



Family Law Amendment Rules 2011 (No. 1)¹

Select Legislative Instrument 2011 No.

We, Judges within the meaning of the *Family Law Act 1975*,
make the following Rules of Court under that Act.

Dated 2011

Judges of the Family Court
of Australia

Principal Registrar
Family Court of Australia

Judges of the Family Court
of Western Australia

Principal Registrar
Family Court of Western Australia

1 Name of Rules

These Rules are the *Family Law Amendment Rules 2011 (No. 1)*.

2 Commencement

These Rules commence on 1 March 2011.

3 Amendment of *Family Law Rules 2004*

Schedule 1 amends the *Family Law Rules 2004*.

Schedule 1 Amendments

(rule 3)

[1] Rule 6.03

substitute

6.03 Adding a party

- (1) A party may include another party as a respondent by naming the party in the application.
- (2) A party may add another party after a case has started by amending the application or response to add the name of the party.
- (3) A party who relies on subrule (1) or (2) must:
 - (a) file an affidavit setting out the facts relied on to support the application, including a statement of the new party's relationship (if any) to the other parties; and
 - (b) serve on the new party:
 - (i) a copy of the application, amended application, response or amended response; and
 - (ii) the affidavit mentioned in paragraph (a); and
 - (iii) any other relevant document filed in the case.

Note 1 For amendment of an application, see Division 11.2.2.

Note 2 If a Form is amended after the first court date, the Registry Manager will set a date for a further procedural hearing (see subrule 11.10 (3)).

[2] Subrule 10.15 (1), Note 1

omit

[3] Subrule 10.15 (1), Note 2

omit

Note 2

insert

Note

[4] Paragraph 10.15 (2) (d)

substitute

(d) be accompanied by additional copies of the order:

- (i) so that there is a copy for each person to be served and an additional copy for the court; and
- (ii) each of which is certified by the applicant's lawyer, or by each party to the application, as a true copy.

[5] Rule 13.24, note

omit

[6] Paragraph 15.04 (a)

omit

give

insert

release

[7] Subrule 15.54 (3)

substitute

- (3) The parties must give the expert an agreed statement of facts on which to base the report.

[8] Subrule 15.54 (4)

omit each mention of
to the agreement

[9] Paragraph 17.01 (1) (b)

omit
chambers
insert
any other case

[10] After subrule 17.01 (4)

insert

- (5) The judicial officer may direct who is to be responsible for engrossing an order and how it is to be engrossed.

[11] Rule 24.05

substitute

24.05 How a document is filed

- (1) A document is filed if:
- (a) the document is:
 - (i) delivered to and received by the registry;
 - (ii) posted to and received by the registry;
 - (iii) sent to the court by electronic communication under rule 24.06 (facsimile) and received by the registry;
 - (iv) sent to the court by electronic communication under rule 24.07 (e-mail and Internet) and received by the court; or
 - (v) accepted for filing by a judicial officer in court during a court event; and
 - (b) the filing fee (if any) is paid.

- (2) A document that is sent for filing by electronic communication after 4.30 pm according to legal time in the Australian Capital Territory is taken to have been received by the filing registry on the next day when the filing registry is open.
- (3) Except as otherwise required by these Rules or an order, a document to be relied on in a court event must be filed at least 1 day before the date fixed for that event.

Note 1 For information about filing fees, see regulation 11 of the Regulations.

Note 2 A person sending a document by electronic communication is responsible for ensuring that the document is received by the court. The Court's procedures and facilities for electronic filing through the Internet are set out on the Commonwealth Courts Portal: see <http://www.familycourt.gov.au>.

Note 3 A judicial officer may require a party to give an undertaking to pay a filing fee before accepting a document for filing.

Note 4 The rules relating to filing by electronic communication apply only if the court has the facility to accept documents by electronic communication: see <http://www.familycourt.gov.au>.

[12] Subrule 24.07 (6), including the note

substitute

- (6) When receiving a document for filing by email or through the Internet, the Registry Manager may send to the person filing the document an electronic communication recording the date of receipt or the date and time of receipt.

Note 1 The rules relating to filing by electronic communication apply only if the court has the facility to accept documents by electronic communication: see <http://www.familycourt.gov.au>.

Note 2 An Acknowledgment of Service must be signed by the person served with the documents if the party serving the documents wants to prove service by affidavit in accordance with rule 7.13. If the affidavit is filed by electronic communication, the party who served it must keep, and make available if necessary, the original of the affidavit and the Acknowledgment of Service.

If an Acknowledgement of Service is required to be signed to prove service, the person served will need to sign the acknowledgment and return it so that the other party can identify the signature.

[13] Rule 24.09

substitute

24.09 Documents filed during a case

- (1) A document filed in a case that has started, other than a document filed by electronic communication through the Internet, must be filed in the filing registry.
- (2) A document filed by electronic communication through the Internet in a case that has started must bear the file number of the case.

Note 1 In urgent circumstances, the court may order that an application be listed for hearing in another registry, or that a hearing or conference take place by electronic communication.

Note 2 For where to file documents in an appeal, see rule 22.10.

[14] Rule 24.10, heading

substitute

24.10 Rejection of documents

[15] Subrule 24.10 (1)

omit

may refuse to accept a document

insert

or judicial officer may reject a document filed or received

[16] Paragraph 24.10 (1) (e)

omit

vexatious; or

insert

vexatious;

[17] Paragraph 24.10 (1) (f)*omit*

and 24.09).

insert

and 24.09); or

[18] After paragraph 24.10 (1) (f)*insert*

- (g) is sent for filing through the Internet and the person sending the document has not complied with the court's electronic filing procedures.

[19] Subrule 24.10 (2)*substitute*

- (2) If a judicial officer rejects a document filed or received for filing under subrule (1), the judicial officer may give directions about any step already taken on the document, including a direction about costs.
- (3) A person may apply for review of a Registrar's decision under subrule (1) or directions given by a judicial officer under subrule (2) by filing an Application in a Case without notice.

Note When a document sent for filing by electronic communication through the Internet is rejected, the court may notify each party to the case and each person to whom the document is directed.

[20] Subrule 24.13 (1)*omit*

case, or inspect or copy a document forming part of the record:

insert

case, and inspect and copy a document forming part of the court record:

[21] Paragraph 24.13 (1) (b)

omit

in a case;

insert

in the case;

[22] Subrule 24.13 (2)

substitute

(2) The parts of the court record that may be searched, inspected and copied are:

(a) court documents; and

(b) with the permission of the court — any other part of the court record.

(2A) A permission:

(a) for paragraphs (1) (c) and (d) and (2) (b) — may include conditions, including a requirement for consent from a person, or a person in a class of persons, mentioned in the court record; and

(b) for paragraph (1) (d) — must specify the research to which it applies.

[23] Subrule 24.13 (3)

omit

paragraph (2) (a) (ii),

insert

this rule,

[24] Paragraph 24.13 (3) (d)

omit

the record.

insert

the court record.

[25] Rule 24.13, notes*substitute*

Note 1 Section 121 of the Act restricts the publication of court proceedings.

Note 2 Access to court records may be affected by the *National Security Information (Criminal and Civil Proceedings) Act 2004*.

[26] Amendment of Schedule 3

| <i>Item of Schedule 3</i> | <i>omit</i> | <i>insert</i> |
|---------------------------|-----------------------|-----------------------|
| 101 | \$17.00 | \$17.50 |
| 102 | \$5.80 | \$6.00 |
| 103 | \$19.50 | \$20.10 |
| 104 | \$7.95 | \$8.20 |
| 105 | \$3.15 | \$3.25 |
| 107 | 67 | 69 |
| 108 | \$199.10 | \$205.27 |
| 109 | \$129.10 | \$133.10 |
| 201 | \$382.90–\$656.35 | \$394.75–\$676.70 |
| 201 | \$228.60–\$326 | \$235.70–\$336.10 |
| 202 | \$382.90–\$656.35 | \$394.75–\$676.70 |
| 202 | \$228.60–\$326 | \$235.70–\$336.10 |
| 203 | \$382.90–\$2 734.80 | \$394.75–\$2 819.50 |
| 203 | \$204.50–\$958.25 | \$210.85–\$987.95 |
| 204 | \$711.05–\$5 470 | \$733.10–\$5 639.50 |
| 205 | \$1 805.00–\$5 470 | \$1 860.95–\$5 639.50 |
| 205 | \$1 615.70–\$2 374.90 | \$1 665.80–\$2 448.50 |
| 206 | \$382.90–\$656.35 | \$394.75–\$676.70 |
| 206 | \$228.65–\$326 | \$235.70–\$336.10 |

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.