



Australian Capital Territory

Supreme Court Rules Amendment

Subordinate Law 2000 No 44

We, Judges of the Supreme Court, make the following rules of court under section 36 of the *Supreme Court Act 1933*.

Dated 18 October 2000.

JEFFREY MILES
Chief Justice

T. J. HIGGINS
Judge

K. J. CRISPIN
Judge

N. F. GRAY
Judge

A. G. TOWILL
Registrar



Australian Capital Territory

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made under the

Supreme Court Act 1933

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1 Commencement

These rules commence 28 days after they are notified in the Gazette.

2 Rules amended

These rules amend the *Supreme Court Rules*.

3 Insertion

After order 39 the following order is inserted:

“ORDER 39A—EXHIBITS, DOCUMENTS AND OBJECTS

“1 Meaning of *person named and subpoena document or object*

In this order:

person named, in relation to a subpoena, means the person to whom the subpoena is addressed.

subpoena document or object means a document or object, produced in a proceeding because of a subpoena, by a person who is not a party to the proceeding.

“2 The clerk at the proceeding

The clerk at a proceeding is the person appointed by the court to be the clerk.

“3 Record

“(1) The clerk at a proceeding must keep a record of the proceeding in the way required by the registrar.

“(2) The clerk must—

- (a) take charge of a document or object that is an exhibit in the proceeding; and
- (b) mark or otherwise label each exhibit so the exhibit has a unique identifier in a sequence of consecutive identifiers allocated to the exhibits of the party that put it into evidence; and
- (c) prepare a list of the exhibits for the proceeding that shows—
 - (i) the party that put the exhibit into evidence; and

- (ii) if the exhibit was produced because of a subpoena—the name of the person named in the subpoena.

“(3) The list of exhibits forms part of the record of the proceeding.

“(4) Unless the court orders otherwise, the clerk may treat 2 or more documents as a single exhibit.

“4 Custody of exhibits after proceedings

“(1) Unless the court orders otherwise, the clerk at the proceeding must keep exhibits in a proceeding for 21 days after judgment is given in the proceeding.

“(2) However, the clerk may give the exhibits to the registrar to be kept and dealt with under these rules and the Federal Court Rules.

“5 Duty of parties to claim exhibits

“(1) The party that put an exhibit into evidence in a proceeding must apply to the registrar for the return of the exhibit as soon as practicable after—

- (a) if an appeal is begun in relation to the proceeding within the appeal period—the appeal is disposed of; or
- (b) if an appeal is not begun in relation to the proceeding within the appeal period—the end of the appeal period.

“(2) If the registrar has the exhibit, the registrar must give it to the applicant or, if the exhibit belongs to a person who is not a party and the application asks for it to be given to the person, to that person.

“(3) Subject to these rules and the Federal Court Rules, if the registrar does not have the exhibit, the registrar must get the exhibit and give it to the applicant or, if the exhibit is a subpoena document or object produced by a person who is not a party and the application asks for it to be given to the person, to that person.

“(4) Unless the court orders otherwise, if a party does not apply for the return of an exhibit (other than a subpoena document or object) put into evidence by the party, the registrar must give the exhibit to the party.

“(5) If a party applies for and is given a subpoena document or object, the party must return the document or object to the person named in the subpoena.

“(6) This rule does not require a party to apply for the return of a subpoena document or object.

“(7) In this rule:

appeal period, in relation to a proceeding, means 21 days after judgment is given in the proceeding.

“6 Return of document or object produced on subpoena

“(1) At the end of the hearing of a proceeding, the party that issued the subpoena for a subpoena document or object that was not put into evidence in the proceeding as an exhibit must return the document or object to the person named in the subpoena as soon as possible.

“(2) Subrule (1) applies to a document or object whether or not it was marked for identification.

“(3) The registrar must give a subpoena document or object for a proceeding (other than a document or object mentioned in subrule (1)) to the person named in the subpoena as soon as practicable after—

- (a) if an appeal is begun in relation to the proceeding—the appeal is disposed of; or
- (b) if there is no appeal—the end of 21 days after judgment is given in the proceeding.

“7 Requirement to give or send exhibit

If the registrar is required under this order to give an exhibit (including a subpoena document or object) to a person, the registrar must give or send the exhibit to the person in a way that seems reasonable to the registrar.

“8 Power to lend documents and objects

The registrar may lend a person a document or object that the registrar has in relation to a proceeding, whether or not the document or object is an exhibit (produced on subpoena or otherwise), if—

- (a) the person undertakes in writing to return the document or object to the registrar quickly if asked to do so by the registrar; and
- (b) the registrar is satisfied that the person can and will comply with the undertaking.

Endnotes

Rules amended

- 1 Republished as in force on 1 February 1999. See also 1999 No 26; 2000 Nos 17, 23 and 24.

Notification

- 2 Notified in Gazette 2000 No 44 on 2 November 2000.