

Explanatory Statement

Court Procedures Amendment Rules 2010 (No 1) Subordinate Law SL2010 - 24

Issued by the Authority of the Rule-Making Committee

The Rule-Making Committee (currently comprising the Chief Justice, President Gray, Justice Refshauge, Chief Magistrate Burns and Magistrate Dingwall) may make rules in relation to the practice and procedure of ACT courts and their registries pursuant to section 7 of the *Court Procedures Act 2004*.

From the time of commencement of the Court Procedures Rules 2006, the Courts and the Joint Rules Advisory Committee have conducted a continuous and consultative review of the rules. This process has resulted in the attached *Court Procedures Amendment Rules 2010 (No 1)*.

In response to representation from the profession, minor amendments have been made to the discovery rules (rules 605 and 608) in order to clarify what is a discoverable document, and what is required to be included in a list of documents. Minor amendments have also been made to the adoption rules and forms (rules 3150 to 3211) to give effect to amendments made recently to the *Adoption Act 1993* (ACT).

A new rule 1814 has been introduced to enable a party entitled to costs to make an offer to settle the costs (in the nature of a Calderbank offer) after the bill of costs has been served on the party liable to pay the costs. If the offer is not accepted, and costs are assessed at an amount equal to, or more than, the amount of the offer, then the offer could attract a costs penalty. In this way, the party liable to pay the costs is able to make an informed decision about whether or not to accept any offer.

New rules 2500(d) and 2502A have been introduced to provide for a procedure for contempt of the Australian Crime Commission (ACC) following recent amendments to the *Australian Crime Commission Act 2002* (Cth), which makes provision for an examiner to apply to either the Federal Court or a state or territory Supreme Court to have a witness dealt with for contempt of the ACC.

Schedule 2 provisions, relating to pre-judgment and post-judgment interest in the Supreme Court and Magistrates Court, have been amended to give effect to national harmonised rules as agreed upon by the Discount and Interest Rate Harmonisation Committee established following a referral by the Council of Chief Justices. The new rates of interest will be consistent across the Supreme Court and Magistrates Court. The pre-judgment interest rate will be set six monthly at 4% above the last applicable Reserve Bank cash rate, and similarly, the post-judgment interest rate will be set at 6% above the last applicable Reserve Bank cash rate. The six monthly

periods run from 1 January to 30 June and 1 July to 31 December in any year. The Supreme and Magistrates Courts will publish the applicable rates for the six monthly periods on the Courts' respective websites.

Rule 6251(3)(d) has been amended to give the Registrar of the Magistrates Court the jurisdiction to make interim and consent orders under the *Domestic Violence and Protection Orders Act 2008* (ACT).