



Australian Capital Territory

Supreme Court Rules¹ (Amendment)

Subordinate Law No. 11 of 1995²

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

Dated 21 March 1995.

J F GALLOP
Acting Chief Justice

T J HIGGINS
Judge

A G TOWILL
Registrar

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.

Repeal

3. Rule 5 of Order 1 of the Principal Rules is repealed.

Insertion

4. Before Order 2 of the Principal Rules the following Order is inserted in Part 2:

“ORDER 1A**“APPLICATION OF PART****Application to jurisdictions generally**

“1. This Part applies in relation to all proceedings in the Court in any of its jurisdictions other than the criminal jurisdiction except in so far as these Rules otherwise provide or the Court otherwise orders.”.

Claim for debt or liquidated demand

5. Rule 6 of Order 4 of the Principal Rules is amended by inserting after paragraph (1) (a) the following paragraph:

“(aa) shall, where interest is claimed—

- (i) specify the rate of interest claimed to be payable as of right (whether by virtue of an agreement or otherwise); or
- (ii) state that the plaintiff applies for an order under section 69 of the Act, or an order made in accordance with another law specified in the indorsement, that interest, or a lump sum in lieu of interest, be included in the sum for which judgment is given;”.

Affidavit of service

6. Rule 2 of Order 14 of the Principal Rules is amended by omitting “or under Order 15, rule 1, or Order 16, rule 1,”.

Final judgment when writ indorsed for debt or liquidated demand

7. Rule 3 of Order 14 of the Principal Rules is amended—

- (a) by inserting “debt or” before “liquidated”;
 - (b) by omitting all the words after “interest” and substituting “ascertained in accordance with subrule (2) and costs”; and
 - (c) by adding at the end the following subrules:
 - “(2) The interest referred to in subrule (1) is—
 - (a) if the indorsement on the writ specifies the rate of interest claimed to be payable as of right—interest to the date of the judgment calculated at that rate; or
 - (b) in any other case—
 - (i) interest to the date of the judgment calculated at such rate; or
 - (ii) in lieu of any such interest, a lump sum of such an amount;
- as the Court determines.

“(3) In determining interest or a lump sum for the purposes of paragraph (2) (b), the Court may have regard to Practice Directions issued by the Court relating to interest up to judgment.”.

Final judgment when writ indorsed for debt or liquidated demand and only some defendants fail to appear

8. Rule 4 of Order 14 of the Principal Rules is amended—
- (a) by inserting “debt or” before “liquidated”; and
 - (b) by omitting “as in the preceding rule” and substituting “for the debt or liquidated demand, interest and costs as under rule 3”.

Interlocutory and final judgment when writ includes indorsement for debt or liquidated demand

9. Rule 7 of Order 14 of the Principal Rules is amended—
- (a) by inserting “debt or” before “liquidated” (first occurring); and
 - (b) by inserting “as under rule 3” after “costs”.

Final judgment when writ indorsed for debt or liquidated demand

10. Rule 2 of Order 31 of the Principal Rules is amended—
- (a) by omitting “the amount claimed with costs” and substituting “any sum not exceeding the sum indorsed on the writ, together with interest ascertained in accordance with subrule (2) and costs”; and

(b) by adding at the end the following subrules:

“(2) The interest referred to in subrule (1) is—

(a) if the indorsement on the writ specifies the rate of interest claimed to be payable as of right—interest to the date of the judgment calculated at that rate; or

(b) in any other case—

(i) interest to the date of the judgment calculated at such rate; or

(ii) in lieu of any such interest, a lump sum of such an amount;

as the Court determines.

“(3) In determining interest or a lump sum for the purposes of paragraph (2) (b), the Court may have regard to Practice Directions issued by the Court relating to interest up to judgment.”.

Interlocutory and final judgment when writ includes indorsement for debt or liquidated demand

11. Rule 6 of Order 31 of the Principal Rules is amended by inserting “interest and costs as under rule 2” after “liquidated demand,” (last occurring).

Authority of Master

12. Rule 1 of Order 61A of the Principal Rules is amended by omitting subparagraph (x) (v) and substituting the following subparagraph:

“(v) an order or direction under section 81;”.

Further amendments relating to Public Trustee

13. (1) Each of the following provisions of Order 72 of the Principal Rules is amended by omitting “Curator” (wherever occurring) and substituting “Public Trustee”:

Rule 16, subrule 60 (1) and rules 61, 62, 63, 64, 65 and 66.

(2) The heading to Division XII of Order 72 of the Principal Rules is amended by omitting “**CURATOR**” and substituting “**PUBLIC TRUSTEE**”.

(3) The Third Schedule to the Principal Rules is amended—

(a) by omitting from the headings to Forms 9, 10, 12, 13 and 14 “**CURATOR**” and substituting “**PUBLIC TRUSTEE**”;

- (b) by omitting from Form 10 “Curator of Deceased Persons’ Estates” and substituting “Public Trustee”; and
- (c) by omitting from Forms 12, 13 and 14 “Curator of Estates of Deceased Persons” and substituting “Public Trustee”.

NOTES

Principal Rules

1. Reprinted as at 19 February 1995.

Notification

2. Notified in the ACT Gazette on 29 March 1995.

Rule headings

On the day on which the Supreme Court Rules are amended by these Rules, in addition to any alteration of rule headings indicated in the text of these Rules, headings to rules of the Principal Rules are altered as set out in the following table:

Rules	Alteration
16, 61, 64 and 65 of Order 72	Omit from the headings “ Curator ”, substitute “ Public Trustee ”.

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