

Form 2.51 Enforcement hearing subpoena

Court Procedures Rules 2006

(see r 2103 (Enforcement hearing—order for hearing etc))

In the *[Supreme/Magistrates] Court of the Australian Capital Territory

No *[SC/MC] of (year)

(name)

Enforcement creditor

(name)

Enforcement debtor

To (name of addressee/description of addressee's position)

(address)

You are ordered to attend an enforcement hearing before the
*[Supreme/Magistrates] Court—

(a) to answer questions and give information; and

*(b) to produce the documents and other things stated in the schedule to this subpoena.

You must attend as follows:

Date:

Filed on behalf of the enforcement creditor by:

(the person's address for service and telephone number (if any) or, if the person is represented by a solicitor and the solicitor is the agent of another solicitor, the name and place of business of the other solicitor)

Time:

Place: *[Supreme/Magistrates] Court at Knowles Place, Canberra City, ACT

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 enforcement hearing is completed.

You are also ordered to complete and swear the statement of the enforcement debtor's financial position served with this subpoena, and file it in the Court, at least 8 days before the date set for the enforcement hearing.

Failure to comply with this subpoena without lawful excuse may be contempt of court and you may be dealt with accordingly.

The last date for service of this subpoena is: *(see note 1)*

Please read notes 1 to 11 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:

**omit if, or whichever is, inapplicable*

Schedule of documents and things to be produced

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 this subpoena unless it is served on you on or before the date stated 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 its requirements.

Conduct money

- 3 You need not comply with this subpoena 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 when your attendance is required.

Production of a number of documents or things

- 4 If you produce more than 1 document or thing, you must, if asked by the registrar, produce a list of the documents or things produced.

*Production of copy instead of original

- 5 You may, with the issuing party's agreement, produce a copy, instead of the original, of any document that this subpoena requires you to produce.

(the issuing party, or that party's solicitor, should tick the following box if photocopies are acceptable)

- photocopies of documents are acceptable

*Return or destruction of documents or copies

- 6 You may tell the registrar in writing that any document or copy of a document produced need not be returned and may be destroyed.

(the addressee should tick the appropriate box if applicable)

- all original documents need not be returned and may be destroyed

- some original documents need not be returned and may be destroyed (*please attach a list of the documents that may be destroyed*)
 - all photocopies need not be returned and may be destroyed
 - some photocopies need not be returned and may be destroyed (*please attach a list of the documents that may be destroyed*)
 - whether documents need not be returned and may be destroyed will be advised at the time of production of the documents
- 7 If you have told the registrar that any document or copy may be destroyed, the registrar may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

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

Contempt of court—arrest

- 9 Failure to comply with a subpoena without lawful excuse may be contempt of court and you may be dealt with accordingly.
- 10 Note 9 does not affect any power of the Court to enforce compliance with a subpoena, including the power to issue a warrant for the arrest of an addressee who does not comply with a subpoena.
- 11 Failure to comply with a subpoena may also be a criminal offence (see Criminal Code, s 719 (Failing to attend) and s 720 (Failing to produce document or thing)).