



## FEDERAL CIRCUIT COURT OF AUSTRALIA

Federal Circuit Court of Australia  
Commonwealth Law Courts  
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TO	Law Societies, Bar Associations, Legal Aid Commissions
FROM	Adele Byrne
DATE	2 August 2017
SUBJECT	Federal Circuit Court Amendment (Costs and Other Measures) Rules 2017 – Rules and Forms

### RULES

The *Federal Circuit Court Rules 2001* (“the Rules”) are reviewed regularly. The judges have agreed to a number of miscellaneous amendments which are comprised in the attached Amendment Rules.

The Rules and the Explanatory Statement are available at the following link:

<https://www.legislation.gov.au/Details/F2017L00982>

The amendments in **Schedule 1 Part 1** increase the itemised amounts of costs comprised in Schedule 1 of the Rules. These increases follow recommendations made by the Joint Costs Advisory Committee in their 9th Report. These increases apply to work done or services performed after **3 August 2017**.

The amendments in **Schedule 1 Part 2** comprise miscellaneous amendments to the Rules including:

- An amendment to empower the Court to apply the *Federal Court (Criminal Proceedings) Rules 2016* in a particular case where the Rules are insufficient or inappropriate. This will be in addition to the power already conferred on the Court to apply *Family Law Rules 2004* (“Family Law Rules”) or the *Federal Court Rules 2011* (“Federal Court Rules”) in such instances;
- An amendment to subrule 2.06 (a) to adopt terminology used in paragraph 2.26(b) of the Federal Court Rules which provides that a Registrar, when considering whether to exercise the power to refuse to accept a document, need not only be satisfied by reference to the document itself but also *by reference to any other documents filed or submitted for filing with the document*;

- New rule 2.08B is prescribed for the inspection of documents in general federal law proceedings. This new rule mirrors (with necessary modifications) Rule 2.32 of the Federal Court Rules to ensure that the Courts have like processes for the inspection of documents in general federal law proceedings. While the Federal Court Rule was previously applied by way of subrule 2.08(4), it is considered preferable to set out the rule in full rather than by reference to the comparable Federal Court Rule;
- Amendments to ensure that the powers conferred on the Court pursuant to rules 13.03C and 13.10 are powers that can be exercised by a registrar;
- Amendments to rule 16.05 by the addition of new paragraphs (2)(g) and (h) to better resemble the common law principles referred to as the 'slip rule';
- In view of new jurisdiction conferred on the Court by the *Building and Construction Industry (Improving Productivity) Act 2016* and the *Fair Work Registered Organisations Act 2009* new rules have been prescribed setting out the requirements in respect of Applications made under these Act.

The amendments in **Schedule 2** extend the time a response must be filed and served from 14 days to 28 days of service of the application to which it relates. **This amendment commences on 2 October 2017 to ensure parties and practitioners have time to prepare for the change to the timeline. Transitional provisions clarify that these amendments apply to applications made after the commencement of that Schedule**

## FORMS

As a consequence of the new industrial jurisdiction, there has been the need for a new 'approved form' in relation to a claim under the *Fair Work (Registered Organisations) Act 2009* alleging reprisal (Form 6) and changes to the existing Application – Fair Work Division form in light of the jurisdiction under the *Building and Construction Industry (Improving Productivity) Act 2016*.

I have attached the new form for your information, as well as the existing Application – Fair Work Division marked to identify the change.

The forms will be available at the following link:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/industrial+law/application-fwd>

and work is underway to include the changes in Casetrack.

Yours sincerely,



Adele Byrne  
Principal Registrar

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