

SUPREME COURT OF TASMANIA

CIRCULAR TO PRACTITIONERS

No. 11 of 2019

4 September 2019

SUPREME COURT CIVIL PROCEDURE AMENDMENT ACT 2019

Practitioners are advised that the *Supreme Court Civil Procedure Amendment Act 2019* will come into force on 9 September 2019.

The Act amends the *Supreme Court Civil Procedure Act 1932* (the Act) to address a number of anomalies and deficiencies identified by the Supreme Court of Tasmania:

- It inserts a new section into the Act (s35A) to provide judges of the Supreme Court with a general and unrestricted power to award pre-judgement interest (up to a maximum equivalent to the rate prescribed in s34) in actions for the recovery of an amount of money. Comparable powers are currently available in other Australian jurisdictions, in the Federal Court, for Tasmanian magistrates under section 25(1) of the *Magistrates Court (Civil Division) Act 1992*, and to Tasmanian arbitrators under section 33E of the *Commercial Arbitration Act 2011*.
- A new Part VII is inserted into the Act to provide for representative proceedings (class actions) where seven or more persons have claims against the same defendant, those claims are in respect of the same, similar or related circumstances and they give rise to a substantial common question of law or fact. The new sections cover matters such as:
 - the conditions that apply to the commencement of representative proceedings;
 - who has standing;
 - who may be a member of a group of persons on whose behalf representative proceedings have been commenced;
 - group members opting out of proceedings or new members being added to the group;
 - discontinuance of proceedings;
 - the determination of questions that may relate to only one or some members of the group;
 - the awarding of damages and the establishment of funds to distribute money to group members;
 - provisions relating to appeals; and
 - the effect of representative proceedings upon limitation periods for individuals.
- the Act is amended to enable the judges of the Supreme Court to extend the Associate Judge's powers to include hearing interlocutory applications in relation to pending appeals.

- outdated references in the Act to repealed legislation have been removed that prevent judges from making and amending supplementary rules in relation to the admiralty jurisdiction of the Supreme Court under the *Admiralty Act 1988* (Cth); and to rescind the Admiralty Rules in the *Rules of the Supreme Court 1965* Part IV.

Coinciding with the commencement of the Act, the following amendment *Rules* also come into force:

- **Supreme Court Amendment Rules 2019 –**
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 (class actions); 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 Part IV of the *Rules of the Supreme Court 1965* that relate to admiralty proceedings.
- **Supreme Court (Fees) Amendment Rules 2019 –**
These Rules of Court amend the *Supreme Court (Fees) Rules 2017* to prescribe the fee payable on the filing of originating process in representative proceedings (class actions).
- **Supreme Court Forms Amendment Rules 2019 –**
These Rules of Court amend the *Supreme Court Forms Rules 2000* to include forms relating to representative proceedings.

JA Connolly
REGISTRAR