

Guide to CITEC eFiling

Supreme Court of Victoria

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Supreme Court of Victoria
210 William Street
Melbourne Victoria 3000

W: supremeCourt.vic.gov.au



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1 Introduction

In 2007, the Supreme Court of Victoria began accepting documents filed within the civil jurisdiction of the Trial Division via electronic transmission (eFiling). The Court engaged CITEC Confirm to provide the web services to enable eFiling of documents. CITEC Confirm provide a similar service for the Magistrates' Court of Victoria and County Court of Victoria.

Any reference to the "Rules" or "Rules of the Court" in this guide is a reference to the *Supreme Court (General Civil Procedure) Rules 2015*.

1.1 Who can eFile?

Until further notice, the eFiling initiative will be limited to legal firms and agencies by arrangement with CITEC Confirm and the Court.

1.2 How to eFile with the Supreme Court

Registration details and instructions for eFiling are available from the CITEC Confirm website at www.confirm.com.au. Training and reference guides are available on request from CITEC Confirm.

CITEC Confirm enquiry line: 1800 773 773; or
Melbourne Office – Telephone: (03) 9638 8100
Melbourne Office – Email: confirm@citec.com.au

1.2.1 Cost

The usual court fees apply and are payable via CITEC Confirm. In addition, an administration fee is charged per document lodgement by CITEC Confirm, excluding certifications. You will only be charged for documents which are 'accepted' by the Court via CITEC Confirm, you will not be charged for any documents that are 'rejected' for filing by the Court. A full list of fees and charges are available at <http://www.confirm.com.au>, while the Court filing fees are available at <http://www.supremecourt.vic.gov.au/home/forms+fees+and+services/fees/>.

1.2.2 How long will documents take to be accepted for filing?

While the Court will endeavour to accept all documents within 24 hours of filing, from 1 August 2016, documents lodged with the Supreme Court of Victoria for filing via CITEC Confirm may be subject to overnight review.

This practice is consistent with the 'over the counter' processes in the Principal Registry. In accordance with the *Supreme Court (General Civil Procedure) Rules 2015*, any affected document accepted for filing is deemed to have been filed on the date the document was submitted via CITEC Confirm (provided it has been filed within the prescribed business hours of the Court, (9.30am to 4.00pm). Any documents filed outside these hours are deemed as filed the following business day.

Affected documents include (but are not limited to) Interlocutory or Default Judgments, Warrants and Originating Processes.

1.2.3 Documents which may be eFiled

Subject to the following exceptions, all documents in a civil matter which are required to be filed at any Supreme Court location in Victoria may be eFiled. Documents not able to be eFiled are;

- (a) any appeal book
- (b) any court book
- (c) any documents produced in answer to a subpoena.

1.2.4 Documents requiring a Signature

1.2.4.1 Affidavits and certifications

Affidavits, sworn documents and certifications are the only documents that are required to be eFiled that must contain a signature on the document. To comply with this, the image of the document made available for electronic retrieval must contain the particulars required by **rule 43.01(5)** or if applicable **rule 43.02(1)**.

Users must endeavour to keep the size of the image file to a minimum (under 10MG) and use an appropriate format (e.g. PDF).

1.2.4.2 All other documents ordinarily requiring a signature

For all other documents, other than those in 1.2.4.1, that require a signature, an endorsement on the document of either the firms' name or Counsel's name will suffice in lieu of the signature.

1.2.5 Form of Documents must comply with the Supreme Court Rules

The forms in current usage, prescribed or otherwise, continue to apply. All documents filed by way of eFiling must comply with the requirements of the relevant Acts, Regulations and Rules of the Court.

Your specific attention is drawn to;

- (a) **rule 27.03(11)(b)** - All documents filed with the Court are required to include an email address. Effective immediately, the Prothonotary will be enforcing that requirement and you will be unable to file any document that does not include those details
- (b) **Notice to the Profession of 22 June 2016 - 'Specialist Lists in the Common Law Division'**- From 1 July 2016 the party initiating a proceeding in the Common Law Division is required to nominate an appropriate specialist list for the proceeding. The name of the list must be endorsed on the originating document as well as all subsequent documents in the proceeding
- (c) Amended originating documents should have the filed date reflect the original date of filing
- (d) The Court requires correct dates on all default judgments and warrants of possession or seizure and sale in order to accept these documents for filing.

1.2.6 Mode of eFiling

Part 2, Order 28 of the Supreme Court Rules headed "Electronic filing other than in RedCrest" provides for the electronic filing of documents with the Court.

1.2.7 Form of the Court Seal and Evidence of Filing

Documents which are required by the Rules to be sealed with the Court Seal must be served with a Filing Confirmation Notice (**Form 28A**) containing *inter alia* the case number, case name, description of document, list, your reference, date of filing, time of filing and seal of the Court. The filing confirmation notice may be printed from the CITEC Confirm website after a document has been accepted by the Court.

1.2.8 Hard Copy Documents

Hard copy documents are *not* required to be filed in addition to eFiled documents unless requested by a Judge, Associate Judge or Prothonotary or unless required for court books or other hard copy process filed with the Court.

Rule 28.15 of the Supreme Court Rules refers to production of hard copy documents to the Court.

1.2.9 Documents Received between 9.30am and 4.00pm

The time of filing of documents with the Court may be ascertained from CITEC Confirm or by searching the file at the Supreme Court Registry. Generally, the Court will adopt the time of receipt on the CITEC Confirm website as the time the document is received by the Court and if the document is accepted by the Prothonotary.

NOTE: It is the responsibility of practitioners to ensure documents have been filed with the Court and are no longer 'Pending' or have been 'Rejected'.

1.2.9.1 Documents Received after 4.00pm and before 9.30am

Where a document is received after 4.00pm AEST, then the time of filing will be deemed to be 9.30am on the next business day. [Refer to **rule 28.10(4)**].

1.2.10 Service of Documents

Where the seal of the Court is required for service of a document, a Filing Confirmation Notice must be attached to the document to be served as evidence of the fact that it has been successfully filed with the Court. [Refer to **rule 6.03(2)** for personal service of originating process and **rule 28.14**, which deals with evidence of filing].

1.2.11 Amending Documents

All amendments will take the form of a new document and will be checked by the Prothonotary for compliance with the Rules or the order of the Court granting leave to amend. When an amended document is filed, a reason must be stated via the CITEC Confirm facility for the amendment (for example, by leave of a Judge) as well as endorsed on the title of the document itself [see **Order 36**].

1.2.12 Security of Documents

The preferred format for filing documents is PDF (Portable Document Format). ZIP files can be utilized to enhance security of documents and when attaching larger files. Refer to the CITEC Confirm website at www.confirm.com.au for any further technical specification and requirements for eFiling.

1.3 Specific Types of Documents

1.3.1 Subpoenas

Subpoenas eFiled in **Forms 42A** and **42AA** must contain a date for service and a date, time and place for production *before* being submitted. The date for production and/or attendance relating to a Form 42A subpoena must be the first date of trial. [Refer to **rule 42.03(6)**]. The date for production of documents relating to a Form 42AA subpoena must be at least five business days after the last date for service [see **rule 42.03(8)(a)**] (or 14 days, where the addressee is to be served outside of Victoria).

All subpoenas requiring production of documents should be eFiled with a Form 42B attached [Refer to **rule 42.10(3)**].

1.3.1.1 Service of Subpoenas

Once a subpoena has been accepted, a Filing Confirmation Notice must be printed and attached to the service copy of the subpoena before service.

Note: When service of a subpoena outside of Victoria is required, ensure that the *Service and Execution of Process Act 1992* (SEPA) Form 2 is attached to the document.

1.3.1.2 Short service of subpoenas

To eFile a subpoena using **Form 42A** for production of documents and/or attendance at the trial of the proceeding, where less than 7 days remain before the beginning of trial (or 14 days, where the addressee is to be served outside of Victoria), an order of a Judge abridging the time for service must be obtained before eFiling and subsequently attached to the eFiled document.

Please contact the Trial Judge's Associate to arrange an order, or alternatively, contact the Registry for more information on (03) 9603 9300.

1.3.2 Practice Court Applications

A summons and affidavit in support may be eFiled via the CITEC Confirm website. Practitioners must have sought approval for a hearing date, attached the approval email and inserted the approved date of hearing in the summons before attempting to eFile. Please see the Supreme Court website for instructions on how to apply for a Practice Court hearing date at

<http://www.supremecourt.vic.gov.au/home/law+and+practice/areas+of+the+court/practice+court/>.

A Filing Confirmation Notice must be served with the summons [**rule 28.14**].

1.3.3 Applications before Judge in Charge of List

An originating document requiring a hearing date or a summons and affidavit in support may be eFiled via the CITEC Confirm website. Practitioners must have sought approval for a hearing date, attached the approval email and inserted the approved date of hearing in the summons before attempting to eFile. Please consult the practice notes on the Supreme Court website for instructions on how to apply for a hearing date that are specific to the list that your matter has been entered into at

<http://www.supremecourt.vic.gov.au/home/law+and+practice/specialist+areas+of+law/>.

A Filing Confirmation Notice must be served with the summons [**rule 28.14**].

1.3.4 Applications before Associate Judge

An originating document requiring a hearing date or a summons and affidavit in support may be eFiled via the CITEC Confirm website. Practitioners must have sought approval for a hearing date, attached the approval email and inserted the approved date of hearing in the summons before attempting to eFile.

Where your matter has been entered into a specialist list, please follow the relevant practice note for instructions on how to obtain a hearing date. For all interlocutory applications not dealt with in a specialist area, as well as the hearing or management of matters in the original jurisdiction of the Associate Judges, please see the Supreme Court website for instructions on how to apply for a hearing date at

<http://www.supremecourt.vic.gov.au/home/law+and+practice/rules+and+practice+notes/notice+to+the+profession+applications+in+associate+judges+practice+court+2>.

A Filing Confirmation Notice must be served with the summons [rule 28.14].

1.3.5 Summons for Taxation of Costs

1.3.5.1 Party Party Taxations

A summons for taxation of costs, itemised bill of costs (or disbursement invoices and undertaking to pay said invoices in relation to Bills under \$30,000) document authorising the taxation of costs (for example, an order) and the Costs Court – Party Party Taxation Information Form may be eFiled. Practitioners must have sought approval for a hearing date, attached the approval email and completed Information Form and inserted the approved date of hearing in the summons before attempting to eFile. Please consult the most recent Costs Court Practice Note, Notices to the Profession and further instructions on how to apply for a hearing date at

<http://www.supremecourt.vic.gov.au/home/law+and+practice/areas+of+the+court/costs+court/>.

1.3.5.2 Solicitor Client Taxations

A summons for taxation of costs and itemised bill of costs (or invoices) relating to a Solicitor Client Taxation, may be eFiled. Practitioners must have inserted the next call over hearing date in the summons before attempting to eFile. Please consult the Supreme Court website for the list of call over dates at

<http://www.supremecourt.vic.gov.au/home/law+and+practice/areas+of+the+court/costs+court/>.

A Filing Confirmation Notice and relevant Costs Court Mediation or Assessment Notice must be served with the summons [rule 28.14].

1.3.6 Judgment in Default of Appearance or Defence

Where the Prothonotary has power to enter a judgment in default, an affidavit in support and exhibits may be eFiled in accordance with **Order 21** of the Rules and the judgment is entered online.

All documentation in support of the default judgment application (including the appropriate form and the following documents if appropriate – search for an appearance, affidavit of service, where judgment is for debt, an affidavit of solicitor outlining the interest calculations and, where the judgment is in default of defence, an affidavit of non-service of defence), should be electronically filed as a single attachment utilizing a ZIP file. Please refer to the CITEC Confirm Client Reference Guide for further information on ZIP files.

Please ensure that all sections of the applicable default judgment form are completed and that the 'date entered' reflects the current date where filed before 4.00pm or the next business day if filed after 4.00pm.

Please note that default judgments may not be accepted for filing on the same day that they are eFiled, see section 1.2.2.

1.3.7 Warrants of Execution

Where parties are seeking a warrant of execution, the affidavit in support and exhibits must be eFiled. Upon acceptance by the Court, a Filing Confirmation Notice must be attached to the warrant before proceeding to the Sheriff's Office.

Please ensure that all sections of the warrant are completed and that the 'date filed' reflects the current date where filed before 4.00pm or the next business day if filed after 4.00pm.

Please note that warrants may not be accepted for filing on the same day that they are eFiled, see section 1.2.2.

1.3.8 Affidavits and Exhibits

The requirements for eFiling of affidavits are set out in **Order 43** and more particularly in **rule 43.09(3)**, which provides that the copy of the affidavit must be an image of the sworn affidavit.

2 Enquiries

All enquires of a technical or billing nature and that relate to an issue of difficulty uploading a document onto the CITEC Confirm website, should be directed to the CITEC Confirm Help Desk:

Hotline Support: 1800 773 773
Email: confirm@citec.com.au

All enquiries relating to court procedure should be directed to the Principal Registry on (03) 9603 9300. Any queries relating directly to eFiling should be directed to the eFiling team within the Principal Registry by dialling (03) 9603 9300 and selecting the eFiling option.