

Explanatory Statement

Court Procedures Amendment Rules 2017 (No 1) Subordinate Law SL2017-9

Issued by the Authority of the Rule-Making Committee

The Rule-Making Committee (currently comprising the Chief Justice, Justice Elkaim, Chief Magistrate Walker and Magistrate Morrison) may make rules in relation to the practice and procedure of ACT courts and their registries pursuant to section 7 of the *Court Procedures Act 2004*. The Courts and the Joint Rules Advisory Committee have conducted a consultative review of the rules which has resulted in the amendments contained in the *Court Procedures Amendment Rules 2017 (No 1)*.

The *Crimes (Serious and Organised Crime) Legislation Amendment Act 2016* introduced a new section 44 of the *Bail Act 1992 – Right of review of bail decisions – prosecutions*, which commences on 1 May 2017.

Under section 44 the Director of Public Prosecutions (“DPP”) may apply to the Supreme Court for review of a decision by the Supreme Court or the Magistrates Court in relation to bail for an accused person charged with a family violence offence or a serious offence (offences punishable by imprisonment for more than 10 years – defined more specifically in the Bail Act), if the DPP considers that exceptional circumstances exist AND that it is in the public interest to make the application.

The DPP must give the court that made the decision oral notice of the proposed application immediately after the decision is made.

An application must be made, and written notice of the application given to the accused person:

- a) within 2 hours after the decision is made; or
- b) if the decision is made between 4pm on a day and 8am on the next day (day 2) – by 10am on day 2 (whether or not it is a working day).

New rule 4724 – Prosecution application for review of bail decision – has been introduced to provide for a means of making the application within registry hours by filing it in the registry in the usual way and also outside of registry hours by providing a means of filing the application electronically.

The rule will commence on 1 May 2017.