



Australian Capital Territory

Court Procedures Amendment Rules 2018 (No 1)

Subordinate Law SL2018-25

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

Dated 12 December 2018.

H G MURRELL

Chief Justice

P MORRISON

Magistrate

M ELKAIM

Judge



Australian Capital Territory

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made under the

[Court Procedures Act 2004](#)

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2018 (No 1)*.

2 Commencement

These rules commence on 1 January 2019.

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 2353

substitute

2353 Earnings redirection order—limit

- (1) The court must not make an earnings redirection order for the enforcement debtor that would reduce the total earnings of the enforcement debtor to an amount that is less than 80% of the debtor's net earnings.
- (2) In this rule:
net earnings means gross earnings per week or another appropriate period after any required deduction of tax.

5 Rule 2358 (1)

substitute

- (1) For each payday while an earnings redirection order is in force, the enforcement debtor's employer—
 - (a) must deduct from the enforcement debtor's earnings the amount stated in the order (the *deducted amount*); and

- (b) may withhold from the deducted amount a reasonable administration charge and keep it as a contribution towards the administrative cost of making payments under the order; and
- (c) must pay the deducted amount less any administration charge to the person stated in the order; and
- (d) must give the enforcement debtor a notice detailing the deduction and any administration charge.

6 Rules 3506 (3) (d), 4009 (4) (d) and 5533 (4) (d)

omit

sending a copy by electronic communication

substitute

emailing a copy

7 New rule 6103 (4A)

insert

- (4A) A document filed electronically in the court must, as far as practicable, be able to be displayed or printed in a form that allows a printed copy or display of the document to comply with subrule (1).

8 Rule 6106 (3), new note

insert

Note For the signing and sealing of electronic documents, see r 6124.

9 New rule 6120 (2)

after the notes, insert

- (2) Subrule (1) does not apply to a document filed electronically in the court.

10 Rule 6121 (d) and (e)

substitute

- (d) if filing a document of that kind electronically in the court is allowed under a practice note—filing the document electronically in the court in accordance with rule 6124 (Filing documents electronically); or
- (e) in the absence of a practice note under paragraph (d)—with the registrar’s leave, emailing the document to the registry’s email address for the filing of documents.

11 Rule 6123 (3), note

omit

12 New rule 6124

insert

6124 Filing documents electronically

- (1) A person may file a document electronically in the court only if the person is a registered user of the court website.
- (2) If these rules require a document to be signed by the person filing it and the document is filed electronically in the court, the document is taken to be signed by the person if the person’s name is written in the place where the signature is required.
- (3) If a law requires an original or certified copy of a document to be filed, the document may be filed by filing a scanned copy of the document electronically in the court if the scanned copy is able to be printed with no loss of information.
- (4) A person may file an affidavit electronically in the court—
 - (a) by filing an electronic version of the affidavit that includes the signatures on it; or

- (b) by filing—
 - (i) an electronic version of the affidavit that, in any place where a signature appears in the original affidavit, states the name of the person whose signature it is; and
 - (ii) an undertaking that the person has possession of the original affidavit signed in accordance with law, and will retain the affidavit subject to any order of the court.
- (5) If these rules require a document (other than an affidavit) to be signed by a person other than the person filing it, unless these rules otherwise provide, the document must not be filed electronically in the court.
- (6) The address for service stated on a document filed electronically in the court must include—
 - (a) if the registered user is a legal practitioner—the registered email address of the legal practitioner’s office; or
 - (b) in any other case—the registered user’s registered email address.
- (7) If a fee is determined under the *Court Procedures Act 2004*, section 13 for filing the document, the person filing the document must also ensure the document is accompanied by the fee in a form satisfactory to the registrar.
- (8) The registrar may—
 - (a) record the filing of the document and, if appropriate, seal or stamp the document by making a mark on the document; or
 - (b) reject the document under division 6.3.3 (Rejecting filed documents).
- (9) If the registrar records the filing of the document, the registrar must return a sealed or stamped copy of the document by advising the person by email that the document is available on the court website in the file for the proceeding.

13 Rule 6126 (2) (e) and (f), except note

substitute

- (e) for a document filed electronically in the court—
 - (i) before 4 pm on a day the registry is open—that day; or
 - (ii) on a day the registry is not open, or after 4 pm on a day the registry is open—the next day the registry is open.

14 Rule 6126 (3) (b)

substitute

- (b) under subrule (2) (e) (ii), the date of filing for the document is the date the document is filed electronically in the court.

15 Rule 6126 (4) (b)

substitute

- (b) filed electronically in the court only if the court website sends the user an acknowledgement of the filing.

16 New division 6.3.2A

insert

Division 6.3.2A Documents filed electronically

6130 Keeping original documents

- (1) This rule applies to a document filed in the court in a proceeding by filing a scanned copy of the original document electronically.
- (2) The person filing the document must keep the original document until the later of the following:
 - (a) 2 years after the date of judgment or final order in the proceeding;

- (b) 2 years after a notice of discontinuance is filed in the proceeding;
 - (c) 2 years after any appeal in the proceeding is determined;
 - (d) 2 years after the date the document was filed.
- (3) The court may direct the person to produce the original document during the time the document is required to be kept.

6131 Signing, sealing and stamping documents filed electronically

- (1) This rule applies if—
- (a) these rules require a document to be signed by a court officer, sealed or stamped; and
 - (b) the document is—
 - (i) filed electronically in the court; or
 - (ii) issued electronically by the court.
- (2) The document is taken to be signed by the court officer if the court officer's name is printed on the document in the place where the court officer's signature is required.
- (3) The document is taken to be sealed or stamped if the document is sealed or stamped electronically.

6132 Issue of documents electronically by court

- (1) If these rules require the court to issue a document to a person in a proceeding, the court may issue the document by—
- (a) if the person is a registered user of the court website—advising the person by email that the document is available on the court website in the file for the proceeding; or
 - (b) if the person has given an address for service that includes an email address—emailing the document to the email address.

- (2) A document issued under subrule (1) must state the date and time the document is issued.

17 Rule 6140 (c), note

omit

18 Rule 6143 (1) (b)

before

copies

insert

any

19 Rule 6420 (g)

omit

sending a copy by electronic communication

substitute

emailing a copy

20 Rule 6450 (e)

omit

sent by electronic communication

substitute

emailed

21 Rule 6466 (1)

omit

electronic communication

substitute

email

22 Rule 6466 (3)

substitute

- (3) The email attaching the emailed document must include the following:
- (a) the name and phone number of a person to contact if there is a problem with the email;
 - (b) that the emailed document is for service under these rules.

23 Rule 6466 (4)

omit

electronic communication

substitute

email

24 Rule 6466 (5)

substitute

- (5) If these rules require or allow service of a sealed or stamped copy of a document, it is sufficient compliance if—
- (a) if the document was filed electronically in the court—the emailed document is an electronic copy of the document that was marked by the court as electronically sealed or stamped; or

- (b) in any other case—
 - (i) the emailed document is a copy of a document that was sealed or stamped; and
 - (ii) the person who serves the emailed document states in the email that the original of the emailed document was sealed or stamped.

25 Rule 6609 (12), definition of *usual order*

after

access to inspect

insert

and copy

26 Rule 6712 (11)

substitute

- (11) An exhibit to an affidavit—
 - (a) if the affidavit is filed electronically in the court—must be filed as soon as practicable, but not later than the earlier of—
 - (i) 2 business days after the filing of the affidavit; or
 - (ii) 1 day before the hearing the affidavit relates to; or
 - (b) in any other case—must be filed at the same time as the affidavit.

27 New rule 6908

in part 6.11, insert

6908 Use of electronic devices in courtrooms

- (1) Unless permitted by the presiding judicial officer, a person must not use an electronic device in a court room if use of the device—
 - (a) interferes with the court recording system or other technology; or
 - (b) interferes with courtroom behaviour, is inconsistent with the court's functions, or otherwise impedes the administration of justice; or
 - (c) generates sound or requires speaking into the device; or
 - (d) records a photograph or video image; or
 - (e) records or digitally transcribes the proceedings other than in accordance with this rule.
- (2) A sheriff's officer or another officer of the court may direct the person to—
 - (a) leave the courtroom; or
 - (b) give the electronic device to the officer until the person leaves the courtroom.
- (3) A person who contravenes this rule may be dealt with for contempt of court.

28 Dictionary, definition of *address for service*

substitute

address for service, in relation to a proceeding (including a proceeding on an application in the proceeding), means—

- (a) for a person represented by a solicitor in the proceeding—
 - (i) if the solicitor has a place of business in the ACT—the business address, and any of the following, given by the solicitor to the court for the proceeding:
 - (A) a postbox number at a post office in the ACT;
 - (B) an email address; or
 - (ii) in any other case—the solicitor’s business address in Australia, and any of the following, given by the solicitor to the court for the proceeding:
 - (A) a postbox number at a post office in Australia;
 - (B) an email address; or
- (b) for a plaintiff, defendant or anyone else acting in person in a civil proceeding—
 - (i) if the person has a home or place of business in the ACT—the home or business address, and any of the following, given by the person to the court for the proceeding:
 - (A) a postbox number at a post office in the ACT;
 - (B) an email address; or
 - (ii) in any other case—the address of a place in Australia, and any of the following, given by the person to the court for the proceeding:
 - (A) a postbox number at a post office in Australia;
 - (B) an email address; or

- (c) for an accused person or convicted person acting in person—
 - (i) if the person is in custody—the address of the place of custody, whether in or outside the ACT; or
 - (ii) if the person is granted bail—the address given for bail, whether in or outside the ACT, and any of the following, given by the person to the court for the proceeding:
 - (A) a postbox number at a post office in Australia;
 - (B) an email address; or
 - (iii) in any other case—the address for service (if any), whether in or outside the ACT, given by the person to the registrar, and any of the following, given by the person to the court for the proceeding:
 - (A) a postbox number at a post office in Australia;
 - (B) an email address; or
- (d) for the director of public prosecutions—the director’s business address in the ACT, and any of the following, given by the director to the court for the proceeding:
 - (i) a postbox number at a post office in the ACT;
 - (ii) an email address.

29 Dictionary, definition of *electronic communication*

omit

30 Dictionary, definition of *filed*

substitute

filed—a document is ***filed*** in the court if the document is filed in accordance with rule 6121 (How documents may be filed).

31 Dictionary, new definitions

insert

filed electronically—a document is ***filed electronically*** in the court if the document is sent to the court electronically using the court website.

registered email address means a registered user's email address for filing documents electronically in the court.

registered user means a person registered to file documents electronically in the court.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 17 December 2018.

2 Republications of amended laws

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