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Federal Court Amendment Rules 2004 (No. 2)¹

Statutory Rules 2004 No. ²

98

We, Judges of the Federal Court of Australia, make the following
 Rules of Court under the *Federal Court of Australia Act 1976*.

Dated ² 2004

17 May

M.E.J. BLACK C.J.
 B.A. BEAUMONT J.
 M.R. WILCOX J.
 J.E.J. SPENDER J.
 P.R.A. GRAY J.
 D.M. RYAN J.
 M.C. LEE J.
 D.G. HILL J.
 T.J. HIGGINS J.
 P.C. HEEREY J.
 R.E. COOPER J.
 A.P. WHITLAM J.
 C.J.S.M. CARR J.
 C.M. BRANSON J.
 K.E. LINDGREN J.
 B.J.M. TAMBERLIN J.

S.M. KIEFEL J.
P.D. FINN J.
R.A. SUNDBERG J.
A.M. NORTH J.
R. MERKEL J.
J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
R.A. FINKELSTEIN J.
M.S. WEINBERG J.
J.A. DOWSETT J.
P.G. HELY J.
S.C. KENNY J.
R.V. GYLES J.
R.A. CONTI J.
M.A. STONE J.
J.L.B. ALLSOP J.
P.M. JACOBSON J.
B.M. SELWAY J.
A.C. BENNETT J.
B.T. LANDER J.
S.M. CRENNAN J.
Judges of the Federal
Court of Australia

W.G. SODEN
Registrar

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2004 (No. 2)*.

2 Commencement

These Rules commence on the date of their notification in the *Gazette*.

3 Amendment of Federal Court Rules

Schedule 1 amends the Federal Court Rules.

Schedule 1 Amendments

(rule 3)

[1] Order 62, subrule 8 (2)

omit

rule 40A

insert

rule 40A or 40B,

[2] Order 62, after rule 40A

insert

40B Short form bill for migration cases

(1) In this rule:

migration case means a proceeding in the Court to which Order 54B applies.

migration court book means the set of documents that is bound or stapled in book form, and filed by the respondent and served on the applicant in a migration case.

standard migration case means a migration case in which there are no more than 2 directions hearings and that is determined after a trial that takes no more than 4 1/2 hours.

- (2) A party to a standard migration case may claim as costs of the proceeding, including disbursements, the amount that, on the date when the proceeding was commenced, was the prescribed amount in item 43D in Schedule 2.
- (3) The respondent to a migration case that is discontinued or dismissed after the applicant has been served with the migration court book and before the trial, may claim as costs of the proceeding, including disbursements, the amount that, on the date when the proceeding was commenced, was the prescribed amount in item 43E in Schedule 2.
- (4) A party who claims costs under this rule (**claimant**) must serve on the other party a bill of costs, including disbursements, (**bill**), which need not include an itemised account of:
 - (a) the work or services performed; or
 - (b) the disbursements incurred in relation to the proceeding.
- (5) Within 14 days of being served with a bill under subrule (4), the other party must advise the claimant, in writing, if he or she objects to the claim being made under this rule.
- (6) Within 14 days of receiving an advice under subrule (5), the claimant must file a copy of the following documents:
 - (a) the advice;
 - (b) the bill served on the other party under subrule (4);
 - (c) the affidavit of service of the bill on the other party.
- (7) The claimant and the other party and their respective solicitors must not attend on taxation of the bill, unless directed by the taxing officer.
- (8) This rule does not limit a party's right to claim the taxed costs of the proceeding under this Order.

- (9) However, a party who claims costs:
- (a) under this rule — has no further claim to recover any of the taxed costs of the proceeding under this Order; and
 - (b) otherwise under this Order — has no further claim to recover any of the taxed costs of the proceeding under this rule.

[3] Schedule 2, after item 43C

insert

Migration Act 1958 — Short Form Bills

43D	Short form amount, including costs and disbursements, that may be claimed by a party in a standard migration case	4 250.00
43E	Short form amount, including costs and disbursements, that may be claimed by the respondent in a migration case on dismissal or discontinuance of the case	1 500.00

Notes

1. These Rules amend Statutory Rules 1979 No. 140, as amended by 1980 No. 87; 1982 Nos. 217 and 408; 1983 No. 264; 1984 Nos. 9 and 258; 1985 Nos. 16, 97, 168 and 227; 1986 Nos. 61, 157 and 324; 1987 Nos. 73, 174 and 197; 1988 Nos. 14, 54, 144, 217 and 306; 1989 Nos. 50, 253 and 318; 1990 Nos. 72, 102, 276, 319, 414 and 453; 1991 Nos. 70, 249, 395 and 461; 1992 Nos. 43, 44, 86, 87, 186, 330, 421 and 453; 1993 Nos. 40, 45, 137, 225 and 290; 1994 Nos. 63, 130, 224, 279, 332 and 463; 1995 Nos. 31, 46, 239 and 449; 1996 Nos. 29 and 308; 1997 Nos. 82, 87, 143, 174, 204, 277 and 425; 1998 Nos. 224, 297 and 323; 1999 Nos. 15, 70, 94, 194, 232, 295, 296 and 360; 2000 Nos. 53, 54, 189, 233, 235, 300 and 372; 2001 Nos. 20, 201, 322 and 329; 2002 Nos. 130, 222 and 281; 2003 Nos. 35, 78, 206 and 377; 2004 No. 38.
2. Notified in the *Commonwealth of Australia Gazette* on / 2004. *24 May*