



New South Wales

Supreme Court Rules (Amendment No. 344) 2000

1. These rules are made by the Rule Committee on 20 November 2000
2. The Supreme Court Rules 1970 are amended as follows—
Part 77 rule 119
Omit the rule and insert instead—
Evidence of jurisdiction
119. A plaintiff shall file and serve, with a summons by which application for review is made under section 97 of the subject Act, an affidavit:
 - (a) showing:
 - (i) that the application is made under section 97 (1) (a) of the subject Act; or
 - (ii) that:
 - (A) the application is made under section 97 (1) (b) of the subject Act;
 - (B) the application is not in breach of the time prescribed by section 97 (1) (b); and
 - (C) section 100 (1) of the subject Act has been complied with; and
 - (b) showing that the application is not in breach of section 97 (2) or section 97 (3) of the subject Act.
3. The amendment contained in paragraph 2 shall commence when the *Administrative Decisions Tribunal Legislation Amendment (Revenue) Act 2000* commences.

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

Part 65 rule 1A

Omit the rule and insert instead—

Proceedings to which the Corporations Law Rules apply

1A. (1) Subject to subrule (2), 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).

(2) In proceedings to which the Corporations Law Rules apply by reason of express application by these rules:

- (a) a form prescribed by the Corporations Law Rules shall be adapted to render it compatible with these rules; and
- (b) subrule (1) shall not apply.

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

(a) Part 58 rule 2

- (i) Substitute “Judge, master or registrar is appointed under section 33 of the subject Act” for “Judge or a master is nominated under rule 1 (a)”.
- (ii) Substitute “before a Judge, master or registrar” for “before a Judge or master”

(b) Schedule D Part 2

Omit the reference to Part 58 and the material relating to it.

(c) Schedule E Part 1

(i) Insert in appropriate order in the appropriate columns:

Part 2—

Rule 3 Extension and abridgment of
time.

Rule 4 Fixing time.

Part 3 Preliminary discovery.

Part 6—

Rule 12 Leave to cross-claim.

Part 18—

Rule 2 (3) Leave to withdraw admission.

Part 52A—

Rule 43 Costs order against solicitor. Restricted to
costs in matters
within
registrars'
powers.

Rule 43A Costs order against barrister. Restricted to
costs in matters
within
registrars'
powers.

Part 58 Taking evidence for foreign and
Australian courts and tribunals.

(ii) In the matter relating to Part 8, before the matter
relating to rules 10 and 11, insert in the appropriate
columns:

Rule 1 Leave to join causes of action.

Rule 2 Leave to join parties.

Rule 3 Leave to not join parties.

Rule 5 Stay proceedings until jointly
liable persons added as
defendants.

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Rule 6 Order separate trials or other order to avoid inconvenient joinder.

Rule 8	Order addition of parties.
Rule 9	Order removal of party.

(iii) At the end of the matter relating to Part 11, insert in the appropriate columns:

Rule 8 Setting aside originating process etc.

(iv) At the end of the matter relating to Part 17, insert in the appropriate columns:

Rule 10 Judgment for costs alone.

(v) After the matter relating to Part 21 rule 1, insert in the appropriate columns:

Rule 2 Leave to discontinue.
.....

(vi) From the material relating to Part 23, omit the matter appearing in Column 3.

(vii) In the matter relating to Part 25, before the matter relating to rule 8 insert in the appropriate columns:

Rule 4	Stay.
Rule 5	Order for medical examination.
Rule 7B	Order for rehabilitation tests.

(viii) After the matter relating to Part 25 rule 8, insert in the appropriate columns:

Rule 10	Default.	Except for an order that: (a) proceedings be dismissed as to the whole or any part of the relief claimed in the proceedings; or (b) a defence be struck out.
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- (d) Schedule E Part 2 Paragraph 8 (c)
Substitute “\$20,000” for “\$10,000”.
- (e) Schedule E Part 2
After paragraph 10 insert—
 - 11. Any:
 - (a) trial or hearing of proceedings; or
 - (b) matter,
which:
 - (c) a master may conduct or deal with; and
 - (d) is referred to a registrar by order of a master.

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

- (a) Part 75
Inert after rule 3F:

Objection to confirmation of forfeiture order

3FA An objection under section 53C of the Bail Act 1978 to confirmation of a forfeiture order must be in the prescribed form.

Application to set aside forfeiture order

3FB An application under section 53K of the Bail Act 1978 to set aside a forfeiture order must be in the prescribed form.

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(b) Schedule F

Insert after Form 74AH:

Form 74AHA

P. 75, r. 3FA.

OBJECTION TO CONFIRMATION OF FORFEITURE ORDER BY THE SUPREME COURT OR THE COURT OF CRIMINAL APPEAL

I, *(full name) of (address)* object to confirmation of the forfeiture order made by the Supreme Court*/Court of Criminal Appeal* on *(date)* in these proceedings.

**delete as required*

The order affects me in the following manner—

(state how you are affected)

I rely on the following grounds—

(state grounds of objection)

Signed:

Date:

Time for hearing:

Place:

Form 74AHB

P. 75, r. 3FB.

APPLICATION TO SET ASIDE FORFEITURE ORDER BY THE SUPREME COURT OR THE COURT OF CRIMINAL APPEAL

I, *(full name) of (address)* apply

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to set aside the forfeiture order made by the Supreme Court*/Court of Criminal Appeal* on (date) in these proceedings.

**delete as required*

The order affects me in the following manner—
(state how you are affected)

I rely on the following grounds—
(state grounds of application)

Signed:

Date:

Time for hearing:

Place for hearing:

(c) Schedule E Index of forms

After the matter relating to form 74AH, insert in the appropriate columns:

74AHA Objection to confirmation of forfeiture order by the Supreme Court or the Court of Criminal Appeal (p. 75, r. 3FA).

74AHB Application to set aside forfeiture order by the Supreme Court or the Court of Criminal Appeal (P. 75, r. 3FB)

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7. The Supreme Court Rules 1970 are further amended as follows—
Part 1 rule 10
Omit the rule and insert instead—
Serial number
 - 10. (1)** A document filed shall bear a serial number allocated by the registry.
 - (2)** The number shall be followed by a reference to the calendar year in which the number is assigned.
 - (3)** A new series of numbers shall be commenced at the beginning of each calendar year.
8. The amendment contained in paragraph 7 shall commence on 1 January 2001.
9. The Supreme Court Rules 1970 are further amended as follows—
Part 72B rule 1 (1)
After “are proceedings”, insert “in the Equity Division”.

EXPLANATORY NOTE

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

- 1 The object of the amendments contained in paragraph 2 is to take account of the substitution by the *Administrative Decisions Tribunal Legislation Amendment (Revenue) Act 2000* of a right of review by the Supreme Court, in place of a right of appeal, under the *Taxation Administration Act 1996*.
- 2 The object of the amendments contained in paragraph 4 is to make it clear that in proceedings to which the Corporations Law Rules apply by reason of express application by the Supreme Court Rules 1970 (“the SCR”), such as proceedings under the Co-operations Act 1992:
 - (a) a form prescribed by the Corporations Law Rules in such proceedings must be adapted to render it compatible with the SCR; and
 - (b) Part 65 rule 1 of the SCR (which prescribes the manner of setting out forms used in proceedings to which the SCR apply) applies.

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- 3 The object of the amendments contained in paragraph 5 is to allow registrars to exercise various powers of the Court.
- 4 The object of the amendments contained in paragraph 6 is to prescribe forms required by sections 53C and 53K of the Bail Act 1978.
- 6 The object of the amendment contained in paragraph 7 is to omit the requirement to give a separate series of identifying numbers to proceedings commenced in district registries.
- 7 The object of the amendment contained in paragraph 9 is to allow all proceedings in the Common Law Division to be referred for determination pursuant to the Arbitration (Civil Actions) Act 1983. Presently, only proceedings in which the Court considers that the total value of all relief sought is not likely to exceed \$750,000 are referable. This limit will continue to apply to proceedings in the Equity Division.

S Jupp
The Secretary of the Rule Committee

BY AUTHORITY