



Australian Capital Territory

Court Procedures Amendment Rules 2010 (No 1)

Subordinate Law SL2010-24

We, members of the rule-making committee, make the following rules of court under the *Court Procedures Act 2004*, section 7.

Dated 28 June 2010.

M F GRAY

Acting Chief Justice

R REFSHAUGE

Judge

J BURNS

Chief Magistrate



Australian Capital Territory

Court Procedures Amendment Rules 2010 (No 1)

Subordinate Law SL2010-24

made under the

Court Procedures Act 2004

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2010 (No 1)*.

2 Commencement

These rules commence on 1 July 2010.

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 *Court Procedures Rules 2006*.

4 Rule 605 (2) (b)

substitute

- (b) relates only to 1 or more items of special damage, unless another party to the proceeding asks for the document to be discovered; or

5 Rule 605 (3) (a)

omit everything before subparagraph (i), substitute

- (a) a written confidential communication in relation to the proceeding, created after the commencement of the proceeding, between—

6 Rule 605 (3) (b)

omit everything before subparagraph (i), substitute

- (b) a note of an oral confidential communication in relation to the proceeding, created after the commencement of the proceeding (made in person or by telephone) between—

7 Rule 605 (3) (c)

omit

8 Rule 608 (1) (a) (ii)

substitute

- (ii) each document discoverable by the party that the party claims to be privileged from production; and

9 New rule 1814

in division 2.17.5, insert

1814 Costs—Calderbank offer to settle

- (1) This rule applies if a party entitled to costs serves on the party liable to pay the costs—
 - (a) a bill of costs; and
 - (b) not before the bill of costs is served—a written offer to settle the costs.
- (2) The offer to settle costs must state that, if the offer is not accepted and the amount of the bill of costs allowed by the registrar for costs up to the date of the offer is equal to, or more than, the amount of the offer, the party entitled to the costs may apply to the court for an order that the costs of the assessment be assessed on a basis other than a party and party basis.
- (3) A party must not disclose to the registrar the amount of an offer to settle until the registrar has assessed all items in the bill of costs, and decided all issues, other than the costs of the assessment.

- (4) If the amount of the bill of costs allowed by the registrar for costs up to the date of the offer is equal to, or more than, the amount of the offer, the party entitled to costs may apply to the court for an order in relation to the costs of the assessment.

Note 1 The court may order that costs be assessed on a basis other than a party and party basis (see r 1752 (1) (b)).

Note 2 The registrar may exercise the jurisdiction of the court under r 1752 (1) (b) (see r 6250 (2) (a) and r 6251 (2) (a), and sch 5, pt 5.1 and pt 5.4)

10 New rule 2500 (d)

insert

- (d) contempt of the Australian Crime Commission under the *Australian Crime Commission Act 2002* (Cwlth), section 34A.

11 New rule 2502A

insert

2502A Contempt of the Australian Crime Commission

- (1) An application for contempt of the Australian Crime Commission by a person (the *respondent*) must be made by originating application.

Note 1 The *Australian Crime Commission Act 2002* (Cwlth), s 34B sets out the documents that must accompany the application.

Note 2 Div 2.2.3 (Originating applications) contains provisions about the contents of originating applications, the filing and service of originating applications, etc.

- (2) The application must state whether or not the respondent has been detained to be brought before the court.
- (3) If an application under this rule is discontinued, the applicant must file and serve on the respondent a notice of discontinuance.

Note See div 2.11.6 (Discontinuance and withdrawal)

12 Rule 3150, definition of *discharging order*, paragraph (a)

omit

section 26 (1)

substitute

section 39L (1)

13 Rule 3150, definition of *order for access to identifying information*

substitute

order for access to identifying information means an order of the court under the Adoption Act, section 75 (3) (Application to court in absence of consent) or section 76 (3) (Other person's right to information).

14 Rule 3151, note

substitute

Note For example, the following terms are defined in the Adoption Act, dictionary:

- Aboriginal or Torres Strait Islander child or young person
- adoption order
- associated person (see s 58)
- birth parent (see s 58)
- birth relative (see s 58)
- child
- Convention country
- identifying information (see s 58)
- instrument of consent
- interim order
- principal officer
- private adoption agency

- register of suitable people
- young person.

15 Rule 3157 (2) (e) and (f)

after

child

insert

or young person

16 Rule 3157 (2) (g)

substitute

- (g) if the name of the child or young person to be adopted is to be changed—the full name proposed to be given to the child or young person;

17 Rule 3157 (2) (k) to (m)

substitute

- (k) if the child or young person to be adopted is habitually resident in the ACT—that fact, together with a statement about the matters mentioned in the Adoption Act, section 57 (3) (Adoption in ACT of ACT child or young person by parents from Convention country);
- (l) if the child or young person to be adopted is habitually resident in a Convention country—that fact, together with a statement about the matters mentioned in the Adoption Act, section 57B (2) (Adoption in ACT of child or young person from Convention country by ACT parents);

- (m) if the child or young person to be adopted is habitually resident in a prescribed overseas jurisdiction—that fact, together with a statement about the matters mentioned in the Adoption Act, section 57J (2) (Adoption in ACT of child or young person from prescribed overseas jurisdiction by ACT parents);
- (n) if the child or young person to be adopted is an Aboriginal or Torres Strait Islander child or young person—that fact, together with a statement about the matters mentioned in the Adoption Act, section 39G (2) (Aboriginal or Torres Strait Islander child or young person);
- (o) a statement about the matters mentioned in a provision in the Adoption Act, division 3.2 (Who can adopt?) relevant to the application, including that the applicant or applicants are listed on the register of suitable people;
- (p) any conditions under the Adoption Act, section 40 (Adoption order subject to certain conditions) sought by anyone in relation to the adoption.

18 Rule 3158 (1) (c)

after

child's

insert

or young person's

19 Rule 3158 (1) (c) (i) and (ii)

after

child

insert

or young person

20 Rule 3158 (1) (d)

after

child

insert

or young person

21 Rule 3158 (1) (e)

substitute

- (e) if the child or young person to be adopted is an Aboriginal or Torres Strait Islander child or young person—any other documents necessary to support the application;

22 Rule 3158 (3)

after

child

insert

or young person

23 Rule 3158 (3) (b)

omit

section 19 (1) (a) (Criteria for court's discretion)

substitute

section 39D (1) (Report on proposed adoption)

24 Rule 3158 (5), definition of *birth certificate*

after

child

insert

or young person

25 Rule 3160 (1)

omit

the Act, section 22

substitute

the Adoption Act, section 39B

26 Rule 3160 (3) (a)

omit

section 22

substitute

section 39B

27 Rule 3180 (2) (b)

omit

(Variation etc of condition)

substitute

(Amendment of adoption condition)

28 Rules 3191 and 3192*omit*

section 26 (5)

substitute

section 39L (5)

29 Rule 3211 (1) (b) and (2)*after*

child

insert

or young person

30 Rule 6251 (3) (d)*substitute*

(d) under the *Domestic Violence and Protection Orders Act 2008*, part 4 (Interim orders), other than section 36 and section 40, and part 5 (Consent orders);

31 Schedule 2, table 2.1, item 11*substitute*

11	10 January 2005 to 30 June 2010	9.00
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32 Schedule 2, new rule 2.1

after table 2.1, insert

2.1 Interest up to judgment after 30 June 2010—Supreme Court

For the Supreme Court, the rate of interest up to judgment for a period after 30 June 2010 is—

- (a) for the period from 1 July to 31 December in a year—the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before the start of the period; and
- (b) for the period from 1 January to 30 June in a year—the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before the start of the period.

33 Schedule 2, table 2.2, item 25

substitute

25	10 January 2005 to 30 June 2010	9.00
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34 Schedule 2, new rule 2.2

after table 2.2, insert

2.2 Interest up to judgment after 30 June 2010—Magistrates Court

For the Magistrates Court, the rate of interest up to judgment for a period after 30 June 2010 is—

- (a) for the period from 1 July to 31 December in a year—the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before the start of the period; and
- (b) for the period from 1 January to 30 June in a year—the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before the start of the period.

35 Schedule 2, table 2.3, item 7*substitute*

7	10 January 2005 to 30 June 2010	11.00
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36 Schedule 2, new rule 2.3*after table 2.3, insert***2.3 Interest on judgment after 30 June 2010—Supreme Court**

For the Supreme Court, the rate of interest on judgment for a period after 30 June 2010 is—

- (a) for the period from 1 July to 31 December in a year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before the start of the period; and
- (b) for the period from 1 January to 30 June in a year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before the start of the period.

37 Schedule 2, table 2.4, item 10*substitute*

10	10 January 2005 to 30 June 2010	11.00
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38 Schedule 2, new rule 2.4*after table 2.4, insert***2.4 Interest on judgment after 30 June 2010—Magistrates Court**

For the Magistrates Court, the rate of interest on judgment for a period after 30 June 2010 is—

- (a) for the period from 1 July to 31 December in a year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before the start of the period; and

- (b) for the period from 1 January to 30 June in a year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before the start of the period.

39 **Schedule 6, rule 15A.5**

substitute

15A.5 Official liquidator's consent to act

If an application is made for an order—

- (a) under the Model Law, article 19 or 21 to entrust the administration or realisation of all or part of the debtor's assets to a person designated by the Court (other than the foreign representative); or
- (b) under article 21 to entrust the distribution of all or part of the debtor's assets to a person designated by the Court (other than the foreign representative);

then, unless the Court otherwise orders, the person must—

- (c) be an official liquidator; and
- (d) have filed a Consent to Act that states an address for service for the person within Australia.

Note See approved form 19 (Consent to act as designated person).

Endnotes

1 Notification

Notified under the Legislation Act on 30 June 2010.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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