

**1990 – No. 159**

**SUPREME COURT ACT 1970 – RULE**

NEW SOUTH WALES



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**SUPREME COURT RULES (AMENDMENT No. 238) 1990**

1. These rules are made by the Rule Committee on 12 March 1990.
2. The Supreme Court Rules 1970 are amended as follows:
  - (a) Part 12 rule 5 (a) (xxvii)  
Omit "section" and insert instead "sections 20B and".
  - (b) Part 21 rule 2 (a)  
After "parties" insert "having an address for service in the proceedings".
  - (c) Part 24 rule 9 (3)  
Omit "professional".
  - (d) Part 72A rule 7  
Omit "(a) A subpoena" and insert instead "(1A) A subpoena".
  - (e) Part 80 rule 22A  
Omit "Where" and insert instead "(1) Where" and after subrule (1) insert:
    - (2) A sealed copy is sufficiently served on a liquidator within the time prescribed in subrule (1) (c) if the information contained in the copy is transmitted to the liquidator's facsimile transmission number by a means that reproduces, in the hands of the liquidator, that information as it appears in the copy.

3. The Supreme Court Rules 1970 are further amended as follows:
  - (a) Part 20 rule 1 (1)  
Omit ", on terms,".
  - (b) Part 20 rule 2  
After subrule (2) insert:
    - (2A) A plaintiff filing a summons or a cross-claim to which Part 6 Division 3 applies may, subject to subrule (3), by consent of the parties, amend the summons or cross-claim at any stage of the proceedings.
  - (c) Part 20 rule 3 (1)
    - (i) After "rule 2" insert "(1)".
    - (ii) Omit "on terms, but".
  - (d) Part 20 rule 3 (3)  
After "rule 2" insert "(1)".
  - (e) Part 20 rule 5  
After "leave" in the headnote to the rule insert "or consent".
  - (f) Part 20 rule 5  
Omit "Subject" and insert instead "(1) Subject" and after subrule (1) insert:
    - (2) Subject to Part 2 rule 3, where, at the request of a party, each other party gives consent to amend a document, then, if the requesting party does not amend the document in accordance with the consent or consents before the expiration of 14 days after the date on which the consent or the first of the consents is given, the consent or consents shall cease to have effect.
  - (g) Part 52 rule 12
    - (i) After "pleading" in the headnote to the rule insert "etc".
    - (ii) After "pleading" insert ", summons or cross-claim to which Part 6 Division 3 applies".

**EXPLANATORY NOTE**

(This note does not form part of the rules).

1. The purposes of the above Amendment are:
  - (1) to assign business under s. 20B of the Children (Care and Protection) Act 1984 to the Equity Division (paragraph 2 (a));
  - (2) to dispense with the requirement on discontinuance, where the party's solicitor certifies that the party does not represent any other person, for the consent of a party who has no address for service (paragraph 2 (b));
  - (3) to change from "professional misconduct" to "misconduct" the consequences of a failure by a solicitor to notify a client of an order for interrogatories (paragraph 2 (c));
  - (4) to permit service on a liquidator of an order for winding up to be effected by facsimile transmission (paragraph 2 (e));
  - (5) to permit amendment by consent without leave of a summons (on cross-claim in proceedings commenced by summons) (paragraph 3);
  - (6) to require a consent amendment to be made within 14 days of consent;
  - (7) to make other provisions of a minor, consequential or ancillary nature.
2. Words or figures underlined in the above rules are intended to be represented in italics if printed.

B. H. BROWN, Secretary of the Rule Committee.

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