

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 162

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

Federal Court (Bankruptcy) Amendment Rules 2009 (No. 2)

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 the *Federal Court (Bankruptcy) Rules 2005* by inserting the words 'General Division' in the heading of each form in Schedule 1 to the Rules.

The amendments are consequential upon the amendments made to the *Federal Court of Australia Act 1976* by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

The amendments have not been the subject of consultation as they are of a minor nature and do not alter the substance of the *Federal Court (Bankruptcy) Rules 2005*.

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

The Rules commence on 1 July 2009.

ATTACHMENT

Federal Court (Bankruptcy) Amendment Rules 2009 (No. 2)

RULE 1 **Name of rules**

This rule provides that the Rules are to be cited as the *Federal Court (Bankruptcy) Amendment Rules 2009 (No. 2)*.

RULE 2 **Commencement**

This rule provides that these Rules commence on 1 July 2009.

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

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

SCHEDULE 1

[1] Schedule 1, Forms 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17

These are the forms prescribed under the Bankruptcy Rules to be used for proceedings under the Bankruptcy Act.

This amendment inserts into the heading of each form the words 'General Division'. The words are inserted immediately below the line containing the word 'REGISTRY'.

The amendment is consequential upon the amendments to the *Federal Court of Australia Act 1976* by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* which create a General Division and a Fair Work Division in the Court. The amendment reflects the fact that proceedings under the *Bankruptcy Act 1966* will be heard and determined in the General Division of the Court.

[2] Schedule 1, Form 3

This is the prescribed form for interim applications under the Bankruptcy Rules.

This amendment inserts into the heading of this form the words 'General Division'. The words are inserted immediately below the line containing the word 'REGISTRY'.

The amendment is consequential upon the amendments to the *Federal Court of Australia Act 1976* by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* which create a General Division and a Fair Work Division in the Court. The amendment reflects the fact that proceedings under the *Bankruptcy Act 1966* will be heard and determined in the General Division of the Court.