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Federal Court Amendment Rules 1999 (No. 4)

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Statutory Rules 1999 No. 4

232

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

Dated 4 1999.

20 September

M.E.J. BLACK C.J.
J.F. GALLOP J.
B.A. BEAUMONT J.
J.E.J. SPENDER J.
J.C.S. BURCHETT J.
J.A. MILES J.
D.M. RYAN J.
R.S. FRENCH J.
M.R. EINFELD J.
M.C. LEE J.
H.W. OLNEY J.
J.W. von DOUSSA J.
D.G. HILL J.
M.F. O'LOUGHLIN J.

D.F. O'CONNOR J.
T.J. HIGGINS J.
P.C. HEEREY J.
D.P. DRUMMOND J.
R.E. COOPER J.
A.P. WHITLAM J.
C.J.S.M. CARR J.
M.F. MOORE J.
J.M. MATHEWS J.
K.E. LINDGREN J.
B.J.M. TAMBERLIN J.
R. SACKVILLE J.
S.M. KIEFEL J.
P.D. FINN J.
R.A. SUNDBERG J.
S.R. MARSHALL J.
J.R.F. LEHANE J.
A.M. NORTH J.
R.N. MADGWICK 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.
L.S. KATZ J.
P.G. HELY J.
S.C. KENNY J.
R.V. GYLES J.
Judges of the Federal
Court of Australia

W.G. SODEN
Registrar



Federal Court Amendment Rules 1999 (No. 1)¹

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Statutory Rules 1999 No. 1²

232

made under the

Federal Court of Australia Act 1976

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1 Name of Rules

These Rules are the *Federal Court Amendment Rules 1999* (No. 4).

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2 Commencement

These Rules commence on gazettal.

3 Amendment of Federal Court Rules

Schedule 1 amends the Federal Court Rules.

Schedule 1 Amendments

(rule 3)

[1] Order 1, rule 5A

substitute

5A Filing and lodging documents

- (1) A document that is required or permitted by these Rules to be filed or lodged may be:
 - (a) presented to a Registry when the Registry is open for business; or
 - (b) sent by post to a Registry with a written request for the processing required; or
 - (c) sent by document exchange by being left, addressed to the Federal Court of Australia, at its box at the Australian Document Exchange, with a written request for the processing required; or
 - (d) sent by facsimile transmission to a Registry in accordance with rule 5AB.
- (2) However, a document may not be sent by facsimile transmission if it is:
 - (a) more than 20 pages long (including any annexure or attachment); or
 - (b) an affidavit referred to in Order 77 paragraph 19 (6) (b).
- (3) If a document is required to be signed or stamped, it must be accompanied by the number of copies required, unless it is sent by facsimile transmission.
- (4) If the fee for a document to be filed is not payable, the document must be accompanied by a statement of the reason it is not payable and any supporting evidence.

- (5) A document presented, or sent in accordance with paragraph (1) (b) or (c), to a Registry that is not the proper place for the proceeding, must be accompanied by a letter:
 - (a) identifying the proper place; and
 - (b) requesting that the document be sent to the proper place.
- (6) A document is filed when it is accepted in the Registry and stamped.
- (7) However, a document sent by facsimile transmission is, if accepted, taken to have been filed:
 - (a) if the whole document is received by 4.30 pm on a day when the Registry is open for business — on that day; and
 - (b) otherwise — on the next day when the Registry is open for business.
- (8) A document must not be accepted, without leave of the Court, a Judge or a Registrar, if it appears to a Registrar that the document:
 - (a) is not substantially complete; or
 - (b) does not substantially comply in form with these Rules; or
 - (c) is not properly signed or executed.
- (9) A document must not be accepted if a Registrar, under Order 46 rule 7A:
 - (a) refuses to accept or issue the document; or
 - (b) is directed by a Judge to refuse to accept or issue the document; or
 - (c) is directed by a Judge to refuse to accept or issue the document without first obtaining the leave of a Judge.

-
- (10) If a document sent in accordance with paragraph (1) (b), (c) or (d) is not accepted, the Registrar must notify the sender of the document:
- (a) by telephone on the telephone number stated on the document, cover sheet or accompanying request; or
 - (b) in writing to the postal address or facsimile number stated on the document, cover sheet or accompanying request.
- (11) If a document sent to a Registry by post or document exchange is required to be signed or stamped, and is accepted at the Registry, the Registrar must:
- (a) if the sender requests that the document be held for collection — hold it for collection for 7 days; or
 - (b) if the sender does not request the document to be held for collection, or having made a request does not collect the document within 7 days — return the document in the same way it was sent.

5AB Filing and lodging by facsimile transmission

- (1) The Registrar for each Registry must approve at least one facsimile number for the Registry for the purpose of receiving documents.
- (2) A document sent to a Registry by facsimile transmission must be:
 - (a) sent to an approved facsimile number for the Registry; and
 - (b) accompanied by a cover sheet clearly stating:
 - (i) the sender's name, postal address, document exchange number (if any), telephone number and facsimile number; and
 - (ii) the number of pages transmitted; and
 - (iii) the processing of the document required.

- (3) If the document is in an existing proceeding, it must be sent to an approved facsimile number for the Registry which is the proper place for the proceeding.
- (4) If the document is required to be signed or stamped, and is accepted at the Registry, the Registrar must:
 - (a) make one copy of the document; and
 - (b) if the sender requests that the document be held for collection — hold it for collection for 7 days; and
 - (c) if the sender does not request the document to be held for collection, or having made a request does not collect the document within 7 days — return the document by facsimile transmission to the facsimile number stated on the cover sheet.
- (5) If more than one copy is required for issue, the sender of the document must give the Registry any additional copies required.
- (6) A person who sends a document to a Registry by facsimile transmission must:
 - (a) keep the original document and the transmission report evidencing successful transmission; and
 - (b) produce the original document or the transmission report as directed by the Court.
- (7) If the court directs that the original document be produced, the first page of the document must be endorsed with:
 - (a) a statement that the document is the original of a document sent by facsimile transmission; and
 - (b) the date that the document was sent by facsimile transmission.

[2] Order 4, paragraph 4 (c)

omit

address and telephone

insert

address, telephone and facsimile

[3] Order 4, paragraph 4 (d)

omit

address and telephone

insert

address, telephone and facsimile

[4] Schedule 1, Form 15

omit

Solicitor: (*name*)
(*address*)
telephone: (*number*)
Solicitor's agent: (*name*)
(*address*)
telephone: (*number*)

insert

Solicitor: (*name*)
(*address*)
telephone: (*number*)
facsimile: (*number*)
Solicitor's agent: (*name*)
(*address*)
telephone: (*number*)
facsimile: (*number*)

[5] Schedule 1, Form 55CA*omit*

Solicitor: (Name)
 (Address)
 Telephone: (Number)
 Solicitor's Agent: (Name)
 (Address)
 Telephone: (Number)

insert

Solicitor: (name)
 (address)
 telephone: (number)
 facsimile: (number)
 Solicitor's agent: (name)
 (address)
 telephone: (number)
 facsimile: (number)

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 No. 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 and 194.

2. Notified in the *Commonwealth of Australia Gazette* on 29 September 1999.