

Explanatory Statement

Court Procedures Rules 2006 SL2006-29

Issued by the Authority of the Rule-Making Committee

The Rule-Making Committee (currently comprising the Chief Justice, the President of the Court of Appeal, Justice Connolly, the Chief Magistrate and Magistrate Somes) or any 3 or more committee members, 1 of whom must be the Chief Justice and another of whom must be either the Chief Magistrates or Magistrate Somes, may make rules in relation to the practice and procedures of ACT Courts, prescribed tribunals and their registries pursuant to section 7 of the *Court Procedures Act 2004*.

Background

The ACT Supreme Court and Magistrates Court have operated under different procedural rules since their establishment in the 1930s. At the time, they each adopted models from different parts of Australia. In recent years, the Supreme Court Rules Committee has gradually implemented more modern rules for most of its criminal and civil procedures, while only minor amendments have been made to Magistrates Court rules, in the absence of a rule-making power for that Court. These dissimilar approaches have led to wide disparities in the conduct of litigation in the ACT, depending on which Court is hearing the case. For example, the same basic pre-trial procedural steps may be subject to significantly different time limits in the two Courts. Many of these differences would seem unnecessary in such a small jurisdiction.

In 1997 the ACT Community Law Reform Committee recommended that the rules of both Courts be brought closer into line, in order to reduce the overall cost of litigation and thereby improve access to justice for everyone in the ACT. The Committee suggested that a common rules committee for both Courts would be the most convenient way to prepare uniform rules and to identify which procedures would still need their own set of rules.

The *Court Procedures Act 2004* (the Act) created a rule-making power for both Courts, allowing for harmonisation of court rules. The Act also established a Joint Rules Advisory Committee (JRAC), comprised of representatives from both Courts, the Court Registrars, the ACT Law Society, the ACT Bar Association, the Director of Public Prosecutions, Parliamentary Counsel, and a public servant nominated by the Chief Executive of the Department of Justice and Community Safety. This Committee assists the Rule-Making Committee, which is comprised of the Chief Justice, the President of the Court of Appeal (or a Judge if this is the same person as the Chief Justice), a Judge, the Chief Magistrate and a Magistrate.

The *Court Procedures Rules 2006* (the Rules) are the outcome of a series of workshops and drafting meetings over 18 months, involving an expanded Working Party of the JRAC. This Working Party had the benefit of further technical expertise provided by key registry staff, an academic expert, and additional legal practitioners.

An exposure draft of the Rules was circulated for public consultation purposes and the feedback that was received by the JRAC taken into account in the final document.

Overview

The Rules are intended to reduce the overall costs of litigation, by modernising and simplifying current procedures and removing unnecessary differences between the two ACT Courts. They take into account contemporary best practice from across Australia, especially uniform rules adopted recently by Queensland and New South Wales. At the same time, the Rules continue certain procedures and practices that are uniquely suited to a small jurisdiction such as the ACT. Under each rule heading is a reference to the source of the provisions of the rule, such as the *Supreme Court Rules 1937* (ACT) or the *Uniform Civil Procedure Rules 2005* (NSW).

The Rules now include in one document all the rules for most proceedings in both Courts, including joint rules (civil and criminal), appeal rules, and rules for the various specialist jurisdictions. However, the Rules do not apply to a proceeding in the Magistrates Court, including small claims or workers compensation matters, until 1 January 2007.

Some of the procedural provisions of the *Civil Law (Wrongs) Act 2002* have been moved into the Rules, including provisions for court-referred mediation or neutral evaluation. Some of the more common procedures that were previously in court practice directions have now been moved into the Rules. Obsolete and duplicated provisions in the current rules have been removed and greater detail provided in certain areas where there has previously been a lack of clarity. The Rule-Making Committee may make practice notes for the Rules, and both Courts will continue to have the power to issue their own practice directions, in order to make clarifications and to address issues such as the annual law term.

The language and structure of the Rules, and of each individual rule, is intended to be user-friendly, using modern drafting style and non-legal language as much as possible. However, certain legal terms that are commonly used have been retained in the Rules, including “plaintiff”, “defendant”, “subpoena”, “affidavit”, and “habeas corpus”. Throughout the Rules, additional notes have been included in order to signpost related provisions of the Rules. In particular, the notes highlight whether a certain type of application to the court must fulfil all the requirements for interlocutory applications – rules on these applications are dealt with in Chapter 6. The rules on civil litigation have been rearranged to better reflect the logical progression of a case from start to finish. Most time limits will now be calculated in multiples of 7 days. All of these innovations should make it easier for all litigants – whether legally trained or not – to understand what is required of them at a particular stage in a proceeding.

For the most part, the Rules are based on the existing practice and procedure in the Supreme Court, with some changes to time limits and terminology. These procedures will be familiar to most legal practitioners in the ACT. However, the rules on enforcement of court orders introduce an entirely new regime, based on contemporary best practice from other jurisdictions. There are some new provisions specifically directed towards offers to settle costs. New national uniform rules on “freezing orders” and “search orders” have also been incorporated (to replace “Anton Piller

orders” and “Mareva” orders). Outdated provisions concerning prerogative writs have been abolished.

National uniform rules on subpoenas and other matters will apply to proceedings in the Magistrates Court. The Magistrates Court will also have more effective case management tools, based on current Supreme Court practice, helping to resolve disputes more quickly and efficiently.

There will be a common set of forms for the two Courts, which, it is anticipated, will reduce costs for legal practitioners, as well as avoiding confusion for unrepresented litigants.

Chapter 1 deals with preliminary matters such as commencement and application of the Rules.

Chapter 2 includes the joint rules for civil proceedings.

Chapter 3 includes rules that only relate to one of the specialist jurisdictions.

Chapter 4 deals with rules for criminal proceedings.

Chapter 5 deals with rules for appellate proceedings.

Chapter 6 includes all of the rules that will apply to all types of proceedings in both courts, such as general rules on evidence and service of documents.

Chapter 7 deals with transitional arrangements for the introduction and application of the Rules.

Schedule 1 is the expert witness code of conduct.

Schedule 2 sets out the interest rates that apply up to, and after, judgment.

Schedule 3 sets out the costs amounts for debts and liquidated demands.

Schedule 4 provides the scale of costs for all proceedings.

Schedule 5 deals with the jurisdiction that may be exercised by the Registrar.

Schedule 6 comprises the national uniform corporations rules.

Schedule 7 contains transitional provisions.

There is a Dictionary at the end of the Rules, which includes all the definitions that are relevant to every part of the Rules.

Outline of Provisions

Numeration note: There are a number of gaps in the numeration of these rules. These gaps are to facilitate future amendments, since court procedures are refined frequently in order to take into account technological and other developments.

Chapter 1 Preliminary

Chapter 1 (rules 1-8) contains machinery provisions for commencement, application of the Rules, and other interpretative clauses.

Rule 4 provides that the Rules do not apply to a proceeding in the Magistrates Court until 1 January 2007.

Rule 6 importantly recognises the inherent power of the court to dispense with the application of any of the rules to a particular proceeding, on any conditions it considers appropriate. Sub-rule 6 (5) displaces any presumption that where there is an express reference to the court’s power to dispense with compliance in relation to a particular rule, that reference limits the operation of rule 6 to that rule or to any other provision, where there is no such reference in relation to another rule.

Rule 8 includes a list of the abbreviations that have been used in the material enclosed in brackets under rule headings throughout the Rules. This material refers to equivalent or comparable provisions of other legislation, including rules for the Supreme Court and Magistrates Court, and has been included to assist the legal profession.

Chapter 2 Civil proceedings generally

Part 2.1 Introductory provisions—ch 2

Part 2.1 (rules 20-22) contains a small number of general provisions that apply to all civil proceedings.

Rule 21 outlines the overarching purpose of all the provisions in the Rules that apply to civil proceedings, including rules in other Chapters. This rule does not have any precedent in the ACT, although it is based on some of the general principles underlying the common law system. This rule provides that the principles of justice, efficiency, and affordability should guide the court in the application of all the rules related to civil proceedings, and that parties to civil proceedings must assist the court in achieving the objectives of (a) justly resolving the real issues in the proceedings; and (b) disposing in a timely way of the proceedings, and all other proceedings in the court, at a cost affordable by the respective parties. The court may impose sanctions on a party that does not assist the court in achieving these objectives.

Part 2.2 Starting civil proceedings

Part 2.2 (rules 30-76) outlines the requirements for starting civil proceedings. This part is intended to bring together most of the considerations that must be taken into account by a plaintiff when starting a proceeding.

Rule 30 lists the persons who can start civil proceedings, including legal persons such as corporations.

Rule 31 provides that there are only two types of originating process under the Rules.

Rule 32 provides that a proceeding started by either form of originating process will commence on the day that it is filed (or made orally, if an originating application).

Rules 33-36 provide further detail on when to use each type of originating process. “Originating claims” must be used for cases where facts are in dispute or where it would ordinarily be expected that pleadings would be required. “Originating applications” will generally be used for matters that need to be brought before the court more quickly, and will have much wider usage, especially in the Magistrates Court, for example, where it will be used for many statutory applications.

Rule 74 provides that an originating process remains valid for service for 1 year from the day it is filed in court. An originating process may also be renewed in certain circumstances.

Part 2.3 Notice of intention to respond and defence

Part 2.3 (rules 100-153) introduces a new notice that may be filed by a defendant in a civil proceeding. The “notice of intention to respond” or “conditional notice of intention to respond” replaces the “appearance” in Supreme Court proceedings, but has no current equivalent in the Magistrates Court.

The main purpose of the new notice is to provide the court with an address for service for the defendant, so that the court and the other parties know where to serve any

future documents in the proceedings. Filing a “conditional notice of intention to respond” allows the defendant to provide an address for service without necessarily accepting the jurisdiction of the court.

Rule 102 provides that a defendant must file a defence, or a notice of intention to respond and a defence, within 28 days after being served with an originating claim.

Rule 106 allows a defendant to use the “notice of intention to respond” to submit to the judgment of the court and notify the court that s/he will not be taking an active part in the proceedings. This provision is intended to reduce the costs of all parties involved in the proceedings.

Part 2.4 Parties and proceedings

Part 2.4 (rules 200-292) brings together various rules that are relevant to different types of parties, as well as to removing and including parties. It also includes rules on separating and joining claims. This part generally follows the current practice of both Courts, with provisions being expressed in clearer and more modern terms.

Rule 224 provides that a party must not include someone else as a party to the proceeding simply for the purpose of applying for costs against the person, except in certain limited circumstances.

Rules 275-281 deal with representation of a person with a legal disability – either a child or a person with a mental disability (see the Dictionary). People with a legal disability must generally be represented by a “litigation guardian” when they intend to start or defend or carry on a proceeding in either Court. Both Courts will have the same procedure and requirements for appointing and removing the litigation guardian.

Part 2.5 Third-party and similar proceedings

Part 2.5 (rules 300-322) outlines the procedures and requirements for a third party proceeding, and is generally based on the current practice of both Courts, although there are some changes to timeframes and terminology, in order to be more user-friendly. This part provides for a document to claim contribution between defendants and also makes specific provision for actions under section 21 of the *Civil Law (Wrongs) Act 2002* (right of contribution).

Part 2.6 Pleadings

Part 2.6 (rules 400-493) deals with the rules relating to all pleadings and sets them out together in a modern, accessible and consistent format. The provisions for particulars in division 2.6.4 have been expanded and include rules about applications for particulars as well as what they are and how they are to be provided. They include a new provision, allowing particulars in building cases to be provided by way of the “Scott’s Schedule” (rule 431). Division 2.6.7, dealing with counterclaims, has been made more consistent with relevant provisions on starting proceedings by originating claim, as if the counterclaim were an originating claim, where the counterclaim is made against a person other than the plaintiff. Division 2.6.8 continues the current practice of both Courts in relation to “close of pleadings”, and admissions, including notices to admit facts or documents, are dealt with in division 2.6.9.

Part 2.7 Amendment

Part 2.7 (rules 500-514) regulates amendment and again modernises the current practice of both Courts.

Part 2.8 Disclosure

Part 2.8 (rules 600-675) generally follows current Supreme Court practice, including recent amendments relating to discovery of documents, although some minor changes have been made. This part provides that parties to proceedings in the Magistrates Court will have the same rights to discovery (including preliminary discovery), non-party production, and interrogatories as they would in Supreme Court proceedings. These procedures assist in identifying and narrowing the issues in the pre-trial phase. Rule 605 provides that notes of oral communications between solicitors are now discoverable.

Rule 611 provides that such notes are not subject to continuing disclosure.

Rule 620 provides that investigatory film now has to be produced for inspection (unless it is privileged or otherwise not subject to disclosure).

Part 2.9 Preservation of rights and property

Part 2.9 (rules 700-785) brings together a range of provisions for the preservation of certain rights and property before trial.

The new national uniform rules on “freezing orders” (previously “Mareva” orders) and “search orders” (previously “Anton Piller orders”) have been introduced – based on the new Federal Court Rules and practice directions. These orders help to ensure that parties do not destroy or hide assets before or after judgment is ordered against them. The new provisions allow the court to order a freestanding “ancillary order” – such as an asset disclosure order – without requiring that a “freezing order” be made at the same time (rule 729). They also expand the scope for transnational “freezing orders”, in order to reach assets that are in different jurisdictions (rules 741 and 744). The new rules are designed to find the right balance between providing reasonable safeguards for the protection of everyone involved, and an effective method of ensuring that parties do not frustrate or inhibit the court’s work (see rule 743).

Provisions relating to interim preservation, distribution and payment, and interim inspection, detention, custody and preservation of property have also been included and drafted in modern form. Provisions for interim injunctions and receivers and interim sales of land by court order have also been included in this part.

Not all of the rules in this part will apply to the Magistrates Court. For example, the note for division 2.9.4, dealing with injunctions and similar orders, clarifies that the Magistrates Court, unlike the Supreme Court, can only order an injunction after a proceeding has already started.

Part 2.10 Payment into court

Part 2.10 (rules 1000-1017) retains provisions relating to payment into court, couched in more modern language.

Part 2.11 Resolving proceedings early

Part 2.11 (rules 1100-1185) deals with all methods of summary determination of proceedings, using a modern, consistent approach that harmonises the current practices of both Courts. Division 2.11.2 provides for the cheap and easy resolution of uncontested claims, where debts or liquidated demands are admitted by the defendant. Summary judgment is regulated under division 2.11.5. This part also includes provisions for discontinuance and withdrawal, as well as expanded provisions dealing

with mediation and neutral evaluation. Both Courts will have the power to make a compulsory mediation order, which is consistent with the *Civil Law (Wrongs) Act 2002* and contemporary best practice in other jurisdictions.

Part 2.12 Expert evidence

Part 2.12 (rules 1200-1246) deals with expert evidence in relation to civil matters. The existing code of conduct for experts is established in the rules and the current provisions for disclosure of expert reports are retained, with slight changes to some time frames. Recently introduced rules for the appointment of medical experts in accordance with the *Civil Law (Wrongs) Act 2002* have been retained. The reference to “hospital reports” has been removed, because it is obsolete.

Part 2.13 Pre-trial procedures

Part 2.13 (rules 1300-1313) deals with pre-trial procedures and generally follows current Supreme Court practice for differential case management, not previously set out in rules but in practice directions and notices to practitioners. In particular, this part incorporates into the rules the classification of proceedings into categories A, B, C or D, and the relevant obligations under each category. It also provides for certificates of readiness, directions hearings and listing hearings in most cases.

Part 2.14 Court supervision

Part 2.14 (rules 1400-1452) deals generally with certain aspects of court supervision, such as giving directions for the disposal of the proceedings efficiently and appropriately. The provisions are broader than the current rules, but generally reflect current practice. There are new rules relating to non-compliance with rules and directions, allowing parties to make applications where there has been a failure by another party to comply with a rule or direction.

Part 2.15 Trial

Part 2.15 (rules 1500-1549) brings together a range of provisions relevant to the conduct of a trial, removing obsolete or duplicated provisions. Supreme Court rules on assessors and court-appointed referees will apply to the Magistrates Court, making it easier for that Court to draw on additional expertise where appropriate.

Part 2.16 Judgments and other orders

Part 2.16 (rules 1600-1618) brings together a range of provisions dealing with judgments and other orders. The word “order” is used in its broadest sense, to include orders, judgments, and directions. Where civil proceedings may be related to criminal matters – such as proceeds of crime – the word “order” will also include a verdict, finding, conviction, or sentence.

Part 2.17 Costs

Part 2.17 (rules 1700-1920) generally follows the pattern of modernising, combining and consolidating current rules, with a few changes in terminology and other matters. A “taxation” will now be an “assessment” and a “review” will only apply to the court’s review of the Registrar’s decision on reconsideration. Many provisions on costs have now been moved to the scale of costs (schedule 4), so that this part mainly

includes relevant principles and procedures, while the scale focuses on allowable costs. Different rates for costs as between the two Courts have been maintained. Rule 1834 brings the Rules into line with the new *Legal Profession Act 2006*.

Part 2.18 Enforcement

Part 2.18 (rules 2000-2564) introduces a new, harmonised regime for enforcement of court orders. This part takes a modern approach to enforcement, mostly based on current practice in Queensland, with specialised input from ACT legal practitioners representing the interests of both debtors and creditors. The main intention with these provisions is to achieve a balance of those interests, and in particular to minimise the costs for all concerned. The same basic mechanisms for enforcing orders can be used, but parties are encouraged by the rules to meet, and can be directed to do so, in order to try and resolve the issues and, if possible, the debt, before a formal “enforcement hearing”. New terminology has been introduced, to reflect the new approach (rule 2000). In particular, “garnishee” orders have been replaced by “debt redirection orders” (involving direct payments to the enforcement creditor), “regular redirection orders” (involving financial institutions in redirecting regular payments), and “earnings redirection orders” – see divisions 2.18.6, 2.18.7 and 2.18.8. Instalment orders can also be made by both Courts where appropriate (division 2.18.4). Notices of options for the enforcement debtor are also required to be provided at specified stages.

Division 2.18.3, dealing with enforcement hearings, combines the old “examination of judgment debtor” with the opportunity to give appropriate directions for enforcement and the making of appropriate enforcement orders, as well as allowing discussions between the debtor and creditor for the resolution of outstanding judgments. Where matters cannot be resolved by agreement, money judgments can still be enforced by the seizure and sale of property and the re-direction of debts (divisions 2.18.5 and 2.18.6). Instead of using “writs”, the enforcement creditor applies for a particular type of “enforcement order”. Procedures for charging orders and stop orders have been maintained. The Rules codify procedures for the appointment of receivers and enforcement of non-money orders. Arrest warrants can be issued for absconding defendants (division 2.18.17).

Rule 2015 provides that, before an order can be enforced, a copy of the order must be served, even if the party has been present or represented. This permits the enforcement debtor, or another person required to comply with the order, to take such steps as may be appropriate to deal with the issue.

Rule 2163 requires an enforcement creditor to keep accurate records of payments under an instalment order, so as to avoid disputes between the parties about how much of the debt has been paid off by the judgment debtor.

Part 2.19 Interpleader proceedings

Part 2.19 (rules 2600-2627) contains provisions that are similar to current provisions, in a more modern framework.

Part 2.20 Trusts, estates, accounts and inquiries

Part 2.20 (rules 2700-2760) uses a modern approach to regulate procedures relating to trusts, estates, accounts and enquiries.

Part 2.21 Representation by solicitors

Part 2.21 (rules 2800-2810) generally continues the current practice of both Courts in relation to civil proceedings. Court approval for the removal of solicitors is now required.

Part 2.22 Miscellaneous—ch 2

Part 2.22 (rules 2900-2903) makes provision for dealing with documents in the registry, and the entitlement to seek declarations without other relief.

Chapter 3 Particular civil proceedings

Chapter 3 contains jurisdiction-specific provisions. These rules generally reflect current practice, while introducing more modern terminology and procedural requirements where required, in order to be consistent with the rest of the Rules.

Part 3.1 (rules 3000-3120) deals with administration and probate. Grants of representation will mostly be dealt with without a formal court hearing. There are some new rules on caveats and revocation of grants, based on the New South Wales and Queensland probate rules.

Part 3.2 (rules 3150-3211) deals with adoptions. There are some new provisions to protect identifying information which may be contained in documents to be served on associated persons (rule 3211).

Part 3.3 (rules 3250-3262) deals with commercial arbitration.

Part 3.4 (rule 3270) deals with proceedings under the Corporations Act and the ASIC Act. The relevant rules are now in Schedule 6, so that national uniform rule numbers can be maintained, without compromising the internal logic of the Rules.

Part 3.5 (rules 3300-3312) deals with cross-vesting, and incorporates contemporary best practice from a range of jurisdictions.

Part 3.6 (rules 3350-3405) deals with electoral matters, when the Supreme Court is sitting as the Court of Disputed Elections under the *Electoral Act 1992*.

Part 3.7 (rules 3450-3465) deals with the registration of foreign and interstate confiscation orders.

Part 3.8 (rules 3470-3483) deals with the reciprocal enforcement of foreign judgments.

Part 3.9 (rules 3500-3507) deals with orders for habeas corpus.

Part 3.10 (rules 3550-3570) deals with judicial review. This part consolidates the procedural provisions for review under the *Administrative Decisions (Judicial Review) Act 1989* and introduces substantially reformed provisions relevant to “prerogative orders” (previously called “prerogative writs”). The old writs have been abolished and the procedures simplified, so that orders nisi will no longer be

necessary. Applications for orders in the nature of certiorari, mandamus, prohibition, and quo warranto are to be made by “originating application”.

Part 3.11 (rules 3600-3614) deals with the admission of local lawyers to the legal profession. New terminology and requirements under the *Legal Profession Act 2006* have been incorporated into this part.

Chapter 4 Criminal proceedings

Chapter 4 deals with criminal proceedings. The provisions reflect the current practice in each Court.

Chapter 5 Appeals

Chapter 5 deals with appellate proceedings, including appeals from the Registrars of the two Courts to a Magistrate or Judge, respectively; appeals from tribunals and the Magistrates Court to the Supreme Court; and appeals from the Supreme Court to the Court of Appeal. The procedures currently applicable to the Court of Appeal have provided the standard for all other appeals, since they are the most modern procedures, and have proven to be effective. This chapter also deals with orders to review from the Magistrates Court, reference appeals, and cases stated.

Chapter 6 General rules for all proceedings

Part 6.1 (rule 6000) provides that the relevant provisions of Chapter 6 will apply to every type of proceeding, where appropriate, unless expressly stated otherwise.

Part 6.2 (rules 6005-6016) deals with interlocutory applications. The terms “motion” and “notice of motion” have been replaced by “application”. The standard procedure of a written application supported by an affidavit will be continued, although oral applications will be allowed in certain circumstances. The Rules contain notes throughout that identify all of the applications which will be subject to this part.

Part 6.3 (rules 6100-6145) deals with a range of issues relevant to preparing and filing documents, generally based on current practice.

Part 6.4 (rules 6200-6202) deals with the powers of the Master of the Supreme Court. The jurisdiction of the Master has been enlarged in order to facilitate the work of the Court.

Part 6.5 (rules 6250-6256) deals with the powers of the Registrar of the Supreme Court. The jurisdiction of the Supreme Court Registrar has been enlarged in order to better assist with the overall case management by the Court.

Part 6.6 (rules 6300-6307) makes provision for various procedures and practices within the registry, as well as opening times.

Part 6.7 (rules 6350-6352) deals with calculations of time.

Part 6.8 (rules 6400-6542) deals with service of documents. Most of the provisions reflect the current practice in both Courts, with service of originating process by post still allowed in proceedings in the Magistrates Court. The time of service by post has been brought into line with the *Service and Execution of Process Act* and the time of service by other methods is slightly less strict (rule 6450). The provisions on service outside Australia have been brought into line with contemporary best practice. There are helpful notes throughout this part that refer to other ACT and Commonwealth laws that may be relevant to service on a particular type of party.

Part 6.9 (rules 6600-6614) deals with subpoenas. This part generally follows the national uniform rules.

Part 6.10 (rules 6700-6851) deals with evidence in both civil and criminal proceedings. This part incorporates the recently amended rules relating to affidavits, exhibits, and notices under the Commonwealth *Evidence Act*. Division 6.10.3 provides that parties must exchange correspondence before making certain types of applications in proceedings. Division 6.10.6 permits the taking of evidence at trial by audio-visual or audio link, from outside the ACT but in Australia, under the *Evidence (Miscellaneous Provisions) Act 1991*. This part also updates provisions that relate to taking evidence otherwise than at trial (division 6.10.8).

Part 6.11 (rules 6900-6907) outlines some general principles that apply to all proceedings, including the powers of the court to make orders, or grant leave, on conditions, and the power of the rule-making committee to make practice notes.

Chapter 7 – Transitional

Part 7.1 (rules 7000-7002) makes provision for transitional arrangements in relation to proceedings in the Supreme Court on 1 July 2006, and various other matters.

Part 7.2 (rules 7010-7011) makes provision for transitional arrangements in relation to proceedings in the Magistrates Court on 1 January 2007, and various other matters.

Schedules

Schedule 1 incorporates the expert witness code of conduct that was previously in a practice direction, with some additional provisions from Queensland and New South Wales.

Schedule 2 sets out the interest rates relevant to proceedings in each Court, including interest up to judgment and interest after judgment.

Schedule 3 sets out the prescribed costs amounts for debts and liquidated demands, including default judgment.

Schedule 4 includes the scale of costs for proceedings in both Courts. Many of the provisions about entitlement to costs for certain items are now included here instead of Part 2.17. Some parts of the scale have been updated, for example the old standard of a “folio” has been replaced by “100 words”.

Schedule 5 sets out the jurisdiction of the Supreme Court Registrar. Part 5.1 identifies those applications in proceedings in which the Registrar does not have jurisdiction.

Schedule 6 incorporates the national uniform corporations rules, including the uniform structure and rule numbers.

Schedule 7 makes provision for certain transitional matters in relation to the *Magistrates Court (Civil Jurisdiction) Rules 2004*.

Dictionary – The Dictionary contains definitions that are relevant to every part of the Rules. It also includes references (“signpost definitions”) to other terms defined elsewhere in the Rules.