



Federal Court Amendment Rules 2004 (No. 5)¹

Statutory Rules 2004 No. 407²

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

Dated 21 December 2004

M.E.J. BLACK C.J.
B.A. BEAUMONT J.
M.R. WILCOX J.
J.E.J. SPENDER J.
P.R.A. GRAY J.
D.M. RYAN J.
R.S. FRENCH J.
M.C. LEE J.
D.G. HILL J.
T.J. HIGGINS J.
P.C. HEEREY J.
R.E. COOPER J.
A.P. WHITLAM J.
M.F. MOORE J.
C.M. BRANSON J.
K.E. LINDGREN J.
B.J.M. TAMBERLIN J.

R. SACKVILLE J.
S.M. KIEFEL J.
R.D. NICHOLSON J.
P.D. FINN J.
R.A. SUNDBERG J.
S.R. MARSHALL J.
R.N. MADGWICK J.
R. MERKEL J.
J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
R.A. FINKELSTEIN J.
M.S. WEINBERG J.
J.A. DOWSETT J.
P.G. HELY J.
S.C. KENNY J.
R.V. GYLES J.
R.A. CONTI J.
M.A. STONE J.
J.L.B. ALLSOP J.
P.M. JACOBSON J.
B.M. SELWAY J.
A.C. BENNETT J.
B.T. LANDER J.
Judges of the Federal
Court of Australia

A.J. WOOD
Acting Registrar

1 Name of Rules

These Rules are the *Federal Court Amendment Rules 2004 (No. 5)*.

2 Commencement

These Rules commence on the date of their notification in the *Gazette*.

3 Amendment of Federal Court Rules

Schedule 1 amends the Federal Court Rules.

Schedule 1 Amendments

(rule 3)

[1] Order 1, rule 4, after definition of *Judge*

insert

legal practitioner means a person:

- (a) who is:
 - (i) a barrister; or
 - (ii) a solicitor; or
 - (iii) a barrister and solicitor; and
- (b) who is lawfully entitled to practise as such in a federal court.

[2] Order 4, paragraph 5 (a)

substitute

- (a) if there is no attendance before the Court by the respondent or a legal practitioner representing the respondent at the time and place stated in the application, the proceeding may be heard and an order may be made or judgment given against the respondent; and

[3] Order 7, subrules 6 (1) and (2)

substitute

- (1) Unless the Court or a Judge otherwise orders, an address for service for a person must be the address of a place within Australia at which documents in the proceeding may, during ordinary business hours, be left for the person and to which documents in the proceeding may be posted to the person.
- (2) If a person is represented by a solicitor, the address for service for the person must be the address of the solicitor or of the solicitor's agent.

[4] Order 11, rule 1B, heading

substitute

1B Pleading prepared by legal practitioner

[5] Order 11, subrule 1B (1)

substitute

- (1) If a pleading is prepared by a legal practitioner representing a party, the pleading must, when filed, be accompanied by a certificate in accordance with Form 15B signed by the legal practitioner.

[6] Order 14, subrule 5A (1)*substitute*

- (1) If, according to the Court file for a proceeding, a solicitor acts for a party in the proceeding, an affidavit that is presented or sent to a registry for filing on behalf of the party must be accompanied by a certificate (a *compliance certificate*) in accordance with Form 20A signed by the solicitor.

[7] Order 15, paragraphs 2 (3) (d) and (e)*substitute*

- (d) documents that support another party's case.

[8] Order 24, subrule 5 (1)*omit*

each party, his counsel and solicitor

insert

each party and any legal practitioner representing the party

[9] Order 27, paragraph 6 (4) (b)*substitute*

- (b) by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified for the purpose in the subpoena, or, if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.

[10] Order 35, subrule 10 (1)

omit

their representatives on the record,

insert

the legal practitioners on the record as representing the parties,

[11] Order 35, subrule 10A (1)

omit

their representatives on the record,

insert

of the legal practitioners on the record as representing the parties,

[12] Order 35, paragraph 12 (a)

omit

their representatives on the record;

insert

the legal practitioners on the record as representing the parties;

[13] Order 35, paragraph 12 (b)

omit

their representatives on the record.

insert

the legal practitioners on the record as representing the parties.

[14] Order 41, after subrule 2 (8)

insert

(9) The pages of a document must be securely fastened.

[15] Order 41, rule 6

substitute

6 Signing documents — Form 4

A document filed, other than an affidavit, annexure or exhibit attached to another document, must be concluded in accordance with Form 4 and signed by the party filing it or by a legal practitioner unless the nature of the document is such that the signature is inappropriate.

[16] Order 45, rule 9

substitute

9 Signature for legal practitioner

- (1) If a signature by a legal practitioner is required or permitted for the purpose of a proceeding, it is the signature of the legal practitioner with primary conduct of the matter that is required or permitted.
- (2) For this rule, a barrister is not the legal practitioner with primary conduct of the matter if the barrister is instructed by a solicitor.
- (3) If the legal practitioner with primary conduct of the matter is a solicitor, any of the following persons may sign for the legal practitioner:
 - (a) a partner of the legal practitioner;
 - (b) a solicitor who is an agent of the legal practitioner for the purpose of the proceeding;
 - (c) a partner of the agent;
 - (d) a solicitor employed by the legal practitioner or by the agent;
 - (e) a solicitor employed by the legal practitioner's employer.
- (4) A signature made under subrule (3) must be accompanied by a statement of the capacity in which the signature is made.

[17] Order 46, rule 7B

substitute

7B Review of a Registrar's exercise of power

- (1) If the Registrar exercises a power of the Court under subsection 35A (1) of the Act, the Registrar must, if it is reasonably practicable to do so, inform the parties of their right to make an application for review of the exercise of the power under subsection 35A (5) of the Act.
- (2) An application for review may be made:
 - (a) orally to the Registrar at the time that the power is exercised; or
 - (b) by motion on notice within 21 days after the day on which the power was exercised.
- (3) In this rule:

Registrar has the meaning given by subsection 35A (8) of the Act.

[18] Order 52, rule 12

substitute

12 Form and filing of notice of appeal — Form 55

- (1) An appeal is instituted by filing a notice of appeal in accordance with Form 55.
- (2) A notice of appeal must be filed in an appropriate Registry.
- (3) In this rule:

appropriate Registry means:

 - (a) if the appeal is from a judgment of a Court of a State or Territory — the District Registry in that State or Territory; or
 - (b) if the appeal is from a single Judge of the Court — the Registry at the proper place; or

-
- (c) if the appeal is from a judgment of the Federal Magistrates Court — the District Registry in the State or Territory where the judgment was delivered; or
 - (d) in any other case — the Principal Registry or an appropriate District Registry; or
 - (e) a Registry that, before or after the filing of any document in the appeal, the Court or a Judge orders is an appropriate Registry.

[19] Order 52, rule 24

substitute

24 Appointment to settle

- (1) On filing the notice of appeal, the appellant must make an appointment to settle the appeal papers.
- (2) The appellant must serve notice of the appointment on each person on whom the notice of appeal is served.
- (3) The notice of appointment may be subscribed to the notice of appeal.
- (4) Unless the Court or a Judge otherwise orders, this rule does not apply to an appeal from a judgment of the Federal Magistrates Court.

Note Rule 24A deals with the procedure for an appeal from a judgment of the Federal Magistrates Court.

24A Appeal from a judgment of the Federal Magistrates Court

Unless the Court or a Judge otherwise orders, a notice of appeal from a judgment of the Federal Magistrates Court must state a date for a directions hearing or a date for the final hearing of the appeal.

[20] Order 53, subrule 15 (1)

omit

as is

insert

as are

[21] Order 53, paragraphs 15 (2) (g) and (h)

substitute

(g) direct the place, time and mode of hearing.

[22] Order 53, after subrule 15 (2)

insert

(3) Unless the Court or a Judge otherwise orders, the Registrar may:

(a) do any of the things mentioned in paragraphs (2) (a), (b), (c), (d) and (g); or

(b) determine any other matter for the purpose of preparing the appeal for hearing.

[23] Order 58, subrule 1 (1), definition of *Designs Act*

substitute

Designs Act means the *Designs Act 2003*.

[24] Order 58, rules 22 and 23

substitute

22 Revocation of registration or rectification of Register

- (1) An application for an order:
- (a) revoking the registration of a design under section 93 of the Designs Act; or
 - (b) for the rectification of the Register under section 120 of the Designs Act;
- must include details of the grounds for revocation or rectification on which the party making the application relies.
- (2) Except by leave of the Court, evidence is not admissible in proof of a ground for revocation or rectification for which details have not been given under subrule (1).

23 Application for compulsory licence

An application for the grant of a compulsory licence under section 90 of the Designs Act must state the facts intended to be relied on to show that:

- (a) products embodying the design have not been made in Australia, to the extent that is reasonable in the circumstances of the case; and
- (b) the registered owner of the design has given no satisfactory reason for failing to exercise the exclusive rights in the design; and
- (c) the applicant has tried for a reasonable period, but without success, to obtain from the registered owner of the design an authorisation to do, on reasonable terms and conditions, any of the things mentioned in paragraphs 10 (1) (a) to (e) of the Designs Act in relation to the design.

[25] Order 58, rule 31

substitute

31 Experimental proof as evidence

- (1) In a proceeding in which a party (the *proponent*) proposes to tender as evidence experimental proof of a fact, the proponent must apply for directions in relation to the experimental proof.
- (2) The Court may make such directions in relation to the experimental proof proposed to be tendered as evidence as the Court thinks appropriate, including directions about any of the following:
 - (a) the service on other parties of particulars of the experiment and of each fact that the proponent asserts is, will or may be proved by the experiment;
 - (b) any persons who must be permitted to attend the conduct of the experiment;
 - (c) the time when, and the place where, the experiment must be conducted;
 - (d) the means by which the conduct and results of the experiment must be recorded;
 - (e) the time by which any other party (the *opponent*) must notify the proponent of any grounds on which the opponent will contend that the experiment does not prove a fact that the proponent asserts is, will or may be proved by the experiment.
- (3) Evidence of the conduct and results of the experiment is not admissible in the proceeding except:
 - (a) if the proponent has made an application under subrule (1) and has complied with any directions given under subrule (2); or
 - (b) with the leave of the Court.
- (4) If a direction mentioned in paragraph (2) (e) has been made, and the opponent has not complied with the direction in relation to a ground, the opponent may not rely on the ground except with the leave of the Court.

[26] Order 62, rule 1A

omit

a practitioner (as counsel)

insert

a legal practitioner (as counsel)

[27] Order 62, paragraph 8 (1) (a)

omit

barristers and solicitors entitled or admitted to practise in the Court

insert

legal practitioners

[28] Order 62, subrule 9 (6)

omit

[29] Order 62, paragraph 40B (6) (c)

omit

party.

insert

party;

[30] Order 62, after paragraph 40B (6) (c)

insert

(d) an itemised account or evidence that the costs incurred by the claimant were equal to, or more than, the amount of the bill served on the other party under subrule (4).

[31] Order 80, rule 2, definition of *legal practitioner*

omit

[32] Schedule 1, Form 15B

substitute

Form 15B Certificate of legal practitioner

(Order 11, rule 1B)

I (*name of legal practitioner*) certify to the Court that, in relation to the pleading dated (*insert date*) filed on behalf of the (*party, eg applicant, respondent*), the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non-admission in the pleading.

Date:

Legal practitioner representing
the (*party, eg applicant, respondent*)

Version 3

[33] Schedule 1, Form 20A

substitute

Form 20A Affidavit — certificate of compliance

(Order 14, rule 5A)

I, (*name of solicitor*), certify to the Court that the affidavit of (*name of deponent*) *sworn/*affirmed on (*date*) filed on behalf of the (*party, eg applicant, respondent*) complies with Order 14, rule 2 of the Federal Court Rules.

Date:

Solicitor for the
(*party, eg applicant, respondent*)

* *Omit if inapplicable*

Version 2

[34] Schedule 1, Form 41*substitute***Form 41 Subpoena**

(Order 27, subrule 3 (1))

IN THE *[name of court]***File number:**DISTRICT REGISTRY *[insert if filing in Federal Court]*

APPLICANT/PLAINTIFF:

RESPONDENT/DEFENDANT:

SUBPOENATo: *[name]*
*[address]***YOU ARE ORDERED:**

- *to attend to give evidence — see section A of this form; or**
- *to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section B of this form; or**
- *to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule — see section C of this form**

* *Select one only of these three options*

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last date for service of this subpoena is:

(See Note 1)

Please read Notes 1 to 15 at the end of this subpoena.

[Seal or Stamp of the Court]

Date:

Issued at the request of [*name of party*], whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

B. Details of subpoena to produce only

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production. (*See Notes 5–11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[Name of Courtetc as the case may be]

Schedule

The documents and things you must produce are as follows:

[If insufficient space attach list]

C. Details of subpoena both to attend to give evidence and to produce

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production. (See Notes 5–11)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things:

Date:

Time:

Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[Name of Courtetc as the case may be]

Schedule

The documents and things you must produce are as follows:

[If insufficient space attach list]

NOTES**Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Return or destruction of documents or copies

10. You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.
11. If you have so informed the Court, the Registrar may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court — arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

[35] Schedule 1, Form 55*substitute***Form 55 Notice of appeal**

(Order 52, rule 12)

IN THE FEDERAL COURT OF AUSTRALIA

(insert location of registry) REGISTRY No. of 20 .On appeal from *(specify Court or Judge)*

BETWEEN:

A.B.	Appellant
and	
C.D.	Respondent

NOTICE OF APPEAL

The appellant appeals from the whole *(or if from a part, specify part)* of the judgment of *(specify court or Judge below)* given on *(specify date)* at *(specify place)*.

(If applicable) The appeal is brought in accordance with leave granted on *(specify date)*.

GROUND OF APPEAL: *(Specify grounds of appeal)*

1.

2.

3.

...

ORDERS SOUGHT: *(State what judgment or order the appellant seeks instead of the judgment appealed from)*

1.

2.

3.

...

To the respondent *(address)*

TAKE NOTICE:

- (a) Before taking any step in the proceeding you must enter an appearance in the Registry, unless you have already entered an appearance under Order 52, rule 7.
- (b) *(Do NOT use this paragraph if the appeal is from a judgment of the Federal Magistrates Court)* The papers in the appeal will be settled before the Registrar at _____ on _____ *(place, date and time to be inserted by the Registrar)*.
- (c) *(Use this paragraph only if the appeal is from a judgment of the Federal Magistrates Court)* This appeal has been listed for a directions* hearing at the time and place stated below. If you or your legal representative do not attend the Court at that time, orders may be made in your absence.

Time and date for directions* hearing: *(to be entered by Registry unless fixed by Court)*

Place: *(address of Court)*

The appellant's address for service is *(specify address for service)*.

Notes

* Omit 'a directions' and 'directions' if inapplicable.

Paragraph (b) or (c) may be omitted or struck out if inapplicable.

Version 2

[36] Schedule 1, Form 167, item 12

substitute

12 Under what Act is the discrimination you are complaining of unlawful?	θ	the Age Discrimination Act 2004
	θ	the Disability Discrimination Act 1992
	θ	the Racial Discrimination Act 1975
	θ	the Sex Discrimination Act 1984

[37] Schedule 1, Form 167*omit***Version 3***insert***Version 4****[38] Schedule 2***substitute***Schedule 2 Scale of costs for work done and services performed**

(Order 62, rule 12)

Item	Matter for which charge may be made	Charge (\$)
<i>Instructions</i>		
1	To sue or defend, to appeal or oppose an appeal or for any other originating proceeding	210
2	To make or oppose an interlocutory application or motion to the Court or a Judge or an officer of the Court	94
3	For a case for opinion of counsel or for counsel to advise (including attendance on counsel with brief)	91
4	For an interrogatory, answer to an interrogatory or an affidavit (except a formal affidavit), an admission or a list of documents (and affidavit verifying)	126

Item	Matter for which charge may be made	Charge (\$)
5	For brief for counsel on application in chambers or brief notes for solicitor (if necessary)	115
	<i>or</i>	
	in respect of items 1 to 5 of this scale, having regard to all the circumstances of the case	any other amounts that the taxing officer considers appropriate
6	For brief for counsel or brief notes for solicitor (if necessary), having regard to all the circumstances of the case	a sum that the taxing officer thinks fit
7	For a necessary document not otherwise provided for, having regard to all the circumstances of the case	a sum that the taxing officer thinks fit
	<i>Documents</i>	
8	Any notice of appearance, including copies, filing and service by respondent	116
9	Any application or notice of motion, including fixing return day, copies to file and serve, and attendance to file	94
	if more than 3 folios — add for each folio	7
10	Any simple notice or memorandum such as a notice for discovery, including copies, filing (if necessary) and service	75
11	Notice to produce, notice to admit or any similar notice, including copies, filing (if necessary) and service	94
	if more than 3 folios — add for each folio	7
12	A brief to counsel (including a brief to hear judgment) and attending counsel with the brief	80
	if more than 3 folios — add for each folio	8
	For copy documents to accompany brief	the other charges in this scale that are appropriate

Item	Matter for which charge may be made	Charge (\$)
13	Any necessary subpoena, including issuing 1 copy to serve and arranging for service <i>Drawing</i>	64
14	Any necessary document — for each folio <i>Engrossing or Typing</i>	9
15	Any necessary document — for each folio <i>Copies</i>	4
16	Of any document, including carbon, photographic or machine-made copy — for each page except if allowance for 10 or more pages is claimed in respect of any document or documents <i>Perusal</i>	2 at the discretion of the taxing officer
17	Of any document (if necessary) including special letter, telegram or telex, up to 3 folios <i>or per folio</i> except if allowance for 30 or more folios is claimed in respect of any document or documents	17 4 at the discretion of the taxing officer
18	If it is not necessary to peruse but it is necessary to scan a document — for each page except if allowance for 10 or more pages is claimed in respect of any document or documents <i>Examination</i>	7 at the discretion of the taxing officer
19	If it is necessary to neither peruse nor scan a document, eg an examination of an appeal book: for examination — for each half hour <ul style="list-style-type: none"> • solicitor • clerk <i>Letters</i>	75 17
20	Short letter — simple form of letter, eg formal acknowledgment	12

Item	Matter for which charge may be made	Charge (\$)
21	Ordinary letter, including letter between principal and agent	24
22	Circular letter (after the first) — for each letter	8
23	Special letter or letter including opinion	51 <i>or</i> an amount that is reasonable having regard to the length of the letter, the questions involved and appropriate items and charges in this scale
24	Telegram, facsimile copy, or telex including attendance to dispatch	84 <i>or</i> an amount that is reasonable in the circumstances
25	Receiving and filing any incoming letter	8
	<i>Note</i> Postage and transmission expenses may be claimed as a disbursement properly incurred.	
	<i>Service</i>	
26	Personal service (except if service is able to be claimed under another item of this scale) of any document of which personal service is required	63 <i>or</i> an amount that is reasonable, having regard to time occupied, distance travelled and other relevant circumstances
27	Service of any document at the office of the address for service, either by delivery or by post	17

Item	Matter for which charge may be made	Charge (\$)
<i>Preparation of Appeal Books</i>		
28	Preparation of appeal books, including collating all necessary material, attendances on the printer, general oversight of their preparation in cases where the taxing officer is satisfied it has been done efficiently — for each hour:	
	• solicitor	136
	• clerk	34
29	If appeal books are prepared in a solicitor's office, a sum that the taxing officer considers is just and reasonable, having regard to work and labour properly performed and charges for material used. In exercising his or her discretion, the taxing officer must have regard to commercial rates for copying and binding and is not obliged to apply the photographic or machine-made copy costs otherwise allowable in this scale	
<i>Attendances</i>		
30	An attendance that is capable of being made by a clerk, such as at the court registry	34
31	An attendance that requires the attendance of a solicitor or managing clerk and involves the exercise of skill or legal knowledge (including an attendance to inspect or negotiate) — for each quarter hour:	
	• solicitor	61
	• managing clerk	13
32	An attendance for which no other provision is made in this scale	56
33	An attendance by telephone that does not involve the exercise of skill or legal knowledge	11
34	An attendance on counsel:	
	• with brief or papers (if not otherwise provided for)	35
	• to appoint a conference or consultation	35
	• if appointment made by telephone	11

Item	Matter for which charge may be made	Charge (\$)
35	A necessary conference or consultation with counsel:	
	• if half an hour or less	94
	• if over half an hour — for each hour or part of an hour	136
36	In court or chambers or before the Registrar for hearing without counsel:	
	• for each hour or part of an hour of the hearing	273
	• for each hour or part of an hour when likely to be heard, but not heard	273
	• not to exceed per day	1 223
37	In court or chambers or before the Registrar for hearing with counsel:	
	• for each hour or part of an hour of the attendance during the hearing	222
	• for each hour or part of an hour of the attendance when likely to be heard, but not heard	222
	• not to exceed per day	1 005
	If a person other than a solicitor attends in place of a solicitor:	
	(a) attendance by a managing clerk:	
	• for each hour	94
	• not to exceed per day	410
	(b) attendance by any other clerk:	
	• for each hour	50
	• not to exceed per day	218
38	To hear judgment	63
39	On taxation of costs:	
	• if a solicitor attends — for each hour or part of an hour	136
	• if a clerk attends — for each hour or part of an hour	34

Item	Matter for which charge may be made	Charge (\$)
40	If a solicitor attends at court or chambers for the hearing of an application or appeal, or on conference with counsel, at a distance of more than 50 kilometres from his or her place of business, and it is neither appropriate nor proper for an agent to attend, the taxing officer may allow for each day of absence from the place of business (except a Saturday, Sunday or public holiday) an amount that the taxing officer considers reasonable — not exceeding	310
<i>General Care and Conduct</i>		
41	If the case or circumstances warrant it, an allowance may be claimed under this item, in addition to any other item that appears in this scale, for general care and conduct (if appropriate) including the following: <ul style="list-style-type: none"> (a) the complexity of the matter and the difficulty and novelty of questions raised; (b) the importance of the matter to the party and the amount involved; (c) the skill, labour, specialised knowledge and responsibility involved in the matter on the part of the solicitor; (d) the number and importance of the documents prepared or perused, without regard to length; (e) the time taken by the solicitor; (f) research and consideration of questions of law and fact 	a percentage of the total amount of the allowed costs excluding disbursements
<i>Counsel's Fees</i>		
42	It is proper for a solicitor to incur an amount for counsel's fees that appears to be fair and reasonable according to the circumstances of the case and the seniority of counsel. The fees incurred may be claimed as a disbursement	

Item	Matter for which charge may be made	Charge (\$)
43	If a solicitor briefs another solicitor as counsel, when it would be appropriate to brief counsel	a sum as a counsel's fee that the taxing officer considers just and reasonable having regard to the practice of allowing these fees that is permitted by the Supreme Court Rules of the State or Territory concerned (Order 62, rule 35)
	<i>Corporations Act 2001 — Short Form Bill</i>	
43A	The amount as to the costs of obtaining a winding-up order, up to and including entry and service of the order under section 470 of the <i>Corporations Act 2001</i> and the obtaining of a certificate of taxation	2 867
	Additional costs are allowable for any adjournment in which costs have been reserved by the Court in accordance with item 36 or 37, as the case may be	
	<i>Bankruptcy Act 1966 — Short Form Bills</i>	
43B	Short form amount that may be claimed by an applicant on the making of a sequestration order	1 838
43C	Short form amount that may be claimed by an applicant on the dismissal of a petition	1 584
	<i>Migration Act 1958 — Short Form Bills</i>	
43D	Short form amount, including costs and disbursements, that may be claimed by a party in a standard migration case	4 684

Item	Matter for which charge may be made	Charge (\$)
43E	Short form amount, including costs and disbursements, that may be claimed by the respondent in a migration case on dismissal or discontinuance of the case	1 653
<i>Witnesses' Expenses</i>		
44	Witnesses called because of their professional, scientific or other special skill or knowledge — for each day	162 to 801
45	Witnesses called, other than those covered in item 44 — for each day	94 to 150
46	Witnesses remunerated in their occupation by wages, salary or fees	the amount lost by attendance at Court
47	If a witness lives more than 50 kilometres from the Court	a sum that the taxing officer considers reasonable for the actual cost of travel, together with a reasonable amount for meals and accommodation
<i>Disbursements</i>		
48	All court fees and other fees and payments	to the extent to which they have been properly and reasonably incurred and paid
49	If a solicitor attends at court or chambers, or on conference with counsel, in the circumstances outlined in item 40	reasonable travelling expenses to the extent to which they have been reasonably incurred and paid

Item	Matter for which charge may be made	Charge (\$)
<i>Miscellaneous</i>		
50	Matters not included in this scale may be allowed to the extent they are covered by Order 62, rule 21	
	<i>Note 1</i> Bills of costs prepared in accordance with Order 62, rule 40 must identify costs and disbursements claimed with an item number.	
	<i>Note 2</i> A folio comprises 72 words (there are generally 3 folios to each page).	

[39] Further amendments — Schedule 1

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
Form 5, section C	your legal representative	a legal practitioner representing you
Form 5	Version 3	Version 4
Form 6	your counsel or solicitor	a legal practitioner representing you
Form 6	Version 1	Version 2
Form 8	by your counsel or solicitor,	a legal practitioner representing you,
Form 8	Version 2	Version 3
Form 53A	your counsel or solicitor,	a legal practitioner representing you,
Form 53A	Version 1	Version 2
Form 53B	your legal representative	a legal practitioner representing you
Form 53B	Version 1	Version 2
Forms 55A, 55C and 55CB	by your counsel or solicitor,	a legal practitioner representing you,
Forms 55A, 55C and 55CB	Version 1	Version 2
Forms 55D and 55DA	your counsel or solicitor,	a legal practitioner representing you,

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
Forms 55D and 55DA	Version 1	Version 2
Form 56	your legal representative	a legal practitioner representing you
Form 56	Version 2	Version 3
Form 56A	your legal representative	a legal practitioner representing you
Form 56A	Version 1	Version 2
Forms 58A and 59	by your counsel or solicitor,	a legal practitioner representing you,
Forms 58A and 59	Version 1	Version 2
Forms 61, 62, 64 and 65	by your counsel or solicitor	a legal practitioner representing you
Forms 61, 62, 64 and 65	Version 1	Version 2
Form 129	by your counsel or solicitor,	a legal practitioner representing you,
Form 129	Version 1	Version 2
Form 150	your legal representative	a legal practitioner representing you
Form 150	Version 2	Version 3
Form 157	your legal representative	a legal practitioner representing you
Form 157	Version 1	Version 2
Form 169	your counsel or solicitor,	a legal practitioner representing you,
Form 169	Version 1	Version 2

Notes

1. These Rules amend Statutory Rules 1979 No. 140, as amended by 1980 No. 87; 1982 Nos. 217 and 408; 1983 No. 264; 1984 Nos. 9 and 258; 1985 Nos. 16, 97, 168 and 227; 1986 Nos. 61, 157 and 324; 1987 Nos. 73, 174 and 197; 1988 Nos. 14, 54, 144, 217 and 306; 1989 Nos. 50, 253 and 318; 1990 Nos. 72, 102, 276, 319, 414 and 453; 1991 Nos. 70, 249, 395 and 461; 1992 Nos. 43, 44, 86, 87, 186, 330, 421 and 453; 1993 Nos. 40, 45, 137, 225 and 290; 1994 Nos. 63, 130, 224, 279, 332 and 463; 1995 Nos. 31, 46, 239 and 449; 1996 Nos. 29 and 308; 1997 Nos. 82, 87, 143, 174, 204, 277 and 425; 1998 Nos. 224, 297 and 323; 1999 Nos. 15, 70, 94, 194, 232, 295, 296 and 360; 2000 Nos. 53, 54, 189, 233, 235, 300 and 372; 2001 Nos. 20, 201, 322 and 329; 2002 Nos. 130, 222 and 281; 2003 Nos. 35, 78, 206 and 377; 2004 Nos. 38, 98, 219 and 281.
2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2004.