



Federal Court Amendment Rules 2006 (No. 2)¹

Select Legislative Instrument 2006 No. 203

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

Dated 27 July 2006

M.E.J. BLACK C.J.
M.R. WILCOX J.
J.E.J. SPENDER J.
P.R.A. GRAY J.
D.M. RYAN J.
R.S. FRENCH J.
T.J. HIGGINS J.
P.C. HEEREY J.
M.F. MOORE 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.
A.M. NORTH J.
R.N. MADGWICK J.

J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
M.S. WEINBERG 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.
A.C. BENNETT J.
B.T. LANDER J.
A.N. SIOPIS J.
R.F. EDMONDS J.
P.R. GRAHAM J.
A.P. GREENWOOD J.
N.J. YOUNG J.
S.D. RARES J.
B. COLLIER J.
D.A. COWDROY J.
A.J. BESANKO J.
C.N. JESSUP J.

Judges of the Federal
Court of Australia

W.G. Soden
Registrar

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2006 (No. 2)*.

2 Commencement

These Rules commence on the day after they are registered.

3 Amendment of Federal Court Rules

Schedule 1 amends the Federal Court Rules.

Schedule 1 Amendments

(rule 3)

[1] Order 1, rule 4, definitions of *convention* and *convention country*

omit

[2] Order 1, rule 4, definition of *document exchange box*

substitute

document exchange means a facility or service through which a member of the facility or service may send a document to another member of the facility or service.

document exchange box means a box in a document exchange.

[3] Order 1, subrule 5A (2), note

omit

2

insert

5

[4] Order 1, subrule 5AC (4)

substitute

- (4) If the document is in an existing proceeding, it must be sent to the Registry which is the proper place for the proceeding:
- (a) by using the court's Internet home page at <http://www.fedcourt.gov.au>; or
 - (b) by addressing it to an email address approved for that Registry.

[5] Order 8

substitute

Order 8 Service outside Australia

Division 1 General

1 Definitions for Order 8

In this Order, unless the contrary intention appears:

Attorney-General's Department means the Commonwealth Attorney-General's Department.

convention, in relation to a foreign country, means a convention, agreement, arrangement or treaty about service abroad of judicial documents to which the Crown in right of the Commonwealth or, where appropriate, in right of a State, and a foreign country are parties.

foreign country means a country other than Australia.

originating process means an application commencing a proceeding, and includes a cross-claim in the proceeding against a person who was not previously a party to the proceeding.

2 When originating process may be served outside Australia

Subject to rule 3, an originating process may be served on a person in a foreign country in a proceeding which consists of, or includes, any 1 or more of the kinds of proceeding mentioned in the following table:

Item	Kind of proceeding in which originating process may be served on a person outside Australia
1	Proceeding based on a cause of action arising in Australia
2	Proceeding based on a breach of a contract in Australia
3	Proceeding in relation to a contract that: <ol style="list-style-type: none"> (a) is made in Australia; or (b) is made on behalf of the person to be served by or through an agent who carries on business, or is resident, in Australia; or (c) is governed by the law of the Commonwealth or of a State or Territory; in which the applicant seeks: <ol style="list-style-type: none"> (d) an order for the enforcement, rescission, dissolution, rectification or annulment of the contract; or (e) an order otherwise affecting the contract; or (f) an order for damages or other relief in relation to a breach of the contract
4	Proceeding based on a tort committed in Australia
5	Proceeding based on, or seeking the recovery of, damage suffered wholly or partly in Australia caused by a tortious act or omission (wherever occurring)
6	Proceeding seeking the construction, rectification, setting aside or enforcement of: <ol style="list-style-type: none"> (a) a deed, will or other instrument; or (b) a contract, obligation or liability; affecting property in Australia
7	Proceeding seeking the execution of a trust governed by a law of the Commonwealth, or of a State or Territory, or any associated relief

Item	Kind of proceeding in which originating process may be served on a person outside Australia
8	Proceeding that affects the person to be served in relation to the person's membership of a corporation that carries on business in Australia or is registered in a State or Territory as a foreign company
9	Proceeding in relation to an arbitration carried out in Australia
10	Proceeding in which the Court has jurisdiction, seeking relief in relation to the guardianship, protection, or care, welfare and development of a person under 18 years (whether or not the person is in Australia)
11	Proceeding based on a breach of a provision of an Act that is committed in Australia
12	Proceeding based on a breach of a provision of an Act (wherever occurring) seeking relief in relation to damage suffered wholly or partly in Australia
13	Proceeding in relation to the construction, effect or enforcement of an Act, regulations or any other instrument having, or purporting to have, effect under an Act
14	Proceeding in relation to the effect or enforcement of an executive, ministerial or administrative act done, or purporting to be done, under an Act, regulations or any other instrument having, or purporting to have, effect under an Act
15	Proceeding seeking contribution or indemnity in relation to a liability enforceable by a proceeding in the Court
16	Proceeding in which: (a) the person to be served is domiciled or ordinarily resident in Australia; or (b) if the person is a corporation, the corporation is incorporated in Australia, carries on business in Australia or is registered in a State or Territory as a foreign company
17	Proceeding in which the person to be served has submitted to the jurisdiction of the Court
18	Proceeding properly brought against a person who is served, or is to be served, in Australia, if the person to be served has been properly joined as a party

Item	Kind of proceeding in which originating process may be served on a person outside Australia
19	Proceeding in which the subject matter, so far as it concerns the person to be served, is property in Australia
20	Proceeding seeking the perpetuation of testimony in relation to property in Australia
21	Proceeding seeking an injunction ordering a person to do, or to refrain from doing, anything in Australia (whether or not damages are also sought)
22	Proceeding affecting the person to be served in relation to: <ul style="list-style-type: none"> (a) the person's membership of, or office in, a corporation incorporated, or carrying on business, in Australia; or (b) the person's membership of, or office in, an association or organisation formed, or carrying on business, in Australia; or (c) the person's conduct as a member or officer of such a corporation, association or organisation

3 Application for leave to serve originating process outside Australia

- (1) Service of an originating process on a person in a foreign country is effective for the purpose of a proceeding only if:
 - (a) the Court has given leave under subrule (2) before the application is served; or
 - (b) the Court confirms the service under subrule (5); or
 - (c) the person served waives any objection to the service by entering an appearance in the proceeding.
- (2) The Court may give leave to a party to serve an originating process on a person in a foreign country in accordance with a convention or the law of the foreign country, on such terms and conditions as it considers appropriate, if the Court is satisfied that:
 - (a) the Court has jurisdiction in the proceeding; and
 - (b) the proceeding is of a kind mentioned in rule 2; and
 - (c) the person seeking leave has a prima facie case for the relief claimed by the person in the proceeding.

Note The law of a foreign country may permit service through the diplomatic channel or service by a private agent.

- (3) The evidence on an application for leave under subrule (2) must include the following:
 - (a) the name of the foreign country where the person to be served is or is likely to be;
 - (b) the proposed method of service;
 - (c) a statement that the proposed method of service is permitted by:
 - (i) if a convention applies — the convention; or
 - (ii) in any other case — the law of the foreign country.
- (4) Nothing in this rule prevents the Court from giving leave to a person to give notice, in a foreign country, of a proceeding in the Court on the basis that giving the notice takes the place of serving the originating process in the proceeding.
- (5) If an originating process was served on a person in a foreign country without the leave of the Court, the Court may, by order, confirm the service if the Court is satisfied that:
 - (a) paragraphs (2) (a), (b) and (c) apply to the proceeding; and
 - (b) the service was permitted by:
 - (i) if a convention applies — the convention; or
 - (ii) in any other case — the law of the foreign country; and
 - (c) the failure to apply for leave is sufficiently explained.

4 Service of other documents

- (1) The Court may give leave to a party to serve a document issued by the Court (other than an originating process) on a person in a foreign country in accordance with a convention or the law of the foreign country, on such terms and conditions as it considers appropriate.

Note The law of a foreign country may permit service through the diplomatic channel or service by a private agent.

- (2) The evidence on an application for leave under subrule (1) must include the information mentioned in paragraphs 3 (3) (a) to (c).

- (3) If a document (other than an originating process) was served on a person in a foreign country without the leave of the Court, the Court may confirm the service if the Court is satisfied that:
- (a) the service was permitted by:
 - (i) if a convention applies — the convention; or
 - (ii) in any other case — the law of the foreign country; and
 - (b) the failure to apply for leave is sufficiently explained.

5 Application of other rules

The other Orders of these Rules apply to service of a document on a person in a foreign country in the same way as they apply to service on a person in Australia, so far as they are:

- (a) relevant and not inconsistent with this Order; and
- (b) not inconsistent with:
 - (i) if a convention applies — the convention; or
 - (ii) in any other case — the law of the foreign country.

6 Method of service

A document that is to be served on a person in a foreign country need not be served personally on the person if it is served on the person in accordance with the law of the foreign country.

7 Substituted service

- (1) This rule applies if an official certificate or declaration (whether made on oath or otherwise) is sent to the Court by the government or a court of a foreign country stating that attempts to serve a document on a person in the foreign country, in accordance with a convention or through the diplomatic channel, have not been successful.
- (2) On application by the person seeking service, the Court may order such steps be taken, as are specified in an order, for the purpose of bringing the document to the notice of the person to be served.

- (3) If the Court makes an order under subrule (2), the Court may order that a document is taken to have been served when a specified event happens or on the expiry of a specified time.

8 Proof of service

- (1) An official certificate or declaration (whether made on oath or otherwise) stating that a document has been personally served on a person in a foreign country, or served on the person in another way in accordance with the law of the foreign country, is sufficient proof of the service of the document.
- (2) If filed, the certificate or declaration:
 - (a) is taken to be a record of the service of the document; and
 - (b) has effect as if it were an affidavit of service.

Division 2 Service through the diplomatic channel or by transmission to a foreign government

9 Documents to be lodged with the Court

- (1) This rule applies if a person has been given leave to serve a document on a person in a foreign country:
 - (a) through the diplomatic channel; or
 - (b) by transmission to a foreign government in accordance with a convention (the *relevant convention*).
- (2) The person given leave must lodge in the District Registry:
 - (a) a request for service in accordance with Form 14A; and
 - (b) a request for transmission in accordance with Form 14B; and
 - (c) a written undertaking by the person, or the person's legal practitioner, to pay to the Registrar the amount of the expenses incurred by the Court in giving effect to the person's request; and
 - (d) 2 copies (or such other number of copies as may be required by the relevant convention) of each document to be served; and

-
- (e) if necessary, a translation into an official language of the foreign country (including a statement by the translator attesting to the accuracy of the translation) of the following:
- (i) the request for transmission mentioned in paragraph (b);
 - (ii) each document to be served.

10 Order for payment of expenses

- (1) This rule applies if:
- (a) a person files an undertaking under paragraph 9 (2) (c) in relation to a request for service on a person in a foreign country in accordance with a convention or through the diplomatic channel; and
 - (b) the person does not, within 14 days after being sent an account for expenses incurred in relation to the request, pay to the Registrar the amount of the expenses.
- (2) On application by the Registrar, the Court may:
- (a) order the person to pay the amount of the expenses to the Registrar; and
 - (b) stay the proceeding, so far as it concerns the whole or any part of a claim for relief by the person, until the amount of the expenses is paid.

[6] Order 33, subrule 11 (3)

substitute

- (3) Subrule (1) applies only if an order is made for production to the Court or any officer of the Court, or any examiner, or other person authorised to receive evidence, on a trial or hearing or other occasion on which evidence is being adduced.
- (3A) Subrule (2) applies only if a question is put to a person in the course of examination before the Court or any officer of the Court, or any examiner, or other person authorised to receive evidence, on a trial or hearing or other occasion on which evidence is being adduced.

[7] Order 46, rule 7A

substitute

7A Refusal to accept document for filing

- (1) A Registrar may refuse to accept or issue a document (including any document which is, or if issued will become, an originating document) if the document appears to the Registrar on its face to be an abuse of the process of the Court or to be frivolous or vexatious.
- (2) A Registrar may seek the direction of a Judge who may direct the Registrar that a document (including any document which is, or if issued will become, an originating document):
 - (a) is to be accepted or issued; or
 - (b) is not to be accepted or issued; or
 - (c) is not to be accepted or issued without the leave of a Judge.

[8] Order 51, rule 2

omit

The party whose case raises the constitutional matter or such other party as the Court may direct shall file notice of a constitutional matter and serve a copy thereof on every other party and on the Attorneys-General of the Commonwealth, the States and the Northern Territory:

insert

The party whose case raises the constitutional matter, or such other party as the Court may direct, must file notice of a constitutional matter and serve a copy of the notice on all other parties and the Attorneys-General of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory:

[9] Order 52, paragraph 2AA (a)

substitute

- (a) a Judge directs that the application be heard and determined by a Full Court; or

[10] Order 52B, subrule 1 (2)

substitute

- (2) Expressions used in this Order that are defined for the purposes of Part IVC of the Taxation Administration Act or Division 359 in Schedule 1 to that Act have the same meaning in this Order as they have in that Part or Division.

[11] Order 52B, subparagraph 5A (a) (v)

substitute

- (v) a copy of any documents given to the Commissioner by the applicant in support of an application under section 359-10 of Schedule 1 to the Taxation Administration Act or containing information given by the applicant to the Commissioner under section 357-105 or 357-115 of Schedule 1 to that Act; and

[12] Order 53, after paragraph 15 (2) (d)

insert

- (da) give directions, for paragraph 44 (8) (b) of the *Administrative Appeals Tribunal Act 1975*, as to the giving of further evidence;

[13] Order 80, subrule 4 (1)

omit

assistance.

insert

assistance in relation to a proceeding before the Court.

[14] Order 80, after rule 4

insert

4A Further direction

The Registrar may seek the direction of the Court or a Judge in relation to a referral made under rule 4.

[15] Order 80, after rule 6

insert

6A Cessation of Referral Certificate

Unless the Court or a Judge otherwise directs, a Referral Certificate ceases to have effect if:

- (a) the Referral Certificate is not accepted by a legal practitioner within 28 days of the referral; or
- (b) a legal practitioner has provided the legal assistance mentioned in the referral; or
- (c) a legal practitioner has ceased to provide legal assistance under rule 7; or
- (d) the proceeding the referral relates to is finalised or transferred to another court.

[16] Schedule 1, Form 14A

substitute

Form 14A Request to Court for service in a foreign country

(Order 8, rule 9)

I, *(insert name)*

request that *(identify document(s) to be served)*

be transmitted *in accordance with the *(insert name of convention)*/*through the diplomatic channel to *(insert name of country)*

for service on the respondent *(insert name of respondent)*

at *(insert address for service)* or elsewhere in *(insert name of country)*.

I personally undertake to be responsible for all expenses incurred by the Commonwealth in respect of the requested service and, on receiving due notification of the amount of the expenses, will pay the amount to the Commonwealth and will produce the receipt for that payment to the proper officer of the Federal Court of Australia.

Dated

.....
(Signature of solicitor)

* *Omit if inapplicable*

Version 2

[17] Schedule 1, Form 14B

substitute

Form 14B Request for transmission of notice to a foreign government

(Order 8, rule 9)

The Chief Justice of the Federal Court of Australia at *(insert address of relevant registry)* requests the Secretary of the Attorney-General's Department*/Department of Foreign Affairs and Trade* to transmit to the government of *(insert name of country)* the following documents:

with the requests that:

- (a) the documents be served on *(insert name of respondent)*, against whom these proceedings have been taken in the Federal Court of Australia, in accordance with the law of *(insert name of country)*; and
- (b) evidence of service of the documents be officially certified or declared (on oath or otherwise) to this Court in such manner as is consistent with usage or practice of the courts in *(insert name of country)* in proving service of legal process.

*The Chief Justice further requests that, if efforts to effect personal service of the documents prove ineffectual, the government or court of *(insert name of country)* be requested to certify or declare (on oath or otherwise) that fact to this Court.

*The following information is provided in support of the request:

(insert any additional information that may be required by any convention applying to the service of the documents)

Dated

* *Omit if inapplicable. The request should be made to:*

- (a) *if the Attorney-General's Department is the Central Authority for the purposes of a convention that applies to the service of the documents — the Secretary of the Attorney-General's Department;*
or

(b) *in any other case — the Secretary of the Department of Foreign Affairs and Trade.*

Version 2

[18] Schedule 1, Form 14C

omit

[19] Schedule 1, Forms 37 to 39

substitute

Form 37 Order for examination

(Order 24, paragraph 1 (1) (a))

THE COURT ORDERS THAT:

1. (name) of (address)
be examined on oath before (name and address, or describe examiner).

(Complete as in general form of order under Order 36.)

Version 2

Form 38 Order appointing examiner

(Order 24, paragraph 1 (1) (a))

THE COURT ORDERS THAT:

1. (Name and address or description) be appointed
examiner for the purpose of taking the examination on oath of a witness
(name) of (address out of Australia)
in accordance with the Rules of this Court (but without the power to compel a
witness to attend *if this is required by a convention, agreement, arrangement, or
treaty to which the Crown in right of the Commonwealth or, where appropriate,
in right of a State, and a country other than Australia are parties, about legal
proceedings in civil matters*).

2. The party obtaining this order give to each other interested party 7 days' notice in writing of the date on which he proposes to send this order to the examiner.

3. Not less than 4 days after that notice has been given each party shall give to the other the name of his agent at (place) to whom notices may be sent.

(Complete as in general form of order under Order 37.)

Version 2

Form 39 Order

(Order 24, paragraph 1 (1) (b))

THE COURT ORDERS THAT:

1. A letter of request be sent to the judicial authorities of (country) to take or cause to be taken the evidence of (name)

(Complete as in general form of order under Order 37.)

Version 2

[20] Schedule 1, Form 55A

substitute

Form 55A Notice of Appeal

(Order 53, rule 2, Order 53B, rule 2 and Order 59, rule 1)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY } No. of

On appeal from the (insert name of Tribunal) constituted by (the names of the members constituting the Tribunal which made the decision)

BETWEEN

A.B. Applicant

and

C.D. Respondent

NOTICE OF APPEAL

1. TAKE NOTICE that the applicant appeals from the decision or determination of (specify Tribunal below) constituted by (specify members constituting the Tribunal) given on (specify date) at (specify place) by which the

Tribunal decided or determined (*specify decision or determination appealed from*).

- 2. THE QUESTIONS OF LAW raised on appeal are — (*specify each question of law*).
- 3. ORDERS SOUGHT: (*state the orders or relief sought by the applicant*).
- 4. GROUNDS: (*specify grounds relied upon in support of the orders sought*).
- 5. FINDINGS OF FACT (*if any*) that the Court is asked to make are: (*specify each finding*).

Note Item 5 only applies to appeals under section 44 of the *Administrative Appeals Tribunal Act 1975*.

Date: e.g. 7 May 20 .

(Signed, applicant or applicant’s solicitor)

Note Order 53, subrule 6 (2) provides that within 7 days after filing this notice of appeal, the applicant must serve a copy of it on all other parties to the proceedings before the Tribunal and on the Registrar of the Tribunal.

To the respondent: (*address*)

TAKE NOTICE:

A directions hearing in this appeal will be heard by the Court at the time and place specified below. If there is no attendance before the Court by you or a legal practitioner representing you, directions may be given and orders made in your absence.

Before taking any step in the proceeding or attending at the directions hearing you must file an appearance in the Registry.

Time: (*date and time to be entered by Registry unless fixed by Court*)

Place: (*address of Court*)

(*where the time for service has been shortened, add —*)

The time in which this notice of appeal, with its notice of the directions hearing, is to be served has been shortened by the Court to (*specify time*).

Date: e.g. 7 May 20 .

.....

(Signed: REGISTRAR)

The applicant's address for service is (*specify address for service*).

Version 3

[21] Schedule 2

substitute

Schedule 2 Scale of costs for work done and services performed

(Order 62, rule 12)

Item	Matter for which charge may be made	Charge (\$)
<i>Instructions</i>		
1	To sue or defend, to appeal or oppose an appeal or for any other originating proceeding	223
2	To make or oppose an interlocutory application or motion to the Court or a Judge or an officer of the Court	100
3	For a case for opinion of counsel or for counsel to advise (including attendance on counsel with brief)	96
4	For an interrogatory, answer to an interrogatory or an affidavit (except a formal affidavit), an admission or a list of documents (and affidavit verifying)	134
5	For brief for counsel on application in chambers or brief notes for solicitor (if necessary)	122
	<i>or</i>	
	in respect of items 1 to 5 of this scale, having regard to all the circumstances of the case	any other amounts that the taxing officer considers appropriate

Item	Matter for which charge may be made	Charge (\$)
6	For brief for counsel or brief notes for solicitor (if necessary), having regard to all the circumstances of the case	a sum that the taxing officer thinks fit
7	For a necessary document not otherwise provided for, having regard to all the circumstances of the case	a sum that the taxing officer thinks fit
<i>Documents</i>		
8	Any notice of appearance, including copies, filing and service by respondent	123
9	Any application or notice of motion, including fixing return day, copies to file and serve, and attendance to file	100
	if more than 3 folios — add for each folio	7
10	Any simple notice or memorandum such as a notice for discovery, including copies, filing (if necessary) and service	80
11	Notice to produce, notice to admit or any similar notice, including copies, filing (if necessary) and service	100
	if more than 3 folios — add for each folio	7
12	A brief to counsel (including a brief to hear judgment) and attending counsel with the brief	85
	if more than 3 folios — add for each folio	8
	For copy documents to accompany brief	the other charges in this scale that are appropriate
13	Any necessary subpoena, including issuing 1 copy to serve and arranging for service	68
<i>Drawing</i>		
14	Any necessary document — for each folio	10
<i>Engrossing or Typing</i>		
15	Any necessary document — for each folio	4

Item	Matter for which charge may be made	Charge (\$)
<i>Copies</i>		
16	Of any document, including carbon, photographic or machine-made copy — for each page except if allowance for 10 or more pages is claimed in respect of any document or documents	2 at the discretion of the taxing officer
<i>Perusal</i>		
17	Of any document (if necessary) including special letter, telegram or telex, up to 3 folios <i>or per folio</i> except if allowance for 30 or more folios is claimed in respect of any document or documents	18 4 at the discretion of the taxing officer
18	If it is not necessary to peruse but it is necessary to scan a document — for each page except if allowance for 10 or more pages is claimed in respect of any document or documents	7 at the discretion of the taxing officer
<i>Examination</i>		
19	If it is necessary to neither peruse nor scan a document, eg an examination of an appeal book: for examination — for each half hour	
	• solicitor	80
	• clerk	18
<i>Letters</i>		
20	Short letter — simple form of letter, eg formal acknowledgment	13
21	Ordinary letter, including letter between principal and agent	25
22	Circular letter (after the first) — for each letter	8

Item	Matter for which charge may be made	Charge (\$)
23	Special letter or letter including opinion	54 <i>or</i> an amount that is reasonable having regard to the length of the letter, the questions involved and appropriate items and charges in this scale
24	Telegram, facsimile copy, or telex including attendance to dispatch	68 <i>or</i> an amount that is reasonable in the circumstances
25	Receiving and filing any incoming letter	8
	<i>Note</i> Postage and transmission expenses may be claimed as a disbursement properly incurred.	
	<i>Service</i>	
26	Personal service (except if service is able to be claimed under another item of this scale) of any document of which personal service is required	67 <i>or</i> an amount that is reasonable, having regard to time occupied, distance travelled and other relevant circumstances
27	Service of any document at the office of the address for service, either by delivery or by post	18
	<i>Preparation of Appeal Books</i>	
28	Preparation of appeal books, including collating all necessary material, attendances on the printer, general oversight of their preparation in cases where the taxing officer is satisfied it has been done efficiently — for each hour:	
	• solicitor	144

Item	Matter for which charge may be made	Charge (\$)
	<ul style="list-style-type: none"> • clerk 	36
29	If appeal books are prepared in a solicitor's office, a sum that the taxing officer considers is just and reasonable, having regard to work and labour properly performed and charges for material used. In exercising his or her discretion, the taxing officer must have regard to commercial rates for copying and binding and is not obliged to apply the photographic or machine-made copy costs otherwise allowable in this scale	
	<i>Attendances</i>	
30	An attendance that is capable of being made by a clerk, such as at the court registry	36
31	An attendance that requires the attendance of a solicitor or managing clerk and involves the exercise of skill or legal knowledge (including an attendance to inspect or negotiate) — for each quarter hour:	
	<ul style="list-style-type: none"> • solicitor 	65
	<ul style="list-style-type: none"> • managing clerk 	14
32	An attendance for which no other provision is made in this scale	59
33	An attendance by telephone that does not involve the exercise of skill or legal knowledge	12
34	An attendance on counsel:	
	<ul style="list-style-type: none"> • with brief or papers (if not otherwise provided for) 	37
	<ul style="list-style-type: none"> • to appoint a conference or consultation 	37
	<ul style="list-style-type: none"> • if appointment made by telephone 	12
35	A necessary conference or consultation with counsel:	
	<ul style="list-style-type: none"> • if half an hour or less 	100
	<ul style="list-style-type: none"> • if over half an hour — for each hour or part of an hour 	144

Item	Matter for which charge may be made	Charge (\$)
36	In court or chambers or before the Registrar for hearing without counsel:	
	• for each hour or part of an hour of the hearing	289
	• for each hour or part of an hour when likely to be heard, but not heard	289
	• not to exceed per day	1 296
37	In court or chambers or before the Registrar for hearing with counsel:	
	• for each hour or part of an hour of the attendance during the hearing	235
	• for each hour or part of an hour of the attendance when likely to be heard, but not heard	235
	• not to exceed per day	1 065
	If a person other than a solicitor attends in place of a solicitor:	
	(a) attendance by a managing clerk:	
	• for each hour	100
	• not to exceed per day	435
	(b) attendance by any other clerk:	
	• for each hour	53
	• not to exceed per day	231
38	To hear judgment	67
39	On taxation of costs:	
	• if a solicitor attends — for each hour or part of an hour	144
	• if a clerk attends — for each hour or part of an hour	36

Item	Matter for which charge may be made	Charge (\$)
40	If a solicitor attends at court or chambers for the hearing of an application or appeal, or on conference with counsel, at a distance of more than 50 kilometres from his or her place of business, and it is neither appropriate nor proper for an agent to attend, the taxing officer may allow for each day of absence from the place of business (except a Saturday, Sunday or public holiday) an amount that the taxing officer considers reasonable — not exceeding	329
<i>General Care and Conduct</i>		
41	If the case or circumstances warrant it, an allowance may be claimed under this item, in addition to any other item that appears in this scale, for general care and conduct (if appropriate) including the following: <ul style="list-style-type: none"> (a) the complexity of the matter and the difficulty and novelty of questions raised; (b) the importance of the matter to the party and the amount involved; (c) the skill, labour, specialised knowledge and responsibility involved in the matter on the part of the solicitor; (d) the number and importance of the documents prepared or perused, without regard to length; (e) the time taken by the solicitor; (f) research and consideration of questions of law and fact 	a percentage of the total amount of the allowed costs excluding disbursements
<i>Counsel's Fees</i>		
42	It is proper for a solicitor to incur an amount for counsel's fees that appears to be fair and reasonable according to the circumstances of the case and the seniority of counsel. The fees incurred may be claimed as a disbursement	

Item	Matter for which charge may be made	Charge (\$)
43	If a solicitor briefs another solicitor as counsel, when it would be appropriate to brief counsel	a sum as a counsel's fee that the taxing officer considers just and reasonable having regard to the practice of allowing these fees that is permitted by the Supreme Court Rules of the State or Territory concerned (Order 62, rule 35)
<i>Corporations Act 2001 — Short Form Bill</i>		
43A	The amount as to the costs of obtaining a winding-up order, up to and including entry and service of the order under section 470 of the <i>Corporations Act 2001</i> and the obtaining of a certificate of taxation Additional costs are allowable for any adjournment in which costs have been reserved by the Court in accordance with item 36 or 37, as the case may be	3 039
<i>Bankruptcy Act 1966 — Short Form Bills</i>		
43B	Short form amount that may be claimed by an applicant on the making of a sequestration order	1 948
43C	Short form amount that may be claimed by an applicant on the dismissal of a petition	1 679
<i>Migration Act 1958 — Short Form Bills</i>		
43D	Short form amount, including costs and disbursements, that may be claimed by a party in a standard migration case	4 965

Item	Matter for which charge may be made	Charge (\$)
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	1 752
<i>Witnesses' Expenses</i>		
44	Witnesses called because of their professional, scientific or other special skill or knowledge — for each day	172 to 849
45	Witnesses called, other than those covered in item 44 — for each day	100 to 159
46	Witnesses remunerated in their occupation by wages, salary or fees	the amount lost by attendance at Court
47	If a witness lives more than 50 kilometres from the Court	a sum that the taxing officer considers reasonable for the actual cost of travel, together with a reasonable amount for meals and accommodation
<i>Disbursements</i>		
48	All court fees and other fees and payments	to the extent to which they have been properly and reasonably incurred and paid
49	If a solicitor attends at court or chambers, or on conference with counsel, in the circumstances outlined in item 40	reasonable travelling expenses to the extent to which they have been reasonably incurred and paid

Item	Matter for which charge may be made	Charge (\$)
<i>Miscellaneous</i>		
50	Matters not included in this scale may be allowed to the extent they are covered by Order 62, rule 21	
	<i>Note 1</i> Bills of costs prepared in accordance with Order 62, rule 40 must identify costs and disbursements claimed with an item number.	
	<i>Note 2</i> A folio comprises 72 words (there are generally 3 folios to each page).	

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.