



New South Wales

Children's Court Amendment (Miscellaneous) Rule 2018

under the

Children's Court Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Rule under the *Children's Court Act 1987*.

MARK SPEAKMAN, MP
Attorney General

Explanatory note

The objects of this Rule are to amend the *Children's Court Rule 2000* as follows:

- (a) to allow electronic case management for proceedings under the *Children's Court Act 1987*,
- (b) to change the composition of the Children's Court Advisory Committee to include additional members from the Department of Education and the Aboriginal Legal Service,
- (c) to make other minor amendments, including amendments of a law revision nature.

This Rule is made under the *Children's Court Act 1987*, including section 23 (the general rule-making power).

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Children's Court Act 1987

1 Name of Rule

This Rule is the *Children's Court Amendment (Miscellaneous) Rule 2018*.

2 Commencement

This Rule commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Children's Court Rule 2000

[1] Clause 12

Omit the clause. Insert instead:

12 Filing documents

- (1) A document must not be accepted for filing unless it complies with this Part or Part 4A.
- (2) A document may be filed:
 - (a) in accordance with this Part:
 - (i) by hand, or
 - (ii) by posting it to the relevant Registry, or
 - (iii) by facsimile transmission, or
 - (b) by electronic transmission in accordance with Part 4A.
- (3) An original document must be filed under this Part together with sufficient copies to enable service on all parties to proceedings.

[2] Clause 13 Place of filing

Insert "filed under this Part" after "document".

[3] Clause 14 Means of filing documents

Omit the clause.

[4] Part 4A

Insert after Part 4:

Part 4A Electronic case management

15A Definitions

- (1) In this Part:

coversheet means a page that is generated by JusticeLink that includes details about the case in which the document is being filed (including the case number).

JusticeLink means the electronic case management system of that name established for the Court under clause 2 of Schedule 1 to the *Electronic Transactions Act 2000*.

Online Registry means the electronic case management system of that name established under clause 2 of Schedule 1 to the *Electronic Transactions Act 2000*.

registered user means a person who is registered as a user of the Online Registry.

upload, in relation to a document, means to transfer an electronic version of the document from a computer or other device to JusticeLink.
- (2) In this Part, a reference to filing a document in Court includes a reference to any other method of sending a document to the Court.

15B Electronic filing of documents

- (1) This clause applies to any document that is permitted to be filed using JusticeLink.
Note. The Children's Court is authorised to use JusticeLink for the purposes of certain criminal and other proceedings—see Schedule 1 to the *Electronic Transactions (ECM Courts) Order 2005*.
- (2) In any proceedings, a document permitted to be filed using JusticeLink may be filed in the Court on behalf of a party to the proceeding by a person who is:
 - (a) a party to proceedings (including a police prosecutor or a caseworker employed by the Department of Family and Community Services), or
 - (b) a relevant legal practitioner for a party in proceedings.
- (3) A document that is filed by means of JusticeLink is taken to have been filed when JusticeLink gives notification of receipt of the document.
- (4) Notification of receipt of a document, and of the date and time of the receipt, is to be given, by means of JusticeLink, to the person by whom the document was filed.
- (5) When filed by means of JusticeLink, a document that is required to be signed by a person is taken to have been duly authenticated for the purposes of clause 5 of Schedule 1 to the *Electronic Transactions Act 2000* if the person's name is printed where his or her signature would otherwise appear.

15C Uploading documents

- (1) This clause applies to any document that may be, or is required to be, uploaded and submitted for filing on JusticeLink.
- (2) A true and complete copy of the document must be uploaded in the format approved by the President.
- (3) Each document uploaded must be accurately described.
- (4) If the document is an affidavit, the description of the document must include the name of the deponent and the date that the affidavit was sworn or affirmed.
- (5) If an affidavit or statement of evidence is uploaded, it must include:
 - (a) a clear, legible copy of the signature of the deponent of the affidavit or person making the statement, and
 - (b) if the document has been witnessed, a clear legible copy of the signature of the witness, and
 - (c) if the document is an affidavit executed in New South Wales, a duly completed certificate under the *Oaths Act 1900*.
- (6) A person who has filed a document by uploading it is taken to have agreed that, if the Court so requires, he or she will file the original document in accordance with the Court's directions.

15D Electronic issuing of a document

- (1) The Court may, by means of JusticeLink, issue any document authorised to be issued under the *Electronic Transactions Act 2000*.
- (2) The date on which the document was issued must be set out in the document.
- (3) When issued by means of JusticeLink, a document that is required to be signed by a person is taken to have been duly authenticated for the purposes of

clause 5 of Schedule 1 to the *Electronic Transactions Act 2000* if the person's name is printed where his or her signature would otherwise appear.

15E Coversheet generated by JusticeLink

- (1) The coversheet is to include a seal and a note of the date and time of filing.
- (2) If a document is submitted for filing under clause 15B and accepted by JusticeLink, the person who submitted the document will be sent a copy of the document submitted for filing with a coversheet inserted as the first page of the document.
- (3) If a coversheet has been inserted as the first page of the document in accordance with subclause (2), the coversheet is taken to be part of the document for the purposes of this Part.
- (4) If, as a result of the filing of a document, JusticeLink has automatically listed the proceedings, then the coversheet will include a notice of the date, time and place that the proceedings have been listed.
- (5) If the document submitted for filing under clause 15C includes the other associated documents as attachments under that clause, then the document and the other associated documents will all be included under the one coversheet.

15F Registration of users for Online Registry

- (1) Any person may apply to be a registered user by completing and submitting the application form, and agreeing to comply with the terms and conditions, published on the Online Registry website.
Note. The Children's Court is authorised to use the Online Registry for the purposes of use in proceedings, but only so as to enable information concerning the progress of the proceedings to be provided in electronic form to legal practitioners representing parties to the proceedings. See Schedule 5 to the *Electronic Transactions (ECM Courts) Order 2005*.
- (2) A person applying to be a registered user must provide such information as may be required by the application form including whether or not the applicant is a legal practitioner.
- (3) A registrar of the Court may direct that the registration of a person be cancelled if, in the opinion of the registrar, the person should not have been registered as a user of the Online Registry.

[5] Clause 37 Composition of Children's Court Advisory Committee

Omit "Director-General of the Attorney General's Department" wherever occurring in clause 37 (c) (ii) and (vi).

Insert instead "Secretary of the Department of Justice".

[6] Clause 37 (1) (c) (iii)–(v)

Omit the subparagraphs. Insert instead:

- (iii) a person nominated by the Chief Executive Officer of the Legal Aid Commission,
- (iv) a person nominated by the Secretary of the Department of Family and Community Services,
- (v) a person nominated by the Secretary of the Department of Justice.

[7] Clause 37 (1) (c) (ix)

Omit "18 years". Insert instead "25 years".

[8] Clause 37 (1) (c) (ix) and (x)

Omit "Minister for Community Services and the Minister for Juvenile Justice" wherever occurring.

Insert instead "Executive Director of Juvenile Justice, Department of Justice and the Minister for Family and Community Services".

[9] Clause 37 (1) (c) (xi) and (xii)

Insert after clause 37 (1) (c) (x):

- (xi) a person nominated by the Secretary of the Department of Education,
- (xii) two persons nominated by the Chief Executive Officer of the Aboriginal Legal Service.