



Australian Capital Territory

Corporations Law Rules Amendment

Subordinate Law 2000 No 53

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

Dated 12 December 2000.

JEFFREY MILES

Chief Justice

T J HIGGINS

Judge

K J CRISPIN

Judge

M F GRAY

Judge

A G TOWILL

Registrar



Australian Capital Territory

Corporations Law Rules Amendment

Subordinate Law 2000 No 53

made under the

Supreme Court Act 1933

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1 Commencement

These rules commence on 1 January 2001.

2 Rules amended

These rules amend the *Corporations Law Rules 2000*.

3 Notice of certain applications to be given to commission

Rule 18 is amended by omitting the table and substituting the following table:

Table of applications of which notice must be given to commission

column 1 item	column 2 provision	column 3 description of application
1	section 480	for the release of a liquidator of a company and the deregistration of the company
2	subsection 482 (1)	for the stay of a compulsory winding-up
3	subsection 509 (6)	for the deregistration of a company
4	subsection 536 (1)	for an inquiry into the conduct of a liquidator
5	subsection 601AH (2)	to reinstate the registration of a company
6	subsection 601CC (8)	to restore the name of an Australian body to the register
7	subsection 601CL (9)	to restore the name of a foreign company to the register
8	Chapter 6, 6A, 6B, 6C, 6D or 7	any application under these Chapters
9	subsections 1317S (2), (4) and (5)	for relief from liability for contravention of a civil penalty provision

4 Leave to creditor, contributory or officer to be heard

Rule 23 is amended—

- (a) by adding at the end of paragraph (1) (b) “or”; and
- (b) by inserting after paragraph (1) (b) the following paragraph:
 - “(c) any other interested person;”.

5 Application of pt 5

Rule 32 is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) an application for an order under Part 2F.1 of the Law;”.

6 Appointment of provisional liquidator (s 472 of the Law)—form 8

Rule 43 is amended by omitting subrule (3) and substituting the following subrule:

- “(3) If—
 - (a) an order is made appointing a provisional liquidator; and
 - (b) the order provides that the provisional liquidator may take into the provisional liquidator’s custody part only of the company’s property;

the order must include a short description of the part of the company’s property that the provisional liquidator may take into custody.”.

7 Substitution of heading

Rule 55 is amended by omitting the heading and substituting the following heading:

- “**55 Inquiry into conduct of liquidator (s 536 (1) and s 536 (2) of the Law)**”.

8 Remuneration of receiver (s 425 (1) of the Law)—form 16

Rule 59 is amended—

- (a) by omitting the note from subrule (1) and substituting the following note:
 - “*Note* Under paragraph 425 (2) (b) of the Law, the court may exercise its power to make an order fixing the remuneration of a receiver appointed under an instrument even if the receiver has died, or has ceased to act, before the making of the order or the application for the order.”; and
- (b) by renumbering paragraph (6) (d) as (e); and

- (c) by inserting after paragraph (6) (c) the following paragraph:
 - “(d) state particulars of any objection of which the receiver has received notice; and”.

9 Remuneration of administrator (s 449E (1) of the Law)—form 16

Rule 60 is amended—

- (a) by omitting subrule (2) and substituting the following subrule:
 - “(2) The administrator must not apply for the order until after the date of the meeting of creditors mentioned in paragraph 449E (1) (a) of the Law.”; and
- (b) by omitting from paragraph (3) (b) “inspection” and substituting “creditors”; and
- (c) by renumbering paragraph (7) (d) as (e); and
- (d) by inserting after paragraph (7) (c) the following paragraph:
 - “(d) state particulars of any objection of which the administrator has received notice; and”.

10 Remuneration of provisional liquidator (s 473 (2) of the Law)—form 16

Rule 61 is amended—

- (a) by omitting from paragraph (3) (b) “inspection” and substituting “creditors”; and
- (b) by renumbering paragraph (7) (d) as (e); and
- (c) by inserting after paragraph (c) the following paragraph:
 - “(d) state particulars of any objection of which the provisional liquidator has received notice; and”.

11 Remuneration of liquidator (s 473 (3) of the Law)—form 16

Rule 62 is amended—

- (a) by omitting from paragraph (2) (b) “after the end of 28 days”; and
- (b) by omitting from paragraph (3) (b) “inspection” and substituting “creditors”; and
- (c) by renumbering paragraph (7) (d) as (e); and
- (d) by inserting after paragraph (7) (c) the following paragraph:

“(d) state particulars of any objection of which the liquidator has received notice; and”.

12 Remuneration of special manager (s 484 (2) of the Law)—form 16

Rule 63 is amended—

- (a) by omitting from paragraph (3) (b) “inspection” and substituting “creditors”; and
- (b) by renumbering paragraph (7) (d) as (e); and
- (c) by inserting after paragraph (7) (c) the following paragraph:

“(d) state particulars of any objection of which the special manager has received notice; and”.

13 Application for examination or investigation under s 411, s 423 or s 536 (3) of the Law

Rule 68 is amended—

- (a) by omitting the heading and substituting the following heading:

“**68 Application for examination or investigation under s 411 (9) (b), s 423 or s 536 (3) of the Law**”; and
- (b) by omitting from subrules (1) and (3) “section 411 or 423” and substituting “paragraph 411 (9) (b), section 423”.

14 Application for examination summons (s 596A, s 596B of the Law)—form 17

Rule 69 is amended by omitting subrule (2) and substituting the following subrule:

“(2) The application need not name the person whose examination is sought as a respondent to the application.”.

15 Heading to Part 12

The heading to Part 12 is omitted and the following heading substituted:

“PART 12—TAKEOVERS, ACQUISITIONS OF SHARES AND OTHER MATTERS (CHAPTERS 6 TO 6D OF THE LAW) AND SECURITIES (CHAPTER 7 OF THE LAW)”.

16 Substitution

Rule 78 is omitted and the following rule substituted:

“78 Service on commission in relation to proceedings under ch 6 to 7 of the Law

If the commission is not a party to an application made under Chapter 6, 6A, 6B, 6C, 6D or 7 of the Law, the plaintiff must serve a copy of the originating process and the supporting affidavit on the commission as soon as practicable after filing the originating process.”.

17 Schedule 1

Schedule 1 is amended—

- (a) by omitting Parts A and B of form 2 and substituting the following parts:

“A. DETAILS OF APPLICATION

This application is made under *section/*regulation [number] of the *Corporations Law/*ASIC Law/*Corporations Regulations.

[State briefly the nature of the proceeding, eg application for winding up on ground of insolvency or complaint about a receiver.]

On the facts stated in the supporting affidavit(s), the plaintiff claims:

1

2

etc

AND

Date:

.....
*Signature of plaintiff or
plaintiff’s legal practitioner*

This application will be heard by the Supreme Court at Knowles Place, Canberra City at*am/*pm on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: [*name and address of each defendant (if any)*]

If you or your legal practitioner do not appear before the Court at that time, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court gives leave.

”; and

- (b) by omitting Parts A and B of form 3 and substituting the following Parts:

“A. DETAILS OF INTERLOCUTORY APPLICATION

*This interlocutory application is made under *section/*regulation [*number*] of the *Corporations Law/*ASI Law/*Corporations Regulations.

On the facts stated in the supporting affidavit(s), the applicant, [*name*], applies for the following interlocutory relief:

1

2

etc

AND

Date:

.....
*Signature of applicant making this application or
applicant’s legal practitioner*

This interlocutory application will be heard by the Supreme Court at Knowles Place, Canberra City at*am/*pm on

B. NOTICE TO RESPONDENT(S) (IF ANY)

TO: [name and address of each respondent to this interlocutory process (if any). If applicable, also state the respondent's address for service.]

If you or your legal practitioner do not appear before the Court at that time, the application may be dealt with, and an order made, in your absence.

Before appearing before the Court, you must, except if you have already done so or you are the plaintiff in this proceeding, file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff in the originating process.

<p><i>Note</i> Unless the Court otherwise orders, a respondent that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.</p>
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”; and

(c) by omitting from the heading to form 17 “**public**”; and

(d) by omitting Part B of form 17 and substituting the following Part:

“B. NOTICE TO PERSON TO BE EXAMINED

The Court may order that the questions put to you and the answers given by you at the examination are to be recorded in writing and signed by you.

If you do not attend the examination in accordance with this summons, without reasonable cause, you may be arrested and imprisoned without further notice.

This summons is issued at the request of [name] whose address for service is [address of person's legal practitioner or of person].

* *Omit if not applicable*”.

18 Schedule 2

Schedule 2 is amended by inserting after item 50 the following item:

“50A section 471B power to give leave to begin or proceed with proceeding or enforcement process”.

19 Further amendments

The following provisions are amended by omitting “ASC Law” and substituting “ASIC Law”:

- rule 3
- rule 5, definitions of *defendant* and *plaintiff*
- paragraph 8 (a)
- rules 10 and 12
- Part 15, heading
- rules 84, 85 and 86
- paragraph 87 (1) (b)
- Schedule 2, Part 2

Endnotes

Rules amended

- 1 Republished as in force on 3 April 2000 (Republication No 1). See also SL 2000 No 40.

Notification

- 2 Notified in Gazette 2000 No 51 on 21 December 2000.