



HIGH COURT OF AUSTRALIA

EXPLANATORY STATEMENT

Select Legislative Instrument No. 178, 2015

Issued by the authority of the

Justices of the High Court of Australia

AMENDMENTS TO THE HIGH COURT RULES 2004

These Amendment Rules of Court, signed by the Justices of the High Court of Australia on 3 November 2015, are made by the Justices under the *Judiciary Act* 1903, the *Commonwealth Electoral Act* 1918, the *Nauru (High Court Appeals) Act* 1976 and the *High Court of Australia Act* 1979.

Schedule 2 of the High Court Rules 2004 specifies the amount which solicitors, who are entitled to practise in the High Court, may charge and be allowed on taxation of costs by the Taxing Officer of the Court in respect of proceedings in the Court. The amounts in the Schedule were last varied by Select Legislative Instrument 2014 No. 139 made on 9 September 2014, and which came into operation on 1 January 2015.

The Joint Costs Advisory Committee (JCAC) was established in 2007 to review annually and recommend variations in the quantum of costs contained in the Rules made by the High Court of Australia, the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia. It comprises representatives of those courts. In conducting its reviews, the JCAC applies a formula which has regard to movements in wages and salaries and other costs of solicitors' practices.

In its 2015 annual review, the JCAC wrote to the Commonwealth Attorney-General's Department, the Law Council of Australia, the National Association of Community Legal Centres, the Law Society of NSW and National Legal Aid inviting them and their respective constituent bodies to make submissions to the review. A notice of the review was also placed on the website of each court. Following its annual review, the JCAC provided a report in September 2015 to the High Court of Australia, the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia recommending an increase of 3% to the solicitors' costs provided for in the Rules of each Court. Issues raised in consultations were addressed in the report.

The Court has agreed to the recommendation of the Committee for an increase of 3% to the solicitors' costs as set out in Schedule 2 of the High Court Rules 2004, which is to come into operation on Friday, 1 January 2016 and will apply in respect of all work done and services performed by solicitors after Thursday, 31 December 2015.

Section 9 of the *Legislative Instruments Act* 2003 provides that Rules of Court made for the High Court of Australia are not legislative instruments for the purposes of that Act. The *Human Rights (Parliamentary Scrutiny) Act* 2011 does not apply to any such Rules of Court and no statement of compatibility for the purposes of that latter Act is included in the Explanatory Statement.