



New South Wales

SUPREME COURT RULES (AMENDMENT No. 324) 1998

1. These rules are made by the Rule Committee on 19 October 1998.
2. The Criminal Appeal Rules are amended as follows—
 - (a) After rule 84 insert—

SHORT REASONS FOR DECISION

Short reasons for decision

85. The Court may, when dismissing an appeal, exercise its power under section 21A of the Act to give reasons for its decision in short form by stating them in Form No. XXIII.

- (b) After Form XXII insert—

XXIII

CRIMINAL APPEAL ACT 1912

R. v.

Short Reasons for Decision

The appeal is dismissed and the Court is of the unanimous decision that the appeal does not raise any question of general principle. Pursuant to section 21A of the Criminal Appeal Act 1912, the Court's reasons in short form are (*set out short reasons*).

(*Date*)

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

SCHEDULE F Form 62AA1

After "dismissed" insert "(*insert particulars of any costs order*)".
4. The Supreme Court Rules 1970 are further amended as follows—

Part 12 rule 5 (a)

 - (i) From subparagraph (xxxiii) omit “.” and insert instead “;”.
 - (ii) At the end of the paragraph insert—
 - (xxxiv) section 42, or section 45 or section 72 of the State Records Act 1998;
 - (xxxv) sections 35 and 37 of the Gas Pipelines Access (New South Wales) Law:

1998 No 598

Supreme Court Rules (Amendment No 324) 1998

(xxxvi) section 188 of the Workplace Injury Management and Workers Compensation Act 1998.

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

SCHEDULE E Part 2 paragraph 28

- (i) From subparagraph (k) omit "and".
- (ii) From subparagraph (l) omit "." and insert instead "; and".
- (iii) After subparagraph (l) insert—
 - (m) section 1335 (which relates to ordering security for costs that may be payable by a plaintiff corporation).

6. The Supreme Court Rules 1970 are further amended as follows—

(a) Part 32A

- (i) From the heading to the Part omit "**COMMON LAW PROCEEDINGS**" and insert instead "**PROCEEDINGS IN A DIVISION**".
- (ii) From rule 1 omit "the Common Law Division" and insert instead "a Division".

(b) Part 15 rule 2A

Omit the rule.

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

(a) Part 1 rule 8 (1)

In alphabetical order insert—

"ASIC" means the entity known as the Australian Securities Commission prior to 1 July 1998, and subsequently known as the Australian Securities and Investments Commission.

(b) Part 51 rule 13 (1)

Omit—

the Australian Securities Commission ("the ASC")
and insert instead "ASIC".

(c) Part 51 rule 13

Omit "the ASC" wherever appearing and insert instead "ASIC".

(d) Part 51AA rule 8B (1)

Omit—

the Australian Securities Commission ("the ASC")
and insert instead "ASIC".

-
- (e) Part 51AA rule 8B
Omit "the ASC" and insert instead "ASIC" wherever occurring.
- (f) Part 51AA rule 8B (2) (a)
Omit "51" and insert instead "51AA".
- (g) Part 80A rule 1 (a)
Omit the definitions of "ASC Law" and "Commission".
- (h) Part 80A
Omit "the Commission" wherever appearing and insert instead "ASIC".
- (i) SCHEDULE E Part 2 paragraph 28 (j)
Omit "the Australian Securities Commission" and insert instead "ASIC".
8. The Supreme Court Rules 1970 are further amended as follows—
- (a) Part 80A rule 1A
Omit the rule.
- (b) Part 80A rule 10 Table 1
Omit the Table and insert instead—

Table 1

Column 1 Provision	Column 2 Description
s. 246D (5)	Rights of holders of classes of shares and of members
s. 254E (1)	Validation of shares improperly issued
s. 411 (4) (b) and (6)	Compromises and arrangements
s. 413 (1)	Reconstruction and amalgamation of Part 5.1 bodies
s. 459A	Winding up (insolvency)
s. 461	Winding up (general grounds)
s. 601FP	Appointment of temporary responsible entity
s. 601ND (1)	Winding up of schemes

1998 No 598

Supreme Court Rules (Amendment No 324) 1998

-
- (c) Part 80A rule 11 Table 2
Omit the references to s.571 (1) and s.574 (3) and the descriptions relating to those sections and insert instead, in the appropriate columns—
s. 601AH (2) Reinstatement of deregistered company
- (d) Part 80A Divisions 5 and 6
Omit the Divisions.
- (e) SCHEDULE F Forms 154B, 154C, 154D and 154E
Omit the Forms and insert instead—

Form 154B

(Notice of Application under ss. 246D (5), 254E (1), 411 (4) (b) and (6), 413 (1), 459A, 461, 601FP or 601ND (1))

P. 80A, r. 10 (5).

(No heading or title.)

NOTICE OF APPLICATION RELATING TO

(Name of Company in capitals)

A.C.N. *(specify Australian Company Number of Company)*

(Name of applicant) will apply to the Supreme Court of New South Wales at *(time)* on *(date)* at *(address of Court)* for an order *(describe order using appropriate description hereunder)* validating an issue of shares (or confirming the terms of an issue of shares) in the capital of *(name of Company)* under section 254E;

or

setting aside a modification of the constitution of *(name of Company)* under section 246D;

or

setting aside a variation or cancellation of rights of members of *(name of Company)* under section 246D;

or

approving a compromise or arrangement by *(name of Company)* with its creditors or members, or a class of creditors or members, under section 411 (4) and (6):

or

that (*name of Company*) be wound up in insolvency under section 459A;

or

that (*name of Company*) be wound up on the ground of (*specify ground*) under section 461;

or

that (*name of proposed temporary responsible entity*) be appointed as the temporary responsible entity of (*specify scheme*) under section 601FP;

or

that (*name of responsible entity*) wind up (*specify registered scheme*) under section 60IND (1);

or

(*state other order sought*).

Any person intending to appear at the hearing must file a notice of appearance in the prescribed form and serve that notice on the applicant at its address for service shown below not later than (*specify the date by reference to Part 80A rule 9 (1)*).

(*name of applicant's solicitor*)

(*address for service*)

(*no date is required*)

(*Form 4 does not apply*)

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

Part 51 rule 32 (1) (b)

After "black" insert "or grey".

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

(a) Part 12 rule 5A

Omit the rule.

-
- (b) Part 83
Omit the Part and insert instead—

PART 83—ADMIRALTY LIST

Interpretation

1. In this Part, unless the context or subject matter otherwise indicates or requires, "**Sheriff**" includes a deputy or officer of the Sheriff.

Assignment of business and entry in the Admiralty List

2. Proceedings in the Court—

- (a) in the exercise of the jurisdiction with which it is invested by the Admiralty Act 1988 of the Commonwealth; or
- (b) under the Shipping Registration Act 1981, or the Navigation Act 1912, each of the Commonwealth.

are assigned to the Equity Division and shall be entered in the Admiralty List ("the List").

Entry in the List on commencement of proceedings

3. Where a plaintiff, on his or her summons or statement of claim filed in the Equity Division, adds "Admiralty List" next under the heading and title, the proceedings shall be entered in the List without any order for entry.

Entry in and removal from the List

4. The Court may, on the application of a party or of its own motion, if it is satisfied that it is proper to do so, order that the proceedings be entered in or removed from the List, and may give such further directions as to the continuance of the proceedings as it thinks fit.

Registrar and Marshal

5. (1) The officer of the Court authorised for the purposes of rule 4 (1) (b) of the Admiralty Rules of the Commonwealth shall be the registrar.

(2) The officer of the Court authorised for the purposes of rule 4 (2) (b) of those rules shall be the Sheriff.

- (c) Part 39 rule 7
After "Division" insert "other than proceedings entered in the Admiralty List".

(d) Part 49 rule 1 (1)
After “List” insert “or the Admiralty List”.

(e) Part 63 rule 6 (2)
After “List” insert “or the Admiralty List”.

11. The amendments contained in paragraph 10 shall commence on 1 November 1998.

EXPLANATORY NOTE

(This note does not form part of the rules)

1. The object of the amendments in paragraph 2 is to prescribe a form for the Court of Criminal Appeal to give reasons in short form pursuant to section 21A of the Criminal Appeal Act 1912.

2. The object of the amendment contained in paragraph 3 is to amend a form so as to provide for costs orders.

3. The object of the amendment contained in paragraph 4 is to assign to the Equity Division proceedings—

- (a) under section 42, or section 45 or section 72 of the State Records Act 1998;
- (b) under sections 35 and 37 of the Gas Pipelines Access (New South Wales) Law; and
- (c) under section 188 of the Workplace Injury Management and Workers Compensation Act 1998.

4. The object of the amendment contained in paragraph 5 is to enable registrars to make orders for security for costs under s.1335 of the Corporations Law. The registrars already have a similar power in respect of applications made under the rules in respect of security of costs by companies.

5. The object of the amendment contained in paragraph 6 (a) is to extend to the Equity and Administrative Law Divisions the power for the Court to dismiss, of its own motion, proceedings in which no party has taken a step for over a year.

6. The object of the amendments contained in paragraph 6 (b) is to omit a superfluous reference to a default statement of claim.

7. The object of the amendments contained in paragraph 7, other than subparagraph (f), is to take account of changes made to the ASC Law by the Financial Sector Reform (Amendments and Transitional Provisions) Act 1998 (Com).

8. The object of the amendment contained in paragraph 7 (f) is to correct a reference to a part of the rules.

9. The object of the amendments contained in paragraph 8 is to update the rules to take account of the changes made to the Corporations Law by the Company Law Review Act 1998 (Com) and the Managed Investments Act 1998 (Com).

1998 No 598

Supreme Court Rules (Amendment No 324) 1998

10. The object of the amendment contained in paragraph 9 is to enable a party to choose grey as an alternative to black, as the colour of the cover of certain appeal books, in order to avoid the necessity of utilising a white insert to enable black print to be legible.

11. The object of the amendments contained in paragraph 10 is to replace the Admiralty Division with an Admiralty List administered by the Equity Division and to make consequential and incidental changes. This change is made in order to better utilise the Court's resources.

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