folio
12	for— (a) a notice of interlocutory motion; or (b) a notice to produce documents; or (c) a notice to admit facts; or (d) a special case; or (e) interrogatories; or (f) a special affidavit; or (g) a brief (including observations)	40.90	or, if the document is longer than 4 folios, 9.40 per folio
13	a formal affidavit, including an affidavit of service	31.50	
14	any other document	17.70	or, if longer than 1 folio, 10.50 per folio

Schedule 2 Amendment of sch 3

Amendment [2.1]

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
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Part 3.3 Engrossing

15	of a document	2.70	per folio
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Part 3.4 Copies

16	of any document, or of multiple documents copied at the same time—		
	(a) for each of the first 10 copies; or	2.40	per page
	(b) for each additional copy up to 100 copies; or	1.00	per page
	(c) for each additional copy over 100 copies	0.30	per page

Part 3.5 Perusal

17	of—	31.50	or, if the document is longer than 8 folios, 3.60 per folio
	(a) an originating process; or		
	(b) a pleading; or		
	(c) a notice of motion; or		
	(d) interrogatories; or		
	(e) a special case; or		
	(g) a notice to admit		

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
18	of any other document, if it is necessary to peruse	3.60	per folio
19	of a document by scanning it, if it is not necessary to peruse	4.90	or, if the document has more than 10 pages, the additional amount the taxing officer considers appropriate

Part 3.6 Attendances

20	for personal service, if necessary	66.80	or the additional amount the taxing officer considers appropriate
21	for service— (a) at the office of a solicitor on the record or the address for service of a party; or (b) by post; or (c) made through a document exchange	27.00	
22	by a solicitor, necessarily or properly engaged, if the solicitor holds an unrestricted practising certificate or has been the holder of a practising certificate for at least 2	178.80	per hour

Schedule 2 Amendment of sch 3

Amendment [2.1]

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
	years—	
	(a) to instruct counsel; or	
	(b) on taxation of a bill of costs or other matter; or	
	(c) at conference with counsel; or	
	(d) on a view; or	
	(e) on witness or other person; or	
	(f) to inspect or produce a document; or	
	(g) to prepare appeal papers	
23	by a solicitor, necessarily or properly engaged, if the solicitor is a solicitor not mentioned in item 22—	125.30
	(a) to instruct counsel; or	per hour
	(b) on taxation of a bill of costs or other matter; or	
	(c) at conference with counsel; or	
	(d) on a view; or	
	(e) on witness or other person; or	

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
	(f) to inspect or produce a document; or		
	(g) to prepare appeal papers		
24	by a clerk, necessarily or properly engaged—	62.50	per hour
	(a) to instruct counsel; or		
	(b) on taxation of a bill of costs or other matter; or		
	(c) at conference with counsel; or		
	(d) on a view; or		
	(e) on witness or other person; or		
	(f) to inspect or produce a document; or		
	(g) to prepare appeal papers		
25	other than an attendance already mentioned, in court or any hearing without counsel—		
	(a) by a solicitor holding an unrestricted practising certificate, or a solicitor who has been the holder of a	268.10	per hour or the additional amount the taxing officer considers appropriate

Schedule 2 Amendment of sch 3

Amendment [2.1]

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
	practising certificate for at least 2 years; or		appropriate
	(b) by any other solicitor	187.70	per hour or the additional amount the taxing officer considers appropriate
26	by a solicitor involving a high degree of skill and responsibility	268.10	per hour
27	in court or chambers or before the registrar—	71.50	or 178.80 per hour
	(a) to take a reserved judgment; or		
	(b) to mention a matter; or		
	(c) for an adjournment; or		
	(d) for another reason		
28	at the registry or other office or place for—	22.20	or the additional amount the taxing officer considers appropriate
	(a) filing, delivering, or collecting a document; or		
	(b) a purpose not involving the exercise of legal skill or knowledge		
29	formal telephone attendance	22.20	

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
30	any other attendance by a solicitor (including travelling and waiting time and including a telephone attendance)	35.80	or 44.70 per quarter hour
31	any other attendance by a clerk (including travelling and waiting time and including a telephone attendance)	22.20	or 15.50 per quarter hour
32	if the taxing officer is satisfied, in relation to travel, that the purpose of the journey could not have been satisfactorily accomplished by an agent and that—		
	(a) a solicitor has been necessarily absent from the place where the solicitor carries on practice; or		an allowance (in addition to reasonable travelling expenses) for each day (other than Saturdays and Sundays) that the solicitor is absent, of the amount the taxing officer considers reasonable, that is not more than 1 043.90

Schedule 2 Amendment of sch 3

Amendment [2.1]

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
	(b) a clerk has attended in place of the solicitor	an allowance (in addition to reasonable travelling expenses) for each day (other than Saturdays and Sundays) that the clerk is absent, of the amount the taxing officer considers reasonable, that is not more than 268.10

Part 3.7 Letters

33	ordinary letter	22.20	or 10.80 per folio
34	special letter	36.80	or 10.80 per folio
35	formal letter of acknowledgment	15.00	
36	circular letters after the first	6.80	
37	fax copy or telex, including attendance to send	35.20	or a fee that is reasonable in the circumstances
38	receiving and filing any incoming letter (postage and transmission fees properly incurred may be claimed as a disbursement)	9.40	

Part 3.8 Witness expenses

39	a witness called because of the witness's professional, scientific or other special skill or knowledge	877.10	per day
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column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
40	a witness called other than because of the witness's professional, scientific or other special skill or knowledge	92.50 per day
41	a witness paid in the witness's occupation by wages, salary or fees	the amount lost by attendance at court
42	a witness qualifying to give skilled evidence	the additional amount the taxing officer considers reasonable and properly incurred and paid
43	if the witness lives more than 50km from the court	the additional amount the taxing officer considers reasonable for the actual cost of travel, and for accommodation and meals
44	attendance at court by a witness acting as an expert in assisting counsel or a solicitor for a period during the trial or hearing	the amount the taxing officer considers appropriate (but not affecting the existing practice of allowing qualifying fees for witnesses)

Part 3.9 Disbursements

45	all court fees, counsel's fees and other fees and payments	allowed to the extent that they have been properly and reasonably incurred and paid
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Note Order 3 rule 3 prescribes when certain costs and disbursements must be allowed without taxation.

Endnotes

1 Notification

Notified under the Legislation Act on 9 December 2004.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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