



New South Wales

## Supreme Court Rules (Amendment No. 335) 1999

1. These rules are made by the Rule Committee on 15 November 1999.
2. The Supreme Court Rules 1970 are amended as follows—
  - (a) Part 23 rule 1(c)(ii)(A)(II)  
After “;”, omit “or”.
  - (b) Part 23 rule 1(c)(ii)(B)  
Omit the subparagraph.
  - (c) Part 23 rule 1(c)  
After subparagraph (ii) insert—
    - (iiA) a document of which evidence could not be adduced in the proceedings by virtue of the operation of section 126H of the Evidence Act;
  - (d) Part 24 rule 6(3)(c)(ii)(A)(II)  
After “;”, omit “or”.
  - (e) Part 24 rule 6(3)(c)(ii)(B)  
Omit the subparagraph.
  - (f) Part 24 rule 6(3)(c)  
After subparagraph (ii), insert—
    - (iiA) that evidence in answer to a question in terms of the interrogatory could not be adduced in the proceedings by virtue of the operation of section 126H of the Evidence Act;
  - (g) Part 36 rule 13(2)(b)(i)(B)  
After “;”, omit “or”.
  - (h) Part 36 rule 13(2)(b)(ii)  
Omit the subparagraph.

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- (i) Part 36 rule 13(2)  
After paragraph (b), insert—
  - (b1) if evidence of a document, or of an answer to the question, could not be adduced in the proceedings by virtue of the operation of section 126H of the Evidence Act;
3. Part 23 of the Supreme Court Rules 1970, as it applies to proceedings commenced before 1 October 1996, is amended as follows—
  - (a) Rule 16(1)(b)(i)(B)  
After “;”, omit “or”.
  - (b) Rule 16(1)(b)(ii)  
Omit the paragraph.
  - (c) Rule 16(1)  
After paragraph (b) insert—
    - (b1) a document of which evidence could not be adduced in the proceedings by virtue of the operation of section 126H of the Evidence Act;
4. The amendments contained on paragraphs 2 and 3 shall not apply to proceedings the hearing of which began before 5 November 1999.
5. The Supreme Court Rules 1970 are amended as follows—
  - (a) Part 7 rule 1(5), Part 16 rule 1A(1), Part 22 rule 12(2)(b) and Part 40 rule 7(1)  
After “1988”, wherever occurring, insert “or section 137 of the Motor Accidents Compensation Act 1999”.
  - (b) Part 22 rule 7(3)(d)  
After “1988”, insert “or section 137(4) of the Motor Accidents Compensation Act 1999”.

(c) Part 52A rule 22

At the end of the rule insert—

(12) This rule is subject to section 151 of the Motor Accidents Compensation Act 1999.

(d) Part 77 rule 94

Omit the rule.

(e) Part 77

After Division 30, insert—

**Division 30A—Motor Accidents Compensation Act 1999**

**Assignment of business**

**95A.** Proceedings in the Court under the Motor Accidents Compensation Act 1999 (the “**subject Act**”) are assigned to the Common Law Division.

**Joinder of insurer etc. (s. 137)**

**95B. (1)** Notice of motion in any proceedings for an order under section 119(1) of the subject Act must be filed:

- (a) in any case where the Court by notice to the parties fixes a date for determining the date for trial—before the date fixed by the notice;
- (b) in any case where the place of trial is a place other than Sydney—not later than 6 weeks before the beginning of the sittings at that place; and
- (c) in any other case—before the date on which the Court determines the date for trial.

**(2)** The applicant must serve the notice on each other party to the proceedings and on such other person as the Court may direct.

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### (f) SCHEDULE D Part 1

At the end of the Part, in the appropriate columns insert—		
Act No 41, 1999; Motor Accidents Act Compensation 1999		
Section 36 (5) .....	Extension of time for giving notice .....	...
Section 36(7), (8) .....	Joinder of Nominal Defendant .....	...
Section 70 (2) .....	Explanation for non compliance .....	...
Section 70 (3) .....	Allow proceedings to continue .....	...
Section 73 (4), 76 .....	Dismiss proceedings .....	...
Section 79 .....	Joinder of insurer .....	...
Section 85 .....	Co-operation with person whom claim made and the person's insurer .....	...
Section 109(1) .....	Commencing proceedings .....	...
Section 119(1) .....	Joinder of insurer .....	...

### EXPLANATORY NOTE

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

- 1 The object of the amendments contained in paragraphs 2 and 3 is to amend provisions of the Supreme Court Rules 1970 that relate to sexual assault communications privilege, in circumstances where the Evidence Act 1995 does not apply, so as to take account of changes to sexual assault communications privilege effected by the Criminal Procedure Amendment (Sexual Assault Communications Privilege) Act 1999.

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2 The object of the amendment contained in:

- (a) paragraphs 5(a), (b), (e) and (f) is add provisions to the rules in respect of the Motor Accidents Compensation Act 1999 similar to existing provisions that relate to the Motor Accidents Act 1988;
- (b) paragraph 5(c) is to add to a rule a reference to a section that qualifies the rule.
- (c) paragraph 5(d) is to omit a rule relating to an omitted section.

M A Blay

The Secretary of the Rule Committee

BY AUTHORITY