



Australian Capital Territory

Court Procedures Amendment Rules 2017 (No 2)

Subordinate Law SL2017-10

We, the rule-making committee, make the following rules of court under the *Court Procedures Act 2004*, section 7.

Dated 27 April 2017.

R REFSHAUGE

Acting Chief Justice

M ELKAIM

Judge

L WALKER

Chief Magistrate

P MORRISON

Magistrate



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made under the

[Court Procedures Act 2004](#)

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2017 (No 2)*.

2 Commencement

These rules commence on the commencement of the *Family Violence Act 2016*, section 3.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

These rules amend the *Court Procedures Rules 2006*.

4 Rule 4 (1) and notes

substitute

- (1) Unless a territory law otherwise provides, these rules apply to all proceedings in the Supreme Court and Magistrates Court.

Note A *territory law* includes these rules (see [Legislation Act](#), s 98).

5 Rule 22 (1), note 2

substitute

Note 2 This chapter has been disappplied (with exceptions) in relation to family and personal violence proceedings (see r 3802) and workers compensation proceedings (see r 3903).

Note 3 The Magistrates Court includes the Childrens Court (see [Magistrates Court Act 1930](#), s 287).

6 Rule 2802 (3) (b), new note 1

insert

Note 1 A party is not required to serve a stamped copy of the notice to act in person on another party to a family violence or personal violence proceeding (see r 3802 (2) (q)).

7 Rule 2901 (2), new note 1

insert

Note 1 For a family or personal violence proceeding, the registrar is not required to give a copy of a document that includes an affected person's home or work address or other information that may allow the affected person to be located (see r 3802 (2) (r)).

8 Rule 2903 (1), new note 1

insert

Note 1 For a family or personal violence proceeding, a party to the proceeding may inspect, or take a copy of, a document filed in the registry provided the document does not include an affected person's home or work address or other information that may allow the affected person to be located (see r 3802 (2) (s)).

9 New part 3.12

insert

Part 3.12 Family violence and personal violence proceedings

Division 3.12.1 Family violence and personal violence proceedings—general

3800 Terms used in Family Violence Act and Personal Violence Act

A term used in the *Family Violence Act 2016* or *Personal Violence Act 2016* has the same meaning in this part.

Examples

affected person, protection order

Note An example is part of the rules, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

3801 Application—pt 3.12

This part only applies to a family violence or personal violence proceeding.

Note This part also applies to a proceeding under the *Domestic Violence and Protection Orders Act 2008* (repealed) (see *Family Violence Act 2016*, s 199 and *Personal Violence Act 2016*, s 199).

3802 Rules in ch 2 disapplied

- (1) Except as provided by subrule (2), chapter 2 does not apply to a family violence or personal violence proceeding.
- (2) The following rules apply, with any necessary changes, to a family violence and personal violence proceeding:
 - (a) rule 30 (Who may start and carry on a proceeding);
 - (b) rule 270 (Consolidation etc of proceedings);
 - (c) rule 502 (Amendment—of documents);
 - (d) rule 1166 (Discontinuance or withdrawal by party representing someone else etc);
 - (e) rule 1401 (Directions generally);
 - (f) part 2.12 (Expert evidence);
 - (g) division 2.14.2 (Failure to comply with rules or order);
 - (h) rule 1506 (Trial—adjournment etc);
 - (i) rule 1508 (Order of evidence and addresses);
 - (j) rule 1600 (Orders—required by nature of case);
 - (k) rule 1601 (Judgment book);
 - (l) rule 1605 (1) and (2) (Orders—making and effect);
 - (m) rule 1607 (Orders—certified duplicate);
 - (n) rule 1608 (Orders—reasons);

- (o) rule 1609 (Orders—reservation of decision);
- (p) part 2.18 (Enforcement);
- (q) part 2.21 (Representation by solicitors) other than rule 2802 (3) (b);
- (r) rule 2901 (Copies of documents from registrar) but not in relation to an order or document that includes an affected person’s home or work address or other information that may allow the affected person to be located;
- (s) rule 2903 (Inspection of registry files) but only—
 - (i) to the extent that it allows a party to the proceeding to inspect, or take a copy of, a document filed in the registry in relation to the proceeding; and
 - (ii) in relation to a document that does not include an affected person’s home or work address or other information that may allow the affected person to be located.

Note 1 The court may, by order, dispense with the disapplication of a rule under r (1) or the application of a rule under r (2) (see r 6 (Dispensing with rules)).

Note 2 Court procedures must be as simple, quick and inexpensive as is consistent with achieving justice (see *Family Violence Act 2016*, s 12 and *Personal Violence Act 2016*, s 9).

3803 Other disappplied rules

The following rules do not apply to a family violence or personal violence proceeding:

- (a) rule 6103 (1) (a) (i) (Documents—layout etc);
- (b) rule 6120 (b) (Filing documents—number of copies);
- (c) rule 6256 (Appeals from registrar’s orders etc);
- (d) division 6.8.3 (Service—Magistrates Court);

- (e) rule 6430 (Service in Australia but outside ACT);
- (f) rule 6435 (Service on children);
- (g) rule 6436 (Service on people with mental disabilities);
- (h) rule 6460 (Substituted service);
- (i) rule 6464 (4) (Acceptance of service by solicitor);
- (j) rule 6467 (2) (a) (iii) (Proof of service);
- (k) rule 6469 (2) (b) (Change of address for service).

10 Table 5051, item 6, column 4

substitute

Domestic Violence and Protection Orders Act 2008 (repealed), s 97

Family Violence Act 2016, s 93

Health Records (Privacy and Access) Act 1997, s 32 (1)

Leases (Commercial and Retail) Act 2001, s 155

Magistrates Court Act 1930, s 274

Personal Violence Act 2016, s 85

11 Rule 6103 (1) (a), new note

insert

Note A document in a family violence or personal violence proceeding need not be white (see r 3803 (a)).

12 Rule 6120, new note 1

insert

Note 1 An applicant for a protection order under the *Family Violence Act 2016* or *Personal Violence Act 2016* need only file 1 copy of the application for the order (see r 3803 (b)).

13 Rule 6251 (3) (i) and (j)

substitute

- (i) under the following provisions of the *Family Violence Act 2016*:
- part 3 (Family violence orders) other than section 32 (Special interim orders—final application decided) and division 3.5 (Final orders)
 - section 47 (Interim order sought)
 - section 53 (Applicant not present at return of application)
 - section 54 (Respondent not present at return of application)
 - section 54A (Neither party present at return of application)
 - section 60 (Closed hearings in special circumstances)
 - section 70A (2) (Personal service of application on respondent)
 - section 70B (Dismissal of application for non-service)
 - section 70E (Service of documents by police)
 - section 71 (Police officer party to proceeding—substitution of applicant etc)
 - section 71A (Request for further particulars)
 - section 73 (Costs)
 - section 75 (Child respondents)
 - section 76 (Representation—party with impaired decision-making ability)
 - section 77 (Consent orders—party with impaired decision-making ability)
 - section 81 (Litigation guardian—removal)
 - section 83 (Amendment of protection orders) if the other party to the application for amendment of the protection order consents to the application or is not present, personally or by a representative, when the application is returned before the Magistrates Court

- section 84 (Final orders—temporary amendment)
 - section 85 (General interim orders made by consent—extension)
 - section 86 (2) (Final orders—extension)
 - section 87 (Special interim orders—application for review)
 - section 88 (Special interim orders—review);
- (j) under the following provisions of the *Personal Violence Act 2016*:
- part 3 (Protection orders) other than division 3.5 (Final orders) and section 37 (3) (b) (Final orders—respondent’s firearms)
 - section 38 (2) (Firearm licences—other conditions and orders) if the registrar makes a non-cancellation order under section 37 (3) (a)
 - section 41 (Interim order sought)
 - section 48 (Applicant not present at return of application)
 - section 49 (Respondent not present at return of application)
 - section 49A (Neither party present at return of application)
 - section 55 (Closed hearings in special circumstances)
 - section 64A (2) (Personal service of application on respondent)
 - section 64B (Dismissal of application for non-service)
 - section 64E (Service of documents by police)
 - section 65 (Police officer party to proceeding for personal protection order—substitution of applicant etc)
 - section 65A (Request for further particulars)
 - section 67 (Costs)
 - section 69 (Child respondents)
 - section 70 (Representation—party with impaired decision-making ability)

- section 71 (Consent orders—party with impaired decision-making ability)
- section 75 (Litigation guardian—removal)
- section 77 (Amendment of protection orders) if the other party to the application for amendment of the protection order consents to the application or is not present, personally or by a representative, when the application is returned before the Magistrates Court
- section 78 (Final orders—temporary amendment)
- section 79 (Interim orders made by consent—extension)
- section 80 (2) (Final orders—extension);

14 Rule 6251 (4) and note

omit

15 Rule 6256 (1), new note 1

insert

Note 1 This rule does not apply to a family or personal violence proceeding (see r 3803 (c)).

16 Rule 6400, note

substitute

Note 1 The following rules do not apply to a family or personal violence proceeding (see r 3803):

- r 6103 (1) (a) (i) (Documents—layout etc)
- r 6120 (b) (Filing documents—number of copies)
- r 6256 (Appeals from registrar’s orders etc)
- div 6.8.3 (Service—Magistrates Court)
- r 6430 (Service in Australia but outside ACT)
- r 6435 (Service on children)
- r 6436 (Service on people with mental disabilities)
- r 6460 (Substituted service)

- r 6464 (4) (Acceptance of service by solicitor)
- r 6467 (2) (a) (iii) (Proof of service)
- r 6469 (2) (b) (Change of address for service).

Note 2 The following rules do not apply to a criminal proceeding (see r 4006):

- r 6412 (Service of originating process by post—Magistrates Court)
- r 6413 (Doubtful service—Magistrates Court)
- r 6421 (Service by filing)
- div 6.8.5 (Service—particular cases)
- r 6460 (Substituted service)
- r 6461 (Informal service)
- r 6462 (Service on agent)
- r 6463 (Service under contract)
- div 6.8.9 (Service outside Australia—general)
- div 6.8.11 (Service of foreign legal process in the ACT)
- div 6.8.12 (Service under the Hague Convention).

17 Rule 6864 (2) and note 1

omit

18 Dictionary, new definitions

insert

family violence proceeding means a proceeding under the [Family Violence Act 2016](#).

personal violence proceeding means a proceeding under the [Personal Violence Act 2016](#).

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 28 April 2017.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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