



Australian Capital Territory

# Supreme Court Amendment Rules 2003 (No 1)

Subordinate Law SL2003–6

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

Dated 18 February 2003.

T J HIGGINS  
Chief Justice

K J CRISPIN  
Judge

M F GRAY  
Judge

T CONNOLLY  
Judge

J E CIRCOSTA  
Registrar





Australian Capital Territory

# Supreme Court Amendment Rules 2003 (No 1)

**Subordinate Law SL2003–6**

made under the

*Supreme Court Act 1933*

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**1 Name of rules**

These rules are the *Supreme Court Amendment Rules 2003 (No 1)*.

**2 Commencement**

These rules commence on the day after their notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Rules amended**

These rules amend the *Supreme Court Rules*.

## Schedule 1 Consequential amendments—Civil Law (Wrongs) Act 2002

(see r 3)

### [1.1] New order 2 rule 6

*insert*

#### 6 Special endorsement on originating application—Civil Law (Wrongs) Act 2002, pt 3.1

The originating application by which an action under the *Civil Law (Wrongs) Act 2002*, part 3.1 (Wrongful act or omission causing death) is begun must, in addition to any other endorsements required or permitted to be made, be endorsed with a statement of the names of each of the people for whose benefit the action is brought and the relationship of each of them to the dead person.

### [1.2] Order 26 rule 1 heading and rule 1 (1) to (4)

*substitute*

#### 1 Payment into court

- (1) In an action for a debt or damages (other than an action under the *Civil Law (Wrongs) Act 2002*, part 3.1 (Wrongful act or omission causing death)), the defendant may at any time after appearance—
  - (a) pay an amount into court in satisfaction of—
    - (i) the claim; or
    - (ii) if there are 2 or more causes of action joined in a single action—1 or more of the claims; or
  - (b) in an action for defamation—pay an amount into court by way of compensation, satisfaction and amends.

- (2) If an action is brought under the *Civil Law (Wrongs) Act 2002*, part 3.1, the defendant may at any time after appearance pay an amount into court as compensation for the benefit of the people for whose benefit the action is brought, and who are entitled to compensation under the part, without stating the shares into which the amount is to be divided by the court.
- (3) The defendant must serve a notice of payment under this rule on the plaintiff in accordance with form 1.18.
- (4) If there are 2 or more causes of action joined in a single action, and an amount is paid into court in satisfaction of 1 or more of the claims, the notice must state, unless the court otherwise orders—
  - (a) the claim or each claim for which payment is made; and
  - (b) the part of the amount paid in satisfaction of each claim.
- (5) The notice must state whether liability is admitted or denied.
- (6) If a defence of tender before action is pleaded, the amount claimed to have been tendered must be paid into court.

**[1.3] Order 26 rule 1 (5) to (10)**

*renumber as order 26 rule 1 (7) to (12)*

**[1.4] Order 26 rule 1 (8)**

*omit*

subrule (5)

*substitute*

subrule (7)

**[1.5] Order 26 rule 1 (9)**

*omit*

subrule (8)

*substitute*

*subrule (10)*

**[1.6] Order 26 rule 2**

*substitute*

**2 Plaintiff may accept payment etc**

- (1) If an amount is paid into court under rule 1, the plaintiff may accept the amount—
  - (a) in satisfaction of—
    - (i) the claim; or
    - (ii) if there are 2 or more causes of action joined in a single action—1 or more stated claims; or
  - (b) in an action for defamation—as compensation, satisfaction and amends.
- (2) The plaintiff may only accept the amount—
  - (a) within 14 days after the day notice of payment into court is served on the plaintiff; or
  - (b) if 2 or more payments into court have been made—within 14 days after the day notice of the last payment into court is served on the plaintiff.
- (3) The plaintiff must serve a notice of acceptance under this rule on the defendant in accordance with form 1.21.



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- (4) Within 14 days after the day a notice of acceptance is served on a defendant who has made a payment into court by bond or other security, the defendant must pay into court the amount of the bond or security.
- (5) If the defendant does not comply with subrule (4), the defendant is not entitled to any advantage under the rules for the payment into court, and the plaintiff may—
- (a) withdraw the plaintiff's acceptance by written notice; or
  - (b) for payment other than under rule 1 (2)—require the registrar to assign the bond or security to the plaintiff so the plaintiff can enforce it; or
  - (c) for payment under rule 1 (2)—apply to the court by motion on notice for the registrar to assign the bond or security to the plaintiff so the plaintiff can enforce it.
- (6) No part of the amount paid into court under rule 1 (2) can be paid out of court except under an order of the court.
- (7) Unless the court otherwise orders, payment must be made—
- (a) to the plaintiff; or
  - (b) if the plaintiff has given written authority for payment to be made to the plaintiff's solicitor—to the plaintiff's solicitor.
- (8) If payment is made in accordance with subrule (7), the action or stated cause of action is stayed.
- (9) Subrule (10) applies—
- (a) if there is only 1 cause of action—if the plaintiff accepts an amount paid into court in satisfaction of the claim; or
  - (b) if there are 2 or more causes of action joined in a single action—if the plaintiff accepts an amount in satisfaction of 1 or more stated claims and gives notice that the other claims are abandoned.

Amendment [1.7]

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- (10) Unless the court otherwise orders, the plaintiff may file a bill of costs for taxation after 4 days after the day the amount was paid out of court.
- (11) The bill of costs consists of the costs incurred to the date of payment into court and the costs reasonably incurred in accepting the payment.
- (12) The plaintiff may sign judgment for the amount of taxed costs 48 hours after taxation of the costs.
- (13) If the plaintiff in an action for defamation accepts an amount paid into court, the plaintiff may by motion on notice apply to the court for leave to make in open court a statement in terms approved by the court.
- (14) This rule does not apply to an action or cause of action to which a defence of tender before action is pleaded.
- (15) Subrule (16) applies if an amount is paid into court by a defendant who—
  - (a) made a counterclaim; and
  - (b) stated in the notice of payment that in making the payment the defendant had taken into account and intended to dispose of the causes of action, or the stated causes of action, for which the defendant claimed.
- (16) If the plaintiff accepts the amount, the counterclaim and the causes of action, or stated causes of action, are stayed against the plaintiff.

**[1.7] Order 26 rule 5**

*omit*

(except subrule (6))

*substitute*

(except subrule (12))

**[1.8] Order 26 rule 6 (1)**

*omit*

*Defamation Act 2001*, section 22 (Defence of apology and payment into court)

*substitute*

*Civil Law (Wrongs) Act 2002*, section 65 (Defence of apology and payment into court—defamation)

**[1.9] Order 61 rule 3 (a)**

*omit*

- order 26, except rules 2 (4), 8 and 9

*substitute*

- order 26, except rules 2 (13), 8 and 10

**[1.10] Form 1.18**

*substitute*

**Form 1.18                      Notice of payment into court**

(see o 26 r 1)

[*Heading as in form 1.1*]

The defendant [*name of defendant*]—

(a) has paid \$                      into court (***the amount***); and

[*for an action other than an action under the Civil Law (Wrongs) Act 2002, part 3.1 (Wrongful act or omission causing death) or part 5.3 (Rules governing litigation of civil claims—defamation)*]

(b) says that the amount is enough to satisfy the plaintiff's claim for [*state what the amount is said to satisfy*]; and

[*or*]

(b) [*unless the court otherwise orders, and if there are 2 or more causes of action joined in a single action, and an amount is paid into court in satisfaction of 1 or more of the claims*] says that part of the amount, \$ (*state amount*) is enough to satisfy the plaintiff's claim for [*state what that part is said to satisfy*] and the rest of the amount is enough to satisfy the plaintiff's claim for [*state what the rest is said to satisfy*]; and

[*or*]

[*for an action under the Civil Law (Wrongs) Act 2002, part 3.1*]

(b) says that the amount is sufficient compensation for the benefit of the people for whose benefit the action under the *Civil Law (Wrongs) Act 2002*, part 3.1 (Wrongful act or omission causing death) is brought, and who are entitled to compensation under the part; and

[*or*]

(b) [*for an action under the Civil Law (Wrongs) Act 2002, part 5.3 (Rules governing litigation of civil claims—defamation)*] pays the amount by way of compensation, satisfaction and amends; and

(c) [*\*admits/denies*] liability.

Date:

Signature of \*defendant/\*defendant's solicitor:

To the \*plaintiff/plaintiff's solicitor:

*\*Strike out if inapplicable*

**[1.11] Form 1.21***substitute***Form 1.21                      Acceptance of amount paid into court**

(see o 26 r 2 and 4)

*[Heading as in form 1.1]**[for an action other than an action under the Civil Law (Wrongs) Act 2002, part 5.3 (Rules governing litigation of civil claims—defamation)]*

The plaintiff accepts \$ *[state amount]* paid by the defendant *[name of defendant]* into court in satisfaction of the claim for which it was paid [\*and abandons the plaintiff's other claims in this action].

*[or]**[for an action under the Civil Law (Wrongs) Act 2002, part 5.3]*

The plaintiff accepts \$ *[state amount]* paid by the defendant *[name of defendant]* into court as compensation, satisfaction and amends [\*and abandons the plaintiff's other claims in this action].

Date:

Signature of \* plaintiff/plaintiff's solicitor:

To the \*defendant/defendant's solicitor:

*[notice must be given to each defendant]**\*Strike out if inapplicable*

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## Endnotes

### Republications of amended laws

- 1 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

### Notification

- 2 Notified under the *Legislation Act 2001* on 18 February 2003.  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))

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