

EXPLANATORY STATEMENT

SUPREME COURT AMENDMENT RULES 2003 (No 5)

Subordinate Law SL2003-49

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

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

These rules replace the provisions in the Supreme Court Rules relating to discovery and production of documents and interrogatories. They have been made as part of the modernisation of the rules and following extensive consultation with the profession.

The rules establish a regime for disclosure of documents which are required to be discovered by parties to litigation in civil proceedings in the Supreme Court. They empower the court to make a range of orders in aid of this process. They provide for the methods by which disclosure is to be made and provide for continuing disclosure until trial.

The rules further provide for the production of the documents disclosed and their inspection by parties. Provision is made for claims of privilege from production for discovered documents and the court is empowered to decide disputes over such claims. The court is also empowered to make orders to facilitate such inspection. The rules provide a regime for production of documents at trial.

Interrogatories are questions that a party to civil proceedings may require another party to answer on oath. The rules establish a regime for the administering of interrogatories and a codified range of objections to answers that the interrogated party must make. The court is empowered to make a range of orders in order to decide disputes about whether the interrogatories are proper, whether the answers are adequate and whether answers or better answers must be provided.

The rules identify the persons who are required to verify the list of discovered documents or answer interrogatories for a range of bodies other than individuals.

The rules also make provision for penalties that the court may impose where orders relating to these matters are not complied with. They also provide sanctions for the improper use of discovered documents or the failure to disclose discoverable documents.