

## Explanatory Statement

### Court Procedures Amendment Rules 2014 (No 3) Subordinate Law SL2014 - 34

Issued by the Authority of the Rule-Making Committee

The Rule-Making Committee (currently comprising the Chief Justice, Justice Refshauge, Chief Magistrate Walker and Magistrate Campbell) 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*. The Courts and the Joint Rules Advisory Committee have conducted a consultative review of the rules which has resulted in the amendments contained in the *Court Procedures Amendment Rules 2014 (No 3)*.

Rule 455 has been amended to provide that a defendant cannot plead a defence of tender before the proceedings were started unless the defendant has paid the amount tendered into court.

A new Part 2.10 (Offers of compromise) has replaced the rules dealing with payments into court. This new part provides a formal procedure for offers of compromise, including specific rules in relation to costs. In particular, rules 1010, 1011 and 1012 provide, respectively, for circumstances in which an offer is not accepted and the judgment is no less favourable to the plaintiff, an offer is not accepted and the judgment is no more favourable to the plaintiff, and the offer is not accepted and the judgment is no less favourable to the defendant.

Rule 1013 has been relocated as rule 1616, rule 1015 has been relocated as rule 1617 and rule 1017 has been relocated as rule 1618. Consequently, the rules relating to interest (rules 1616 to 1620) have been renumbered as rules 1619 to 1623.

Rule 3010 (2)(j) and (k) (Grant of representation – supporting affidavit for application) has been amended to cover entry into a civil union (under the *Civil Unions Act 2012*) or civil partnership (under the *Domestic Relationships Act 1994*, previously under the *Civil Partnerships Act 2008*), in addition to marriage. The reason for this is that entry into and exit from civil unions and civil partnerships have the same effects on a will as marriage does. The prescribed form (3.11) has been amended accordingly.

A new division 3.3.1 has been introduced in relation to commercial arbitration matters and offers of compromise (rule 3257). A new division 3.3.2 has been introduced in relation to commercial arbitration matters and payments into court (rule 3263 to rule 3269A).

Schedule 3 has been updated in relation to prescribed costs in debts, liquidated demands, default judgments, company windings-up, enforcement orders and certificates of registration.

2.

Schedule 4 has been updated in relation to the scale of costs a solicitor is entitled to charge for work done or services performed on or after 1 January 2015.

The rules will commence on 1 January 2015.