



HIGH COURT OF AUSTRALIA

EXPLANATORY STATEMENT **HIGH COURT AMENDMENT (FEES) RULES 2018** **3 DECEMBER 2018**

These Amendment Rules of Court, signed by the Justices of the High Court of Australia on 3 December 2018, 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*.

Schedule 2 of the High Court Rules 2004 specifies the amount which solicitors, who are entitled to practise in the High Court, may charge and be allowed on taxation of costs by the Taxing Officer of the Court in respect of proceedings in the Court. The amounts in the Schedule were last varied by the High Court Amendment (Fees) Rules 2017 F2017L01459 made on 6 November 2017, and which came into operation on 1 January 2018.

The Joint Costs Advisory Committee (JCAC) was established in 2007 to review annually and recommend variations in the quantum of costs contained in the Rules made by the High Court of Australia, the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia. It comprises representatives of those courts. In conducting its reviews, the JCAC applies a formula which has regard to movements in wages and salaries and other costs of solicitors' practices.

In its 2018 annual review, the JCAC wrote to the Commonwealth Attorney-General's Department, the Law Council of Australia, the National Association of Community Legal Centres and National Legal Aid inviting them and their respective constituent bodies or State and Territory counterparts to make submissions to the review. A notice of the review was also placed on the website of each court. Following its annual review, the JCAC provided a report in September 2018 to the High Court of Australia, the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia recommending an increase of 2.1% to the solicitors' costs provided for in the Rules of each Court. Issues raised in consultations were addressed in the report.

The Court has agreed to the recommendation of the Committee for an increase of 2.1% to the solicitors' costs as set out in Schedule 2 of the High Court Rules 2004, which is to come into operation on 1 January 2019 and will apply in respect of all work done and services performed by solicitors after 31 December 2018.

Section 9 of the *Legislative Instruments Act 2003* provides that Rules of Court made for the High Court of Australia are not legislative instruments for the purposes of that Act. The *Human Rights (Parliamentary Scrutiny) Act 2011* does not apply to any such Rules of Court and no statement of compatibility for the purposes of that latter Act is included in the Explanatory Statement.