



Federal Court Amendment Rules 2009 (No. 2)¹

Select Legislative Instrument 2009 No. 161

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

Dated 25 June 2009

M.E.J. BLACK C.J.
P.R.A. GRAY J.
D.M. RYAN J.
M.F. MOORE J.
K.E. LINDGREN J.
P.D. FINN J.
R.A. SUNDBERG J.
S.R. MARSHALL J.
A.M. NORTH J.
J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
R.A. FINKELSTEIN J.
J.A. DOWSETT J.
P.M. JACOBSON 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.
A.J. BESANKO J.
C.N. JESSUP J.
R.J. BUCHANAN J.
J. GILMOUR J.
M.M. GORDON J.
J.A. LOGAN J.
G.A. FLICK J.
N.W. McKERRACHER J.
J.E. REEVES J.
N. PERRAM J.
J.M. JAGOT J.
L.G. FOSTER J.
M.L. BARKER J.

Judges of the Federal
Court of Australia

P.J. KELLOW
Acting Registrar

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2009 (No. 2)*.

2 Commencement

These Rules commence on 1 July 2009.

3 Amendment of *Federal Court Rules*

Schedule 1 amends the *Federal Court Rules*.

Schedule 1 Amendments

(rule 3)

[1] Order 1, rule 4, definition of *organisation*

substitute

organisation has the meaning given by section 6 of the *Fair Work (Registered Organisations) Act 2009*.

[2] Order 7, paragraph 2 (1) (d)

substitute

- (d) an organisation — by leaving a copy of the document with a person apparently an officer of or in the service of the organisation and apparently of or above the age of 16 years at the office of the organisation shown in the records of the organisation lodged with Fair Work Australia under section 233 of the *Fair Work (Registered Organisations) Act 2009*.

[3] Order 25, rule 8

omit

[4] Order 35, subrule 5 (3)

omit

Workplace Relations Act 1996.

insert

Workplace Relations Act 1996, the Fair Work Act 2009 or the Fair Work (Registered Organisations) Act 2009.

[5] Order 41, subrule 1 (1)

substitute

- (1) A document in any proceeding must be headed in the manner indicated in Form 1, that is to say with a reference to the following:
- (a) the District Registry where the document is filed;
 - (b) the appropriate Division of the Court; and
 - (c) the serial number of the proceeding.

[6] Order 48

substitute

Order 48 Fair Work proceedings

Division 1 General

1 Definitions for Order 48

In this Order:

Fair Work Act means the *Fair Work Act 2009*.

RAO Schedule means Schedule 1 to the *Workplace Relations Act 1996*.

Registered Organisations Act means the *Fair Work (Registered Organisations) Act 2009*.

Workplace Relations Act means the *Workplace Relations Act 1996*.

2 Expressions used in the Workplace Relations Act, the Fair Work Act and the Registered Organisations Act

Unless the contrary intention appears:

- (a) an expression used in Division 2 of this Order and in the Workplace Relations Act has the same meaning in Division 2 as it has in the Workplace Relations Act;
- (b) an expression used in Divisions 3 and 4 of this Order and in the Fair Work Act has the same meaning in Divisions 3 and 4 as it has in the Fair Work Act;
- (c) for a matter to which the RAO Schedule applies — an expression used in Divisions 5 and 6 of this Order and in the Workplace Relations Act has the same meaning in Divisions 5 and 6 as it has in the Workplace Relations Act;
- (d) for a matter to which the Registered Organisations Act applies — an expression used in Divisions 5 and 6 of this Order and in the Registered Organisations Act has the same meaning in Divisions 5 and 6 as it has in the Registered Organisations Act.

3 Application of Order 48

- (1) This Order applies to a proceeding in the Court to which the Workplace Relations Act, the Fair Work Act or the Registered Organisations Act applies.
- (2) The other Orders of these Rules apply, to the extent that they are relevant and not inconsistent with this Order, to a proceeding in the Court to which the Workplace Relations Act, the Fair Work Act or the Registered Organisations Act applies.

Note Item 11 of Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Workplace Relations Act continues to apply, on and after the WR Act repeal day, to conduct that occurred before the WR Act repeal day. The WR Act repeal day is 1 July 2009.

Division 2 Unlawful termination of employment (Workplace Relations Act)

4 Application in relation to alleged unlawful termination of employment (Workplace Relations Act s 663)

An application by an employee for an order in relation to an alleged unlawful termination of the employee's employment that occurred before 1 July 2009 must:

- (a) be in accordance with Form 5; and
- (b) be accompanied by:
 - (i) a claim in accordance with Form 5A; and
 - (ii) a certificate issued under subsection 650 (2) of the Workplace Relations Act regarding the failure, or likely failure, of conciliation.

Note 1 Item 11 of Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Workplace Relations Act continues to apply, on and after the WR Act repeal day, to conduct that occurred before the WR Act repeal day. The WR Act repeal day is 1 July 2009.

Note 2 Section 665 of the Workplace Relations Act sets out the orders the Court may make.

Division 3 Unlawful dismissal from, or termination of, employment (Fair Work Act)

5 Application in relation to dismissal from employment in contravention of a general protection (Fair Work Act, s 539 (2), table, item 11)

An application for an order in relation to an allegation that an employee was dismissed in contravention of a general protection mentioned in Part 3-1 of the Fair Work Act must:

- (a) be in accordance with Form 5; and
- (b) be accompanied by:
 - (i) a claim in accordance with Form 5B; and
 - (ii) a certificate issued by Fair Work Australia under section 369 of the Fair Work Act that states that Fair Work Australia is satisfied that all reasonable attempts to resolve the dispute have been, or are likely to be, unsuccessful.

Note Sections 545 and 546 of the Fair Work Act set out the orders the Court may make.

6 Application in relation to alleged unlawful termination of employment (Fair Work Act, s 539 (2), table, item 35)

An application by an employee for an order in relation to an alleged unlawful termination of the employee's employment that occurred on or after 1 July 2009 must:

- (a) be in accordance with Form 5; and
- (b) be accompanied by:
 - (i) a claim in accordance with Form 5C; and
 - (ii) a certificate issued by Fair Work Australia under section 777 of the Fair Work Act that states that Fair Work Australia is satisfied that all reasonable attempts to resolve the dispute have been, or are likely to be, unsuccessful.

Note Sections 545 and 546 of the Fair Work Act set out the orders the Court may make.

Division 4 Unlawful discrimination (Fair Work Act)

7 Application in relation to alleged discrimination (Fair Work Act, s 539 (2), table, item 11)

An application for an order in relation to an alleged contravention of subsection 351 (1) of the Fair Work Act must:

- (a) be in accordance with Form 5; and
- (b) be accompanied by:
 - (i) a claim in accordance with Form 5D; and
 - (ii) a certificate issued by Fair Work Australia under section 369 of the Fair Work Act that states that Fair Work Australia is satisfied that all reasonable attempts to resolve the dispute have been, or are likely to be, unsuccessful.

Note 1 Sections 545 and 546 of the Fair Work Act set out the orders the Court may make.

Note 2 Under subsection 351 (1) of the Fair Work Act, an employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin. The meaning of 'adverse action' is defined in section 342 of the Fair Work Act.

Division 5 Rules to show cause

8 Definition for Division 5

In this Division:

rule to show cause means a rule calling on a person, or an organisation, to show cause why an order should not be made in relation to the person or organisation under:

- (a) if the rule to show cause relates to conduct that occurred before 1 July 2009 — section 163, 164 or 164A or subsection 167 (2) of the RAO Schedule.
- (b) in any other case — section 163, 164 or 164A or subsection 167 (2) of the Registered Organisations Act.

Note 1 Item 11 of Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Workplace Relations Act continues to apply, on and after the WR Act repeal day, to conduct that occurred before the WR Act repeal day. The WR Act repeal day is 1 July 2009.

Note 2 Section 163 of the RAO Schedule and section 163 of the Registered Organisations Act provide that a member of an organisation may apply to the Court for an order declaring that the whole or a part of a rule of the organisation contravenes section 142 of the RAO Schedule or section 142 of the Registered Organisations Act (which states general requirements for rules), or that the rules of the organisation contravene section 142 of the RAO Schedule or section 142 of the Registered Organisations Act, in a particular respect.

Note 3 Section 164 of the RAO Schedule and section 164 of the Registered Organisations Act provide that a member of an organisation may apply to the Court for an order giving directions for the performance or observance of any of the rules of the organisation by any person who is under an obligation to perform or observe the rules.

Note 4 Section 164A of the RAO Schedule and section 164A of the Registered Organisations Act provide that a member of an organisation may apply to the Court for an order directing a person (who may be the person who has breached the rule) to do specified things that will, in the opinion of the Court, as far as is reasonably practical, place the organisation in the position in which it would have been if the breach of the rule had not occurred. The Court may make the order if satisfied that a person who was under an obligation to perform or observe the rule or rules of the organisation has acted unreasonably in so breaching the rule or rules.

Note 5 Subsection 167 (1) of the RAO Schedule and subsection 167 (1) of the Registered Organisations Act provide that a person or organisation may apply to the Court for a declaration as to the entitlement of a person to be admitted as a member of the organisation or to remain a member of the organisation. Under subsection 167 (2) of the RAO Schedule or subsection 167 (1) of the Registered Organisations Act, the Court may make an order to give effect to a declaration made under that subsection.

9 Application of Division 5

- (1) This Division applies to an application for a rule to show cause.

(2) However, this Division does not apply unless:

- (a) if the rule to show cause relates to conduct that occurred before 1 July 2009 — the granting of a rule to show cause is necessary, under paragraph 324 (2) (a) or (q) of the RAO Schedule, for the Minister to authorise payment of financial assistance to an applicant for an order under section 163, 164 or 164A or subsection 167 (2) of the RAO Schedule.
- (b) in any other case — the granting of a rule to show cause is necessary, under paragraph 324 (2) (a) or (q) of the Registered Organisations Act, for the Minister to authorise payment of financial assistance to an applicant for an order under section 163, 164 or 164A, or subsection 167 (2) of the Registered Organisations Act.

Note Item 11 of Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Workplace Relations Act continues to apply, on and after the WR Act repeal day, to conduct that occurred before the WR Act repeal day. The WR Act repeal day is 1 July 2009.

10 Requirements for applications (RAO Schedule ss 163, 164, 164A and 167 and Registered Organisations Act ss 163, 164, 164A and 167)

- (1) An application may be made to a Judge ex parte.
- (2) The application must be accompanied by an affidavit in accordance with subrule (3), (4), (5) or (6).
- (3) If the application is made under section 163 of the RAO Schedule or section 163 of the Registered Organisations Act, the affidavit must state:
 - (a) the rule, or part of the rule, of the organisation that is alleged to contravene section 142 of the RAO Schedule or section 142 of the Registered Organisations Act; and
 - (b) the ground on which the rule, or part of the rule, is alleged to contravene the section; and
 - (c) the facts and other reasons relied on by the applicant in support of the application.

-
- (4) If the application is made under section 164 of the RAO Schedule or section 164 of the Registered Organisations Act, the affidavit must state:
- (a) the nature of the order sought by the applicant; and
 - (b) each rule of the organisation the applicant seeks to have performed or observed by a person who is under an obligation to perform or observe the rule; and
 - (c) the ground relied on by the applicant to establish the obligation of the person to perform or observe the rule.
- (5) If the application is made under section 164A of the RAO Schedule or section 164A of the Registered Organisations Act, the affidavit must state:
- (a) the nature of the order sought by the applicant; and
 - (b) each rule of the organisation the breach of which the application seeks to rectify; and
 - (c) the facts and other reasons relied on by the applicant in support of the application.
- (6) If the application is made under section 167 of the RAO Schedule or section 167 of the Registered Organisations Act, the affidavit must state:
- (a) the nature of the order sought by the applicant; and
 - (b) each rule of the organisation on which the application is based; and
 - (c) the facts and other reasons relied on by the applicant in support of the application.

11 Form of rule to show cause — Form 6

A rule to show cause must be in accordance with Form 6.

12 Filing of rule to show cause

If the Court grants a rule to show cause, the applicant must file with the Court the rule and the supporting affidavit as soon as practicable after the rule is granted.

Division 6 Inquiries and ballots in relation to registered organisations

13 Application of Division 6

This Division applies to the following applications:

- (a) an application, under section 200 of the RAO Schedule, for an inquiry into an election conducted before 1 July 2009 for an office in an organisation, or branch of an organisation;
- (b) an application under subsection 69 (1) of the RAO Schedule for an inquiry into an alleged irregularity in relation to a ballot held under Part 2 of Chapter 3 of the RAO Schedule;
- (c) an application under subsection 108 (1) of the RAO Schedule for an inquiry into an alleged irregularity in relation to a ballot held under Part 3 of Chapter 3 of the RAO Schedule;
- (d) an application under section 200 of the Registered Organisations Act for an inquiry into an election conducted on or after 1 July 2009 for an office in an organisation, or branch of an organisation;
- (e) an application under subsection 69 (1) of the Registered Organisations Act for an inquiry into an alleged irregularity in relation to a ballot conducted under Part 2 of Chapter 3 of the Registered Organisations Act;
- (f) an application under subsection 94 of the Registered Organisations Act for a ballot to be held to decide whether a constituent part of an amalgamated organisation should withdraw from the organisation;
- (g) an application under subsection 108 (1) of the Registered Organisations Act for an inquiry into an alleged irregularity in relation to a ballot held under Part 3 of Chapter 3 of the Registered Organisations Act;
- (h) an application, under subsection 109 (1) of the Registered Organisations Act, for an order in relation to the withdrawal of a constituent part of an amalgamated organisation from the organisation.

Note 1 Item 11 of Schedule 2 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Workplace Relations Act continues to apply, on and after the WR Act repeal day, to conduct that occurred before the WR Act repeal day. The WR Act repeal day is 1 July 2009.

Note 2 Under regulation 82 of the *Fair Work (Registered Organisations) Regulations 2009*, an application mentioned in paragraph 10 (f) must be in accordance with Form 2 of those Regulations.

Note 3 Under regulation 107 of the *Fair Work (Registered Organisations) Regulations 2009*, an application mentioned in paragraph 10 (h) must be in accordance with Form 4 of those Regulations.

14 Form of application for an inquiry or ballot

- (1) An application mentioned in paragraph 13 (a) or paragraph 13 (d) must:
 - (a) be in accordance with Form 50A; and
 - (b) be accompanied by an affidavit stating the nature of the applicant's claim and the material facts on which the claim is based.
- (2) An application mentioned in paragraph 13 (b) or paragraph 13 (e) must:
 - (a) be in accordance with Form 50B; and
 - (b) be accompanied by an affidavit stating the nature of the applicant's claim and the material facts on which the claim is based.
- (3) An application mentioned in paragraph 13 (c) or paragraph 13 (g) must:
 - (a) be in accordance with Form 50C; and
 - (b) be accompanied by an affidavit stating the nature of the applicant's claim and the material facts on which the claim is based.

15 Duties of District Registrar on receiving application

On receiving an application and any supporting documents, the District Registrar must:

- (a) sign and affix the stamp of the Court to the application; and

- (b) endorse on the application:
 - (i) the date, time and place fixed for a directions hearing; and
 - (ii) if the Court or a Judge has directed that a person be given notice of the application — the name and address of the person; and
- (c) provide the applicant with a stamped copy of the application and a copy of any supporting documents by:
 - (i) if the application was presented to the Registry — giving them to the applicant; or
 - (ii) if the application was sent to the Registry by post or document exchange — sending them to the applicant in accordance with Order 1, subrule 5A (11); or
 - (iii) if the application was sent to the Registry by facsimile transmission — sending them to the applicant in accordance with Order 1, paragraph 5AB (4) (c); or
 - (iv) if the application was sent to the Registry by electronic communication — sending them to the applicant in accordance with Order 1, paragraph 5AC (5) (e).

16 Service of application and supporting documents

- (1) At least 2 days before the date fixed for the directions hearing, the applicant must serve a stamped copy of the application, and a copy of any supporting documents, on each other party (if any) to the proceeding.
- (2) The stamped copy of the application must:
 - (a) have endorsed on it the date, time and place fixed for the directions hearing; and
 - (b) state that, if the party, or the party's counsel, solicitor or authorised representative, does not appear at the directions hearing, the proceeding may be heard and orders may be made in the absence of the party, or the party's counsel, solicitor or authorised representative.

17 Application for interim orders

- (1) This rule applies to the following applications:
 - (a) an application for an interim order to be made under section 204 of the RAO Schedule in relation to an inquiry into an election held before 1 July 2009 for an office in an organisation, or a branch of an organisation;
 - (b) an application for an order to be made under subregulation 77 (1) of the *Fair Work (Registered Organisations) Regulations 2009* in relation to an inquiry into an alleged irregularity in relation to a ballot conducted under Part 2 of Chapter 3 of the RAO Schedule;
 - (c) an application for an interim order to be made under section 204 of the Registered Organisations Act in relation to an inquiry into an election held on or after 1 July 2009 for an office in an organisation, or a branch of an organisation;
 - (d) an application for an order to be made, under subregulation 77 (1) of the *Fair Work (Registered Organisations) Regulations 2009*, in relation to an inquiry into an alleged irregularity in relation to a ballot conducted under Part 2 of Chapter 3 of the Registered Organisations Act.
- (2) An application may be made:
 - (a) ex parte; or
 - (b) in any other way directed by the Court or a Judge.

18 Court directions to issue subpoenas

- (1) If the Court is of the opinion that an inquiry would be assisted by the production of a document or other item, or by calling a witness, the Court may direct the Registrar to issue a subpoena for the production of the document or other item, or for the witness to attend the inquiry.
- (2) The Registrar must arrange for:
 - (a) service of each subpoena; and
 - (b) payment of attendance money and witness expenses for each witness attending the inquiry.

[7] Order 50*substitute***Order 50 Case stated and questions reserved****1 Definition for Order 50**

In this Order:

FWA President means the President of Fair Work Australia appointed under section 626 of the *Fair Work Act 2009*.

2 Application

- (1) A case to be stated, or a question to be reserved or to be referred for the consideration of the Court, must be in the form of a special case.
- (2) The special case must:
 - (a) be divided into consecutively numbered paragraphs; and
 - (b) state the facts concisely; and
 - (c) annex all documents necessary to enable the Court to decide the questions raised by the special case.
- (3) The Court may draw from the facts stated and the documents annexed in the special case any inference, whether of fact or law, which might have been drawn from them if proved at a trial.

3 Special case to be prepared etc

Unless the Judge, Court, Tribunal, FWA President or other authority stating the case or reserving the question directs, the special case must be:

- (a) prepared in draft by the party having the carriage of the proceeding after consultation with the other parties, and must contain an address for service of each of the parties; and
- (b) settled by the Judge, Court, Tribunal, FWA President or other authority stating the case or reserving the question; and
- (c) transmitted by the Judge, Court, Tribunal, FWA President or other authority stating the case or reserving the question, with four additional copies, to the Registry at the proper place.

4 Setting down for hearing

When a special case has been referred, the Registrar will:

- (a) set down the proceeding for a directions hearing; and
- (b) notify each party of the date appointed for the directions hearing.

5 Setting down for hearing (Fair Work Act 2009 s 608)

If a question is referred to the Court by the FWA President under section 608 of the *Fair Work Act 2009* the District Registrar will:

- (a) set down the proceeding for a directions hearing; and
- (b) notify the FWA President and each party to the proceeding, of the date appointed for the directions hearing.

6 Party having carriage of the proceedings

If a question is referred to the Court by a Tribunal or the FWA President, the party having the carriage of the proceeding for the purpose of rule 2 must be:

- (a) if the question is referred by the Tribunal or the FWA President at the request of a party — that party; and
- (b) if the question is referred by a Tribunal of its own motion — the person who made the decision to which the proceeding before the Tribunal relates; and
- (c) if the question is referred by the FWA President of his or her own motion — the party appointed by the FWA President for that purpose.

[8] Schedule 1, Forms 1 and 2

substitute

Form 1 Head of document

(Order 41, rule 1)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
DIVISION } No. of 20 .

A.B.

Applicant

C.D.

Respondent

C.D.

Cross-claimant

A.B. and

E.F.

Cross-Respondents

Version 2

Form 2 Abbreviated entitling of document

(Order 41, subrule 1 (4))

IN THE FEDERAL COURT OF AUSTRALIA	}	
DISTRICT REGISTRY		
DIVISION		No. of 20 .

A.B. and Others

Applicants

C.D.

Respondent

and cross-claimants

Version 2

[9] Schedule 1, Form 5

substitute

Form 5 Application

(Order 4, rule 1)

(State briefly the nature of the subject of the application or cross-claim and the legislative basis of the court's jurisdiction to hear it and grant the relief sought. The required statement is not taken to be part of the pleading.)

A. DETAILS OF CLAIM

On the grounds stated in the accompanying affidavit or statement of claim (or such other accompanying document as may be prescribed by the Rules) the applicant claims:

1. *(Specify in numbered paragraphs all final relief sought)*
- 2.
- 3.

Note Documents that must accompany an application are prescribed by Order 48 rules 4, 5, 6 and 7 and Order 81 rule 5.

B. CLAIM FOR INTERLOCUTORY RELIEF

(Complete this section if you wish to claim interlocutory relief)

AND the applicant claims by way of interlocutory relief:

1. *(Specify in numbered paragraphs all interlocutory relief sought)*
- 2.
- 3.

Date:

(signed, applicant or applicant's solicitor)

C. NOTICE TO RESPONDENT

(Complete this section if there is a respondent)

TO the respondent of *(insert address)*:

This application has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

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

Place: *(address of Court)*

D. ABRIDGMENT OF SERVICE

(Complete this section if the time for service has been abridged)

The time by which this application is to be served has been abridged by order made on *(insert date)* to *(insert time and date)*.

Date:

(signed, Registrar)

E. FILING AND SERVICE

This application is filed by *(insert name)* for *(insert name)* whose address for service is *(insert address)*.

The applicant's address is *(if the applicant is an individual, specify place of residence or business; if the applicant is a corporation, specify principal place of business)*.

It is not intended to serve this application on any person.

OR

It is intended to serve this application on each person listed below:

(insert name of each person on whom application is to be served)

Version 5

[10] Schedule 1, after Form 5A

insert

Form 5B Claim under the *Fair Work Act 2009* alleging dismissal in contravention of a general protection

(Order 48, subparagraph 5 (b) (i))

Claim under the *Fair Work Act 2009* alleging dismissal in contravention of a general protection

Details of employee

1 Full name	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other Family name: Given names:
2 Date of birth	

Details of employment

3 Employer's name	
4 Employer's trading address or registered office	
5 Work performed for employer (occupation)	
6 Place of work	
7 Date employment started	
8 Date employment ended	
9 Was the employee given a written notice of termination?	

Representation

10 Is a union acting on the employee's behalf?	<input type="checkbox"/> No <input type="checkbox"/> Yes Name of contact person: Union's name: Address: _____ <div style="text-align: right;">Postcode: _____</div> Email: _____ Phone: () _____ Fax: () _____
--	---

<p>11 Is a lawyer acting on the employee's behalf?</p>	<p><input type="checkbox"/> No <input type="checkbox"/> Yes Lawyer's name: Name of lawyer's firm: Address: _____ _____ _____ _____ Postcode: _____ Email: _____ Phone: () _____ Fax: () _____</p>
<p>Relevant legislation</p>	
<p>12 Describe each general protection that the employee claims has been contravened</p> <p>13 State each section of the Fair Work Act that is relevant to this claim</p>	
<p>Remedy sought</p>	
<p>14 What remedy is the employee asking the Court for?</p>	<p><input type="checkbox"/> Injunction <input type="checkbox"/> Compensation <i>Please give details on an attached sheet of how much compensation the employee claiming and how the amount has been calculated (eg loss of income).</i> <input type="checkbox"/> Reinstatement <input type="checkbox"/> Other <i>Please give details on an attached sheet</i></p>

Extension of time

15 Do you need an extension of time?

Complete this section if the application and claim are made more than 14 days after the day on which Fair Work Australia issued a certificate under s 369 of the Fair Work Act.

I am seeking an extension of time to lodge this application and claim because *(give reasons)*.

Attach an extra page if necessary

Required documents

16 This document must accompany the application and claim

☐ The certificate issued by Fair Work Australia under s 369 of the Fair Work Act

Prepared and filed by:

Name: *(please print)*

Signature:

Date:

Version 1

Form 5C Claim under the *Fair Work Act 2009* alleging unlawful termination of employment

(Order 48, subparagraph 6 (2) (b) (i))

Claim under the *Fair Work Act 2009* alleging unlawful termination of employment

Details of employee

1 Full name

☐ Mr ☐ Mrs ☐ Ms ☐ Other

Family name:

Given names:

2 Date of birth

Details of employment	
3	Employer's name
4	Employer's trading address or registered office
5	Work performed for employer (occupation)
6	Place of work
7	Date employment started
8	Date employment ended
9	Was the employee given a written notice of termination?
	<input type="checkbox"/> No <input type="checkbox"/> Yes — please attach a copy of the notice
Representation	
10	Is a union acting on the employee's behalf?
	<input type="checkbox"/> No <input type="checkbox"/> Yes
	Name of contact person:
	Union's name:
	Address:
	Postcode:
	Email:
	Phone: ()
	Fax: ()

<p>11 Is a lawyer acting on the employee's behalf?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>Lawyer's name:</p> <p>Name of lawyer's firm:</p> <p>Address:</p> <p style="text-align: right;">Postcode:</p> <p>Email:</p> <p>Phone: ()</p> <p>Fax: ()</p>
<p>Grounds of the claim of unlawful termination</p>	
<p>12 What are the grounds for the claim that the employee's employment was unlawfully terminated?</p>	<p><i>Attach an extra page if necessary</i></p>
<p>Remedy sought</p>	
<p>13 What remedy is the employee asking the Court for?</p>	<p><input type="checkbox"/> Injunction</p> <p><input type="checkbox"/> Compensation</p> <p><i>Please give details on an attached sheet of how much compensation you are claiming and how the amount has been calculated (eg loss of income)</i></p> <p><input type="checkbox"/> Reinstatement</p> <p><input type="checkbox"/> Other</p> <p><i>Please give details on an attached sheet</i></p>

Extension of time

14 Do you need an extension of time?

Complete this section if the application and claim is made more than 14 days after the day on which Fair Work Australia issued a certificate under s 777 of the Fair Work Act.

I am seeking an extension of time to lodge my application and claim because *(give reasons)*.

Attach an extra page if necessary

Required document

15 This document must accompany the application and claim

☐ The certificate issued by Fair Work Australia under s 777 of the Fair Work Act

Prepared and filed by:

Name: *(please print)*

Signature:

Date:

Version 1

Form 5D Claim under the *Fair Work Act 2009* alleging discrimination

(Order 48, subparagraph 7 (b) (i))

Claim under the *Fair Work Act 2009* alleging discrimination

Details of employee or prospective employee

1 Full name

☐ Mr ☐ Mrs ☐ Ms ☐ Other

Family name:

Given names:

2 Date of birth

Details of employer

3 Employer's name

4	Employer's trading address or registered office	
5	Work performed for employer (occupation)	
6	Place of work	
7	Date employment started (if applicable)	
8	Date employment ended (if applicable)	
9	Was the employee given a written notice of termination?	<input type="checkbox"/> No <input type="checkbox"/> Yes – please attach a copy of the notice <input type="checkbox"/> Not applicable
10	If the application is by a prospective employee – the date or dates on which the conduct giving rise to this claim occurred	

Representation

11	Is a union acting on behalf of the employee or prospective employee?	<input type="checkbox"/> No <input type="checkbox"/> Yes Name of contact person: Union's name: Address: Postcode: Email: Phone: () Fax: ()
----	--	--

<p>12 Is a lawyer acting on behalf of the employee or prospective employee?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>Lawyer's name:</p> <p>Name of lawyer's firm:</p> <p>Address:</p> <p>Postcode:</p> <p>Email:</p> <p>Phone: ()</p> <p>Fax: ()</p>
<p>Description of the discrimination</p>	
<p>13 Describe the alleged adverse action taken by the employer against the employee</p> <p><i>Note</i> The meaning of 'adverse action' is defined in s 342 of the Fair Work Act.</p>	<p><i>Attach an extra page if necessary</i></p>
<p>Remedy sought</p>	
<p>14 What remedy is the employee asking the Court for?</p>	<p><input type="checkbox"/> Injunction</p> <p><input type="checkbox"/> Compensation</p> <p><i>Please give details on an attached sheet of how much compensation you are claiming and how the amount has been calculated (eg loss of income)</i></p> <p><input type="checkbox"/> Reinstatement (if applicable)</p> <p><input type="checkbox"/> Other</p> <p><i>Please give details on an attached sheet</i></p>

Extension of time

15 Do you need an extension of time?	<i>Complete this section if the application and claim are made more than 14 days after the day on which Fair Work Australia issued a certificate under s 369 of the Fair Work Act.</i> I am seeking an extension of time to lodge this application and claim because <i>(give reasons)</i> . <i>Attach an extra page if necessary</i>
--------------------------------------	---

Required document

16 This document must accompany the application and claim	<input type="checkbox"/> The certificate issued by Fair Work Australia under s 369 of the Fair Work Act
---	---

Prepared and filed by:

Name: *(please print)*

Signature:

Date:

Version 1

[11] Schedule 1, Form 6
substitute

Form 6 Rule to show cause
(Order 48, rule 11)

ORDER

JUDGE:

DATE OF ORDER:

WHERE MADE:

THE COURT ORDERS THAT *(insert name of respondent)* appear before the Federal Court of Australia at *(address of Court)* in the State/Territory of *(State or Territory)* on *(insert date)* at *(insert time)* to show cause why *(insert nature of relief required)* on the grounds, or for the reasons, set out in the affidavit of *(insert name of deponent)* sworn on *(insert date affidavit was sworn)* accompanying this Rule.

(signed, District Registrar)

Date entered:

AND THE APPLICANT CLAIMS BY WAY OF INTERLOCUTORY RELIEF:

1.

2.

(give details)

Date:

Article I. (Signed, applicant or applicant's solicitor)

TO THE RESPONDENT *(insert name and address)*:

A directions hearing (and any claim by the applicant for interlocutory relief) will be heard by the Court at the time and place mentioned above. If you or a legal practitioner representing you do not appear before the Court, the rule to show cause may be dealt with and judgment may be given or an order made in your absence. Before you or a legal practitioner representing you appear before the Court at the time and place mentioned above, you must file an appearance in the Registry.

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

Version 3

[12] Schedule 1, Form 41*substitute***Form 41 Subpoena**

(Order 27, subrule 3 (1))

IN THE *[name of court]***File number:****DISTRICT REGISTRY** *[insert if filing in Federal Court]***DIVISION** *[insert if filing in Federal Court]***APPLICANT/PLAINTIFF:****RESPONDENT/DEFENDANT:**

SUBPOENATo: *[name]*
*[address]***YOU ARE ORDERED:**

- ☐ ***to attend to give evidence — see section A of this form; or**
- ☐ ***to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section B of this form; or**
- ☐ ***to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section C of this form**

** Select one only of these three options*

**Failure to comply with this subpoena without lawful excuse is a
contempt of court and may result in your arrest.**

The last date for service of this subpoena is:

(See Note 1)

Please read Notes 1 to 13 at the end of this subpoena.

[Seal or Stamp of the Court]

Date:

Issued at the request of [*name of party*], whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

B. Details of subpoena to produce only

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production.
(See Notes 5–9)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive a notice of a later

date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar

[Name of Courtetc as the case may be]

Schedule

The documents and things you must produce are as follows:

[If insufficient space attach list]

C. Details of subpoena both to attend to give evidence and to produce

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production.
(See Notes 5–9)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[Name of Courtetc as the case may be]

Schedule

The documents and things you must produce are as follows:

[If insufficient space attach list]

NOTES

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
 - (a) at the address specified in the subpoena for the purpose; or
 - (b) if more than one address is so specified — at any one of those addresses; so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.

-
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
 7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Applications in relation to subpoena

10. You have the right to apply to the Court:
 - (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court — arrest

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

[13] Schedule 1, Forms 50A, 50B and 50C*substitute***Form 50A Application for inquiry relating to an election**

(Order 48, subrule 14 (1))

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
FAIR WORK DIVISION } No. of 20 .

In the matter of an election for an office in (*name of organisation or branch*)

A.B.

Applicant

APPLICATION FOR INQUIRY RELATING TO AN ELECTION

The applicant, being:

- a member of the (*name of organisation*);* or
- a person who, within the period of 12 months before the date of this application, has been a member of the (*name of organisation*);* or
- the Electoral Commissioner*

applies under section 200 of Schedule 1 to the *Workplace Relations Act 1996**/section 200 of the *Fair Work (Registered Organisations) Act 2009** for an inquiry into the alleged irregularities set out below that the applicant claims to have occurred in relation to the election specified in this application. The applicant relies on the facts stated in the affidavit accompanying this application.

Particulars of election

1. Organisation or branch: (*name*)
2. Office or offices: (*title of each position for which the election was held*)

-
3. The result of the election was declared on *(date)**
OR
The result of the election has not been declared.*

Particulars of alleged irregularities

1. *(Specify in numbered paragraphs the alleged irregularities)*
2.
3.

**Omit if inapplicable*

Date:

(Signed, applicant or applicant's solicitor)

Appointment for hearing

This application has been set down for a directions hearing at the time and place stated below.

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

Place: *(address of Court)*

Date:

(Signed, Registrar)

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

Version 2

Form 50B Application for inquiry relating to a ballot under Part 2 of Chapter 3 of Schedule 1 to the *Workplace Relations Act 1996/the *Fair Work (Registered Organisations) Act 2009****

(Order 48, subrule 14 (2))

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
FAIR WORK DIVISION } No. of 20 .

In relation to a ballot of members of (*name of amalgamated organisation*)

A.B.

Applicant

APPLICATION FOR INQUIRY RELATING TO A BALLOT UNDER PART 2 OF CHAPTER 3 OF SCHEDULE 1 TO THE *WORKPLACE RELATIONS ACT 1996/THE *FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009****

The applicant, being:

- a member of the (*name of the organisation whose members were eligible to vote in the ballot*);* or
- a person acting on behalf of a member of the (*name of the organisation whose members were eligible to vote in the ballot*);* or
- the Electoral Commissioner*

applies under section 69 of Schedule 1 to the *Workplace Relations Act 1996**/section 69 of the *Fair Work (Registered Organisations) Act 2009** for an inquiry into the alleged irregularities set out below that the applicant claims to have occurred in relation to the ballot specified in this application. The applicant relies on the facts stated in the affidavit accompanying this application.

Particulars of ballot

1. Ballot of members of (*name of organisation*) on the question whether:
 - they approve the proposed amalgamation of that organisation with (*name of other organisation or organisations concerned in the amalgamation*);*
 - if the proposed amalgamation of that organisation with (*name of other organisation or organisations concerned in the amalgamation*) does not take place, they approve the amalgamation of (*name of first-mentioned organisation*) with the other organisations concerned in the amalgamation whose members give a like approval.*
2. The ballot was completed on (*date*)*
OR
The ballot has not been completed.*

Particulars of alleged irregularities

1. (*Specify in numbered paragraphs the alleged irregularities*)
- 2.
- 3.

**Omit if inapplicable*

Date:

(*Signed, applicant or applicant's solicitor*)

Appointment for hearing

This application has been set down for a directions hearing at the time and place stated below.

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

Place: (*address of Court*)

Date:

(*Signed, Registrar*)

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

Version 2

Form 50C Application for inquiry relating to a ballot under Part 3 of Chapter 3 of Schedule 1 to the *Workplace Relations Act 1996/the *Fair Work (Registered Organisations) Act 2009****

(Order 48, subrule 10A (3))

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
FAIR WORK DIVISION } No. of 20 .

In relation to a ballot of members of (*name of amalgamated organisation*)

A.B.

Applicant

APPLICATION FOR INQUIRY RELATING TO A BALLOT UNDER PART 3 OF CHAPTER 3 OF SCHEDULE 1 TO THE *WORKPLACE RELATIONS ACT 1996/THE *FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009****

The applicant, being:

- a member of the (*name of organisation*);* or
- a person who, within the period of 12 months before the date of this application, has been a member of the (*name of organisation*);* or
- the Electoral Commissioner*

applies under section 108 of Schedule 1 to the *Workplace Relations Act 1996**/section 108 of the *Fair Work (Registered Organisations) Act 2009** for an inquiry into the alleged irregularities set out below that the applicant claims to have occurred in relation to the ballot specified in this application. The applicant relies on the facts stated in the affidavit accompanying this application.

Particulars of ballot

1. Ballot of members of (*name of amalgamated organisation*) in respect of the proposed withdrawal from amalgamation of (*name of constituent part of amalgamated organisation*) from (*name of amalgamated organisation*).

-
2. The ballot was completed on *(date)**
OR
The ballot has not been completed.*

Particulars of alleged irregularities

1. *(Specify in numbered paragraphs the alleged irregularities.)*
2.
3.

**Omit if inapplicable*

Date:

(Signed, applicant or applicant's solicitor)

Appointment for hearing

This application has been set down for a directions hearing at the time and place stated below.

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

Place: *(address of Court)*

Date:

(Signed, Registrar)

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

Version 2

[14] Schedule 1, Forms 53, 53A, 53B, 53C, 54, 54A, 55, 55A, 55B, 55C, 55CA and 55CB

substitute

Form 53 Notice of a constitutional matter under section 78B of the *Judiciary Act 1903*

(Order 51)

IN THE FEDERAL COURT OF AUSTRALIA }
 DISTRICT REGISTRY }
 DIVISION } No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF A CONSTITUTIONAL MATTER

1. *(The party whose case raises the matter, e.g. applicant, respondent, &c.) gives notice that the above proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of section 78B of the Judiciary Act 1903.*
2. } *(Specify the nature of the matter.)*
3. }
4. } *(Specify if the facts showing the matter is one to which section 78B of the Judiciary Act 1903 applies.)*
5. }

(Conclude in accordance with Form 4)

Version 2

Form 53A Notice of proceeding

(Order 51A, rule 2)

IN THE FEDERAL COURT OF AUSTRALIA }
 DISTRICT REGISTRY }
 DIVISION } No. of 20 .

On remittal from the High Court of Australia

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF PROCEEDINGTo *(party) (address)*

This matter (or part of this matter) has been remitted to the Federal Court of Australia by the accompanying order of the High Court of Australia.

A directions hearing in this matter 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, the application may be dealt with and judgment be given or an order made in your absence.

Before any attendance at that time you must file an appearance in the Registry unless you are the applicant or have entered an appearance in the High Court.

Time:

Place: *(address of Court)*

Date of notice:

.....
(Signed, Registrar)

Version 3

Form 53B Notice of directions hearing (petition)

(Order 51B, rule 5)

IN THE FEDERAL COURT OF AUSTRALIA }
 DISTRICT REGISTRY }
 GENERAL DIVISION } No. of 20 .

Referred from the High Court of Australia

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF DIRECTIONS HEARING (PETITION)To *(party)**(address for service of party)*

This petition (or part of this petition) has been referred to the Federal Court of Australia by the accompanying order of the High Court of Australia.

The matter has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

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

Place: *(address of Court)*

Date of notice:

.....

(signed, Registrar)

Version 3

Form 53C Notice of date for trial (petition)

(Order 51B, rule 10)

IN THE FEDERAL COURT OF AUSTRALIA }
 DISTRICT REGISTRY }
 GENERAL DIVISION } No. of 20 .

Referred from the High Court of Australia

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF DATE FOR TRIAL (PETITION)

To (*party*)(*address for service of party*)

Take notice that the date, time and place for trial of this proceeding are as specified below.

Date:

Time:

Place: (*address of Court*)

Date of notice:

.....
 (*signature of notifying party
 or party's solicitor*)

Version 2

Form 54 Application for leave to appeal

(Order 52, rule 4)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
DIVISION } No. of 20 .

A.B. Applicant
C.D. Respondent

APPLICATION FOR LEAVE TO APPEAL

1. The applicant applies for leave to appeal from the judgment of (*court or Judge*) given on (*date*) at (*place*).
2. Leave to appeal is required by (*legislation giving right to appeal with leave*).
3. The grounds of the application appear in the annexed affidavit.
4. (*Statement indicating whether the applicant wishes to have the application dealt with without an oral hearing.*)
5. (*If Order 52, subrule 5 (3) applies*) The applicant applies for an order that compliance with subrule 5 (2) is dispensed with.

To the respondent (*address*):

Take Notice: Before taking any step in the proceeding you must enter an appearance in the Registry.

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

(*Conclude in accordance with Form 4*)

Version 3

Form 55 Notice of appeal

(Order 52, rule 12)

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
DIVISION } No. of 20 .

On appeal from the *Federal Court/*(*or if from another Court, specify Court*)

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF APPEAL

The appellant appeals from the whole (*or if from a part, specify part*) of the judgment of the *Federal Court/*(*or if from another Court, specify Court*) given on (*date*) at (*place*).

*The appeal is brought in accordance with leave granted on (*date*).

GROUND OF APPEAL: (*Specify grounds of appeal*)

1.

2.

3.

...

ORDERS SOUGHT: (*State what judgment or order the appellant seeks instead of the judgment appealed from*)

1.

2.

3.

...

To the respondent (*address*)

TAKE NOTICE:

- (a) Before taking any step in the proceeding you must enter an appearance in the Registry, unless you have already entered an appearance under Order 52, rule 7.
- *(b) *(Do NOT use this paragraph if the appeal is from a judgment of the Federal Magistrates Court)* The papers in the appeal will be settled before the Registrar at _____ on _____ *(place, date and time to be inserted by the Registrar)*.
- *(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).

Time and date for *directions hearing: *(to be entered by Registry unless fixed by Court)*

Place: *(address of Court)*

The appellant's address for service is *(address)*.

* Omit if inapplicable.

Version 5**Form 55A Notice of Appeal**

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

IN THE FEDERAL COURT OF AUSTRALIA	}	No. of 20 .
DISTRICT REGISTRY		
GENERAL DIVISION		

On appeal from the *(insert name of Tribunal)*

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*) 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:

(*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 you or your legal representative do not attend the Court at that time, orders may be made in your absence (including orders for costs).

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:

.....

(Signed: REGISTRAR)

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

Version 5

**Form 55B Application for extension of time to file
and serve notice of appeal from Tribunal**

(Order 53, rule 7)

IN THE FEDERAL COURT OF AUSTRALIA	}	
DISTRICT REGISTRY		
GENERAL DIVISION		
		No. of 20 .
BETWEEN: A.B.		
		Applicant
AND: C.D.		
		Respondent

**APPLICATION FOR EXTENSION OF TIME TO FILE AND SERVE
NOTICE OF APPEAL FROM TRIBUNAL**

1. The applicant applies for an extension of time in which to *file and *serve a notice of appeal from the *decision/*determination of (*specify Tribunal*) given on (*specify date*) at (*specify place*) in which the Tribunal *decided/*determined (*specify decision or determination from which the appeal is brought*).
2. An extension of time is required because a notice of appeal was not *filed and *served, as the case may be, within the *time/*times specified in (*specify provision or provisions of the Act limiting the time for filing or service, or both, and allowing the Court to extend that time*).
3. The grounds of the application appear in the annexed affidavit.

* *omit if inapplicable*

Date:

.....
(Signed, applicant or applicant's solicitor)

Time and date for hearing of application: *(to be inserted by Registry)*

Place: *(address of Court)*

(Signed: District Registrar)

Version 2

Form 55C Notice of referral

(Order 52A, rule 7)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
GENERAL DIVISION } No. of 20 .

BETWEEN: A.B.

Applicant

AND:

Commissioner of Taxation
Respondent

NOTICE OF REFERRAL

The applicant has requested the respondent pursuant to *(insert title and section of Act pursuant to which the request is made)* to refer the respondent's decision on an objection with respect to taxation to the Court. That decision of the respondent is as follows:

(state precisely the decision)

A list of the documents necessary for the hearing of the proceeding was forwarded by the respondent to the Registry. A copy of this list accompanies this Notice.

Date:

.....
(Respondent/solicitor)

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

NOTICE TO THE APPLICANT:

A directions hearing in this matter 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, the matter may be dealt with and judgment may be given or orders made or directions given in your absence. Before any attendance at that time you must file an address for service in the Registry and serve a copy of it upon the respondent.

TIME: *(Date and time to be entered by Registry unless fixed by Court)*

PLACE: *(Address of Court)*

.....
(Signed: REGISTRAR)

Version 3**Form 55CA Notice of address for service**

(Order 52A, rules 11 and 24)

IN THE FEDERAL COURT OF AUSTRALIA	}	
DISTRICT REGISTRY		
GENERAL DIVISION		No. of 20 .
BETWEEN: A.B.		
		Applicant
AND:		
		Commissioner of Taxation
		Respondent

NOTICE OF ADDRESS FOR SERVICE

The applicant is

A.B.

of *(address)*

Solicitor: *(name)*

(address)

telephone: *(number)*

facsimile: *(number)*

email address:

Solicitor's agent: *(name)*

(address)

telephone: *(number)*

facsimile: *(number)*

email address:

Address for service: *(specify address for service)*

Date:

.....
(Applicant/solicitor)

Version 2

Form 55CB Notice of hearing

(Order 52A, rule 20)

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

GENERAL DIVISION

No. of 20 .

BETWEEN: A.B.

Applicant

AND:

Commissioner of Taxation

Respondent

NOTICE OF HEARING

TAKE NOTICE that the application of the applicant under the Act mentioned below asking that a request to refer the decision of the respondent specified below to the Court be treated as having been duly lodged notwithstanding that the period for the lodgment by the applicant of such a request has ended, will be listed for hearing before the Federal Court of Australia at the time and place specified below. If there is no attendance before the Court by you or a legal practitioner representing you, the matter may be dealt with and judgment may be given or orders made or directions given in your absence. Before any attendance at that time you must file an address for service in the Registry and serve a copy of it upon the respondent.

ACT: *(insert title and section of Act under which the application is made)*

DECISION: *(specify the respondent's decision)*

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

PLACE: *(address of Court)*

(where the time for service has been abridged, add —

The time by which this application is to be served has been abridged by the Court to (specify date))

Date:

.....
(Respondent/solicitor)

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

Version 3**[15] Schedule 1, Forms 56 and 56A**

substitute

Form 56 Application for an Order of review

(Order 54)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
GENERAL DIVISION } No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

APPLICATION FOR AN ORDER OF REVIEW

Application to review the decision of (the respondent or the first respondent)
that (*here specify decision*)

OR

Application to review the conduct of (the respondent or the first respondent)
under which (*here identify conduct*)

OR

Application to review conduct in which (the respondent or the first respondent)
proposes to engage by which (*here identify proposed conduct*)

OR

Application to review the failure of (the respondent or the first respondent) to
decide that (*here identify the decision that is alleged ought to have been made*)

The applicant is aggrieved by the (decision or conduct or proposed conduct or
failure) because —

- 1.
 - 2.
- etc

The grounds of the application are —

- 1.
- 2.

etc

(particulars of fraud or bad faith, if alleged (Order 54, rule 2))

The applicant claims —

1. An order (*or declaration*) that (*specify relief sought*).

2.

etc

Date:

(Signed, applicant or applicant's solicitor)

NOTICE TO THE RESPONDENT

TO the respondent of *(insert address)*:

This application has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

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

Place: *(address of Court)*

Date:

(Signed, Registrar)

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

Version 4

Form 56A Application under the *Migration Act 1958*

(Order 54B, subrule 2 (1))

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
GENERAL DIVISION } No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

APPLICATION UNDER *MIGRATION ACT 1958*

This application is made under section 476A of the *Migration Act 1958*.

The applicant was notified of the decision that is the subject of this application on: (*date*)

The applicant claims:

1. (*specify in numbered paragraphs all relief sought*)
 - 2.
- etc

The grounds of the application are:

- 1.
 - 2.
- etc

(*particulars of fraud or bad faith if alleged (Order 54B, subrule 2 (2))*)

**DISCLOSURE UNDER SECTION 486D *MIGRATION ACT 1958* —
PROCEEDINGS IN RELATION TO A TRIBUNAL DECISION**

*For the purposes of the disclosure required by section 486D of the *Migration Act 1958* in relation to a proceeding in relation to a tribunal decision (within the meaning of that section), the applicant states that the applicant has not brought

any other judicial review proceedings (within the meaning of that section) in relation to the decision.

*For the purposes of the disclosure required by section 486D of the *Migration Act 1958* in relation to a proceeding in relation to a tribunal decision (within the meaning of that section), the applicant states that the applicant has brought the following judicial review proceedings (within the meaning of that section) in relation to the decision:

(Particulars of the title, file number and date of each proceeding and the court in which it was brought)

**Delete if inapplicable*

CERTIFICATE UNDER SECTION 486I *MIGRATION ACT 1958*

*For the purposes of section 486I of the *Migration Act 1958*, I (*name of lawyer*) certify that there are reasonable grounds for believing that this migration litigation (within the meaning of section 486K of that Act) has a reasonable prospect of success.

Date:

(Signed, applicant's lawyer)

**Delete if the applicant is not represented by a lawyer*

NOTICE TO THE RESPONDENT

TO the respondent of (*address*):

This application has been set down for the time and place stated below. If you or a legal practitioner representing you do not attend the Court at that time, the application may be dealt with and judgment may be given, or an order made, in your absence. As soon after the time mentioned as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard;
- (b) directions may be given for the further conduct of the proceeding;
- (c) any application for interlocutory relief may be heard.

Before any attendance at Court, you must file an appearance in the Registry.

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

Place: *(address of Court)*

Date:

(signed, Registrar)

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

Note Section 479 of the *Migration Act 1958* provides that the parties to a review of a migration decision resulting from an application referred to in section 477A of that Act are the Minister, or where appropriate the Secretary, and:

- (a) if the privative clause decision concerned was reviewable under Part 5 or 7 or section 500 of that Act and a decision on such a review has been made — the applicant in the review by the relevant Tribunal; or
- (b) in any other case — the person who is the subject of the decision; or
- (c) in any case — a person prescribed by the regulations.

Version 4

[16] Schedule 1, Forms 58A, 59, 61, 62, 63, 64, 65 and 69A
substitute

Form 58A Notice of appeal

(Order 58, rule 4)

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
GENERAL DIVISION } No. of 20 .

On appeal from the *(title or office of the person who made the decision)*

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

NOTICE OF APPEAL

1. TAKE NOTICE that the applicant appeals from the decision of *(specify title or office of the person who made the decision)* given on *(specify date)* at *(specify place)* whereby it was decided *(specify decision appealed from)*.
2. ORDERS SOUGHT: *(state the orders or relief sought by the applicant)*.
3. GROUNDS: *(specify grounds relied upon in support of the orders sought)*.

Date:

.....
(Signed, applicant or solicitor).

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 abridged, add —

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

Date:

.....
(Signed, REGISTRAR)

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

Version 3

Form 59 Application

(Order 65, rule 2)

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

GENERAL DIVISION

No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

APPLICATION

On the grounds appearing in the accompanying affidavit the applicant claims:

1. A declaration as to the persons entitled to the proceeds of the policies listed in the Schedule hereto.
2. Etc.

SCHEDULE*(List policies)*

DATED:

.....
(Signed, applicant or solicitor)

To the respondent: *(name and address)*

A directions hearing in this application 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, the application may be dealt with and judgment may be given or an order made in your absence. Before any attendance at that time 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)*

Date:

.....
(Signed, Registrar)

The applicant's address for service is: *(specify address for service)***Version 3**

**Form 61 Application for determination of
compensation under *Lands Acquisition
Act 1989***

(Order 67, rule 2)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
GENERAL DIVISION } No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

APPLICATION FOR DETERMINATION OF COMPENSATION

The application seeks determination pursuant to (*insert s 82 or s 108*) of the *Lands Acquisition Act 1989* of the amount of compensation payable to the applicant in respect of (*insert 'the acquisition of an interest in the land' or 'the exercise of the powers under Part III of the Act'*) described in the Schedule hereto.

SCHEDULE

(*Insert either:*

- (a) *full particulars of land and interest therein, or*
- (b) *details of the powers exercised under Part III of the Act and the land in relation to which those powers were exercised.*)

DATED:

.....
(*Signed, applicant or applicant's solicitor*)

To the respondent: (*Name and address*)

A directions hearing in this application 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 at the time and place specified below, the application may be

dealt with and you will be liable to suffer judgment or an order against you in your absence.

Before any attendance at that time you must file an appearance in the Registry.

APPOINTMENT FOR DIRECTIONS HEARING

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

Place: *(address of Court)*

(where the time for service has been abridged, add—

The time by which this application is to be served has been abridged by the Court to (specify time).)

Date:

.....
(Signed, Registrar)

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

Version 3

APPOINTMENT FOR DIRECTIONS HEARING

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

Place: *(address of Court)*

(where the time for service has been abridged, add —

The time by which this application is to be served has been abridged by the Court to (specify time).)

Date:

.....
(Signed, Registrar)

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

Version 3

**Form 63 Application to extend time fixed by
Lands Acquisition Act 1989**

(Order 67, rule 4)

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

GENERAL DIVISION

No. of 20 .

BETWEEN: A.B.

Applicant

AND: C.D.

Respondent

APPLICATION TO EXTEND TIME

1. The applicant applies for an extension of the time fixed by s. *(insert relevant section)* of the *Lands Acquisition Act 1989* for *(specify the doing of an act to which the time limit applies)*.
2. This application will be heard by the Court at
on *(place and date to be inserted by the Registrar)*.
3. The grounds of the application appear in the annexed affidavit.

Date:

.....
(Signed, Registrar)

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

Version 2

**Form 64 Application for determination of
equitable remuneration under *Circuit
Layouts Act 1989* (subsection 20 (2))**

(Order 58, rule 24)

IN THE FEDERAL COURT OF AUSTRALIA }
DISTRICT REGISTRY }
GENERAL DIVISION } No. of 20 .
BETWEEN: A.B. Applicant
AND: C.D. Respondent

**APPLICATION FOR DETERMINATION OF EQUITABLE
REMUNERATION**

The applicant seeks determination of the equitable remuneration payable to the applicant as owner/exclusive licensee of the E.L. rights in the eligible layout described in the Schedule hereto.

SCHEDULE

(*Insert sufficient particulars to identify the eligible layout in respect of which E.L. rights are claimed.*)

DATED:

.....
(Signed, applicant or applicant's solicitor)

To the respondent: (*Name and address*)

A directions hearing in this application 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 at the time and place specified below, the application may be dealt with and you will be liable to suffer judgment or an order against you in your absence.

Before any attendance at that time you must file an appearance in the Registry.

APPOINTMENT FOR DIRECTIONS HEARING

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

Place: (*address of Court*)

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

The time by which this application is to be served has been abridged by the Court to (specify time).)

Date:

.....
(*Signed, Registrar*)

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

Version 3

APPOINTMENT FOR DIRECTIONS HEARING

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

Place: *(address of Court)*

(where the time for service has been abridged, add —

The time by which this application is to be served has been abridged by the Court to (specify time).)

Date:

.....
(Signed, Registrar)

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

Version 3

Form 69A Subpoena (incorporating Notice to Witness)

(Order 69A, subrule 5 (5))

NOTICE TO WITNESS

Evidence and Procedure (New Zealand) Act 1994

THIS NOTICE IS VERY IMPORTANT

PLEASE READ IT AND THE ATTACHED DOCUMENT OR DOCUMENTS
VERY CAREFULLY.

IF YOU HAVE ANY TROUBLE UNDERSTANDING THESE
DOCUMENTS YOU SHOULD GET LEGAL ADVICE AS SOON AS
POSSIBLE.

Attached to this notice is a subpoena.

The subpoena has been issued by the Federal Court of Australia.

The subpoena may be served in New Zealand under New Zealand law (see section 14 of the Evidence Amendment Act 1994 (New Zealand)).

This notice:

- sets out your rights relating to the subpoena; and
- sets out your obligations relating to the subpoena; and
- includes information about the way in which you may make an application to have the subpoena set aside.

YOUR RIGHTS

1. You are entitled to receive payment of an amount equal to the reasonable expenses you incur in complying with the subpoena.
2. An amount of money, or money and vouchers, that is sufficient to meet your reasonable expenses of complying with the subpoena must be given to you within a reasonable time before the date for compliance with the subpoena (see below: 'YOUR OBLIGATIONS').
3. If, in complying with the subpoena, you incur expenses that are more than the amount that was given to you before you complied, you may

obtain an order from the Federal Court of Australia that you be paid the additional amount you incurred.

4. You may apply to the Federal Court of Australia to have the subpoena wholly or partly set aside. If you wish to apply to have the subpoena set aside you should get legal advice as soon as possible.
5. An application can be made and determined by that court without you having to go to Australia, or to retain Australian solicitors. All the necessary arrangements can be made in New Zealand.

NOTE: Details of some of the grounds on which a subpoena can be set aside and the procedures for setting aside a subpoena are set out at the end of this notice.

YOUR OBLIGATIONS

1. Unless the subpoena is set aside, you must comply with the attached subpoena if:
 - (a) when the subpoena was served on you, or at some reasonable time before the date specified in the subpoena for compliance with it, you were offered or given either:
 - (i) enough money to meet your reasonable expenses in complying with it, including any travel and accommodation expenses; or
 - (ii) a combination of money and vouchers (for example, travel tickets) to meet those expenses; and
 - (b) you were given with the subpoena a copy of an order by a judge giving leave to serve the subpoena in New Zealand; and
 - (c) the subpoena was served on you before or on the date specified in the order as the last day on which the subpoena may be served; and
 - (d) service of the subpoena complied with any other conditions specified in the order; and
 - (e) you are over the age of 18 years.

-
2. If the subpoena only requires you to produce documents or things, it must specify the date on which the documents or things are required for production in the court or tribunal that issued the subpoena. You may comply with the subpoena by producing the documents or things at a registry of the High Court of New Zealand at least 10 days before the date specified in the subpoena. When you produce the documents or things at the registry you will be required to produce the subpoena and to pay the cost of sending the documents or things to the court or tribunal that issued the subpoena. You will be able to pay that cost out of the money given to you to meet your reasonable expenses of complying with the subpoena.

FAILURE TO COMPLY WITH THE SUBPOENA

If you do not comply with this subpoena you may be arrested and taken before the High Court of New Zealand. Unless the High Court is satisfied that failure to comply should be excused, a fine not exceeding NZ\$10 000 may be imposed.

GROUND FOR SETTING ASIDE A SUBPOENA

1. The Court must set aside the subpoena if the subpoena requires you to attend at a place in Australia and:
 - (a) you do not have necessary travel documents and cannot reasonably get them within the time allowed for compliance with the subpoena; or
 - (b) if you complied with the subpoena — you would be liable to be detained for the purpose of serving a sentence; or
 - (c) you are being prosecuted or you are liable to prosecution for an offence in Australia; or
 - (d) you are liable to imposition of a penalty in civil proceedings in Australia (other than proceedings under the *Trade Practices Act 1974* (Australia)); or
 - (e) you are subject to a restriction on your movements imposed by law or an order of a Court that is inconsistent with you complying with the subpoena (for example, bail conditions, release conditions or terms of a community based sentence).
2. The grounds on which the court may set aside the subpoena include:
 - (a) the evidence you would give in the proceedings can be obtained satisfactorily by other means without significantly greater expense;
 - (b) compliance with the subpoena would cause you hardship or serious inconvenience;

- (c) if the subpoena requires you to produce a document or thing and:
 - (i) that document or thing should not be taken out of New Zealand; and
 - (ii) satisfactory evidence of the contents of the document or satisfactory evidence of the thing can be given by other means.

NOTE: The above list does not include all the matters the court will consider in an application to set aside a subpoena, but if any of the matters in the list apply to you they should be included in your application.

PROCEDURE FOR APPLYING TO SET ASIDE A SUBPOENA

1. Application must be made to the Federal Court of Australia.
2. You may fax your application to that court on fax number [*fax number of the court*].
3. Your application must contain an address for service in New Zealand or Australia. Any documents to be served on you will be delivered, faxed or posted to you at that address.
4. The Registrar of the Federal Court of Australia will arrange for service of your application and of any affidavit you lodge with the court with your application.
5. The court may determine your application without a hearing unless you, or the person who requested that the subpoena be issued, asks for a hearing.
6. If there is a hearing the Court can direct that it be held by video link (that is, a conference television link) or telephone. In that case you or your lawyer can take part in the hearing by video link or by telephone from a place in New Zealand.
7. If, in your application or within a reasonable time after lodging your application, you request that the hearing be held by video link or telephone, the court must hold a hearing by video link or telephone. However, in such a case, the court will determine which of video link or telephone will be used.

IN THE [*name of Court*]

File number:

DISTRICT REGISTRY [*insert if filing in Federal Court*]

DIVISION

APPLICANT/PLAINTIFF:

RESPONDENT/DEFENDANT:

SUBPOENA

To: [name]
 [address]

YOU ARE ORDERED:

- ☐ ***to attend to give evidence — see section A of this form; or**
- ☐ ***to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section B of this form; or**
- ☐ ***to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section C of this form**

** Select one only of these three options. The sections that have not been selected may be omitted or struck out.*

Failure to comply with this subpoena without lawful excuse may result in your arrest and the imposition of a fine under section 16 of the Evidence Amendment Act 1994 (New Zealand)

The last date for service of this subpoena is:
(See Note 2)

Please read Notes 1 to 16 at the end of this subpoena.

[Seal or Stamp of the Court]

Date:

Issued at the request of [name of party], whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

B. Details of subpoena to produce only

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to:
 - (i) the Registrar of the Federal Court at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production; or
 - (ii) the Registrar of the High Court of New Zealand at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 10 clear days before the date specified in the subpoena for attendance and production. (*See Notes 6–12*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[*Name of Court ... etc as the case may be*]

Schedule

The documents and things you must produce are as follows:

[*If insufficient space attach list*]

C. Details of subpoena both to attend to give evidence and to produce

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to:
 - (i) the Registrar of the Federal Court at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production; or
 - (ii) the Registrar of the High Court of New Zealand at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 10 clear days before the date specified in the subpoena for attendance and production. (*See Notes 6–12*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[*Name of Court ... etc as the case may be*]

Schedule

The documents and things you must produce are as follows:

[If insufficient space attach list]

NOTES

Leave to serve subpoena

1. You need not comply with the subpoena unless it is accompanied by:
 - (a) a copy of the order giving leave to serve the subpoena in New Zealand; and
 - (b) a notice in the prescribed form that:
 - (i) sets out your rights and obligations in relation to the subpoena; and
 - (ii) includes information about the way in which an application to have the subpoena set aside may be made.

Last day for service

2. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

3. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

4. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Production of subpoena or copy of it and documents or things by delivery or post

5. In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing:
 - (a) the Registrar of the Federal Court at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production; or

- (b) the Registrar of the High Court of New Zealand at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 10 clear days before the date specified in the subpoena for attendance and production.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar of the Federal Court in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar of the Federal Court may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar of the Federal Court, produce a list of the documents or things produced.

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Return or destruction of documents or copies

10. You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.
11. If you have so informed the Court, the Registrar of the Federal Court may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court for an order with respect to any claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Banker's book

14. In so far as this subpoena requires production of the subpoena or a copy of it and a banker's book, if section 47B of the Evidence Act 1908 (New Zealand) would have applied if this subpoena has been issued in a New Zealand proceeding, instead of producing the banker's book, you may produce proof of the relevant entries in accordance with section 47B of the Evidence Act 1908 (New Zealand).

Contempt of court — arrest

15. Failure to comply with this subpoena without lawful excuse may result in your arrest and the imposition of a fine under section 16 of the Evidence Amendment Act 1994 (New Zealand).
16. Note 15 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Version 3**[17] Schedule 1, Forms 138 and 141***substitute***Form 138 Summons to appear before assessor**

(Order 78, subrule 39 (4))

IN THE FEDERAL COURT OF AUSTRALIA

DISTRICT REGISTRY

DIVISION

No. of 20 .

A.B.

Applicant

C.D.

Respondent

SUMMONS

To: (name of witness)

(address)

You are summoned by the Federal Court of Australia to appear before (*insert name*), an assessor appointed under Part VA of the *Federal Court of Australia Act 1976*, to produce this summons and to give evidence in this matter in which the assessor is to take evidence at the place and on the date and at the time shown below.

You are summoned by the Federal Court of Australia to produce the documents listed on the schedule (*delete if inapplicable*):

- (a) before the assessor (*insert name*);
- (b) at (*insert place*);

- (c) on *(insert date)* at *(insert time)* and until you are excused from further attendance.

SCHEDULE *(if relevant)*

Date:

Failure to comply with this summons may constitute contempt of court and may result in your arrest.

You need not attend (or produce any documents) *(delete if inapplicable)* unless reasonable expenses of attendance have been paid or tendered to you.

If you are not a party to the proceedings, you may produce this summons and the documents to the assessor at the District Registry not later than three working days before the first day on which you are required to attend.

(Address of District Registry)

(Telephone number)

(Facsimile number)

Version 2

Form 141 Notice of appeal from National Native Title Tribunal

(and application for extension of period in which to appeal, if relevant)

(Order 78, subrules 24 (1) and 25 (2))

IN THE FEDERAL COURT OF AUSTRALIA	}	No. of 20 .
DISTRICT REGISTRY		
GENERAL DIVISION		

On appeal from the National Native Title Tribunal

A.B.

Applicant

C.D.

Respondent

(vary to suit purpose — see section 169 of the Native Title Act 1993 and Order 78, rule 24 of the Federal Court Rules)

NOTICE OF APPEAL

The applicant appeals from the decision/determination of the National Native Title Tribunal given on *(specify date)* at *(specify place)* by which the Tribunal decided or determined *(insert details of the decision/determination appealed from)*.

THE QUESTION OR QUESTIONS OF LAW on which the applicant appeals to the Court are: *(specify each question of law)*

- 1.
- 2.
- 3.

ORDERS SOUGHT: *(state the orders or relief sought by the applicant from the Court — see subsections 169 (6) and (7) of the Native Title Act 1993)*

- 1.
- 2.
- 3.

THE GROUNDS OF THE APPEAL: *(specify the grounds relied upon in support of the orders sought)*

- 1.
- 2.
- 3.

Application for extension of period in which to appeal

The applicant applies under Order 78, rule 25 of the Federal Court Rules for an extension of the time in which to institute the above appeal. As required by Order 78, paragraph 25 (2) (b) of the Federal Court Rules, there must be an accompanying affidavit:

- (a) explaining why the applicant did not institute the appeal within the 28 day period or will not be able to institute the appeal within that period; and

- (b) setting out the grounds for seeking the extension of time.

Note: This section need be completed only if the appeal is not, or will not be able to be, instituted within 28 days starting on the day when the decision or determination of the Tribunal is given to the applicant — see subsection 169 (4) of the *Native Title Act 1993* and Order 78, subrule 24 (2) of the Federal Court Rules. The application for the extension of time must be accompanied by an affidavit in accordance with Order 78, paragraph 25 (2) (b) of the Federal Court Rules.

Date:
(Signed, applicant or applicant's solicitor)

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

Fax number: (*insert*) Telephone number: (*insert*)

Note: The applicant must serve a copy of the notice of appeal on other parties (if any) to the proceeding before the National Native Title Tribunal.

The Federal Court will send a copy to the Registrar of the Tribunal.

FILED IN THE FEDERAL COURT OF AUSTRALIA ON THE DATE
SHOWN ON THE FILING STAMP.

A directions hearing in this appeal will be heard by the Court at the time and place specified below.

Appointment for Directions Hearing (to be entered by Registry)

Time: (*time*)

Place: (*address of Court*)

Date: (*eg 7 May 2008*)

.....
(Signed, Registrar)

Version 3

[18] Schedule 1, Forms 173 and 174

substitute

Form 173 Notice of filing and hearing

(Order 1, subrule 5AC (5))

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
DIVISION } No. of 20 .

NOTICE OF FILING AND HEARING

This application was filed electronically in the Federal Court of Australia on *[date]*.

DETAILS OF FILING

Document Lodged:

File Number:

File Title:

District Registry:

Reason for Listing:

Time and Date for Hearing:

Place:

[Facsimile of Court Seal]

Dated:

Registrar

Note

1. This Notice forms part of the application and contains information that might otherwise appear elsewhere in the application. The Notice must be included in the application served on each party to the proceeding.
2. The 'Reason for Listing' is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

Form 174 Notice of filing

(Order 1, subrule 5AC (5))

IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY
DIVISION } No. of 20 .

NOTICE OF FILING

This document was filed electronically in the Federal Court of Australia on *[date]*.

DETAILS OF FILING**Document Lodged:****File Number:****File Title:****District Registry:***[Facsimile of Court Seal]***Dated:****Registrar**

Note

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.

Note

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