



Australian Capital Territory

## Supreme Court Rules<sup>1</sup> (Amendment)

Subordinate Law No. 4 of 1993<sup>2</sup>

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We, Judges of the Supreme Court, make the following Rules of Court under section 36 of the *Supreme Court Act 1933*.

Dated 12 February 1993.

JEFFREY MILES  
Chief Justice

J F GALLOP  
Judge

T J HIGGINS  
Judge

A G TOWILL  
Registrar

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### Commencement

**1.** These Rules commence on the day on which they are notified in the *Gazette*.

**Principal Rules**

2. In these Rules, “Principal Rules” means the Supreme Court Rules.

**Substitution**

3. Order 32 of the Principal Rules is repealed and the following Order substituted:

**“ORDER 32****AMENDMENT****By order or with leave**

“1. The Court may, at any stage of proceedings—

- (a) on application by a party or of its own motion, order that any document in the proceedings be amended; or
- (b) give leave to any party to amend any document of that party in the proceedings;

in such manner and on such terms as the Court thinks just.

**Without leave**

“2. (1) A party may, without leave, amend any pleading of that party once before the pleadings are closed.

“(2) A party may, without leave, further amend any pleading of that party before the pleadings are closed with the consent of all other parties.

“(3) In subrules (1) and (2), ‘pleading’ includes the indorsement of claim on a writ of summons.

**Answering pleading**

“3. Where a party amends a pleading, any other party may, if a pleading in answer to that pleading had already been filed, amend the answering pleading without leave within the time allowed by rule 4.

**Time for filing or amending answering pleading**

“4. (1) Where a party amends a pleading, the time within which any other party may—

- (a) file a pleading in answer to the amended pleading; or

(b) amend an answering pleading that had already been filed; is the time that would be allowed under these Rules for filing an answering pleading if the amended pleading had been delivered on the date on which a copy of notice of the amendment or of the amended pleading is served under rule 12.

“(2) Paragraph (1) (a) has effect notwithstanding any other provision of these Rules.

#### **Failure to amend answering pleading**

“5. Where—

(a) a pleading is amended after a pleading in answer to it has been filed; and

(b) the answering pleading is not amended under rule 3;

the party who filed the answering pleading shall be taken to rely on it in answer to the amended pleading.

#### **Time for reply to unamended defence**

“6. Where an answering pleading to which rule 5 applies is a defence, the time within which the plaintiff may deliver a reply is the time that would be allowed under these Rules if an amended defence had been delivered on the last day allowed for doing so.

#### **Disallowance of amendment**

“7. Where a party amends a pleading, the Court may, on the application of any other party made within 8 days after service of a copy of notice of the amendment or of the amended pleading under rule 12, disallow all or part of the amendment.

#### **Scandalous etc. matter**

“8. The Court may order to be struck out of a filed document any matter which is scandalous, vexatious or oppressive.

#### **Directions for mode**

“9. (1) Where the Court orders, or gives leave for, the making of an amendment, the Court may give such directions as it thinks fit concerning the mode of amendment and consequential service of the amended document or of notice of the amendment.

“(2) Rules 10, 11 and 12 have effect subject to subrule (1).

**Mode—simple amendment**

“10. (1) Where the amendments authorised under this Order to be made to a document are not so numerous or lengthy or otherwise of such a nature as would render the document difficult or inconvenient to read, the amendments may be made by—

- (a) filing a notice specifying the amendments and the matters referred to in subrule (2); and
- (b) if the document to be amended has been filed—writing the alterations in the document.

“(2) A filed document amended in accordance with subrule (1) shall be endorsed with a statement specifying the date of the amendment and—

- (a) if the amendment was made pursuant to an order—the date of the order; or
- (b) if the amendment was not so made—the rule authorising the amendment.

**Mode—fresh document**

“11. (1) Subject to subrule 10 (1), amendments authorised under this Order to be made to a document shall be made by filing a fresh document, amended as so authorised and endorsed with a statement specifying the matters referred to in subrule 10 (2).

“(2) An amended document referred to in subrule (1) shall be in a form that—

- (a) distinguishes between original and added text; and
- (b) discloses any deleted text.

**Service after amendment**

“12. Where a document has been served and is later amended, the party making the amendment shall, as soon as practicable, serve on the parties on whom the document was served a copy of—

- (a) if the amendment was made under subrule 10 (1)—the notice referred to in that subrule; or
- (b) if the amendment was made under subrule 11 (1)—the fresh document.

### **Costs**

“13. A party who amends a document is liable to pay the costs of any other party of or occasioned by the amendment unless the Court otherwise orders.

### **Judgments and orders: accidental slips or omissions**

“14. The Court may at any time, on application by a party or of its own motion, correct a clerical mistake in a judgment or order or an error in a judgment or order arising from an accidental slip or omission.”

### **Insertion**

4. After rule 5 of Order 60 of the Principal Rules the following rule is inserted in Division 1:

### **Appearance**

“6. If there is a respondent to an appeal, the notice of appeal shall be endorsed with a statement to the effect that before taking any step in the proceedings the respondent is to enter an appearance in the Registrar’s office, and the respondent shall enter an appearance accordingly.”

### **Office hours**

5. Rule 1 of Order 63 of the Principal Rules is amended by omitting “9.30 a.m.” and substituting “9.15 a.m.”.

### **Urgent business outside office hours**

6. Rule 2 of Order 63 of the Principal Rules is amended by omitting from paragraph (a) “9.30 a.m.” and substituting “9.15 a.m.”.

### **Objection of irregularity**

7. Rule 3 of Order 69 of the Principal Rules is amended by omitting “the several objections intended to be insisted upon shall be stated in the summons or notice of motion” and substituting “each objection to be relied upon, and the ground for it, shall be stated in the notice of motion”.

### **Repeal**

8. Rules 4 and 5 of Order 69 of the Principal Rules are repealed.

**NOTES**

1. Reprinted as at 18 December 1992.
2. Notified in the ACT Gazette on 19 February 1993.

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