

1990 - No. 734

**SUPREME COURT ACT 1970 - RULE**  
**NEW SOUTH WALES**



*[Published in Gazette No. 148 of 16 November 1990]*

**SUPREME COURT RULES (AMENDMENT No. 248) 1990**

1. These rules are made by the Rule Committee on 12 November 1990.
2. (a) Part 52 rule 17 (4)  
Omit "shall be" and insert instead "shall, subject to rule 24, be".
- (b) Part 52 rule 17 (5)  
Omit "the plaintiff shall be" and insert instead "the plaintiff shall, subject to rule 24, be".
- (c) Part 52 rule 24 (1) (b)  
Omit the paragraph.
- (d) Part 52 rule 24 (3) (d)  
After "sum" insert "more than \$10,000 but".
3. The Supreme Court Rules 1970 are further amended as follows -  
Part 15 rule 11  
Omit the rule and insert instead -

**Conditions precedent**

- 11 Where it is a condition precedent necessary for the case of a party in any pleading that -
  - (a) a thing has been done;
  - (b) and event has happened;
  - (c) the party is and has been at all material times ready and willing to perform an obligation; or

- (d) the party was at all material times ready and willing to perform an obligation,
  - a statement that -
  - (e) the thing has been done;
  - (f) the event has happened;
  - (g) the party is and has been at all material times ready and willing to perform the obligation, or
  - (h) the party was at all material times ready and willing to perform the obligation,
- shall be implied in the pleading.

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**EXPLANATORY NOTE**

(This note does not form part of the rules)

1. The purposes of the above Amendments are -
  - (a) to make it clear that the rule relating to reduced or no costs for small claims overrides the whole of the rule relating to costs on offer of compromise (See *Pivot Group Limited v. State of N.S.W., Cole, J. 3-8-90*) (paragraph 2);
  - (b) to widen the implication in pleadings relating to conditions precedent (paragraph 3).
2. Words or figures underlined in the above rules are intended to be represented in italics if printed.

M. A. BLAY, Secretary of the Rule Committee.