

PRACTICE NOTE SC Gen 3

Supreme Court - Photocopy access to documents produced under Subpoena

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to the Court of Appeal, Court of Criminal Appeal, and the Common Law and Equity Divisions of the Supreme Court.

Definitions

3. In this Practice Note:

Approved firm means a firm approved by the Principal Registrar under this Practice Note or former Practice Note 107.

Produced documents means documents produced in answer to a subpoena, notice to produce, order to produce, or tendered as an exhibit in the proceedings.

Introduction

4. The purpose of this practice note is to facilitate access by parties to *produced documents* produced by providing a scheme for uplifting and photocopying produced documents by *approved firms* on behalf of a party who is granted access.

Uplifting and photocopying documents

5. Photocopy access can often be most conveniently achieved by permitting a party to uplift produced documents and return them upon completion of copying. In deciding whether to allow uplifting, the Court takes account of concerns about security of produced documents and the prospect that, while outside the Court's control, they may be lost, damaged, accessed by unauthorised persons or tampered with.

6. To meet those concerns without causing inconvenience, this practice note establishes a mechanism which enables *produced documents* to be securely uplifted and copied. It does so by:

- providing for Court approval of suitable legal copying firms (*approved firms*); and
- allowing *approved firms* to be appointed by parties to uplift and copy produced documents.

Procedure for use of approved firm

7. Where the Court orders that a party may have access to produced documents and that access may be available in accordance with this practice note, unless the Court otherwise orders, the order will be taken to:

- authorise the solicitor representing the party to appoint an *approved firm*;
- authorise the appointed *approved firm* to uplift the *produced documents* from the Registry (upon producing proof of appointment),
- to make copies and to provide them to the party; and
- require the firm to return the produced documents to the Registry within 2 working days of uplifting them.

8. Only a solicitor can appoint an *approved firm*. An *approved firm* may be appointed to act on behalf of more than one party.

9. Where a party is granted photocopy access but:

- the party declines to use an approved firm; or
- the Court declines to allow uplifting of produced documents, the party may also ask the Registry to copy the documents. A fee per page will be payable for this service.

10. Inspection of the original *produced documents* may only be undertaken at the registry. A party may not inspect the original produced documents whilst they are in the possession of the approved firm except with approval by a registrar.

Approval of copier firms

11. The Chief Executive Officer and Principal Registrar may, on the Court's behalf:

- issue a certificate of approval of a legal copier firm where satisfied that the firm has:
- reliable systems for speedy, confidential and secure processing of documents entrusted to it; and
- holds satisfactory insurance coverage, lodges a bond or provides other satisfactory means of meeting claims arising from loss, damage or misuse of documents entrusted to it; or
- revoke a certificate by written notice to the firm.

12. The names and contact details of each approved legal copier firm will be displayed in the Registry and on the Court's website at http://www.lawlink.nsw.gov.au/lawlink/Supreme_Court/ll_sc.nsf/pages/SCO_prac_note_107

J J Spigelman AC
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 3 was issued and commenced on 17 August 2005.
This Practice Note replaced Former Practice Note No. 107 on 17 August 2005.