



Australian Capital Territory

Court Procedures Amendment Rules 2015 (No 2)

Subordinate Law SL2015-22

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

Dated 25 June 2015.

H MURRELL

Chief Justice

R Refshauge

Judge

K FRYAR

Acting Chief Magistrate



Australian Capital Territory

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made under the

[Court Procedures Act 2004](#)

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2015 (No 2)*.

2 Commencement

These rules commence on 1 July 2015.

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 434, note

omit

5 Rule 607 (2) (b)

substitute

(b) after the matter is listed for hearing.

6 Rule 630 (4) (c)

substitute

(c) after the matter is listed for hearing.

7 Rule 1122 (4)

substitute

(4) For an application in the Magistrates Court, the court may decide the claim without listing the matter for hearing.

8 Rule 1160 (1)

substitute

- (1) A plaintiff may discontinue a proceeding, or withdraw a part of it, at any time before the court sets a hearing date for the proceeding.

9 Rule 1241 (1)

substitute

- (1) Each party must serve on each other active party to a proceeding a copy of each expert report obtained by the party in accordance with any direction made by the court.

10 Rule 1241 (2)

omit

11 Rule 1241 (3)

omit

or (2)

12 Division 2.13.1 heading

omit

13 Rule 1304 (2)

substitute

- (2) The plaintiff must file, and serve on each active party to the proceeding, a statement (a *statement of particulars*)—
- (a) 14 days before the listing hearing for the proceeding; or
 - (b) in accordance with any direction made by the court.

14 Rule 1305 (2)

substitute

- (2) The plaintiff must file, and serve on each other active party to the proceeding, in relation to each person for whose benefit the proceeding is brought, a statement (a *statement of particulars*)—
- (a) 14 days before the listing hearing for the proceeding; or
 - (b) in accordance with any direction made by the court.

15 Rules 1306 to 1307A

omit

16 Rule 1312 (1)

after

file

insert

, and serve on each other active party to the proceeding,

17 Division 2.13.2 heading

omit

18 Rules 1320 to 1324

omit

19 Rule 1325 (1)

omit everything before paragraph (a), substitute

At a listing hearing for a proceeding, the court may make the directions it considers appropriate including in relation to—

20 Rule 1325 (2) to (7) and note

omit

21 Rule 1400 (2), notes

omit

22 Rule 1450 (2), notes

omit

23 Rule 1452 (8)

omit

24 New rule 1605A

insert

1605A Orders—shortened form

If an order of the court is expressed to be the usual order or is otherwise in shortened form, the full terms of the order must be included when the order is entered or filed in the proceeding.

Examples

- 1 Rule 732 (Division 2.9.4 order—damages and undertaking as to damages) requires the usual undertaking as to damages to be given.
- 2 Rule 1622 (Interest after judgment—usual order as to interest) provides for the usual order as to interest.

Note An example is part of the rules, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

25 Rule 2732 (3)

omit

- rule 6202 (Master referring proceeding or issue to judge)

substitute

- rule 6202 (Associate judge referring proceeding or issue to judge)

26 Rule 3606 (1) (c) (ii)

omit

rule 3605 (1) (b)

substitute

rule 3605 (1) (a)

27 New rule 3608 (2) (c)

insert

- (c) a statement of attainment from the approved PLT provider naming the applicant as having successfully completed the approved PLT course provided by the PLT provider.

28 **Part 5.2**

substitute

Part 5.2 **Appeals from registrar**

Note Appeals to the Court of Appeal are dealt with in pt 5.4.

5010 **Definitions—pt 5.2**

In this part:

appeal means an appeal to the court from a decision of—

- (a) for the Supreme Court—the registrar of the Supreme Court;
and
- (b) for the Magistrates Court—the registrar of the Magistrates Court.

decision means an order to which rule 6256 (Appeals from registrar’s orders etc) applies.

Note ***Order***—see the dictionary (see also def ***made***).

5011 **Application—pt 5.2**

This part applies to an appeal to the court subject to any territory law applying to the appeal.

Note A ***territory law*** includes these rules (see [Legislation Act](#), s 98).

5012 **Appeals from registrar—starting appeal**

An appeal may be started in the court by filing a notice of appeal in the court.

Note See approved form 5.1 (Appeal from Registrar—notice of appeal).

5013 Appeals from registrar—requirements for notice of appeal

- (1) A notice of appeal to the court must state—
 - (a) who made the decision appealed from; and
 - (b) the decision and the date of the decision; and
 - (c) whether the appeal is from all or part of the decision; and
 - (d) if the appeal is from part of the decision—the part appealed from; and
 - (e) whether the appellant will seek to put further evidence before the court; and
 - (f) the order sought.
- (2) The notice of appeal need not set out grounds of appeal.

5014 Appeals from registrar—time for filing notice of appeal

- (1) A notice of appeal to the court from a decision of the registrar must be filed in the court—
 - (a) for an appeal from a decision of the registrar of the Supreme Court, other than a decision mentioned in paragraph (c)—not later than 5 days after the day the decision is made, or any further time the Supreme Court allows; or
 - (b) for an appeal from a decision of the registrar of the Magistrates Court—not later than 5 days after the day the decision is made, or any further time the Magistrates Court allows; or

- (c) for an appeal from a decision of the registrar of the Supreme Court made under schedule 6—not later than 28 days after the day the decision is made, direction given or act done, or any further time the Supreme Court allows.

Note 1 Pt 6.2 (Applications in proceedings) applies to an application for further time.

Note 2 An application for further time may be made before or after the time mentioned in r (1) (see [Legislation Act](#), s 151C).

- (2) An application for further time must be accompanied by an affidavit showing—
 - (a) the nature of the case in summary form; and
 - (b) each question involved; and
 - (c) the reasons why the extension of time should be given.

5015 Appeals from registrar—notice of appeal to be sealed

The registrar of the court in which an appeal is brought must seal the original and filed copies of a notice of appeal.

Note The registrar may reject a notice of appeal that is filed (see r 6140 (Rejecting documents—noncompliance with rules etc) and r 6142 (Rejecting documents—abuse of process etc)).

5016 Appeals from registrar—serving notice of appeal

- (1) The appellant must serve a sealed copy of a notice of appeal on each respondent (if any) to the appeal not later than 3 days after the day the notice is filed.
- (2) However, a notice of appeal from a decision refusing an application made without notice need not be served unless the court otherwise orders on its own initiative.

- (3) The court may order that the notice of appeal be served on anyone else on application by a party to the appeal or on its own initiative.

Note Pt 6.2 (Applications in proceedings) applies to an application for an order under this rule.

5017 Appeals from registrar—stay and reinstatement

- (1) An appeal to the court from a decision of the registrar in a civil proceeding does not operate as a stay of the decision appealed from unless a stay of the decision is ordered by the registrar or the court.

Note Pt 6.2 (Applications in proceedings) applies to an application for a stay or for an order under this rule.

- (2) An application for a stay of the decision may be made by a party to the appeal.
- (3) In an urgent case, the application may be made without serving it on anyone.
- (4) If the application is made without serving it on anyone, the application must be accompanied by an affidavit setting out the grounds relied on in support of the claim of urgency.
- (5) If the decision appealed from is stayed by the registrar or the court, the registrar or the court may make any order that the registrar or the court considers necessary or desirable to give effect to the stay.
- (6) The court may, by order, amend or set aside an order for a stay (including an order made by the registrar).
- (7) An application for an order of the court under subrule (1) may be made whether or not a similar application has been made to the registrar.
- (8) If any step has been taken for the enforcement of a decision and the court amends or sets aside the decision on appeal under this part, the court may make the orders for reinstatement it considers appropriate.

29 Rule 5050, definition of *court or tribunal*

omit

master or

30 Rule 5300 (2)

substitute

- (2) Also, the *court* includes the associate judge.

31 Rule 5310 (1) and note

substitute

- (1) This division applies if a person wants to appeal to the Court of Appeal from an interlocutory order of the court constituted by a single judge, or by the associate judge.

Note Pt 5.2 deals with appeals from all orders of the registrar of the Supreme Court.

32 Rule 6007 (5), note

omit

33 Part 6.4 heading

substitute

Part 6.4 Associate judge

34 Rule 6200 heading

substitute

6200 Jurisdiction exercisable by associate judge

35 Rule 6200 (1) and (2)

omit

master

substitute

associate judge

36 Rule 6200 (3) and note

omit

37 Rule 6202 heading

substitute

6202 Associate judge referring proceeding or issue to judge

38 Rule 6202 (1) to (3)

omit

master

substitute

associate judge

39 Rule 6250 (2) (d)

omit

40 New rule 6250 (3) (ba)

insert

(ba) under the *Children and Young People Act 2008*, section 876A (Power of court to bring young detainee before it—civil proceeding);

41 New rule 6250 (3) (fa)

insert

- (fa) under the *Court Procedures Act 2004*, section 79E (Court may waive requirements);

42 Rule 6251 (2) (d)

omit

43 New rule 6251 (3) (aa)

insert

- (aa) under the *Children and Young People Act 2008*, section 876A (Power of court to bring young detainee before it—civil proceeding);

44 New rule 6251 (3) (da) and (db)

insert

- (da) under the following provisions of the *Crimes (Forensic Procedures) Act 2000*:
- (i) section 37 (Securing the presence of suspects at hearings—suspect not in custody);
 - (ii) section 77A (2) (Securing the presence of serious offender at hearing—offender in custody);
 - (iii) section 77B (Securing the presence of serious offender at hearing—offender not in custody);
- (db) under the *Crimes (Sentence Administration) Act 2005*, section 106 (Good behaviour—summons to attend court);

45 Rule 6300 (1)

substitute

- (1) The registry must be open between 9.15 am and 4.15 pm on each day other than—
 - (a) a Saturday, Sunday or public holiday; and
 - (b) a day that falls between 26 December in a year and 1 January in the following year.

46 Rule 6601A (2)

substitute

- (2) An issuing officer must not issue a subpoena to produce in the proceeding without the court's leave unless the court has set a date for hearing.

47 Rule 6700 (3), note 2, 7th dot point

omit

48 Division 6.10.3

omit

49 Schedule 5, part 5.1, item 74, column 3

omit

master or

50 Schedule 5, part 5.1, item 124, column 2

omit

or master

51 Schedule 5, part 5.4, item 47, column 3

omit

master or

52 Schedule 6, part 6.16, note

substitute

Note This part of the uniform corporations rules has not been included. These rules deal with the powers of the court that may be exercised by the associate judge or registrar of the court (see pt 6.4 (Associate judge) and pt 6.5 (Registrar) and sch 5 (Jurisdiction of registrar)).

53 Dictionary, definition of *appeal*, paragraph (a)

substitute

(a) for part 5.2 (Appeals from registrar)—see rule 5010; and

54 Dictionary, definition of *applicant*, paragraph (f)

omit

55 Dictionary

omit the definitions of
category A proceeding
category B proceeding
category C proceeding
category D proceeding

56 Dictionary, definition of *decision*

omit

master or

57 Dictionary, definition of *head of jurisdiction*

substitute

head of jurisdiction means—

- (a) in relation to the Supreme Court—the Chief Justice; or
- (b) in relation to the Magistrates Court—the Chief Magistrate.

58 Dictionary, new definition of *listing hearing*

insert

listing hearing means a hearing for directions under rule 1325.

59 Dictionary, definition of *nominated time*

omit

60 Dictionary, definition of *respondent*, paragraph (d)

omit

61 Further amendments, mentions of *master*

omit

master

substitute

associate judge

in

- rule 5
- rule 1241 (1)
- rules 1304 and 1305
- rule 1326 (2) (b) (ii)
- rule 1402 (3)
- rule 2732

- rule 4739
- table 5051, items 1, 2 and 6, column 3
- table 5800, items 1 to 3, column 3
- rule 6142 (5), definition of *judicial officer*, paragraph (a)
- rule 6201
- rule 6252 (3), definition of *judicial officer*, paragraph (a)
- rule 6254 (4), definition of *judicial officer*, paragraph (a)
- rule 6255 (4), definition of *judicial officer*, paragraph (a)
- rule 6256 (2) and note
- schedule 5, part 5.1, item 117, column 3
- dictionary, definition of *docket*

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 29 June 2015.

2 Republications of amended laws

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