



New South Wales

Supreme Court Rules (Amendment No. 343) 2000

1. These rules are made by the Rule Committee on 16 October 2000.
2. The Supreme Court Rules 1970 are amended as follows—

Part 77

At the end of the Part insert—

Division 58—Retirement Savings Accounts Act 1997 of the Commonwealth

Assignment of business

152. Proceedings under the following sections of the Retirement Savings Accounts Act 1997 of the Commonwealth (the “subject Act”) are assigned to the Equity Division, namely, 43, 74, 76(2), 119, 158(4), 160 (except where the order is made in existing proceedings), 161(1) or (8) or (10) (except where the order is made in existing proceedings mentioned in (1)(a)(ii) or (ii)), 161(2), 162, 163, 166 (except in existing proceedings) and 176.

Application by Regulator under s 119(3)

153. An application by the Regulator for an inquiry or order under section 119(3) of the subject Act shall be made by summons, filed with the certificate under section 119(2), and joining as a defendant the person who is the subject of the certificate.

Notice of certain applications to be given to Regulator

154. Unless the Court otherwise orders, an applicant for an order under section 158(1) or (4) or section 160(5) must serve on the Regulator, a reasonable time before the hearing of the application, a copy of the originating process, or interlocutory process, and supporting affidavit in respect of the application.

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Intervention by Regulator

155.(1) The Regulator may intervene under section 168 of the subject Act by filing a notice of appearance that includes a statement that the Regulator intervenes under the section.

(2) Upon complying with subrule (1), the Regulator shall be added as a defendant.

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

Part 72B rule 1

Before subrule (2) insert—

1. (1) For the purposes of section 76B (3) (d) of the Act the class of proceedings that may not be referred for determination pursuant to the Arbitration (Civil Actions) Act 1983 (“the subject Act”) are proceedings in which the Court considers that the total value of all relief sought is likely to exceed \$750,000.

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

(a) Part 12 rule 5(a)

At the end of the paragraph insert—

(xiv) section 76A or section 77(2) or (4) of the Retail Leases Act 1994;

(b) Part 12 rule 5(b)

(i) From subparagraph (vii) omit “.” and insert instead “;”.

(ii) At the end of the paragraph insert—

(viii) arising out of section 62B(1) or (2) of the Retail Leases Act 1994.

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

Part 77

After Division 24A insert—

Division 24B—Co-operative Housing and Starr-Bowkett Societies Act 1998

Assignment of business proceedings

83C. Proceedings in the Court on an application for relief under the Co-operative Housing and Starr-Bowkett Societies Act 1998 (the “subject Act”) are assigned to the Equity Division.

Applicability of the Corporations Law Rules

83D. The provisions of the Corporations Law Rules relating to applications under the Corporations Law shall, so far as applicable and making such changes as it is necessary to make, apply to applications under the subject Act.

6. The Supreme Court Rules 1970 are further amended as follows—
 - (a) Part 36 rule 10A
 - (i) In the heading to the rule, after “undertaking”, insert “in respect of section 29 of the Stamp Duties Act 1920”.
 - (ii) Omit “of Stamp Duties” where appearing.
 - (b) After rule 10A, insert—

Unstamped documents: arrangements under section 304 of the Duties Act 1997

10B. (1) The “usual undertaking by person liable” if given to the Court by a party in relation to an instrument referred to in section 304(2) of the Duties Act 1997 is an undertaking that the party will within a time specified by the Court transmit the instrument to the Chief Commissioner.

(2) The “usual undertaking by person not liable” if given to the Court by a party in relation to an instrument referred to in section 304(2) of the Duties Act 1997 is an undertaking that the party will within a time specified by the Court forward to the Chief Commissioner the name and address of the person liable to pay duty on the instrument under that Act together with the instrument.

- (c) Part 50 rule 8(2)

At the end of the subrule insert “or the Duties Act 1997”.

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

- (a) Schedule F Form 74AF
 - (i) In NOTE (a), after “1987”, insert “or in the Long Bay Correctional Complex”.
 - (ii) From NOTE (b), omit “and Long Bay Correctional Complex”.
- (b) Schedule F Form 74AI

Omit the form and insert instead—

Form 74AI

P. 75, r. 3G.

(No heading or title)

Supreme Court Act 1970

APPLICATION TO THE SUPREME COURT FOR AN ORDER THAT THE HEARING OF AN APPLICATION CONCERNING BAIL BE NOT CONDUCTED BY VIDEO LINK

The hearing in Sydney of an application to the Supreme Court for bail or variation of bail by a person who, at the time this application is filed in the Court, is in custody but is not in a detention centre within the meaning of the Children (Detention Centres) Act 1987 or in the Long Bay Correctional Complex, will be conducted by means of video link facilities without the applicant's personal attendance at Court, unless the Court in the interests of justice otherwise orders.

Video link facilities allow two-way audio and visual communication of television standard between the Court and the Metropolitan Remand and Reception Centre, including private communication between the applicant and the applicant's legal representative. If you are in another correctional centre, other than one contained within the Long Bay Correctional Complex, you will be sent to the Metropolitan Remand and Reception Centre for the hearing.

If you intend to apply to the Supreme Court for bail or variation of bail and wish to also apply for an order that the hearing of the application be not conducted by video link facilities, you must

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complete this form and file it and any supporting documents with the application relating to bail.

The application that video link facilities be not used—

- (a) will be dealt with before the application relating to bail is placed in the list for hearing, and*
- (b) may be dealt with by the Court in the absence of the public and without any attendance by or on behalf of yourself.*

I (full name)

of

..... (address)

(..... Phone No)

make application for an order that the hearing of my application for bail or variation of bail be not conducted by video link.

Why, **in the interests of justice**, should the hearing of your application for bail or variation of bail not be conducted by video link?

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Signed Date 20 ..

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EXPLANATORY NOTE

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

1 The object of the amendments contained in paragraph 2 is to—

- (a) assign to the Equity Division proceedings under specified sections of the Retirement Savings Accounts Act 1997 of the Commonwealth;
- (b) prescribe the procedure for the Regulator to apply for an inquiry under s 119(3) of the Act;
- (c) require service on the Regulator of certain relevant documents by an applicant for an order under s158(1) or (4) of the Act; and
- (d) prescribe the procedure for intervention by the Regulator under s 168 of the Act.

2 The object of the amendment contained in paragraph 3 is to restrict the class of proceedings that may not be referred for determination pursuant to the Arbitration (Civil Actions) Act 1983 to proceedings in which the Court considers that the total value of all relief sought is likely to exceed \$750,000.

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

- (a) arising out of section 62B(1) or (2) of the Retail Leases Act 1994; and
- (b) under section 76A or section 77(2) or (4) of that Act.

4 The object of the amendments contained in paragraph 5 is to—

- (a) assign to the Equity Division applications for relief under the Co-operative Housing and Starr-Bowkett Societies Act 1998; and
- (b) apply the provisions of the Corporations Law Rules relating to applications under Corporations Law Rules, so far as applicable and making such changes as it is necessary to make, to applications under that Act.

5 The object of the amendment contained in—

- (a) paragraph 6(a) is to amend the heading to a rule to identify it as applying to the Stamp Duties Act 1920 in order to differentiate it from a rule relating to the Duties Act 1997 and to reflect the

change in title from Chief Commissioner of Stamp Duties to Chief Commissioner;

- (b) paragraph 6(b) is to amend the form of usual undertaking given to the court concerning unstamped documents in order to take account of the provisions contained in s 304 of the Duties Act 1997;
- (c) paragraph 6(c) is to add a reference to the Duties Act 1997 to a reference to the Stamp Duties Act 1920.

6 The object of the amendments contained in paragraph 7 is to amend:

- (a) the form of application for bail or variation of bail; and
- (b) the form of application for an order that the hearing of an application concerning bail be not conducted by video link,

to reflect the recent general order of the Court restricting the use of video link facilities for applications for bail or variation of bail to hearings in Sydney by a person who, at the time when the application is made, is in custody but is not in a detention centre within the meaning of the Children (Detention Centres) Act 1987 or in the Long Bay Correctional Complex.

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The Secretary of the Rule Committee

BY AUTHORITY