



New South Wales

## Supreme Court Rules (Amendment No. 330) 1999

1. These rules are made by the Rule Committee on 19 July 1999.
2. The Supreme Court Rules 1970 are amended as follows—
  - (a) Part 14D rule 1(c)
    - (i) From subparagraph (ii), omit “court of petty sessions” and insert instead “Local Court”.
    - (ii) Omit “stipendiary” wherever occurring.
  - (b) Part 76 rule 51  
Omit “stipendiary” wherever occurring.
3. The Supreme Court Rules 1970 are further amended as follows—
  - (a) Part 41 rule 13(3)  
After “rule 7,” insert “Part 77 rule 141(3),”.
  - (b) Part 77  
At the end of the Part insert—

### Division 53—Federal Courts (State Jurisdiction) Act 1999

#### Interpretation

**138** In this Division, unless the context or subject matter otherwise indicates or requires:

“ineffective judgment” and “relevant order” shall have, unless the contrary intention appears, in relation to proceedings under the subject Act, the same meaning as in the subject Act.

“subject Act” means the Federal Courts (State Jurisdiction) Act 1999.

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**Application for order under s. 7**

**139** A person seeking the aid of the Court in respect of a right or liability to which section 7 of the subject Act refers, other than in respect of an appeal, shall commence proceedings:

- (a) by summons joining as defendants all persons whose interests may be affected by the application;
- (b) in the Division to which the proceedings, in which the ineffective judgment was given or recorded, would have been assigned if it had been commenced in the Court.

**Application for order under s. 10**

**140** An applicant for an order under section 10 of the subject Act shall commence proceedings for the order:

- (a) by summons joining as defendants all other parties to the proceedings in which the ineffective judgment was given or recorded;
- (b) in the Division to which the proceedings, in which the ineffective judgment was given or recorded, would have been assigned if it had been commenced in the Court.

**Application for order under s. 11(2)**

**141** (1) An applicant for an order under section 11(2) of the subject Act (“the order”) shall commence proceedings for the order by summons, joining as defendants all other parties to the proceeding in which the relevant order was made (“the relevant proceedings”), in:

- (a) where the relevant proceedings, if commenced in the Court, would have been commenced in the Court of Appeal—the Court of Appeal; or
- (b) otherwise—the Division to which the relevant proceedings would have been assigned if they had been commenced in the Court.

(2) Where the order is made:

- (a) subject to any order of the Court:

- (i) the registrar or clerk of the court in which the relevant proceedings were brought shall send the record of the proceeding to the Court; and
- (ii) the Court shall proceed as if:
  - (A) the relevant proceedings had been originally commenced in the Court;
  - (B) the same steps had been taken in the Court as have been taken in any other court or courts in which the relevant proceedings were for the time being pending; and
  - (C) any order made by any other court or courts in which the relevant proceedings were for the time being pending had been made by the Court;
- (b) the plaintiff shall, within 28 days of the order being made, move the Court for directions under Part 26.

(3) 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 the order.

(4) The registrar shall serve a minute of the order on the registrar of the court by which the relevant order was made.

#### **EXPLANATORY NOTE**

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

- 1 The object of the amendments contained in paragraph 2 is to replace references to superseded terms.
- 2 The object of the amendments contained in paragraph 3 is to provide procedures for applications under the *Federal Courts (State Jurisdiction) Act 1999*.

M A Blay

The Secretary of the Rule Committee

BY AUTHORITY