



Admiralty Amendment (Electronic Communication) Rules 2015

Select Legislative Instrument No. 204, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Rules.

Dated 26 November 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

George Brandis QC
Attorney-General

OPC60479 - A

Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules.....	1
Schedule 1—Amendments		2
	<i>Admiralty Rules 1988</i>	2

1 Name

These are the *Admiralty Amendment (Electronic Communication) Rules 2015*.

2 Commencement

- (1) Each provision of these Rules specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of these Rules	The day after these Rules are registered.	

Note: This table relates only to the provisions of these Rules as originally made. It will not be amended to deal with any later amendments of these Rules.

- (2) Any information in column 3 of the table is not part of these Rules. Information may be inserted in this column, or information in it may be edited, in any published version of these Rules.

3 Authority

These Rules are made under the *Admiralty Act 1988*.

4 Schedules

Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.

Schedule 1—Amendments

Admiralty Rules 1988

1 Subrule 3(1)

Insert:

electronic communication means a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy.

2 Subrule 5A(3)

Repeal the subrule, substitute:

- (3) A document may be served on a person:
- (a) by email:
 - (i) if an email address has been provided by the person for the purpose of service in the proceeding—to that email address; or
 - (ii) otherwise—to an email address of the person; or
 - (b) by fax sent to a fax number of the person; or
 - (c) if the court orders that the document may be served by means of a particular kind of electronic communication—by that means.

Note: Rules of Court of a court exercising jurisdiction under the Act may permit a document to be served otherwise than by electronic communication.

3 At the end of subrule 6(1)

Add:

Example: Rules of Court of a court exercising jurisdiction under the Act that require or permit a document to be filed by electronic communication will apply to a document required or permitted by these Rules to be filed in the court.

4 Subrule 24(2)

Omit “of its own motion”, substitute “on its own initiative”.

5 Rule 26

Repeal the rule, substitute:

26 Preliminary acts to be marked “Confidential”, etc.

- (1) If a preliminary act is to be filed (other than by electronic communication) with a court, the preliminary act must be filed in a closed envelope that:
 - (a) is marked “Confidential”; and
 - (b) is sealed with the seal of the court; and
 - (c) bears the date of filing.
- (2) If a preliminary act is to be sent by electronic communication to a court for filing, the preliminary act:
 - (a) must be marked “Confidential”; and
 - (b) must be accompanied by a statement that the preliminary act is a “confidential preliminary act which must only be opened in accordance with rule 28 of the *Admiralty Rules 1988*”.
- (3) For the purposes of this rule, *file* includes lodge for filing.

6 Rule 28

Repeal the rule, substitute:

28 Opening of preliminary acts

- (1) If a preliminary act is filed in a court in accordance with subrule 26(1), the Registrar must open the envelope containing the preliminary act if:
 - (a) the court so orders; or
 - (b) the pleadings in the proceeding are closed.
- (2) If a preliminary act is filed in a court in accordance with subrule 26(2), the Registrar must make the preliminary act available to the parties if:
 - (a) the court so orders; or
 - (b) the pleadings in the proceeding are closed.
- (3) The court may make an order under paragraph (1)(a) or (2)(a):
 - (a) on application or on its own initiative; and
 - (b) at any stage of the proceeding; and
 - (c) together with such other orders, including an order under Division 5, as are appropriate.

7 Subrule 30(4)

Omit “transmitted by facsimile transmission”, substitute “sent by electronic communication”.

8 Subrule 39A(3)

Omit “party”, substitute “person”.

9 Rule 65

Omit “of its own motion”, substitute “on its own initiative”.

10 Subrule 80(1)

Omit “of its own motion”, substitute “on its own initiative”.