



HIGH COURT OF AUSTRALIA

Information regarding filing a writ of summons

To assist you, please find enclosed a copy of some notes, precedent documents and the *High Court Rules 2004* in relation to a Writ of Summons.

There are no printed forms and a plaintiff must prepare his or her own documents in accordance with the Rules. A copy of Rule 1.08 is also enclosed. This Rule sets out the requirements with respect to the preparation of documents.

Filing the documents

1. All documents are to be filed using the High Court's Digital Lodgement System Portal which is available at dls.hcourt.gov.au.
2. You will need to register, using a valid email address, so that you may file your application.
3. The Court will communicate with you using the email address you use to register.
4. Information on how to file is available through the Digital Lodgement System Portal once you have registered.
5. When filing a writ it must be accompanied by the relevant filing fees (or application for fee exemption or for fee reduction based on financial hardship). If the matter is listed for hearing a hearing fee may be collected. The current filing fee is \$3,440 (or \$1,145 for hardship), and a hearing fee of \$640 (or \$215 for hardship) may also be collected if the matters is heard.
6. The grounds for fee exemption include the applicant holding a current Commonwealth concession card, being in receipt of a grant of legal aid, being in prison or being under the age of 18 years.

Serving the documents

Once your writ has been accepted for filing, you must serve it (along with a copy of the accompanying documents) on each defendant within 7 days of it being filed.

Encl. Part 27, Rule 1.08

Rule 27.01

Part 27—Writ of Summons

27.01 Form of Writ of Summons

A Writ of Summons shall:

- (a) be in Form 20;
- (b) bear the date on which it is issued;
- (c) contain either an indorsement setting out the nature of the claim made and the relief which the plaintiff seeks or a Statement of Claim;
- (d) state that the time limited for the appearance of a defendant, where service is effected within Australia is 14 days from the date of service on the defendant, and in any other case is 42 days from the date of service on the defendant;
- (e) be indorsed with an address for service which, if the plaintiff sues by a solicitor, shall be the solicitor's place of business and, if the plaintiff does not sue by a solicitor, shall be the plaintiff's place of residence; and
- (f) not be served more than 12 months after the date on which it is issued or such further time as the Court or a Justice may, by order, allow.

27.02 Form of pleadings

- 27.02.1 Every pleading shall be divided into paragraphs numbered consecutively.
- 27.02.2 So far as practicable every pleading shall set out each allegation in a separate paragraph.
- 27.02.3 A pleading settled by counsel shall be signed by counsel.
- 27.02.4 A pleading not settled by counsel shall be signed by the solicitor for the party, or if there is none, by the party.

27.03 Filing and serving a Statement of Claim

- 27.03.1 In every proceeding commenced by Writ of Summons the plaintiff shall file and serve a Statement of Claim.
- 27.03.2 In any proceeding commenced by an application for a constitutional or other writ, the Court or a Justice may direct the plaintiff to file and serve a Statement of Claim.
- 27.03.3 In a proceeding commenced by Writ of Summons:
- (a) the plaintiff's Statement of Claim may be filed and served with the writ;
 - (b) if a Statement of Claim is not filed and served with the writ, the plaintiff shall file and serve its Statement of Claim within 21 days after the filing of a notice of appearance, a submitting appearance, or a conditional appearance.

27.04 Contents of a Statement of Claim

A Statement of Claim:

- (a) shall state the basis on which it is claimed that the matter is within the original jurisdiction of the Court;
- (b) shall contain in a summary form a statement of all the material facts on which the plaintiff relies, but not the evidence by which those facts are to be proved;
- (c) where any claim arises by or under any Act, shall identify the specific provisions relied on; and
- (d) shall contain the necessary particulars of any fact or matter pleaded, including:
 - (i) all particulars necessary to enable the opposite party to plead or to define the questions for trial or to avoid surprise at trial; and
 - (ii) particulars of any misrepresentation, fraud, breach of trust, wilful default, or like matter; and
- (e) shall state specifically the relief or remedy claimed.

27.05 Pleadings after a Statement of Claim

In any pleading after a Statement of Claim a party shall plead specifically any fact or matter which:

- (a) it is alleged makes a claim or defence of the opposite party not maintainable;
- (b) if not pleaded specifically might take the opposite party by surprise; or
- (c) raises matters of fact not arising out of the preceding pleading.

27.06 Summons for directions

- 27.06.1 No later than 14 days after the time prescribed by rule 27.01 for a defendant to file a notice of appearance, the plaintiff shall file and serve on all parties, whether or not those parties have appeared, a summons for directions returnable before a Justice.
- 27.06.2 The plaintiff shall file and serve with the summons for directions referred to in rule 27.06.1 an outline of the submissions which the plaintiff wishes to make on the hearing of the summons:
 - (a) stating why the matter should not be remitted to another court or, if the plaintiff submits that it should be remitted, identifying the Court to which it should be remitted;
 - (b) stating what further steps, if any, should be taken in the Court, whether by way of reference of a question of law to a Full Court or otherwise;
 - (c) specifying the times by which, and manner in which, further steps in the Court are to be taken; and
 - (d) setting out the precise terms of the orders which the plaintiff submits should be made on the summons for directions.

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27.06.3 On the hearing of the summons for directions a Justice may give such directions for the further conduct of the proceeding as appear necessary or desirable for the just and efficient disposition of the matter.

27.07 Demurrer

27.07.1 A party may demur to a pleading of the opposite party or to so much of that pleading as sets up a distinct cause of action, a distinct and severable claim for damages, or a distinct ground of defence, set-off, counterclaim or reply.

27.07.2 A demurrer shall state whether it is to the whole or part of the claim or pleading of the opposite party, and, if to part, it shall identify that part of the claim or pleading.

27.07.3 A demurrer shall state the ground or grounds in law for the demurrer.

27.07.4 A party may plead and demur to the same matter.

27.07.5 If the claim or defence of a party depends, or may depend, upon the construction of a written document referred to in the pleading, the party demurring may, in its demurrer, set out, or sufficiently identify, the part or parts of the document it alleges are material.

27.07.6 A party demurring to the pleading of the opposite party shall:
(a) file and serve its demurrer on all other parties to the proceeding, whether or not those parties have appeared; and
(b) no later than 14 days after the filing of its demurrer, file and serve a summons returnable before a Justice seeking directions for the further conduct of the proceeding.

27.08 Questions of law

27.08.1 By leave of the Court or a Justice, the parties to a proceeding may agree in stating the questions of law arising in the proceeding in the form of a special case for the opinion of the Full Court.

27.08.2 The special case shall be divided into paragraphs numbered consecutively.

27.08.3 The special case shall state the facts and identify the documents necessary to enable the Court to decide the questions raised.

27.08.4 Upon the argument of the special case the Court and the parties may refer to the content of the documents identified in the special case.

27.08.5 The Court may draw from the facts stated and documents identified in the special case any inference, whether of fact or law, which might have been drawn from them if proved at a trial.

27.08.6 The special case shall:
(a) be prepared by the plaintiff;
(b) be signed by the parties or their counsel or their solicitors;

- (c) be served on all parties to the proceeding who have filed an appearance;
and
- (d) be filed together with sufficient copies for the use of each of the Justices of the Full Court.

27.09 Summary disposition

- 27.09.1 If, in a proceeding commenced by Writ of Summons, a defendant does not file an appearance within the time limited the plaintiff may apply to a Justice for judgment against that defendant in accordance with this order.
- 27.09.2 Upon proof of service of the Writ of Summons on the defendant and proof that the defendant has not filed any appearance the Court or a Justice may, without notice to the defendant, give judgment for the plaintiff against that defendant upon the Statement of Claim.
- 27.09.3 A plaintiff who obtains judgment against a defendant in accordance with this order may enforce the judgment and continue the proceeding against any other defendant.
- 27.09.5 Where a pleading:
(a) does not disclose a cause of action or defence;
(b) is scandalous, frivolous or vexatious;
(c) may prejudice, embarrass or delay the fair trial of the proceedings; or
(d) is otherwise an abuse of the process of the Court;
the Court or a Justice may order the whole or part of the pleading be struck out or amended.
- 27.09.6 On application by a defendant who has filed an appearance the Court or a Justice may at any time give judgment for that defendant against the plaintiff if the defendant has a good defence on the merits.
- 27.09.7 Where a plaintiff, being required to file a Statement of Claim, fails to do so the Court or a Justice may order that the proceeding is dismissed for want of prosecution.

27.10 Discontinuance and withdrawal

- 27.10.1 A party who has filed an appearance in a proceeding may withdraw the appearance at any time with the leave of the Court or a Justice.
- 27.10.2 A plaintiff may discontinue a proceeding or withdraw any part of it:
(a) before the defendant against whom the proceeding or claim is to be discontinued has filed an appearance; or
(b) at any time by leave of the Court or a Justice or with the consent of all other parties.
- 27.10.3 A discontinuance or withdrawal shall be made by filing a notice stating the extent of the discontinuance or withdrawal.

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- 27.10.4 When the discontinuance or withdrawal is with the consent of other parties the notice shall be indorsed with the consent of each party who consents.
- 27.10.5 On the day a notice of discontinuance is filed a copy shall be served on each other party.
- 27.10.6 Subject to any contrary order of the Court or a Justice a plaintiff discontinuing a proceeding or withdrawing a claim shall pay the costs of each party to whom the discontinuance or withdrawal relates to the time of the discontinuance or withdrawal.

Rule 1.07

the Court means the High Court of Australia.

vexatious proceeding: see subsection 77RL(1) of the *Judiciary Act 1903*.

vexatious proceedings order: see subsection 77RL(1) of the *Judiciary Act 1903*.

1.07 Filing documents

- 1.07.1 A document to be filed in the Court in a proceeding must be filed in an office of the Registry.
- 1.07.2 A document is filed when it is accepted in the Registry and is stamped.
- 1.07.3 If it appears to a Registrar that a document presented for filing:
- (a) is not substantially complete;
 - (b) does not substantially comply with these Rules;
 - (c) is not properly signed or executed; or
 - (d) is not accompanied by the fee payable for its filing;
- the Registrar may refuse to accept the document.

1.08 Documents

- 1.08.1 Unless the Rules provide to the contrary, all documents filed in the Court shall be printed:
- (a) in clear, sharp, legible and permanent type of at least 12 point size;
 - (b) on only one side of durable white paper of A4 size;
 - (c) with margins of at least 2.5 cm at the top, 2.5 cm at the bottom and 2.5 cm on each side of each sheet;
 - (d) with each page numbered and every tenth line on each page numbered in the left margin; and
 - (e) without erasure or alteration that causes material disfigurement.
- 1.08.2 Unless the Rules provide to the contrary, the first page of every document filed in the Court shall be indorsed:
- (a) first, with the title of the proceeding or proposed proceeding in which it is filed;
 - (b) next, with a short description of the document including, in the case of an affidavit, the name of the deponent;
 - (c) at the foot of the page with:
 - (i) the date of the document;
 - (ii) the party or other persons on whose behalf it is filed; and
 - (iii) if a solicitor prepares the document, the particulars referred to in rule 1.08.3; or
 - (iv) if the party or person on whose behalf it is filed is acting without a solicitor, the particulars referred to in rule 1.08.4.
- 1.08.3 If a solicitor prepares a document to be filed in the Court, the particulars which are to be indorsed at the foot of the first page of the document are the firm name,

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address, document exchange box number, telephone number and facsimile number of the solicitor, and the name of an individual in the firm to whom reference can be made in respect of the matter.

- 1.08.4 If the party or person on whose behalf a document to be filed in the Court is acting without a solicitor, the particulars which are to be indorsed at the foot of the first page of the document are the name, address, telephone number, and any facsimile number of that party or person.
- 1.08.5 Where a fee is payable in respect of the filing, issuing, sealing or dealing with any document, a Registrar shall, immediately upon payment of that fee, mark upon the document the amount of the fee paid and the date of payment.
- 1.08.6 If:
- (a) a document is to be filed in the Court; and
 - (b) the document contains information to which a suppression order, a non-publication order, or any other confidentiality order, made by a court applies;
- the document must be accompanied by a copy of the relevant order.

1.09 Forms

A form prescribed in Schedule 1 to these Rules must be used, with any variations that are necessary or as the Registrar directs.

IN THE HIGH COURT OF AUSTRALIA
[] REGISTRY

BETWEEN:

AB
Plaintiff

and

CD
Defendant

10

WRIT OF SUMMONS

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other
Realms and Territories, Head of the Commonwealth:

20

TO THE DEFENDANT

[Defendant's name]

[Firm name (if known) or Defendant is self-represented]

TAKE NOTICE that this proceedings has been brought against you by the plaintiff for the
claim set out in this Writ.

IF YOU INTEND TO DEFEND the proceeding you must file a notice of appearance.

30

IF YOU ARE WILLING TO SUBMIT to any order that the Court may make, save as to
costs, you may file a submitting appearance.

THE TIME FOR FILING AN APPEARANCE is as follows:

(a) where you are served with the application within Australia – 14 days from the date
of service;

40

(b) in any other case – 42 days from the date of service.

Either

The nature of the claim made and the relief which the plaintiff seeks are as follows:

[state nature of claim and relief]

OR

50

STATEMENT OF CLAIM

[*set out statement of claim*]

Dated [*e.g. 6 October 2019*]

10

.....(signed).....
[*Plaintiff or Legal Practitioner*]

The plaintiff is represented by [*Firm name*].

OR

The plaintiff is self-represented.



High Court of Australia

Application for Exemption from Paying Filing and Hearing Fees

High Court of Australia (Fees) Regulation 2012
Regulation 11

Give Details

File Number:

File name:

Date lodged:

Cross boxes, for example , where applicable

Notice to applicant

Use this form if:

- you are receiving legal aid for your proceeding in the High Court of Australia; or
- you are the primary cardholder of a Health Care Card, Pensioner Concession Card, Commonwealth Seniors Health Card or any other card that entitles you to Commonwealth health concessions (this does **not** extend to a dependant of the primary cardholder), or
- you are an inmate of a prison or otherwise detained in a public institution, or
- you are younger than 18, or
- you are receiving youth allowance or Austudy payments or Abstudy benefits, or
- you have been granted assistance under Part 11 of the *Native Title Act 1993* for your proceeding in the High Court of Australia, or
- you act as litigation guardian for any of the above.

When returning your completed application form to the registry you will need to attach photocopies of documentary evidence of any of the above (such as your Health Care Card or Legal Aid letter) to support your claim. Photocopy both sides of the card.

NOTE: The exemption from fees only applies to filing and hearing fees and **does not** apply to any other fees or expenses in relation to the proceedings, including service fees, transcript charges or lawyers' costs and expenses.

If you do not qualify for any of the above, you may be able to apply to pay the financial hardship filing and hearing fees rather than the full fee. Ask registry staff for the appropriate form and guidelines.

You must notify the Court Registry if there is any change to your circumstances that alter the information given in this application while the Court is dealing with your case.

WARNING

Under the Criminal Code any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

Details

1 Name and address	<table border="1"> <tr> <td>family name (surname)</td> <td>given names</td> </tr> <tr> <td colspan="2"> <table border="1"> <tr> <td>postcode</td> <td>telephone</td> </tr> </table> </td> </tr> </table>	family name (surname)	given names	<table border="1"> <tr> <td>postcode</td> <td>telephone</td> </tr> </table>		postcode	telephone
family name (surname)	given names						
<table border="1"> <tr> <td>postcode</td> <td>telephone</td> </tr> </table>		postcode	telephone				
postcode	telephone						
2 Fees for which exemption is sought	All filing and hearing fees that may be payable in these proceedings						
3 Reason for seeking exemption	<p>I currently hold or receive:</p> <p><input type="checkbox"/> Health Care Card <input type="checkbox"/> Pensioner Concession Card</p> <p><input type="checkbox"/> Commonwealth Seniors Health Card</p> <p><input type="checkbox"/> Any other card that certifies entitlement to Commonwealth health concessions</p> <p><input type="checkbox"/> Youth allowance</p> <p><input type="checkbox"/> Austudy payments <input type="checkbox"/> ABSTUDY benefits</p> <p>Or:</p> <p><input type="checkbox"/> I am in receipt of Legal Aid for these proceedings</p> <p><input type="checkbox"/> I am an inmate of a prison or otherwise detained in a public institution</p> <p><input type="checkbox"/> I am younger than 18 years of age</p> <p><input type="checkbox"/> I have been granted assistance for these proceedings in the Federal Court under Part 11 of the <i>Native Title Act 1993</i> or funding to perform functions of a representative body under s 203FE</p> <p><input type="checkbox"/> I am acting as litigation guardian for a litigant who satisfies the reason indicated above.</p>						

Signature

date / /

Court Use Only

Copy of relevant documents attached

Exemption granted

Signature of Registrar

Date / /

Authorised by Senior Registrar (January 2013)



High Court of Australia

Application to pay Financial Hardship Fee

High Court of Australia (Fees) Regulation 2012

Regulation 12

Give Details	
File Number:	
File name:	
Date lodged:	

- Cross boxes where applicable. Type or print clearly providing all details required.
- Attach an extra page if you need more space for any of the details requested
- Only an individual (i.e. a natural person) can apply to pay the financial hardship fee

NOTE: Financial hardship fees only apply to filing and hearing fees and **do not** apply to any other fees or expenses in relation to the proceedings, including service fees, transcript charges or lawyers' costs and expenses.

Notice to applicant for payment of financial hardship fee

For approval to pay the financial hardship fee, you will need to show that your income, day-to-day living expenses, liabilities and assets are at such that payment of the full fee would cause you financial hardship.

This form must be lodged at the same time as the document on which that fee must be paid is lodged.

If your application relates to an existing proceeding, it will assist if you include the file number and file name (e.g. Smith v Commonwealth of Australia) in the appropriate fields at the top right hand corner of this page.

In considering your application the Registrar may ask you to provide additional documentary evidence to support your claims. In that case, your application will be returned to you with instructions in the 'Notice of request for more information' on page 6.

WARNING

Under the Criminal Code any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

A Details of the individual applying to pay the financial hardship fee

1 Name	family name (surname)	given names
	address to which documents for you can be sent	
	post code	telephone
Address and daytime telephone number	occupation	
	name of employer	
	work address	
Occupation and Employment	Type: <input type="checkbox"/> Filing fee <input type="checkbox"/> Hearing fee	
	Specify:	
2 Fee type		

B Details of income

1. The details of my and my dependants' (if any) income (including government pensions, benefits and allowances, workers' compensation, superannuation, rent, board, interest, dividends), calculated **fortnightly**, are as follows *[if no relevant income, write "nil" in the appropriate field below]*:
[In this form, dependants are persons who rely on you or on whom you rely for financial support and include spouse, de facto partner and children.]

Nature of Income	My amount	My dependants' amount
Fortnightly pay (after tax)	\$	
Government pension, benefit or allowance (please specify)	\$	
Workers' compensation	\$	
Superannuation received	\$	
Interest on deposits/debentures	\$	
Child support, spousal and child maintenance	\$	
Other income (e.g. rent or board paid to you, share dividends, support from others)	\$	
TOTAL	\$	

Please note you may be asked to provide documentary evidence to support your claim.

2. The full name of each of my dependants is:

Full Name	Relationship to me

3. I receive financial support or a financial contribution from family and others, e.g. room and board calculated **fortnightly**, as follows *[if no financial support or contribution write "nil" below]*:

Name of person providing support and nature of relationship	Nature of support	Value in \$ per fortnight
		\$
		\$
TOTAL		\$

C Details of property and assets

"Property and assets" include land, houses, money in bank accounts and other investments, cars, boats, shares, moneys owed to you, interests in a deceased estate, and interests in a trust. If any property or asset is owned jointly with someone other than a dependant, give the name of the other owner.

4. My property and assets (other than bank accounts) are as follows *[if no assets write "nil" below]*:

	My details (my share/interest)	My dependants' amount
1. Liquid Assets (other than bank accounts)		
Cash (not in a bank account)	\$	
Other investments (e.g. shares, debentures, bonds)	\$	
Money owed to you	\$	
Sub total - liquid assets	\$	

2. Non-liquid Assets			
House / Land			
- Market value	\$		
- Amount of Mortgage	\$		
- Net value		\$	
Motor Vehicle			
- Market value	\$		
- Amount owing on vehicle	\$		
- Net value		\$	
Value of household furniture and electrical goods		\$	
Other assets		\$	
Interest in a trust, business or partnership		\$	
Sub total – non-liquid assets		\$	
TOTAL of property and assets		\$	

5. Money in bank, credit union, building society accounts and other financial institutions in my name or the names of any of my dependants.

Account Name	Name of Bank	Amount in account
		\$
		\$
		\$
	TOTAL	\$

Please note you may be asked to provide documentary evidence to support your claim.

D Details of expenses

6. My day-to-day living expenses (including living expenses of my dependants that are normally paid by me), calculated **fortnightly**, are as follows:

Nature of Expense	\$ per fortnight	Nature of Expense	\$ per fortnight
Rent / Board		Gas/electricity/other utilities	
Mortgage repayments		Telephone	
Other loan repayments		Health care	
Council / Water rates		Child care	
Insurance premiums		Education	
Food		Other:	
Clothing		Other:	
Spouse/Child maintenance		Other:	
Travel and motor vehicle		Other:	
Total of Column 1	\$	Total of Column 2	\$
Total of Column 1 and Column 2		\$	

Please note you may be asked to provide documentary evidence to support your claim.

G Affidavit of applicant (to be signed in the presence of the witness)

I swear/affirm (*cross out incorrect one*) that:

1. I seek to pay the financial hardship fee instead of the full fee.
2. I have read this application and the details and other information attached to it.
3. The facts in it that are within my personal knowledge are true.
4. All other facts are true to the best of my knowledge, information and belief.
5. I have disclosed all relevant financial information.
6. I am aware that it is an offence to provide information or a document in connection with this application that is false or misleading.
7. I will notify the Court Registry if there are any changes to my circumstances that alter the information given in this application while the Court is dealing with my case.

Signature

Sworn/affirmed [Cross out incorrect one]

	Place: _____ Date: ____ / ____ / ____
--	---------------------------------------

Before me (signature of witness)

Full name of witness (please print)

--	--

Justice of the Peace Other authorised person specify

This application was prepared by: applicant lawyer

(print name and firm if lawyer)

--

(Office Use Only)

Notice of request for more information

Having considered your application, the Deputy Registrar requests you to provide documentary evidence of your income, assets, liabilities and day-to-day living expenses to support your claim

In particular, you will need to provide the following:

Multiple horizontal lines provided for listing the required documentary evidence.

The application to pay the financial hardship fee will not be considered until the documents listed above are provided. You can provide the originals or photocopies to the Court by attaching them to the back of this application.

.....
Signature of Registrar

/ /
date issued

Decision on application under Regulation 12

- Application to pay financial hardship fee granted.
- Application to pay financial hardship fee refused, see attached letter.

Date:
Registrar

Rule 1.07

the Court means the High Court of Australia.

vexatious proceeding: see subsection 77RL(1) of the *Judiciary Act 1903*.

vexatious proceedings order: see subsection 77RL(1) of the *Judiciary Act 1903*.

1.07 Filing documents

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 - (i) the date of the document;
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 - (iii) if a solicitor prepares the document, the particulars referred to in rule 1.08.3; or
 - (iv) if the party or person on whose behalf it is filed is acting without a solicitor, the particulars referred to in rule 1.08.4.
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Rule 1.09

address, document exchange box number, telephone number and facsimile number of the solicitor, and the name of an individual in the firm to whom reference can be made in respect of the matter.

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A form prescribed in Schedule 1 to these Rules must be used, with any variations that are necessary or as the Registrar directs.