

**SUPREME COURT
OF THE
NORTHERN TERRITORY OF AUSTRALIA**

PRACTICE DIRECTION NO 3 of 2020 - ELECTRONIC FILING

This Practice Direction, as amended, takes effect from 1 January 2025.

Part 1 – Application

1. This Practice Direction applies to documents to be filed on or after 11 January 2021 in the following proceedings:-
 - 1.1 civil proceedings under Chapter 1 of the *Supreme Court Rules* (“*Rules*”);
 - 1.2 appeal proceedings under Chapter 2 of the *Rules*, other than a proceeding under:
 - 1.2.1 Order 86 of the *Rules*; or
 - 1.2.2 the *Local Court (Criminal Procedure) Act 1928*; or
 - 1.2.3 the *Youth Justice Act 2005*; or
 - 1.2.4 any other Act to which Order 83 of the *Rules* applies if the proceeding is in relation to a criminal offence;
 - 1.3 proceedings in the probate jurisdiction of the Court under Chapter 3 of the *Rules*;
 - 1.4 proceedings under the *Corporations Law Rules 2000*;
 - 1.5 proceedings under the *Criminal Property Forfeiture Act 2002*;
 - 1.6 proceedings under the *Legal Profession Act 2006*;
 - 1.7 proceedings under the *Serious Sex Offenders Act 2013*.

Part 2 – Interpretation

2. In this Practice Direction the following terms have the meanings assigned below unless those meanings are repugnant to the context or subject matter or unless a contrary intention is indicated:-
 - 2.1 “*bookmark*” means a document hyperlink that is connected to another place or page in a document;
 - 2.2 “*EFS*” means the electronic filing system used in the Court from time to time;

- 2.3 “*electronic court document*” means a document filed electronically under Part 3 of this Practice Direction;
- 2.4 “*electronic filing*” means filing using EFS;
- 2.5 “*email address*”, for service, means the email address referred to in rule 6.05 of the *Rules* and paragraph 49.6 of this Practice Direction;
- 2.6 “*fee waiver*” means a waiver, deferral or permission granted under regulation 5 of the Regulations and, where the context requires, includes an application for a fee waiver;
- 2.7 “*Judge*” includes an Associate Judge of the Court;
- 2.8 “*notify*” means notify electronically;
- 2.9 “*proper address*”, of a person, means:
- 2.9.1 the person's address for service in the proceeding; or
- 2.9.2 if the person has no address for service when service is to be effected:
- 2.9.2.1 for an individual – the person's usual or last known place of residence or business; or
- 2.9.2.2 for an individual suing or being sued in the name of a firm – the firm's principal or last known place of business; or
- 2.9.2.3 for a corporation – the corporation's registered or principal office;
- 2.10 “*reject*”, in relation to a document, means delete the document from EFS so that the document is not filed;
- 2.11 “*Registrar*” includes, where the context permits or requires, a Proper Officer and Registry staff;
- 2.12 “*Regulations*” means the *Supreme Court Regulations*;
- 2.13 “*submission notification*” means a notification sent by the Court to the user who submitted a document confirming the receipt of that document by EFS;
- 2.14 “*technical failure*” means any malfunction of the Court's information and communications technology;
- 2.15 “*user*” means a person who submits a document for electronic filing pursuant to paragraph 3 of this Practice Direction;

- 2.16 The following terms have the meanings assigned to them in the *Rules*:- “originating process”, “Proper Officer”, “corporation”, “document”, “legal practitioner”, “Registrar” and “Registry”;
- 2.17 Other parts of speech and grammatical forms of a word or phrase defined in this Practice Direction have a corresponding meaning;
- 2.18 Words importing the singular include the plural and vice versa;
- 2.19 Words of one gender denote the gender appropriate to the context or subject matter and where the context requires include the other gender;
- 2.20 A reference to a Person includes a body corporate and a firm;
- 2.21 A reference to an Act or to Regulations refers to that Act or those Regulations as amended from time to time.

Part 3 – Electronic Filing

3. 3.1 All documents required to be filed in the Court, whether in the Darwin Registry or the Alice Springs Registry, shall be submitted electronically by emailing the document, to the Court:-
- 3.1.1 in the case of proceedings in the probate jurisdiction of the Court, at: probateofficer.nt@nt.gov.au; and,
- 3.1.2 in all other cases, at: NTSC.efile@nt.gov.au,
- unless:
- 3.1.3 the Court or the Registrar determines that the document may be filed in another way; or
- 3.1.4 electronic filing is not available due to a technical failure.
- 3.2 Where a document is filed electronically, the Registry named in the heading to an originating process shall be the Registry where the document is taken to be filed.
- 3.3 The subject line of the email which submits a document for electronic filing shall:
- 3.3.1 specify the names of the parties as entitled on the document pursuant to rule 27.02(3) of the *Rules*; and
- 3.3.2 specify the case file number of the proceeding where one has been allocated.

4. For electronic filing, a document must:
 - 4.1 be a text searchable PDF, JPEG or TIFF document with no viewing, printing or copying restrictions; and
 - 4.2 be paginated; and
 - 4.3 except in the case of a form published by the authority of the Law Society Northern Territory, be typewritten in a 12 point font size, have double spacing between the lines and have a left-hand and right hand margin of as near to 40 millimetres as the circumstances permit; and
 - 4.4 have 300 dots per inch resolution with a black and white setting; and
 - 4.4A not contain hyperlinks; and
 - 4.5 not contain a virus or malware; and
 - 4.6 comply with the *Rules*; and
 - 4.7 comply with any order of the Court applying to the document.
- 4A. If a document has been rejected for electronic filing because of its size, the document is to be electronically filed by:
 - 4A.1 contacting the Registry to request a File Transfer Protocol ('FTP') link to upload the document; and
 - 4A.2 uploading the document via the FTP link provided by the Registry; and
 - 4A.3 emailing the Registry at: NTSC.efile@nt.gov.au to advise the document has been uploaded.
- 4B. If a document is filed pursuant to paragraph 4A, the Registry will provide the user with the FTP link from which they may download the filed document.
5. If it is not possible to convert a document or an exhibit to an affidavit to PDF, JPEG or TIFF, the document or exhibit may be filed in another format in which case the user shall:
 - 5.1 electronically file an Index of Manually Filed Documents in the form of Schedule 1 hereto in respect of the document or exhibit; and
 - 5.2 email the document or exhibit to, or lodge the document or exhibit in, the Registry and in each case with a copy of the Index of Manually Filed Documents to which the document or exhibit relates.
6. Notwithstanding anything to the contrary herein, the Court or the Registrar may approve the electronic filing of a document notwithstanding that it does not comply with this Practice Direction.
7. If multiple documents in relation to more than one proceeding are submitted for electronic filing at the same time, the Proper Officer may accept the documents

relating to any one of the proceedings and any documents not accepted shall be rejected and paragraph 12 applies to the rejected documents *mutatis mutandis*. A submission notification given in respect of that submission shall only apply in respect of any accepted documents.

[There is no paragraph 8]

9. A user is to be given a submission notification by the Court after a document is submitted.
10. Subject to paragraph 11, a Proper Officer must review a document submitted for electronic filing as soon as practicable after the document is submitted.
11. Subject to the Regulations, a Proper Officer must not review or allow a document to be filed before any filing fee payable in relation to the document is paid unless a fee waiver is granted for the filing fee.
12. Following a review pursuant to paragraph 10 if a Proper Officer finds that a document does not comply with this Practice Direction, the Proper Officer must:
 - 12.1 notify the user of the defect and the user may, within 7 days after being notified, amend and resubmit the document for a further review; or
 - 12.2 refer the document to a Judge or the Registrar for the Judge or the Registrar to direct whether the document should be rejected.
13. A Proper Officer may reject all submitted versions of a document if:
 - 13.1 the user fails to rectify the defect, or amend and resubmit the document, within 7 days after being notified under paragraph 12.1; or
 - 13.2 the user submits a second amended version of the document and the Proper Officer finds that it fails to comply with this Practice Direction or to rectify any defect notified under paragraph 12.1.
14. 14.1 A document is taken to have been filed when the Proper Officer finds that the document complies with this Practice Direction and electronically affixes on the document a stamp denoting the filing with details of *inter alia* the Registry where the document is taken to be filed and the date and time of filing.
 - 14.2 The date and time of filing for the purposes of paragraph 14.1 shall be:-
 - 14.2.1 in the case of an originating process, whether in respect of an initial submission or following the resubmission of an originating process under paragraph 12.1, the date and time when the document was submitted to EFS pursuant to paragraph 3.1 or paragraph 4A, as the case may be;
 - 14.2.2 in the case of a document which has been found to comply with this Practice Direction following the initial review conducted pursuant to paragraph 10, the date and time when

the document was submitted to EFS pursuant to paragraph 3.1 or paragraph 4A, as the case may be;

14.2.3 in the case of a document filed pursuant to the determination of the Registrar pursuant to paragraph 3.1.3, the date and time of that filing;

14.2.4 in the case of a document which could not be submitted electronically due to a technical failure, the date and time of the commencement of that technical failure Provided That if that time is not able to be determined, then the date and time that the user who submitted the document establishes, to the satisfaction of the Registrar, that the user attempted to submit the document for electronic filing but was unable to do so due to the technical failure;

14.2.5 in the case of a document or exhibit filed pursuant to paragraph 5, the date and time when the filing party complies with the requirements of both subparagraphs of paragraph 5;

14.2.6 in all other cases, the date and time that the Proper Officer finds that the document complies with this Practice Direction and electronically affixes the stamp referred to in paragraph 14.1 on the document.

15. A user may, at any time before a document is rejected:

15.1 submit a further version of the document which rectifies the defect last notified to the user; or

15.2 apply to the Proper Officer for an extension of time to amend and resubmit the document and the Proper Officer may in their absolute discretion extend the time for that purpose once and for not more than 7 days.

16. Subject to any direction given pursuant to paragraph 12.2, a user cannot amend and resubmit a document the subject of a notice pursuant to paragraph 12.1 more than twice without the leave of the Court.

17. If a document is rejected, any filing fee paid by the user must be refunded to the user.

18. An electronically filed affidavit which contains annexures must have a bookmark applied to each annexure certificate before it is uploaded.

19. When submitting a document a user must also comply with all directions published by the Registrar.

Part 4 – Fee Waivers

20. Notwithstanding paragraph 11, the submission of a document for electronic filing which would otherwise require the payment of a fee is permitted if an application for a fee waiver is submitted with the document.

21. A Proper Officer shall not review a document which is the subject of an application for a fee waiver until such time as the fee waiver submitted with respect to that document is determined.
22. If a fee waiver is refused, a Proper Officer:
 - 22.1 must notify the user that the fee waiver is not granted; and
 - 22.2 may reject the document unless the user pays the filing fee within 7 days after being notified.
23. A user may, at any time before a document is rejected:
 - 23.1 pay the filing fee; or
 - 23.2 apply to the Registrar for an extension of time to pay the filing fee and the Registrar may in the Registrar's absolute discretion extend the time for that purpose once and for not more than 7 days.
24. If the fee waiver is granted and the user submitted the document the subject of the application for a fee waiver after submitting the application for a fee waiver but before the fee waiver was granted, or if the fee waiver is refused and that user then paid the filing fee in accordance with this Part, paragraph 14.2 shall apply in respect of that document as if the document was submitted at the same time as the application for a fee waiver.

Part 5 – Signatures

25. A person, including a Judge or a Proper Officer or any other officer of the Court, may sign an electronically filed document or a document required by EFS:
 - 25.1 by typing the person's name, or inserting an image of the person's signature, where the signature would otherwise appear in the document; or
 - 25.2 by otherwise using an electronic signature as mentioned in section 9 of the *Electronic Transactions (Northern Territory) Act 2000*.
26. 26.1 Notwithstanding paragraph 25, an electronic copy of an affidavit made outside of the Territory and in accordance with the law of that place in relation to the making, attesting and signing of affidavits may be submitted for electronic filing.
 - 26.2 A user who submits an affidavit pursuant to paragraph 26.1 shall, whenever required by notice from the Registrar or Proper Officer, provide to the Registrar or Proper Officer evidence that the affidavit meets the requirements of paragraph 26.1 and that affidavit shall be deemed to not comply with this Practice Direction for the purposes of paragraph 12 if the user fails to comply with that notice within 7 days.

Part 6 – Service

27. This Part does not apply in respect of any document which is required by the *Rules* to be served personally.
28. Subject to paragraph 29, an electronic court document must be served by sending the document to the email address of the party to be served as soon as practicable after the document is filed.
29. If the party serving a document receives a delivery failure notification after the party attempted to serve the document by email, or if service by email is not possible, the party may serve it using any other method referred to in paragraph 30.
30. An electronic court document which is not served in accordance with paragraph 28 may be served in any of the following ways:
 - 30.1 by leaving a true copy of the document at the proper address of the person to be served;
 - 30.2 by sending a true copy of the document by prepaid post to the proper address of the person to be served;
 - 30.3 if provision is made under an Act for service of a document on a corporation (other than a company within the meaning of the *Corporations Act 2001*) – by serving a true copy of the document in accordance with that provision;
 - 30.4 if the solicitor for a party has facilities for receipt of documents in a document exchange approved under the *Rules* – by delivering a true copy of the document into those facilities.
31. A document is taken to have been served:
 - 31.1 if served by email – on the next business day after the day the document was sent unless the serving party receives a delivery failure notification; or
 - 31.2 if served by the means in paragraph 30.1 – on the date that the document is left at the proper address of the person to be served; or
 - 31.3 if served by the means in paragraph 30.2 – on the third business day after the date of postage; or
 - 31.4 if served by the means in paragraph 30.3 – subject to any deemed time of service contained in the relevant Act, on the third business day after the date of service in accordance with the relevant Act; or
 - 31.5 if served by the means in paragraph 30.4 – on the next business day after the day the document was delivered into those facilities.

32. If a document is served by email, an affidavit of proof of service must state that the serving party has not received a delivery failure notification in respect of that email.
33. If the Court is satisfied that a person has not received a document, despite paragraph 31, the Court may:
 - 33.1 extend the time for the person to take a step in the proceeding; or
 - 33.2 grant any other relief that the Court considers appropriate.
34. If this Practice Direction requires or authorises the Court or the Registrar to give any document to a user, the Court or the Registrar may give the document by sending it to the party's email address or by any of the ways provided for in paragraph 30.

Part 7 – Probate Proceedings

35. In addition to complying with the requirements under section 149 of the *Administration and Probate Act 1969*, an applicant must also electronically file a true copy of the original will when electronically submitting an application for a grant of probate or letters of administration with the will annexed.
36. The Court may dispense with compliance with paragraph 35 subject to the *Administration and Probate Act 1969*.
37. 37.1 Despite whether an original will is produced or not produced with an application for a grant of probate or letters of administration with the will annexed, the applicant must file an affidavit of a legal practitioner deposing that the legal practitioner has carefully examined the will and has not detected anything that might indicate any of the following:
 - 37.1.1 tampering with the will;
 - 37.1.2 an attempt by a testator to vary the will;
 - 37.1.3 that the will has otherwise not been validly executed;
 - 37.1.4 that the will is not valid;
 - 37.1.5 any other matter which requires production of the original will.
- 37.2 Where the applicant is the Public Trustee an affidavit for the purposes of paragraph 37.1 may be provided by an Australian lawyer, within the meaning of that term in section 5 (a) of the *Legal Profession Act 2006*.
38. Notice, in accordance with Form 88B, 88C or 88D of the *Rules*, of an intended application for a grant or for resealing shall be published:
 - 38.1 in one Darwin daily newspaper and, if the deceased was resident at the date of the deceased's death in the Territory at a place more than 200 km from

the General Post Office, Darwin, also in a newspaper published and circulating in the district where the deceased resided; or

- 38.2 by filing the notice.
39. The Proper Officer must publish any notice filed under paragraph 38.2 on the Court's website as soon as practicable after the notice is filed.
40. 40.1 In a proceeding for a grant:-
- 40.1.1 an applicant, other than the Public Trustee or an applicant who applies for a grant by a legal practitioner, must file an affidavit proving the identity of the applicant to the satisfaction of the Court; and
- 40.1.2 if required by the Court, an applicant must file an affidavit proving the identity of the deceased to the satisfaction of the Court;
- 40.2 Where the applicant is the Public Trustee an affidavit for the purposes of paragraph 40.1 may be provided by an Australian lawyer, within the meaning of that term in section 5(a) of the *Legal Profession Act 2006*.
41. For the purposes of subparagraphs 40.1.1 and 40.1.2, the Court may give directions with regard to the mode of proof of identity.

Part 8 - Technical Failure

42. If a user cannot submit a document to EFS because of a technical failure, while the technical failure continues, the user may submit the document for filing by:
- 42.1 emailing the document to the Registrar or a Proper Officer as an email attachment; or
- 42.2 if the procedure in paragraph 42.1 is not possible – lodging the original document in the Registry where the proceeding commenced.
43. 43.1 If a delivery failure notification is recorded by EFS in respect of the electronic transmission of a document due to the failure, restrictions or limitations of the technology systems of the intended recipient of that document, the Registrar, Proper Officer or other officer of the Court must as soon as practicable after the delivery failure notification is recorded by EFS:
- 43.1.1 notify the intended recipient by providing brief particulars of the reason for the failure (if known) and a description of the document attempted to be transmitted; and

43.1.2 may require the intended recipient to provide an alternative means of transmission for the document or attend at the Registry to collect a paper copy or other version of the document.

43.2 Despite a delivery failure notification referred to in subparagraph 43.1, unless the Court otherwise orders, the document in respect of which the delivery failure occurred is deemed to have been transmitted to the intended recipient when it would otherwise have been transmitted had the delivery failure not occurred.

Part 9 – Miscellaneous

44. A party may electronically file a subpoena pursuant to rule 42 of the *Rules* and the issuing officer may use EFS to issue that subpoena.
45. If a party is given leave to file a document in Court, the document is filed provisionally on the condition that the party sends a true copy of the document to the Registrar by email within:
- 45.1 the period fixed by the Court for that purpose; or
- 45.2 if no period is fixed by the Court – 3 days after leave is given.
46. Subject to this Practice Direction, a party is not required to file a paper copy of any document that is electronically filed unless the Registrar or a Proper Officer, by notice to the party requires the party to lodge a paper copy of the document, in which case the party must comply with the notice:
- 46.1 within the period specified in the notice; or
- 46.2 if no period is specified in the notice – within 3 business days after being notified.
47. The version of a document which is electronically filed constitutes the official Court record which shall prevail over any other version of the document unless the Court otherwise orders.
48. By electronically filing a document a user undertakes that the requirements of this Practice Direction in relation to the document and the electronic filing of the document have been complied with.

Part 10 – Suspended *Rules*

49. During the currency of this Practice Direction the following *Rules* are suspended and/or modified as set out hereunder and/or to the extent of any inconsistency with the terms and provisions of this Practice Direction:-
- 49.1 Sub-rule 5.07(1) is suspended and the following paragraph shall apply in its place:-

- (1) An originating process must be endorsed with:
 - (a) the plaintiff's residential or business address; and
 - (b) if the plaintiff sues in person:
 - (i) the plaintiff's email address; and
 - (ii) an address for service; and
 - (c) if the plaintiff sues by a solicitor:
 - (i) the solicitor's name, or firm, and business address in the Territory; and
 - (ii) the solicitor's email address; and
 - (iii) the name, or firm, and business address of the principal if the solicitor is an agent; and
 - (d) the address of each defendant.

49.2 Sub-rules 5.11(1), (4) and (5) are suspended and the following paragraphs shall apply in their place:-

- (1) A proceeding shall be commenced by filing the originating process.
- (4) In a proceeding commenced by originating motion, where the relief or remedy sought includes the construction of an instrument other than an Act, a copy of the instrument or, where it exceeds 25 pages, of the relevant parts, must be filed at the time the originating motion is filed.
- (5) Subject to Part 4 of this Practice Direction, if the Registry is closed and the plaintiff produces an originating process to the Court and undertakes that the originating process will be lodged in the Registry on the day it is next open, the Court may initial the originating process and such number of copies as are required for services or proof of service and, on being so initialled, the originating process shall be taken to have been filed.

49.3 Sub-rule 6.06 is suspended.

49.4 Sub-rule 6.12 is suspended and the following paragraphs shall apply in its place:-

- (1) Where a contract has been entered into in the Territory by or through an agent residing or carrying on business in the Territory on behalf of a principal residing or carrying on business out of the Territory, originating process in a proceeding relating to or arising out of the contract may, by leave of the Court given before the determination of the

agent's authority or of his business relations with the principal, be served on the agent.

- (2) Where an order giving leave is made under subparagraph (1):
 - (a) the order shall limit a time within which the defendant shall file an appearance; and
 - (b) a copy of the order and of the originating process must without delay be sent by email or pre-paid post to the defendant at the defendant's proper address out of the Territory.
- (3) The defendant is taken to have been served if the agent is served in accordance with the *Rules* regardless of whether the defendant actually receives a copy of the order and originating process

49.5 Sub-rule 8.06(1) is suspended and the following paragraph shall apply in its place:-

- (1) A notice of appearance must state:
 - (a) the defendant's address; and
 - (b) if the defendant appears in person:
 - (i) the defendant's email address; and
 - (ii) an address in the Territory for service if the defendant's address is outside the Territory; and
 - (c) if the defendant appears by a solicitor:
 - (i) the solicitor's name, or firm, and business address in the Territory; and
 - (ii) the solicitor's email address; and
 - (iii) the name, or firm, and business address of the principal if the solicitor is an agent.

49.6 Sub-rule 20.05(1) is suspended and the following paragraph shall apply in its place:-

- (1) The address for service of a party:
 - (a) who changes the party's solicitor and files and serves notice under rule 20.01 of the *Rules*, shall be the business or email address of the new solicitor;

- (b) who appoints a solicitor in the circumstances referred to in rule 20.02 of the *Rules* shall be the business or email address of the solicitor; or
 - (c) for whom a solicitor has ceased to act, where notice is filed and served by the solicitor under rule 20.03 of the *Rules* without leave, shall be the address stated in the notice.
- 49.7 Sub-rules 27.03(2), 27.03(5), 28.01, 28.02 and 28.03 are suspended.
- 49.8 Sub-rule 28.04(3) is suspended and the following paragraph shall apply in its place:-
 - (3) Either of the following is sufficient compliance with a requirement of this Chapter or with an order of the Court that a document or a copy of a document be sealed with the Seal of the Court:
 - (a) marking the document or copy of the document with the Seal of the Court or with a stamp of a design approved by the Chief Justice;
 - (b) for an electronic court document – applying an electronic seal in EFS.
- 49.9 Sub-rule 42.03(4) is suspended and the following paragraph shall apply in its place:-
 - (4) A subpoena to produce must:
 - (a) identify the document or thing to be produced; and
 - (b) specify the date, time and place for production; and
 - (c) if the addressee is not required to produce an original document – provide that the document may be produced by submitting it to EFS or emailing it to the registrar before a specified date and time.
- 49.10 Sub-rules 42.06(1), (4), (4A) and (4C) are suspended and the following paragraphs shall apply in their place:-
 - (1) An addressee need not comply with the requirements of a subpoena to attend to give evidence unless the person has been provided with a reasonable sum of money for the person's costs, as mentioned in section 194(1)(c) of the *Evidence (National Uniform Legislation) Act 2011*.
 - (4) The addressee of a subpoena to produce must comply with the subpoena:
 - (a) by attending at the date, time and place specified for production or, if the addressee has received notice of a later date or time from the issuing party, at the later date or time, and producing the subpoena

or a copy of it and the document or thing to the Court or to the person authorised to take evidence in the proceeding as permitted by the Court; or

- (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, so they are received not less than 2 clear days before the date specified in the subpoena for attendance and production or, if the addressee has received notice of a later date from the issuing party, before the later date; or
- (c) if the addressee is not required to produce an original document – by submitting a copy of the subpoena and documents to EFS or emailing a copy of the subpoena and document to the Registrar:
 - (i) before the date and time specified in the subpoena; or
 - (ii) if the addressee has received notice of the later date and time from the issuing party - before the later date and time.

(4A) The addressee must also complete the notice and declaration mentioned in rule 42.05(1A) of the *Rules* and attach it to, or submit or email it with, the subpoena or copy of the subpoena that accompanies the document or thing produced to the Court under the subpoena.

(4C) A copy of a document may be:

- (a) a photocopy; or
- (b) in an electronic format.

49.11 Sub-rules 42.09(1) and (4) are suspended and the following paragraphs shall apply in their place:-

- (1) This rule applies if an addressee produces a document or thing in accordance with rule 42.06(4)(b) or (c) of the *Rules*.
- (4) Unless the Court otherwise orders, an order that any document or thing produced be inspected and/or copied by a party will be effected by:
 - (a) for a document produced using EFS:
 - (i) by the Registry emailing that party an electronic copy of the document or
 - (ii) if the document cannot be emailed because of its size – by providing the Registry with a usb and the Registry downloading the document to the usb to be collected; and

- (b) for a document or thing produced in hard copy or original form – the Registrar permitting the party to inspect the document at the Registry,

unless the addressee, a party or any person having sufficient interest objects to the inspection under this rule.

49.12 Sub-rules 42.10(3) and (4) are suspended and the following paragraphs shall apply in their place:-

- (3) Unless the Court otherwise orders, documents produced in compliance with a subpoena electronically will be retained in electronic form by the Registry.
- (4) Despite subparagraph (3), subject to subparagraph (5), the Registrar may, 4 months after the conclusion of the proceeding, destroy or delete all documents that were:
 - (a) produced in the proceeding in compliance with a subpoena; and
 - (b) declared by the addressee under rule 42.06(4A) of the *Rules* to be copies.
- (5) The Registrar may, when they are no longer required in connection with the proceeding, including on any appeal, destroy or delete those documents that:
 - (a) have become exhibits in the proceeding; and
 - (b) were declared by the addressee under rule 42.06(4A) of the *Rules* to be copies.

49.13 Sub-rule 48.05(2) is suspended and the following paragraph shall apply in its place:

- (2) A notice under subrule 48.05(1) of the *Rules* may be given to a party by sending it to the party's email address or by any of the ways provided for in paragraph 30 of this Practice Direction.

49.14 Sub-rule 88.09(1) is suspended.

49.15 Sub-rule 88.12 is suspended.

49.16 Form 42A is suspended and the Form 42A in the form of Schedule 2 hereto shall apply in its place.

Part 11 – Revocation of Practice Direction 1 of 2020

50. Practice Direction 1 of 2020 is revoked with effect from 11 January 2021.

Part 12 – Schedule 1

PD 3 of 2020, paragraph 5.1

INDEX OF MANUALLY FILED DOCUMENTS

[heading as in originating process]

The *[filing party]* certifies that:

- (a) each document or exhibit to an affidavit referred to in this index cannot be converted to PDF, JPEG or TIFF; and
- (b) paragraph 5.1 of Practice Direction 3 of 2020 has been complied with, or will be immediately complied with.

No.	Document or exhibit method	Size	Filing
1	[description of document or exhibit and related affidavit, including format type] lodgement]	[file size or number of pages]	[email or
2			
3			

Date:

[signature of party or party's solicitor]

Part 12 – Schedule 2

PD 3 of 2020, paragraph 49.16

FORM 42A

rule 42.03

SUBPOENA

[heading as in originating process]

To: *[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 3 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 13 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 unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

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 so that they are received not less than 2 clear days before the date specified for attendance and production. (*see notes 5 – 9A*); or
- (c) if you are not required to produce original documents – by emailing a copy of the subpoena and documents to the Registrar at NTSC.efile@nt.gov.au before the date and time specified for attendance and production (*see notes 5 – 9A*).

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address to which the subpoena (or copy) and documents or things may be delivered, posted or sent by email:

The Registrar
[*Name of Court etc. as the case may be*]

If you are not required to produce original documents, send by email to NTSC.efile@nt.gov.au (Civil) or AGD.Sheriff@nt.gov.au (Criminal)

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 unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

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 so that they are received not less than 2 clear days before the date specified for attendance and production. (*see notes 5 – 9A*); or
- (c) if you are not required to produce original documents – by emailing a copy of the subpoena and documents to the Registrar at NTSC.efile@nt.gov.au before the date and time specified for attendance and production (*see notes 5 – 9A*).

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address to which the subpoena (or copy) and documents or things may be delivered, posted or sent by email:

The Registrar
[*Name of Court etc. as the case may be*]

If you are not required to produce original documents, send by email to NTSC.efile@nt.gov.au (Civil) or AGD.Sheriff@nt.gov.au (Criminal)

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.

Witness assistance

4. You need not comply with this subpoena to the extent it requires you to attend to give evidence unless the issuing party provides you with a reasonable sum of money for your costs in attending.

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 by email if originals are not required, 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. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

- 9A. A copy of a document may be:

- (a) a photocopy; or
- (b) in an electronic format via email to NTSC.efile@nt.gov.au (Civil) or AGD.Sheriff@nt.gov.au (Criminal)

Applications in relation to subpoena

10. 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

11. 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 witness assistance mentioned in note 4 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

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 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.

Dated 1 January 2025

The Hon. Chief Justice Michael Grant