



## Statutory Rules

1977 No. 152

### RULES OF COURT UNDER THE AUSTRALIAN CAPITAL TERRITORY SUPREME COURT ACT 1933\*

We, Judges appointed under sub-section 7 (1) of the *Australian Capital Territory Supreme Court Act 1933*, hereby make the following Rules of Court under section 28 of that Act.

Dated this sixth day of September 1977.

R. A. BLACKBURN

XAVIER CONNOR

Judges of the Supreme Court  
of the  
Australian Capital Territory

Z. HARTSTEIN  
Registrar

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### AMENDMENTS OF THE RULES OF THE SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY†

1. The Rules of the Supreme Court of the Australian Capital Territory are in these Rules referred to as the Principal Rules. Principal Rules
2. These Rules shall come into operation on 26 September 1977. Commencement
3. Rule 4 of Order 1 of the Principal Rules is amended by omitting from sub-rule (1) the definition of "sealed". Interpretation
4. Rules 5 and 6 of Order 3 of the Principal Rules are repealed and the following rules substituted:
  - “ 5. (1) In this rule, ‘ writ ’ means— Date and teste
    - (a) a writ of summons; or
    - (b) subject to these Rules and to any other law in force in the Territory, any other writ.

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\* Notified in the *Commonwealth of Australia Gazette* on 15 September 1977.

† Statutory Rules 1937, No. 85 as amended by Statutory Rules 1938, No. 99; 1939, Nos. 48 and 61; 1950, No. 22; 1956, No. 135; 1958, No. 64; 1962, Nos. 47 and 76; 1966, No. 132; 1967, No. 68; 1968, No. 13; 1969, Nos. 57, 66, 221 and 222; 1972, No. 189; 1973, Nos. 95 and 149; 1974, Nos. 25, 60 and 197; 1975, No. 81; and 1976, No. 190.

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“ (2) A writ shall bear date the day on which it is issued and shall be tested in the name of the Chief Judge.

Time for appearance to be limited in writ

“ 6. The time to be limited in a writ of summons, other than a writ to which the *Service and Execution of Process Act* 1901 applies, for the appearance of the defendant is—

(a) in the case of a writ to be served out of the Commonwealth—the time limited by the order giving leave to serve the writ out of the Commonwealth or, in the case of a writ to which Order 12, rule 3, applies, by the order giving leave to issue the writ; and

(b) in any other case—8 days.”.

Where plaintiff sues by solicitor

5. Rule 1 of Order 5 of the Principal Rules is amended by omitting from sub-rule (1) “ three miles ” (wherever occurring) and substituting “ 5 kilometres ”.

Where plaintiff sues in person

6. Rule 2 of Order 5 of the Principal Rules is amended by omitting “ three miles ” and substituting “ 5 kilometres ”.

7. Rule 1 of Order 10 is repealed and the following rule substituted:

Service on defendant presumed where solicitor accepts service or appearance is entered

“ 1. (1) Where the solicitor acting for a defendant indorses on the original writ a statement that he accepts service of the writ on behalf of that defendant and that he undertakes to enter an appearance to the writ, the writ shall be deemed to be duly served on the defendant at the time at which the indorsement is made.

“ (2) Where an appearance to a writ of summons has been entered for a defendant, the writ shall, without any proof of the service of the writ, be deemed to have been duly served on the defendant and to have been so served on the day on which the appearance was entered.”.

Repeal

8. Rule 1 of Order 12 of the Principal Rules is repealed.

Plaintiff may apply to sign final judgment

9. Rule 1 of Order 15 of the Principal Rules is amended by inserting after sub-rule (1) the following sub-rule:

“ (1A) Notwithstanding sub-rule (1), an application under that sub-rule may, if the Judge so directs, be supported by an affidavit containing statements of information and belief with the sources and grounds thereof.”.

10. Rule 2 of Order 27 of the Principal Rules is repealed and the following rule substituted:

Defence to counter-claim

“ 2. (1) A defence to a counter-claim may be included in the same document as a reply.

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“(2) Where a defence to a counter-claim is included in the same document as a reply, the substance of the defence and the substance of the reply shall be clearly distinguished.

“(3) The provisions of Order 25, so far as they are applicable, apply to, and in relation to, a plaintiff and a defence to a counter-claim as if—

- (a) the plaintiff were the defendant to an action;
- (b) the counter-claim were a statement of claim; and
- (c) the defence to the counter-claim were a defence to an action.”.

**11.** Rule 3 of Order 27 of the Principal Rules is amended—

Close of pleadings

- (a) by omitting from sub-rule (1) “and the material statements” and substituting “and, subject to sub-rules (2) and (3), the material statements”; and
- (b) by omitting sub-rule (2) and substituting the following sub-rules:

“(2) Where no defence to a counter-claim has been delivered, the facts stated in the counter-claim shall be taken to have been admitted.

“(3) A plaintiff is not entitled to deliver a defence to a counter-claim except—

- (a) within 14 days after the delivery of the counter-claim; or
- (b) with the leave of the Court or a Judge.”.

**12.** The following Order is inserted in the Principal Rules after Order 42:

**“ORDER 42A  
INTEREST ON JUDGMENTS**

“1. The rate of interest fixed for the purpose of section 54 of the Act in respect of a judgment entered as of a date before 1 October 1977 is 5 per cent per annum.

Rate of interest on judgments entered before 1 October 1977

“2. The rate of interest fixed for the purpose of section 54 of the Act in respect of a judgment entered as of a date that is on or after 1 October 1977 is 10 per cent per annum.”.

Rate of interest on judgments entered on or after 1 October 1977

**13.** Rule 13 of Order 56 of the Principal Rules is amended by omitting “, and, when signed,” and substituting “and sealed, and, when so sealed,”.

Issue of summons

