

SUPREME COURT OF TASMANIA
CIRCULAR TO PRACTITIONERS

No. 5 of 2011

16 March 2011

FAST TRACK CASE MANAGEMENT

Supreme Court Amendment (Miscellaneous) Rules 2011 (SR 14/2011)

These amendments to Rule 415 of the *Supreme Court Rules 2000* will allow the fast track case management of a proceeding. The amendments will commence on 8 April 2011.

The purpose of these fast track amendments is the same as that which is described in the head note to *Aon Risk Services Australia Ltd v Australian National University* (2009) 239 CLR 175; 83 ALJR 951. The purpose is to *facilitate the just resolution of the real issues in civil proceedings with minimum delay and expense. What may be just requires account to be taken of other litigants, not just the parties to the proceedings.*

Account should also be taken of the interests of the public as a whole in the efficient use of publicly funded court resources and the need to maintain public confidence in the judicial system.

Fast track orders can be made by a judge, either on or without application (r9). When making an order, the judge may take into account:

- (a) the most suitable manner in which to deal with the proceeding in a way which is proportionate to:
 - (i) the amount of money involved;
 - (ii) the importance of the case;
 - (iii) the complexity of the issues; and
 - (iv) the financial position of each party;
- (b) the most efficient manner in which to deal with the proceeding which will not prevent the fair and just resolution of the dispute; and
- (c) the allocation of court resources taking into account the demands imposed on those resources by other proceedings.

An order made under fast track case management may:

- (a) be inconsistent with, dispense with or vary any provisions of the rules in their application to the proceeding;

- (b) require the filing and service of statements of contentions including the material facts; the relief claimed; the grounds for that relief and responses thereto;
- (c) limit the bringing of interlocutory applications to those certified by a practitioner or determined by a judge as having a reasoned likelihood that the determination of the application will be productive in the just and efficient overall disposition of the proceeding;
- (d) require a practitioner to certify whether or not he or she has issued detailed written advice to his or her client -
 - (i) reciting the facts known at that point in time;
 - (ii) stating concisely the legal principles that apply;
 - (iii) identifying issues of fact in dispute or likely to be in dispute;
 - (iv) identifying issues of law which are or may be controversial as to the their application to the facts;
 - (v) setting out the likely timetable for the conduct of the litigation;
 - (vi) stating the likely cost of the litigation;
 - (vii) providing a reasoned opinion as to the risks associated with the proceeding;
 - (viii) mentioning the non-litigious avenues for dispute resolution which are reasonably available to the client;
- (e) refer the proceeding or any issue in the proceeding to mediation;
- (f) impose or dispense with limitations on the procedures for interrogation and the discovery of documents;
- (g) require the filing and service of witness lists and statements;
- (h) impose a timetable which ensures that the proceeding will be ready to be heard as soon as possible;
- (i) require a practitioner to forewarn his or her opponent of any likely non-compliance with rules or orders;
- (j) appoint a trial date;
- (k) limit the number of expert witnesses at trial; and
- (l) require the trial or any issue of fact or law before any other issue.

Elizabeth Knight
REGISTRAR