



Australian Capital Territory

Court Procedures Amendment Rules 2019 (No 1)

Subordinate Law SL2019-11

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

Dated 24 June 2019.

H G MURRELL

Chief Justice

M ELKAIM

Judge

L WALKER

Chief Magistrate



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 2019 (No 1)*.

2 Commencement

These rules commence on 1 July 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 New rule 3605 (2A)

insert

- (2A) If an applicant completed an approved course of study more than 5 years before making an application for admission, the admissions board may require the applicant to—
- (a) undertake and pass a further academic subject or examination; and
 - (b) apply for a compliance certificate within a stated time.

5 Rule 3607D (2)

substitute

- (2) A person is eligible to undertake practical legal training under this subdivision if—
- (a) the person has completed an approved course of study under subdivision 3.11.2.3 at an approved academic institution under subdivision 3.11.2.2; or

- (b) the person has completed another tertiary qualification in law that satisfies the academic requirements for admission to the legal profession in the Australian jurisdiction where the tertiary qualification was obtained; or
- (c) the admissions board has approved an application for the person to undertake early commencement of practical legal training under rule 3607DA.

6 New rule 3607DA

in subdivision 3.11.2.4, insert

3607DA Early commencement of practical legal training

- (1) A person may apply to the admissions board to undertake practical legal training before completing an approved course of study or another tertiary qualification in law that satisfies the academic requirements (*early commencement*) if—
 - (a) the person has completed the course’s core subjects; and
 - (b) the person has no more than 2 subjects to complete for the applicant to complete the course (*final subjects*); and
 - (c) the person is enrolled in the course’s final subjects; and
 - (d) there are exceptional circumstances in support of early commencement.
- (2) An application for early commencement must—
 - (a) set out the exceptional circumstances; and
 - (b) include evidence in support of the exceptional circumstances (if any); and
 - (c) include evidence that the person has satisfied subrule (1) (a) to (c).

- (3) The admissions board must—
- (a) approve the application; or
 - (b) refuse to approve the application.

- (4) In this section:

core subject, of an approved course of study, means a subject that requires a student to acquire and demonstrate an appropriate understanding of, and competence in, an area of law mentioned in rule 3605 (1) (a).

7 Rule 3608 (1), except note

substitute

- (1) An application for admission must—
- (a) be made by originating application; and
 - (b) if the applicant cannot attend the hearing of the application because of exceptional circumstances—be accompanied by—
 - (i) a letter from the applicant addressed to the admissions board requesting that the applicant be admitted in their absence (an ***absentee admission***); and
 - (ii) an affidavit—
 - (A) stating the circumstances preventing the applicant from attending the hearing; and
 - (B) giving evidence in support of the circumstances (if any).

Example—exceptional circumstances

the applicant has undergone a medical procedure preventing the applicant from attending the hearing

8 New rule 3608 (4) (aa)

insert

- (aa) if the applicant completed an approved course of study more than 5 years before making the application—give details of any relevant legal experience the person has obtained after completing the approved course of study; and

9 New rule 3609A

insert

3609A Request for absentee admission

- (1) This rule applies if a person requests an absentee admission.
- (2) The admissions board must consider the request and either—
 - (a) approve the request; or
 - (b) refuse the request.
- (3) If the admissions board approves the request, the court may hear the person's application for admission in the person's absence.

10 Rule 3614 (1)

substitute

- (1) A person must, before being admitted, take an oath or make an affirmation—
 - (a) before the court; or
 - (b) if the admissions board approves the person's request for absentee admission—in accordance with rule 3614A.

11 New rule 3614A

insert

3614A Admission—absentee admission

- (1) This rule applies if—
 - (a) a person has applied for admission under rule 3608 (the *applicant*); and
 - (b) the admissions board has approved the applicant’s request for absentee admission; and
 - (c) the admissions board has issued a compliance certificate under section 30 of the [Legal Profession Act](#) in relation to the applicant; and
 - (d) the court is satisfied that the person should be admitted.
- (2) The court must send the applicant—
 - (a) a supplementary roll sheet; and
 - (b) information about completing the supplementary roll.
- (3) The applicant must—
 - (a) take an oath or make an affirmation before an authorised person; and
 - (b) sign the supplementary roll sheet before the authorised person.
- (4) The applicant must, within 28 days after the day the applicant receives the supplementary roll sheet, file with the court—
 - (a) the signed supplementary roll sheet; and
 - (b) an affidavit stating that the applicant took an oath or made an affirmation in accordance with rule 3614 (2) or (3) before the authorised person.

(5) If the court is satisfied that the applicant has complied with subsection (3), the court must order that the applicant be admitted.

(6) In this section:

absentee admission—see section 3608 (1) (b).

authorised person means a person authorised to take an affidavit in the jurisdiction where the affidavit is taken.

supplementary roll sheet means a sheet of the local roll.

12 New rule 3615 (c)

insert

(c) if the person has filed with the court a supplementary roll sheet for entry on the local roll—a note under the area for the person’s signature stating that the entry was by absentee admission.

13 New rule 6601A (1) (d)

insert

(d) an application in a family violence or personal violence proceeding under part 3.12 (Family violence and personal violence proceedings).

14 Rule 6908 (1) and (2)

substitute

(1) A person must not use an electronic device in a court room unless—

(a) the person is—

(i) a party to a proceeding before the court; or

(ii) a legal representative of a party to a proceeding before the court; or

(iii) a media representative; or

- (b) the person is permitted by the presiding judicial officer to use the device.
- (2) Unless permitted by the presiding judicial officer, a person mentioned in subrule (1) 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) in the opinion of the presiding judicial officer, 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.
- (2A) If a sheriff’s officer or another officer of the court reasonably believes that a person is using an electronic device in contravention of this rule, the officer may direct the person to—
- (a) leave the courtroom; or
 - (b) give the electronic device to the officer until the person leaves the courtroom; or
 - (c) allow the officer and the presiding judicial officer access to the electronic device to view any images or listen to any recordings; or
 - (d) modify or delete the images or recordings on the electronic device as directed by the presiding judicial officer.

15 Schedule 3*substitute*

Schedule 3 Costs amount—debts, liquidated demands, company windings-up, enforcement orders and certificates of registration

Part 3.1 Claim for debt or liquidated demand

(see r 51, r 304 and r 1100)

Table 3.1 Prescribed costs amount—claim for debt or liquidated demand

column 1 item	column 2 court and amount claimed	column 3 prescribed amount (\$)
1	Magistrates Court—< \$10 000	507.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	1 031.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	1 232.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	1 384.00
5	Magistrates Court—≥ \$50 000 but < \$250 000	1 538.00
6	Supreme Court—any amount	1 538.00

Part 3.2 Default judgment

(see r 1121)

Table 3.2 Prescribed costs amount—default judgment

column 1 item	column 2 court and amount claimed	column 3 prescribed amount (\$)
1	Magistrates Court—< \$10 000	658.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	1 316.00
3	Magistrates Court—≥ \$25 000 but < \$40 000	1 580.00
4	Magistrates Court—≥ \$40 000 but < \$50 000	1 779.00
5	Magistrates Court—≥ \$50 000 but < \$250 000	1 975.00
6	Supreme Court—any amount	1 975.00

Part 3.3 Company winding-up

(see r 1740)

Table 3.3 Prescribed costs amount—company winding-up

column 1 item	column 2 claimed amount (\$)
1	4 477.00

Part 3.4 Enforcement orders

(see r 1741)

Table 3.4 Prescribed costs amount—enforcement orders

column 1 item	column 2 court and amount claimed	column 3 amount claimed— with agent (\$)	column 4 amount claimed— no agent (\$)
1	Magistrates Court—< \$10 000	859.00	625.00
2	Magistrates Court—≥ \$10 000 but < \$25 000	1 745.00	1 269.00

column 1 item	column 2 court and amount claimed	column 3 amount claimed— with agent (\$)	column 4 amount claimed— no agent (\$)
3	Magistrates Court— \geq \$25 000 but $<$ \$40 000	2 082.00	1 515.00
4	Magistrates Court— \geq \$40 000 but $<$ \$50 000	2 345.00	1 704.00
5	Magistrates Court— \geq \$50 000 but $<$ \$250 000	2 604.00	1 894.00
6	Supreme Court—any amount	2 604.00	1 894.00

Part 3.5 Certificate of registration

(see r 2010B)

Table 3.5 Prescribed costs amount—certificate of registration

column 1 item	column 2 court and amount claimed	column 3 claimed amount (\$)
1	Magistrates Court— $<$ \$10 000	90.00
2	Magistrates Court— \geq \$10 000 but $<$ \$25 000	182.00
3	Magistrates Court— \geq \$25 000 but $<$ \$40 000	218.00
4	Magistrates Court— \geq \$40 000 but $<$ \$50 000	245.00
5	Magistrates Court— \geq \$50 000 but $<$ \$250 000	273.00
6	Supreme Court—any amount	273.00

16 Schedule 4, rule 4.12

substitute

4.12 Costs—transitional

(1) In this rule:

commencement day means the day the *Court Procedures Amendment Rules 2019 (No 1)*, rule 17 commences.

- (2) A solicitor is entitled to charge and be allowed the costs set out in this schedule for work done or services performed on or after the commencement day.
- (3) However, if work done or services performed by a solicitor after the commencement day was assessed before the commencement day, rule 4.12 as in effect immediately before the commencement day continues to apply to the work and services.
- (4) Rule 4.12 as in effect immediately before the commencement day continues to apply to work done or services performed by a solicitor before the commencement day.

17 Schedule 4, part 4.2

substitute

Part 4.2 Scale of costs—items

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
Division 4.2.1 Instructions		
1	to sue or defend, to appeal or oppose an appeal	187.30
2	for statement of claim, petition, special case or counterclaim	187.30
3	for defence	160.30

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
4	for— <ul style="list-style-type: none"> (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
5	for— <ul style="list-style-type: none"> (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

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
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
7	for brief to advise on evidence	120.40
8	for— (a) a statement of facts in an action; or (b) a request for particulars; or (c) particulars	133.70
9	for brief in preparation for trial	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
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

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
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
13	a formal affidavit, including an affidavit of service	47.00	
14	any other document	37.10	or, if longer than 100 words, 22.00 per 100 words
Division 4.2.3 Engrossing			
15	of a document	5.90	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 1.70 0.60	per page per page per page

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
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
18	of any other document, if it is necessary to peruse	7.40 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
Division 4.2.6 Attendances		
20	for personal service, if necessary, of 1 or more documents at the same time	100.00
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

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
22	by a solicitor, necessarily or properly engaged, if the solicitor holds an unrestricted practising certificate or has been the holder of a practising certificate for at least 2 years— <ul style="list-style-type: none">(a) to instruct counsel; or(b) on assessment of a bill of costs or other matter; or(c) at conference with counsel; or(d) on a view; or(e) on witness or other person; or(f) to produce a document; or(g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or(h) to prepare appeal papers	267.30 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
23	by a solicitor, necessarily or properly engaged, other than a solicitor mentioned in item 22— <ul style="list-style-type: none"> (a) to instruct counsel; or (b) on assessment of a bill of costs or other matter; or (c) at conference with counsel; or (d) on a view; or (e) on witness or other person; or (f) to produce a document; or (g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or (h) to prepare appeal papers 	187.30 per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)	
24	<p>by a clerk, necessarily or properly engaged—</p> <p>(a) to instruct counsel; or</p> <p>(b) on assessment of a bill of costs or other matter; or</p> <p>(c) at conference with counsel; or</p> <p>(d) on a view; or</p> <p>(e) on witness or other person; or</p> <p>(f) to produce a document; or</p> <p>(g) to inspect a document, if the registrar is satisfied there were appropriate and sufficient reasons for the inspection; or</p> <p>(h) to prepare appeal papers</p>	93.60	per hour
25	<p>other than an attendance already mentioned, in court or any hearing without counsel—</p> <p>(a) by a solicitor holding an unrestricted practising certificate, or a solicitor who has been the holder of a practising certificate for at least 2 years; or</p> <p>(b) by any other solicitor</p>	400.80	per hour
26	by a solicitor involving a high degree of skill and responsibility	400.80	per hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
27	in court or chambers or before the registrar— (a) to take a reserved judgment; or (b) to mention a matter; or (c) for an adjournment; or (d) for settling the terms of and entering orders; or (e) for another reason	106.90 or 267.30 per hour
28	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
29	formal telephone attendance	33.30
30	telephone attendance leaving message only	16.60
31	any other attendance by a solicitor (including travelling and waiting time and including a telephone attendance)	53.60 or 66.90 per quarter hour
32	any other attendance by a clerk (including travelling and waiting time and including a telephone attendance)	33.30 or 23.30 per quarter hour

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
33	<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>
Division 4.2.7 Letters		
34	ordinary letter	46.50 or 22.60 per 100 words
35	special letter	77.20 or 22.60 per 100 words
36	formal letter—short letter, without legal content	22.50
37	circular letters after the first	10.20
38	fax copy or telex, including attendance to send	52.70
39	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
40	receiving, printing and filing incoming letter received by email	15.20

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
41	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
Division 4.2.8 Witness expenses		
42	a witness called because of the witness's professional, scientific or other special skill or knowledge	1 311.00 per day
43	a witness called other than because of the witness's professional, scientific or other special skill or knowledge	138.30 per day
44	a witness paid in the witness's occupation by wages, salary or fees	the amount lost by attendance at court
45	a witness qualifying to give skilled evidence	the additional amount the registrar considers reasonable and properly incurred and paid
46	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
47	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)

column 1 item	column 2 matter in relation to which charge is made	column 3 charge (\$)
Division 4.2.9 Disbursements		
48	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

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 27 June 2019.

2 Republications of amended laws

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