

1996—No. 195

SUPREME COURT RULES (AMENDMENT No. 302) 1996

NEW SOUTH WALES



[Published in Gazette No. 63 of 24 May 1996]

1. These rules are made by the Rule Committee on 20 May 1996.
2. The Supreme Court Rules 1970 are amended as follows:

Part 77

After rule 111 insert:

Division 41—Professional Standards Act 1994

Commencement of proceedings

112. (1) Proceedings for an order under section 15 of the Professional Standards Act 1994 in respect of a scheme shall be commenced in the Common Law Division by summons joining as a defendant the occupational association on whose application the scheme was approved by the Professional Standards Council.

(2) The plaintiff shall, within 1 day of commencing proceedings, lodge a copy of the summons at the office of the Professional Standards Council.

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

(a) Part 41 rule 13 (3)

After “Subject to” insert “Part 74 rule 1A.”.

(b) Part 61 rule 5 (1) (b)

After “under”, where first appearing, insert “Part 74 rule 1A (which relates to minutes of judgment etc transferring proceedings between courts),”

(c) Part 74

After rule 1 insert:

Order transferring proceedings

1A. Notwithstanding Part 41 rule 13 (3), the registrar may, without a direction of the Court or a request of a party, file and seal a minute of an order that proceedings or part of proceedings be removed or otherwise be transferred:

1996—No. 195

- (a) to the Court from another court; or
- (b) from the Court to another court.

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

SCHEDULE F Form 45B

- (a) From subparagraph (1) (c) (iii) omit “1898 applies” and insert instead “1898 would have applied prior to its repeal”.
- (b) From paragraph (2) omit:

See the reverse of this page.

On the reverse of the page, keeping clear a margin of 25 millimetres on the right hand side, add:

- (c) Omit:
- (13) *address for service.*
- and insert instead:
- (13) *address for service.*

If the reverse side of a page is used, add to the foot of the front of the page “See the reverse of this page.” and keep clear a margin of 25 millimetres on the right hand side.

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

- (a) Part 23 rule 6A

Omit the rule.

- (b) Part 23 rule 16

Omit the rule and insert instead:

Privilege

16. For the purposes of this Part, a document shall be privileged from production if, and only if, it is:

- (a) a document of which evidence could not be adduced over the objection of any person by reason of the operation of Part 3.10 of the Evidence Act 1995;
- (b) a document that relates to matters of state within the meaning of section 130 of the Evidence Act 1995 unless and until the Court decides that it cease to be a privileged document.

6. The amendments contained in paragraphs* 5 shall apply to notices for discovery, and orders for discovery, given or made on or after 1 August 1996.

* Sic

1996—No. 195

EXPLANATORY NOTE

1. The object of the amendment contained in paragraph 2 is to require proceedings for an order under s. 15 of the Professional Standards Act 1994 to be commenced in the Common Law Division by summons and to provide who is to be the defendant and to require lodgement of a copy of the summons with the Professional Standards Council.
2. The object of the amendment contained in paragraph 3 is to allow the Registrar of the Court to take all necessary steps to implement an order transferring proceedings to or from the Court.
3. The object of the amendments contained in paragraph 4 is to modify a reference to a repealed Act so as to take into account its repeal, where occurring in a form of subpoena prescribed for the purposes of the Evidence and Procedure (N.Z.) Act 1994 (Com) and to clarify instructions on the form.
4. The object of the amendments contained in paragraph 5 is to take account of the changed law in relation to privilege from production of documents and make ancillary provisions.

M. A. Blay, Secretary of the Rule Committee
