

EXPLANATORY STATEMENT

Subordinate Law No 34 of 1994

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

SUPREME COURT RULES (AMENDMENT)

These amendments make a number of miscellaneous amendments to the Supreme Court Rules. An explanation of each amendment is set out below.

Discontinuance:

- Rule 4 of Order 60: The amendment provides a procedure for the discontinuance of criminal appeals and appeals in respect of protection orders from the Magistrates Court. The discontinuance of such appeals requires the leave of the Court.

Repeal:

- Rule 35 of Order 75B: This rule is repealed as it is inapplicable to proceedings in the Supreme Court. The effect of the amendment will be that an address for service within 10 kilometres from the office of the Registrar will be required in respect of applications for the winding up of a company.

Filing in Court of documents in support of an application under section 459P or 462:

- Rule 38 of Order 75B: The amendment adds the requirement that when an application for the winding up of a company relies upon a failure to comply with a statutory demand, an affidavit of service on the Company of the statutory demand be filed and, if the debt is not a judgment debt, a further affidavit as required by paragraph 37(4)(b) of Order 75B also be filed. This amendment brings the Supreme Court Rules into line with the Federal Court Rules in this regard.

Repeal:

- Rule 98 of Order 75B: The amendment repeals the rule. The rule is not appropriate. The reference to Order 53 is a reference to the Federal Court

Rules. Section 1317B of the Corporations Law relates to applications to the Federal Administrative Appeals Tribunal to review certain decisions. The Australian Capital Territory Administrative Appeals Tribunal has no jurisdiction under the section and there is no appeal to the Supreme Court from decisions of the Federal Administrative Appeals Tribunal.

First Schedule:

- Forms 46, 47 and 48: The amendments to these forms make it clear to persons who receive a subpoena for production of documents that original documents (where available) are to be produced to the Court unless the party who requested the issue of the subpoena indicates on the subpoena that photocopies of documents are acceptable.