Australian Capital Territory

Courts Procedures Amendment Rules 2022 (No 3)

**Subordinate Law 2022-19**

made under the

Courts Procedures Act 2004

### REVISED EXPLANATORY STATEMENT

The Rule-Making Committee (currently comprising the Chief Justice McCallum, Justice Kennett, Acting Chief Magistrate Campbell and Magistrate Theakston) may make rules in relation to the practice and procedure of the ACT Courts and their registries pursuant to section 7 of the *Court Procedures Act 2004*.

The Courts and the Joint Rules Advisory Committee conducted a consultative review of the rules which has resulted in the amendments contained in *the Court Procedures Amendment Rules 2022 (No 3)*.

The amendments provide for:

* electronic signatures to be applied to a range of court documents; and
* an increase in the scale of allowable costs contained at Schedule 4.

The amendments allow for electronic signatures to be affixed to document required by the Rules to be signed other than affidavits or documents that are required to be witnessed.

Allowable costs are costs that a solicitor is entitled to recover from the other party in circumstances where the Court makes an Order for costs.

The amendments to the scale of allowable costs reflect increases in the Wage Price Index and Consumer Price since the scale was last reviewed and amended on 1 July 2019. The increase reflects CPI and WPI increases of:

* 0.97% for FY 2019/20
* 2.52% for FY 2020/21
* 3.97% for FY 2021/22

These increases are calculated in accordance with the Federal Costs Advisory Committee formula which is applied to the Federal courts’ scale of costs, these figures are cumulative.

The Attachment to this Explanatory Statement lists the previous charges to enable comparison.

###### **Comparison of Previous and Revised Fees**

| **column 1**  **item** | **column 2**  **matter in relation to which charge is made** | **column 3**  **Previous charge ($)** | **column 4**  **Charge on and after 1 January 2023 ($)** |
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| **Division 4.2.1 Instructions** | | | |
| 1 | to sue or defend, to appeal or oppose an appeal | 187.30 | 201.30 |
| 2 | for statement of claim, petition, special case or counterclaim | 187.30 | 201.30 |
| 3 | for defence | 160.30 | 172.30 |
| 4 | for—   (a) a reply; or   (b) amending a pleading; or   (c) a notice claiming contribution or indemnity; or   (d) a document to be brought into the registrar’s office (for example, an account or deed); or   (e) adding parties by order; or   (f) a bond or other deed; or   (g) retaining counsel, including preparing retainer | 66.90 | 71.90 |
| 5 | for—   (a) a pleading not otherwise provided for; or   (b) interrogatories for the examination of a party or witness; or   (c) an affidavit in answer to interrogatories or other special affidavit; or   (d) disclosure or a list of documents; or   (e) an application for an order that a matter be heard before the Full Court; or   (f) a brief on application in chambers | 133.70 | 143.70 |
| 6 | for—   (a) an application whether in court, before the registrar or in chambers; or   (b) opposition to an application; or   (c) the assessment of a bill of costs | 133.70 | 143.70 |
| 7 | for brief to advise on evidence | 120.40 | 129.40 |

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| 8 | for—   (a) a statement of facts in an action; or   (b) a request for particulars; or   (c) particulars | 133.70 | 143.70 | |
| 9 | for brief in preparation for trial | the amount the registrar considers appropriate | the amount the registrar considers appropriate | |
| **Division 4.2.2 Drawing** | | | | |
| 10 | for an originating process or counterclaim | 139.80  or, if longer than 700 words, 19.80 per 100 words | 150.20  or, if longer than 700 words, 21.30 per 100 words | |
| 11 | for any other pleading, a notice claiming contribution or indemnity, or an amendment of a pleading | 93.70  or, if longer than 400 words, 19.80 per 100 words | 100.70  or, if longer than 400 words, 21.30 per 100 words | |
| 12 | for—   (a) a notice of an application in a proceeding; or   (b) a notice to produce documents; or   (c) a notice to admit facts; or   (d) a special case; or   (e) interrogatories; or   (f) a special affidavit; or   (g) a brief (including observations) | 85.70  or, if longer than 400 words, 19.80 per 100 words | 92.10  or, if longer than 400 words, 21.30 per 100 words | |
| 13 | a formal affidavit, including an affidavit of service | 47.00 | 50.50 |  |
| 14 | any other document | 37.10  or, if longer than 100 words, 22.00 per 100 words | 39.90  or, if longer than 100 words, 23.60 per 100 words | |
| **Division 4.2.3 Engrossing** | | | | |
| 15 | of a document | 5.90  per 100 words | 6.30  per 100 words | |
| **Division 4.2.4 Copies** | | | | |
| 16 | of any document, or of multiple documents copied at the same time—   (a) for each of the first 10 copies; or   (b) for each additional copy up to 100 copies; or   (c) for each additional copy over 100 copies | 3.70 per page  1.70 per page  0.60 per page | 4.00 per page  1.80 per page  0.60 per page | |

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| **Division 4.2.5 Perusal** | | | |
| 17 | of—   (a) an originating process; or   (b) a pleading; or   (c) an application in a proceeding; or   (d) interrogatories; or   (e) a special case; or   (f) a notice to admit | 66.00  or, if longer than 800 words, 7.40 per 100 words | 70.90  or, if longer than 800 words, 8.00 per 100 words |
| 18 | of any other document, if it is necessary to peruse | 7.40  per 100 words | 8.00  per 100 words |
| 19 | of a document by scanning it, if it is not necessary to peruse | 7.30  or, if the document has more than 10 pages, the additional amount the registrar considers appropriate | 7.80  or, if the document has more than 10 pages, the additional amount the registrar considers appropriate |
| **Division 4.2.6 Attendances** | | | |
| 20 | for personal service, if necessary, of 1 or more documents at the same time | 100.00 | 107.50 |
| 21 | for service of 1 or more documents at the same time—   (a) at the office of a solicitor on the record or the address for service of a party; or   (b) by post; or   (c) made through a document exchange | 40.50 | 43.50 |
| 22 | by attendance (including travel and waiting time)—   (a) by a solicitor; or   (b) by a clerk | 36.00 per 6 minutes  15.00 per 6 minutes | 38.70 per 6 minutes  16.10 per 6 minutes |
| 23 | at the registry or other office or place for—   (a) filing, delivering, or collecting a document; or   (b) a purpose not involving the exercise of legal skill or knowledge | 33.30 | 35.80 |
| 24 | formal telephone attendance | 33.30 | 35.80 |
| 25 | telephone attendance leaving message only | 16.60 | 17.80 |

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| 26 | if the registrar is satisfied, in relation to travel, that the purpose of the journey could not have been satisfactorily accomplished by an agent and that—   (a) a solicitor has been necessarily absent from the place where the solicitor carries on practice; or   (b) a clerk has attended in place of the solicitor | an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the solicitor is absent, of not more than 1 560.50  an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the clerk is absent, of not more than 400.80 | an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the solicitor is absent, of not more than 1 676.90  an allowance (in addition to reasonable travelling expenses), for each day (other than Saturdays and Sundays) that the clerk is absent, of not more than 430.70 |
| **Division 4.2.7 Letters** | | | |
| 27 | ordinary letter | 46.50  or 22.60 per 100 words | 50.00  or 24.30 per 100 words |
| 28 | special letter | 77.20  or 22.60 per 100 word | 83.00  or 24.30 per 100 words |
| 29 | formal letter—short letter, without legal content | 22.50 | 24.20 |
| 30 | circular letters after the first | 10.20 | 11.00 |
| 31 | fax copy or telex, including attendance to send | 52.70 | 56.60 |
| 32 | receiving and filing any incoming letter, other than a letter received by email (postage and transmission fees properly incurred may be claimed as a disbursement) | 13.90 | 14.90 |
| 33 | receiving, printing and filing incoming letter received by email | 15.20 | 16.30 |
| 34 | printing any attachment to an email, or multiple attachments to an email printed at the same time—   (a) for each of the first 10 pages; or   (b) for each additional page up to 100 copies; or   (c) for each additional page over 100 copies | 3.70 per page  1.70 per page  0.60 per page | 4.00 per page  1.80 per page  0.60 per page |
| **Division 4.2.8 Witness expenses** | | | |
| 35 | a witness called because of the witness’s professional, scientific or other special skill or knowledge | 1 311.00  per day | 1 408.80  per day |
| 36 | a witness called other than because of the witness’s professional, scientific or other special skill or knowledge | 138.30  per day | 148.30  per day |
| 37 | a witness paid in the witness’s occupation by wages, salary or fees | the amount lost by attendance at court | the amount lost by attendance at court |
| 38 | a witness qualifying to give skilled evidence | the additional amount the registrar considers reasonable and properly incurred and paid | the additional amount the registrar considers reasonable and properly incurred and paid |
| 39 | if the witness lives more than 50km from the court | the additional amount the registrar considers reasonable for the actual cost of travel, and for accommodation and meals | the additional amount the registrar considers reasonable for the actual cost of travel, and for accommodation and meals |
| 40 | attendance at court by a witness acting as an expert in assisting counsel or a solicitor for a period during the trial or hearing | the amount the registrar considers appropriate (but not affecting the existing practice of allowing qualifying fees for witnesses) | the amount the registrar considers appropriate (but not affecting the existing practice of allowing qualifying fees for witnesses) |
| **Division 4.2.9 Disbursements** | | | |
| 41 | all court fees, counsel’s fees and other fees and payments | allowed to the extent that they have been properly and reasonably incurred and paid | allowed to the extent that they have been properly and reasonably incurred and paid |