



FAMILY COURT
OF AUSTRALIA



FEDERAL CIRCUIT
COURT OF AUSTRALIA

Joint Practice Direction 2: JPD 2 of 2020 - Special Measures in response to COVID-19

Electronic filing, Viewing of Subpoenas, Annexures to Affidavits, Signatures on Documents and Affidavits, and Fees

- A. This Joint Practice Direction applies to all family law applications, including appeals, filed in the Family Court of Australia or the Federal Circuit Court of Australia (“the Courts”), and all general federal law applications filed in the Federal Circuit Court of Australia.
- B. Due to the coronavirus (COVID-19) pandemic, where appropriate and necessary, the Courts are modifying practices in order to minimise the attendance by legal practitioners and parties at registries, with the Courts’ priority being the health and safety of the community, Judges and staff.
- C. This Joint Practice Direction takes effect from the date it is issued and supersedes the following Practice Directions:
 - a. **Family Court of Australia Practice Direction 2 of 2020 Electronic – Filing, Annexures to Affidavits and Viewing of Subpoenas** ; and
 - b. **Federal Circuit Court of Australia Practice Direction 3 of 2020 – Electronic Filing and Viewing of Subpoenas.**
- D. To the extent practicable, this Joint Practice Direction applies to proceedings whether filed before, or after, the date of issuing.
- E. This Joint Practice Direction remains in effect until and unless superseded or revoked. Given the COVID-19 situation is rapidly evolving, further updates are possible.

Filing of all documents

- 1. To facilitate matters being dealt with electronically, legal practitioners and lawyers must efile or elodge all documents.

2. If documents are unable to be efiled or elodged, then they should be emailed to the registry for electronic filing. Court users who do not have access to the necessary electronic equipment, including self-represented litigants, should contact the Registry by telephone for assistance.
3. Hard copies of documents are not to be posted or delivered to the registry.

Subpoenas and Inspection of documents

4. Subpoena viewing at all registries of the Courts is by appointment only. Requests for an appointment should be made by emailing the relevant registry.
5. Access to subpoenaed material that has 'photocopy access' may be provided at the discretion of the registry. Registry staff will email approved documents. Photocopy access will not be made to documents including a child welfare record, criminal record, medical record or police record, in accordance with sub-rule 15.30(2) of the *Family Law Rules 2004* and sub-rule 15A.13(2) of the *Federal Circuit Court Rules 2001*.
6. Legal practitioners and parties should only make appointments to view subpoenaed material if the matter is critically urgent.
7. Wherever possible, material being produced under subpoena is to be provided to the Courts electronically by email. Hard copies of documents are not to be posted or delivered to the registry unless they are not able to be provided electronically.

Annexures to affidavits

8. For matters filed in the Family Court of Australia, unless total annexures exceed more than two centimetres in width, documents referred to in affidavits should be attached to the affidavit when it is electronically filed or emailed to the registry.
9. Applications to file documents in the Family Court of Australia in excess of two centimetres in width should be made to the registry case co-ordinator who may liaise with the duty registrar or docket judge as the case requires. If the application is acceded to, parties will be required to email those documents (or if email or other electronic means is not possible, to provide a USB stick containing those documents) to the registry.

Signatures on Documents and Affidavits

10. Documents, including affidavits, financial statements and consent orders, required to be signed under the *Family Law Rules 2004* or the *Federal Circuit Court Rules 2001* may be signed electronically by the deponent and/or the lawyer on the record for that party, including by having the person signing the document type their name in the relevant space in the signature block in lieu of physically signing the document.
11. The Courts acknowledge that the COVID-19 environment may pose significant challenges to having affidavits and financial statements sworn or affirmed.
12. The Courts will accept for filing affidavits (other than where part of a divorce application) and financial statements that have been signed without a qualified witness also signing the document, subject to, if the judicial officer requires it, the deponent of the document being made available by telephone or videoconference or in person, at a subsequent court event, to swear or affirm that the contents of the document are true and correct to the best of their knowledge, information and belief.

Deferral of fee payments

13. Registry staff may be unable to process fee payments where they are working from home and are unable to access an eftpos terminal. In those circumstances, the registry staff member may 'defer' a fee payment for a scanned form or document that has been emailed to the Courts.
14. Where registry staff are able to come into the physical Court premises they will continue to process payments for forms that have been scanned and emailed to the Courts.
15. The process for online payments, including when eFiling, will remain unchanged.

[signed in hard copy]

THE HONOURABLE JUSTICE WILLIAM ALSTERGREN

CHIEF JUSTICE

FAMILY COURT OF AUSTRALIA

CHIEF JUDGE

FEDERAL CIRCUIT COURT OF AUSTRALIA

DATE: 31 MARCH 2020

UPDATED: 3 AUGUST 2020