

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 253

**Issued by the authority of the
Judges of the Federal Court of Australia**

Federal Court (Bankruptcy) Amendment Rules 2006 (No 1)

Section 59 of the *Federal Court of Australia Act 1976* permits the Judges of the Court or a majority of them, to make rules of Court not inconsistent with the Act. These rules may provide for the practice and procedure to be followed in the Court and in Registries of the Court. They may extend to all matters incidental to any such practice or procedure that are necessary or convenient to be prescribed for the conduct of any business of the Court.

Under sub-section 59 (4) of the *Federal Court of Australia Act 1976*, the *Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act) applies in relation to rules of court made by the Court under the *Federal Court of Australia Act 1976* or another Act:

- (a) as if a reference to a legislative instrument were a reference to a rule of court; and
- (b) as if a reference to a rule-maker were a reference to the Chief Justice acting on behalf of the Judges of the Court; and
- (c) subject to such further modifications or adaptations as are provided for in regulations made under section 59A of the *Federal Court of Australia Act 1976*.

The Judges have agreed to amend Forms 3 and 17 of the *Federal Court (Bankruptcy) Rules 2005*.

The amendments have been the subject of consultation with the Law Council of Australia. They have also been discussed with the Federal Magistrates Court, which will make the same changes to the *Federal Magistrates Court (Bankruptcy) Rules 2006*.

Details of the Rules are in the [Attachment](#).

The Rules commence on 8 October 2006.

ATTACHMENT

Federal Court (Bankruptcy) Amendment Rules 2006 (No 1)

RULE 1 **Name of rules**

This rule provides that the Rules are to be cited as the *Federal Court (Bankruptcy) Amendment Rules 2006 (No 1)*.

RULE 2 **Commencement**

This rule provides that these Rules commence on 8 October 2006.

RULE 3 **Amendment of *Federal Court (Bankruptcy) Rules 2005***

This rule provides that the *Federal Court (Bankruptcy) Rules 2005* are amended as set out in Schedule 1.

SCHEDULE 1

[1] Schedule 1, Form 3

This amendment substitutes a new Form 3, which is the prescribed form for an interim application in a proceeding under the *Bankruptcy Act 1968*. The effect of the amendment is to alter the signature block.

[2] Schedule 1, Form 17

This amendment substitutes a new Form 17, which is the prescribed form for an apprehension warrant. The effect of the amendment is to insert the words “to the Court [*address*] or a registry of the Court that is convenient” at the end of the fourth paragraph, and to replace the reference in the fifth paragraph to “a [*place*]” with the phrase “a convenient place”.

The purpose of the amendment is to provide greater flexibility to officers executing an apprehension warrant, particularly when the person who is subject to the warrant is interstate.