

1996—No. 102

SUPREME COURT RULES (AMENDMENT No. 300) 1996

NEW SOUTH WALES



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1. These rules are made by the Rule-Committee on 18 March 1996.
2. The Criminal Appeal Rules are mended as follows:

(a) Rules 20 and 21

Omit the rules and insert instead:

Notes and report of Judge of Court of Trial

20. (1) Where:

- (a) my notice of application for extension of time is given; or
- (b) the Minister administering section 474C (1) of the Crimes Act 1900:
 - (i) refers to the Court my case; or
 - (ii) requests the court to give an opinion on any point arising in a case,

the Judge of the Court of Trial may, and if requested to do so by the Chief Justice shall, furnish to the Registrar his notes of the trial and a report giving the Judge's opinion upon the case or any point arising in the case.

(2) A transcript of evidence made by or on behalf of the Reporting Services Branch may be furnished in lieu of the Judge's notes.

Registrar to furnish copy of notice of appeal etc. to Judge of Court of Trial

21. Where:

- (a) any notice of appeal or of application for leave to appeal or of application for extension of time is given; or
- (b) the Minister administering section 474C (1) of the Crimes Act 1900:
 - (i) refers to the Court any case; or

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(ii) requests the Court to give an opinion on any point arising in a case,

the Registrar shall furnish to the Judge of the Court of Trial a copy of the notice, reference or request and such other documents or information as the Judge may require.

(b) Rule 25

Omit the rule and insert instead:

Documents to be furnished to Registrar

25. Where:

(a) the Registrar receives in relation to a conviction or sentence any notice of appeal or of application for leave to appeal or of application for extension of time; or

(b) the Minister administering section 474C (1) of the Crimes Act 1900:

(i) refers to the Court any case; or

(ii) requests the Court to give an opinion on any point arising in a case,

the proper officer of the Court of Trial shall, at the request of the Registrar, forward to the Registrar:

(c) particulars of the trial and conviction (Form No. II);

(d) all exhibits in the possession of the officer;

(e) the indictment; and

(f) any plea or demurrer filed in the Court of Trial.

(c) Rules 66, 79 and 80

Omit “Minister of Justice” and insert instead “Minister administering the Justices Act 1902”.

(d) Rule 81

(i) After “by the Minister”, insert “administering the Justices Act 1902”.

(ii) Omit “notify the” and insert instead “notify that”.

(e) Form XIX

Omit “the Minister of Justice” and insert instead “(*the Minister administering the Justices Act 1902*)”.

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

(a) Part 9 rule 8

Omit the rule and insert instead:

Service at address for service in court or tribunal below

8. If:

- (a) a decision is given or a case is stated in proceedings before any judge, justice or other person (“the proceedings below”);
- (b) a party to the proceedings below (“the subject party”) has an address for service in the State for the purposes of those proceedings at the office of a solicitor (“the address below”);
- (c) proceedings (not being proceedings in relation to punishment for contempt) arising out of the proceedings below are commenced in the Court (“the new proceedings”);
- (d) the plaintiff in the new proceedings has not received notice that the address below has ceased to be applicable,

documents, including the originating process, may be served on the subject party at the address below, until the subject party has an address for service in the new proceedings, as if the address below were the subject party’s address for service in the new proceedings.

(b) Part 51 rule 2 (2) (c)

Omit “in an appeal from a specified tribunal within the meaning of section 48 of the Act”.

(c) SCHEDULE F Form 62

Omit “*and, unless Part 51 rule 3 (2) applies, add:*”.

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

Part 52A rule 9 (1)

Omit the subrule and insert instead:

(1) Where before the conclusion of any proceedings, other than proceedings:

- (a) in the Commercial Division; or
- (b) entered in the Construction List,

the Court makes an order for the payment of costs or a motion is refused with costs, the costs shall not, unless the Court otherwise orders, be payable until the conclusion of the proceedings.

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

(a) SCHEDULE F Forms 74AF and 74AG

In NOTE (a), after “*Parramatta Correctional Centre*,” insert “*the John Morony Correctional Centre*.”

(b) SCHEDULE F Form 74AI

After “*Parramatta Correctional Centre*,” insert “*the John Morony Correctional Centre*.”

EXPLANATORY NOTE

(This note does not form part of the rules)

1. The object of the amendments contained in paragraph 2 are to:

- (a) replace references to the *Minister of Justice* in various rules with references to the Minister administering the Act or section of the Act to which the rule relates;
- (b) take account of differences between the former s. 26 of the Criminal Appeal Act and s. 474C, which replaces it; and
- (c) minor and incidental associated matters.

2. The object of the amendments contained in paragraph 3 is to:

- (a) simplify service of documents at the address below on appeal; and
- (b) eliminate words which have been rendered superfluous by recent amendments.

3. The object of the amendment contained in paragraph 4 is to except proceedings in the Commercial Division or entered in the Construction List from the general provision that where the Court makes an order for payment of costs or a motion is refused with costs, the costs shall not, unless the Court otherwise orders, be payable until the conclusion of the proceedings.

4. The object of the amendments contained in paragraph 5 is to add the *John Morony Correctional Centre* to the list of Centres prisoners in which do not have bail applications hearings conducted by means of video link facilities.

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