



Australian Capital Territory

Court Procedures Amendment Rules 2013 (No 1)

Subordinate Law SL2013-18

We, the rule-making committee, make the following rules of court under the *Court Procedures Act 2004*, section 7.

Dated 27 June 2013.

T J HIGGINS

Chief Justice

R REFSHAUGE

Judge

L WALKER

Chief Magistrate



Australian Capital Territory

Court Procedures Amendment Rules 2013 (No 1)

Subordinate Law SL2013-18

made under the

[Court Procedures Act 2004](#)

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2013 (No 1)*.

2 Commencement

These rules commence on 1 July 2013.

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 *Court Procedures Rules 2006*.

4 Rule 55

omit

50 000

substitute

250 000

5 Rule 1306 (3), note

substitute

Note If a party fails to complete and sign a certificate of readiness, a party who is ready for trial may—

- (a) for a proceeding in the Supreme Court—apply to have the proceeding assigned to the docket of a judge or master (see r 1307A (Application for directions hearing—Supreme Court)); or
- (b) for a proceeding in the Magistrates Court—apply for a directions hearing (see r 1324 (Directions hearing—category A, category B and category D proceedings)).

6 Rule 1306 (6), note 1

substitute

Note 1 The Magistrates Court may direct that a proceeding be given a listing hearing even though the certificate of readiness has not been filed (see r 1323 (4) (b) and r 1324 (6) (b) (ii)).

7 Rule 1323 (1), note

omit

r 1308

substitute

r 1324

8 Rule 4800

substitute

4800 Definitions—pt 4.4

In this part:

forensic proceeding means a proceeding in relation to an application to carry out a forensic procedure under [the Act](#) or [the Crimes Act](#).

prescribed offender—see [the Crimes Act](#), section 23WA.

serious offender—

- (a) for an application under [the Act](#)—see [the Act](#), section 9; and
- (b) for an application under [the Crimes Act](#)—see [the Crimes Act](#), section 23WA.

the Act means the [Crimes \(Forensic Procedures\) Act 2000](#).

the Crimes Act means the [Crimes Act 1914](#) (Cwlth).

9 Rule 4802 (1) (b) (ii)

substitute

- (ii) for division 4.4.3—a serious offender or a prescribed offender.

10 Division 4.4.2 heading

substitute

**Division 4.4.2 Forensic proceedings under the Act,
pt 2.5 and the Crimes Act, pt 1D, div 5****11 Rule 4803**

substitute

4803 Application—div 4.4.2

This division applies to a forensic proceeding under—

- (a) [the Act](#), part 2.5 (Forensic procedures on suspect by order of magistrate); or
- (b) [the Crimes Act](#), part 1D, division 5 (Forensic procedures on suspect by order of a magistrate).

12 Rule 4804, note

substitute

Note Under [the Act](#), pt 2.5, and [the Crimes Act](#), pt 1D, div 5, an authorised applicant may apply to a magistrate for—

- (a) an order authorising the carrying out of a forensic procedure on a suspect (see [the Act](#), s 35 and [the Crimes Act](#), s 23WU); or
- (b) an interim order authorising the immediate carrying out of a forensic procedure on a suspect (see [the Act](#), s 42 and [the Crimes Act](#), s 23XB).

13 **Division 4.4.3 heading**

substitute

Division 4.4.3 **Forensic proceedings under the Act,
pt 2.7 and the Crimes Act, pt 1D,
div 6A**

14 **Rule 4806**

substitute

4806 **Application—div 4.4.3**

This division applies to a forensic proceeding under—

- (a) [the Act](#), part 2.7 (Carrying out of certain forensic procedures after conviction of serious offenders); or
- (b) [the Crimes Act](#), part 1D, division 6A (Carrying out of certain forensic procedures after conviction of serious and prescribed offenders).

15 **Rule 4807**

after

serious offender

insert

or prescribed offender

16 Rule 4807, new note 3

insert

Note 3 Under [the Crimes Act](#), pt 1D, div 6A, an authorised applicant may apply to any court for an order for the carrying out of an intimate or non-intimate forensic procedure in certain circumstances (see [the Crimes Act](#) s 23XWO (1) and (2)). This application may be made to the court that is sentencing a serious offender or prescribed offender or to any other court at a later time (see [the Crimes Act](#), s 23XWO (5)).

17 Rule 4808 (1) (a) (ii)

after

serious offender

insert

or prescribed offender

18 Rule 4808 (2)

omit

suspect or serious offender

substitute

suspect, serious offender or prescribed offender

19 Rule 4810 (2)

omit

suspect's or serious offender's

substitute

suspect's, serious offender's or prescribed offender's

20 Rule 5140 (3)

substitute

- (3) If the appeal or cross-appeal is dismissed under subrule (1) (c), and the Supreme Court considers there are special circumstances to set aside the dismissal, the Court may, on application by the appellant or cross-appellant—
- (a) set aside the dismissal; and
 - (b) give directions for the further conduct of the appeal.
- (4) If the hearing proceeds under subrule (1) (d) in the absence of the party and an order is made, the Supreme Court may, on application by the party—
- (a) amend or set aside the order; and
 - (b) give directions for the further conduct of the appeal.

21 Rule 5438 (2)

omit

5 days

substitute

14 days

22 Rule 5438 (3)

omit

2 days

substitute

7 days

23 Rule 5438 (4)

omit

1 day

substitute

3 days

24 Rule 6610 (2)

after

under subrule (1)

insert

within 28 days after the end of the proceeding

25 New rule 6610 (2A) and (2B)

insert

- (2A) If the registrar decides to return a document or thing under subrule (1), the registrar must give the addressee notice stating that—
- (a) the document or thing may be collected from the registry; and
 - (b) the addressee may tell the registrar in writing that the addressee does not want the document or thing returned; and
 - (c) if the document or thing is not collected from the registry within 28 days after the notice is given to the addressee, the registrar may dispose of the document or thing.
- (2B) If a document or thing is not collected by the addressee under subrule (2A), the registrar may dispose of the document or thing in the way the registrar considers appropriate.

26 Rule 6763 (4)

omit

(other than a subpoenaed document or thing)

27 Rule 6763 (4) (a)

after

party

insert

or anyone else who appears to the registrar to be the owner or person entitled to possession of the exhibit

28 Rule 6763 (4) (b)

substitute

(b) if it is not practicable for the registrar to give the exhibit to the person mentioned in paragraph (a)—give notice to the party, the party's solicitor or anyone else who appears to the registrar to be the owner or person entitled to possession of the exhibit, stating that the person must, within 28 days after the notice is given—

(i) collect the exhibit from the registry; or

(ii) tell the registrar in writing that the person does not want the exhibit returned.

29 Rule 6765 (1)

omit

or rule 6764 (Return of subpoenaed document or thing)

30 Rule 6766 (1) (a)*omit*

other than a subpoenaed document or thing or rule 6764 (2) (b) in relation to an exhibit that is a subpoenaed document or thing

31 Rule 6766 (4)*omit*

, rule 6764 (Return of subpoenaed document or thing)

32 Schedule 3*substitute*

Schedule 3 Costs amount—debts, liquidated demands, company windings-up, enforcement orders and certificates of registration

Part 3.1 Claim for debt or liquidated demand

(see r 51, r 304, r 1102 and r 1104)

Table 3.1 Prescribed costs amount—claim for debt or liquidated demand

column 1 item	column 2 court and amount claimed	column 3 prescribed amount (\$)
1	Magistrates Court—< \$10 000	391.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	793.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	948.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	1 066.00

column 1 item	column 2 court and amount claimed	column 3 prescribed amount (\$)
5	Magistrates Court—≥ \$50 000 but < \$250 000	1 184.00
6	Supreme Court—any amount	1 184.00

Part 3.2 Default judgment

(see r 1121)

Table 3.2 Prescribed costs amount—default judgment

column 1 item	column 2 court and amount claimed	column 3 prescribed amount (\$)
1	Magistrates Court—< \$10 000	592.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	1 184.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	1 422.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	1 600.00
5	Magistrates Court—≥ \$50 000 but < \$250 000	1 777.00
6	Supreme Court—any amount	1 777.00

Part 3.3 Company winding-up

(see r 1740)

Table 3.3 Prescribed costs amount—company winding-up

column 1 item	column 2 claimed amount (\$)
1	4 028.00

Part 3.4 Enforcement orders

(see r 1741)

Table 3.4 Prescribed costs amount—enforcement orders

column 1 item	column 2 court and amount claimed	column 3 amount claimed— with agent (\$)	column 4 amount claimed— no agent (\$)
1	Magistrates Court—< \$10 000	773.00	562.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	1 570.00	1 142.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	1 874.00	1 363.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	2 109.00	1 534.00
5	Magistrates Court—≥ \$50 000 but < \$250 000	2 343.00	1 704.00
6	Supreme Court—any amount	2 343.00	1 704.00

Part 3.5 Certificate of registration

(see r 2010B)

Table 3.5 Prescribed costs amount—certificate of registration

column 1 item	column 2 court and amount claimed	column 3 claimed amount (\$)
1	Magistrates Court—< \$10 000	81.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	164.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	196.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	220.00
5	Magistrates Court—≥ \$50 000 but < \$250 000	245.00
6	Supreme Court—any amount	245.00

33 **Schedule 4, rule 4.12**

substitute

4.12 **Costs—1 July 2011 to 30 June 2013—transitional**

- (1) In this rule:

commencement day means the day the *Court Procedures Amendment Rules 2011 (No 2)*, rule 45 commenced.

schedule means schedule 4, part 4.2 set out in the *Court Procedures Amendment Rules 2011 (No 2)*, rule 45.

- (2) A solicitor is entitled to charge and be allowed the costs set out in the schedule for work done or services performed on or after 1 July 2011.
- (3) However, if work done or services performed by a solicitor after 1 July 2011 was assessed before commencement day, rule 4.12 as in effect immediately before commencement day continues to apply to the work and services.
- (4) Rule 4.12 as in effect immediately before commencement day continues to apply to work done or services performed by a solicitor before 1 July 2011.

4.13 **Costs—transitional**

- (1) In this rule:

commencement day means the day the *Court Procedures Amendment Rules 2013 (No 1)*, rule 33 commences.

- (2) A solicitor is entitled to charge and be allowed the costs set out in this schedule for work done or services performed on or after 1 July 2013.
- (3) However, if work done or services performed by a solicitor after 1 July 2013 was assessed before commencement day, rule 4.12 applies to the work and services.

34 Schedule 4, part 4.2*substitute***Part 4.2 Scale of costs—items**

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
Division 4.2.1 Instructions		
1	to sue or defend, to appeal or oppose an appeal	168.50
2	for statement of claim, petition, special case or counterclaim	168.50
3	for defence	144.20
4	for— (a) a reply; or (b) amending a pleading; or (c) a notice claiming contribution or indemnity; or (d) a document to be brought into the registrar's office (for example, an account or deed); or (e) adding parties by order; or (f) a bond or other deed; or	60.20

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
	(g) retaining counsel, including preparing retainer	
5	for— (a) a pleading not otherwise provided for; or (b) interrogatories for the examination of a party or witness; or (c) an affidavit in answer to interrogatories or other special affidavit; or (d) disclosure or a list of documents; or (e) an application for an order that a matter be heard before the Full Court; or (f) a brief on application in chambers	120.30

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
6	for— (a) an application whether in court, before the registrar or in chambers; or (b) opposition to an application; or (c) the assessment of a bill of costs	120.30
7	for brief to advise on evidence	108.40
8	for— (a) a statement of facts in an action; or (b) a request for particulars; or (c) particulars	120.30
9	for brief in preparation for trial	the amount the registrar considers appropriate
Division 4.2.2 Drawing		
10	for an originating process or counterclaim	125.70 or, if longer than 700 words, 17.80 per 100 words
11	for any other pleading, a notice claiming contribution or indemnity, or an amendment of a pleading	84.30 or, if longer than 400 words, 17.80 per 100 words

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
12	for— (a) a notice of an application in a proceeding; 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)	77.10 or, if the document is longer than 400 words, 17.80 per 100 words
13	a formal affidavit, including an affidavit of service	42.30
14	any other document	33.40 or, if longer than 100 words, 19.80 per 100 words
Division 4.2.3 Engrossing		
15	of a document	5.30 per 100 words

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
Division 4.2.4 Copies		
16	of any document, or of multiple documents copied at the same time— (a) for each of the first 10 copies; or (b) for each additional copy up to 100 copies; or (c) for each additional copy over 100 copies	 3.30 per page 1.50 per page 0.60 per page
Division 4.2.5 Perusal		
17	of— (a) an originating process; or (b) a pleading; or (c) an application in a proceeding; or (d) interrogatories; or (e) a special case; or (f) a notice to admit	59.40 or, if the document is longer than 800 words, 6.70 per 100 words
18	of any other document, if it is necessary to peruse	6.70 per 100 words

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
19	of a document by scanning it, if it is not necessary to peruse	6.60 or, if the document has more than 10 pages, the additional amount the registrar considers appropriate
Division 4.2.6 Attendances		
20	for personal service, if necessary, of 1 or more documents at the same time	90.00
21	for service of 1 or more documents at the same time— (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	36.40

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
22	<p>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 years—</p> <ul style="list-style-type: none"> (a) to instruct counsel; or (b) on assessment 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 produce a document; or (g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or (h) to prepare appeal papers 	240.50 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
23	by a solicitor, necessarily or properly engaged, other than a solicitor mentioned in item 22— (a) to instruct counsel; or (b) on assessment 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 produce a document; or (g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or (h) to prepare appeal papers	168.50 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
24	by a clerk, necessarily or properly engaged— (a) to instruct counsel; or (b) on assessment 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 produce a document; or (g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or (h) to prepare appeal papers	84.20 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
25	<p>other than an attendance already mentioned, in court or any hearing without counsel—</p> <p>(a) by a solicitor holding an unrestricted practising certificate, or a solicitor who has been the holder of a practising certificate for at least 2 years; or</p> <p>(b) by any other solicitor</p>	<p>360.60 per hour</p> <p>252.60 per hour</p>
26	by a solicitor involving a high degree of skill and responsibility	360.60 per hour
27	<p>in court or chambers or before the registrar—</p> <p>(a) to take a reserved judgment; or</p> <p>(b) to mention a matter; or</p> <p>(c) for an adjournment; or</p> <p>(d) for settling the terms of and entering orders; or</p> <p>(e) for another reason</p>	96.20 or 240.50 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
28	at the registry or other office or place for— (a) filing, delivering, or collecting a document; or (b) a purpose not involving the exercise of legal skill or knowledge	29.90
29	formal telephone attendance	29.90
30	telephone attendance leaving message only	15.00
31	any other attendance by a solicitor (including travelling and waiting time and including a telephone attendance)	48.20 or 60.20 per quarter hour
32	any other attendance by a clerk (including travelling and waiting time and including a telephone attendance)	29.90 or 21.00 per quarter hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
33	<p>if the registrar is satisfied, in relation to travel, that the purpose of the journey could not have been satisfactorily accomplished by an agent and that—</p> <p>(a) a solicitor has been necessarily absent from the place where the solicitor carries on practice; or</p> <p>(b) a clerk has attended in place of the solicitor</p>	<p>an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the solicitor is absent, of not more than 1 403.90</p> <p>an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the clerk is absent, of not more than 360.60</p>
Division 4.2.7 Letters		
34	ordinary letter	41.80 or 20.40 per 100 words
35	special letter	69.40 or 20.40 per 100 words
36	formal letter—short letter, without legal content	20.30
37	circular letters after the first	9.20
38	fax copy or telex, including attendance to send	47.40

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
39	receiving and filing any incoming letter, other than a letter received by email (postage and transmission fees properly incurred may be claimed as a disbursement)	12.60
40	receiving, printing and filing incoming letter received by email	13.60
41	printing any attachment to an email, or multiple attachments to an email printed at the same time— (a) for each of the first 10 pages; or (b) for each additional page up to 100 copies; or (c) for each additional page over 100 copies	 3.30 per page 1.50 per page 0.60 per page
Division 4.2.8 Witness expenses		
42	a witness called because of the witness's professional, scientific or other special skill or knowledge	1 179.50 per day

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
43	a witness called other than because of the witness's professional, scientific or other special skill or knowledge	124.50 per day
44	a witness paid in the witness's occupation by wages, salary or fees	the amount lost by attendance at court
45	a witness qualifying to give skilled evidence	the additional amount the registrar considers reasonable and properly incurred and paid
46	if the witness lives more than 50km from the court	the additional amount the registrar considers reasonable for the actual cost of travel, and for accommodation and meals
47	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 registrar considers appropriate (but not affecting the existing practice of allowing qualifying fees for witnesses)
Division 4.2.9 Disbursements		
48	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

35 Dictionary, new definitions

insert

prescribed offender, for part 4.4 (Forensic proceedings)—see rule 4800.

serious offender, for part 4.4 (Forensic proceedings)—see rule 4800.

the Crimes Act, for part 4.4 (Forensic proceedings)—see rule 4800.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 28 June 2013.

2 Republications of amended laws

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