



Australian Capital Territory

# Supreme Court Amendment Rules 2003 (No 4)

**Subordinate Law SL2003-48**

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

Dated 10 December 2003.

T J HIGGINS  
Chief Justice

K J CRISPIN  
Judge

M F GRAY  
Judge

T CONNOLLY  
Judge

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# Supreme Court Amendment Rules 2003 (No 4)

**Subordinate Law SL2003-48**

made under the

*Supreme Court Act 1933*

## Contents

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	Page
1 Name of rules	1
2 Commencement	1
3 Legislation amended	1
4 Order 2 rule 18C (1)	1
5 Order 13 rule 1	1
6 New order 13 rule 16A	1
7 Order 37A rule 1 (1)	2
8 Order 50 rule 7	2

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Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

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		Page
9	Order 52 rule 22 (4)	2
10	Order 87 rule 5	3
11	New form 1.7A	3
12	Form 1.33	4
13	Form 1.34	4
14	Form 1.81	4

## **1 Name of rules**

These rules are the *Supreme Court Amendment Rules 2003 (No 4)*.

## **2 Commencement**

These rules commence on the 28th day after their notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

## **3 Legislation amended**

These rules amend the *Supreme Court Rules*.

## **4 Order 2 rule 18C (1)**

*substitute*

- (1) This rule applies to a defendant in a proceeding if the defendant has not been served with the originating application, but enters an appearance, other than a conditional appearance, to the action.

## **5 Order 13 rule 1**

*substitute*

### **1 Entry of appearance**

A defendant in an action must not take any step in the action, except under rule 16A or rule 17, before entering an appearance.

## **6 New order 13 rule 16A**

*insert*

### **16A Conditional appearance**

- (1) A defendant in an action may enter a conditional appearance by giving the registrar a memorandum in duplicate in accordance with form 1.7A.

- (2) A conditional appearance has effect for all purposes as an unconditional appearance, unless the court otherwise orders on application by the defendant.
- (3) Application under subrule (2) must be made by notice of motion filed within 14 days after the day the conditional appearance is entered.

**7 Order 37A rule 1 (1)**

*omit*

in accordance with form 1.34

**8 Order 50 rule 7**

*substitute*

**7 Appearance under protest of person served as partner**

- (1) Anyone served as a partner under order 2 rule 18D (Service on partners sued in firm name) may enter an appearance under protest, denying being a partner, but doing so does not prevent the plaintiff from otherwise serving the firm and obtaining judgment against the firm in default of appearance if no partner enters an appearance in the ordinary form.
- (2) Order 13 rule 16A (Conditional appearance) does not apply to an appearance entered under this rule.

**9 Order 52 rule 22 (4)**

*substitute*

- (4) If a notice is served on the receiver under subrule (3), the receiver must file a copy of the accounts in accordance with form 1.66 within the period required by the notice.

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**10 Order 87 rule 5**

*substitute*

**5 Notice of objection to competency**

If a respondent to an application objects to the competency of the application, the respondent may, not later than 14 days after the day the application is served on the respondent—

- (a) file a notice of objection to competency in accordance with form 1.81; and
- (a) serve a copy of the notice on each other party to the proceeding.

**11 New form 1.7A**

*insert*

**Form 1.7A Memorandum of conditional appearance**

(see o 13 r 16A)

[*Heading as in form 1.1*]

- 1 The defendant set out below appears in this action.
- 2 Particulars of the defendant, the defendant's solicitor\* and the defendant's address for service are as set out below.
- 3 In an action for the recovery of land, note the particulars set out below.\*
- 4 The defendant submits conditionally to the orders of the Court.

**Particulars of defendant**

[*Particulars as in form 1.7*]

**Particulars in an action for the recovery of land\***

[Particulars as in form 1.7]

\*Strike out if inapplicable.

**12 Form 1.33**

*omit*

**13 Form 1.34**

*omit*

**14 Form 1.81**

*substitute*

**Form 1.81 Notice of objection to competency**

(see o 87 r 5)

In the Supreme Court of the Australian Capital Territory

No                      of [year]

BETWEEN: [name] Appellant

and

[name] Respondent

To the Applicant: (*name and address*)

The respondent objects to the jurisdiction of this Court to try this application for an order of review under the *Administrative Decisions (Judicial Review) Act 1989* on the grounds that:

1

2

etc     (*state briefly the grounds of the objection*)

Date:



Signature of respondent/respondent's solicitor:

The respondent's address for service is (*state address for service*).

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## Endnotes

**1 Notification**

Notified under the Legislation Act on 15 December 2003.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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