



HIGH COURT OF AUSTRALIA

HIGH COURT AMENDMENT (2016 MEASURES No. 2) RULES 2016 6 DECEMBER 2016 EXPLANATORY STATEMENT

These Amendment Rules of Court, signed by the Justices on 6 December 2016, 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.

The Justices of the Court propose amendments to the *High Court Rules* 2004 to clarify the requirements of initiating documents filed by parties (for example, applications for an order to show cause and applications for removal) and of initiating process issued by the Court (such as writs of summons and subpoenas).

The aim of these amendments is to ensure that the Rules and the Forms prescribed by the Rules reflect the requirements of s 33 of the *High Court of Australia Act* 1979 (Cth) which provides:

33 Writs etc.

All writs, commissions and process issued from the High Court shall be:

- (a) in the name of the Queen;
- (b) under the seal of the Court or a duplicate of that seal or such other seal as is prescribed by Rules of Court; and
- (c) signed by:
 - (i) the Chief Executive and Principal Registrar or an officer acting with the authority of the Chief Executive and Principal Registrar; or
 - (ii) an officer authorized by an arrangement in force under subsection 30(4) or (5) or a person acting with the authority of such an officer.

The Amendment Rules amend Parts 1, 4, 6, 9 and 20 and Schedule 1 Forms 5, 6, 10, 11, 13, 14, 15, 16, 20, 21, 30 and 31 of the *High Court Rules* 2004 to ensure that the language used throughout the Rules is consistent and reflects the distinction between documents filed by the parties and process issued by the Court.

The Court also proposes amendments to Part 13 of the Rules to permit the making of orders by a single Justice other than in open court, reflecting the jurisdiction provided by s 16 of the *Judiciary Act* 1903 (Cth) of a Justice sitting in Chambers.



Commencement

The amendment provisions commence on the day after the Rules are registered.

Consultation

Consultations on the changes have taken place with relevant professional organisations and the Special Committee of Solicitors-General.

Statement of Compatibility

Rules of court are not legislative instruments (see paragraph 8(8)(d) of the *Legislation Act 2003*). Accordingly, section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011* does not require a statement of compatibility to be prepared in respect of rules of court made by the High Court, and no statement of compatibility for the purposes of that latter Act is included in the Explanatory Statement.