



Federal Court Amendment Rules 2008 (No. 1)¹

Select Legislative Instrument 2008 No. 159

We, Judges of the Federal Court of Australia, make the following Rules of Court under the *Federal Court of Australia Act 1976*.

Dated 30 July 2008

M.E.J. BLACK C.J.
J.E.J. SPENDER J.
P.R.A. GRAY J.
D.M. RYAN J.
R.S. FRENCH J.
T.J. HIGGINS J.
P.C. HEEREY J.
C.M. BRANSON J.
K.E. LINDGREN J.
B.J.M. TAMBERLIN J.
P.D. FINN J.
R.A. SUNDBERG J.
S.R. MARSHALL J.
A.M. NORTH J.
J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
R.A. FINKELSTEIN J.

J.A. DOWSETT J.
S.C. KENNY J.
R.V. GYLES J.
M.A. STONE J.
P.M. JACOBSON J.
A.C. BENNETT J.
A.N. SIOPIS J.
R.F. EDMONDS J.
P.R. GRAHAM J.
S.D. RARES J.
B. COLLIER J.
D.A. COWDROY J.
A.J. BESANKO J.
R.J. BUCHANAN J.
J. GILMOUR J.
M.M. GORDON J.
J.A. LOGAN J.
G.A. FLICK J.
N.W. McKERRACHER J.
J.E. REEVES J.

Judges of the Federal
Court of Australia

W.G. SODEN
Registrar

Contents

	1	Name of Rules	3
	2	Commencement	3
	3	Amendment of Federal Court Rules	3
Schedule 1		Amendments commencing on the day after registration	4
Schedule 2		Amendments commencing on 1 September 2008	6

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2008 (No. 1)*.

2 Commencement

These Rules commence as follows:

- (a) on the day after they are registered — rules 1 to 3 and Schedule 1;
- (b) on 1 September 2008 — Schedule 2.

3 Amendment of Federal Court Rules

Schedules 1 and 2 amend the Federal Court Rules.

Schedule 1 Amendments commencing on the day after registration

(rule 3)

[1] Order 21, subrule 1 (2)

substitute

- (2) An order under this rule may be made:
- (a) on the application of a person against whom the person mentioned in subrule (1) has instituted or conducted vexatious proceedings; or
 - (b) on the application of a person who has sufficient interest in the matter; or
 - (c) on the Court's own motion; or
 - (d) on the application of the Attorney-General of the Commonwealth or of a State or Territory; or
 - (e) on the application of the Registrar.

[2] Order 23, after subrule 11 (5)

insert

- (6) If:
- (a) an offer is made by a respondent and not accepted by the applicant; and
 - (b) the respondent obtains an order or judgment on the claim to which the offer relates as favourable to the respondent, or more favourable to the respondent, than the terms of the offer;
then, unless the Court otherwise orders:
 - (c) the respondent is entitled to an order that the applicant pay the respondent's costs in respect of the claim incurred up to 11 am on the day after the day the offer was made, taxed on a party and party basis; and

-
- (d) the respondent is entitled to an order that the applicant pay the respondent's costs in respect of the claim incurred after that time, taxed on an indemnity basis.

[3] Order 41, after rule 7

insert

7A Signature by electronic means — Registrar

A requirement in these Rules that a document (other than an affidavit) must be signed by a Registrar is satisfied if a facsimile of the signature of the Registrar appointed under section 18C of the Act is affixed on the document by electronic or other means by, or at the direction of, an officer acting with the authority of that Registrar.

[4] After Order 71

insert

Order 71A Corporations (Aboriginal and Torres Strait Islander) Act 2006 proceedings

1 Conduct of proceedings

A proceeding under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* must be conducted in accordance with the *Federal Court (Corporations) Rules 2000* to the extent that those rules can apply, including any modification of those rules for the nature of the proceeding.

Schedule 2 Amendments commencing on 1 September 2008

(rule 3)

[1] Order 1, subparagraph 5AC (2) (a) (i)

substitute

- (i) by using the Court's Internet home page at <http://www.fedcourt.gov.au> or the Commonwealth Courts Portal at <https://www.comcourts.gov.au>; or

[2] Order 1, paragraph 5AC (2) (d)

omit

created; and

insert

created.

[3] Order 1, paragraph 5AC (2) (e)

omit

[4] Order 1, paragraph 5AC (4) (a)

substitute

- (a) by using the Court's Internet home page at <http://www.fedcourt.gov.au> or the Commonwealth Courts Portal at <https://www.comcourts.gov.au>; or

[5] Order 1, subrule 5AC (6)

omit

[6] Schedule 1, forms 173 and 174

substitute

Form 173 Notice of filing and hearing

(Order 1, subrule 5AC (5))

**IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY**

Form 173

NOTICE OF FILING AND HEARING

This application was filed electronically in the Federal Court of Australia on [date].

DETAILS OF FILING

Document Lodged:

File Number:

File Title:

District Registry:

Reason for Listing:

Time and Date for Hearing:

Place:

[Facsimile of Court Seal]

Dated:**Registrar****Note**

1. This Notice forms part of the application and contains information that might otherwise appear elsewhere in the application. The Notice must be included in the application served on each party to the proceeding.
2. The “Reason for Listing” is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

Form 174 Notice of filing

(Order 1, subrule 5AC (5))

**IN THE FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY****Form 174****NOTICE OF FILING**

This document was filed electronically in the Federal Court of Australia on [date].

DETAILS OF FILING**Document Lodged:****File Number:****File Title:****District Registry:**

[*Facsimile of Court Seal*]

Dated:

Registrar

Note

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.

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>.