



Federal Court Amendment (Electronic Court File Measures No. 1) Rules 2013

Select Legislative Instrument No. 256, 2013

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

Dated 19 November 2013

J.L.B. ALLSOP CJ
S.R. MARSHALL J
A.M. NORTH J
J.A. DOWSETT J
S.C. KENNY J
P.M. JACOBSON J
A.C. BENNETT J
A.N. SIOPIIS J
R.F. EDMONDS J
A.P. GREENWOOD J
S.D. RARES J
B. COLLIER J
D.A. COWDROY J
A.J. BESANKO J
C.N. JESSUP J
R.R.S. TRACEY J
J.E. MIDDLETON J
R.J. BUCHANAN J
M.M. GORDON J
J.A. LOGAN J
G.A. FLICK J
N.W. McKERRACHER J
J.E. REEVES J
N. PERRAM J

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J.M. JAGOT J
L.G. FOSTER J
M.L. BARKER J
J.V. NICHOLAS J
D.M. YATES J
M. BROMBERG J
J.A. DODDS-STREETON J
A.J. KATZMANN J
A. ROBERTSON J
B.M. MURPHY J
I.J.K. ROSS J
J.E. GRIFFITHS J
D.J.C. KERR J
L.K. FARRELL J
G. PAGONE J
J. DAVIES J
D.S. MORTIMER J
D.C. RANGIAH J
R.C. WHITE J
M.A. WIGNEY J
M.A. PERRY J

Judges of the Federal Court
of Australia

Warwick Soden
Registrar

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1 Name of Rules

These Rules are the *Federal Court Amendment (Electronic Court File Measures No. 1) Rules 2013*.

2 Commencement

These Rules commence on the day after they are registered.

3 Authority

These Rules are made under the *Federal Court of Australia Act 1976*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Federal Court Rules 2011

1 Subrule 2.01(2)

Before “stamp”, insert “seal of the Court or the”.

2 At the end of subrule 2.01(3)

Add:

; (e) the signature of an officer acting with the authority of the Registrar or a District Registrar.

3 Rule 2.11 (note 2)

Repeal the note, substitute:

Note 2: The Court’s requirements in relation to preparing and lodging documents are set out in practice notes issued by the Chief Justice.

4 Rule 2.21 (note)

Repeal the note, substitute:

Note 1: *Proper Registry* is defined in the Dictionary.

Note 2: The Court’s requirements in relation to preparing and lodging documents are set out in practice notes issued by the Chief Justice.

5 At the end of Division 2.3

Add:

2.28 Documents accepted for filing—removal from Court file and storage

- (1) A document which has been accepted for filing will be removed from a Court file if:
 - (a) the Court has ordered that the document be removed from the Court file:
 - (i) on its own initiative; or
 - (ii) on the application of a party under rule 6.01 or subrule 16.21(2); or

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- (b) for an affidavit—the Court has ordered that the affidavit be removed from the Court file:
 - (i) on its own initiative; or
 - (ii) on the application of a party under subrule 29.03(2); or
 - (c) the Court is satisfied that the document:
 - (i) is otherwise an abuse of process of the Court; or
 - (ii) should not, under rule 2.27, have been accepted for filing.
- (2) A party may apply to the Court for an order under subparagraph (1)(c)(i) or (ii) that a document be removed from the Court file.
- (3) A document removed from a Court file under this rule must be stored:
- (a) if an order mentioned in this rule specifies a way to store the document—in the way specified in the order; or
 - (b) otherwise—as directed by the District Registrar.

2.29 Documents on a Court file—removal, redaction and storage

- (1) A document on a Court file will be removed from the Court file and replaced with a redacted copy if:
- (a) the Court has ordered that the document be removed and replaced:
 - (i) on its own initiative; or
 - (ii) on the application of a party under rule 6.01 or subrule 16.21(2); or
 - (b) for an affidavit—the Court has ordered that the affidavit be removed and replaced with a redacted copy:
 - (i) on its own initiative; or
 - (ii) on the application of a party under subrule 29.03(2); or
 - (c) the Court is satisfied that:
 - (i) any part of the document is otherwise an abuse of process of the Court; and
 - (ii) it is reasonably practicable for that part of the document to be redacted.

- (2) A party may apply to the Court for an order under paragraph (1)(c) that a document be removed from the Court file and replaced with a redacted copy.
- (3) If a part or parts of a document are struck out or removed under this rule:
 - (a) the corresponding part or parts of the redacted copy of the document must be unable to be read in any way; and
 - (b) the redacted copy must be marked with:
 - (i) the date on which the order was made; and
 - (ii) each date on which redaction was performed.
- (4) A document removed from a Court file under this rule must be stored:
 - (a) if an order mentioned in this rule specifies a way to store the document—in the way specified in the order; or
 - (b) otherwise—as directed by the District Registrar.

6 Division 2.3

Omit:

Rules 2.28–2.30 left blank

substitute:

Rule 2.30 left blank

7 Rule 7.28

Omit “at the prospective applicant’s own expense copy”, substitute “, at the prospective applicant’s own expense, copy or make an electronic image of”.

8 Subrule 8.23(1)

After “must”, insert “, if reasonably practicable to do so”.

9 Subrule 8.23(2)

After “read,”, insert “or if the originating application was lodged by electronic communication,”.

10 Subrule 16.59(1)

After “must”, insert “, if reasonably practicable to do so”.

11 Subrule 16.59(2)

After “read,” insert “or if the pleading was lodged by electronic communication,”.

12 Paragraph 24.17(7)(b)

Omit “party”, substitute “officer”.

13 After subrule 24.17(7) (before the note)

Insert:

- (8) The issuing party must, at that party’s expense:
- (a) make an electronic image of any photocopy of a document produced under subrule (7); and
 - (b) lodge the electronic image with the Registrar within the time specified by the Registrar.

14 Paragraph 39.35(1)(b)

Omit “stamp of the Court”, substitute “seal of the Court or the stamp of a District Registry”.

15 Schedule 1

Insert:

issuing officer, for a subpoena to give evidence or produce documents—see subrule 24.11(1).

16 Schedule 1

Insert:

issuing party:

- (a) for a subpoena to give evidence, or produce documents, mentioned in Division 24.2—see subrule 24.11(1); and
- (b) for a subpoena to attend for examination or produce documents in arbitral proceedings under subsection 23(3) of the International Arbitration Act—see subrule 28.46(1).

17 Schedule 1 (definition of *stamp*)

After “of” insert “the Court or”.

18 Schedule 2 (after table item 102)

Insert:

102A	Rule 2.28	Power to make an order to remove from a court file documents accepted for filing
102B	Rule 2.29	Power to make an order for redaction of a document on a court file