

Explanatory statement

Background

The *Court Procedures Act 2004* (the Act) governs the practice and procedure of ACT Courts, prescribed tribunals and their registries. Section 9 of the Act establishes the rule making committee. Section 7 of the Act confers power on the rule making committee to:

- make rules relating to the practice and procedure of ACT Courts, prescribed tribunals, and their registries, and
- in relation to any of the other matters mentioned in Schedule 1 to the Act (the subject matter of the rules).

This explanatory statement describes amendments to the *Court Procedures Rules 2006* (the Rules) made by the rule making committee under s 7 of the Act and set out in the *Court Procedures Amendment Rules 2026 (No 2)* (the Amendment Rules).

Detail

The Amendment Rules make amendments to the Rules in relation to the process for the withdrawal of a solicitor in criminal proceedings in the Magistrates Court. The Amendment Rules:

- omit the current process for withdrawal of solicitor per rule 4000D and replace with rules 4304 and 4304A.
- insert replacement rules 4304 and 4304A to amend the procedural steps required for a solicitor to withdraw in the following regard:
 - create a separate process to withdraw as a solicitor before a hearing or sentence date is set and after a hearing or sentence date is set;
 - remove the requirement for a solicitor to file and serve an application in proceeding to withdraw;
 - remove the requirement to obtain the leave of the court to withdraw as a solicitor if the matter has not been set down for hearing or sentence.
- the Amendment Rules do not remove the requirement for a solicitor to notify their client that they intend to withdraw or, where the matter has been set down for hearing or sentence, they intend to make an application for the Court's leave to withdraw.
- rule 4000B (f) substitutes the reference to 4000D with the replacement rules 4304 and 4304A.

Human Rights

The *Human Rights Act 2004* establishes a right to fair trial (s 21) and rights in criminal proceedings (s 22). Neither of these rights, nor any other human right established by the *Human Rights Act 2004*, is engaged or impacted by the Amendment Rules.

The Amendment Rules are procedural and/or administrative in nature. It does not remove the requirement for a solicitor to notify their client of their intention to withdraw or to withdraw from proceedings.