

Explanatory Statement

Court Procedures Amendment Rules 2015 (No 3) Subordinate Law SL2015-42

Issued by the Authority of the Rule-Making Committee

The Rule-Making Committee (currently comprising the Chief Justice, Justice Refshauge, Chief Magistrate Walker and Magistrate Campbell) 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 2015 (No 3)*.

Non Party Production

A new rule 659 has been introduced in division 2.8.7 – Non Party Production. This rule provides that division 2.8.7 does not apply to documents held by a court or the ACAT.

Mediators

Currently, rule 1177 requires a court appointed mediator to be registered as a mediator under the Mediation Act with an approved agency which has the power to register the person. The agencies are approved by the Minister by notice in writing under s 4(2) of the Mediation Act 1997.

The *Courts Legislation Amendment Act 2015* provides for the repeal of the *Mediation Act 1997*, effective on 7 April 2016. The *Courts Legislation Amendment Act 2015 (No 2)* introduces a new Part 5A - Mediation to the *Court Procedures Act 2004* which includes provisions regarding the admissibility of information given at mediation, non-disclosure of mediation material, protection of accredited mediators from liability and definitions for an “accredited mediator” and the “Mediator Standards Board”. Part 5A is also due to commence on 7 April 2016.

Rule 1177 has consequentially been amended to require a mediator to be an “accredited mediator”, meaning *a person who is entered as a mediator in the register of nationally accredited mediators maintained by the Mediator Standards Board*. This amendment will commence on 7 April 2016. The delay in the commencement of the provision will allow mediators who are currently registered under the Mediation Act to become accredited mediators within the definition contained in the Court Procedures Act and adopted in rule 1177.

Post Judgment Interest

Rule 1620 has been amended to include a provision allowing post judgment interest to be payable at the rate awarded by the Court under rule 1120(4)(a) as an alternative to the rate applying at that time under schedule 2, part 2.2.

The rules (other than those regarding mediators) will commence on 1 January 2016. The rules regarding mediators will commence on 7 April 2016.