



New South Wales

Supreme Court Rules (Amendment No. 339) 2000

1. These rules are made by the Rule Committee on 17 April 2000.
2. The Supreme Court Rules 1970 are amended as follows—
 - (a) Part 65 rule 1

Before subrule (1) insert—

(1A) In proceedings to which the Corporations Law Rules apply, this rule is subject to rule 1A.
 - (b) Part 65 rule 1(2A)

Omit “as the” and insert instead “or as the”.
 - (c) Part 65

After rule 1, insert—

Proceedings to which the Corporations Law Rules apply

1A. In proceedings to which the Corporations Law Rules apply:

 - (a) rule 1(6) shall not apply; and
 - (b) a document prepared by a party for use in the Court shall have a horizontal line drawn at the foot of the first page below which shall be shown the information required by rule 1(7) or rule 1(8).
3. The Supreme Court Rules 1970 are further amended as follows—
 - (a) Part 12 rule 5(a)

After subparagraph (xxxviii) insert—

 - (xxxix) section 18 of the Uncollected Goods Act 1995;
 - (xc) section 43(1) or (7) or section 44 or sect 45 or section 46 or section 48 of the Sydney 2000 Games (Indicia And Images) Protection Act 1996 of the Commonwealth;
 - (xci) section 13 of the Warnervale Airport (Restrictions) Act 1996;

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(b) SCHEDULE E Part 2

After paragraph 39 insert—

40 Exercising the jurisdiction of the Court under Section 18 of the Uncollected Goods Act 1995, including granting leave under subsection (1).

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

Part 51

(a) At the end of rule 3 insert—

(3) Without limiting the generality of subrule (1), Part 34 rule 6AA applies, making such changes as are necessary, to proceedings in the Court of Appeal.

(b) Omit rule 18(3) and insert instead—

(3) Subject to subrules (1), (2), (4) and (5), the provisions of these rules relating to a notice of appeal apply to a notice of cross-appeal.

(c) At the end of rule 18 insert—

(5) Times in rule 42(4) and (5) and rule 47 shall run from the date of filing of the notice of appeal with appointment rather than the date of filing of the notice of cross-appeal with appointment.

(d) Add to the heading to rule 30 “**(appeals commencing before 1 June 2000)**”.

(e) At the beginning of rule 30 insert—

(1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(f) Renumber rule 30 as rule 30A.

(g) After rule 29 insert—

Collection of papers (appeals commencing on or after 1 June 2000)

30. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Upon the filing of notice of appeal with appointment, the registrar:

- (a) may obtain from the Court Reporting Branch the original of the transcript (if any) of the proceedings in the court below; and
- (b) shall obtain from the proper officer of the court below:
 - (i) the exhibits;
 - (ii) the list of exhibits and certificate under rule 29;
 - (iii) all the other documents before the court below, together with a list of them, certified by the proper officer of the court below; and
 - (iv) the reasons for judgment (if any) or the summing up (if any) in the court below certified by the proper officer of the court below.

(2) Where oral evidence was given in the court below but was not transcribed in the Court Reporting Branch:

- (a) if notes of the evidence were taken by or for the judge, justice or other person presiding in the court below, the appellant shall, subject to any direction in the court below, obtain a copy of the notes and deliver the copy to the registry; or
- (b) if notes of the evidence are not obtainable pursuant to paragraph (a), the registrar shall obtain a report of the evidence from the associate or other proper officer of the court below.

(3) The registrar shall retain the documents obtained under subrules (1) and (2) and shall, unless the appeal book is prepared by the registrar, allow the party who is required to prepare the appeal book to have custody of such of those documents as are necessary for that purpose.

(4) The party having custody of documents pursuant to subrule (3) shall return them intact to the registrar upon completion of the Red Book, whereupon the registrar shall make them available to the other interested parties for the purpose of preparing written submissions and chronologies.

(5) Where pursuant to subrule (4) documents are to be made available to more than one party, they shall be made available in accordance with a schedule of access agreed to by all parties entitled to access or, failing agreement, determined by the registrar.

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(6) Subject to subrule (3), the registrar shall retain the documents obtained under subrule (1) until disposal of the appeal and shall thereupon return them to the offices or persons from whom he or she obtained them.

- (h) In Rule 31(3) after “32” insert “or rule 32A, as the case requires”.
- (i) Omit rule 32 and insert instead—

Division of appeal book (appeals commencing on or after 1 June 2000)

32. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Subject to subrule (2), the appeal book shall be divided into the following 4 sections:

- (a) the formal section which shall be bound in a red cover (“**the Red Book**”);
- (b) the transcript section which shall be bound in a black or grey cover (“**the Black Book**”);
- (c) the document (section) which shall be bound in a blue cover (“**the Blue Book**”); and
- (d) the submissions and chronology section which shall be bound in an orange cover (“**the Orange Book**”).

(2) If the total number of pages to be contained in the Black and Blue Books would not exceed 300, those pages may be combined in one book with a black or grey cover (“**the Combined Book**”).

(3) The party filing the Orange Book shall include in it a consolidated index of all Books. The Court may direct that a separate Book incorporating the consolidated index be filed, in which case it shall be in a green cover (“**the Green Book**”).

Division of appeal book (appeals commencing before 1 June 2000)

32A. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Subject to subrule (2), the appeal book shall be divided into the following 3 sections:

- (a) the formal section which shall be bound in a red cover (**“the Red Book”**);
- (b) the transcript section which shall be bound in a black or grey cover (**“the Black Book”**); and
- (c) the document section which shall be bound in a blue cover (**“the Blue Book”**).

(2) If the total number of pages to be contained in the Black and Blue Books would not exceed 300, those pages may be combined in one book with a black or grey cover (**“the Combined Book”**).

(3) The party filing the Black and Blue Books shall include in the Black Book a consolidated index of all Books. The Court may direct that a separate Book incorporating the consolidated index be filed, in which case it shall be in a green cover (**“the Green Book”**).

- (j) Omit paragraphs (h) and (i) of rule 33 and insert instead—
 - (h) in proceedings in which a notice of appeal with appointment is not filed on or after 1 June 2000:
 - (i) any schedule filed pursuant to rule 40; and
 - (ii) any document filed pursuant to rule 41.
- (k) After rule 35 insert—

Orange Book (appeals commencing on or after 1 June 2000)

35A. The Orange Book (which is required to be filed in proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000) shall contain:

- (a) the consolidated index or, if applicable, an index of its contents;
- (b) submissions and chronology in their final form with references substituted by the appellant where necessary to comply with rule 46(1)(b);
- (c) the submissions and chronologies served on the appellant by other parties in their final form; and
- (d) any amended notices of appeal or cross-appeal or of contention, in their final form.

- (l) From rule 36(1), omit “file and”.
- (m) Omit rule 37 and insert instead—

Filing, lodgment and service of appeal book (appeals commencing on or after 1 June 2000)

37. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) The appellant shall:

- (a) within 6 weeks of filing a notice of appeal with appointment:
 - (i) file a copy of the Red Book; and
 - (ii) serve 3 copies thereof on each other interested party; and
- (b) not less than 4 weeks before the date fixed for hearing of the appeal, lodge a further 3 copies of the Red Book with the registrar.

(2) The appellant shall not less than 10 weeks before the date fixed for the hearing of the appeal:

- (a) serve on each other interested party 3 copies of:
 - (i) the Blue Book or, if the Black and Blue Books are combined, the Combined Book; and
 - (ii) the Green Book, if applicable; and
- (b) if there is a Black Book—serve 3 copies on any other party who has, not later than 7 days after the date of call-over, required the same.

(3) The appellant shall not less than 4 weeks before the date fixed for the hearing of the appeal:

- (a) file a copy of:
 - (i) the Black and Blue Books or, if those books are combined, the Combined Book; and
 - (ii) the Green Book, if applicable; and
 - (iii) the Orange Book;
- (b) lodge 3 copies with the registrar; and
- (c) serve on each other interested party 3 copies of the Orange Book.

Filing, lodgment and service of appeal book (appeals commencing before 1 June 2000)

37AA. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) The appellant shall:

- (a) within 8 weeks of filing a notice of appeal with appointment:
 - (i) file a copy of the Red Book; and
 - (ii) serve 3 copies thereof on each other interested party; and
- (b) not less than one month before the date fixed for hearing of the appeal, lodge a further 3 copies of the Red Book with the registrar.

(2) The appellant shall not less than one month before the date fixed for the hearing of the appeal:

- (a) file a copy of:
 - (i) the Black and Blue Books or, if those books are combined, the Combined Book; and
 - (ii) the Green Book, if applicable;
- (b) lodge 3 copies with the registrar;
- (c) serve 3 copies of the Blue Book or the Combined Book on each other interested party; and
- (d) if there is a Black Book—serve 3 copies on any other party who has, not later than 7 days after the date of call-over, required the same.

Overriding obligation to file Orange Book on time (appeals commencing on or after 1 June 2000)

37A (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) The appellant must ensure that the Orange Book is filed in accordance with rule 37(3) and, in so far as may be necessary as a result of any default or need to accommodate cross-appeals or additional matters, must arrange to have the time table prescribed by this part varied by consent, or by direction of the registrar, in order to achieve this overriding obligation.

(2) All other parties must cooperate with the appellant to enable the appellant to comply with subrule (1).

(3) If any default by another party prevents, or is likely to prevent, the appellant from complying with subrule (1), the appellant must apply promptly for a directions hearing.

- (n) Omit from Division 3A the division heading and rule 39 and insert instead—

Division 3A—Damages Appeals (appeals commencing before 1 June 2000)

Application

39. This Division applies to an appeal solely on the issue of the amount of damages claimed or awarded in respect of the death of or bodily injury to a person that is commenced on or after 1 January 1995 and in which a notice of appeal with appointment is not filed on or after 1 June 2000.

- (o) Add to the heading to rule 42 “(appeals commencing before 1 June 2000)”.
- (p) At the beginning of rule 42 insert—
- (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.
- (q) Renumber rule 42 as rule 42A.
- (r) Before rule 42A (as renumbered) insert—

Call-over (appeals commencing on or after 1 June 2000)

42. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Unless a Judge of Appeal or the registrar otherwise directs, all appeals will be called over on a date fixed by the registrar and subscribed to the notice of appeal.

(2) The call-over must be attended by:

- (a) if a party is represented—the party’s counsel or solicitor; or
- (b) otherwise—the party.

(3) At the call-over appeals will be assigned to one of the lists referred to in rule 43.

(4) Within 6 weeks of the notice of appeal with appointment being filed, the appellant shall file and serve on each other interested party, a notice containing:

- (a) an estimate of the likely length of hearing of the appeal, divided into time for:
 - (i) the submissions of the appellant; and
 - (ii) the submissions of all other parties;
- (b) any proposed amendments to the appeal;
- (c) any proposed variation to the time table otherwise prescribed by the rules for the filing and service of the appeal books; and
- (d) if the full appeal book has not been filed—a brief description of what the appellant contends should constitute the appeal book, indicating as far as possible how many volumes the appellant anticipates will constitute each section of the appeal book.

(5) Any party who takes issue with any matter set out in the appellant's notice under subrule (4), and any respondent or cross-appellant who proposes to amend their notice of cross-appeal or contention, shall within 10 weeks of the notice of appeal with appointment being filed, file and serve on each other interested party, a notice particularising the matter in issue or the proposed amendment.

(6) Without in any way limiting the power of the Judge or the registrar on call-over to make such orders as are appropriate, the Judge or the registrar may:

- (a) assign the appeal to a list;
- (b) fix a timetable;
- (c) fix a date for hearing of the appeal;
- (d) stand over the appeal for further call-over at a later date;
- (e) order a party to pay the costs of the call-over;
- (f) determine any dispute concerning the accuracy of the transcript;
- (g) give directions as to the contents of the appeal book; and
- (h) dispense with compliance with the rules, and in particular with any specific rules relating to the appeal books.

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- (s) Omit rule 43(2) and insert instead—

(2) The damages appeal list will consist of appeals in which the sole issue is the amount of damages awarded, or which should have been awarded, in respect of the death of, or bodily injury to, a person.

- (t) Omit rule 44 and insert instead—

Written submissions and chronology (appeals commencing on or after 1 June 2000)

44. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Each non-submitting party, shall, unless otherwise directed, file and serve written submissions on each other interested party, and the appellant shall file and serve a chronology on each other interested party. The respondent may file and serve an alternative or supplementary chronology on each other interested party.

(2) A party who files written submissions or a chronology may file one set of amended submissions or an amended chronology:

- (a) if the amendment is of a minor or formal nature or consists of the insertion of appeal book references or of an omission—without leave; or
- (b) otherwise—by leave of a Judge of Appeal or the registrar or with the consent of all other interested parties.

Written submissions and chronology (appeals commencing before 1 June 2000)

44A. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Each non-submitting party, shall, unless otherwise directed, file and serve written submissions on each other interested party, and the appellant shall file and serve a chronology on each other interested party. The respondent may file and serve an amended or supplementary chronology on each other interested party.

- (u) Omit rules 46, 47 and 48 and insert instead—

Preparation (appeals commencing on or after 1 June 2000)

46. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Written submissions:

- (a) shall be divided into paragraphs numbered consecutively;
- (b) shall, if the appeal book is accessible to the party preparing the submissions, so far as practicable, refer to matter in the appeal book by section name, volume number (if any), page number and letter, and shall not extract that matter;
- (c) shall, so far as practicable, where an authority is cited, not extract matter in the authority; and
- (d) shall be signed by the barrister or solicitor who prepares them or, where they are not prepared by a barrister or solicitor, by or on behalf of the party on whose behalf they are signed, and:
 - (i) the name of the signatory;
 - (ii) a telephone number at which the signatory can be contacted; and
 - (iii) if available, the signatory's facsimile number,

shall be typed or printed in a neat and legible manner under his signature.

(2) In appeals raising substantial challenges to findings of fact, the submissions of the party making those challenges shall include a statement in narrative form setting out the findings challenged, those contended for, the reasons why the Court of Appeal should substitute those findings and supporting references to the transcript and other evidence.

(3) Where the amount of damages claimed or awarded, or which should have been awarded, in respect of the death of, or bodily injury to, a person is an issue:

- (a) the appellant's written submissions shall state:
 - (i) the manner in which the damages were assessed, or in the case of trial by jury, may be supposed to have been assessed;

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- (ii) the amounts of damages that are in issue in the appeal;
- (iii) briefly but specifically, the basis of the challenge;
- (iv) where applicable-the alternative assessment contended for; and
- (v) an estimate of the likely length of hearing; and
- (b) the respondent's written submissions shall state:
 - (i) the extent to which the assessment will be challenged or supported by cross-appeal or contention;
 - (ii) any alternative assessment sought, and briefly but specifically, the basis for it; and
 - (iii) the respondent's estimate of the likely length of hearing.

Preparation (appeals commencing before 1 June 2000)

46A. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Written submissions:

- (a) shall be divided into paragraphs numbered consecutively;
- (b) shall, so far as practicable, refer to matter in the appeal book by section name, volume number (if any), page number and letter, and shall not extract that matter;
- (c) shall, so far as practicable, where an authority is cited, not extract matter in the authority; and
- (d) shall be signed by the barrister or solicitor who prepares them or, where they are not prepared by a barrister or solicitor, by or on behalf of the party on whose behalf they are signed, and:
 - (i) the name of the signatory;
 - (ii) a telephone number at which the signatory can be contacted; and
 - (iii) if available, the signatory's facsimile number, shall be typed or printed in a neat and legible manner under his signature.

(2) In appeals raising substantial challenges to findings of fact, the submissions of the party making those challenges shall include a statement in narrative form setting out the findings challenged, those contended for, the reasons why the Court of Appeal should substitute those findings and supporting references to the transcript and other evidence.

Filing and lodgment (appeals commencing on or after 1 June 2000)

47. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Written submissions and chronologies shall be filed as follows:

- (a) by the appellant—within 6 weeks of the notice of appeal with appointment being filed; and
- (b) by the respondent—within 10 weeks of the notice of appeal with appointment being filed,

(2) Compliance with subrule (1) does not excuse compliance with rule 35A(b) or (c).

Filing and lodgment (appeals commencing before 1 June 2000)

47A. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) Written submissions and chronologies shall be filed as follows:

- (a) by the appellant—not later than 9 days before the date fixed for hearing; and
- (b) by the respondent—not later than 4 days before the date fixed for the hearing,

by placing 4 copies in the box marked “Appeal Submissions” located on the 12th Level of the Law Courts Building.

(2) Where the period in subrule (1) (a) would include a day or part of a day on which the registry is closed, that day shall be excluded from the calculation of the 9 day period.

Service (appeals commencing on or after 1 June 2000)

48. (1A) This rule applies to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) A party who files original or amended written submissions and chronology shall, on the day of filing, serve 3 copies on every other interested party.

(2) One copy of any amended written submissions and of any amended chronologies shall be served on all other interested parties as follows:

- (a) by the appellant—not less than 10 weeks before the hearing date of the appeal; and
- (b) by the respondent—not less than 8 weeks before the hearing date of the appeal.

cf. r 37A as to the overriding obligation to ensure that the Orange Book is filed on time

Service (appeals commencing before 1 June 2000)

48A. (1A) This rule does not apply to proceedings in which a notice of appeal with appointment is filed on or after 1 June 2000.

(1) A party who files his written submissions and chronology shall, on the day of filing, serve 3 copies on every other interested party.

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

SCHEDULE F Form 62AA1

Omit “(*Signatures of Judges*)”

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

- (a) Part 66A

Omit the Part

- (b) Part 12 rule 4(1)

At the end of the subrule, add—

- (y) the Conveyancers Licensing Act 1995 (other than proceedings assigned to the Court of Appeal);

- (c) After Part 66 insert—

PART 66A—COURT APPOINTED REFERRAL FOR LEGAL ASSISTANCE

Objectives

1. (1) In the interpretation of this Part, preference must be given to a construction that will promote, and be consistent with, the purpose in subrule (2) and the statements in subrules (3) and (4).

(2) The purpose of this Part is to facilitate, where it is in the interests of the administration of justice, the provision of legal assistance to litigants who are otherwise unable to obtain assistance.

(3) The provision of legal assistance under this Part is not intended to be a substitute for legal aid.

(4) A referral under this Part is not an indication that the Court has formed an opinion on the merits of a litigant's case.

(5) Nothing in this Part requires the Court to make a referral, or to consider a litigant's case for referral, under this Part.

Interpretation

2. In this Part, unless the context or subject matter otherwise indicates or requires:

“litigant”, in proceedings, means a person who is a party to the proceedings or who has been served with a subpoena in the proceedings or who has applied to be joined in the proceedings.

“Pro Bono Panel” means the list of barristers and solicitors referred to in rule 3.

“scheme” means the scheme for the provision of legal assistance to litigants under this Part.

Pro Bono Panel

3. The Principal Registrar may maintain a list of persons:

- (a) who are barristers or solicitors; and
- (b) who have agreed to participate in the scheme.

Referral to a barrister or solicitor

4. (1) The Court may, if it is in the interests of the administration of justice, refer a litigant to the registrar for referral to a barrister or solicitor on the Pro Bono Panel for legal assistance.

(2) For the purposes of subrule (1), the Court may take into account:

- (a) the means of the litigant;
- (b) the capacity of the litigant to obtain legal assistance outside the scheme;
- (c) the nature and complexity of the proceedings; and
- (d) any other matter that the Court considers appropriate.

(3) The power to refer may be exercised in the absence of the public and without any attendance by or on behalf of any person.

(4) A referral to the registrar is effected by the issue of a Referral Certificate in accordance with the prescribed form in relation to the litigant.

(5) If a Referral Certificate has been issued, the registrar must attempt to arrange for the legal assistance mentioned in the certificate to be provided to the litigant by a barrister or solicitor on the Pro Bono Panel.

(6) The registrar may refer a litigant to a particular barrister or solicitor only if the barrister or solicitor has agreed to accept the referral.

(7) A referral to a barrister shall not prevent a referral also being made to a solicitor and a referral to a solicitor shall not prevent a referral also being made to a barrister.

Kind of assistance

5. A referral may be made for the following kinds of assistance:

- (a) advice in relation to the proceedings;

- (b) representation on directions hearing, interlocutory or final hearing, arbitration or mediation;
- (c) drafting or settling of documents to be filed or used in the proceedings;
- (d) representation generally in the conduct of the proceedings or of part of the proceedings.

Provision of assistance by barrister or solicitor

6. Subject to rule 7, if a barrister or solicitor agrees to accept a referral, he or she must provide assistance to the litigant in accordance with the referral.

Cessation of assistance

7. (1) A barrister or solicitor who has agreed to accept a referral may cease to provide legal assistance to the litigant only:

- (a) in the circumstances set out in any practice rules governing professional conduct that apply to the barrister or solicitor;
- (b) with the written agreement of the litigant; or
- (c) with the leave of the registrar.

(2) If a barrister or solicitor ceases to provide legal assistance to a litigant, the barrister or solicitor must inform the registrar in writing within 7 days of so ceasing.

Application for leave

8. (1) An application by a barrister or solicitor to the registrar for leave to cease to provide legal assistance must be in writing and must briefly state the reasons for the application.

(2) A copy of the application for leave must be served on the litigant.

(3) An application for leave may be heard by the registrar in the absence of the public and without any attendance by or on behalf of any person.

(4) In deciding whether to grant leave under this rule, the registrar must consider:

- (a) whether the barrister or solicitor would be likely to be able to cease to provide legal assistance to the litigant

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- under any practice rules governing professional conduct that apply to the barrister or solicitor;
- (b) any conflict of interest that the barrister or solicitor may have;
- (c) whether there is a substantial disagreement between the barrister or solicitor and the litigant in relation to the conduct of the litigation;
- (d) any view of the barrister or solicitor:
 - (i) that the litigant's case is not well founded in fact or law; or
 - (ii) that the litigant's prosecution of the litigation is an abuse of process; and
- (e) whether the barrister or solicitor lacks the time to provide adequate legal assistance to the litigant because of other professional commitments;
- (f) whether the litigant has refused or failed to pay any disbursements requested under rule 10;
- (g) whether it is unfair to the barrister or solicitor to require him or her to continue to provide legal assistance under the scheme; and
- (h) any other matter that the registrar considers relevant.

(5) An application for leave under this rule and any related correspondence:

- (a) is confidential;
- (b) is not part of the proceedings in relation to which the referral was made; and
- (c) does not form part of the Court file in relation to those proceedings.

Costs

9. (1) Subject to subrules (2) and (3) and rule 10, a barrister or solicitor who provides legal assistance to a litigant under the scheme must not seek or recover any costs for the legal assistance.

(2) If an order for costs is made in favour of a litigant who is assisted under the scheme, the barrister or solicitor who has provided the legal assistance is entitled to recover the amount of costs that another person is required to pay under the order.

(3) A barrister or solicitor shall account to the litigant for any money received by the barrister or solicitor in respect of disbursements that were paid by the litigant.

Disbursements

10. A barrister or solicitor who provides legal assistance to a litigant under the scheme may request the litigant to pay any disbursements reasonably incurred, or reasonably to be incurred, by the barrister or solicitor on behalf of the litigant in connection with the legal assistance.

(d) **SCHEDULE F**

After Form 70A insert—

Form 70B

P. 66A, r. 4(3).

REFERRAL CERTIFICATE

I, (*name*), Associate to the Honourable Justice (*name*), certify that on (*date*) {his or her} Honour has determined, pursuant to Part 66A subrule 4 (1), that it is in the interests of the administration of justice that the following litigant be referred for legal assistance under that Part.

Name of litigant referred:

Nature of legal assistance for which referral made (*eg to obtain advice, to appear at the hearing of the matter listed on a particular date; see Part 66A r 5*):

Date:

(*Signature of associate*)

7. The amendments contained in paragraph 6 will commence on 1 May 2000.

EXPLANATORY NOTE

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

1. The object of the amendment contained in paragraph 2(a) and (c) is to make it clear that in proceedings to which the Corporations Law Rules apply:

- (a) the prescribed form of 1st page of documents used in proceedings in the Court does not apply; and

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- (b) a document prepared by a party for use in the Court shall have a horizontal line drawn at the foot of the first page below which shall be shown the information concerning the solicitor filing the document as required by Part 65 rule 1(7) or rule 1(8).

2. The object of the amendment contained in paragraph 2(b) is to make it clear that there may be parties other than a “plaintiff”, “defendant”, “cross-claimant” or “cross-defendant”.

3. The objects of the amendments contained in paragraph 3 are to—

- (a) assign to the Equity Division proceedings under 18 of the Uncollected Goods Act 1995 (which relates to disposal of uncollected goods) and allow a registrar to exercise powers to the Court under the section and to grant leave for the Court to exercise jurisdiction under the section;
- (b) assign to the Equity Division proceedings in the Court under Section 43(1) or (7) or section 44 or sect 45 or section 46 or section 48 of the Sydney 2000 Games (Indicia And Images) Protection Act 1996 of the Commonwealth; and
- (c) assign to the Equity Division proceedings in the Court under section 13 of the Warnervale Airport (Restrictions) Act 1996.

4. The objects of the amendments contained in paragraph 4 are to:

- (a) require written submissions in appeals to the Court of Appeal to be filed earlier and to be contained in an appeal book with an orange cover;
- (b) extend existing requirements to file damages particulars in appeals where damages only are in issue to appeals in which both damages and other matters are in issue;
- (c) make consequential and ancillary amendments; and
- (d) extend to the Court of Appeal an existing rule enabling the Court to limit—
 - (i) the time to be taken for a trial and for various components of a trial; and
 - (ii) the number of witnesses that a party may call.

5. The object of the amendment contained in paragraph 5 is to omit the requirement for Judges of Appeal to sign short reasons for decision.

6. The object of the amendment contained in paragraph 6 is to provide for a scheme of Court referrals to a panel of barristers and solicitors who are prepared to act on a pro bono basis and prescribe the extent to which costs are recoverable and consequential and ancillary matters.

M A Blay

The Secretary of the Rule Committee