

Australian Capital Territory

Court Procedures Amendment Rules 2019 (No 1)

Subordinate Law SL2019-11

We, the rule-making committee, make the following rules of court under the [Court Procedures Act 2004](http://www.legislation.act.gov.au/a/2004-59), section 7.

Dated 24 June 2019.

|  |  |
| --- | --- |
| H G MURRELL | L Walker |
| Chief Justice | Chief Magistrate |
| M Elkaim |  |
| Judge |  |
|  |  |



Australian Capital Territory

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made under the

[Court Procedures Act 2004](http://www.legislation.act.gov.au/a/2004-59" \o "A2004-59)

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2019 (No 1)*.

2 Commencement

These rules commence on 1 July 2019.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

3 Legislation amended

These rules amend the [Court Procedures Rules 2006](http://www.legislation.act.gov.au/sl/2006-29).

4 New rule 3605 (2A)

insert

(2A) If an applicant completed an approved course of study more than 5 years before making an application for admission, the admissions board may require the applicant to—

(a) undertake and pass a further academic subject or examination; and

(b) apply for a compliance certificate within a stated time.

5 Rule 3607D (2)

substitute

(2) A person is eligible to undertake practical legal training under this subdivision if—

(a) the person has completed an approved course of study under subdivision 3.11.2.3 at an approved academic institution under subdivision 3.11.2.2; or

(b) the person has completed another tertiary qualification in law that satisfies the academic requirements for admission to the legal profession in the Australian jurisdiction where the tertiary qualification was obtained; or

(c) the admissions board has approved an application for the person to undertake early commencement of practical legal training under rule 3607DA.

6 New rule 3607DA

in subdivision 3.11.2.4, insert

3607DA Early commencement of practical legal training

(1) A person may apply to the admissions board to undertake practical legal training before completing an approved course of study or another tertiary qualification in law that satisfies the academic requirements (early commencement) if—

(a) the person has completed the course’s core subjects; and

(b) the person has no more than 2 subjects to complete for the applicant to complete the course (final subjects); and

(c) the person is enrolled in the course’s final subjects; and

(d) there are exceptional circumstances in support of early commencement.

(2) An application for early commencement must—

(a) set out the exceptional circumstances; and

(b) include evidence in support of the exceptional circumstances (if any); and

(c) include evidence that the person has satisfied subrule (1) (a) to (c).

(3) The admissions board must—

(a) approve the application; or

(b) refuse to approve the application.

(4) In this section:

core subject, of an approved course of study, means a subject that requires a student to acquire and demonstrate an appropriate understanding of, and competence in, an area of law mentioned in rule 3605 (1) (a).

7 Rule 3608 (1), except note

substitute

(1) An application for admission must—

(a) be made by originating application; and

(b) if the applicant cannot attend the hearing of the application because of exceptional circumstances—be accompanied by—

(i) a letter from the applicant addressed to the admissions board requesting that the applicant be admitted in their absence (an absentee admission); and

(ii) an affidavit—

(A) stating the circumstances preventing the applicant from attending the hearing; and

(B) giving evidence in support of the circumstances (if any).

Example—exceptional circumstances

the applicant has undergone a medical procedure preventing the applicant from attending the hearing

8 New rule 3608 (4) (aa)

insert

(aa) if the applicant completed an approved course of study more than 5 years before making the application—give details of any relevant legal experience the person has obtained after completing the approved course of study; and

9 New rule 3609A

insert

3609A Request for absentee admission

(1) This rule applies if a person requests an absentee admission.

(2) The admissions board must consider the request and either—

(a) approve the request; or

(b) refuse the request.

(3) If the admissions board approves the request, the court may hear the person’s application for admission in the person’s absence.

10 Rule 3614 (1)

substitute

(1) A person must, before being admitted, take an oath or make an affirmation—

(a) before the court; or

(b) if the admissions board approves the person’s request for absentee admission—in accordance with rule 3614A.

11 New rule 3614A

insert

3614A Admission—absentee admission

(1) This rule applies if—

(a) a person has applied for admission under rule 3608 (the applicant); and

(b) the admissions board has approved the applicant’s request for absentee admission; and

(c) the admissions board has issued a compliance certificate under section 30 of the [Legal Profession Act](http://www.legislation.act.gov.au/a/2006-25) in relation to the applicant; and

(d) the court is satisfied that the person should be admitted.

(2) The court must send the applicant—

(a) a supplementary roll sheet; and

(b) information about completing the supplementary roll.

(3) The applicant must—

(a) take an oath or make an affirmation before an authorised person; and

(b) sign the supplementary roll sheet before the authorised person.

(4) The applicant must, within 28 days after the day the applicant receives the supplementary roll sheet, file with the court—

(a) the signed supplementary roll sheet; and

(b) an affidavit stating that the applicant took an oath or made an affirmation in accordance with rule 3614 (2) or (3) before the authorised person.

(5) If the court is satisfied that the applicant has complied with subsection (3), the court must order that the applicant be admitted.

(6) In this section:

absentee admission—see section 3608 (1) (b).

authorised person means a person authorised to take an affidavit in the jurisdiction where the affidavit is taken.

supplementary roll sheet means a sheet of the local roll.

12 New rule 3615 (c)

insert

(c) if the person has filed with the court a supplementary roll sheet for entry on the local roll—a note under the area for the person’s signature stating that the entry was by absentee admission.

13 New rule 6601A (1) (d)

insert

(d) an application in a family violence or personal violence proceeding under part 3.12 (Family violence and personal violence proceedings).

14 Rule 6908 (1) and (2)

substitute

(1) A person must not use an electronic device in a court room unless—

(a) the person is—

(i) a party to a proceeding before the court; or

(ii) a legal representative of a party to a proceeding before the court; or

(iii) a media representative; or

(b) the person is permitted by the presiding judicial officer to use the device.

(2) Unless permitted by the presiding judicial officer, a person mentioned in subrule (1) must not use an electronic device in a court room if use of the device—

(a) interferes with the court recording system or other technology; or

(b) in the opinion of the presiding judicial officer, interferes with courtroom behaviour, is inconsistent with the court’s functions, or otherwise impedes the administration of justice; or

(c) generates sound or requires speaking into the device; or

(d) records a photograph or video image; or

(e) records or digitally transcribes the proceedings other than in accordance with this rule.

(2A) If a sheriff’s officer or another officer of the court reasonably believes that a person is using an electronic device in contravention of this rule, the officer may direct the person to—

(a) leave the courtroom; or

(b) give the electronic device to the officer until the person leaves the courtroom; or

(c) allow the officer and the presiding judicial officer access to the electronic device to view any images or listen to any recordings; or

(d) modify or delete the images or recordings on the electronic device as directed by the presiding judicial officer.

15 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 and r 1100)

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 | 507.00 |
| 2 | Magistrates Court—≥ $10 000 but < $25 000 | 1 031.00 |
| 3 | Magistrates Court—≥ $25 000 but < $40 000 | 1 232.00 |
| 4 | Magistrates Court—≥ $40 000 but < $50 000 | 1 384.00 |
| 5 | Magistrates Court—≥ $50 000 but < $250 000 | 1 538.00 |
| 6 | Supreme Court—any amount | 1 538.00 |

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 | 658.00 |
| 2 | Magistrates Court—≥ $10 000 but < $25 000 | 1 316.00 |
| 3 | Magistrates Court—≥ $25 000 but < $40 000 | 1 580.00 |
| 4 | Magistrates Court—≥ $40 000 but < $50 000 | 1 779.00 |
| 5 | Magistrates Court—≥ $50 000 but < $250 000 | 1 975.00 |
| 6 | Supreme Court—any amount | 1 975.00 |

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 | 4 477.00 |

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 | 859.00 | 625.00 |
| 2 | Magistrates Court—≥ $10 000 but < $25 000 | 1 745.00 | 1 269.00 |
| 3 | Magistrates Court—≥ $25 000 but < $40 000 | 2 082.00 | 1 515.00 |
| 4 | Magistrates Court—≥ $40 000 but < $50 000 | 2 345.00 | 1 704.00 |
| 5 | Magistrates Court—≥ $50 000 but < $250 000 | 2 604.00 | 1 894.00 |
| 6 | Supreme Court—any amount | 2 604.00 | 1 894.00 |

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 | 90.00 |
| 2 | Magistrates Court—≥ $10 000 but < $25 000 | 182.00 |
| 3 | Magistrates Court—≥ $25 000 but < $40 000 | 218.00 |
| 4 | Magistrates Court—≥ $40 000 but < $50 000 | 245.00 |
| 5 | Magistrates Court—≥ $50 000 but < $250 000 | 273.00 |
| 6 | Supreme Court—any amount | 273.00 |

16 Schedule 4, rule 4.12

substitute

4.12 Costs—transitional

(1) In this rule:

commencement day means the day the Court Procedures Amendment Rules 2019 (No 1), rule 17 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 the commencement day.

(3) However, if work done or services performed by a solicitor after the commencement day was assessed before the commencement day, rule 4.12 as in effect immediately before the commencement day continues to apply to the work and services.

(4) Rule 4.12 as in effect immediately before the commencement day continues to apply to work done or services performed by a solicitor before the commencement day.

17 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 | 187.30 | |
| 2 | for statement of claim, petition, special case or counterclaim | 187.30 | |
| 3 | for defence | 160.30 | |
| 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  (g) retaining counsel, including preparing retainer | 66.90 | |
| 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 | 133.70 | |
| 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 | 133.70 | |
| 7 | for brief to advise on evidence | 120.40 | |
| 8 | for—  (a) a statement of facts in an action; or  (b) a request for particulars; or  (c) particulars | 133.70 | |
| 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 | 139.80 | or, if longer than 700 words, 19.80 per 100 words |
| 11 | for any other pleading, a notice claiming contribution or indemnity, or an amendment of a pleading | 93.70 | or, if longer than 400 words, 19.80 per 100 words |
| 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) | 85.70 | or, if longer than 400 words, 19.80 per 100 words |
| 13 | a formal affidavit, including an affidavit of service | 47.00 |  |
| 14 | any other document | 37.10 | or, if longer than 100 words, 22.00 per 100 words |
| Division 4.2.3 Engrossing | | | |
| 15 | of a document | 5.90 | per 100 words |
| 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 | 3.70  1.70  0.60 | per page  per page  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 | 66.00 | or, if longer than 800 words, 7.40 per 100 words |
| 18 | of any other document, if it is necessary to peruse | 7.40 | per 100 words |
| 19 | of a document by scanning it, if it is not necessary to peruse | 7.30 | 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 | 100.00 |  |
| 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 | 40.50 |  |
| 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 years—  (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 | 267.30 | per hour |
| 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 | 187.30 | per hour |
| 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 | 93.60 | per hour |
| 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 practising certificate for at least 2 years; or  (b) by any other solicitor | 400.80  280.70 | per hour  per hour |
| 26 | by a solicitor involving a high degree of skill and responsibility | 400.80 | per hour |
| 27 | in court or chambers or before the registrar—  (a) to take a reserved judgment; or  (b) to mention a matter; or  (c) for an adjournment; or  (d) for settling the terms of and entering orders; or  (e) for another reason | 106.90 | or 267.30 per hour |
| 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 | 33.30 |  |
| 29 | formal telephone attendance | 33.30 |  |
| 30 | telephone attendance leaving message only | 16.60 |  |
| 31 | any other attendance by a solicitor (including travelling and waiting time and including a telephone attendance) | 53.60 | or 66.90 per quarter hour |
| 32 | any other attendance by a clerk (including travelling and waiting time and including a telephone attendance) | 33.30 | or 23.30 per quarter hour |
| 33 | 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—  (a) a solicitor has been necessarily absent from the place where the solicitor carries on practice; or  (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 solicitor is absent, of not more than 1 560.50  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 400.80 | |
| Division 4.2.7 Letters | | | |
| 34 | ordinary letter | 46.50 | or 22.60 per 100 words |
| 35 | special letter | 77.20 | or 22.60 per 100 words |
| 36 | formal letter—short letter, without legal content | 22.50 |  |
| 37 | circular letters after the first | 10.20 |  |
| 38 | fax copy or telex, including attendance to send | 52.70 |  |
| 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) | 13.90 |  |
| 40 | receiving, printing and filing incoming letter received by email | 15.20 |  |
| 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 | 3.70  1.70  0.60 | per page  per page  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 | 1 311.00 | per day |
| 43 | a witness called other than because of the witness’s professional, scientific or other special skill or knowledge | 138.30 | 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 | |

Endnotes

1 Notification

Notified under the [Legislation Act](http://www.legislation.act.gov.au/a/2001-14) on 27 June 2019.

2 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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