



Australian Capital Territory

Supreme Court Rules¹ (Amendment)

Subordinate Law No. 23 of 1998²

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

Dated 17 June 1998.

J F GALLOP
Acting Chief Justice

T J HIGGINS
Judge

K J CRISPIN
Judge

A G TOWILL
Registrar

1. Commencement

These Rules commence on the day on which they are notified in the *Gazette*.

2. Principal Rules

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

3. Substitution

Rule 1 of Order 32 of the Principal Rules is repealed and the following rule substituted:

“1. By order or with leave

“(1) Subject to subrules (2) to (7) (inclusive), the Court may, at any stage of an action, on application by a party or of its own motion—

- (a) order that any document in the action be amended; or
- (b) give leave to any party to amend any document of that party in the action;

in such manner and on such terms as the Court considers just.

“(2) All necessary amendments shall be made for the purpose of determining the real questions raised by or otherwise depending on the action, of correcting any defect or error in the action or of avoiding multiplicity of actions.

“(3) If there is a mistake in the name or identity of a party, an amendment may be made to correct the reference to the name of the party notwithstanding that the effect of the amendment is to substitute another person as a party.

“(4) If—

- (a) an amendment to correct a reference to the name of a party is made pursuant to an order under subrule (1); and
- (b) the effect of the amendment is to substitute another person as a party;

the action shall, unless the Court otherwise orders, be deemed to have commenced with respect to that other person on the day on which the order was made.

“(5) An amendment to alter the capacity in which a party sues may be made only if the new capacity is one which the party had when the action was commenced.

“(6) If an originating application identifies a cause of action arising out of any facts, an amendment may be made having the effect of adding or substituting a new cause of action arising out of the same or substantially the same facts and specifying the relief claimed in respect of that new cause of action.

“(7) Where—

- (a) any relevant period of limitation has expired after an action was commenced; and
- (b) after that expiration, an application for leave to amend a document in accordance with subrule (3), (5) or (6) is made;

leave may be given notwithstanding that the period of limitation has expired if the Court considers it just to do so.

“(8) This rule does not apply in relation to an amendment of a judgment or order.”.

NOTES

Principal Rules

1. Reprinted as at 2 February 1998.

Notification

2. Notified in the ACT Gazette on 24 June 1998.