

TASMANIA

SUPREME COURT AMENDMENT RULES 2019 **STATUTORY RULES 2019, No. 50**

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SUPREME COURT AMENDMENT RULES 2019

IN THE SUPREME COURT OF TASMANIA

Dated 5 August 2019.

We, the Honourable Alan Michael Blow, AO, Chief Justice, and the Honourable Helen Marie Wood, the Honourable Stephen Peter Estcourt, AM, the Honourable Robert William Pearce, the Honourable Michael Joseph Brett and the Honourable Gregory Peter Geason, Puisne Judges of the Supreme Court of Tasmania, on the recommendation of the Rule Committee, make the following Rules of Court under the *Supreme Court Civil Procedure Act 1932*.

1. Short title

These Rules of Court may be cited as the *Supreme Court Amendment Rules 2019*.

2. Commencement

These Rules of Court take effect on the day on which the *Supreme Court Civil Procedure Amendment Act 2019* commences.

3. Principal Rules

In these Rules of Court, the *Supreme Court Rules 2000** are referred to as the Principal Rules.

*S.R. 2000, No. 8

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4. Rule 3 amended (Application of these rules)

Rule 3 of the Principal Rules is amended by omitting “rule 4,” and substituting “rules 3A and 4,”.

5. Rule 3A inserted

After rule 3 of the Principal Rules, the following rule is inserted in Division 1:

3A. Admiralty jurisdiction

- (1) This rule applies to the following persons:
 - (a) the Principal Registrar;
 - (b) the Deputy Registrar;
 - (c) the Assistant Deputy Registrar.
- (2) In civil proceedings in the admiralty jurisdiction of the Court, a person to whom this rule applies may perform the functions and exercise the powers of the Registrar and the Marshal under the *Admiralty Rules 1988* of the Commonwealth.
- (3) If a person to whom this rule applies cannot conveniently execute a warrant or other instrument related to civil proceedings in the admiralty jurisdiction of the Court –

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- (a) that person may engage an appropriate officer of the Court to execute the warrant or instrument; and
 - (b) the officer referred to in paragraph (a) is authorised to execute that warrant or instrument.
- (4) In any civil proceedings in the admiralty jurisdiction of the Court –
- (a) a fee is payable in respect of those proceedings in relation to any matter for which a fee is payable for that matter in any other civil proceedings under these Rules; and
 - (b) a fee payable under paragraph (a) in relation to a matter is the same as the fee payable for that matter in any other civil proceedings.

6. Rule 5A amended (Prescribed rates of interest for administration proceedings, pre-judgment interest and post-judgment interest)

Rule 5A of the Principal Rules is amended by inserting after subrule (2) the following subrule:

- (2A) For the purpose of section 35A of the *Supreme Court Civil Procedure Act 1932*, the prescribed rate of interest that is not to be exceeded under that section

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for a calendar year, or for part of a calendar year, is the rate specified in subrule (2).

7. Part 10, Division 5 substituted

Division 5 of Part 10 of the Principal Rules is rescinded and the following Divisions are substituted:

Division 5 – Representative proceedings

335. Application of Division

This Division applies to representative proceedings commenced under Part VII of the Act.

335A. Interpretation

A word or expression used in this Division and in Part VII of the Act has the same meaning in this Division as it has in that Part.

335B. Originating process

- (1) In the heading of an originating process in representative proceedings, and in each document filed in support of the originating process, next to the name of the plaintiff or the applicant, the words “as a representative party under Part VII

of the *Supreme Court Civil Procedure Act 1932*” are to be added.

- (2) The originating process in representative proceedings is to be accompanied by a notice in accordance with the prescribed form.

335C. Opt-out notices

- (1) In this rule –

opt-out date means the date fixed by the Court before which a group member may opt out of representative proceedings.

- (2) If a group member opts out of representative proceedings in accordance with section 71(2) of the Act, the group member is to file and serve, on the relevant representative party, a notice in the prescribed form before the opt-out date.
- (3) A representative party on whom a notice is served in accordance with subrule (2) must provide to each of the other parties to the proceedings, within 14 days after the opt-out date, a list of persons who have filed and served a notice in accordance with subrule (2).

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335D. Procedural applications

An application under section 72, 83, 84 or 87 of the Act must be accompanied by an affidavit stating –

- (a) the identity of each group member; and
- (b) the postal address of each group member; and
- (c) the means by which information may most effectively be given to the group members.

Division 5A – Representative defendants

336. Numerous defendants

In any proceeding in which 7 or more persons –

- (a) are subject to the same or a common obligation; or
- (b) have the same or a common interest in or in respect of, or are under the like obligations in respect of, a fund or other property; or
- (c) otherwise have a common interest in any matter –

one or more of those persons may be sued or made respondent or may be

authorised by the Court or a judge to defend the proceeding with respect to the obligation or interest on behalf, or for the benefit, of all persons subject to the obligation or having the interest.

8. Rule 962 amended (Jurisdiction of Associate Judge)

Rule 962(1)(a) of the Principal Rules is amended by omitting “proceedings in the Court’s appellate jurisdiction” and substituting “appeals”.

9. Rules of the Supreme Court 1965 amended

Part IV of the *Rules of the Supreme Court 1965* is rescinded.

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A. M. BLOW
Chief Justice

H. M. WOOD
Puisne Judge

S. P. ESTCOURT
Puisne Judge

R. W. PEARCE
Puisne Judge

M. J. BRETT
Puisne Judge

G. P. GEASON
Puisne Judge

Countersigned,

J. A. CONNOLLY
Registrar

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 14 August 2019.

These Rules of Court are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the Rules of Court)

These Rules of Court amend the *Supreme Court Rules 2000* by –

- (a) specifying the jurisdiction of registrars in respect of admiralty proceedings; and
- (b) prescribing the maximum rate of pre-judgment interest that may be awarded in certain actions; and
- (c) specifying procedures for the institution and conduct of representative proceedings; and
- (d) amending the jurisdiction of the Associate Judge to enable the Associate Judge to hear proceedings in the Court's appellate jurisdiction other than appeals; and
- (e) rescinding the Part of the *Rules of the Supreme Court 1965* that relates to admiralty proceedings.