

Court Procedures Amendment Rules 2024 (No 2)

SL2024-37

Explanatory Statement

Background

The *Court Procedures Act 2004* (the **Act**) governs the practice and procedure of ACT Courts, prescribed tribunals and their registries. Section 9 of the Act establishes the rule making committee and confers power on the rule making committee to:

- make rules relating to the practice and procedure of ACT Courts, prescribed tribunals, and their registries, and in relation to any of the other matters mentioned in Schedule 1 to the Act (s 7); and
- approve forms for the Act, or for use or in relation to ACT Courts, prescribed tribunals, and their registries (s 8).

This explanatory statement describes amendments to the *Court Procedures Rules 2006* (the **Rules**) as made by the rule making committee under s 7 of the Act and set out in the *Court Procedures Amendment Rules 2024 (No 2)* (the **Amendment Rules**).

Detail

The Amendment Rules update the practice and procedure in the Supreme and Magistrates Courts, and their registries, as it relates to:

- Production of material under subpoena.

The rule making committee have approved new Forms 6.10A *Subpoena to produce documents* and 6.10B *Subpoena to give evidence and produce documents* that will take effect from 1 January 2025. The Amendment Rules make minor amendments to the existing rules relating to the production of material under subpoena to ensure consistency with the new forms (rules 6606(7), 6607(4) and (5), 6609(5) to (8), 6610).

The Amendment Rules also make minor amendments to the Rules, to:

- ensure consistency in language in the rules relating to Appeals proceedings with previous amendments regarding the appointment and withdrawal of solicitors acting for an accused person (rules 5537(1)(a) and 5538 (1)(a)); and
- remove a reference to the repealed *Victims of Crime (Financial Assistance) Act 1983* (rules 6251(3)(l), 4739, Dictionary).

The rule making committee have separately updated several forms, to:

- change the reference to 'The Queen', on forms used in criminal proceedings, to refer to the 'prosecuting entity', reflecting that there are various entities that bring prosecutions in the ACT (Form 4.2, 4.3, 4.4, 4.4A, 4.5, 4.5A, 4.6, 4.6A, 4.7, 4.7A, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 6.16, 6.18, 6.19, 6.25, 6.26, 6.27, 6.29, 6.31, 6.32, 6.33, 81); and
- update the contact details for organisations that may be able to provide legal and financial assistance in enforcement proceedings (Form 2.49).

Pursuant to s 36(1)(i) of the *Legislation Act 2001*, a regulatory impact statement is not required for the Amendment Rules.

Human Rights

The Amendment Rules are procedural and administrative in nature. The *Human Rights Act 2004* establishes a right to a fair trial (s 21) and rights in criminal proceedings (s 22). Neither of these rights, nor any other human right established by the *Human Rights Act 2004*, is engaged or impacted by the Amendment Rules.