

Explanatory Statement

Court Procedures Amendment Rules 2017 (No 3) Subordinate Law SL2017-17

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 3)*.

Division 3.3.1 – Commercial Arbitration – General – has been amended to reflect the commencement of the *Commercial Arbitration Act 2017*. The amended rules also introduce new time frames within which certain applications must be made.

New subrule 6121(e) provides for a document to be filed by email with the registrar's leave and rule 6126 clarifies when such a document is taken to have been filed.

Amendments to rule 6200 increase the jurisdiction of the Associate Judge to include:

- a) the hearing and deciding of applications under the *Bail Act 1992*; and
- b) presiding at pre-trial hearings under the *Evidence (Miscellaneous Provisions) Act 1991*; division 4.2.2B.

The scale of costs in Schedule 4 has been updated. Amounts for the individual items in the scale of costs have been increased by 4.79% (and rounded up or down to the nearest ten cents) to take into account the effect of inflation and cost increases since the Law Society's submission on 24 July 2014 seeking an increase to the then scale of costs.

Each of the amounts set out in Schedule 3 have also been increased by 4.79% for the same reasons and using the same criteria as the scale of costs in schedule 4.

Division 6.8.9 – Service out of Australia – has been amended to ensure consistency with the Harmonised Court Rules On Service Out Of Australia, including the requirement of the service of a notice (new Form 6.5) on a defendant served out of Australia with an originating process.

In keeping with the harmonised rules for subpoenas, there will now be 3 different forms of subpoena – Form 6.10 Subpoena to give evidence, Form 6.10A Subpoena to produce documents and Form 6.10B Subpoena to give evidence and produce documents. The declaration by an addressee to a subpoena to produce is now Form 6.10C. Rule 6606(1) has been amended to broaden the scope of the types of subpoenas for which conduct money may be required to be tendered.

Schedule 6 – Corporations Rules – has been amended to require newspaper advertising for certain types of applications. Amendments have also been made to Part 6.15A,

adopting the amendments to the harmonised rules on cross border insolvency and introducing new Divisions 6.15A.1 to 6.15A.5.

The rules will commence on the day after their notification day.