



Federal Circuit Court Amendment (Costs and Other Measures) Rules 2016

We, Judges of the Federal Circuit Court of Australia, make the following Rules.

Dated 18 May 2016

Chief Judge Pascoe
Judge Altobelli
Judge Baker
Judge Barnes
Judge Bender
Judge Brewster
Judge Brown
Judge Burchardt
Judge Cameron
Judge Cassidy
Judge Coker
Judge Cole
Judge Curtain
Judge Demack
Judge Driver
Judge Dunkley
Judge Harland
Judge Hartnett
Judge Howard
Judge Jarrett
Judge Jones
Judge Kelly
Judge Lucev
Judge Manousaridis
Judge McGuire
Judge Mead
Judge Monahan
Judge Neville
Judge O'Sullivan

Judge Phipps
Judge Riethmuller
Judge Roberts
Judge Scarlett
Judge Small
Judge Smith
Judge Stewart
Judge Street
Judge Turner
Judge Vasta
Judge Williams
Judge Wilson
Judge Young

Judges of the Federal Circuit
Court of Australia

Richard Foster Chief Executive Officer

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
Part 1—Costs		2
<i>Federal Circuit Court Rules 2001</i>		2
Part 2—Other amendments		6
<i>Federal Circuit Court Rules 2001</i>		6

1 Name

These are the *Federal Circuit Court Amendment (Costs and Other Measures) Rules 2016*.

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.	21 May 2016

Note: This table relates only to the provisions of these Rules as originally made.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 *Federal Circuit Court of Australia Act 1999*.

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Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.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

Part 1—Costs

Federal Circuit Court Rules 2001

1 Schedule 1

Repeal the Schedule, substitute:

Schedule 1—Costs

Note: See rules 21.10, 21.16 and 44.15.

Part 1A—Application of this Schedule

1 Application of this Schedule

This Schedule, as amended by the *Federal Circuit Court Amendment (Costs and Other Measures) Rules 2016*, applies to work done or services performed after the commencement of this Schedule.

Part 1—Family law proceedings and general federal law proceedings

Costs for family law proceedings and general federal law proceedings			
Item	Description	Amount for a family law proceeding (including GST)	Amount for a general federal law proceeding (including GST)
1	Initiating or opposing an application up to the completion of the first court date	Both: (a) \$2,162; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing	Both: (a) \$2,887; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing
2	Initiating or opposing an application which includes interim orders (other than procedural orders) up to the completion of the first court date	Both: (a) \$2,704; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing	Both: (a) \$3,613; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing
3	Interim or summary hearing—as a discrete event Note: This stage applies to an interim application or a summary proceeding of a type not otherwise addressed in this fee structure. It does not include the item 1 or 2 component.	Both: (a) \$1,801; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing	Both: (a) \$1,801; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing

Costs for family law proceedings and general federal law proceedings			
Item	Description	Amount for a family law proceeding (including GST)	Amount for a general federal law proceeding (including GST)
4	Up to and including the conciliation conference	\$1,801	Not applicable
5	Dispute resolution litigation intervention	\$1,801	\$3,028
6	Preparation for final hearing—one day matter	\$4,608	\$6,493
7	Preparation for final hearing—2 day matter	\$5,714	\$9,756
8	Preparation for final hearing—each additional hearing day after the second hearing day	\$1,223	\$2,052
9	Final hearing costs for attendance of solicitor at hearing to take judgment and explain orders	Both: (a) \$294; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing	Both: (a) \$294; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing
10	Application for family law location, recovery or enforcement of an order (other than an application for enforcement by a Registrar under item 11)	Both: (a) \$915; and (b) the daily hearing fee mentioned in item 13 that applies to the hearing	Not applicable
11	Application for enforcement by a Registrar of: (a) a warrant under rule 25B.22; or (b) a third party debt notice under rule 25B.40	\$605	Not applicable
12	Advocacy loading	50% of the daily hearing fee mentioned in item 13 that applies to the hearing	50% of the daily hearing fee mentioned in item 13 that applies to the hearing
13	Daily hearing fee	Either: (a) for a short mention—\$294; or (b) for a half day hearing—\$1,081; or (c) for a full day hearing—\$2,162	Either: (a) for a short mention—\$294; or (b) for a half day hearing—\$1,081; or (c) for a full day hearing—\$2,162
14	Disbursements—Court fees and other fees and payments to the extent that they have been reasonably incurred	The amount of the fees and payments	The amount of the fees and payments
15	Disbursements—photocopying for each page	\$0.75	\$0.75
16	Agents fees and travelling costs Note: For 2 or more hours travel.	\$608	\$608

Part 2—Child support proceedings

Division 1—Application for enforcement order in relation to child support proceedings

Costs for child support proceedings		
Item	Description	Amount (including GST)
1	Initiating or opposing an application up to the completion of the first court date Note: This item includes final hearing of up to one day if it is held on the first court date.	Both: (a) \$2,277; and (b) the daily hearing fee mentioned in item 6 that applies to the hearing
2	Interim or summary hearing—as a discrete event Note: This item applies to an interim application, or a summary proceeding of a type not otherwise addressed in this fee structure such as an application for an order that a proceeding be stayed. It does not include the item 1 component.	Both: (a) \$1,736; and (b) the daily hearing fee mentioned in item 6 that applies to the hearing
3	Preparation of final hearing for a matter of 2 or more days—for every day after the first court date	\$1,179
4	Final hearing costs for attendance of solicitor at hearing to take judgment and explain orders	Both: (a) \$284; and (b) the daily hearing fee mentioned in item 6 that applies to the hearing
5	Advocacy loading	50% of the daily hearing fee mentioned in item 6 that applies to the hearing
6	Daily hearing fee	Either: (a) for a short mention—\$284; or (b) for a half day hearing—\$1,042; or (c) for a full day hearing—\$2,086
7	Disbursements—Court fees and other fees and payments to the extent that they have been reasonably incurred	The amount of the fees and payments
8	Disbursements—photocopying documents first 10 pages—for each page	\$0.75
9	Disbursements—photocopying documents after first 10 pages—for each page	\$0.23
10	Agents fees and travelling costs Note: For 2 or more hours travel.	\$587

Division 2—Costs for appeal of a Tribunal or Child Support Registrar decision

Costs for an appeal of a Tribunal or Child Support Registrar decision		
Item	Description	Amount (including GST)
1	A proceeding concluded at or before the first court date for the proceeding	\$1,393

Costs for an appeal of a Tribunal or Child Support Registrar decision		
Item	Description	Amount (including GST)
2	A proceeding concluded: (a) after the first court date for the proceeding; and (b) at least 4 weeks before the final hearing for the proceeding	\$3,478
3	A proceeding concluded at a final hearing	\$6,948

Part 3—Migration proceedings

Division 1—Costs for migration proceedings that have concluded

Costs for migration proceedings that have concluded		
Item	Description	Amount (including GST)
1	A proceeding concluded at or before the first court date for the proceeding	\$1,443
2	A proceeding concluded: (a) after the first court date for the proceeding; and (b) at or before the hearing under rule 44.12 or other interlocutory hearing	\$3,606
3	A proceeding concluded at a final hearing	\$7,206

Division 2—Costs for migration proceedings that have been discontinued

Costs for migration proceedings that have been discontinued		
Item	Description	Amount (including GST)
1	A proceeding in which the notice of discontinuance is filed and served at least 14 days before the first court date for the proceeding	\$718
2	A proceeding in which the notice of discontinuance is filed and served: (a) less than 14 days before the first court date for the proceeding; and (b) at least 15 days before the hearing under rule 44.12 or other interlocutory hearing	\$1,799
3	A proceeding in which the notice of discontinuance is filed and served: (a) less than 15 days before the hearing under rule 44.12 or other interlocutory hearing; and (b) at least 15 days before the final hearing	\$3,606
4	Any other case	\$5,044

Part 2—Other amendments

Federal Circuit Court Rules 2001

2 After paragraph 2.08(1)(b)

Insert:

- (ba) if the case affects, or may affect, the welfare of a child—a child welfare officer of a State or Territory;

3 Rules 4.03 and 4.04

Repeal the rules, substitute:

4.03 Response to application

- (1) A respondent to an application who seeks to do any of the following must file a response in accordance with the approved form:
- (a) indicate consent to an order sought by the applicant;
 - (b) ask the Court to make another order;
 - (c) ask the Court to dismiss the application;
 - (d) seek orders in a matter other than the matter set out in the application;
 - (e) make a cross-claim against the applicant, or another party.
- (2) A response must precisely and briefly state any orders sought and (if the proceeding is a general federal law proceeding) the basis on which the orders are sought.
- (3) A response must be filed and served within 14 days of service of the application to which it relates.

Note: A response to an application for a parenting order, or a response seeking a parenting order, must be accompanied by a notice of risk: see rule 22A.02.

4 Subrule 13.11(1)

Omit “subsection 88R(1) of the Act”, substitute “section 88R of the Act, or section 102QC of the Family Law Act”.

5 Rule 13.11A

After “under subsection 88T(2) of the Act”, insert “, or subsection 102QE(2) of the Family Law Act”.

6 Rule 13.11A (note 1)

After “subsection 88T(2) of the Act”, insert “, and subsection 102QE(2) of the Family Law Act”.

7 Rule 13.11A (note 2)

After “subsection 88T(3) of the Act”, insert “, and subsection 102QE(3) of the Family Law Act”.

8 Rule 22.01

Repeal the rule, substitute:

22.01 Rate of interest

For paragraphs 87(11)(b), 90KA(b) and 90UN(b) and subsection 117B(1) of the Family Law Act, the rate of interest is the rate prescribed by the Family Law Rules for those provisions.

Note 1: See rule 17.03 of the Family Law Rules.

Note 2: If the Court makes an order for the payment of money as mentioned in subsection 117B(1) of the Family Law Act, the Court may order that interest is payable at a rate other than the rate prescribed by the Family Law Rules for that subsection: see subsection 117B(2) of that Act.

9 After paragraph 25A.01(1)(a)

Insert:

(aa) an appeal under section 44AAA of the AAT Act; and

10 Subparagraph 25A.03(1)(a)(ii)

Omit “SSAT”, substitute “the Tribunal”.

11 Paragraph 25A.03(2)(a)

Omit “SSAT”, substitute “Tribunal”.

12 Rule 25A.05 (heading)

Repeal the heading, substitute:

25A.05 Appeals from the Tribunal or Child Support Registrar

13 Subrule 25A.05(1)

Omit “SSAT”, substitute “Tribunal”.

14 Paragraph 25A.05(1)(a)

Omit “SSAT’s”, substitute “Tribunal’s”.

15 Subrule 25A.05(3)

Omit “from the SSAT”, substitute “to which this Part applies from the Tribunal”.

16 Subrule 25A.06(1)

Omit “(1)”.

17 Subrule 25A.06(2)

Repeal the subrule (including the note).

18 At the end of rule 25A.06

Add:

Note 1: An appeal by a person under section 44AAA of the AAT Act from a decision of the Tribunal in a child support first review proceeding must be filed within 28 days after the person receives a written statement of reasons for the decision under section 95P of the Registration Act: see subsection 44(2A) of the AAT Act (as applied by paragraph 44AAA(2)(a) of that Act).

Note 2: The Court may extend or shorten the time fixed by this rule: see rule 3.05.

19 Paragraph 25A.07(1)(d)

Repeal the paragraph, substitute:

- (d) for appeals from the Tribunal to which this Part applies:
 - (i) the Registrar of the Tribunal; and
 - (ii) any other parties to the appeal.

20 Subrule 25A.07(3)

Omit “SSAT” (wherever occurring), substitute “Tribunal”.

21 Rule 25A.07 (note 3)

Omit “subrule 4.03(2)”, substitute “subrule 4.03(3)”.

22 At the end of paragraph 25B.10(d)

Add “or the Assessment Act”.

23 Rule 25B.10 (at the end of the note)

Add “and section 79 of the Assessment Act”.

24 Part 43 (before the note to Part heading)

Insert:

Note 1: See Part 25A in relation to appeals under section 44AAA of the AAT Act.

25 Part 43 (note to Part heading)

Omit “Note”, substitute “Note 2”.

26 Rule 43.01

Repeal the following definitions:

- (a) definition of *Registrar of the Tribunal*;
- (b) definition of *Tribunal*.

27 Subrule 44.06(2) (note)

Omit “Rules 4.03, 4.04”, substitute “Rules 4.03”.

28 Rule 44.15

Repeal the rule, substitute:

44.15 Costs

- (1) The Court may, in relation to a proceeding that is concluded, order an unsuccessful party in the proceeding to pay the costs of a successful party in accordance with Division 1 of Part 3 of Schedule 1.
- (2) If:
 - (a) the applicant files a notice of discontinuance in a proceeding in which a respondent has sought costs in the response; and
 - (b) the applicant does not file with the notice an application in respect of costs;a Judge or a Registrar may, without hearing the parties, make an order in chambers in accordance with Division 2 of Part 3 of Schedule 1 for the costs of the respondent.

- (3) This rule does not limit a party's right to apply, under Part 21, for an order as to costs of the application.

Note 1: See Division 13.1 in relation to discontinuance.

Note 2: See section 13 of the Act in relation to the exercise of jurisdiction in chambers.

29 Dictionary (definition of *child support proceeding*)

Repeal the definition, substitute:

child support proceeding:

- (a) means a proceeding under the Assessment Act or the Registration Act; and
- (b) for the purposes of Part 25A, includes an appeal under section 44AAA of the AAT Act (which provides for appeals from certain child support first review proceedings).

30 Dictionary

Insert:

Registrar of the Tribunal includes a person:

- (a) who has been appointed as an officer of the Tribunal under section 24PA of the AAT Act; and
- (b) to whom powers or functions have been delegated under subsection 10A(3) of the AAT Act.

31 Dictionary (definition of *SSAT*)

Repeal the definition.