



New South Wales

SUPREME COURT RULES (AMENDMENT No. 309) 1997

1. These rules are made by the Rule Committee on 17 March 1997.
2. The Supreme Court Rules 1970 are amended as follows:

SCHEDULE D Part 1

After the matter relating to sections 43A (7) and 44B of Act No. 47, 1988, insert in the appropriate columns:

Section 47A..... Joinder of insurer

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

Part 77

After rule 117 insert:

Division 45—Taxation Administration Act 1996

Assignment of business

118. Proceedings in the Court under Part 10 of the Taxation Administration Act 1996 (“the subject Act”) are assigned to the Administrative Law Division.

Evidence of jurisdiction

119. A plaintiff shall file and serve with a summons instituting an appeal under section 96 of the subject Act an affidavit showing:

- that the appeal is brought under section 96 (1) (a) of the subject Act; or
- that:
 - the appeal is brought under section 96 (1) (b) of the subject Act;
 - the appeal is not in breach of the time prescribed by section 96 (1) (b); and
 - section 99 (1) of the subject Act has been complied with.

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

- Part 51 rule 36 (1)

Omit “The” and insert instead “Subject to subrule (1A), the”.

(b) Part 51 rule 36

After subrule (1) insert:

(1A) The registrar shall not grant a stay or an injunction in exercising the powers granted under:

- (a) subrule (1), except in respect of Part 40 rule 8; or
- (b) Part 44 rule 5, except in respect of a judgment or order of the Court of Appeal.

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

(a) Part 65C

After the heading to the Part insert:

Division 1—Application for admission

(b) Part 65C

After rule 5 insert:

Division 2—Referral under s13A of the Legal Profession Act 1987

Commencement of proceedings

6. (1) An application is referred to the Court under section 13A of the Legal Profession Act 1987 by filing it.

(2) Proceedings on a referral (“the proceedings”) shall be entitled “In the matter of an application by” followed by the full name of applicant.

Application of rules

7. These rules shall apply to the proceedings as if the applicant were the plaintiff in the proceedings.

Rights of professional bodies

8. (1) The Legal Practitioners Admission Board shall notify the applicant, the New South Wales Bar Association and the Law Society of New South Wales of a referral within 5 days of filing it.

(2) The New South Wales Bar Association and the Law Society of New South Wales shall be entitled with the leave of the Court to be joined as a party in the proceedings.

Directions

9. (1) Following commencement, the proceedings shall be listed before the Court for directions.

(2) The Court may, at any stage of the proceedings, direct that any person be added as a party or substituted for another party or a former party or that notice of the proceedings be served on any person in addition to or instead of the defendant.

(3) Subrule (2) does not affect the powers of the Court under Part 8 (which relates to joining parties).

Evidence

10. Part 36 rule 3 shall apply to evidence in the proceedings, including evidence as to character.

Note. Part 36 rule 3 would apply even in the absence of this rule

EXPLANATORY NOTE

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

1. The object of the amendment contained in paragraph 2 is to allow masters to exercise the powers of the Court in ordering under s. 47A of the Motor Accidents Act 1988 that an insurer be joined as party to certain proceedings.

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

- (a) assign proceedings under Part 10 of the Taxation Administration Act 1996 to the Administrative Law Division; and
- (b) ensure, if an appeal purports to be brought under section 96 of that Act, that it is within that section and that section 99 has been complied with.

3. The object of the amendment contained in paragraph 4 is to restrict the power of the Registrar of the Court of Appeal in granting a stay or an injunction.

4. The object of the amendment contained in paragraph 5 is to prescribe the procedure to be followed on a referral under section 13A of the Legal Profession Act 1987.

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