

**SUPREME COURT RULES (AMENDMENT No. 272) 1993**

NEW SOUTH WALES



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1. These rules are made by the Rule Committee on Monday 19th April, 1993.
2. The Supreme Court Rules 1970 are amended as follows:
  - (a) Part 9 rule 6 (1)

Omit “An” and insert instead “Subject to subrules (1A) and (8), an”.
  - (b) Part 9 rule 6

After subrule (1) insert:

(1A) The address for service of a defendant who is served with originating process in Australia outside the State may be an address inside Australia, whether inside or outside the State.
  - (c) Part 9 rule 6 (2)

Omit “Where” and insert instead “Subject to subrules (1A) and (8), where”.
3. The Supreme Court Rules 1970 are further amended as follows:
  - (a) Part 52 rule 40 (2B)

After “taxation” where first occurring insert “incurred after service of the bill”.
  - (b) Part 52 rule 49 (1A)

Omit “the amount claimed for the costs of the taxation shall not” and insert instead “no costs of the taxation, which would be incurred only if a notice of objection is filed, shall”.

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

SCHEDULE D Part 3

Omit paragraphs 4 and 5 and insert instead:

4. Any:

- (a) trial or hearing of proceedings (except with a jury): or
- (b) matter (other than a matter of proceedings tried or to be tried with a jury),

where referred to a master by an order of a Judge or of the Court of Appeal:

- (c) otherwise than under Part 72 rule 2; or
- (d) with the consent of all the parties to the proceedings who have an address for service in the proceedings.

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

(a) Part 1 rule 8 (1)

In alphabetical order, insert:

“Mutual Recognition Act” means the Mutual Recognition Act 1992 of the Commonwealth.

(b) Part 9 rule 6

After subrule (7) insert:

(8) An address for service of a person who files a notice under Section 19 (1) of the Mutual Recognition Act and who is not represented by a solicitor need not be the address of a place in the State if it is the address of a place within Australia.

(c) Part 61 rule 1 (6)

After “powers” insert “and perform the duties”.

(d) Part 61 rule 1

After subrule (6) insert:

(7) A registrar may exercise the powers and perform the duties of the Court under the Mutual Recognition Act.

(e) Part 61 rule 3 (6)

Omit the subrule and insert instead:

(6) This rule does not apply to:

- (a) an order to which Part 80 rule 23A (1) (which relates to an order for the winding up of a company) applies; or
- (b) a direction, order, decision or other Act of a registrar in relation to the functions of the Court under the Mutual Recognition Act.

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#### **EXPLANATORY NOTE**

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

1. The object of the amendments contained in paragraph 2 is to modify the address for service requirements of the rules to take into account:

- (a) Section 18 (1) of the Service and Execution of Process Act 1992 (Commonwealth); and
- (b) the Mutual Recognition Act 1992 (Commonwealth).

2. The object of the amendments contained in paragraph 3 (a) is to ensure that costs of taxation incurred after service of a bill are not taken into account for the purpose of Part 59 rule 40 (2A) in calculating the proportion of costs taxed off the bill.

3. The object of the amendment contained in paragraph 3 (b) is to prevent costs being shown in a bill which would be incurred only if a notice of objection to the bill is filed.

4. The object of the amendment contained in paragraph 4 is to enable masters to exercise the powers of the Court on any trial or hearing of proceedings (except with a jury) or any matter (other than a matter in proceedings tried or to be tried with a jury) where referred to a master by an order of a Judge or of the Court of Appeal:

- (a) otherwise than an order for reference to a referee; or
- (b) with the consent of all parties.

5. The object of the amendments contained in paragraph 5 (a), (c), (d), and (e) is to enable registrars to exercise the powers and perform the duties of the Court under the Mutual Recognition Act 1922 (Commonwealth) and to prevent the Court from reviewing a decision of a registrar under that Act.

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6. The object of the amendments contained in paragraph 5 (b) is to allow applicants for admission and enrolment as barristers or solicitors in the Court under the Mutual Recognition Act 1992 (Commonwealth) to have, as their address for service, the address of a place outside the State in Australia.

7. 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.