



## Notice to the Profession

The Chief Justice has authorised the issue of the following Notice.

### Changes to file inspections and affidavits for proceedings in the Common Law Division and Commercial Court

1. As a result of amendments<sup>1</sup> to Chapter I of the Rules of the Supreme Court which come into effect from 1 October 2021, Orders 28 and 43 now provide that:
  - (a) certain documents<sup>2</sup> filed in a proceeding may not be inspected by any person who is not a party, without leave of the Court until they have been read or relied on in open court, or in an application determined without a hearing; and
  - (b) unless an exception applies, affidavits must be filed, together with any documents referred to, as a single paginated document with a single exhibit.
2. As to paragraph 1(a) above, practitioners are directed to Practice Note SC Gen 20.
3. The Court has adopted the following changes to court file requirements for proceedings in the Common Law Division and the Commercial Court, to which Chapter I of the Rules apply. These changes will be mandatory from 1 October 2021, however parties and practitioners are encouraged to comply with them from the date of this Notice.

#### Filing of affidavits<sup>3</sup>

4. Subject to paragraph 6, from 1 October 2021 the Court will no longer accept affidavits for filing that:

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<sup>1</sup> *Supreme Court (Chapter I (Inspection and Affidavits) Amendment) Rules 2021.*

<sup>2</sup> Affidavits, exhibits to affidavits, witness statements, expert reports, written submissions, outlines of argument and chronologies.

<sup>3</sup> This section does not apply to affidavits filed in a proceeding to which the *Supreme Court (Administration and Probate) Rules 2014* apply.

- (a) include multiple exhibits; or
  - (b) separate the affidavit and its exhibit (if any).
5. Any affidavit that is filed with the Court must:
- (a) subject to paragraph 6, include a maximum of one exhibit. If more than one document is referred to in the affidavit, the documents must be combined into a single 'bundle exhibit', ordered in the sequence they are referred to in the affidavit;
  - (b) be in a single fully text-searchable PDF format file, including any bundle exhibit;
  - (c) have legible page numbers at the bottom right hand corner of each page that correspond with the digital display page numbers of the PDF that commence from the first page of the affidavit to the last page of the bundle exhibit; and
  - (d) bookmark each referenced document in the exhibit with its short-form name (for example, 'Contract dated 6 April 2020').
6. Where any document referred to in an affidavit is claimed to be confidential, the affidavit may include an additional 'confidential bundle exhibit'.

### **Appearance forms**

7. Unless directed otherwise, by no later than 4:00pm on the last business day before a hearing (other than a trial), each party must email to the chambers of the presiding judicial officer and serve on each other party (where applicable) a hearing form in Word format in the form attached detailing:
- (a) who will be appearing on behalf of each party; and
  - (b) what affidavits, exhibits to affidavits, witness statements, expert reports, written submissions, outlines of argument and chronologies or other documents (if any) are intended to be relied upon by each party in the hearing.
8. Unless directed otherwise, an appearance form must also be provided with any necessary modification, for an application that is to be determined without a hearing.
9. It is the obligation of the parties to immediately notify the chambers of the presiding judicial officer if they consider that the completed appearance form is inaccurate or incomplete and re-submit an amended form.

10. Following the hearing, the appearance form may be relied upon by the Prothonotary when dealing with any application for inspection of documents filed in a proceeding as provided by Practice Note SC Gen 20.

Vivienne Macgillivray

Executive Associate to the Chief Justice

15 September 2021



**DOCUMENTS TO BE RELIED UPON AT HEARING**

No.	Document Description <i>(e.g: Affidavit of Jane Doe sworn 1 July 2021; Plaintiff's submissions)</i>	Date Filed on RedCrest/RedCrest- Probate
1.		
2.		
3.		
4.		
5.		

**DETAILS OF PERSON COMPLETING FORM**

Name	
Signed	
Date	Select...