

SUPREME COURT ACT 1970 - RULE

NEW SOUTH WALES



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SUPREME COURT RULES (AMENDMENT No. 242) 1990

1. These rules are made by the Rule Committee on 14 May 1990.
2. The Supreme Court Rules 1970 are amended as follows:
 - (a) Part 1 rule 3
From the matter relating to Part 41 omit "Division 1 - *Common Law Division and Commercial Division*".
 - (b) Part 51A rule 1
"From paragraph (c) omit "applies;" and insert instead "applies" and omit paragraph (d).
 - (c) SCHEDULE D Part 1
Omit "Act No 29, 1902" and the matter relating to that Act.
 - (d) SCHEDULE D Part 1
Omit "Act No. 109, 1987" and the matter relating to that Act and after the matter relating to Act No 219 of 1986 insert:

in column 1 - in column 2 - in column 3 -

"Act No. 109, 1987:
Legal Profession Act
1987 -

Part 11 Divisions 5 and 6	Bill of costs
Section 80 (8) (c)	Claim against Fidelity Fund: time
Section 86 (2) (b)	Final date for claim against Fund
Section 90 (3)	Enforcement against Fund
Section 102	Directions relating a receiver"

- (e) SCHEDULE E Part 2 paragraph 7
Omit the paragraph.
- 3. The Supreme Court Rules 1970 are further amended as follows:
 - (a) Part 1 rule 3
In the matter relating to Part 53 Division 2 next before "and" insert "Bonds".
 - (b) Part 53 rule 3
Omit "Where" and insert instead "(1) Where" and after subrule (1) insert:
 - (2) Subject to subrule (1), security for costs may be given by a deed in Form 64B.
 - (c) Part 53 Division 2
In the heading to the Division next before "and" insert "bonds".
 - (d) Part 53
After rule 6 insert:
Bonds.
 - 6A. (1) In this rule, "bond" means an instrument or memorandum of acknowledgment by the terms of which a person is bound in a sum of money to be paid on the non-observance of a specified condition.
 - (2) Subject to any Act, the Court shall not require any person to give a bond and shall not put any person on terms of giving or procuring a bond.
 - (3) Where, but for subrule (2), the Court might have required a person to give a bond or put a person on terms of giving, or procuring a bond, the Court may, subject to subrule (2), require the person to promise by deed to pay the sum on the non-observance of the specified condition or, as the case may be, put the person on terms of promising or procuring another person to promise by deed to pay the sum on the non-observance of the specified condition.
- (e) SCHEDULE F Form 41
 - (i) Omit "4. Date of order for appointment of Receiver: 10 April, 19..... THIS DEED made between the Guarantor and the Registrar of the Equity Division

witnesses that the Guarantor promises the Registrar"
and insert instead:

4. Proceedings No of 19 in the Division (*or as the case may be*) of the Supreme Court of New South Wales.

5. Date of order for appointment of Receiver: 10 April 19
By this deed the Receiver promises the Registrar of the Division".

(ii) Omit "Signed (*and so on*)" and insert instead "Signed
sealed and delivered (*and so on*) (*or as the case may be*)".

(f) SCHEDULE F

(i) After Form 64A insert:

FORM 64B.

(*Security for costs*)

P. 53, r. 3.

DEED

PARTICULARS

1. Date: 7 May, 19.....
2. Guarantor: (name)
(address for service)
3. *state the party claiming the relief for example -*
Plaintiff: (address for service)
(address for service)
4. *state the party against whom the relief is claimed for example -*
Defendant: (name)
(address for service)
5. Proceedings No of 19 in the Division (*or as the case may be*) of the Supreme Court of New South Wales.
6. Date of order to give this security 10 April, 19.....
By this deed the guarantor promises the (defendant) that, (as
ordered, for example if the (plaintiff) does not pay to the
(defendant) all costs which the (plaintiff) may have been
ordered to pay to the (defendant) in the above proceedings, the
guarantor will pay to the (defendant) whatever is required to
make good the (plaintiffs) default to a limit of \$.....).

Signed sealed and delivered (*and so on*) (*or as the case may be*).

- (ii) In the Index of Forms under the matter relating to Form 64A insert:
 - 64B. Security for costs (P. 53,r.3).
- (g) SCHEDULE F Form 74D
 - (i) Next above "Fine: S" insert:
"Proceedings No of 19 in the Criminal Division of the Supreme Court of New South Wales".
 - (ii) After "Signed" where appearing insert "sealed and delivered (*and so on*) (*or as the case may be*)".

EXPLANATORY NOTE

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

1. The purposes of the above Amendment are:
 - (a) to omit a reference to rescinded rules (paragraph 2 (a) (b));
 - (b) to omit a reference to a repealed Act (paragraph 2 (c) (e));
 - (d) to substitute a promise by deed for a bond and to prescribe such a deed for a security for costs (paragraph 3);
 - (e) 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 italics if printed.
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