



FEDERAL MAGISTRATES COURT OF AUSTRALIA

NOTICE TO PRACTITIONERS AND LITIGANTS

FILING OF SUPPLEMENTARY DOCUMENTS AND DIVORCE APPLICATION BY ELECTRONIC COMMUNICATION

pursuant to Rules 2.07A and 2.07B Federal Magistrates Court Rules 2001

- (1) The notice *Filing of Supplementary Documents and Divorce Application by Electronic Communication* dated September 2009 is revoked and is substituted with the following notice.

Introduction

- (2) On 16 August 2008, the Federal Magistrates Court of Australia (the Court), in conjunction with the Family Court of Australia, commenced the introduction of electronic filing for a selection of supplementary documents via the Commonwealth Courts Portal (the Portal) at <https://www.comcourts.gov.au>.
- (3) From 28 September 2009, the Federal Magistrates Court of Australia will extend electronic filing to include initiating applications for divorce.
- (4) The purpose of this notice is to inform litigants and practitioners of the approved processes for users of the system.

eFiling Divorce Application Process

- (5) Litigants and practitioners can log onto the Commonwealth Courts Portal and complete the divorce application online. Registered users will be prompted to enter their relevant details and upload a scanned copy of their marriage certificate or other documents (as required). They will then be prompted for payment or to upload documentary evidence relating to an exemption from Court fees. They will then be able to select from a list of available hearing dates.
- (6) Once the application is complete, a sealed copy of the application form will be available from the Portal. The application form will include the file number and hearing date. Unlike an Application for Divorce filed by post or at a Registry, the eFiled divorce application will not be required to be verified by an affidavit forming part of the application, but must be verified in an accompanying *Affidavit for eFiling Application (Divorce)*, sworn by the Applicant(s). This document will be automatically generated by the Portal. This affidavit will need to be sworn or affirmed before a lawyer, Justice of the Peace or other authorised person and then uploaded as a scanned image to the Portal. Once uploaded, a copy of this affidavit with a sealed coversheet will be available from the Portal for downloading.
- (7) These documents will then need to be served upon the respondent in accordance with the Federal Magistrates Court Rules (see the [Divorce Service Kit](#)).
- (8) The following divorce documents can also be filed through the Portal:
 - (a) *Affidavits of Service by Post (Divorce)*;

- (b) *Affidavits of Service by Hand (Divorce)*;
- (c) *Affidavits Proving Signature (Divorce)*; and
- (d) *Acknowledgments of Service (Divorce)*.

APPROVAL UNDER r.2.07A

Approval of eFiling Supplementary Documents

- (9) The supplementary documents as set out on the Portal are hereby approved for the purpose of Rule 2.07A of the *Federal Magistrates Court Rules 2001*.
- (10) These documents will be accepted for all family law and child support proceedings. At this stage, no other supplementary document may be filed via the Portal.

Approval of eFiling Divorce Forms

- (11) From 28 September 2009, the *Application for Divorce (eFiling)* and *Affidavit for eFiling Application (Divorce)* (as attached) are approved for the purpose of Rule 2.07A of the *Federal Magistrates Court Rules 2001*.
- (12) Strict compliance with these forms is required for the purposes of Electronic Filing. Documents which do not strictly comply with these authorised forms for the purposes of eFiling will not be accepted for eFiling.
- (13) At this stage, no other initiating application may be filed via the Portal.

PROCEDURES FOR EFILING

- (14) Rules 2.07A and 2.07B have been introduced to facilitate filing by electronic communication. Any document filed via the Portal must be in accordance with these Rules and this practice note.

Affidavits

- (15) To file an affidavit via the Portal, a scanned image of the affidavit including any annexures, signed in accordance with the Rules, must be uploaded through the Portal.

Confirmation Notice

- (16) Once a document has been successfully filed via the Portal, a sealed Confirmation Notice will be available for download from the Portal together with a sealed copy of the document.

Court Seal on eFiled Documents

- (17) Pursuant to Rule 2.11, all documents accepted for filing via the Portal will be stamped with a digital copy of the court seal.

Legal Practitioner Conduct on Portal

- (18) Pursuant to the Portal's terms and conditions of use, litigants and practitioners will be liable for:

- (a) Any conduct undertaken using their user ID; and
 - (b) The conduct of any person to whom they have provided access rights.
- (19) Access may only be given to a person who acts as a professional advisor in relation to the family law proceedings.
- (20) Any inappropriate conduct may result in suspension of the account, amount to a contempt of court, or an offence under relevant laws of the Commonwealth.

Restrictions on document size & format

- (21) For the purposes of Rule 2.07(2)(b), the following electronic file format and maximum size limit for documents sent for filing via the Portal is ADOBE Portable Document Format (PDF) 10Mb. Note : a free PDF converter tool is available via the Portal.
- (22) Documents filed in other formats or exceeding the prescribed size limits will not be accepted for filing.

Restrictions on who may file documents via the Portal

- (23) Only legal practitioners and litigants who are registered with the Commonwealth Courts Portal are authorised to initiate a divorce application by filing an *Application for Divorce (eFiling)*.

Retention of Documents

- (24) Practitioners and/or litigants are required to keep a hard copy of all documents filed via the Portal and these documents may be required to be produced at the direction of the Court or request of the other party to the proceedings. On such direction or request, the document must be endorsed with a statement that it is the original of the document filed via the Portal and the day the document was uploaded to the Portal.

Time Considerations

- (25) Documents may be electronically uploaded at any time. However, practitioners and Litigants should note:
- (a) Pursuant to Rule 2.05(3), documents uploaded after 4.30pm will be taken to have been filed on the following day.
 - (b) For documents filed less than 2 business days prior to a hearing, litigants and/or practitioners:
 - (i) Will need to seek leave of the Court to rely upon that document at that hearing; and
 - (ii) Must provide a clean sealed paper copy of that document to the Court at the hearing for consideration.
 - (c) For documents filed less than 4 business days prior to the commencement of a circuit at which the matter is listed for hearing, litigants and/or practitioners:

- (i) Will need to seek leave of the Court to rely upon that document at that hearing;
and
 - (ii) Must provide a clean sealed copy of that document to the Court for consideration.
- (d) For the purposes of (a), times will be calculated according to the time zone of the filing registry, and not the location of the person uploading the document.

Unsubmitted Applications

- (26) Unsubmitted applications will be deleted from the Portal following 60 days of inactivity.

John Pascoe
Chief Federal Magistrate
Federal Magistrates Court of Australia
Date: September 2010

Adele Byrne
Registrar authorised for the purposes of *Federal Magistrates Court Rule 2.07A*.
Federal Magistrates Court of Australia
Date: September 2010