

Explanatory Statement

Court Procedures Amendment Rules 2015 (No 2) Subordinate Law SL2015-22

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 2015 (No 2)*.

The *Courts Legislation Amendment Act 2015* makes a number of amendments to the *Supreme Court Act 1933* and the *Court Procedures Act 2004* including:

- a requirement that appeals from interlocutory orders of the Master be heard by the Court of Appeal;
- changing the title of the Master of the Supreme Court to Associate Judge;
- abolishing the role of President of the Court of Appeal; and
- a requirement for pre trial disclosure of expert evidence in criminal matters.

A number of consequential amendments to the rules and to approved forms have been made in response to the introduction of the amending Act, including amendments to part 5.2 and part 6.4 in relation to the change in the title of the Master. The power of the Registrar of the Supreme Court to waive (under s.79E) any of the pre-trial disclosure requirements under Division 8.3 of the *Court Procedures Act 2004* is now included in the Registrar's powers in rule 6250.

Further consequential amendments have been made throughout the rules and to approved forms in response to the introduction of Supreme Court Practice Direction 2 of 2014 and Magistrates Court Practice Direction 2 of 2014 which apply to proceedings commenced by originating claim. These amendments include the repeal of the Certificate of Readiness approved form and deleting reference to the certificate in the rules and amending the timeframes for the filing of documents and expert reports previously aligned with the filing of the Certificate of Readiness. Rule 1241 has been amended to provide for expert reports to be served in accordance with any direction made by the Court.

New rule 1605A clarifies the requirement to express the full terms of an order (rather than its shortened form or as the "usual order") when the order is entered or filed in the proceeding.

The power of the Registrar of the Magistrates Court to secure the presence of persons under the *Crimes (Forensic Procedures) Act 2000*, ss. 37, 77A(2) and 77B and the *Crimes (Sentence Administration) Act 2005*, s.106, is now included in the Registrar's powers in rule 6251.

Rule 6300 has been amended in respect of the opening hours of the courts registry to specifically exclude the period that falls between 26 December in a year and 1 January in the following year.

Division 6.10.3 – Exchange of correspondence before making application in proceeding – which includes rule 6745, has been omitted from the rules.

The rules will commence on 1 July 2015.