

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 10

FEDERAL MAGISTRATES COURT AMENDMENT RULES 2008 (No. 1)

Issued by the authority of the Federal Magistrates of the Federal Magistrates Court of Australia

Section 81 of the *Federal Magistrates Act 1999* permits the Federal Magistrates or a majority of them, to make rules of Court not inconsistent with the Act. These rules may provide for the practice and procedure to be followed in the Court and may extend to all matters incidental to any such practice or procedure that are necessary or convenient to be prescribed for the conduct of any business of the Court.

Under sub-section 81(3) of the *Federal Magistrates Act 1999* the *Legislative Instruments Act 2003* (other than sections 5, 6, 7, 10, 11 and 16 of that Act) applies in relation to rules of court made by the Court under the *Federal Magistrates Act 1999* or another Act:

- (a) as if a reference to a legislative instrument were a reference to a rule of court; and
- (b) as if a reference to a rule-maker were a reference to the Chief Federal Magistrate acting on behalf of the Federal Magistrates of the Court; and
- (c) subject to such further modifications or adaptations as are provided for in regulations made under section 120 *Federal Magistrates Act 1999*.

The Federal Magistrates have agreed to adopt the *Federal Magistrates Court Amendment Rules 2008 No. 1* ('the Amendment Rules').

There has been consultation with the Family Court of Australia, the Attorney General's Department and the Family Law Section of the Law Council of Australia in relation to the amendments.

The Amendment Rules include miscellaneous amendments to the *Federal Magistrates Court Rules 2001* ('the Rules'), including

- amendment to Subparagraph 20.00A to delegate certain *Family Law Act 1975* powers to Registrars including the exercise of powers under subsections 601(9), 60I(10) and 60J
- amendment to the terminology in Schedule 1, Part 1, to remove reference to PDR litigation intervention with Dispute resolution litigation intervention.

Details of the Amendment Rules are in the **Attachment**.

The Amendment Rules commence on the 1 March 2008.

ATTACHMENT

Federal Magistrates Court Amendment Rules 2008 (No 1)

Rule 1 – Name of Rules

Rule 1 provides that the Rules are to be cited as the *Federal Magistrates Court Amendment Rules 2008 (No. 1)*.

Rule 2 – Commencement

Rule 2 provides that the Rules will commence on the 1 March 2008.

Rule 3 – Amendment to the *Federal Magistrates Court Rules 2001*

Rule 3 provides that the Rules are amended as set out in Schedule 1.

SCHEDULE 1

[1] Subparagraphs 20.00A(1)(b)(ii) and (iii)

This amendment provides for the delegation to Registrars of additional *Family Law Act 1975* powers including the exercise of powers under subsections 60I(9), 60I(10) and 60J

[2] Schedule 1, Part 1

The amendment substitutes the reference 'PDR litigation intervention' with 'Dispute resolution litigation intervention' consistent with the terminology of the *Family Law Act 1975* and the *Federal Magistrates Act 1999*