



AUSTRALIAN CAPITAL TERRITORY

Supreme Court Rules¹ (Amendment)

Subordinate Law No. 23 of 1992²

We, Judges of the Supreme Court, make the following Rules of Court under section 36 of the *Supreme Court Act 1933*.

Dated 29 October 1992.

JEFFREY MILES
Chief Justice

J F GALLOP
Judge

T F HIGGINS
Judge

A G TOWILL
Registrar

Principal Rules

1. In these Rules, “Principal Rules” means the Supreme Court Rules.

Mode of appearance

2. Rule 2 of Order 13 of the Principal Rules is amended by adding at the end the following subrules:

“(2) A defendant who—

- (a) wishes to submit to the orders of the Court, except as to costs; and
- (b) is not a person who is taken under these Rules to have defaulted in making an appearance;

may add to the memorandum of appearance a statement that he or she submits to the orders of the Court, except as to costs.

“(3) A defendant who adds to his or her memorandum of appearance a statement under subrule (2) and takes no active part in the proceedings is entitled to an order that the plaintiff pay the defendant’s costs as a submitting party, unless the Court orders otherwise.

“(4) A defendant who—

- (a) having been entitled to do so, does not add to his or her memorandum of appearance a statement under subrule (2); and
- (b) takes no active part in the proceedings;

is not entitled to an award for costs greater than that to which the defendant would have been entitled had the statement been added, unless the Court orders otherwise.

“(5) Any costs that a plaintiff has been ordered to pay under subrule (3) shall be included in any costs payable by any other defendant or opponent to the plaintiff in respect of the proceedings.”.

Substitution

3. Rule 17 of Order 13 of the Principal Rules is repealed and the following rule substituted:

Setting aside originating process etc.

“17. (1) On application by a defendant to an originating process, the Court may, by order—

- (a) set aside the originating process;
- (b) set aside the service of the originating process on the defendant;
- (c) declare that the originating process has not been duly served on the defendant;

- (d) discharge an order giving leave to serve the originating process outside the Territory or confirming service of the originating process outside the Territory;
- (e) discharge an order extending the validity for service of the originating process;
- (f) protect or release—
 - (i) property seized, or threatened with seizure, in the proceedings; or
 - (ii) property subject to an order restraining its disposition or disposal, or in respect of which such an order is sought;
- (g) declare that the Court has no jurisdiction over the defendant in respect of the subject matter of the proceedings;
- (h) in its discretion—decline to exercise its jurisdiction in the proceedings; or
- (j) grant any other relief that it thinks appropriate.

“(2) If the application is by a defendant on whom the originating process was served outside Australia, the Court may make the order on the ground that—

- (a) the service of the originating process is not authorised by these Rules; or
- (b) the Court is an inappropriate forum for the proceedings.

“(3) Application shall be by notice of motion—

- (a) filed within the time limited for entering an appearance; and
- (b) bearing a note ‘The defendant’s address for service is’ that states the defendant’s address for service.

“(4) An application may be made without entering an appearance and is not taken to be a voluntary submission to the jurisdiction of the Court.”.

Application for bail

4. Rule 3 of Order 80 of the Supreme Court Rules is amended by omitting from subrule (1) “The summons and other documents intended to be used” and substituting “Documents filed”.

Further amendments

5. A provision of the Principal Rules specified in column 1 of Schedule 1 is amended by omitting the words specified in column 2 of Schedule 1 opposite that provision and substituting the words specified in column 3 of Schedule 1 opposite that provision.

Re-numbering

6. The provisions of an Order of the Principal Rules specified in column 1 of Schedule 2 that have the numbers specified in column 2 of Schedule 2 opposite that Order are re-numbered respectively with the numbers specified in column 3 of Schedule 2 opposite that Order.

Cross-references

7. A provision of the Principal Rules specified in column 1 of Schedule 3 is amended by omitting the number specified in column 2 of Schedule 3 opposite that provision and substituting the number (if any) specified in column 3 of Schedule 3 opposite that provision.

SCHEDULE 1

Rule 5

FURTHER AMENDMENTS

Column 1 Provision	Column 2 Omission	Column 3 Substitution
Order 61A		
- subrules 9.02 and 9.03	rule 9.01	subrule (1)
- subrule 9.04	rule 9.03	subrule (3)
Order 75B		
- subrule 31 (3)	Were	Where
- paragraph 36 (2) (a)	filled	filed
- paragraph 64 (1) (d)	meeting	meetings
- paragraph 69 (1) (a)	requirements	requirement
Order 78		
- subrule 6.04	rule 6.03	subrule (3)
Order 80		
- subrule 7.01	5.01 and 5.03	5 (1) and (3)
- subrule 7.01	5.01 or 5.03 of this Order	5 (1) or (3)
- subrule 9.06	9.01 to 9.05	9 (1) to (5)
Order 81		
- subrule 10.03	10.01 and 10.02	(1) and (2)
Order 83		
- subrule 15.03	14.01 and 14.02	14 (1) and (2)

SCHEDULE 2
RE-NUMBERING

Rule 6

Column 1 Order	Column 2 Previous provision numbers	Column 3 New provision numbers
61A	1.01, 2.01, 3.01, 4.01, 5.01, 6.01, 7.01, 7.02, 8.01, 8.02, 8.03, 9.01, 9.02, 9.03, 9.04, 10.01, 11.01	1, 2, 3, 4, 5, 6, 7 (1), (2), 8 (1), (2), (3), 9 (1), (2), (3), (4), 10, 11
65	58.01, 58.02, 58.03, 58.04, 58.05, 58.06, 58.07, 58.08, 58.09, 58.10	58 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
66	1.01, 2.01, 2.02, 3.01, 4.01, 4.02, 4.03, 4.04, 5.01, 6.01, 6.02, 7.01, 8.01, 9.01, 10.01, 10.02, 11.01, 11.02, 11.03	1, 2 (1), (2), 3, 4 (1), (2), (3), (4), 5, 6 (1), (2), 7, 8, 9, 10 (1), (2), 11 (1), (2), (3)
67	2.01, 2.02, 2.03	2 (1), (2), (3)
78	3.01, 3.02, 4.01, 4.02, 5.01, 6.01, 6.02, 6.03, 6.04, 6.05, 7.01, 7.02, 7.03, 8.01, 8.02, 8.03	3 (1), (2), 4 (1), (2), 5, 6 (1), (2), (3), (4), (5), 7 (1), (2), (3), 8 (1), (2), (3)
80	1.01, 2.01, 2.02, 3.01, 3.02, 4.01, 5.01, 5.02, 5.03, 5.04, 5.05, 6.01, 6.02, 6.03, 7.01, 7.02, 7.03, 7.04, 8.01, 8.02, 9.01, 9.02, 9.03, 9.04, 9.05, 9.06, 9.07, 10.01, 10.02, 10.03, 10.04, 11.01, 11.02, 11.03, 11.04, 12.01, 12.02, 13.01, 13.02, 14.01, 15.01	1, 2 (1), (2), 3 (1), (2), 4, 5 (1), (2), (3), (4), (5), 6 (1), (2), (3), 7 (1), (2), (3), (4), 8 (1), (2), 9 (1), (2), (3), (4), (5), (6), (7), 10 (1), (2), (3), (4), 11 (1), (2), (3), (4), 12 (1), (2), 13 (1), (2), 14, 15
81	1.01, 2.01, 3.01, 3.02, 3.03, 4.01, 5.01, 5.02, 6.01, 6.02, 7.01, 7.02, 7.03, 8.01, 8.02, 9.01, 9.02, 10.01, 10.02, 10.03, 11.01, 11.02, 11.03, 11.04, 12.01, 12.02, 13.01, 13.02, 13.03, 14.01, 14.02, 14.03, 15.01, 15.02, 15.03, 16.01, 16.02, 16.03, 16.04	1, 2, 3 (1), (2), (3), 4, 5 (1), (2), 6 (1), (2), 7 (1), (2), (3), 8 (1), (2), 9 (1), (2), 10 (1), (2), (3), 11 (1), (2), (3), (4), 12 (1), (2), 13 (1), (2), (3), 14 (1), (2), (3), 15 (1), (2), (3), 16 (1), (2), (3), (4)
82	1.01, 2.01, 3.01, 3.02, 3.03, 4.01, 4.02, 5.01, 6.01, 7.01, 7.02	1, 2, 3 (1), (2), (3), 4 (1), (2), 5, 6, 7 (1), (2)
83	1.01, 2.01, 3.01, 4.01, 5.01, 5.02, 6.01, 6.02, 6.03, 7.01, 8.01, 9.01, 9.02, 10.01, 11.01, 11.02, 12.01, 13.01, 13.02, 14.01, 14.02, 15.01, 15.02, 15.03, 16.01, 17.01, 17.02, 18.01, 18.02, 19.01, 19.02, 20.01, 21.01	1, 2, 3, 4, 5 (1), (2), 6 (1), (2), (3), 7, 8, 9 (1), (2), 10, 11 (1), (2), 12, 13 (1), (2), 14 (1), (2), 15 (1), (2), (3), 16, 17 (1), (2), 18 (1), (2), 19 (1), (2), 20, 21

SCHEDULE 3

Rule 7

CROSS-REFERENCES

Column 1 Provision	Column 2 Number omitted	Column 3 Number substituted
Order 61A		
- paragraph 1.01 (i)	1.01	1
- rules 2.01 and 3.01	1.01	1
- paragraphs 6.01 (d) and (i)	6.01	
- subrules 7.01 and 8.03	6.01	6
Order 65		
- subrule 58.02	58.01	(1)
- subrule 58.04	58.02	(2)
- subrule 58.07	58.06	(6)
- subrule 58.08	58.07	(7)
- subrule 58.10	58.09	(9)
Order 67		
- subrule 2.02	2.01	(1)
- paragraphs 2.03 (a), (b) and (c)	2.01	(1)
Order 81		
- subrule 8.02	8.01	(1)
- subrule 9.02	9.01	(1)
- subrule 11.01	11.02	(2)
- subrules 11.02 and 11.03	11.01	(1)
- subrule 11.04	11.03	(3)
- subrule 12.02	12.01	(1)
- subrule 13.03	13.01	(1)
- subrule 14.03	14.02	(2)
- subrule 15.02	15.01	(1)
- paragraph 16.01 (b)	15.02	15 (2)
- subrule 18.02	19.01	19 (1)
- subrule 19.02	19.01	(1)
- subrule 19.03	19.01	(1)
Order 82		
- subrule 4.02	4.01	(1)
- subrule 7.02	7.01	(1)
Order 83		
- paragraphs 11.02 (a) and (b)	11.01	(1)
- subrules 14.01, 14.02, 15.01 and 15.02	13.01	13 (1)
- paragraph 17.01 (b)	15.03	15 (3)
- subrule 18.01	13.01	13 (1)
- subrule 19.02	19.01	(1)

SCHEDULE 3—continued

Column 1 Provision	Column 2 Number omitted	Column 3 Number substituted
First Schedule		
- Form 77	5.01	5
- Form 78	6.01	6
Eleventh Schedule		
- Forms 1, 2, 3 and 4	10.04	10 (4)

NOTES

1. Reprinted by the Commonwealth as at 2 October 1991. See also Commonwealth Statutory Rules 1991 Nos. 416 and 472; 1992 Nos. 79 and 82; Subordinate Laws Nos. 16 and 21, 1992.
2. Notified in the ACT Gazette on 3 November 1992.