

Admiralty Amendment (Electronic Communication) Rules 2015

Select Legislative Instrument No. 204, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Rules.

Dated 26 November 2015

Peter Cosgrove

Governor‑General

By His Excellency’s Command

George Brandis QC

Attorney‑General

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Amendments 2

Admiralty Rules 1988 2

1 Name

These are the *Admiralty Amendment (Electronic Communication) Rules 2015*.

2 Commencement

(1) Each provision of these Rules specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of these Rules | The day after these Rules are registered. |  |

Note: This table relates only to the provisions of these Rules as originally made. It will not be amended to deal with any later amendments of these Rules.

(2) Any information in column 3 of the table is not part of these Rules. Information may be inserted in this column, or information in it may be edited, in any published version of these Rules.

3 Authority

These Rules are made under the *Admiralty Act 1988.*

4 Schedules

Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.

Schedule 1—Amendments

Admiralty Rules 1988

1 Subrule 3(1)

Insert:

***electronic communication*** means a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy.

2 Subrule 5A(3)

Repeal the subrule, substitute:

(3) A document may be served on a person:

(a) by email:

(i) if an email address has been provided by the person for the purpose of service in the proceeding—to that email address; or

(ii) otherwise—to an email address of the person; or

(b) by fax sent to a fax number of the person; or

(c) if the court orders that the document may be served by means of a particular kind of electronic communication—by that means.

Note: Rules of Court of a court exercising jurisdiction under the Act may permit a document to be served otherwise than by electronic communication.

3 At the end of subrule 6(1)

Add:

Example: Rules of Court of a court exercising jurisdiction under the Act that require or permit a document to be filed by electronic communication will apply to a document required or permitted by these Rules to be filed in the court.

4 Subrule 24(2)

Omit “of its own motion”, substitute “on its own initiative”.

5 Rule 26

Repeal the rule, substitute:

26 Preliminary acts to be marked “Confidential”, etc.

(1) If a preliminary act is to be filed (other than by electronic communication) with a court, the preliminary act must be filed in a closed envelope that:

(a) is marked “Confidential”; and

(b) is sealed with the seal of the court; and

(c) bears the date of filing.

(2) If a preliminary act is to be sent by electronic communication to a court for filing, the preliminary act:

(a) must be marked “Confidential”; and

(b) must be accompanied by a statement that the preliminary act is a “confidential preliminary act which must only be opened in accordance with rule 28 of the *Admiralty Rules 1988*”.

(3) For the purposes of this rule, ***file*** includes lodge for filing.

6 Rule 28

Repeal the rule, substitute:

28 Opening of preliminary acts

(1) If a preliminary act is filed in a court in accordance with subrule 26(1), the Registrar must open the envelope containing the preliminary act if:

(a) the court so orders; or

(b) the pleadings in the proceeding are closed.

(2) If a preliminary act is filed in a court in accordance with subrule 26(2), the Registrar must make the preliminary act available to the parties if:

(a) the court so orders; or

(b) the pleadings in the proceeding are closed.

(3) The court may make an order under paragraph (1)(a) or (2)(a):

(a) on application or on its own initiative; and

(b) at any stage of the proceeding; and

(c) together with such other orders, including an order under Division 5, as are appropriate.

7 Subrule 30(4)

Omit “transmitted by facsimile transmission”, substitute “sent by electronic communication”.

8 Subrule 39A(3)

Omit “party”, substitute “person”.

9 Rule 65

Omit “of its own motion”, substitute “on its own initiative”.

10 Subrule 80(1)

Omit “of its own motion”, substitute “on its own initiative”.