

# Courts Procedures Amendment Rules 2022 (No 3)

## Subordinate Law 2022-19

made under the

**Courts Procedures Act 2004**

## REVISED EXPLANATORY STATEMENT

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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**

<b>column 1 item</b>	<b>column 2 matter in relation to which charge is made</b>	<b>column 3 Previous charge (\$)</b>	<b>column 4 Charge on and after 1 January 2023 (\$)</b>
<b>Division 4.2.1 Instructions</b>			
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



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
<b>Division 4.2.2 Drawing</b>			
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
<b>Division 4.2.3 Engrossing</b>			
15	of a document	5.90 per 100 words	6.30 per 100 words
<b>Division 4.2.4 Copies</b>			
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

## 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

26	<p>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—</p> <p>(a) a solicitor has been necessarily absent from the place where the solicitor carries on practice; or</p> <p>(b) a clerk has attended in place of the solicitor</p>	<p>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</p> <p>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</p>	<p>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</p> <p>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</p>
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### 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	<p>printing any attachment to an email, or multiple attachments to an email printed at the same time—</p> <p>(a) for each of the first 10 pages; or</p> <p>(b) for each additional page up to 100 copies; or</p> <p>(c) for each additional page over 100 copies</p>	<p>3.70 per page</p> <p>1.70 per page</p> <p>0.60 per page</p>	<p>4.00 per page</p> <p>1.80 per page</p> <p>0.60 per page</p>

### 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,	138.30 per day	148.30 per day

	scientific or other special skill or knowledge		
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)
<b>Division 4.2.9 Disbursements</b>			
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