

**1992—No. 624**

**SUPREME COURT RULE (AMENDMENT No. 269) 1992**

NEW SOUTH WALES



*[Published in Gazette No. 140 of 27 November 1992]*

1. These rules are made by the Rule Committee on 16 November 1992.
2. The Supreme Court Rules 1970 are amended as follows:

Part 32 rule 23 (2)  
Omit “159” and insert instead “325”.

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

SCHEDULE F Form 16  
Omit “13A” and insert instead “13B”.

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

SCHEDULE E Part 2 paragraph 14A  
Omit “, as the employer of that person and not otherwise.”.

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

Part 38 rule 7

- (i) After subrule (1) insert:

(2) A party who fails to serve an affidavit in accordance with the requirements of the rules or of my direction of the Court may not use the affidavit without the leave of the Court.

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

- (a) Part 1 rule 3

After the matter relating to Part 66 insert:

**PART 66A—CONVEYANCERS**

## (b) Part 52

After rule 1 insert:

**Application of Part to conveyancers**

1A. Subject to any order of the Court, this Part applies, making such changes as it is necessary to make, to costs to which Division 5 of Part 11 of the Legal Profession Act 1987 applies by virtue of section 23 (5) of the Conveyancers Licensing Act 1992.

## (c) Part 66A

After Part 66 insert:

**PART 66A**  
**CONVEYANCERS**

**Disciplinary Tribunal**

1. (1) The Court of Appeal may direct the Disciplinary Tribunal, constituted under Part 10 of the Legal Profession Act 1987, to give to the Court of Appeal the written opinion of the Tribunal with respect to any matter which is the subject of an appeal under section 140 (1) of the Conveyancers Licensing Act 1992 (the “subject Act”).

(2) Where the Court of Appeal gives a direction under subrule (1), the registrar of the Disciplinary Tribunal shall file four copies of the opinion and serve the opinion on each party to the appeal.

cf. Legal Practitioners Act Rules, r. 28; R.S.C. (Rev.) 1965, P. 106, R. 15.

**Assignment of business**

2. (1) Proceedings on an appeal under section 21 of the subject Act are assigned to the Administrative Law Division.

(2) Subject to subrule (1), proceedings in the Court under the subject Act (other than proceedings assigned to the Court of Appeal) are assigned to the Common Law Division.

**Appeal: license**

3. (1) The Court may, on the application of a person who intends to appeal to the Court under section 21 of the subject Act, make such orders as the nature of the case requires as if the person had instituted the appeal and the application were made in the proceedings on the appeal.

(2) Notwithstanding Part 65 rule 1, in the title of a document in proceedings on the application or the appeal the plaintiff may, subject to my order of the Court, be shown as “A conveyancer”, without the plaintiff’s name.

**1992—No. 624****(d) SCHEDULE D Part 1**

After the matter relating to Act No. 73 of 1991, insert:

	in Column 1—	in Column 2—	in Column 3—
	“Act No. 55 1992;		
	Conveyancers		
	Licensing      Act		
	1992:		
Section 49 (5) (c)	Claim against the Association; time	.....	
Section 51 (2) (b)	Final date for claim against Association	.....	
Section 58 (2)	Enforcement against Association	.....	
Section 96 (2)	Directions relating to a receiver	.....	
Section 156	Bill of costs	.....	”

**EXPLANATORY NOTE**

(This note does not form part of the rules)

1. The object of the amendment contained in paragraph 2 is to replace a reference to a section in the Mining Act 1973 with a reference to the corresponding section in the Mining Act 1992.
2. The object of the amendment contained in paragraph 3 is to correct a reference in a form to a rule.
3. The object of the amendment contained in paragraph 4 is to enable registrars to grant leave to proceed or to commence proceedings, for damages for death of or bodily injury to a person, against a company which is being wound up. This power is presently exercisable by registrars only where the person who died or was injured was employed by the company.
4. The object of the amendment contained in paragraph 5 is to prevent a party, who fails to serve an affidavit in accordance with the requirements of the rules or of any direction of the Court, from using the affidavit without the leave of the Court.
5. The objects of the amendments contained in paragraph 6 (a) and 6 (c) are to:
  - (a) enable the Court of Appeal to require the Disciplinary Tribunal to file and serve copies of the opinion of the Tribunal with respect to any matter which is the subject of an appeal under section 140 (1) of the Conveyancers Licensing Act 1992 (the “subject Act”);

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- (b) assign to the Administrative Law Division proceedings on an appeal under section 21 of the subject Act;
- (c) assign to the Common Law Division proceedings under the subject Act other than those assigned to the Administrative Law Division or to the Court of Appeal;
- (d) allow the making of orders, on application by a person who intends to appeal to the Court under section 21 of the subject Act, as if the person had instituted the appeal and the application were made in the proceedings on the appeal; and
- (e) allow, in proceedings on:
  - (i) the application of a person who intends to appeal to the Court under section 21 of the subject Act; or
  - (ii) an appeal under that section,
 the plaintiff to be shown on the title of documents in the proceedings as “A conveyancer” without the plaintiff’s name, subject to any order of the court.

6. The object of the amendment contained in paragraph 6 (b) is to apply Part 52 of the rules (which refers to solicitors’ costs) to the taxation of a conveyancer’s costs.

7. The object of the amendment contained in paragraph 6 (d) is to enable masters to exercise the power of the Court in:

- (a) extending time for making a claim under the subject Act against the Association of Property Conveyancers;
- (b) extending time for the final date for making a claim under the subject Act against the Association of Property Conveyancers;
- (c) giving leave to take proceedings based on, or for the enforcement of, a judgment against the Association of Property Conveyancers under the subject Act;
- (d) giving directions as to the performance of the functions of a receiver of property under the subject Act; and
- (e) to order a conveyancer to give to the conveyancer’s client:
  - (i) a bill of costs; and
  - (ii) documents of the client held by the licensee.

8. Words or figures underlined in the above rules are intended to be represented in italics if printed.

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M. A. Blay,  
Secretary of the Rule Committee