

1992—No. 117A

SUPREME COURT RULES (AMENDMENT No. 262) 1992

NEW SOUTH WALES



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1. These Rules are made by the Rule Committee on 17 February 1992.

2. The Supreme Court Rules 1970 are amended as follows:

(a) Part 1 rule 3

In the matter relating to Part 77, insert next under “Imperial Acts Application Act 1969”:

in the column “Statute”— “ <i>Insurance Act</i> 1902	in the column “Division”— 35	in the column “Rules”— 101”

(b) Part 77

After Division 34 insert:

DIVISION 35—*Insurance Act 1902*

Joinder of insurer, etc. (s. 17A).

101. (1) Notice of motion in any proceedings for an order under section 17A (1) of the Insurance Act 1902 shall be filed:

- (a) in any case where the Court by notice to the parties fixes a date for determining the date for trial—before the date fixed by the notice;
- (b) in any case where the place of trial is a place other than Sydney—not later than six weeks before the beginning of the sitting at that place; and
- (c) in any other case—before the date on which the Court determines the date for trial.

(2) The applicant shall serve the notice on each other party to the proceedings and on such other person as the Court may direct.

1992—No. 117A

(c) SCHEDULE D Part 1

Under the matter relating to Act No. 45 of 1901 insert:

in column 1	in column 2—	in column 3—
“Act No. 49, 1902; Insurance Act 1902— Section 17A (1)	Joinder of insurer, etc. ”

3. The Supreme Court Rules 1970 are further amended as follows:

(a) Part 1 rule 3

In the matter relating to Part 77 insert, next under “Nurses Act 1991”:

In the column “Statute”— “ <i>Oaths Act 1900</i>	in the column “Division”— 36	in the column “Rules”— 102”
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(b) Part 37 rule 7A (4)

Omit “Schedule G Table 6 item 57A” and insert instead “item 2 of Schedule G1”.

(c) Part 46 rule 6 (2) (a)

Omit “the prescribed sum” and insert instead “the amount prescribed in item 3 of Schedule G1”.

(d) Part 71 rule 3

(i) Omit “The” and insert instead “(1) The”.

(ii) After subrule (1) insert:

(2) The costs to be allowed by the Court under section 22A of the Service and Execution of Process Act 1901 of the Commonwealth (which relates to registration of a judgment) shall not exceed the amount prescribed in item 1 of Schedule G1.

(e) Part 76 rule 47 (I)

Omit “Table 6 of Schedule G” and insert instead “item 4 of Schedule G1”.

(f) Part 77

After Division 35 insert:

DIVISION 36—*Oaths Act 1900*

102. A person authorised under section 27 (2) of the Oaths Act 1900 may charge the fees prescribed in item 5 of Schedule G1.

1992—No. 117A

(g) SCHEDULE G Table 6

Omit items 57, 57A, 58A, 60 and 61.

(h) After SCHEDULE G insert:

SCHEDULE G1

P37, r. 7A (4).

P46, r. 6 (2) (a).

P52, r. 67.

P71, r. 3 (2).

P76, r. 47 (1).

P77, r. 102.

1. The prescribed amount under Part 77 rule 102 (which relates to (registration of a judgment under the Service and Execution of Process Act 1901 of the Commonwealth) is \$415.
2. The prescribed amount under Part 37 rule 7A (4) (medical expert producing photocopies) is \$28.
3. The prescribed amount under Part 46 rule 6 (2) (a) (costs of garnishee) is \$19.
4. The fee prescribed under Part 76 rule 47 (1) (which relates to a Court Visitor under the Protected Estates Act, 1983) is \$60.
5. The fees prescribed under Part 71 rule 3 (2) (fees chargeable by a Commissioner for Affidavits) are:

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(a) for each oath	3.10
(b) or, if not at the office of the person so authorised	3.80
(c) or, if more than 5 kilometres from the office of the person so authorised, in addition to travelling expenses	14.60
(d) for marking any annexure or exhibit	1.20
(e) for attesting any document	3.10

4. Paragraph 3 has effect in respect of business done on or after 18 October 1991.
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EXPLANATORY NOTE

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

1. The object of the amendment contained in paragraph 2 is to:
 - (a) prescribe the procedure in the Court under Section 17A of the Insurance Act 1902, including the assignment to a master of certain powers of the Court under that Act; and
 - (b) make other provisions of a minor, ancillary or consequential nature.
2. The object of the amendment contained in paragraph 3 is to:
 - (a) increase:
 - (i) costs recoverable by a party for registering and enforcing a judgment under the Service and Execution of Process Act 1901 of the Commonwealth;
 - (ii) fees payable to medical experts for producing photocopies of records;
 - (iii) costs that may be retained by a garnishee;
 - (iv) fees payable to a court visitor in certain circumstances; and
 - (v) fees payable to commissioners for affidavits for taking oaths; and
 - (b) make other provisions of a minor, consequential or ancillary nature,and to transfer these items from Schedule G of the Supreme Court Rules 1970 to a new Schedule G1. The rate of the increases corresponds to that recently applied by the Legal Fees and Costs Board to solicitors' costs and has effect from the same date as that increase.
3. Words and figures underlined in the above rules are intended to be represented in italics when printed.

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