



Australian Capital Territory

Court Procedures Amendment Rules 2016 (No 3)

Subordinate Law SL2016-33

We, the rule-making committee, make the following rules of court under the *Court Procedures Act 2004*, section 7.

Dated 14 December 2016.

H G MURRELL

Chief Justice

R REFSHAUGE

Judge

L WALKER

Chief Magistrate

L CAMPBELL

Magistrate



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made under the

[Court Procedures Act 2004](#)

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J2016-674

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2016 (No 3)*.

2 Commencement

These rules commence on 1 January 2017.

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

3 Legislation amended

These rules amend the *Court Procedures Rules 2006*.

4 Rule 1120 (2) (a) and (b)

substitute

- (a) if interest is claimed—the amount of interest stated in the affidavit in support; and
- (b) if costs are claimed—
 - (i) the amount of costs stated in the affidavit in support; or
 - (ii) costs to be agreed or assessed.

5 Rule 1120 (3) (c) and (d)

substitute

- (c) if interest is claimed—
 - (i) a statement of the amount of interest claimed; and
 - (ii) a statement that the amount of interest is worked out in accordance with—
 - (A) the rate stated in the plaintiff’s claim for relief; or

- (B) the rate of interest applying from time to time under schedule 2, part 2.1 (Interest up to judgment); and
- (d) if costs are claimed—
 - (i) under schedule 3, part 3.2 (Default judgment)—
 - (A) a statement of the amount of costs claimed; and
 - (B) a copy of each invoice and receipt for the filing and service fees paid in relation to the claim for relief; or
 - (ii) in any other case—a statement that costs are to be agreed or assessed.

6 Rule 1120 (4) and (5)

omit

7 New rule 5300A

before rule 5300, insert

5300A Definitions—pt 5.4

In this part:

practice direction means Practice Direction No 1 of 2016 made by the court.

supporting material, for an application, means the supporting material for the application mentioned in the practice direction.

8 Rule 5311 (1), new note

before note 1, insert

Note 1A The application for leave must also comply with the practice direction.

9 Rule 5311 (2)

omit

10 Rule 5312

omit

accompanying affidavit, and draft notice of appeal

substitute

and supporting material for the application

11 Rule 5314 (1) (b) and (c)

substitute

(b) a stamped copy of the supporting material for the application.

12 Rule 5315 heading

substitute

5315 Appeals to Court of Appeal—response to application for leave to appeal

13 Rule 5315, new note

insert

Note The respondent must file and serve any material in response to the application within 14 days after service of the application on the respondent (see the practice direction).

14 Rule 5316

omit

15 Rule 5332 (1), new note

before note 1, insert

Note 1A The application for leave must also comply with the practice direction.

16 Rule 5332 (2)

omit

17 Rule 5333

omit

accompanying affidavit, and draft notice of appeal

substitute

and supporting material for the application

18 Rule 5335 (1) (b) and (c)

substitute

(b) a stamped copy of the supporting material for the application.

19 Rule 5336 heading

substitute

5336 Appeals to Court of Appeal—response to application for leave to appeal out of time

20 Rule 5336, new note

insert

Note The respondent must file and serve any material in response to the application within 14 days after service of the application on the respondent (see the practice direction).

21 Rule 5337

omit

22 New rule 5400A

insert

5400A Meaning of *case summary*—div 5.4.4

In this division:

case summary—

- (a) for an appeal—see rule 5403 (1A); and
- (b) for a cross-appeal—see rule 5413 (3A).

23 New rule 5403 (1A)

insert

(1A) The notice of appeal must be accompanied by a 1-paragraph (about 250 words) summary (the *case summary*) of—

- (a) the proceeding in which the order appealed from was made; and

- (b) the order appealed from; and
- (c) the grounds relied on in support of the appeal.

24 Rule 5405

after

notice of appeal

insert

and case summary

25 Rule 5409 heading

substitute

5409 Appeals to Court of Appeal—serving notice of appeal and case summary

26 Rule 5409 (1)

substitute

- (1) The appellant must serve on each respondent—
 - (a) a sealed copy of the notice of appeal; and
 - (b) a stamped copy of the case summary.

27 Rule 5409 (2) to (4)

after

notice of appeal

insert

and case summary

28 New rule 5413 (3A)

insert

- (3A) The notice of cross-appeal must be accompanied by a 1-paragraph (about 250 words) summary (the *case summary*) of—
- (a) the order appealed from; and
 - (b) the grounds relied on in support of the appeal.

29 Division 5.4.5, note to div 5.4.5

substitute

Notes to div 5.4.5

Note 1 The practice direction sets out the requirements for filing documents, including the draft index of the appeal papers, before the date set for settling the appeal papers.

Note 2 *Appeal* and *order* are defined for this div in r 5400.

30 Rules 5430 and 5431

omit

31 New rule 5432 (2) (h)

insert

- (h) direct that the appeal be referred to mediation.

32 Rules 5433 to 5435 and 5438 to 5440

omit

33 New rule 6251 (3) (ea)

insert

- (ea) under the *Court Procedures Act 2004*, section 72 (1) (l) (Court proceedings involving children or young people not open to public);

34 Rule 6450 (b)

omit

4 days

substitute

7 days

35 Dictionary, new definitions

insert

case summary, for division 5.4.4 (Appeals to Court of Appeal—procedure generally)—see rule 5400A.

practice direction, for part 5.4 (Appeals to Court of Appeal)—see rule 5300A.

supporting material, for an application, for part 5.4 (Appeals to Court of Appeal)—see rule 5300A.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 15 December 2016.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
