

## **EXPLANATORY STATEMENT**

Subordinate Law No. 9 of 1997

Issued by the Authority of the Judges  
of the Supreme Court of the Australian Capital Territory

### **SUPREME COURT RULES (AMENDMENT)**

The resident Judges of the Court (of whom there are three, including the Chief Justice) or any two of the resident Judges, may make Rules of Court for regulating the practice and procedure of the Court pursuant to section 36 of the Supreme Court Act 1933.

These amending rules repeal existing rule 3 of Order 26 and substitute a new rule 3.

Order 26 of the Supreme Court Rules regulates the payment into and out of Court of moneys offered by a defendant in satisfaction of a plaintiff's claim or cause of action.

Rule 2 of Order 26 regulates the method and consequences of a plaintiff accepting the payment into Court. Rule 3 of Order 26 prohibits the payment out of money paid into Court otherwise than under rule 2 except in satisfaction of the claim or cause of action and in pursuance of an order of the Court. There are, from time to time, circumstances where money paid into Court should be able to be paid out other than in the circumstances provided for by rules 2 and 3 which are unduly restrictive in their terms.

New rule 3 of Order 26 enables the payment out of money with the consent of all parties to the action or in pursuance of an order of the Court made at any time before, during or after the trial of the action. The new rule provides greater flexibility in respect of such payments than the superseded rule while at the same time providing adequate safeguards.