

SUPREME COURT RULES (AMENDMENT No. 275) 1993

NEW SOUTH WALES



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1. These Rules are made by the Rule Committee on 25 June 1993.

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

(a) Part 80

After rule 1C insert:

1D. (1) An affidavit referred to in section 596C of the Corporations Law must set out:

- (a) the facts relied on to establish that the applicant is an eligible applicant for the purposes of section 596B;
- (b) the facts relied on to establish the matters referred to in section 596B (1) (b); and
- (c) if production of books is to be required—the deponent's belief that the books, the production of which is sought, are reasonably required for the purposes of the examination, and the grounds for that belief.

(2) A summons under section 596A or 596B of the Corporations Law shall be in Form 154A.

(b) SCHEDULE E Part 2

(i) After paragraph 28 (b) insert:

(ba) section 459A (which relate to winding up a company in insolvency);

(ii) After paragraph 28 (i) insert:

(ia) sections 596A, 596B and 596F (which relates to the examination of persons about corporations);

(iii) Paragraph 31

Omit “s 597” and substitute “section 596A, 596B or 597”.

(c) SCHEDULE F

After Form 154 insert:

Form 154A

*(Summons under section 596A or 596B of the Corporations Law)***SUMMONS TO ATTEND FOR EXAMINATION UNDER
SECTION 596A (OR 596B) OF THE CORPORATIONS LAW***P. 80, r. 1D (2).*To: *(Name)*
(Address)

1. You are required to attend before the Court at the time and place appointed by the Registrar and specified below, to be examined on oath or affirmation about the examinable affairs (as defined in the Corporations Law) of (name of corporation) (“the Corporation”).
2. Section 597 (6) of the Corporations Law provides that a person who is summoned under section 596A or section 596B to attend before the Court shall not, without reasonable excuse:
 - (a) fail to attend as required by the summons; or
 - (b) fail to attend from day to day until the conclusion of the examination.
3. *(If applicable)* You are also required to produce at the examination the books (as defined in the Corporations Law) specified in the Schedule below that:
 - (a) are in your possession or custody or under your control; and
 - (b) relate to the Corporation or to any of its examinable affairs.
4. *(If applicable)* Section 597 (7) of the Corporations Law provides that a person who attends before the Court for examination must not:
 - (a) without reasonable excuse, refuse or fail to take an oath or make an affirmation; or
 - (b) without reasonable excuse, refuse or fail to answer a question that the Court directs him or her to answer; or

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- (c) make a statement that is false or misleading in a material particular; or
- (d) without reasonable excuse, refuse or fail to produce books that the summons requires him or her to produce.

SCHEDULE*(if applicable)**(description of books)*

Dated: 19

By the Court

Registrar
(or as the case may be)

APPOINTMENT

I appoint *(date)* at *(time)* at *(address of Court)* for the examination.

(Signature)
 Registrar

EXPLANATORY NOTE

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

1. The objects of the above amendments are to:

- (a) prescribe certain matters to be included in affidavits referred to in section 596C of the Corporations Law;
- (b) prescribe the form of summons to be used under sections 596A and 596B of the Corporations Law; and

(c) enable registrars to exercise the powers of the Court in relation to:

(i) section 459A of the Corporations Law (which relates to winding up a company in insolvency); and

(ii) sections 596A, 596B, 596F and 597 of the Corporations Law (which relate to the examination of persons about corporations);

2. 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.
