**HIGH COURT RULES 2004 - RULE 5.01**

**Filing notice of a constitutional matter**

5.01.1         Where a [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding) pending in [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) involves a matter arising under the Constitution or involving its interpretation, within the meaning of section 78B of the *Judiciary Act 1903*, the party, intervener, or [applicant](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#applicant) for leave to intervene or appear who raises the matter must file a notice of a constitutional matter.

5.01.2         Notice of a constitutional matter shall state:

                     (a)  specifically the nature of the matter;

                     (b)  the facts showing that the matter is one to which rule 5.01.1 applies.

5.01.3         The notice of a constitutional matter shall be in Form 1.

**HIGH COURT RULES 2004 - RULE 5.02**

**Serving notice of a constitutional matter**

5.02.1         If the [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding) is an [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal), or an [application](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#application) for leave or special leave to [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal) referred to an enlarged Court for hearing as if on [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal), the party, intervener, or [applicant](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#applicant) for leave to intervene or appear who raises the constitutional matter, or such other party as [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice may direct, must:

                     (a)  file notice of a constitutional matter; and

                     (b)  serve a copy of the notice on every other party and on the Attorneys-General of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory:

                              (i)  if the matter arises in the notice of [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal) or in the argument to be advanced in support of the notice of [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal)--within 14 days after the grant of leave or special leave to [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal); or

                             (ii)  if the matter arises in the [application](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#application) for leave or special leave to [appeal](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#appeal) or in the argument to be advanced in support of the [application](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#application)--within 14 days after the [application](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#application) is referred to an enlarged Court; or

                            (iii)  if the matter arises in a notice of cross-appeal or a notice of contention or in the argument to be advanced in support of the notice--within 7 days after the notice is filed; or

                            (iv)  otherwise--within the time that [the](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) [Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice directs.

5.02.2         If rule 5.02.1 does not apply to the [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding), the party, intervener, or [applicant](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#applicant) for leave to intervene or appear who raises the constitutional matter, or such other party as [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice may direct, must:

                     (a)  file notice of a constitutional matter; and

                     (b)  serve a copy of the notice on every other party and on the Attorneys-General of the Commonwealth, the States, the Australian Capital Territory and the Northern Territory:

                              (i)  if the matter arises in a pleading or in the argument to be advanced in support of the pleading--within 7 days after the pleading is delivered; or

                             (ii)  if the matter arises in an originating process or in the argument to be advanced in support of the originating process--within 7 days after the originating process is filed; or

                            (iii)  if neither subparagraph (i) nor (ii) applies, and the matter arises before the day fixed for a hearing of a [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding)--not later than 14 days before that day; or

                            (iv)  if neither subparagraph (i) nor (ii) applies, and the matter arises during the hearing of any [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding) before [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice--within such time as [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice directs.

**HIGH COURT RULES 2004 - RULE 5.03**

**Affidavit of service**

5.03.1         The party, intervener, or [applicant](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#applicant) for leave to intervene or appear who serves the notice of a constitutional matter must file an affidavit of service of the notice, proving compliance with rule 5.02, within 2 days after service and no later than 2 days before the day fixed for the hearing of the [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding).

5.03.2         Rule 5.03.1 has effect subject to rule 9.04A.3.

**HIGH COURT RULES 2004 - RULE 5.04**

**Filing and serving notice of intervention**

5.04.1         If the Attorney-General of the Commonwealth, of a State, of the Australian Capital Territory or of the Northern Territory intends to intervene in a [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding) before [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) under section 78A of the *Judiciary Act 1903*, the Attorney-General must, before taking any step in the [proceeding](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#proceeding):

                     (a)  file a notice of intervention; and

                     (b)  serve a copy of the notice on each party and any other intervener.

5.04.2         The notice of intervention must be in Form 1A.

  

**HIGH COURT RULES 2004 - RULE 40.01**

**Interpretation**

                   In Chapter 4 of the Rules, unless the contrary intention appears:

***"intervener***includes a person intervening and a person seeking leave to intervene or to be heard as *amicus curiae"*before the Full Court.

**HIGH COURT RULES 2004 - RULE 42.08A**

**Application for leave to intervene or to be heard as amicus curiae**

                   An [application](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s40.01.html#application) for leave to intervene or to be heard as *amicus curiae*must be made by filing and serving written submissions in accordance with rule 44.04.

**HIGH COURT RULES 2004 - RULE 44.04**

**Written submissions--interveners**

44.04.1       Unless otherwise directed by [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice an intervener must:

                     (a)  file its written submissions, not exceeding 20 pages; and

                     (b)  serve the written submissions on each party and any other intervener.

44.04.2       Unless otherwise directed by [the Court](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s1.06.html#the_court) or a Justice, an intervener must file and serve its written submissions within 14 days after written submissions by the party in support of whom the intervention is to be made are filed.

44.04.3       An intervener who intervenes in support of more than 1 party or without supporting any party must file and serve its written submissions within 14 days after the [respondent](http://classic.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/s44.01.html#respondent)'s written submissions are filed.

44.04.4       An intervener's written submissions must be in Form 27C.