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Federal Court (Corporations) Amendment Rules 2001 (No. 1)¹

Statutory Rules 2001 No. ¹/₂

127

We, Judges of the Federal Court of Australia, make the following
Rules of Court under the *Federal Court of Australia Act 1976*.

Dated ¹/₂ 2001

5 June

B.A. BEAUMONT A.C.J.
 M.R. WILCOX J.
 J.E.J. SPENDER J.
 P.R.A. GRAY J.
 J.A. MILES J.
 D.M. RYAN J.
 R.S. FRENCH J.
 M.C. LEE J.
 J.W. von DOUSSA J.
 D.G. HILL J.
 M.F. O'LOUGHLIN J.
 D.F. O'CONNOR J.
 P.C. HEEREY J.
 D.P. DRUMMOND J.
 R.E. COOPER J.

A.P. WHITLAM J.
C.J.S.M. CARR J.
M.F. MOORE J.
C.M. BRANSON J.
K.E. LINDGREN J.
B.J.M. TAMBERLIN J.
R. SACKVILLE J.
R.D. NICHOLSON J.
P.D. FINN J.
R.A. SUNDBERG J.
S.R. MARSHALL J.
J.R.F. LEHANE J.
A.M. NORTH J.
R.N. MADGWICK J.
J.R. MANSFIELD J.
A.H. GOLDBERG J.
A.R. EMMETT J.
R.A. FINKELSTEIN J.
M.S. WEINBERG J.
L.S. KATZ J.
P.G. HELY J.
S.C. KENNY J.
R.V. GYLES J.
R.A. CONTI J.
M.A. STONE J.
J.L.B. ALLSOP J.
Judges of the Federal
Court of Australia

W.G. SODEN
Registrar

1 Name of Rules

These Rules are the *Federal Court (Corporations) Amendment Rules 2001 (No. 1)*.

2 Commencement

These Rules commence on 30 June 2001.

3 Amendment of *Federal Court (Corporations) Rules 2000*

Schedule 1 amends the *Federal Court (Corporations) Rules 2000*.

Schedule 1 Amendments

(rule 3)

[1] Subrule 2.4 (2)

omit

An affidavit

insert

Subject to rule 2.4A, an affidavit

[2] After rule 2.4

insert

2.4A Application for order setting aside statutory demand (s 459G of the Law)

- (1) This rule applies, and subrule 2.4 (2) does not apply, to an application by a company under section 459G of the Law for an order setting aside a statutory demand served on the company.

- (2) The plaintiff may file with the originating process seeking the order a copy of the statutory demand and a copy of any affidavit that accompanied the statutory demand.
- (3) The plaintiff must:
 - (a) no earlier than 7 days before the originating process is filed, and no later than the hearing of the application, carry out a search of the records maintained by the Commission in relation to the plaintiff; and
 - (b) either:
 - (i) annex the record of the search to the affidavit in support of the originating process; or
 - (ii) file the record of the search before or tender it on the hearing of the application.

[3] Rule 3.3
substitute

3.3 Order for meetings to identify proposed scheme

- (1) An order under subsection 411 (1) or (1A) of the Law ordering a meeting or meetings in relation to a proposed compromise or arrangement must set out in a schedule, or otherwise identify, a copy of the proposed compromise or arrangement.
- (2) Unless the Court otherwise orders, a meeting of members ordered under section 411 of the Law must be convened, held and conducted in accordance with:
 - (a) the provisions of Part 2G.2 of the Law that apply to the members of a company; and
 - (b) the provisions of the plaintiff's constitution that apply in relation to meetings of members and are not inconsistent with Part 2G.2 of the Law.

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- (3) Unless the Court otherwise orders, a meeting of a class of holders of convertible securities ordered under section 411 of the Law must be convened, held and conducted as if:
- (a) the holders were a separate class of members; and
 - (b) the meeting were a meeting of members convened, held and conducted under subrule (2);
- but in accordance with, and subject to, the applicable provisions of the instrument under which the securities were issued.

[4] Subrule 11.2 (2)

substitute

- (2) The application may be made without notice to any person.

[5] Subrule 11.3 (2)

substitute

- (2) The application may be made without notice to any person.

[6] Subrule 16.1 (1)

omit

If the Court

insert

For the purposes of paragraph 35A (1) (h) of the *Federal Court of Australia Act 1976*, if the Court

[7] Schedule 1, Form 7, paragraph 1*substitute*

- 1 I am [*state deponent's relationship to the creditor(s), eg, 'the creditor', '(name), one of the creditors', 'a director of the creditor', 'a director of (name), one of the creditors'*] in respect of **a debt of \$[amount]/*debts totalling \$[amount] owed by [name of debtor company] to *it/*them relating to [state nature of debt, or debts, ensuring that what is stated corresponds with the description of the debt, or debts, to be given in the proposed statutory demand, with which this affidavit is to be served on the debtor company].*

[8] Schedule 1, Form 7, paragraph 4*substitute*

- 4 **The debt/*The total of the amounts of the debts, mentioned in paragraph 1 of this affidavit, is due and payable by the debtor company.*

Notes

1. These Rules amend Statutory Rules 1999 No. 359, as amended by 2000 No. 333.
2. Notified in the *Commonwealth of Australia Gazette* on *7 June* 2001.