

EXPLANATORY STATEMENT

Court Procedures Amendment Rules 2005 (No 1)

SL2005-13

Issued by the authority of the rule-making committee

The rule-making committee (currently comprising the Chief Justice, the President of the Court of Appeal, Justice Connolly, the Chief Magistrate and Magistrate Some) or any 3 or more committee members, 1 of whom must be the Chief Justice and another of whom must be either the Chief Magistrate or Magistrate Some, may make rules in relation to the practice and procedures of ACT courts, prescribed tribunals and their registries pursuant to section 7 of the *Court Procedures Act 2004*.

As part of the current harmonisation of the A.C.T. Rules of Court, these Rules provide that:

Magistrates Court (Civil Jurisdiction) Rules 2004

For the purposes of civil actions in the Magistrates Court, proceedings commenced by way of a claim (r.17A) or application (r.22AA) begin on the day an application is first filed for issue by the Registrar, bringing the Magistrates Court practice into line with the equivalent provisions of the Supreme Court (Order 2, Rule 2). A similar amendment in respect of the commencing of interpleader proceedings is also made (r.241A);

The title of process requiring either the attendance of a person or the production of a document, or both, for the purposes of evidence in civil proceedings is a *subpoena*, rather than a *summons*, bringing the Magistrates Court practice into line with the equivalent provisions of the Supreme Court Rules (Order 1AA);

Supreme Court Rules 1937

The existing Rules specify the requirements for a notice of motion for leave to appeal to the Court of Appeal. The Court's jurisdiction to grant leave to appeal in Divisions 86.2, 86.3 and 86.5.2 are discretionary remedies.

In exercising this discretion the Court must be apprised of all matters relevant to the exercise of the discretion. The draft grounds of appeal to be relied on are a relevant matter.