

Explanatory Statement

Court Procedures Amendment Rules 2011 (No 1) Subordinate Law SL2011 - 6

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*.

Currently, our pre-trial criminal procedures provide that, after the pre-trial questionnaire is completed and filed by the accused, the matter is given a date for a pre-arraignment conference (PAC) before the Registrar (rule 4735 *Court Procedures Rules 2006*). The PAC has been the main form of case management in the pre-trial stage of criminal matters. While PACs are effective in bringing the parties together in an informal Court setting, which often facilitates the settling of matters, they are not time efficient. There is considerable non-attendance at PACs which in turn delays the provision of a trial date.

The *Court Procedures Amendment Rules 2011 (No 1)* amends rules 4733 and 4735 and creates a new rule 4735A to facilitate amending the current pre trial procedure in the following ways:

1. There will be no more PACs.
2. The Judge will give a direction as to which sittings of the Court the trial will be set (1st, 2nd, 3rd or 4th sittings in any particular year) at the time of giving directions about the filing of the prosecution and defence documents.
3. A trial date will be reserved at an earlier stage in the proceedings for most cases.
4. A directions list will be held in court before the Registrar each week to confirm the trial date, set other dates required, such as pre trial hearings, and make directions as required for the filing of any documents, or the provision of evidence. It can also be used to raise any matters that would normally have been raised in PACs.
5. Matters can be set down before the trial Judge for judicial case management at an earlier stage if required.

This proposed procedure provides for an effective and more time efficient means of case-managing criminal trial matters and provides for trial dates to be given at an earlier stage in proceedings.

The new rule 6601A has been further amended to clarify and reflect the established practice that in matters commenced by originating claim, a subpoena to produce will not be issued without the Court's leave prior to the filing of a Certificate of Readiness, unless the requirement of a certificate of readiness has been waived and/or the matter has been given a hearing date. The amendment also confirms that subpoenas can still be issued in matters commenced by originating application, unless the Court otherwise orders.