

Form 6.10 Subpoena

Court Procedures Rules 2006

(see r 6602 (Form of subpoena))

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

No *[SC/MC] of (year)

**(for a civil matter)*

(name)
Plaintiff

(name)
Defendant

**(for a criminal matter)*

*[The Queen/name of informant]

and

(name of accused person)

**omit if, or whichever is, inapplicable*

To *[name of addressee/description of addressee's position]
(address)

Filed for the *[plaintiff/defendant/other (specify)] 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)

You are ordered:

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

**(select 1 only of these 3 options)*

Failure to comply with this subpoena without lawful excuse is a 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 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 where 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 stated in the schedule below at the date, time and place stated for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things stated in the schedule below to the Registrar (*or, for an arbitration under the Commercial Arbitration Act 1986, the* *[arbitrator/umpire]) at the address below so that they are received not less than 2 days before the date stated for attendance and production. (*see notes 5-11*)

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 where the subpoena (or copy) and documents or things may be delivered or posted—

Schedule

The documents and things you must produce are as follows:
(if insufficient space, attach list)

**omit if, or whichever is, inapplicable*

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

To the extent that 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.

To the extent that 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 stated in the schedule below at the date, time and place stated for attendance and production; or
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- (b) by delivering or sending this subpoena or a copy of it and the documents or things stated in the schedule below to the Registrar (*or, for an arbitration under the Commercial Arbitration Act 1986, the* *[arbitrator/umpire]) at the address below so that they are received not less than 2 days before the date stated for attendance and production. (*see notes 5-11*)

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 where the subpoena (or copy) and documents or things may be delivered or posted:

Schedule

The documents and things you must produce are as follows:
(*if insufficient space attach list*)

**omit if, or whichever is, inapplicable*

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.

Addressee a corporation

- 3 If this 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 this subpoena to the extent that 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 when your attendance is required.

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

- 5 To the extent that this subpoena requires you to produce this 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 (*or, for an arbitration under the Commercial Arbitration Act 1986, the arbitrator or umpire*) at the address stated for the purpose in the subpoena so that they are received not less than 2 days before the date stated 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 anyone else, you must tell the Court about your objection and the grounds of your objection either orally on the return date for this subpoena or in writing before or after the return date.
- 7 Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to this subpoena being inspected by any party to the proceeding, the Registrar may allow 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 1 document or thing, you must, if asked by the Registrar (*or, for an arbitration under the Commercial Arbitration Act 1986, the arbitrator or umpire*), produce a list of the documents or things produced.

Production of copy instead of original

- 9 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

- 10 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
- 11 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

- 12 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.

Loss or expense of compliance

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

Contempt of court

- 14 Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
- 15 Note 14 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.
- 16 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)).