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# *FEDERAL GOVERNMENT GAZETTE*

## *RULES OF COURT 2012*



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ATTORNEY GENERAL'S CHAMBERS*

ORDER 63A  
ELECTRONIC FILING

**Definitions (O. 63A, r. 1)**

1. In this Order—

“service bureau” means a service bureau which the Registrar has authorized to be established in pursuance of rule 4 for the purpose of assisting in the filing of documents using the electronic filing service;

“specified documents” means documents which are specified in any practice directions for the time being issued by the Registrar as being documents which may be or shall be filed in Court using the electronic filing service;

“authentication code” means any identification or identifying code, password or any other authentication method or procedure which has been assigned by the Registrar for the purpose of identifying and authenticating the access to and use of the electronic filing service;

“identification name” means the identification name assigned by the Registrar under rule 6(1);

“electronic transmission” means the electronic transmission by a registered user using the Court’s computer system;

“registered user” means a person who has been registered by the Registrar to gain access to and use the electronic filing service under rule 5;

“electronic filing service” means the electronic filing service established under rule 2;

“Court’s computer system” means any electronic applications used for the purpose of electronic filing and management of cases.

**Establishment of electronic filing service (O. 63A, r. 2)**

2. The Registrar may, with the approval of the Chief Justice, establish an electronic filing service and make provision for specified documents to be filed using that service.

**Service bureau (O. 63A, r. 3)**

3. (1) The Registrar may establish or appoint agents to establish a service bureau to assist in the filing of documents using the electronic filing service.

(2) Any agent appointed by the Registrar in pursuance of paragraph (1) shall not be treated as such for the purposes of the acceptance of the payment of fees or service charges.

**Registered user (O. 63A, r. 4)**

4. (1) Any person or entity may apply to the Registrar to be a registered user in accordance with any procedures and on payment of such fees as may be prescribed for such applications in any practice directions for the time being issued by the Registrar.

(2) The Registrar may allow a person or entity to become a registered user on such terms and with such restrictions pertaining to the electronic filing of documents as he thinks fit.

**Authentication code (O. 63A, r. 5)**

5. (1) Before using the electronic filing service, the registered user shall apply to the Registrar for one or more identification names and authentication codes to be assigned to him or his authorized agent.

(2) The registered user or his authorized agent shall register his particulars with the Registrar and acknowledge in writing safe receipt of the identification name and authentication code assigned to him by the Registrar.

(3) The registered user or his authorized agent shall inform the Registrar in writing of any change in particulars.

(4) When the authority of an authorized agent is revoked or terminated, the registered user shall immediately request the Registrar in writing to cancel the identification name and authentication code of that authorized agent in the manner specified in practice directions for the time being issued by the Registrar.

**Security of authentication code (O. 63A, r. 6)**

6. The registered user or his authorized agent shall ensure the confidentiality and security of his authentication code and shall not—

(a) divulge his authentication code to any other person; or

(b) permit any other person to use his authentication code.

**Electronic filing (O. 63A, r. 7)**

7. (1) Where a specified document is required to be filed with the Registrar under any other provision of these Rules, it shall be so filed using the electronic filing service in accordance with this Order and any practice directions for the time being issued by the Registrar.

(2) For the purpose of paragraph (1), any requirement for the filing of a specified document is satisfied by the filing of a single copy using the electronic filing service in accordance with this Order.

(3) The filing of a specified document using the electronic filing service in pursuance of paragraph (1) may be done—

(a) by electronic transmission; or

(b) via a service bureau.

(4) Notwithstanding anything in paragraph (1), the Registrar may allow a document, part of a document or any class of documents to be filed other than by using the electronic filing service.

(5) The form of any specified document shall be as prescribed in any practice directions for the time being issued by the Registrar, and shall, in the absence of such prescription, be in the form prescribed by Order 1, rule 7.

**Signing of electronic documents (O. 63A, r. 8)**

8. Where a specified document is filed using the electronic filing service, any requirement under any other provision of these Rules relating to the signing by or the signature of—

(a) the registered user, shall be deemed to be complied with if the identification name of, authentication code of and endorsement by the registered user has been applied to the document; or

(b) the Registrar, shall be deemed to be complied with if the identification name, authentication code and signature of the Registrar has been applied to the document.

**Date of filing (O. 63A, r. 9)**

9. (1) Where a document is filed with the Registrar using the electronic filing service or service bureau and is subsequently accepted by the Registrar, it shall be deemed to be filed upon successful payment into the Court's computer system by the registered user or any person respectively of any prescribed fees required by the Rules.

(2) Where an originating process or document requiring a seal of the Court is filed using the electronic filing service or service bureau and it is subsequently accepted by the Registrar, it shall be deemed to be issued upon successful payment into the Court's computer system, by the registered user or any person respectively of any prescribed fees required by the Rules, into the Court's computer system.

(3) If upon application the Registrar is satisfied for any reason that a specified document should be treated as having been filed with the Registrar, or issued, at some earlier date and time, than the date and time of the payment referred to in paragraph (1) or (2), he may order the document be amended to reflect such earlier

date and time, and that earlier date and time shall be deemed for all purposes to be the date and time on and at which the document was filed or issued, as the case may be.

**When time for service begins to run (O. 63A, r. 10)**

10. (1) Where a document not requiring a seal of the Court is filed with the Registrar by electronic transmission, the time for service of that document shall only begin to run from the time that the Registrar's notification of his acceptance of the document is received in the computer system of that registered user.

(2) Where a document not requiring a seal of the Court is filed with the Registrar via a service bureau, the time for service of that document shall only begin to run upon successful payment, by the registered user or any person of any prescribed fees required by the Rules, into the Court's computer system.

(3) Where an originating process or document requiring a seal of the Court is filed with the Registrar by electronic transmission or via a service bureau, the time for service shall only begin to run when the sealed copy is received in the computer system of the registered user.

(4) If a document is received in the computer system of the registered user on a day other than a working day, it shall be deemed for the purpose of this rule to have been received on the next working day.

**Notification or delivery by Registrar (O. 63A, r. 11)**

11. Where the Registrar is required by any other provision of these Rules to notify or to deliver or furnish any document to a person who is a registered user, the Registrar may do so using the electronic filing service.

**Mode of amendment of electronic documents (O. 63A, r. 12)**

12. Amendments to specified documents shall be effected in the manner prescribed in any practice directions for the time being issued by the Registrar.

**Affidavits in electronic form (O. 63A, r. 13)**

13. (1) An affidavit which is filed in Court using the electronic filing service may be used in all proceedings to the same extent and for the same purposes as a paper affidavit filed in Court.

(2) An affidavit to be filed in Court using the electronic filing service may be sworn—

(a) electronically; or

(b) in the usual way in which the deponent signs the original paper affidavit.

(3) An affidavit may be sworn electronically if—

(a) the person before whom the affidavit to be sworn is at that time—

(i) a registered user; and

(ii) a person having authority to administer oaths;

(b) the person referred to in subparagraph (a) uses an attestation as prescribed in a practice direction for the time being issued by the Registrar for the swearing of affidavits by electronic means;

(c) the affidavit is affixed or encoded with the identification name and authentication code of the person referred to in subparagraph (a);

(d) the swearing of the affidavit by electronic means is recorded in a register kept by the person referred to in subparagraph (a), and the deponent signs under his own hand in the register against the affidavit he has sworn; and

(e) the affidavit has not been altered in any way since it was sworn.

(4) Where an affidavit, which is not sworn electronically, is to be filed in Court using the electronic filing service, it shall comply with the following requirements:

(a) the affidavit shall be sworn in the usual way in which the deponent signs the original paper affidavit;

(b) a true and complete electronic image of the original paper affidavit shall be created; and

(c) the original paper affidavit shall be retained by the party who filed it for a period of seven years after it is filed.

(5) An affidavit in an electronic form which complies with paragraph (3) but which does not comply fully with the provisions of Order 41, may nonetheless be used in evidence to the same extent and for the same purposes as an affidavit which fully complies with the provisions of Order 41 if its non-compliance with Order 41 falls within some or all of the following descriptions:

(a) the affidavit is not signed by the deponent thereof;

(b) the alterations and erasures have not been signed or initialled by the person before whom the affidavit was sworn; or

(c) the attestation is not in one of the forms in Form 74.

(6) Notwithstanding subparagraph (4)(c), if the original paper affidavit subsequently becomes unavailable within seven years after it was filed, the Court may grant leave for the electronic image of the original paper affidavit filed in Court using the electronic filing service to be continued to be used in the proceedings for which it was filed, or in any other proceedings.



(7) If an affidavit which has been sworn electronically in compliance with paragraph (3) subsequently cannot be retrieved from the computer system of the Court for any reason, the contents of the affidavit and the fact that it was sworn by the deponent thereof may be proved by producing a copy of the paper affidavit that has been certified as a true copy by an officer of the Court.

**Presumptions (O. 63A, r. 14)**

14. (1) If a certificate is issued by the Registrar in respect of any registered user or his authorized agent, and was accepted by the registered user or his authorized agent, as the case may be, it shall be presumed unless proven otherwise that the information listed in the certificate is correct.

(2) Where a document is transmitted to the computer system of the Registrar and the authentication code assigned to a registered user or his authorized agent was affixed to the document or the transmission containing the document—

(a) with or without the authority of the registered user; and

(b) before the notification to the Registrar, in the manner specified in any practice direction for the time being issued by the Registrar, of cancellation of the authentication code,

it shall be presumed unless proven otherwise that—

(A) the document has not been altered since the authentication code was affixed;

(B) the document was transmitted accurately;

(C) the document was made and transmitted by the registered user or his authorized agent, as the case may be; and

- (D) the authentication code was affixed or applied to a document or the transmission containing a document, as the case may be, with the intention of signing or approving the document.

(3) Where a document is filed using the electronic filing service via a service bureau, and it is proved that—

- (a) the document so filed was affixed with the authentication code assigned to a member of the personnel of the service bureau, or the transmission containing the document was so affixed with this authentication code;
- (b) reasonable steps were taken by the personnel of the service bureau to verify and record the identity of the person tendering the document to the service bureau;
- (c) reasonable steps were taken by the personnel of the service bureau to verify and record that the person tendering the document represented the person, if any, on whose behalf he purported to tender the document;
- (d) the document was filed using the electronic filing service in the name of the person recorded by the personnel of the service bureau and in accordance with the instructions recorded by the personnel of the service bureau,

it shall be presumed unless proven otherwise that—

- (A) the authentication code was duly affixed or applied to the transmission containing the document; and

- (B) the document was made and transmitted by the service bureau for and on behalf of, and with the authority of, the person tendering the document and the person, if any, he purported to represent.

(4) A certificate under the hand of the Registrar giving the authentication code, identification name and other particulars of the registered user and a description of the document transmitted shall be sufficient evidence of the matters referred to in subparagraphs (2)(a) and (b).

**Discrepancy (O. 63A, r. 15)**

15. (1) Where a specified document was filed using the electronic filing service, and there is any inconsistency between—

- (a) the information entered into the Court’s computer system; and

- (b) the information contained in the document,

the information in the Court’s computer system shall prevail.

(2) Where a specified document was filed via a service bureau, and there is any inconsistency between—

- (a) the information entered into the Court’s computer system; and

- (b) the information contained in the document,

the information in the document shall prevail.

(3) If the Registrar is satisfied that for any reason whatsoever, that the information entered into the Court’s computer system is erroneous, he may cause the information in the Court’s computer system to be rectified accordingly.

**Interpretation (O. 63A, r. 16)**

16. (1) A registered user or his authorized agent who has been registered by the Registrar of the High Court, and for this purpose has been issued with an identification name and an authentication code, shall be treated for the purposes of this Order as if he had also been registered, and had similarly been issued with an identification name and an authentication code, by the Registrar of the Subordinate Courts.

(2) A registered user or his authorized agent who has been registered by the Registrar of the Subordinate Courts, and for this purpose has been issued with an identification name and an authentication code, shall be treated for the purposes of this Order as if he had also been registered, and had similarly been issued with an identification name and an authentication code, by the Registrar of the High Court.

(3) A service bureau established or authorized to be established by the Registrar of the High Court under rule 4 may be used to assist in the filing of documents pertaining to Subordinate Courts proceedings using the electronic filing service in such cases and circumstances as the Registrar of the Subordinate Courts may prescribe in practice directions issued from time to time.

(4) A service bureau established or authorized to be established by the Registrar of the Subordinate Courts under rule 4 may be used to assist in the filing of documents pertaining to High Court proceedings using the electronic filing service in such cases and circumstances as the Registrar of the High Court may prescribe in practice directions issued from time to time.

ORDER 64  
CHANGE OF SOLICITOR

**Change of solicitor by notice (O. 64, r. 1)**

1. (1) A party to any cause or matter who sues or defends by a solicitor may change his solicitor without an order for that purpose but, unless and until a notice of the change is filed and served in accordance with this rule, the former solicitor shall,