

## EXPLANATORY STATEMENT

Subordinate Law No. 8 of 1997

Issued by the Authority of the Judges  
of the Supreme Court of the Australian Capital Territory

### SUPREME COURT RULES (AMENDMENT)

The resident Judges of the Court (of whom there are three, including the Chief Justice) or any two of the resident Judges, may make Rules of Court for regulating the practice and procedure of the Court pursuant to section 36 of the Supreme Court Act 1933.

These amending rules modernise and simplify the procedures for the commencement of actions (proceedings other than criminal or appellate proceedings) in the Court. The writ of summons is abolished (although other writs, not considered to constitute originating process, survive). The rules also provide for case management procedures through directions hearings involving the judicial supervision of cases as well as for a List of Inactive Cases which may, in certain circumstances, lead to a case being entered on the List and ultimately being dismissed for want of prosecution.

New Order 2 provides for an action to be commenced in the Court by the filing of an originating application in accordance with Form 2 in the First Schedule. The rules specify the documents that are required to accompany an originating application. A statement of claim must accompany an originating application in the case of the following claims -

- a claim for debt or a liquidated demand
- a claim for damages in tort other than -
  - ◆ a claim for damages for death or bodily injury arising out of the use of a motor vehicle; or
  - ◆ a claim for damages for death or bodily injury arising out of the negligence of an employer
- a claim alleging fraud
- a claim in respect of a trust (other than an express trust wholly in writing).

Schedule 1 incorporates a number of statements which are required to accompany an originating application. The statements required to accompany an originating application in respect of a claim for debt or liquidated demand, a motor vehicle personal injury claim and an employment personal injury claim are contained in Forms 3, 4 and 5 in the First Schedule, respectively.

The amending rules also provide for case management procedures by way of automatic directions hearings following the entry of an appearance by a defendant in all actions other than claims for debt and claims for damages for death or bodily injury. Division 3 of Order 2 provides for a List of Inactive Cases whereby a case may be entered on the List as a result of inactivity and eventually be dismissed for want of prosecution. This will ensure that cases progress in a timely manner and those that do not are removed from the court system.

New Order 3 provides procedures for dealing with a claim for debt or a liquidated demand without judicial determination where the defendant pays the plaintiff the amount claimed including interest and costs, or where judgment is entered against a defendant in default of appearance. Provision is also made in Order 3 for defences to claims for debt and liquidated demands and defences to motor vehicle and employment personal injuries claims.

Schedule 2 provides a new form of memorandum of appearance.

Schedule 3 makes certain consequential and formal amendments to the rules.

The Rules may be amended in the future in order to bring motor vehicle and employment personal injury claims into the case management system.