

SUPREME COURT RULES (AMENDMENT No. 277) 1993

NEW SOUTH WALES



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1. These rules are made by the Rule Committee on 16 August 1993.

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

SCHEDULE F Form 1

After “commence on the following page.” insert “Where there is insufficient space on the left hand side of the page to include particulars of all the parties, this space may also be used to include particulars of parties and the substance of the document may be commenced on the following page.”.

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

SCHEDULE E Part 1

From the matter relating to Part 33, omit:

Rule 7 Directions before setting down for trial

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

SCHEDULE E Part 2 Paragraph 7

(i) Renumber subparagraphs (a), (b) and (c) as (b), (c) and (d) respectively.

(ii) Before subparagraph (b), insert:

(a) section 30 (1) (which relates to shortening time for service of a subpoena);

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

(a) **SCHEDULE F Form 46**

(i) Omit that part of the form commencing “THE COURT ORDERS” and ending “so to attend;” and insert instead—THE COURT ORDERS that you shall ATTEND AND PRODUCE this subpoena and the documents and things described in the schedule:

(a) before the Court ⁽³⁾;

(b) at ⁽⁴⁾;

(c) on ⁽⁵⁾ ⁽⁶⁾ at 10 am ⁽⁷⁾ and until you are excused by the Court from further attending; BUT:

(i) INSTEAD OF so ATTENDING, YOU MAY PRODUCE this subpoena and the documents and things described in the schedule to a clerk of the Court at the above place by hand or by post, in either case so that he receives them:

(A) where this subpoena is served within New South Wales—NOT LATER THAN 48 HOURS; and

(B) where this subpoena is served out of New South Wales—not later than 24 hours,

BEFORE THE DATE on which you are required so to attend;

(ii) you need not comply with this subpoena:

(A) unless reasonable expenses have been paid or tendered to you;

(B) if it is served on you after ⁽⁸⁾; or

(C) if the party who requested the issue of this subpoena has excused you from compliance;

(ii) From Notes (2) and (3) omit “(ii)” wherever appearing and insert instead “(i)”.

(b) SCHEDULE F Form 46A

(i) Omit that part of the form commencing “THE COURT ORDERS” and ending “SO to attend;” and insert instead:

THE COURT ORDERS that:

1. ⁽¹⁾ “the corporation” shall produce this subpoena and the documents and things described in the schedule by causing its proper officer to ATTEND AND PRODUCE them:

(a) before the Court ⁽³⁾;

(b) at ⁽⁴⁾;

(c) on ⁽⁵⁾ ⁽⁶⁾ at 10 am ⁽⁷⁾ and until the officer is excused by the Court from further attending; BUT:

(i) INSTEAD OF causing its proper officer SO to ATTEND, THE CORPORATION MAY PRODUCE

this subpoena and the documents and things described in the schedule to a clerk of the Court at the above place by hand or by post, in either case so that he receives them:

(A) where this subpoena is served within New South Wales—
NOT LATER THAN 48
HOURS; and

(B) where this subpoena is served out of New South Wales—not later than 24 hours,

BEFORE THE DATE on which the officer is required so to attend;

(ii) the corporation need not comply with this subpoena:

(A) unless reasonable expenses have been paid or tendered to the corporation;

(B) if it is served on the corporation after ⁽⁸⁾; or

(C) if the party who requested the issue of this subpoena has excused the corporation from compliance;

(ii) From Notes (2) and (3) omit “(ii)” wherever appearing and insert instead “(i)”.

(6) SCHEDELE F Form 46B

(i) Omit that part of the form commencing “THE COURT ORDERS” and ending “SO to attend;” and insert instead—

THE COURT ORDERS that you shall ATTEND AND PRODUCE this subpoena and the medical records, or clear sharp photocopies of them, described in the schedule (in this subpoena called the “scheduled documents”):

(a) before the Court ⁽³⁾;

(b) at ⁽⁴⁾;

(c) on ⁽⁵⁾ ⁽⁶⁾ at 10 am ⁽⁷⁾ and until you are excused by the Court from further attending; BUT:

(i) INSTEAD OF ATTENDING, YOU MAY PRODUCE this subpoena and the scheduled

documents to a clerk of the Court at the above place by hand or by post, in either case so that he receives them:

- (A) where this subpoena is served within New South Wales—NOT LATER THAN 48 HOURS; and
- (B) where this subpoena is served out of New South Wales—not later than 24 hours,

BEFORE THE DATE on which you are required so to attend;

- (ii) you need not comply with this subpoena:
 - (A) unless *\$(the amount prescribed by Part 37 rule 7A (4))* have been paid or tendered to you;
 - (B) if it is served on you after (8); or
 - (C) if the party who requested the issue of this subpoena has excused you from compliance;
- (ii) From Notes (2) and (3) omit “(ii)” wherever appearing and insert instead “(i)”.

6. The amendment contained in paragraph 5 shall not apply to subpoenas filed before 1 December 1993.

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

SCHEDELD D Part 1

Next after “Section 67 (1) order to produce”,

in the matter relating to Act No. 172, 1992, insert:

in column 1—	in column 2—	in column 3—
“Section 76 (1)	Leave to serve a subpoena outside the State etc.	...
Section 79 (1)	Order to produce	” ...

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

(a) Part 1 rule 3

Under the matter relating to Part 77, insert in alphabetical order:

in the column	in the column	in the column
“Statute”—	“Division”—	“Rules”—
“Local <i>Government Act</i> 1993	38	104”

(b) Part 77

After the matter relating to Division 37, insert:

DIVISION 38—*Local Government Act 1993*

Assignment of business

104. Proceedings in the Court:

- (a) under sections 329 and 485 of the Local Government Act 1993; and
- (b) on an appeal under section 330 of the Local Government Act 1993, which are not assigned by section 48 of the Act to the Court of Appeal,

are assigned to the Administrative Law Division.

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

(a) Part 1 rule 3

Omit “PART 65B—AUSTRALIAN GOVERNMENT SOLICITOR”.

(b) Part 65B

Omit the Part.

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

Schedule J

Omit “after 31 August 1992 11.25”

and insert instead:

in Column 1—	in Column 2—
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“the beginning of 1 September 1992 to the end of 31 August 1993 11.25
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after 31 August 1993 10.5”

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

SCHEDULE F Form 74AF

Omit “If you are applying for a variation of bail conditions already granted in these matters, what variations are you asking for?” and insert instead:

If you are applying for a variation of bail conditions already granted on these matters:

(a) by what Court was bail granted?

*Court of Criminal Appeal/*Supreme Court/*District Court/*Local Court

[*delete whichever is inapplicable]

(b) what variation are you asking for?”

EXPLANATORY NOTE

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

1. The object of the amendment contained in paragraph 2 is to allow the whole of the front page of a document prepared for use in the Court to be used to set out particulars of parties where there is insufficient space in the left hand column.

2. The object of the amendment contained in paragraph 3 is to omit a reference to a repealed rule.

3. The object of the amendment contained in paragraph 4 is to allow a registrar to exercise the powers of the Court under s. 30 (1) of the Service and Execution of Process Act 1992 (Commonwealth) (which relates to shortening time for service of a subpoena under that Act).

4. The object of the amendments contained in paragraph 5 is to draw attention to the alternative in civil matters of producing documents, in response to a Subpoena to Produce, directly to the Exhibits Clerk a specified time prior to the return date instead of attending Court on the return date with the documents.

5. The object of the amendment contained in paragraph 7 is to allow masters to exercise the powers of the Court under:

(a) s. 76 (1) of the Service and Execution of Process Act 1992 (Commonwealth) (which relates to granting leave to serve outside the State a subpoena issued by a N.S.W. Tribunal in connection with the performance of an investigative function by the Tribunal); and

(b) s. 79 (1) of that Act (which relates to ordering a prisoner to be produced from outside the State under a subpoena issued by a N.S.W. Tribunal in connection with the performance of an investigative function by the Tribunal).

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6. The objects of the amendments contained in paragraph 8 are to assign to the Administrative Law Division:

- (a) proceedings for dismissal from office under the Local Government Act 1993;
- (b) appeals from the Local Court in respect of a decision to dismiss from office under the lastmentioned Act; and
- (c) appeals from the Pecuniary Interest Tribunal under the lastmentioned Act.

7. The object of the amendments contained in paragraph 9 is to omit Part 65B of the rules, which has been rendered unnecessary by the recent amendments s. 55E of the Judiciary Act 1903 of the Commonwealth.

8. The object of the amendment contained in paragraph 10 is to prescribe the interest rate on judgment debts and certain other cases at 10.5% as of 1 September 1993.

9. The object of the amendment contained in paragraph 11 is to require an applicant for a variation of bail conditions to identify the court which granted the bail.

10. 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.