



Federal Court Amendment Rules 2007 (No. 1)¹

Select Legislative Instrument 2007 No. 229

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

Dated 24 July 2007

M.E.J. BLACK C.J.
J.E.J. SPENDER J.
D.M. RYAN J.
R.S. FRENCH J.
T.J. HIGGINS J.
P.C. HEEREY J.
M.F. MOORE J.
C.M. BRANSON J.
K.E. LINDGREN J.
B.J.M. TAMBERLIN J.
R. SACKVILLE J.
S.M. KIEFEL J.
R.D. NICHOLSON 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.R. EMMETT J.
R.A. FINKELSTEIN J.
M.S. WEINBERG J.
J.A. DOWSETT J.
S.C. KENNY J.
R.V. GYLES J.
R.A. CONTI J.
M.A. STONE J.
J.L.B. ALLSOP 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.
S.D. RARES J.
B. COLLIER J.
D.A. COWDROY J.
A.J. BESANKO J.
C.N. JESSUP J.
R.R.S. TRACEY J.
J.E. MIDDLETON J.
R.J. BUCHANAN J.
J. GILMOUR J.
M.M. GORDON J.

Judges of the Federal
Court of Australia

W.G. SODEN
Registrar

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2007 (No. 1)*.

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 10, rule 4

substitute

4 Motion for summary judgment, stay or dismissal

- (1) A party may, at the directions hearing, move for:
 - (a) an order under Order 20, rule 4 or 5; or
 - (b) judgment under Order 20, rule 2 or section 31A of the Act.
- (2) The party must serve notice of the motion on each other party to the proceeding at least 3 days before the directions hearing.
- (3) The Court may dispense with service under subrule (2).

[2] Order 15A, subrules 9 (1) and (2)*omit*

a Judge

insert

the Court or a Judge

[3] Order 15A, subrule 11 (1)*substitute*

- (1) The Court may make an order for the costs and expenses of the applicant, a party to the proceeding or a person against whom an order is made or sought, including the following:
- (a) the costs of making and serving a list of documents;
 - (b) the costs of producing a document for inspection in accordance with rule 10;
 - (c) the costs of complying with an order made under Division 2 of Order 15;
 - (d) if the order made or sought was similar to a subpoena — expenses or compensation that would have been allowable under Order 27, rule 11 if the order was for a subpoena.

[4] Order 20*substitute*

Order 20 Summary disposal and stay of proceedings

1 Definitions

In this Order:

applicant includes a cross-claimant.*claim* includes a cross-claim.*respondent* includes a cross-respondent.

2 Summary judgment (proceedings commenced before 1 December 2005)

- (1) This rule applies to a proceeding commenced before 1 December 2005 if, for the whole or a part of an applicant's claim for relief:
 - (a) there is evidence of the facts on which the claim or part is based; and
 - (b) either:
 - (i) there is evidence given by the applicant or by a responsible person that, in the belief of the person giving the evidence, the respondent has no defence to the claim or part; or
 - (ii) the respondent's defence discloses no answer to the claim or part.
- (2) The Court may give judgment for the applicant on the claim or part.
- (3) If the Court gives judgment for the applicant against the respondent under this rule, and the respondent claims relief against the applicant, the Court may stay execution on, or other enforcement of, the judgment until the respondent's claim is determined.

3 Stay of enforcement of summary judgment (proceedings commenced on or after 1 December 2005)

- (1) This rule applies if:
 - (a) the Court gives judgment under subsection 31A (1) of the Act for the whole or a part of the prosecuting party's claim for relief; and
 - (b) the other party claims relief against the prosecuting party.
- (2) The Court may stay execution on, or other enforcement of, the judgment until the other party's claim is determined.

4 Stay or dismissal (proceedings commenced before 1 December 2005)

- (1) This rule applies to a proceeding commenced before 1 December 2005 if the Court is satisfied that, for the proceeding generally or for a claim for relief in the proceeding:
 - (a) no reasonable cause of action is disclosed; or
 - (b) the proceeding or claim is frivolous or vexatious; or
 - (c) the proceeding or claim is an abuse of the process of the Court.
- (2) The Court may order that the proceeding be stayed or dismissed generally or in relation to the claim for relief.
- (3) The Court may receive evidence on the hearing of an application for an order under subrule (2).

5 Stay or dismissal (proceedings commenced on or after 1 December 2005)

- (1) This rule applies to a proceeding commenced on or after 1 December 2005 if the Court is satisfied that, for the proceeding generally or for a claim for relief in the proceeding:
 - (a) the proceeding or claim is frivolous or vexatious; or
 - (b) the proceeding or claim is an abuse of the process of the Court.
- (2) The Court may order that the proceeding be stayed or dismissed generally or in relation to the claim for relief.
- (3) The Court may receive evidence on the hearing of an application for an order under subrule (2).

Note For a proceeding commenced on or after 1 December 2005 in which the prosecuting party has no reasonable prospect of success, see subsection 31A (2) of the Act.

6 Residue of proceedings

- (1) Subrule (2) applies if, in a proceeding commenced before 1 December 2005:
 - (a) a party applies for:
 - (i) a judgment under rule 2; or
 - (ii) an order for stay or dismissal under rule 4; and
 - (b) the proceeding is not wholly determined by judgment or dismissal or is not wholly stayed.
- (2) The proceeding may be continued for a claim or part of a claim not disposed of by judgment or dismissal and not stayed.
- (3) Subrule (4) applies if, in a proceeding commenced on or after 1 December 2005:
 - (a) a party applies for:
 - (i) an order for stay or dismissal under rule 5; or
 - (ii) a judgment under section 31A of the Act; and
 - (b) the proceeding is not wholly determined by judgment or dismissal or is not wholly stayed.
- (4) The proceeding may be continued for a claim or part of a claim not disposed of by judgment or dismissal and not stayed.

[5] Order 35, rule 12*omit***[6] Order 37, rule 11***omit*

[7] Order 46, after rule 7A*insert***7AA Powers of the Court that may be exercised by a Registrar (Act s 35A)**

For paragraph 35A (1) (h) of the Act, the following powers of the Court are prescribed:

- (a) a power of the Court under a provision of an Act mentioned in Schedule 3;
- (b) a power of the Court under a provision of these Rules mentioned in Schedule 3;
- (c) the power of the Court under section 23 of the Act:
 - (i) to make an order for the dismissal of a proceeding in accordance with a written consent given by the parties to the proceeding, or by the legal practitioners on the record as representing the parties; and
 - (ii) to make an order, in conjunction with an order under subparagraph (i), for the payment of costs in accordance with a written consent given by the parties to the proceeding, or by the legal practitioners on the record as representing the parties;
- (d) the power of the Court under section 53A of the Act to make an order referring a proceeding to mediation or arbitration, if the parties consent to the referral;
- (e) the power of the Court under Order 35, rule 7 to set aside a judgment or order, made by the Registrar exercising the power, before it has been entered.

Note See also the following:

- (a) paragraphs 35A (1) (a) to (g) of the Act;
- (b) Order 78, rule 3A and Schedule 4;
- (c) rule 16.1 and Schedule 2 to the *Federal Court (Corporations) Rules 2000*;
- (d) rule 2.02 and Schedule 2 to the *Federal Court (Bankruptcy) Rules 2005*.

[8] Order 52, rule 10A

substitute

10A Revocation or variation of a grant of leave by a single judge

- (1) This rule applies if leave to appeal has been granted.
- (2) The Full Court or, for an appeal from a judgment of the Federal Magistrates Court that is to be heard by a Judge, the Judge may:
 - (a) revoke the leave to appeal, wholly or in part; or
 - (b) impose a condition on the leave to appeal; or
 - (c) vary a condition of the leave to appeal.

[9] Order 52, rule 37A

omit

[10] Order 53, rule 15

substitute

15 Directions

- (1) The Court or a Judge may give directions about the conduct of the proceeding.
- (2) Without limiting subrule (1), the Court or a Judge may do any of the following:
 - (a) determine what documents and matters must be included in the appeal papers and the order of inclusion;
 - (b) determine what documents and matters were before the Tribunal;
 - (c) settle the index;
 - (d) determine the number of copies of the appeal papers required;

- (e) give directions, for paragraph 44 (8) (b) of the *Administrative Appeals Tribunal Act 1975*, for the giving of further evidence;
- (f) direct the joinder of parties;
- (g) refer the notice of appeal and any other necessary papers to the Chief Justice for a direction on whether the appeal should be heard by a Full Court;
- (h) direct the place, time and mode of hearing;
- (i) determine any other matter for the purpose of preparing the appeal for hearing.

[11] Order 53, rule 17

omit

[12] Order 53B

substitute

Order 53B Appeals from the Superannuation Complaints Tribunal

1 Application of Order 53B

This Order applies to an appeal to the Court, under section 46 of the *Superannuation (Resolution of Complaints) Act 1993*, from a determination of the Superannuation Complaints Tribunal.

2 Application of Order 53

- (1) Order 53 applies, with any necessary changes and subject to subrule (2), to an appeal to which this Order applies.

-
- (2) For an appeal to which this Order applies:

appropriate registry means the Registry in the State or Territory in which the applicant ordinarily resides.

[13] Order 54, rules 6 and 7

substitute

6 Staying or dismissal of applications

In applying Order 20, rule 4 to an application under the *Administrative Decisions (Judicial Review) Act 1977*, the rule must be interpreted as if paragraph (1) (a) of the rule read ‘no reasonable basis for the application is disclosed’.

7 Application for summary judgment, stay or dismissal

- (1) A party may apply to the Court:
- (a) for a judgment in an application for an order of review under Order 20, rule 2 or section 31A of the Act; or
 - (b) to have an application for an order of review stayed or dismissed:
 - (i) under Order 20, rule 4 or 5; or
 - (ii) on a ground set out in section 10 of the *Administrative Decisions (Judicial Review) Act 1977*; or
 - (iii) in the exercise of the Court’s discretion.
- (2) An application under this rule must be made within 14 days after the party is served with the application for an order of review.

[14] Order 54, rule 8, heading

substitute

8 Use of affidavit without cross-examination of maker

[15] Order 54B, rules 5 and 6*substitute***5 Staying or dismissal of applications**

In applying Order 20, rule 4 to an application to which this Order applies, the rule must be interpreted as if paragraph (1) (a) of the rule read ‘no reasonable basis for the application is disclosed’.

6 Application for summary judgment, stay or dismissal

- (1) A party may apply to the Court:
 - (a) for a judgment in an application for an order of review under Order 20, rule 2 or section 31A of the Act; or
 - (b) to have an application to which this Order applies dismissed:
 - (i) under Order 20, rule 4 or 5; or
 - (ii) in the exercise of the Court’s discretion.
- (2) An application under this rule must be made within 14 days after the party is served with the application to which this Order applies.

[16] Order 62, rule 40B, heading*substitute***40B Short form bill for migration cases (original jurisdiction)****[17] Order 62, subrules 40B (4) to (9)***omit*

[18] Order 62, after rule 40B

insert

40C Short form bill for migration cases (appeal jurisdiction)

- (1) This rule applies to an application or migration appeal case commenced on or after the commencement of this rule.
- (2) A respondent to an application that is discontinued or dismissed may claim as costs of the proceeding, including disbursements, an amount not more than the amount that, on the date when the proceeding was commenced, was set out in item 43F in Schedule 2.
- (3) A party to a migration appeal case that is finalised before a final hearing may claim as costs of the proceeding, including disbursements, an amount not more than the amount that, on the date when the proceeding was commenced, was set out in item 43G in Schedule 2.
- (4) A party to a migration appeal case that is finalised after a final hearing may claim as costs of the proceeding, including disbursements, an amount not more than the amount that, on the date when the proceeding was commenced, was set out in item 43H in Schedule 2.
- (5) In this rule:
application means:
 - (a) an application for leave to appeal to the Court from an FMC judgment; or
 - (b) an application for an extension of time to make an application mentioned in paragraph (a); or
 - (c) an application for an extension of time to file a notice of appeal.

FMC judgment means a judgment of the Federal Magistrates Court in relation to a migration decision.

migration appeal case means an appeal to the Court from an FMC judgment.

migration decision has the meaning given by subsection 5 (1) of the *Migration Act 1958*.

40D Procedure — short form bills for migration cases

- (1) A party who claims costs under rule 40B or 40C (the *claimant*) must serve on the other party a bill of costs, including disbursements, (the *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.
 - (2) If the other party objects to the claim being made under rule 40B or 40C, the other party must, within 14 days after being served with the bill, give the claimant written notice of the objection.
 - (3) If the claimant receives a notice of objection, the claimant must, within 14 days after receiving the notice, file a copy of the following documents:
 - (a) the notice;
 - (b) the bill;
 - (c) the affidavit of service of the bill on the other party;
 - (d) an itemised account or evidence that the costs incurred by the claimant were equal to, or more than, the amount of the bill.
- Note* For the taxation of the bill, see rule 41.
- (4) The claimant and the other party and their respective legal practitioners may attend on taxation of the bill only if directed by the taxing officer.
 - (5) Rules 40B and 40C do not limit a party's right:
 - (a) to claim the taxed costs of the proceeding under this Order; or
 - (b) to make an application for an order under paragraph 4 (2) (c).

- (6) However, a party who claims costs:
- (a) under rule 40B or 40C — 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 rule 40B or 40C.

[19] Order 83

omit

[20] Schedule 1, Form 20

substitute

Form 20 Affidavit

(Order 14, rule 2)

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

No. of 20 .

A.B. and Others

Applicants

C.D.

Respondent

and cross-claimants

Affidavit of [*deponent*]

Contents*

Document number	Details	Paragraph	Page
1	Affidavit of [<i>deponent</i>] in support of application for [<i>insert details</i>] sworn/affirmed on [<i>date</i>]		

Document number	Details	Paragraph	Page
2	Annexure “A”, being copy of [<i>brief description</i>]		
3	Annexure “B”, being copy of [<i>brief description</i>]		
...			

On [date], I [name address and occupation] say on oath —

1.

2.

Sworn at

before me:

}

* A table of contents is required if the affidavit (including any annexures) is more than 30 pages long.

Version 2

[21] Schedule 1, Form 55

omit

- * (b) (*Use this paragraph only if the appeal is from a judgment of the Federal Magistrates Court*) This appeal has been listed for a *directions hearing at the time and place stated below. If you or your legal representative do not attend the Court at that time, orders may be made in your absence.

insert

- * (b) (*Use this paragraph only if the appeal is from a judgment of the Federal Magistrates Court*) This appeal has been listed for a *directions hearing at the time and place stated below. If you or your legal representative do not attend the Court at that time, orders may be made in your absence (including orders for costs).

[22] Schedule 1, Form 55

omit

Version 3

insert

Version 4

[23] Schedule 1, Form 55A, heading

substitute

Form 55A Notice of Appeal

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

[24] Schedule 1, Form 55A

omit

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.

insert

A directions hearing in this appeal will be heard by the Court at the time and place specified below. If you or your legal representative do not attend the Court at that time, orders may be made in your absence (including orders for costs).

[25] Schedule 1, Form 55A

omit

Version 3

insert

Version 4

[26] Schedule 1, Form 57*omit*

The Respondent objects to the jurisdiction of this Court to try this application for an order under:

insert

The Respondent objects to competency of this application for an order under:

[27] Schedule 1, Form 57*omit***Version 2***insert***Version 3****[28] Schedule 2, item 43E***omit*

migration case

insert

standard migration case

[29] Schedule 2, after item 43E*insert*

43F	Application for leave to appeal or extension of time	1 500
43G	Migration appeal case finalised before a final hearing	3 500
43H	Migration appeal case finalised after a final hearing	5 500

[30] After Schedule 2*insert***Schedule 3 Powers of the Court that may be exercised by a Registrar**

(Order 46, rule 7AA)

Part 3.1 Corporations (Aboriginal and Torres Strait Islander) Act 2006

Item	Provision	Description (for information only)
1	subsection 526-1 (1)	Power to order that an Aboriginal and Torres Strait Islander corporation be wound up

Part 3.2 Evidence and Procedure (New Zealand) Act 1994

Item	Provision	Description (for information only)
11	subsection 14 (1)	Power to set aside a subpoena in whole or in part
12	subsection 14 (4)	Power to determine an application without a hearing
13	subsection 14 (5)	Power to direct that a hearing is to be held by video link or telephone
14	section 16	Power to issue a certificate stating that the person named in a subpoena has failed to comply with the subpoena

Part 3.3 Federal Court of Australia Act 1976

Item	Provision	Description (for information only)
21	subsection 31A (1)	Power to give summary judgment for a prosecuting party

Item	Provision	Description (for information only)
22	subsection 31A (2)	Power to give summary judgment for a defending party
23	subsection 32AB (1)	Power to order the transfer of a proceeding to the Federal Magistrates Court
24	subsection 32AB (7)	Power to make a necessary order pending the disposal of a proceeding by the Federal Magistrates Court
25	subsection 47 (1)	Power to direct or allow the manner of giving of testimony in a proceeding other than the trial of a cause
26	subsection 47 (3)	Power to direct or allow proof by affidavit at the trial of a cause
27	subsection 47 (4)	Power to permit the use of an affidavit without cross-examination of the maker
28	subsection 47 (5)	Power to order the manner of giving of testimony at the trial of a cause
29	subsection 47A (1)	Power to direct or allow testimony to be given by video link, audio link or other appropriate means
30	subsection 47B (1)	Power to direct or allow a person to appear or to make a submission by video link, audio link or other appropriate means
31	section 47D	Power to direct or allow a document to be put to a person who is appearing or being examined by video link, audio link or other appropriate means
32	subsection 47F (1)	Power to make an order for payment of expenses incurred in connection with the giving of testimony, appearance or the making of submissions by video link, audio link or other appropriate means
33	section 48	Power to direct a change of venue for a proceeding or part of a proceeding
34	section 50	Power to make an order forbidding or restricting the publication of particular evidence or the name of a party or witness

Item	Provision	Description (for information only)
35	subsection 51 (2)	Power to make an order declaring that a proceeding is not invalid by reason of an irregularity or formal defect
36	subsection 56 (1)	Power to order an applicant or appellant to give security for costs
37	subsection 56 (2)	Power to direct the amount, the time for giving, and the manner and form of security
38	subsection 56 (3)	Power to reduce or increase the amount of security
39	subsection 56 (3)	Power to vary the time of giving or the manner and form of security
40	subsection 56 (4)	Power to order that a proceeding or appeal be dismissed

Part 3.4 *Foreign Evidence Act 1994*

Item	Provision	Description (for information only)
41	subsection 7 (1)	Power to make an order for taking evidence abroad
42	subsection 8 (1)	Power to give a direction about the procedure for examination of a person outside Australia
43	subsection 8 (2)	Power to include, in an order mentioned in paragraph 7 (1) (c) of the Act, a request about a matter relating to taking of evidence in a foreign country

Part 3.5 *Foreign Judgments Act 1991*

Item	Provision	Description (for information only)
51	subsections 6 (3), (12), (13) and (14)	Power to order that a foreign judgment be registered
52	subsection 6 (5)	Power to make an order extending the time for making an application

Part 3.6 Federal Court Rules

Item	Provision	Description (for information only)
61	Order 1, rule 8	Power to dispense with compliance with a requirement of the Rules
62	Order 3, subrule 3 (1)	Power to make an order to extend or abridge a time
63	Order 3, rule 4	Power to make an order to fix a time
64	Order 4, subrule 9 (4)	Power to give a direction at a hearing of a claim for interlocutory relief
65	Order 4, subrule 14 (2)	Power to give leave to a corporation to commence or carry on a proceeding otherwise than by a solicitor
66	Order 5, subrule 12 (2)	Power, in relation to a cross-claim, to do any of the following: <ul style="list-style-type: none"> (a) make an order or give a direction; (b) give leave to the respondent for certain matters; (c) dismiss the cross-claim; (d) determine certain matters; (e) pronounce judgment
67	Order 6, rule 2	Power to give leave for two or more persons to be joined as applicants or respondents in a proceeding
68	Order 6, subrule 7 (2)	Power to determine the issues or questions in dispute in a proceeding
69	Order 6, subrule 8 (1)	Power to order that a person be added as a party to a proceeding and make an order for the further conduct of the proceeding
70	Order 6, rule 9	Power to order that a person cease to be a party to a proceeding and make an order for the further conduct of the proceeding
71	Order 6, subrule 10 (2)	Power to make an order for the addition, removal or re-arrangement of parties and for the future conduct of a proceeding

Item	Provision	Description (for information only)
72	Order 6, subrules 11 (1) and (2)	Power to make an order for certain matters relating to the further conduct of a proceeding
73	Order 6, subrule 12 (1)	Power to order that a proceeding be dismissed if a party is not substituted for a deceased party
74	Order 6, subrule 12 (2)	Power to give a direction for the service of an order made under Order 6, subrule 12 (1)
75	Order 6, subrule 17 (1)	Power to give leave to a person to intervene in a proceeding, determine the terms and conditions on which the person is to intervene and determine the rights, privileges and liabilities of the intervener
76	Order 7, subrule 6 (1)	Power to make an order about a person's address for service
77	Order 7, subrule 9 (1)	Power to order the taking of steps to bring a document to a person's attention (substituted service)
78	Order 7, subrule 9 (2)	Power to order that a document is taken to have been served at a specified time
79	Order 7, rule 10	Power to order that a document be taken to have been served on a person on a specified date
80	Order 7, subrule 11 (1)	Power to make an order that the filing of a document does not have effect as service of the document
81	Order 7, rule 12	Power to make an order about service of a notice or other document by the Court or an officer of the Court
82	Order 9, subrule 7 (1)	Power to make an order about an originating process
83	Order 10, subrules 1 (1) and (1A)	Power to give a direction for the conduct of a proceeding (including an appeal)
84	Order 10, subrule 1 (3)	Power to revoke or vary an order made under Order 10, subrule 1 (1) or (1A)

Item	Provision	Description (for information only)
85	Order 10, rule 2	Power, on a directions hearing for a matter, to: <ul style="list-style-type: none"> (a) fix a date for a further directions hearing or for trial; or (b) fix a date after which either party may request a date for trial; or (c) direct the parties to arrange a date for trial; or (d) stand the matter out of the list
86	Order 10, rule 3	Power to hear and determine a proceeding on a directions hearing
87	Order 10, subrule 9 (2) and paragraph 9 (4) (a)	Power to grant leave for the use of a recording device or communication device in a place where a hearing is taking place
88	Order 11, rule 16	Power to order that the whole or a part of a pleading be struck out
89	Order 11, rule 19	Power to give a direction varying the times for filing and serving pleadings in a proceeding
90	Order 12, rule 5	Power to order a party to file and serve particulars or a statement of the nature of his or her case
91	Order 13, subrules 2 (1) and (3)	Power to order that: <ul style="list-style-type: none"> (a) a document be amended; or (b) a party have leave to amend a document
92	Order 13, rule 3A	Power to order when an amendment of a document takes effect
93	Order 13, subrules 5 (1), (2) and (4)	Power to make an order disallowing an amendment of a pleading
94	Order 13, subrule 7 (1)	Power to give a direction about the mode of amendment of a document and the consequential service of the amended document or notice of the amendment
95	Order 14, rule 3	Power to make an order about the filing of an affidavit with an interlineation, erasure or other alteration

Item	Provision	Description (for information only)
96	Order 14, rule 3	Power to give leave for the use of an affidavit with an interlineation, erasure or other alteration
97	Order 14, rule 5	Power to make an order about the filing of an affidavit that is irregular in form
98	Order 14, rule 6	Power to give leave to use an affidavit
99	Order 14, subrule 7 (2)	Power to give a direction about the service of an affidavit
100	Order 14, subrule 9 (3)	Power to give leave to use an affidavit if the maker of the affidavit fails to attend for cross-examination
101	Order 15, rule 1	Power to give leave to a party to require another party to give discovery of documents
102	Order 15, subrule 2 (1)	Power to direct the time within which discovery must be given
103	Order 15, subrule 2 (2)	Power to make an order about the manner in which discovery must be given
104	Order 15, rule 3	Power to order that discovery by a party not be required or be limited
105	Order 15, rule 5	Power to order a party to give discovery in accordance with Order 15, rule 2
106	Order 15, subrule 6 (1)	Power to make an order about the form and content of a list of discovered documents
107	Order 15, rule 8	Power to order a party to file and serve an affidavit relating to a particular document or class of documents
108	Order 15, subrule 11 (1)	Power to order a party to: <ul style="list-style-type: none"> (a) produce a document for inspection; or (b) file and serve a copy of the whole or a part of the document, with or without an affidavit verifying the copy
109	Order 15, subrule 11 (2)	Power to make an order about an affidavit made under an order mentioned in Order 15, paragraph 11 (1) (e)
110	Order 15, subrule 13 (1)	Power to order a party to produce a document to the Court

Item	Provision	Description (for information only)
111	Order 15, subrule 13 (2)	Power to deal with a document produced to the Court
112	Order 15, rule 14	Power to inspect a document for the purpose of deciding the validity of a claim for privilege or other objection to production
113	Order 15, rule 18	Power to make an order about the use of a document
114	Order 15A, subrule 3 (2)	Power to order a person to attend, or to make discovery, in relation to the description of a person
115	Order 15A, subrule 3 (3)	Power to: <ul style="list-style-type: none"> (a) order a person to produce a document or thing; or (b) direct that an examination be held before a Registrar
116	Order 15A, rule 6	Power to order a person to make discovery to an applicant
117	Order 15A, rule 8	Power to order a person who is not a party to make discovery to an applicant
118	Order 15A, subrules 9 (1) and (2)	Power to make an order about service of an application
119	Order 15A, subrule 11 (1)	Power to make an order for costs and expenses
120	Order 15A, subrule 11 (2)	Power to make an order under Order 15A on condition that the applicant give security for the costs and expenses of the person against whom the order is made
121	Order 15A, rule 12	Power to make an order about property
122	Order 16, subrule 1 (1)	Power to give leave to a party to file and serve a notice to answer interrogatories
123	Order 16, rule 3	Power to order that answers to interrogatories by a party not be required or be limited
124	Order 16, rule 5	Power to order a party to answer interrogatories

Item	Provision	Description (for information only)
125	Order 16, subrule 6 (1)	Power to make an order about the form and content of a statement in answer to interrogatories
126	Order 16, subrule 6 (4)	Power to: <ul style="list-style-type: none"> (a) require a party to specify his or her grounds for objecting to an interrogatory; and (b) determine the sufficiency of the objection
127	Order 16, subrule 7 (2)	Power to specify who may make an affidavit verifying a statement of a party in answer to interrogatories
128	Order 16, subrule 8 (1)	Power to make an order if a party fails to answer an interrogatory sufficiently
129	Order 17, subrule 1 (1)	Power to make an order about property, a document or information
130	Order 19, paragraph 2 (2) (d)	Power to dispense with the requirements of Order 19, subrule 2 (1)
131	Order 19, rule 3	Power to make an order about the time for service of a notice of motion
132	Order 19, rule 5	Power to hear and dispose of a motion in the absence of a party
133	Order 19, rule 6	Power to appoint the date to which the hearing of a motion is adjourned
134	Order 19, subrule 7 (1)	Power to hear and dispose of a motion on a later day
135	Order 19, subrule 7 (1)	Power to fix a later day for the hearing and disposal of a motion
136	Order 19, subrule 7 (2)	Power to direct the filing or service of a further notice of motion
137	Order 20, subrule 2 (2)	Power to give summary judgment for an applicant
138	Order 20, subrule 2 (3)	Power to stay enforcement of a summary judgment

Item	Provision	Description (for information only)
139	Order 20, subrule 3 (2)	Power to stay enforcement of a summary judgment
140	Order 20, subrule 4 (2)	Power to order that a proceeding be stayed or dismissed
141	Order 20, subrule 4 (3)	Power to receive evidence
142	Order 20, subrule 5 (2)	Power to order that a proceeding be stayed or dismissed
143	Order 20, subrule 5 (3)	Power to receive evidence
144	Order 22, rule 1	Power to give leave to a party to withdraw an appearance
145	Order 22, paragraph 2 (1) (d) and subrules 2 (2) and (3)	Power to give leave to discontinue all or part of a proceeding
146	Order 22, subrule 4 (2)	Power to give leave to a party to withdraw an admission or other matter operating for the benefit of another party
147	Order 22, rule 8	Power to stay a further proceeding until costs are paid
148	Order 25, paragraph 1 (1) (b)	Power to appoint a receiver before the commencement of a proceeding
149	Order 26, subrule 1 (2)	Power to make orders about the powers of a receiver
150	Order 26, rule 4	Power to fix remuneration for a receiver
151	Order 27, rule 2	Power to issue a subpoena
152	Order 27, subrule 4 (1)	Power to set aside a subpoena in whole or part, or grant other relief
153	Order 27, subrule 4 (3)	Power to order that an applicant give notice of an application to set aside a subpoena

Item	Provision	Description (for information only)
154	Order 27, rule 8	Power to give a direction for the removal, return, inspection, copying and disposal of a document or thing
155	Order 27, subrule 9 (3)	Power to give leave to inspect a document or thing
156	Order 27, subrule 11 (1)	Power to order payment of reasonable loss or expense incurred in complying with a subpoena
157	Order 27, subrule 11 (2)	Power to fix an amount or direct that the amount be fixed in accordance with the Court's usual procedure
158	Order 27A, subrule 2 (2)	Power to give leave to issue a subpoena
159	Order 28, rule 4	Power to make an order directing the manner, time and terms for giving security for costs
160	Order 28, subrule 5 (1)	Power to order that a proceeding be stayed until security is provided, or be stayed or dismissed if security is not provided
161	Order 29, paragraph 2 (a)	Power to make an order for the decision of a question separately from another question
162	Order 29, paragraph 2 (b)	Power to make an order for the statement of a case and the question for decision
163	Order 29, rule 5	Power to order that several proceedings be consolidated, tried at the same time or in a specified order, or stayed until the determination of one of the proceedings
164	Order 32, subrule 2 (1)	Power to make an order if a party is absent when a proceeding is called on for trial
165	Order 32, subrule 2 (2)	Power to set aside or vary an order and give a direction for the further conduct of a proceeding
166	Order 32, subrule 4 (1)	Power to give a direction about the order of evidence and addresses and generally for the conduct of a trial
167	Order 32, subrule 4A (1)	Power to make a direction limiting time or the number of witnesses that a party may call
168	Order 32, subrule 4A (2)	Power to amend a direction limiting time or the number of witnesses that a party may call

Item	Provision	Description (for information only)
169	Order 33, subrule 5 (1)	Power to give leave to a party to read evidence taken or an affidavit filed in other proceedings
170	Order 33, subrule 12 (1)	Power to make an order about the production of a document or thing on notice
171	Order 33, subrule 13 (1)	Power to make an order for the attendance of a person for examination, or for the attendance of a person and the production of a document or thing by the person
172	Order 34A, subrule 3 (2)	Power to give a direction about the evidence of expert witnesses
173	Order 35, rule 1	Power to give judgment or make an order even if the applicant has not made a claim for that relief
174	Order 35, rule 3	Power to order that a judgment or order take effect on a specified date
175	Order 35, subrule 4 (2)	Power to order the time for compliance with an order
176	Order 36, paragraph 2 (1) (e)	Power to direct that an order be entered
177	Order 36, rule 5	Power to direct that an order be entered by being authenticated in Court
178	Order 37, subrule 7 (1)	Power to make an order, issue a writ or take another step to enforce a judgment or order
179	Order 45, subrule 7 (2)	Power to give leave to a solicitor to file or serve a notice of change
180	Order 46, subrule 5 (2A)	Power to make an order about documents being taken out of a Registry
181	Order 46, subrule 6 (1)	Power to make an order that a document in a proceeding is confidential
182	Order 46, subrules 6 (3) and (4)	Power to give leave to a person to inspect a document in a proceeding

Item	Provision	Description (for information only)
183	Order 46, subrule 6 (5)	Power to give leave to a person or party to search for or inspect: <ul style="list-style-type: none"> (a) a transcript of the proceeding; or (b) a document filed in a proceeding to support an application for privilege
184	Order 52A, rule 5	Power to order that evidence in a proceeding be other than by affidavit
185	Order 52A, subrule 11 (5)	Power to make an order about the time when a notice of address for service must be served
186	Order 52A, rule 13	Power to give a direction for the conduct of a proceeding
187	Order 52B, subrule 4 (2)	Power to give a direction about rules that apply to an appeal
188	Order 52C, subrule 3 (3)	Power to give a direction about rules that apply to an appeal
189	Order 53, paragraphs 15 (2) (a), (b), (c), (d), (h) and (i)	Power to do any of the following: <ul style="list-style-type: none"> (a) determine the documents and matters to be included in appeal papers; (b) determine what documents and matters were before the AAT; (c) settle the index; (d) determine the number of copies of appeal papers required; (e) direct the place, time and mode of hearing; (f) determine any other matter for the purpose of preparing the appeal for hearing
190	Order 54B, rule 4	Power to give a direction about an application in relation to a migration decision
191	Order 62, subrule 3 (2)	Power to make an order about when costs must be paid
192	Order 62, subrule 3 (3)	Power to make an order about when costs must be taxed
193	Order 62, subrule 4 (2)	Power to make an order about the amount of costs

Item	Provision	Description (for information only)
194	Order 62, subrule 9 (1)	Power to do any of the following: (a) disallow costs; (b) direct a legal practitioner to repay costs; (c) direct a legal practitioner to indemnify another party
195	Order 62, subrule 9 (4)	Power to order that notice be given of a proceeding or order against a legal practitioner
196	Order 62, subrule 9 (5)	Power to give a direction for giving effect to a costs order
197	Order 62, subrule 12 (3)	Power to order that a party who called a witness or issued a subpoena requiring attendance of a witness pay the expenses of the witness
198	Order 62, rule 15	Power to make an order about reserved costs
199	Order 62, rule 23	Power to make an order about the payment of the costs of an application for an extension of time
200	Order 62, rule 24	Power to make an order about the payment of the costs of proof of a fact
201	Order 62, rule 25	Power to make an order about the payment of the costs of proof of a document
202	Order 62, rule 26	Power to make an order about the payment of costs for the whole or part of a proceeding that is discontinued without leave
203	Order 62, subrule 36 (1)	Power to give a direction about disallowance of costs
204	Order 63, paragraph 4 (1) (b)	Power to order that money be paid out of a Litigants' Fund
205	Order 72, rule 1	Power to make an order about the procedure for a mediation or arbitration
206	Order 72, subrule 4 (2)	Power to adjourn proceedings to a date fixed for the report to the Court from a mediator or arbitrator

Item	Provision	Description (for information only)
207	Order 72, paragraph 5 (1) (a)	Power to terminate a mediation or an arbitration
208	Order 80, subrule 4 (1)	Power to refer a litigant for referral to a legal practitioner on Pro Bono Panel
209	Order 80, rule 6A	Power to give a direction about the cessation of a Referral Certificate

[31] Schedule 4, heading

substitute

**Schedule 4 Powers of the Court that may
be exercised by a Registrar
(Native Title Act)**

(Order 78, rule 3A)

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.