



## FAMILY COURT OF WESTERN AUSTRALIA

### INFORMATION NOTE

#### FILING OF SUPPLEMENTARY DOCUMENTS AND DIVORCE APPLICATION BY ELECTRONIC COMMUNICATION “eFiling”

**31 MARCH 2010**

- (1) The information note *Electronic Filing* dated 31 October 2008 is revoked and is substituted with the following notice.

#### **Introduction**

- (2) On 3 November 2008, the Family Court of Western Australia (the Court) commenced the introduction of electronic filing for a selection of supplementary documents via the Commonwealth Courts Portal (the Portal) at <https://www.comcourts.gov.au>.
- (3) From 29 March 2010, the Court will extend electronic filing to include initiating applications for divorce.
- (4) The purpose of this notice is to inform parties and practitioners of the approved processes for users of the system.

#### **eFiling Divorce Application Process**

- (5) Parties and practitioners can log onto the Commonwealth Courts Portal and complete the divorce application online. Registered users will be prompted to enter their relevant details and upload a scanned copy of their marriage certificate or other documents (as required). They will then be prompted for payment or to upload documentary evidence relating to an exemption or waiver of Court fees. They will then be able to select from a list of available hearing dates. Should the exemption/waiver not be valid the application will be treated as a nullity.
- (6) Once the application is complete, a sealed copy of the application form will be available from the Portal. The application form will include the file number and hearing date. Unlike an Application for Divorce filed by post or at a Registry, the eFiled divorce application will not be required to be sworn, but

must be accompanied by the *Affidavit for eFiling Application (Divorce)*, sworn by the Applicant(s). This document will be automatically generated by the Portal. This affidavit will need to be sworn or affirmed before a lawyer, Justice of the Peace or other authorised person and then uploaded as a scanned image to the Portal. Once uploaded, a copy of this affidavit with a sealed coversheet will be available from the Portal for downloading.

- (7) These documents will then need to be served upon the respondent in accordance with the *Family Law Rules 2004* (see the guide *Serving an Application for Divorce*).
- (8) The following divorce documents can also be filed through the Portal:
  - (a) *Affidavit of Service*;
  - (b) *Affidavit of Proof of Signature*
  - (c) *Affidavit of Proof of Identity*; and
  - (d) *Acknowledgment of Service*.

#### **APPROVAL UNDER r.24.07**

##### ***Approval of eFiling Supplementary Documents***

- (9) The supplementary documents as set out on the Portal are hereby approved for the purpose of Rule 24.07 of the *Family Law Rules 2004*. The following documents fall within the definition:
  - Affidavits
  - Financial Statements
  - Response to Divorce
  - Service documents
  - Notice Disputing Facts or the Authenticity of Documents
  - Notice to Admit Facts
  - Undertaking as to Disclosure
  - Papers for the Judicial Officer.
- (10) These documents will be accepted for all family law and child support proceedings. Documents cannot be electronically filed in Child Related Proceedings cases unless permission to file has previously been granted. At this stage, no other supplementary document may be filed via the Portal.

##### ***Approval of eFiling Divorce Forms***

- (11) From 29 March 2010, the [\*Application for Divorce \(eFiling\)\*](#) and [\*Affidavit for eFiling Application \(Divorce\)\*](#) are approved for the purpose of Rule 24.07 of the *Family Law Rules 2004*.
- (12) Strict compliance with these forms is required for the purposes of electronic filing. Documents which do not strictly comply with these authorised forms for the purposes of eFiling will not be accepted for eFiling.
- (13) At this stage, no other initiating application may be filed via the Portal.

## **PROCEDURES FOR eFILING**

- (14) Rule 24.07 has been introduced to facilitate filing by electronic communication. Any document filed via the Portal must be in accordance with these Rules and this information note.

### ***Affidavits***

- (15) To file an affidavit via the Portal, a scanned image of the affidavit including any annexures, signed in accordance with the Rules, must be uploaded through the Portal.

### ***Confirmation Notice***

- (16) Once a document has been successfully filed via the Portal, a sealed Confirmation Notice will be available for download from the Portal together with a sealed copy of the document.

### ***Court Seal on eFiled Documents***

- (17) Pursuant to Rule 24.07, all documents accepted for filing via the Portal will be stamped with a digital copy of the court seal.

### ***Legal Practitioner Conduct on Portal***

- (18) Pursuant to the Portal's terms and conditions of use, parties and practitioners will be liable for:
- (a) Any conduct undertaken using their user ID; and
  - (b) The conduct of any person to whom they have provided access rights.
- (19) Access may only be given to a person who acts as a professional advisor in relation to the family law proceedings.
- (20) Any inappropriate conduct may result in suspension of the account, amount to a contempt of court, or an offence under relevant laws of the State or Commonwealth.

### ***Restrictions on document size & format***

- (21) For the purposes of Rule 24.07, the following electronic file formats and maximum size limits for documents sent for filing via the Portal are:
- (a) ADOBE Portable Document Format (PDF) 10Mb;
  - (b) Microsoft Word (DOC) 10Mb; and
  - (c) Rich Text Format (RTF) 5Mb.
- (22) Documents filed in other formats or exceeding the prescribed size limits will not be accepted for filing.

***Restrictions on who may file documents via the Portal***

- (23) Only parties and legal practitioners who are registered with the Commonwealth Courts Portal are authorised to initiate a divorce application by filing an *Application for Divorce (eFiling)*.

***Retention of Documents***

- (24) Parties and/or practitioners are required to keep a hard copy of all documents filed via the Portal and these documents may be required to be produced at the direction of the Court or request of the other party to the proceedings. On such direction or request, the document must be endorsed with a statement that it is the original of the document filed via the Portal and the day the document was uploaded to the Portal.

***Time Considerations***

- (25) Documents may be electronically uploaded at any time. However, parties and practitioners should note:
- (a) Pursuant to Rule 24.05(4), documents uploaded after 4.30pm will be taken to have been filed on the following day.
  - (b) For documents filed less than one day prior to a hearing, parties and/or practitioners:
    - (i) Will need to seek leave of the Court to rely upon that document at that hearing; and
    - (ii) Must provide a clean sealed copy of that document to the Court for consideration.
- (26) For the purposes of 25(a), times will be calculated according to the time zone of the filing registry, and not the location of the person uploading the document.

***Unsubmitted Applications***

- (27) Unsubmitted applications will be removed from the Portal following 30 days of inactivity.

**STEPHEN THACKRAY  
CHIEF JUDGE  
FAMILY COURT OF WESTERN AUSTRALIA  
31 MARCH 2010**