

**SUPREME COURT (AMENDMENT) ACT.**

**New South Wales**



ANNO VICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 41, 1972.**

An Act to make further provisions relating to the administration of justice and the procedure and practice of the Supreme Court; for these and other purposes to amend the Supreme Court Act, 1970, and certain other Acts; and for purposes connected therewith. [Assented to, 11th April, 1972.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**1.** This Act may be cited as the "Supreme Court (Amendment) Act, 1972".

**2.**

*Supreme Court (Amendment).*

**No. 41, 1972**    **2.** The Supreme Court Act, 1970, is in this Act referred  
 to as the Principal Act.  
 Construc-  
 tion.

**Amendment  
 of Act No.  
 52, 1970.**    **3.** Part I of the Principal Act is amended—  
 (Part I.—  
 Pre-  
 liminary.)

**Sec. 4.**    (a) (i) by omitting from section four the figures “126”  
 (Division    and by inserting in lieu thereof the figures  
 of Act.)    “128”;  
 (ii) by inserting in the same section next after the  
 matter relating to Part IX the following new  
 matter :—

PART X.—SUPPLEMENTAL—ss. 129—  
 130.

**Sec. 8.**    (b) (i) by omitting from the Table in paragraph (f)  
 (Construc-    of subsection one of section eight the words  
 tion of    “Deputy Master in the Protective Jurisdiction  
 references.)    of the Supreme Court.”;  
 (ii) by omitting from the same Table the words  
 “Registrar in the Protective Division.”;

**Sec. 13.**    (c) by inserting at the end of section thirteen the  
 (Judges.)    following new subsection :—  
 (2) The person who immediately before the  
 commencement of this Act held the office of Judge  
 exercising the matrimonial causes jurisdiction of  
 the Court shall, on the commencement of this Act,  
 be Chief Judge in Divorce.

**Sec. 16.**    (d) by omitting from paragraph (b) of subsection three  
 (Pending    of section sixteen the words “mesne process” and by  
 proceed-    inserting in lieu thereof the words “mesne process  
 ings.)    or under any writ of *capias ad satisfaciendum*”;

(e)

*Supreme Court (Amendment).*

- (e) (i) by omitting subsection two of section seventeen No. 41, 1972 and by inserting in lieu thereof the following subsection :—

(2) Rules may be made under this Act—

Sec. 17.  
(Criminal  
proceed-  
ings.)

(a) for regulating and prescribing the practice and procedure of the Court; and

(b) without limiting the generality of paragraph (a) of this subsection, for providing for the regulation of the sittings and order of business of the Court and the regulation of the vacations and holidays to be observed by the Court and in the offices of the Court,

in relation to any of the proceedings in the Court which are specified in the Third Schedule to this Act.

- (ii) by inserting next after the same subsection the following new subsection :—

(2A) The provisions of this Act, including Part IX (subsections one and four of section one hundred and twenty-four excepted), apply in relation to rules made pursuant to subsection two of this section as they apply in relation to other rules.

- (iii) by omitting from subsection three of the same section the words “and seventy-two” and by inserting in lieu thereof the words “, seventy-two and one hundred and thirty”;

- (f) (i) by omitting from the definition of “common law claim” in section nineteen the word “delivery” and by inserting in lieu thereof the word “detention”;

(ii)

*Supreme Court (Amendment).*

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- (ii) by inserting in the same section next after the definition of "land" the following new definition :—

"minor" means a person under the age of eighteen years.

- (iii) by omitting from the same section the definition of "rules" and by inserting in lieu thereof the following definition :—

"rules" means rules of the Court from time to time in force, whether in force as rules in the Fourth Schedule to this Act, or as rules made by the Rule Committee, or otherwise in force, and includes any schedule to rules of the Court.

- (iv) by omitting from paragraph (a) of the definition of "stated case" in the same section the word "special";

- (v) by inserting at the end of the same section the following new subsection :—

(2) For the purposes of this Act and the rules, proceedings in the Court under an Act—

(a) are an appeal if described in that Act or in any regulation made under that Act as an appeal; and

(b) subject to the rules, are not an appeal if not so described.

*Supreme Court (Amendment).*

## 4. Part II of the Principal Act is amended—

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Further  
amendment  
of Act No.  
52, 1970.  
(Part II.—  
The Court.)

- (a) by omitting section twenty-four and by inserting in lieu thereof the following section :—

Subst. sec.  
24.

24. (1) In this section “special office” means the office of Chief Judge in Equity, Chief Judge in Divorce, Probate Judge, and any other special judicial office in the Court.

Court to  
have powers  
of Judges,  
etc.

(2) Where, under the law in force immediately before the commencement of this Act, any power is vested in the Judges collectively, or in any two or more Judges, or in any Judge in special office, or in any Judge—

- (a) that power shall be exercised by the Court in all respects as those Judges or that Judge might have exercised the power immediately before the commencement of this Act, but in accordance with this Act and the rules;
- (b) the Court shall have power co-ordinate with the power of those Judges or that Judge; and
- (c) subject to paragraphs (a) and (b) of this subsection, that power shall not be exercised by those Judges or that Judge.

(3) Where, under the law in force immediately before the commencement of this Act, any power is vested in the Court, whether generally or in any jurisdiction of the Court, that power shall be exercised by the Court in all respects as the Court might have exercised the power immediately before the commencement of this Act, but in accordance with this Act and the rules.

(4)

*Supreme Court (Amendment).*

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- (4) This section has effect even though—
- (a) in the case of a power vested in a Judge in special office, the special office has been abolished, whether before or after the commencement of this Act, or the special office is vacant;
  - (b) the power in question is vested in the Court as a designated Court, in the Judges collectively or any two or more Judges as designated persons, or in any Judge in special office or any Judge as a designated person; or
  - (c) exercise of the power is expressed under the law in force immediately before the commencement of this Act to be final or without appeal.

(5) This section applies to a power which, immediately before the commencement of this Act, is exercisable by rule nisi or rule absolute in any proceedings or by other rule in the nature of an order or direction in any proceedings, but otherwise does not apply to a power to make rules.

(6) This section does not apply to a power—

- (a) vested in the Chief Justice as Chief Justice;
- (b) vested in the Chief Judge in Equity in relation to the making of general orders under Division 1 of Part XXIV of the Conveyancing Act, 1919;
- (c) vested in a Judge as judge, or additional or deputy judge, of the Land and Valuation Court;
- (d) vested in a Judge as chairman, or additional temporary chairman, of the Crown Employees Appeal Board;

(e)

*Supreme Court (Amendment).*

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- (e) vested in a Judge in special office or other Judge as member (whether chairman or otherwise) of a board, committee or other body of persons not composed wholly of Judges. No. 41, 1972

(7) The Governor may direct by proclamation that this section shall not apply to any power specified in the proclamation, being a power arising under any Act or Imperial Act in force immediately before the commencement of this Act, and the proclamation shall have effect accordingly, but subject to subsection nine of this section.

(8) A proclamation under subsection seven of this section shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date specified in the proclamation; and
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

(9) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after a proclamation under subsection seven of this section has been laid before it, disallowing the proclamation or any part of it, the proclamation or part shall thereupon cease to have effect.

(10)

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(10) For the purposes of subsections eight and nine of this section, sitting days shall be counted, whether or not they occur during the same session.

Sec. 26.  
(Appointment and qualifications: Chief Justice and other Judges.)

(b) by omitting subsection two of section twenty-six and by inserting in lieu thereof the following subsections :—

Qualifications.  
Act No. 35,  
1900,  
ss. 5, 9.

(2) A person appointed as Chief Justice shall, at the time of his appointment, be—

- (a) a Judge;
- (b) a member of the Industrial Commission of New South Wales;
- (c) a barrister of not less than five years' standing;
- (d) a solicitor of not less than seven years' standing; or
- (e) a barrister or a solicitor of less than five years' or seven years' standing respectively, where at all times during a continuous period of not less than seven years he was on the roll of solicitors when he was not on the roll of barristers or on the roll of barristers when he was not on the roll of solicitors.

(3) A person appointed as a Judge shall, at the time of his appointment, be a person holding a qualification specified in paragraph (b), (c), (d) or (e) of subsection two of this section.

(c)



*Supreme Court (Amendment).*

(c) by omitting section twenty-eight and by inserting **No. 41, 1972** in lieu thereof the following section: —

Subst. sec.  
28.

28. (1) The Governor may, by commission under the public seal of the State, appoint any Judge to be Chief Judge at Common Law, Chief Judge in Equity, Chief Judge in Divorce or Probate Judge.

Chief  
Judges of  
Divisions;  
Probate  
Judge.

(2) A Judge may be appointed to be Chief Judge at Common Law, Chief Judge in Equity, Chief Judge in Divorce or Probate Judge either at the time of his appointment as a Judge or at any time afterwards.

(3) Each of them the Chief Judge at Common Law, the Chief Judge in Equity, the Chief Judge in Divorce and the Probate Judge shall hold that office so long as he holds office as a Judge.

(4) With the approval of the Governor, a Judge holding office as Chief Judge at Common Law, Chief Judge in Equity, Chief Judge in Divorce or Probate Judge may resign that office without resigning his office as a Judge.

(5) The Chief Judge at Common Law shall be Chief Judge of the Common Law Division.

(6) The Chief Judge in Equity shall be Chief Judge of the Equity Division.

(7) The Chief Judge in Divorce shall be Chief Judge of the Divorce Division.

(8) In relation to the Chief Judge in Equity, the Chief Judge in Divorce and the Probate Judge, subsection one of this section has effect subject to section thirteen of this Act.

(d)

*Supreme Court (Amendment).*

- No. 41, 1972  
Sec. 29.  
(Salaries.)
- (d) by omitting subsection one of section twenty-nine and by inserting in lieu thereof the following subsection :—
- (1) The annual salaries of the Judges shall be as follows—
- (a) of the Chief Justice—twenty-nine thousand eight hundred dollars;
- (b) of the President of the Court of Appeal—twenty-eight thousand two hundred and twenty dollars; and
- (c) of the other Judges—twenty-seven thousand four hundred dollars.
- Sec. 34.  
(Vacancies.)
- (e) by omitting subsection one of section thirty-four and by inserting in lieu thereof the following subsection :—
- (1) Where there is a vacancy in the office of President of the Court of Appeal, or the President is absent from his duties, the senior of the other Judges of Appeal (except the Chief Justice) willing to act as President shall act as President, shall execute the duties of that office, and may exercise all the powers which may lawfully be exercised by the President.
- Sec. 36.  
(Additional Judges of Appeal.)
- (f) by omitting from subsection one of section thirty-six the words “(other than the Chief Justice)”;
- Sec. 39.  
(Intra-curial arrangements.)
- (g) (i) by omitting from paragraph (a) of subsection two of section thirty-nine the word “and” where secondly occurring;

(ii)

*Supreme Court (Amendment).*

- (ii) by omitting from paragraph (b) of the same subsection the words "Chief Justice" and by inserting in lieu thereof the following words and new paragraph :—
- Chief Justice; and
- (c) in the case of a Division of which there is a Chief Judge, but subject to any arrangement made as provided by paragraph (a) or paragraph (b) of this subsection, shall be made by the Chief Judge.
- (h) by omitting from subsection two of section forty the words "master or" and by inserting in lieu thereof the words "master or before a registrar or";
- No. 41, 1972  
Sec. 40.  
(Single Judge to constitute the Court.)
- (i) (i) by omitting from paragraph (a) of subsection one of section forty-one the words "Chief Justice" and by inserting in lieu thereof the words "Chief Judge at Common Law";
- Sec. 41.  
(Judges in the Divisions.)
- (ii) by omitting subsection four of the same section;
- (j) by omitting from subsection five of section forty-three the words "Two Courts" and by inserting in lieu thereof the words "More than one Court";
- Sec. 43.  
(Sittings.)
- (k) by omitting section forty-six and by inserting in lieu thereof the following section :—
- Subst. sec. 46.
46. (1) A Judge of Appeal may exercise the powers of the Court of Appeal—
- Powers of Judge of Appeal.
- (a) to direct the entry of any judgment by consent or make any order by consent;

(b)

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- (b) to dismiss an appeal or other proceedings for want of prosecution or for other cause specified in the rules;
- (c) to dismiss an appeal or other proceedings on the application of the appellant or plaintiff; or
- (d) to deal with costs and other matters incidental to the matters mentioned in paragraphs (a), (b) and (c) of this subsection.

15 & 16  
Geo. 5, c.  
49, s. 69  
(1).

(2) A Judge of Appeal may exercise the powers of the Court of Appeal—

- (a) to make any order or give any direction concerning the institution of an appeal or other proceedings in the Court of Appeal; or
- (b) to make any order or give any direction in any appeal or other proceedings, but not an order or direction involving the determination or decision of the appeal or other proceedings.

(3) Subsection two of this section does not authorise a Judge of Appeal to grant or refuse leave to appeal to the Court of Appeal.

15 & 16 Geo.  
5, c. 49,  
s. 69 (2);  
Act No. 21,  
1899, s. 254A  
(3); Act  
No. 35, 1900,  
s. 20 (3);  
Court of  
Appeal  
Rules, r. 23.

(4) The Court of Appeal may discharge or vary a judgment entered by direction of a Judge of Appeal, or an order made or direction given by a Judge of Appeal.

(5)

*Supreme Court (Amendment).*

(5) Subject to subsection four of this No. 41, 1972 section, a judgment entered by direction of a Judge of Appeal, or an order made or direction given by a Judge of Appeal, shall have effect as a judgment or order or direction of the Court of Appeal, whether or not the direction or order is within the powers of the Judge of Appeal under this section.

5. Part III of the Principal Act is amended—

Further amendment of Act No. 52, 1970. (Part III.—Distribution of Business.)

(a) by omitting section forty-seven;

Sec. 47. (Preliminary.)

(b) by omitting section forty-eight and by inserting in lieu thereof the following section :—

Subst. sec. 48.

48. (1) (a) In this section—

Assignment to the Court of Appeal.

“specified tribunal” means—

- (i) the judge or an additional or deputy judge of the Land and Valuation Court;
- (ii) the Industrial Commission of New South Wales or a member of the Commission;
- (iii) the Crown Employees Appeal Board or a member of the Board who is chairman or additional temporary chairman of the Board;

(iv)

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- (iv) a district court, a judge of a district court, or a chairman of quarter sessions;
- (v) the Workers' Compensation Commission of New South Wales or a member of the Commission;
- (vi) a judge or member functioning or purporting to function under any Act giving power to a judge or member, whether as judge or member or as a designated person;
- (vii) a body of persons having amongst its number a judge or member, being a body functioning or purporting to function under any Act giving power to a body having amongst its number a judge or member, whether as judge or member or as a designated person; or
- (viii) the Solicitors' Statutory Committee.

(b) In subparagraphs (vi) and (vii) of paragraph (a) of this subsection "judge or member" means a judge or member mentioned in any of subparagraphs (i) to (v) inclusive of that paragraph.

(2) There are assigned to the Court of Appeal proceedings in the Court—

(a) under the Supreme Court (Summary Jurisdiction) Act, 1967, on—

(i) a case stated under section eighteen of that Act;

(ii)

*Supreme Court (Amendment).*

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- (ii) an application under section twenty- No. 41, 1972  
one of that Act; or
- (iii) an appeal under section twenty-four  
of that Act;
- (b) for commanding or otherwise requiring a  
specified tribunal to perform a public duty;
- (c) for prohibiting or otherwise restraining a  
specified tribunal from proceeding in any  
matter before the tribunal;
- (d) for commanding or otherwise requiring the  
removal into the Court of any matter before  
a specified tribunal, whether for the purpose  
of quashing or otherwise, but this paragraph  
has effect subject to subsection three of this  
section;
- (e) for determining, by declaration or otherwise,  
any matter concerning the powers of a  
specified tribunal;
- (f) on an appeal from a specified tribunal;
- (g) for otherwise reviewing a decision of a  
specified tribunal;
- (h) on a case stated by a specified tribunal;
- (i) for the punishment of contempt of the Court  
of Appeal;
- (j) for such matters as are necessary or con-  
venient for the discharge of the functions of  
the Court of Appeal; and
- (k) for such matters as are prescribed by the  
rules.

*Supreme Court (Amendment).*

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(3) Notwithstanding paragraph (d) of subsection two of this section, the rules may provide for the assignment to the Divisions of the Court of proceedings in the Court for commanding or otherwise requiring the removal into the Court of any matter before a specified tribunal in cases not involving a review of a decision of a specified tribunal.

Subst.  
sec. 49.

(c) by omitting section forty-nine and by inserting in lieu thereof the following section :—

Assignment  
to the  
Divisions.

49. Subject to Part VII of this Act, proceedings in the Court which are not assigned to the Court of Appeal are assigned to the Divisions of the Court.

Sec. 50.  
(Business of  
Divisions.)

(d) by omitting section fifty;

Sec. 51.  
(Removal  
and  
remission.)

- (e) (i) by omitting from subsection one of section fifty-one the words “but ought” and by inserting in lieu thereof the words “but are”;
- (ii) by omitting from the same subsection the words “to have been commenced in” and by inserting in lieu thereof the words “assigned to”;
- (iii) by omitting from paragraph (a) of the same subsection the words “ought to have been commenced in” and by inserting in lieu thereof the words “are assigned to”;
- (iv) by omitting from subsection two of the same section the words “but ought” and by inserting in lieu thereof the words “but are”;
- (v) by omitting from the same subsection the words “to have been commenced in” and by inserting in lieu thereof the words “assigned to”;

(vi)



*Supreme Court (Amendment).*

- (vi) by omitting from paragraph (a) of the same subsection the words "ought to have been commenced in" and by inserting in lieu thereof the words "are assigned to";
- (vii) by omitting from paragraph (d) of the same subsection the words "paragraph (b)" and by inserting in lieu thereof the words "paragraph (b) of this subsection";
- (viii) by omitting subsection three of the same section;
- (ix) by omitting from subsection six of the same section the words "the determination" and by inserting in lieu thereof the words "any decision or determination".

6. Part IV of the Principal Act is amended by omitting subsection one of section sixty-one and by inserting in lieu thereof the following subsection :—

No. 41, 1972  
Further amendment of Act No. 52, 1970.  
(Part IV.—  
Law and Equity.)

- (1) The Court shall not restrain by injunction any proceedings pending in the Court.

Sec. 61.  
(Defence or stay instead of injunction.)

7. Part V of the Principal Act is amended—

Further amendment of Act No. 52, 1970.  
(Part V.—  
Powers Generally.)

- (a) by omitting subsections one, two and three of section sixty-six and by inserting in lieu thereof the following subsections :—

Sec. 66.  
(Injunction.)

- (1) The Court may, at any stage of proceedings, by interlocutory or other injunction, restrain any threatened or apprehended breach of contract or other injury.

(2)

*Supreme Court (Amendment).*

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(2) Subsection one of this section applies as well in a case where an injury is not actionable unless it causes damage as in other cases.

(3) The Court may restrain any threatened or apprehended waste or trespass pursuant to this section—

(a) whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and

(b) whether the estate claimed by any party is legal or equitable.

Sec. 71.  
(Habeas corpus.)

(b) by inserting next after subsection three of section seventy-one the following new subsections :—

(3A) Subject to the rules, a writ of habeas corpus may be enforced in the ways in which a judgment or order of the Court may be enforced.

(3B) Subsection (3A) of this section does not affect the power of the Court to punish for contempt.

Subst.  
sec. 72.

(c) by omitting section seventy-two and by inserting in lieu thereof the following section :—

Production of person confined.  
16 & 17 Vict. c. 30, s. 9; Act No. 29, 1902, s. 18 (2); Act No. 30, 1969, s. 42.

72. (1) In this section “tribunal or authority” means any court, judge, justice or other judicature, or any referee, arbitrator or umpire, or any person authorised to take the examination of any witness or to conduct any inquiry, whether so authorised for the purpose of proceedings in the Court or for any other purpose.

(2)

*Supreme Court (Amendment).*

(2) Where any prisoner or person is confined in any prison or place, under any sentence or under commitment for trial or otherwise, the Court may make orders for bringing him before any tribunal or authority, for the purpose of answering any charge or otherwise taking part in any proceedings or matter before the tribunal or authority, or for the purpose of being examined as a witness, and for returning him to confinement. No. 41, 1972

(d) by inserting next after section seventy-five the following new section :— New sec.  
75A.

75A. (1) Subject to subsections two and three of this section, this section applies to an appeal to the Court and to an appeal in proceedings in the Court. Appeal.  
Act No. 49,  
1900, s. 5;  
Act No. 24,  
1901, ss. 82,  
84; Act No.  
32, 1965,  
s. 5.

(2) This section does not apply to so much of an appeal as relates to a claim in the appeal—

- (a) for a new trial on a cause of action for debt, damages or other money or for possession of land, or for detention of goods; or
- (b) for the setting aside of a verdict, finding, assessment or judgment on a cause of action of any of those kinds,

being an appeal arising out of—

- (c) a trial with a jury in the Court; or
- (d) a trial with or without a jury in a District Court.

(3) This section does not apply to proceedings in the Court on a stated case.

(4)

*Supreme Court (Amendment).*No. 41, 1972

(4) This section has effect subject to any Act.

(5) Where the decision or other matter under appeal has been given after a hearing, the appeal shall be by way of rehearing.

(6) The Court shall have the powers and duties of the court, body or other person from whom the appeal is brought, including powers and duties concerning—

- (a) amendment;
- (b) the drawing of inferences and the making of findings of fact; and
- (c) the assessment of damages and other money sums.

(7) The Court may receive further evidence.

(8) Notwithstanding subsection seven of this section, where the appeal is from a judgment after a trial or hearing on the merits, the Court shall not receive further evidence except on special grounds.

(9) Subsection eight of this section does not apply to evidence concerning matters occurring after the trial or hearing.

(10) The Court may make any finding or assessment, make any direction for entry of judgment, or make any order, which ought to have been made or which the nature of the case requires.

*Supreme Court (Amendment).*

8. Part VI of the Principal Act is amended—
- No. 41, 1972  
Further amendment of Act No. 52, 1970.  
(Part VI.—Procedure.)
- (a) (i) by omitting from section seventy-seven the words “under any Act” and by inserting in lieu thereof the words “by or under any Act”; Sec. 77.  
(Procedures under other Acts superseded.)
- (ii) by omitting from the same section the words “Appeal or in any Judge” and by inserting in lieu thereof the words “Appeal or in any Judge or in any master or in any registrar or other officer of the Court”;
- (b) by omitting from paragraph (b) of subsection one of section eighty-two the words “an infant” and by inserting in lieu thereof the words “a minor”; Sec. 82.  
(Informal proof; admissions.)
- (c) by omitting section eighty-three and by inserting in lieu thereof the following section :— Subst. sec. 83.
83. Where a person is authorised by this Act or by the rules or by order of the Court to take the examination of any person— Examination on oath. Act No. 34, 1900, s. 9.
- (a) the examination shall be taken on oath; and
- (b) the oath shall be administered by the person taking the examination or by a Judge.
- (d) by omitting section eighty-four and by inserting in lieu thereof the following section :— Subst. sec. 84.
84. (1) Where any person (in this subsection called the vexatious litigant) habitually and persistently and without any reasonable ground institutes vexatious legal proceedings, whether in the Court or in any inferior court, and whether against the same person or against different persons, the Vexatious litigant. 15 & 16 Geo. 5, c. 49, s. 51.
- Court

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Court may, on application by the Attorney General, order that the vexatious litigant shall not, without leave of the Court, institute any legal proceedings in any court and that any legal proceedings instituted by the vexatious litigant in any court before the making of the order shall not be continued by him without leave of the Court.

(2) Where any person (in this subsection called the vexatious litigant) habitually and persistently and without any reasonable ground institutes vexatious legal proceedings against any person (in this subsection called the person aggrieved), whether in the Court or in any inferior court, the Court may, on application by the person aggrieved, order that the vexatious litigant shall not, without leave of the Court, institute any legal proceedings against the person aggrieved in any court and that any legal proceedings instituted by the vexatious litigant against the person aggrieved in any court before the making of the order shall not be continued by him without leave of the Court.

(3) The Court may from time to time rescind or vary any order made by it under subsection one or subsection two of this section.

(4) Where the Court has made an order under subsection one or subsection two of this section against any person, the Court shall not give him leave to institute or continue any proceedings unless the Court is satisfied that the proceedings are not an abuse of process and that there is prima facie ground for the proceedings.

Sec. 96.  
(Effect of  
judgment or  
order.)

(e) by omitting from subsection three of section ninety-six the words "the possession" and by inserting in lieu thereof the word "possession":

(f)

*Supreme Court (Amendment).*

- (f) by omitting section ninety-eight and by inserting in lieu thereof the following section :—

Subst.  
sec. 98.

98. (1) A judgment or order of the Court for the payment of money shall not be enforceable—

Arrest in  
execution.

- (a) by process of the Court for attachment of the person or for committal; or  
(b) by the issue of a writ of *capias ad satisfaciendum*.

(2) This section does not affect the power of the Court to punish for contempt.

9. Part VII of the Principal Act is amended—

Further  
amendment  
of Act No.  
52, 1970.  
(Part VII.—  
Appeal to  
the Court  
of Appeal.)

- (a) by omitting section one hundred and one and by inserting in lieu thereof the following section :—

Subst.  
sec. 101.

101. (1) Subject to this and any other Act and subject to the rules, an appeal shall lie to the Court of Appeal from—

Appeal in  
proceedings  
in the  
Court.

- (a) any judgment or order of the Court in a Division; and

15 & 16  
Geo. 5, c. 49,  
s. 27 (1).

- (b) without limiting the generality of paragraph (a) of this subsection—

(i) any opinion, decision, direction or determination of the Court in a Division on a stated case;

(ii) any exercise of a power to which section twenty-four of this Act applies; and

(iii) any determination of the Court in a Division in proceedings remitted under subsection four of section fifty-one of this Act.

(2)

*Supreme Court (Amendment).*

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(2) An appeal shall not lie to the Court of Appeal, except by leave of the Court of Appeal, from—

- (a) an order in proceedings in the Court directing an amendment of a judgment or order correcting a clerical mistake in the judgment or order or an error arising from an accidental slip or omission;
- (b) an order that proceedings be entered in the commercial list;
- (c) a judgment given or order made in proceedings in the Court with the consent of the parties or as to costs only which are in the discretion of the Court;
- (d) an order made in proceedings in the Court on an application for review of taxation of costs;
- (e) an interlocutory judgment or order in proceedings in the Court;
- (f) a judgment or order in proceedings in the Court or an interpleader issue decided in a summary way pursuant to the rules;
- (g) an order refusing leave for the institution or continuance of legal proceedings by a person who is the subject of an order for the time being in force under section eighty-four of this Act; or
- (h) an opinion, decision, direction or determination of the Court in a Division pursuant to section one hundred and six or section one hundred and twelve of the Justices Act, 1902.

Act No. 19,  
1903, s. 5.15 & 16  
Geo. 5, c. 49,  
s. 31 (1)  
(b).15 & 16  
Geo. 5, c. 49,  
s. 31 (1)  
(i).R.S.C.  
(Rev.) 1965,  
O. 58, r. 8.15 & 16  
Geo. 5, c. 49,  
s. 31 (1)  
(l).Act No. 27,  
1902, ss.  
107A (1),  
116 (1) (a).

(3)



*Supreme Court (Amendment).*

(3) Subsection two of this section does not apply to a judgment given or order made on an application for a writ of habeas corpus ad subjiciendum or to an order for the committal or arrest of any person.

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Act No. 21,  
1899, s.  
254B;  
15 & 16  
Geo. 5, c. 49,  
s. 31 (1) (i)

(4) Where the Court in a Division exercises any power to which section twenty-four of this Act applies and exercise of the power is expressed by any provision of an Act or Imperial Act in force immediately before the commencement of this Act to be final or without appeal, an appeal shall lie to the Court of Appeal notwithstanding that provision, but only by leave of the Court of Appeal.

(i).

(b) by omitting section one hundred and nine.

Sec. 109.  
(Powers  
generally.)

10. Part VIII of the Principal Act is amended—

Further  
amendment  
of Act No.  
52, 1970.  
(Part VIII.—  
Officers.)

(a) by omitting section one hundred and sixteen and by inserting in lieu thereof the following section :—

Subst. sec.  
116.

116. The Governor may—

Assignment.

(a) assign a master or an acting master—

- (i) to the Court of Appeal;
- (ii) to the Court of Appeal and any one or more Divisions; or
- (iii) to any one or more Divisions; and

(b) revoke an assignment of a master or acting master to the Court of Appeal or to any Division.

(b)

*Supreme Court (Amendment).*

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 Sec. 117.  
 (Seniority.)

- (b) (i) by omitting from section one hundred and seventeen the word "assigned" and by inserting in lieu thereof the words "assigned to the Court of Appeal or";
- (ii) by omitting from the same section the words "that Division" and by inserting in lieu thereof the words "the Court of Appeal or to that Division, as the case may be";

New  
 sec. 117A.

- (c) by inserting next after section one hundred and seventeen the following new section :—

Powers:  
 master in  
 the Court  
 of Appeal.

117A. (1) In this section "master in the Court of Appeal" means a master or acting master assigned to the Court of Appeal or a master or acting master directed by the Chief Justice to act in the Court of Appeal.

(2) A master in the Court of Appeal may exercise such powers of the Court of Appeal as are exercisable by a Judge of Appeal under section forty-six of this Act and are, by or under this or any other Act, conferred upon a master assigned to the Court of Appeal.

(3) A judgment directed to be entered or an order made by a master in the Court of Appeal may be discharged or varied by the Court of Appeal.

(4) Subject to subsection three of this section, a judgment directed to be entered or an order made or direction given by a master in the Court of Appeal shall have effect as a judgment or order or direction of the Court of Appeal, whether or not the direction or order is within the powers mentioned in this section of a master in the Court of Appeal.

(5) A master in the Court of Appeal shall constitute the Court of Appeal for the purpose of the exercise of the powers mentioned in subsection two of this section.

(d)

*Supreme Court (Amendment).*

- (d) by omitting section one hundred and eighteen and by inserting in lieu thereof the following section :—

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Subst.  
sec. 118.

118. (1) In this section, "divisional master" means, in relation to any Division, a master or acting master assigned to the Division or a master or acting master directed by the Chief Justice to act in the Division.

Powers:  
divisional  
master.

(2) A divisional master may exercise such powers of the Court in the Division as are, by or under this or any other Act, conferred upon a master assigned to the Division.

(3) A judgment directed to be entered or an order made by a divisional master in any Division may be set aside or varied by the Court.

(4) Subject to subsection three of this section, a judgment directed to be entered or an order made or direction given by a divisional master in any Division shall have effect as a judgment or order or direction of the Court in the Division, whether or not the direction or order is within the powers mentioned in this section of the divisional master.

(5) A divisional master in any Division shall constitute the Court in that Division for the purpose of the exercise of the powers mentioned in subsection two of this section.

- (e) by omitting section one hundred and twenty-one and by inserting in lieu thereof the following section :—

Subst.  
sec. 121.

121. (1) In this section "officer" means a registrar, taxing officer, or other officer of the Court.

Powers.

(2) An officer may exercise such powers of the Court as are, by or under this or any other Act, conferred upon him.

(3)

*Supreme Court (Amendment).*No. 41, 1972

(3) A judgment directed to be entered or an order made by an officer may be set aside or varied by the Court.

(4) Subject to subsection three of this section, a judgment directed to be entered or an order made or direction given by an officer shall have effect as a judgment or order or direction of the Court, whether or not the direction or order is within the powers mentioned in this section of the officer.

(5) An officer shall constitute the Court for the purpose of the exercise of the powers mentioned in subsection two of this section.

Further amendment of Act No. 52, 1970. (Part IX.—Rules of Court.)

Sec. 123. (Rule Committee.)

**11.** (1) Part IX of the Principal Act is amended—

(a) (i) by omitting paragraphs (c) and (d) of subsection one of section one hundred and twenty-three and by inserting in lieu thereof the following paragraphs :—

(c) one other appointed Judge of Appeal;

(d) four other appointed judges; and

(ii) by inserting at the end of the same section the following new subsection :—

(8) Subject to this section, the Rule Committee may regulate its own procedure.

Tas. Act 23 Geo. 5, No. 58, s. 202 (4).

Sec. 124. (Rule-making power.)

(b) (i) by omitting from subsection one of section one hundred and twenty-four the words "Subject to subsection three of this section any" and by inserting in lieu thereof the word "Any".

(ii)

*Supreme Court (Amendment).*

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- (ii) by omitting from paragraph (a) of the same No. 41, 1972 subsection the word "Act" and by inserting in lieu thereof the words "Act, or under any Imperial Act or Commonwealth Act,";
- (iii) by omitting from paragraph (e) of the same subsection the word "Act" and by inserting in lieu thereof the words "Act or Imperial Act";
- (iv) by omitting from paragraph (f) of the same subsection the words "any Act" and by inserting in lieu thereof the words "any Act or Imperial Act";
- (v) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph :—
- (g) for providing for the regulation of the sittings and order of business of the Court and the regulation of the vacations and holidays to be observed by the Court and in the offices of the Court;
- (vi) by omitting from paragraph (h) of the same subsection the words ", functions and jurisdiction";
- (vii) by omitting paragraph (i) of the same subsection;
- (viii) by inserting next after paragraph (m) of the same subsection the following new paragraph :—
- (ma) for prescribing matters relating to expert evidence, including the disclosure, by the furnishing of copies of reports or otherwise, of the nature of expert evidence to be given, and including the exclusion of expert evidence in case of non-compliance with

the

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the rules relating to expert evidence or with any order for disclosure of the nature of expert evidence;

- (ix) by omitting paragraph (p) of the same subsection;
- (x) by omitting paragraph (q) of the same subsection;
- (xi) by omitting from paragraph (r) of the same subsection the word "effects;" and by inserting in lieu thereof the words "effects; and";
- (xii) by omitting paragraph (s) of the same subsection and by inserting in lieu thereof the following paragraph :—
  - (s) for prescribing and regulating the duties of the masters, acting masters, registrars and other officers of the Court in relation to or for the purpose of any proceedings;
- (xiii) by omitting paragraph (t) of the same subsection;
- (xiv) by omitting subsection two of the same section;
- (xv) by omitting subsection three of the same section;
- (xvi) by omitting from subsection seven of the same section the words "any Act" and by inserting in lieu thereof the words "any Act or Imperial Act";
- (xvii) by omitting from subsection eight of the same section the words "other Act" and by inserting in lieu thereof the words "other Act or under any Imperial Act";

(xviii)

*Supreme Court (Amendment).*

(xviii) by inserting at the end of the same section the following new subsection :—

(9) This section does not give power to make rules with respect to any matter with respect to which rules may be made under section six or section 12A of the Legal Practitioners Act, 1898.

(c) by omitting section one hundred and twenty-six; Sec. 126.  
(Rules to  
prevail over  
Acts.)

(d) by inserting next after section one hundred and twenty-six the following new sections :— New secs.  
127 and 128.

127. Judicial notice shall be taken— Judicial  
notice.

(a) of a rule made or purporting to have been made under this Act and published in the Gazette; and Act No. 4,  
1897, s. 34  
(II).

(b) of the date of its publication.

128. It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule under this Act have been complied with and performed. Conditions  
precedent.  
Act No. 4,  
1897, s. 42  
(I).

(2) The amendment made by subparagraph (i) of paragraph (a) of subsection one of this section takes effect on the day appointed under subsection one of section two of the Principal Act.

12. The Principal Act is further amended by inserting next after Part IX the following new Part :— Further  
amendment  
of Act No.  
52, 1970.  
New Part X.

## PART X.

## SUPPLEMENTAL.

129. Notwithstanding anything contained in the Amendments Incorporation Act, 1906, it shall not be necessary, in any print or reprint of this Act issued by the Printing.

*Supreme Court (Amendment).*

**No. 41, 1972** the Government Printer after the expiry of six months after the commencement of this Act, to print the First Schedule or the Second Schedule to this Act.

**Fees and percentages.**

130. The Governor may make regulations fixing or otherwise relating to fees and percentages to be taken in respect of the business of the Court.

**Further amendment of Act No. 52, 1970. (First Schedule.)**

**13.** The First Schedule to the Principal Act is amended in the manner set forth in the First Schedule to this Act.

**Further amendment of Act No. 52, 1970. (Second Schedule.)**

**14.** The Second Schedule to the Principal Act is amended in the manner set forth in the Second and Third Schedules to this Act.

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SCHEDULES.

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Sec. 13.

FIRST SCHEDULE.

The First Schedule to the Supreme Court Act, 1970, is amended—

(a) by omitting from the column headed "Subject." the matter relating to Act No. 49, 1930, and by inserting in lieu thereof the following matter:—

Landlord and Tenant Amendment (Distress Abolition).

(b) by omitting from the same column the matter relating to Act No. 49, 1932, and by inserting in lieu thereof the following matter:—

Wills Probate and Administration (Amendment).

(c) by inserting next after the matter relating to Act No. 5, 1969, the following new matter:—

No. 30, 1969 ... Imperial Acts Application ... Section 42.

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SECOND



*Supreme Court (Amendment).*

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## SECOND SCHEDULE.

Sec. 14.

The Second Schedule to the Supreme Court Act, 1970, is amended—

- (a) by inserting next before the matter relating to the Act passed in the fifty-fifth year of the reign of Queen Victoria, number twelve, the following new matter:—

45 Vic. No. 12 Trade Union...	Section 9 ..	Omit "of law or equity" wherever occurring.
		Omit "summons"; insert "summons or other originating process".
	Section 12 ..	Omit "and in such action the said Trustees shall be entitled to recover their full costs of suit to be taxed as between attorney and client".

- (b) (i) by omitting from the matter relating to subsection (II) of section twenty-three of the Act passed in the fifty-fifth year of the reign of Queen Victoria, number twelve in the sub-column headed "Amendment." of the Second Column the words "or a Judge thereof" and by inserting in lieu thereof the words "or a Judge thereof,";

- (ii) by omitting from the same sub-column of the Second Column the matter relating to section forty of the same Act and by inserting in lieu thereof the following matter:—

Omit "as" where secondly occurring; insert "has".

- (c) (i) by omitting from the matter relating to section three of Act No. 13, 1898, in the sub-column headed "Amendment." of the Second Column the following matter:—

; insert "Judge" means Judge of the Court";

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SECOND SCHEDULE—*continued.*

- (ii) by omitting from the matter relating to the same section in the same sub-column of the Second Column the following matter:—

In definition of “Probate Judge” omit “for the time being authorised to administer this Act, or any Judge acting as such”; insert “appointed to such office by the Governor.”

and by inserting in lieu thereof the following matter:—

Omit “‘Probate Judge’ means the Judge for the time being authorised to administer this Act, or any Judge acting as such.”;

- (iii) by omitting from the matter relating to section thirty-one of the same Act in the same sub-column of the Second Column the following matter:—

Omit “rules of Court”; insert “rules”.

and by inserting in lieu thereof the following matter:—

Omit “by the rules of Court.”;

- (iv) by omitting from the same sub-column of the Second Column the matter relating to subsection two of section thirty-two of the same Act and by inserting in lieu thereof the following matter:—

Omit “Rules of court”; insert “Regulations made under the Supreme Court Act, 1970”;

- (v) by inserting in the Second Column next after the matter relating to subsection one of section 40A of the same Act the following new matter:—

Subsection (2) of section 40A. | Omit “court”; insert “Court”.

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*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

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- (vi) by inserting in the Second Column next after the matter relating to section sixty-two of the same Act the following new matter:—

Section 63	..	Omit "when duly cited, appears and prays for administration"; insert "upon being required in accordance with the rules, or as the Court may direct, to pray for administration, complies with the requirement or direction".
Subsection (1) of section 64.		Omit "of Court".

- (vii) by inserting in the Second Column next after the matter relating to section sixty-eight of the same Act the following new matter:—

Paragraph (c) of section 69.		Omit the paragraph; insert the following paragraph:— (c) an executor named in a will is required in accordance with the rules, or as directed by the Court, to take probate and fails to comply with the requirement or direction,
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- (viii) by inserting in the Second Column next after the matter relating to paragraph (a) of subsection one of section ninety-seven of the same Act the following new matter:—

Subsection (2) of section 97.		Omit "address within the city of Sydney"; insert "address, as prescribed by the rules, within New South Wales".
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- (ix) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to subsection three of section one hundred and two of the same Act and by inserting in lieu thereof the following matter:—

Omit "fixed by the rules of Court".

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## Supreme Court (Amendment).

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## SECOND SCHEDULE—continued.

(d) by inserting next after the matter relating to Act No. 13, 1898, the following new matter:—

Offences.	No. 17, 1898	Conveyancing and Law of Property.	Section 8 ..	Omit "suit or action"; insert "proceedings".
			Subsection (1) of section 21.	Omit "appear before"; insert "attend".
			Section 22 ..	Omit the section; insert the following section:— 22. Part III of the Royal Commissions Act, 1923, has effect as if the Commissioners were a commission within the meaning of that Act.
			Subsection (8) of section 37.	Omit "in its equitable jurisdiction".
			Subsection (2) of section 48.	Omit "a decree"; insert "an order".
			Section 54 ..	Omit "by petition in a summary way".
			Subsection (2) of section 58.	Omit the subsection; insert the following subsection:— (2) The Court may determine who are the persons having right to assent or dissent, or submit as herein provided, and the determination of the Court shall be conclusive for the purposes of such application, and any other person having any interest, who does not make claim to the Court before the order on such application has been made, shall be deemed to have submitted his rights and interests to be dealt with by the Court.
			Section 60 ..	Omit "petition"; insert "application".
			Section 62 ..	Omit "by motion".
			Section 63 ..	Omit " <i>ex parte</i> the applicant in the matter of this part of this Act"; insert "as prescribed by rules of the Court".
			Section 65 ..	Omit "petition"; insert "application".
			Section 67 ..	Omit "petition"; insert "application".

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## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

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No. 17, 1898 — <i>cont.</i>	Conveyancing and Law of Property — <i>cont.</i>	Section 81 ..        Subsection (1) of section 86.   Subsection (3) of section 86. Section 106 .. Section 107 ..	Omit the section; insert the following section:— 81. (1) Rules of Court Rules of may be made under the Court. Supreme Court Act, 1970, for carrying into effect the purposes of this part of this Act and for regulating the fees and allowances to all solicitors of the Court in respect to such matters. (2) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970. Omit “in its equitable juris- diction may, by an order to be made upon the petition”; insert “may, by an order to be made upon the applica- tion”. Omit the subsection. Omit the section Omit the section
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- (e) (i) by inserting in the Second Column next before the matter relating to section three of Act No. 22, 1898, the following new matter relating to that Act:—

Subsection (1) of section 1. | Omit “13”; insert “12A”.  
| Omit “81”; insert “81A”.

- (ii) by inserting in the Second Column next after the matter relating to section four of the same Act the following new matter:—

Subsection (1) of section 6. | Omit the subsection; insert the following subsection:—  
| (1) Subject to this Part, the Board may make rules—  
| (a) with respect to the qualifications for admission as student-at-law and the admission of persons as students-at-law;  
| (b) with respect to the qualifications for admission as barrister;  
| (c) without limiting the generality of paragraphs (a) and (b) of this subsection, with respect to the examination in such branches of knowledge as the Board thinks fit of candidates for admission as student-at-law or barrister; and

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## Supreme Court (Amendment).

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SECOND SCHEDULE—*continued.*

<p>Act No. 4, 1897, s. 34 (II).</p> <p>Act No. 4, 1897, s. 42 (I).</p> <p>Rules about admission and so on.</p>	<p>Subsection (1) of section 6 — <i>cont.</i></p> <p>Section 6 ..</p> <p>Part III ..</p>	<p>(d) with respect to the establishment and conduct of boards or other bodies with functions concerning the examination of candidates for admission as barrister.</p> <p>Insert next after subsection (1) the following new subsections:—</p> <p>(1A) In the exercise of its powers under paragraph (d) of subsection one of this section the Board may act jointly with the Judges acting under section 12A of this Act in matters concerning the establishment and conduct of boards or other bodies having amongst their functions the examination of candidates for admission as barrister.</p> <p>(1B) Rules made under this section shall not limit the powers of the Court to admit any person as barrister.</p> <p>Insert next after subsection (2) the following new subsections:—</p> <p>(3) Judicial notice shall be taken—</p> <p>(a) of a rule made or purporting to have been made under this section and published in the Gazette; and</p> <p>(b) of the date of its publication.</p> <p>(4) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule under this section have been complied with and performed.</p> <p>Insert next before section 13 the following new section:—</p> <p>12A. (1) Subject to this Part, the Judges, or any three of them, may make rules—</p> <p>(a) with respect to the qualifications for entry into articles of clerkship and the entry into articles of clerkship, including the circumstances in which a solicitor may take a clerk under articles of clerkship;</p> <p>(b) with respect to the qualifications for admission as solicitor;</p> <p>(c) without limiting the generality of paragraphs (a) and (b) of this subsection, with respect to the examination in such branches of knowledge as the Judges think fit of candidates for entry into articles of clerkship or for admission as solicitor;</p> <p>(d) with respect to the establishment and conduct of boards or other bodies with functions concerning the examination of candidates for entry into articles of clerkship or</p>
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SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

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Part III—*cont.*

for admission as solicitor or concerning the approval of properly qualified persons to be admitted as solicitors.

(2) In the exercise of their powers under paragraph (d) of subsection one of this section the Judges may act jointly with the Barristers Admission Board acting under section six of this Act in matters concerning the establishment and conduct of boards or other bodies having amongst their functions the examination of candidates for admission as solicitor.

(3) Rules made under this section shall not limit the powers of the Court to admit a person as solicitor.

(4) A rule made under this section shall—

- (a) be published in the Gazette;
- (b) take effect on and from the date of publication or a later date to be specified in the rule;
- (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

(5) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days of that House after a rule referred to in subsection one of this section has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have any effect.

(6) For the purposes of subsections four and five of this section, sitting days shall be counted, whether or not they occur during the same session.

- (7) Judicial notice shall be taken—  
(a) of a rule made or purporting to have been made under this section and published in the Gazette; and  
(b) of the date of its publication.

(8) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule under this section have been complied with and performed.

Subsection (2) of section 14.

Omit "under the rules of Court"; insert "by the rules of Court or by regulations made under this Act".

- (iii) by inserting in the Second Column next after the matter relating to paragraph (b) of subsection two of section fifty-six of the same Act the following new matter:—

Paragraph (c) of subsection (2A) of section 56.

Omit "or a judge thereof".

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*Supreme Court (Amendment).*

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SECOND SCHEDULE—*continued.*

- (iv) by omitting from the Second Column the matter relating to subsection three of the same section and by inserting in lieu thereof the following matter:—

Paragraph (b) of subsection (3) of section 56. | Omit "or a judge thereof".  
| Omit "or judge".

- (v) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section seventy-two of the same Act and by inserting in lieu thereof the following matter:—

Omit "or to a judge in chambers, who"; insert "and the Court".

Omit "or judge".

Omit "or a judge thereof".

- (vi) by omitting from the same sub-column of the Second Column the matter relating to section eighty-one of the same Act and by inserting in lieu thereof the following matter:—

Omit the section; insert the following section:—

81. (1) Rules of Court may be made under the Supreme Court Act, 1970, for regulating the taxation of costs awarded by the Statutory Committee and the recovery of the same by execution or otherwise.

(2) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.

- (vii) by inserting in the Second Column next after the matter relating to section eighty-one of the same Act the following new matter:—

Part X ... .. By inserting next after section 81 the following new section:—

81A. (1) Subject to section eighty-one, the Judges of the Supreme Court, or any three of them, may from time to time on the recommendation of the council make rules—

- (a) for regulating the practice and proceedings of the Statutory Committee, including the awarding of costs by such Committee;
- (b) for conferring upon the Statutory Committee any further powers necessary or convenient for the due fulfilment of its functions;

Rules of  
Court.

Statutory  
Committee  
rules.

SECOND



Supreme Court (Amendment).

SECOND SCHEDULE—continued.

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Part X—cont.

(c) for carrying into effect the provisions of this Act relating to the Statutory Committee and its functions, except the provisions of section seventy-eight of the Act; and may in like manner amend or rescind such rules.

(2) A rule made under this section shall—

(a) be published in the Gazette;  
 (b) take effect on and from the date of publication or a later date to be specified in the rule; and

(c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.

(3) If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days of that House after a rule referred to in subsection one of this section has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.

(4) For the purposes of subsections two and three of this section, sitting days shall be counted, whether or not they occur during the same session.

(5) Judicial notice shall be taken—

(a) of a rule made or purporting to have been made under this section and published in the Gazette; and  
 (b) of the date of its publication.

(6) It shall be presumed, in the absence of evidence to the contrary, that all conditions and steps precedent to the making of a rule under this section have been complied with and performed.

Subsection (1) of section 86. Omit “make regulations”; insert “make regulations (other than as to practice or procedure in the Court)”;

(f) by inserting next after the matter relating to Act No. 22, 1898, the following new matter:—

No. 14, 1899	Matrimonial Causes.	Section 90 ..	Insert next after subsection (2) the following new subsection:— (3) This section has effect notwithstanding section ninety-eight of the Supreme Court Act, 1970.
No. 17, 1899	Registration of Births, Deaths, and Marriages.	Paragraph (c) of section 12.	Omit “a judge of”.
		Subsection (1) of section 22.	Omit “an order by a judge of the Supreme Court or of a district court”; insert “a copy certified by a registrar

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## Supreme Court (Amendment).

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## SECOND SCHEDULE—continued.

No. 17, 1899 —cont.	Registration of Births, Deaths, and Marriages— cont.	Subsection (1) of section 22 —cont.	of the Supreme Court of a minute of an order made by that Court or an order of a judge of a district court". Omit "Registrar-General or judge"; insert "Registrar-General, Court or judge". Omit "application for"; insert "application to a judge of a district court for".
		Section 22	Insert next after subsection one the following new subsections:— (1A) Rules of Court may be made under the Supreme Court Act, 1970, for prescribing the form of application to the Supreme Court for an order under subsection one of this section and the procedure thereon. (1B) Subsection (1A) of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.
		Subsection (2) of section 22.	Omit "a judge of". Omit "or of"; insert "or a judge of".

- (g) (i) by omitting from the matter relating to subsection three of section twenty-seven of Act No. 18, 1899, the words "proceedings or" where firstly occurring and by inserting in lieu thereof the words "proceedings are or";
- (ii) by omitting from the same matter the words "proceedings or" where secondly occurring and by inserting in lieu thereof the words "proceedings have or";
- (h) by inserting next after the matter relating to the same Act the following new matter:—

No. 20, 1899	Police Regulation.	Subsection (1) of section 26.	Omit "may plead"; insert "may, except in the Supreme Court, plead". Omit "and give"; insert "and may give".
		Subsection (2) of section 26.	Omit "the jury who try the said issue shall find a verdict for such member of the police force, and he shall recover his costs of suit"; insert "a verdict shall be found for such member of the police force".

SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

No. 41, 1972

(i) by inserting next after the matter relating to Act No. 24, 1899, the following new matter:—

No. 39, 1899	Infants' Custody and Settlements.	Section 3 ..	In the definition of the "Court" omit "," and includes any Judge thereof sitting in chambers".
		Subsection (1) of section 4.	Omit "The Judges of the Supreme Court, or any three of them, may make such general rules and orders"; insert "Such rules may be made under the Supreme Court Act, 1970,".
		Section 4 ..	Insert next after subsection one the following new subsection:— (1A) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.
		Subsection (4) of section 4.	Omit the subsection; insert the following subsections:— (4) A rule made under subsection two or subsection three of this section shall— (a) be published in the Gazette; (b) take effect on and from the date of publication or a later date specified in the rule; and (c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication. (5) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after a rule referred to in subsection four of this section has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.
		Subsection (1) of section 5.	Omit "in its equitable jurisdiction,".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 39, 1899 — <i>cont.</i>	Infants' Custody and Settlements— <i>cont.</i>	Subsection (5) of section 5. Subsection (9) of section 5.	Omit the subsection. Omit "in its matrimonial causes jurisdiction" where firstly occurring; insert "in proceedings instituted under the Matrimonial Causes Act, 1899,". Omit "an application has already been filed in that Court and is then pending in respect of such matter:"; insert "proceedings have already been instituted under the Matrimonial Causes Act, 1899, and are then pending in the Court in respect of such matter.". Omit "Provided also that orders made under this Act may be subsequently varied by the Supreme Court in its matrimonial causes jurisdiction where the same subject matter arises in any proceedings within its jurisdiction instituted in that Court.". Subsection (1) of section 10A. Omit "in its equitable jurisdiction". Omit "or police". Subsection (2) of section 10A. Omit "in its equitable jurisdiction in the manner prescribed by the rules of that court". Omit "in its equitable jurisdiction" where secondly and thirdly occurring. Section 10B .. Omit "in its equitable jurisdiction" wherever occurring. Subsection (1) of section 16. Omit "action of"; insert "action or other proceedings for".
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- (j) (i) by omitting from the Second Column the matter relating to section twenty-eight of Act No. 25, 1900;
- (ii) by omitting from the Second Column the matter relating to subsection one of section forty of the same Act;
- (iii) by omitting from the Second Column the matter relating to subsection four of section sixty-nine of the same Act;

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

- (iv) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section eighty-four of the same Act and by inserting in lieu thereof the following matter:—

Omit "or a Judge thereof".

- (v) by omitting from the same sub-column of the Second Column the matter relating to subsection one of section eighty-five of the same Act and by inserting in lieu thereof the following matter:—

Omit "or Judge" wherever occurring.

- (vi) by omitting from the Second Column the matter relating to subsection one of section eighty-six of the same Act;

- (vii) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section one hundred and twenty-one of the same Act and by inserting in lieu thereof the following matter:—

Omit the section; insert the following section:—

121. (1) If upon the application of any proprietor to have land brought under the provisions of this Act, or to have any dealing registered or recorded, or to have any certificate of title, order for foreclosure or other instrument issued, or to have any act or duty done or performed which, by this Act, is prescribed to be done or performed by the Registrar-General, the Registrar-General refuses so to do, or if such proprietor is dissatisfied with the direction upon his application given by the Registrar-General as hereinbefore provided, such proprietor may require the Registrar-General to set forth in writing under his hand the grounds of his refusal or the grounds upon which such direction was given, and such proprietor may, if he thinks fit, commence proceedings in the Supreme Court for relief under this section.

Registrar-General may be required to justify certain actions.

(2) The Court may—

- (a) order that public notice, by advertisement or otherwise, be given of the proceedings;

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

- (b) order, of its own motion or on the application of any person, that a person be added as a party to the proceedings and make orders ancillary thereto as to service or otherwise;
- (c) order, in respect of any defendant, that service upon him of the originating process and of all other documents in the proceedings be dispensed with.

(3) Subject to the Supreme Court Act, 1970, the Court shall not, in respect of any defendant, order that service upon him be dispensed with unless the Court is satisfied that—

- (a) the defendant cannot be found in New South Wales;
- (b) it is uncertain whether the defendant is living; or
- (c) service cannot be effected upon the defendant without expense disproportionate to the value of his interest.

(4) Where service upon a defendant is dispensed with under this section, the defendant shall be taken to have submitted to all orders made by the Court in the proceedings.

(5) The Court shall, if any question of fact is involved, decide that question.

(6) The Registrar-General may, with the leave of the Court, rely upon grounds other than those set forth by him under subsection one of this section.

(7) The Court—

- (a) shall either—
  - (i) uphold the refusal or direction of the Registrar-General; or
  - (ii) order the Registrar-General to take action to give effect wholly or partly to the application of the proprietor or order that such

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

direction as the Court thinks fit  
be substituted for the direction  
of the Registrar-General; and

(b) shall make such further or other order  
as the Court thinks fit.

(viii) by omitting from the same sub-column of the Second  
Column the matter relating to section one hundred and  
twenty-four of the same Act and by inserting in lieu  
thereof the following matter:—

Omit “action of ejectment or other action”; insert  
“proceedings in the Supreme Court for posses-  
sion, or action of ejectment in a District Court,  
or other proceedings or action”.

Omit “of law or equity” where firstly occurring.

Omit “such action”; insert “such proceedings or  
action”.

(ix) by omitting from the same sub-column of the Second  
Column the matter relating to section one hundred and  
thirty-six of the same Act and by inserting in lieu  
thereof the following matter:—

Omit the section; insert the following section:—

136. (1) Where the Registrar-General is  
satisfied that—

- (a) a certificate of title or grant has been  
issued in error or contains any misdes-  
cription of land or of boundaries;
- (b) a recording has been made in error in  
the Register;
- (c) a grant, certificate of title or recording in  
the Register has been fraudulently or  
wrongfully obtained; or
- (d) a grant, certificate of title or duplicate  
registered dealing is fraudulently or  
wrongfully retained—

Wrongful  
retention  
of certain  
instruments.

he may by notice in writing to the person to  
whom the grant, certificate of title or duplicate  
registered dealing, as the case may be, has been  
issued, or by whom it has been so obtained or is  
retained, require such person to deliver up the

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

grant, certificate of title or duplicate registered dealing, as the case may be, for the purpose of it being cancelled or corrected, as the case may require.

(2) If such person—

- (a) cannot be found for the giving to him of such notice of requirement; or
- (b) having been given such notice does not comply with the requirement—

the Registrar-General may, if he thinks fit, commence proceedings against such person in the Supreme Court for an order that such person deliver up the grant, certificate of title or duplicate registered dealing, as the case may be, for the purpose of it being cancelled or corrected, as the case may require.

(3) The Court may order that service upon the defendant of the originating process and of all other documents in the proceedings be dispensed with.

(4) Subject to the Supreme Court Act, 1970, the Court shall not order that service upon the defendant be dispensed with unless the Court is satisfied that—

- (a) the defendant cannot be found in New South Wales; or
- (b) it is uncertain whether the defendant is living.

(5) The Court may order the personal attendance before it of the defendant.

(6) Upon the personal appearance before the Court of the defendant the Court may examine him upon oath.

(7) The Court may order the defendant to deliver up to the Registrar-General, within such time as the Court may fix, the grant, certificate of title or duplicate registered dealing, as the case may be.

SECOND



*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

- (x) by omitting from the same sub-column of the Second Column the matter relating to section one hundred and thirty-seven of the same Act and by inserting in lieu thereof the following matter:—

Omit the section; insert the following new section:—

137. Where the Supreme Court has ordered, under section one hundred and thirty-six of this Act, a person to deliver up to the Registrar-General a grant, certificate of title or duplicate registered dealing and the grant, certificate of title or duplicate registered dealing, as the case may be, is not delivered up to the Registrar-General within the time fixed by the order, the Registrar-General shall, if the circumstances of the case require it, take action under the authority conferred upon him by subsection three of section thirty-eight, or by section one hundred and eleven, of this Act.

Failure to comply with order to deliver up certain instruments.

- (k) (i) by omitting from the matter relating to section one hundred and seventy-two of Act No. 40, 1900, in the sub-column headed "Amendment." of the Second Column the words "or a Judge thereof," and by inserting in lieu thereof the words ", or a Judge thereof,";
- (ii) by omitting from the matter relating to subsection one of section four hundred and fifty-seven of the same Act in the same sub-column of the Second Column the words "at his"; and by inserting in lieu thereof the words "in his";
- (iii) by omitting from the matter relating to subsection one of section four hundred and seventy-five of the same Act in the same sub-column of the Second Column the word "judge" and by inserting in lieu thereof the word "Judge";
- (iv) by omitting from the same sub-column of the Second Column the matter relating to subsection one of section five hundred and sixty-three of the same Act and by inserting in lieu thereof the following matter:—

After "in any such action" insert "other than an action in the Supreme Court".

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

- (v) by omitting from the same sub-column of the Second Column the matter relating to section five hundred and sixty-seven of the same Act and by inserting in lieu thereof the following matter:—

Omit "The Judges of the Supreme Court, or any two of them, may, from time to time, frame and prescribe"; insert "Without limiting the rule-making powers conferred by the Supreme Court Act, 1970, rules may from time to time be made under that Act framing and prescribing".

- (1) by inserting next after the matter relating to Act No. 33, 1901, the following new matter:—

No. 45, 1901	Married Women's Property.	Subsection (1) of section 22.	Omit "by summons or otherwise in a summary way"; Omit "any Judge of" wherever occurring. Omit "Judge may"; insert "court may"; Omit "he thinks" wherever occurring; insert "the court thinks".
		Subsection (2) of section 22.	Omit the subsection.
		Subsection (3) of section 22.	Omit the subsection; insert the following subsection:— (3) Any such application to a District Court shall be an action in a District Court within the meaning of section one hundred and forty-two of the District Courts Act, 1912.
		Subsection (4) of section 22.	Omit "Judge of the". Omit "his private room"; insert "the absence of the public".
No. 60, 1901	Navigation ..	Section 23 ..	Omit "Inquiry"; insert "Inquiry; and no appeal shall lie from a District Court exercising such jurisdiction".
		Subsection (1) of section 101.	Omit "an action"; insert "proceedings in the Supreme Court".
		Subsection (2) of section 101.	Omit the subsection.
		Subsection (3) of section 101.	Omit the subsection.
No. 17, 1902	Building and Co-operative Societies.	Subsection (1) of section 25.	Omit "of law or equity" wherever occurring.

SECOND

## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

No. 17, 1902 —cont.	Building and Co-operative Societies— cont.	Subsection (3) of section 27.	Omit “summons”; insert “summons or other origin- ating process”.
		Subsection (4) of section 29.	Omit “, and in such action the said trustees shall be entitled to recover their full costs of suit to be taxed as between solicitor and client”.
		Subsection (1) of section 60.	Omit “by <i>certiorari</i> or other writ or process before”; in- sert “into”.
		Subsection (2) of section 60.	Omit the subsection; insert the following subsections:— (2) A majority of the <b>Rules.</b> Judges of District Courts may make rules for regulating the practice and procedure in proceedings under this Act before the Judges of District Courts. (3) A rule so made shall— (a) be published in the Gazette; (b) take effect on and from the date of publication or a later date specified in the rule; (c) be laid before each House of Parliament within fourteen sit- ting days of that House after the pub- lication. (4) If either House of Parliament passes a resolu- tion, of which notice has been given within fifteen sitting days of that House after a rule referred to in subsection one of this sec- tion has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect. (5) For the purposes of subsections three and four of this section, sitting days shall be counted, whether or not they occur during the same session.

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 17, 1902 — <i>cont.</i>	Building and Co-operative Societies— <i>cont.</i>	Subsection (2) of section 60 — <i>cont.</i>	(6) Subject to the rules, the Judges of the District Courts may regulate the proceedings before them respectively so as to render them as inexpensive and summary as conveniently may be.
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(m) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section one hundred and seven of Act No. 27, 1902, and by inserting in lieu thereof the following matter:—

Omit the section; insert the following section:—

Stating  
of cases—  
practice  
and  
procedure.

107. Subject to this Act, the practice and proceedings in reference to the stating of cases as herein provided shall be as provided by rules of the Supreme Court made under the Supreme Court Act, 1970.

(n) by omitting the matter relating to Act No. 74, 1902;

(o) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to subsection two of section one hundred and seventy-six of Act No. 49, 1906, and by inserting in lieu thereof the following matter:—

Omit "a writ"; insert "an order".

(p) by inserting next after the matter relating to Act No. 49, 1906, the following new matter:—

No. 14, 1908	Private Hospitals.	Section 16c . . .	Next after subsection (3) insert the following new subsection:— (4) The decision of the district court on any such appeal shall be final and without appeal.
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(q) by omitting from the Second Column the matter relating to section forty-seven of Act No. 9, 1909, and by inserting in lieu thereof the following matter:—

Subsection (1) of section 47.	Omit "plea"; insert "defence to the action". Omit "amends, and may give this Act and the special matter in evidence"; insert "amends".
Subsection (2) of section 47.	Omit "a judge of". Omit "in accordance with rules of court". Omit "judge, if he"; insert "Court, if it".

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

(r) by inserting next after the matter relating to Act No. 9, 1909, the following new matter:—

No. 16, 1912	Criminal Appeal.	Subsection (1) of section 28.	Omit the subsection; insert the following subsection:— (1) Rules of court for the purposes of this Act may be made under the Supreme Court Act, 1970.
		Section 28	Insert next after subsection (1) the following new subsection:— (1A) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.
		Subsection (3) of section 28.	Omit the subsection.
		Subsection (4) of section 28.	Omit the subsection.

(s) by inserting next after the matter relating to Act No. 23, 1912, the following new matter:—

No. 24, 1912	Inebriates	Subsection (1) of section 3.	Omit "a Judge of the Supreme Court or a Judge of any District Court, the Master in Lunacy, or any stipendiary or police magistrate, hereinafter termed magistrate"; insert "the Supreme Court or a District Court Judge or a stipendiary magistrate". Omit "sub-inspector"; insert "sergeant". Omit "Judge, Master in Lunacy, or magistrate,"; insert "Court, Judge or magistrate". After "recognizance" insert "(or, in the case of an order by the Supreme Court, other security)". Omit "a licensed institution, or in a receiving house"; insert "an institution, or in an admission centre". Omit "Judge, Master in Lunacy," wherever occurring; insert "Court or Judge".
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SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—continued.

No. 24, 1912 —cont.	Inebriates— cont.	
		Subsection (1) of section 3— <i>cont.</i> Omit "Judge or Master in Lunacy"; insert "Court or Judge".
		Subsection (3) of section 3. Omit "Judge, Master in Lunacy,"; insert "Court, Judge". Omit "in Court or in Chambers"; insert "in open court or in private".
		Subsection (4) of section 3. Omit "a Judge of the Supreme Court or of a District Court, or of the Master in Lunacy"; insert "the Supreme Court or of a District Court Judge".
		Subsection (2) of section 4. Omit "a Judge of the Supreme Court or of a District Court, or to the Master in Lunacy, or any stipendiary or police magistrate"; insert "the Supreme Court or a District Court Judge or any stipendiary magistrate". Omit "Judge, Master"; insert "Court, Judge". Omit "or police".
		Subsection (1) of section 5. Omit "or police".
		Section 8 .. Omit "Judge, Master in Lunacy"; insert "Court, Judge".
		Subsection (1) of section 11. Omit "or police".
		Subsection (2) of section 11. Omit "a Judge of the Supreme Court, or of a District Court Judge, or of the Master in Lunacy"; insert "the Supreme Court or of a District Court Judge".
		Section 15 .. Omit "A Judge of the Supreme Court or of a District Court"; insert "The Supreme Court or a District Court Judge".
		Section 18 .. Omit "Judge, Master in Lunacy, or magistrate, or a court"; insert "Supreme Court, District Court Judge, magistrate or court".
		Subsection (1) of section 19. Omit "in its lunacy jurisdiction, or a Judge thereof,". Omit "or Judge".

SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE— <i>continued.</i>		No. 41, 1972
No. 24, 1912 — <i>cont.</i>	Inebriates— <i>cont.</i>	Section 20 .. Omit the section; insert the following section:— 20. (1) Where the Supreme Court, by any Judge or master or by any registrar or other officer, makes an order or gives a direction with respect to an inebriate, the Supreme Court, by the same Judge, registrar or officer, may, at the same time or afterwards— (a) give such directions as the Court thinks fit as to the control of the inebriate; and (b) vary, renew or rescind the order or direction. (2) A District Court Judge or magistrate making an order with respect to an inebriate may at the same time or afterwards— (a) give such directions as he thinks fit as to the control of the inebriate; and (b) vary, renew or rescind the order or direction. (3) The Supreme Court may— (a) give such directions as the Court thinks fit as to the control of any inebriate the subject of an order under this Act; and (b) vary, renew or rescind any order or direction made under this Act. Insert next after section 20 the following new section:— 20A. (1) An appeal shall not lie to the Court of Appeal from a decision or order of the Supreme Court under this Act, except by leave of the Court of Appeal. (2) Subsection one of this section does not apply to a decision or order of the Supreme Court under section nineteen or subsection three of section twenty of this Act.

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 41, 1972	No. 24, 1912 — <i>cont.</i>	Inebriates— <i>cont.</i>	Section 21 ..	Omit "a Judge or magistrate or Master in Lunacy"; insert "the Supreme Court or a District Court Judge or a magistrate".
			Section 22 ..	Omit "a Judge or magistrate or of the Master in Lunacy"; insert "the Supreme Court, a District Court Judge or a magistrate".
			Section 26 ..	Omit "Judge, Master in Lunacy"; insert "Court, Judge".
			Section 27 ..	Omit the section; insert the following section:— 27. (1) Rules of court may be made under the Supreme Court Act, 1970, for carrying out the provisions of this Act so far as they relate to the powers or duties of the Supreme Court. (2) Rules of court may be made under section one hundred and fifty-two of the District Courts Act, 1912— (a) for regulating the form and mode of proceeding under this Act before a District Court Judge; and (b) for carrying out the provisions of this Act so far as they relate to the powers or duties of a District Court Judge. (3) Subsections one and two of this section do not limit the rule-making powers conferred by the Supreme Court Act, 1970, or by the District Courts Act, 1912.
Rules of court. No. 32, 1900, s. 13.			Paragraph (e) of section 28.	Omit "institutions; and"; insert "institutions;".
		Section 28 ..	Insert next after paragraph (e) the following new paragraph:— (ea) for regulating the form and mode of proceeding under this Act before a magistrate; and.	

SECOND



## Supreme Court (Amendment).

SECOND SCHEDULE—continued.		No. 41, 1972
No. 24, 1912 —cont.	Inebriates— cont.	<p>Paragraph (f) of section 28. Omit "Act"; insert "Act generally and in particular so far as they relate to the powers or duties of a magistrate".</p> <p>Subsection (1) of section 31. Omit "suit or action"; insert "proceedings".</p> <p>Subsection (2) of section 31. Omit "such suit or action"; insert "such proceedings". Omit "a suit or action"; insert "proceedings". Omit "it is"; insert "they are". Omit "in such suit or action". Omit "summary". Omit "(or Police)".</p> <p>SCHEDULE FIVE.</p> <p>(t) (i) by omitting from the matter relating to section thirty of Act No. 31, 1912, in the sub-column headed "Amendment." of the Second Column the word "any" and by inserting in lieu thereof the word "an";</p> <p>(ii) by omitting from the same sub-column of the Second Column the matter relating to subsection three of section fifty of the same Act and by inserting in lieu thereof the following matter:— Omit "the judges of the Supreme Court"; insert "regulations made under the Supreme Court Act, 1970".</p> <p>(iii) by omitting from the matter relating to section seventy-seven of the same Act in the same sub-column of the Second Column the figures "1970" and by inserting in lieu thereof the figures "1970,";</p> <p>(u) by omitting the matter relating to Act No. 33, 1912;</p> <p>(v) by inserting next after the same matter the following new matter:—</p>
No. 41, 1912	Parliamentary Electorates and Elec- tions.	<p>Section 169 . . . Insert at the end of the section the following new sub-sections:— (2) No appeal shall lie to the Court of Appeal from any decisions of the court. (3) Subsection two of this section does not limit the generality of subsection one of this section.</p> <p>Subsection (1) of section 175A. Omit "The judges of the Supreme Court, or a majority of them, may make rules of court not inconsistent with this Act"; insert "Rules not inconsistent with this Act may be made under the Supreme Court Act, 1970,".</p>

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 41, 1912 —cont.	Parliamentary Electoralates and Elec- tions—cont.	Subsection (1) of section 175A—cont.	Omit "the forms to be used and the fees to be paid by parties"; insert "and the forms to be used".
		Subsection (2) of section 175A.	Omit the subsection; insert the following subsections:— (2) Subsection one of this section does not limit the rule-making powers con- ferred by the Supreme Court Act, 1970. (3) Notwithstanding the Supreme Court Act, 1970, any provision of that Act and any provision of any rule made by or pursuant to that Act which is incon- sistent with this Act shall, to the extent of such incon- sistency and while such inconsistency continues to exist, not apply to or in respect of any proceedings under this Part of this Act.
		Part VI	After section 175A insert the following new section:— 175AA. The Governor may make regulations fixing or otherwise relating to fees to be paid by parties in respect of the business of the court.
No. 45, 1912	Public Works	Section 3	Insert next after the definition of "Con- structing Authority" the following new definition:— "Court" means the Supreme Court of New South Wales.
		Subsection (1) of section 54.	Omit "the hands of the Master in Equity"; insert "Court as prescribed by rules of the Court".
		Subsection (2) of section 54.	Omit the subsection.
		Subsection (3) of section 54.	Omit "Supreme Court or the Chief Judge in Equity shall direct"; insert "Court shall direct".
		Subsection (1) of section 55.	Omit "said Court or Judge"; insert "Court". Omit "petition"; insert "application".
		Subsection (2) of section 55.	Omit "the Master in Equity"; insert "such officer of the Court as the Court appoints by the order or by any subsequent order".

SECOND

*Supreme Court (Amendment).*

SECOND SCHEDULE— <i>continued.</i>		No. 41, 1972
No. 45, 1912 — <i>cont.</i>	Public Works — <i>cont.</i>	
	Subsection (1) of section 56.	Omit "either to the Master of Equity (to be by him deposited and"; insert "into Court as prescribed by rules of Court (to be".
	Subsection (4) of section 56.	Omit "deposited to the account of the Master in Equity"; insert "paid into Court".
	Subsection (1) of section 58.	Omit "to the Master in Equity"; insert "into Court".
	Subsection (2) of section 58.	Omit "Judges of the Supreme Court, or the Chief Judge in Equity"; insert "Court".
	Section 59 ..	Omit "to the Master in Equity or other"; insert "into Court or paid to any".
	Section 60 ..	Omit "Supreme Court or the Chief Judge in Equity"; insert "Court". Omit "petition"; insert "application". Omit "or Judge".
	Section 61 ..	Omit "deposit"; insert "pay". Omit "in the hands of the Master in Equity, to be by him deposited as aforesaid to his account to the credit of the parties interested in such lands (describing them so far as he can do), subject to the control and disposition of the said Court"; insert "into Court as prescribed by rules of the Court". At the end of the section insert the following new subsection:— (2) Money paid into Court under this section shall be subject to the control and disposition of the Court.
	Section 62 ..	Omit "by petition". Omit "deposited" wherever occurring; insert "paid into Court". Omit "the said Court or Judge may in a summary way, as to such Court or Judge seems fit,"; insert "the Court may". Omit "such Court or Judge" where secondly occurring; insert "the Court".

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 45, 1912 —cont.	Public Works —cont.	Section 63 ..	Omit "or deposited". Omit "so deposited"; insert "so paid into Court".
		Section 64 ..	Omit "deposited" wherever occurring; insert "paid into Court". Omit "said Court or Judge" wherever occurring; insert "Court".
		Section 67 ..	Omit "the hands of the Master in Equity, to be dealt with by him"; insert "Court as prescribed by rules of Court, to be dealt with". Omit "to such Master in Equity"; insert "into Court". Omit "deposit" wherever occurring; insert "payment into Court".
		Section 69 ..	Omit "the hands of the Master in Equity, to be dealt with by him,"; insert "Court as prescribed by rules of Court, to be dealt with". Omit "like"; insert "the". Omit "to such Master in Equity"; insert "into Court". Omit "or deposit" wherever occurring.
		Section 71 ..	Omit "the hands of the Master in Equity, to be dealt with by him"; insert "Court as prescribed by rules of Court, to be dealt with". Omit "to the Master in Equity"; insert "into Court". Omit "or deposit".
		Subsection (2) of section 74.	Omit "the hands of the Master in Equity to be dealt with by him in the manner hereinbefore pro- vided in the case of moneys required to be paid to the Master in Equity"; insert "Court as prescribed by rules of Court, to be dealt with in the manner pro- vided by this Act in the case of moneys required to be paid into Court".
		Paragraph (c) of section 84.	Omit "deposit with the Master in Equity, in manner aforesaid"; insert

SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE— <i>continued.</i>		No. 41, 1972
No. 45, 1912 — <i>cont.</i>	Public Works — <i>cont.</i>	
	Paragraph (c) of section 84 — <i>cont.</i>	“pay into Court as prescribed by rules of Court”.
	Section 88 ..	Omit “, with costs, by action”.
	Section 102 ..	Omit “a Judge of the Supreme Court”; insert “the Court”.
	Subsection (1) of section 104.	Omit “Supreme Court, in the form of an action for compensation,”; insert “Court”.
	Subsection (2) of section 104.	Omit the subsection.
	Subsection (1) of section 106.	Omit “verdict in any action of”. After “compensation” insert “determined in proceedings”. Omit “for”. Omit “of the verdict” wherever occurring; insert “so determined”. Omit “in such action” wherever occurring. Omit “the action” wherever occurring; insert “the proceedings”.
	Subsection (2) of section 106.	Omit the subsection.
	Subsection (3) of section 106.	Omit the subsection.
	Section 124 ..	Omit the section; insert the following section:— 124. For the purpose of Compensating the purchase money or compensation to generally be paid, regard shall in every case be had not only to the value of the land to be purchased or taken, but also to the damage (if any) caused by the severing of the lands taken from other lands of the owner, or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands; and the same shall be assessed according to what is found to have been the value of such lands, estate or interest at the time notice was given, or notification published, as the case may be, and without the amount of the valuation notified to such claimant being binding in Act No. 26, 1900, s. 117.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 45, 1912  
—cont.Public Works  
—cont.Section 124—  
cont.

any way in relation to the assessment, and without reference to any alteration in such value arising from the establishment of railway or other public works upon or for which such land was resumed:

Provided that in ascertaining such purchase money or compensation any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of the authorised work shall be taken into consideration and given effect to by way of set-off or abatement. But in no case shall this proviso operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement of value as aforesaid:

Provided also that in the case of land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel for water supply or sewerage or railway transit, no compensation shall be allowed or awarded unless—

- (a) the surface of the overlying soil is disturbed; or
- (b) the support to such surface is destroyed or injuriously affected by the construction of such tunnel; or
- (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.

Subsection (1)  
of section 136.

Omit "such costs shall be taxed by the Master in Equity or other proper officer of the Supreme Court"; insert "the amount shall be determined by taxation in the Court".

Proviso as to underground land resumed by Gazette notice for tunnel purposes.

SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 45, 1912 — <i>cont.</i>	Public Works — <i>cont.</i>		
		Subsection (2) of section 136.	Omit the subsection; insert the following subsection:— (2) The Court may make Payment.
		Subsection (3) of section 136.	Omit "taxing such costs"; insert "the proceedings for taxation". Omit "taxed; and the amount of such costs of taxation shall be ascertained by the said Master or other officer, and deducted by him in his certificate of taxation."; insert "taxed."
		Subsection (2) of section 140.	Omit "jury"; insert "Court". Omit "ascertain by their award or verdict"; insert "determine".
		Subsection (3) of section 143.	Omit "action in the Supreme Court"; insert "proceedings in the Court".
		Subsection (2) of section 149.	Omit "action in the Supreme Court"; insert "proceedings in the Court".
		Eighth Schedule.	Omit "the hands of the Master in Equity of".

(w) by inserting next after the matter relating to Act No. 7, 1913, the following new matter:—

No. 19, 1913	Public Trustee		
		Section 1 ..	Omit "(hereinafter called the Principal Act)".
		Section 4A ..	Omit the section; insert the following section:—
			4A. In this Act, except so far as the context otherwise indicates or requires—
			"Adult" means a person who has attained the age of eighteen years.
			"Court" means the Supreme Court of New South Wales.
			"Minor" means a person under the age of eighteen years.
			"Prescribed registry" means such registry of the Court as may be prescribed by rule of Court.
			"Principal Act" means the Wills, Probate and Administration Act, 1898.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 19, 1913 <i>cont.</i>	Public Trustee <i>—cont.</i>	Section 4A— <i>cont.</i>	
			“Protected person” means a protected person within the meaning of the Mental Health Act, 1958.
		Subparagraph (vi) of paragraph (a) of subsection (3) of section 5.	Omit the subparagraph; insert the following subparagraph:— (vi) becomes a protected person or incapable person within the meaning of the Mental Health Act, 1958, or a patient within the meaning of Part XI of that Act.
		Paragraph (v) of subsection (1) of section 12.	Omit the paragraph; insert the following paragraph:— (v) as manager of the estate of a protected person;
		Subsection (1) of section 16.	Omit “the said court”; insert “the Court”.
		Section 17 ..	Omit “Supreme Court in its equitable jurisdiction”; insert “Court”.
			Omit “Provided that where any such person whose consent is so requisite is an insane patient, insane person, or incapable person as defined by the Lunacy Act, 1898, then the Master in Lunacy shall be deemed to be the person whose consent is so requisite in the place and stead of such insane patient, insane person, or incapable person.”.
		Subsection (1) of section 18.	Omit “The court”; insert “The Court”.
		Paragraph (a) of subsection (1A) of section 18.	Omit “An application by the public trustee for letters of administration of any such deceased person’s estate shall, subject to this subsection, be made in accordance with the provisions of the Principal Act and the rules of court made thereunder.”.
		Paragraph (b) of subsection (1A) of section 18.	Omit “court” wherever occurring; insert “Court”.

SECOND



## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

No. 19, 1913 —cont.	Public Trustee —cont.	Paragraph (c) of subsection (1A) of section 18.	Omit "court"; insert "Court".
		Subsection (2) of section 18.	Omit "court"; insert "Court".
		Subsection (3) of section 18.	Omit the subsection.
		Subsection (1) of section 18A.	Omit "office of the Supreme Court"; insert "prescribed registry".
		Subsection (2) of section 18A.	Omit "office of the Supreme Court"; insert "prescribed registry".
		Paragraph (a) of subsection (3A) of section 18A.	Omit "office of the Supreme Court"; insert "prescribed registry".
		Subsection (5) of section 18A.	Omit "said office of the Supreme Court"; insert "prescribed registry".
		Subsection (5A) of section 18A.	Omit "said office of the Supreme Court"; insert "prescribed registry".
		Subsection (5B) of section 18A.	Omit the subsection.
		Section 23 ..	Omit "court" wherever occurring; insert "Court".
		Section 34 ..	Omit "request a judge of the Supreme Court to give him"; insert "apply to the Court for". Omit "the judge"; insert "the Court".
		Subsection (1) of section 34A.	Omit "probate office of the Supreme Court in the same manner as is provided by"; insert "prescribed registry and shall be dealt with in accordance with".
		Subsection (2) of section 35.	Omit "a judge of the Supreme Court"; insert "the Court". Omit "the judge"; insert "the Court".
		Subsection (3) of section 35A.	Omit the subsection.
		Subsection (3) of section 36B.	Omit "court" wherever occurring; insert "Court".
		Subsection (2) of section 53.	Omit "court" wherever occurring; insert "Court". Omit ", on petition,". Omit "the petition"; insert "the proceedings for pay- ment".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 19, 1913 —cont.	Public Trustee —cont.	Subsection (3) of section 53. Section 57 ..	Omit "court"; insert "Court". Omit "Supreme Court in its equitable jurisdiction"; insert "Court". Omit "said Court"; insert "Court".
No. 8, 1915	River Murray Waters.	Section 10 .. Section 11 ..  Section 21 ..	Omit "writ"; insert "writ or order". Omit "may be made a rule or order of the Supreme Court and shall be enforce- able accordingly"; insert "shall be enforceable by order of the Supreme Court". Omit "any judge of". Omit "made without action, and either by summons or by motion upon notice to the claimant for compen- sation,". Omit "the judge"; insert "the court".
No. 29, 1915	City and Suburban Electric Railways.	Subsection (1) of section 12.	Omit "Public Works Act, 1912"; insert "District Courts Act, 1912, Public Works Act, 1912, or Supreme Court Act, 1970". Omit "a Judge of".
No. 6, 1919	Conveyancing	Subsection (1) of section 7.  Subsection (1) of section 54A. Subsection (2A) of section 55. Subsection (4) of section 63.  Subsection (2) of section 89.	In the definition of "Court" omit "in its equitable juris- diction". In the definition of "Order" omit "decree and rule of court"; insert "judgment". Omit "suit" wherever occurring; insert "pro- ceedings". Omit "suit or". Omit "direct an inquiry respecting the amount of damages, and order pay- ment thereof by the person liable, and may make such order as it thinks fit respecting the costs of the application or any other matter connected with the application"; insert "assess damages accordingly and order payment thereof by the person liable". Omit "by suit or otherwise".

SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE— <i>continued.</i>		No. 41, 1972
No. 6, 1919 — <i>cont.</i>	Conveyancing — <i>cont.</i>	<p>Subsection (4) of section 89. Omit “as the court, either generally or in a particular instance, may order”; insert “as may be prescribed by rules of court or as the court may order”.</p> <p>Subsection (1) of section 100. Omit “a decree”; insert “an order”.</p> <p>Subsection (2) of section 100. Omit “decree”; insert “order”.</p> <p>Section 101 .. Omit “a decree” wherever occurring; insert “an order”.</p> <p>Subsection (2) of section 130. Omit the subsection; insert the following subsection:— (2) Any such order may be made in proceedings brought for the purpose by the person claiming as under-lessee or, where the proceedings brought by the lessor are in the Court, may be made in the latter proceedings.</p> <p>Subsection (2) of section 153. Omit “Supreme Court in its probate jurisdiction”; insert “court”.</p> <p>Subsection (2B) of section 153. Omit “The Registrar of Probates shall embody in or endorse”; insert “The court shall cause to be embodied in or endorsed”.</p> <p>Subsection (4) of section 153. Omit “such court”; insert “the court”.</p> <p>Subsection (4) of section 153. Omit “such Court” wherever occurring; insert “the court”.</p> <p>Section 171 .. Omit “, and for that purpose shall have all the powers of the Supreme Court in its equitable jurisdiction”.</p> <p>Section 171 .. Omit the section; insert the following section:— 171. Payment of money into court under the provisions of this or any other Act shall effectually exonerate therefrom the person making the payment. <b>Effect of payment into court.</b></p> <p>Section 172 .. Omit the section.</p> <p>Paragraph (b) of subsection (1) of section 173. Omit “a suit”; insert “proceedings”.</p> <p>Paragraph (c) of subsection (1) of section 173. Omit “a suit”; insert “proceedings”.</p>

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 6, 1919 — <i>cont.</i>	Conveyancing — <i>cont.</i>	Subsection (3) of section 180.	Omit "shall"; insert "shall, unless the Court otherwise orders,".
		Subsection (1) of section 183.	Omit "an action"; insert "proceedings".
		Subsection (1) of section 200.	Omit "in any of its jurisdictions or of any judge thereof".
		Section 201 ..	Omit "in any of its jurisdictions or of any judge thereof".
		Section 205 ..	In the definition of "Taxing officer" omit "any jurisdiction of".
		Section 206 ..	Omit "action or"; insert "proceedings in any court or other business". Omit "in the chambers of"; insert "before".
		Subsection (4) of section 212.	Omit "the taxing officer may inquire into the facts and certify the same to the Supreme Court, and if, upon such certificate, it shall appear to such Court or a judge thereof"; insert "it shall appear to the Court". Omit "or judge" wherever occurring.

- (x) by omitting from the matter relating to subsection six of section five hundred and eighty of Act No. 41, 1919, in the sub-column headed "Amendment." in the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";
- (y) by omitting from the matter relating to subsection one of section thirteen of Act No. 47, 1920, in the sub-column headed "Amendment." of the Second Column the words "for any offence referred to in the provisions of subsection three of section ninety-one of this Act may be recovered with costs by any person whomsoever in a summary way before any two justices of the peace and any other fine incurred";
- (z) (i) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to paragraph (a) of subsection six of section four of Act No. 10, 1921, and by inserting in lieu thereof the following matter:—

Omit the paragraph; insert the following paragraph:—

- (a) Where a practising barrister is appointed a judge under this section he shall, by virtue of

SECOND

## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

such appointment, become a judge of the Supreme Court for all purposes and in all respects as if at the date of such appointment he had been appointed a judge of the Supreme Court in accordance with the law for the time being in force relating to the appointment of judges of the Supreme Court.

- (ii) by inserting in the Second Column next after the matter relating to paragraph (b) of subsection six of section four of the same Act the following new matter relating to the same Act:—

Subsection (1) of section 9 | Omit "or police".

- (aa) by inserting next after the matter relating to Act No. 10, 1921, the following new matter:—

No. 1, 1924	Co-operation.	Paragraph (b) of subsection (9) of section 89.  Subsection (5A) of section 91. Section 122 ..	Omit "in its equitable jurisdiction". Omit "that Court"; insert "the Court".  Omit "or a Judge thereof".  Omit the section; insert the following section:— 122. (1) Where the registrar refuses to register a society or any of its rules, or refuses to register or directs a change of its name, the registrar shall, if so required by the society, set forth in writing under his hand the grounds of his refusal or the grounds upon which the direction was given. (2) The society may apply to the Supreme Court for review of the refusal or direction. (3) On the review, the Supreme Court may make such orders as may be proper in the circumstances.	Review of decisions of registrar. W.A. 1920, No. 20, s. 33.
No. 24, 1924	Main Roads ..	Paragraph (a) of subsection (3) of section 42G.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture has been lost or destroyed before it has been paid off;	

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*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 24, 1924 — <i>cont.</i>	Main Roads — <i>cont.</i>	Paragraph (b) of subsection (3) of section 42G. Subsection (1) of section 42H. Subsection (1) of section 63. Subsection (2) of section 63.	Omit "judge"; insert "Court". Omit "in its equitable jurisdiction, in accordance with rules of court." Omit "debt"; insert "debt or liquidated demand". Omit the subsection.
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(ab) (i) by omitting from the sub-column headed "Amendment." of the Second Schedule in the matter relating to PART III of Act No. 42, 1924, the figure and word "3. *Supreme*" and by inserting in lieu thereof the figure and word "3.—*Supreme*";

(ii) by omitting from the same sub-column of the Second Schedule in the matter relating to PART III of the same Act the words "*Interpleader Act, 1901*" and by inserting in lieu thereof the words "*Interpleader Act, 1901.*";

(ac) by inserting next after the matter relating to Act No. 42, 1924, the following new matter:—

No. 50, 1924	Metropolitan Water, Sewerage and Drainage.	Subsection (3) of section 70. Paragraph (a) of subsection (3) of section 79. Paragraph (b) of subsection (3) of section 79. Subsection (1) of section 80. Paragraph (b) of subsection (3) of section 132.	Omit "in its equitable jurisdiction". Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture has been lost or destroyed before it has been paid off; Omit "judge"; insert "court". Omit "in its equitable jurisdiction, in accordance with rules of court." Omit "a judge of". Omit "in accordance with rules of court" where firstly occurring. Omit "judge may, if he"; insert "court may, if it".
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## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 50, 1924 — <i>cont.</i>	Metropolitan Water, Sew- erage and Drainage — <i>cont.</i>	Paragraph (b) of subsection (3) of section 132— <i>cont.</i>	Omit "Any person who is dissatisfied with the deci- sion of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance. Every such appeal shall be made in accordance with rules of court."
		Subsection (1) of section 134. Subsection (2) of section 134.	Omit "debt"; insert "debt or liquidated demand". Omit the subsection.
No. 14, 1925	Trustee ..	Section 5 ..	In the definition of "Court" omit "in its equitable juris- diction". Omit "'Decree' includes order." Omit "'Judge' means the Chief Judge in Equity, or any other judge of the Supreme Court exercising jurisdiction power or authority in equity."
		Subsection (2B) of section 10.	In the definition of "Order" omit "decree"; insert "judgment". Omit "the Supreme Court or a Judge thereof, sitting in its probate or equity juris- diction,"; insert "the Court". Omit "the court"; insert "the Court".
		Subsection (5) of section 16.	Omit ", or on any reference to the Master in Equity, the Master".
		Subsection (11) of section 28.	Omit ", or on any reference to the Master in Equity, the Master".
		Subsection (1) of section 63.	Omit "Judge or the Master in Equity for his"; insert "Court for an".
		Subsection (3) of section 63.	Omit the subsection; insert the following subsection:— (3) Rules of court may provide for the use, on an application under this section, of a written state- ment signed by the trustee or his counsel or solicitor, or for the use of other material, instead of evidence.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 14, 1925 — <i>cont.</i>	Trustee— <i>cont.</i>	Subsection (4) of section 63.	Omit the subsection; insert the following subsection:— (4) Unless the rules of court otherwise provide, or the Court otherwise directs, it shall not be necessary to serve notice of the application on any person, or to adduce evidence by affidavit or otherwise in support of the application.
		Subsection (5) of section 63.	Omit the subsection.
		Subsection (6) of section 63.	Omit the subsection.
		Subsection (7) of section 63.	Omit the subsection.
		Subsection (8) of section 63.	Omit "Judge or Master"; insert "Court".
		Subsection (10) of section 63.	Omit "Judge or Master"; insert "Court".
		Subsection (11) of section 63.	Omit the subsection; insert the following subsection:— (11) Subject to subsection ten of this section, and subject to any appeal, any person on whom notice of any application under this section is served, or to whom notice is given in accordance with subsection eight of this section, shall be bound by any opinion advice direction or order given or made under this section as if the opinion advice direction or order had been given or made in proceedings to which he was a party.
		Subsection (7) of section 70.	Omit the subsection.
		Subsection (1) of section 76.	Omit "a decree"; insert "an order".
		Subsection (2) of section 76.	Omit "suit or other proceeding"; insert "proceedings".
			Omit "decree" wherever occurring; insert "order".
		Subsection (1) of section 77.	Omit "a decree"; insert "an order".
		Paragraph (b) of subsection (2) of section 77.	Omit "suit or other proceeding"; insert "proceedings".
			Omit "decree"; insert "order".
		Section 80 ..	Omit "upon suit or other proceeding"; insert "in proceedings".

**SECOND**



## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

No. 14, 1925 —cont.	Trustee—cont.	<p>Subsection (1) of section 83. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (2) of section 83. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (3) of section 83. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (4) of section 83. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (5) of section 83. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (1) of section 84. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (2) of section 84. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (3) of section 84. Omit "Judge or Probate Judge"; insert "Court".</p> <p>Subsection (3) of section 85. Omit the subsection.</p> <p>Section 88 .. Omit "suit" wherever occurring; insert "proceedings". Omit "a decree"; insert "an order".</p> <p>Section 89 .. Omit "Supreme Court, in its lunacy jurisdiction"; insert "Court under the Mental Health Act, 1958".</p> <p>Section 90 .. Omit the section.</p> <p>Section 91 .. Omit the section; insert the following section:—</p> <p style="padding-left: 2em;">91. (1) In proceedings <b>Defendants.</b> in the Court under this Act, the plaintiff shall join as defendants such persons, if any, as the Court thinks fit.</p> <p style="padding-left: 2em;">(2) If in proceedings in the Court under this Act any person who has been or ought to be made a defendant cannot be found in New South Wales, or if it is uncertain whether he is living or dead, or if service cannot be effected on him without expense disproportionate to the value of his interest, the Court may direct that he be removed as a defendant or may dispense with service on him, and may order that he be deemed to have submitted his rights and interests to be dealt with by the Court.</p> <p>Subsection (1) of section 93. Omit the subsection.</p>
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SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

Account by fiduciary. 1898, No. 4, s. 68.	No. 14, 1925 —cont.	Trustee—cont.	Subsection (3) of section 93.	Omit "suit or proceeding" wherever occurring; insert "proceedings".
			Section 94.	Omit the section.
			Subsection (2) of section 98.	Omit "the Master in Equity"; insert "a registrar of the Court".
			Section 102 ..	Omit the section; insert the following section:— 102. Where any guardian, manager, receiver, trustee or other fiduciary appointed by the Court has been or is (whether by Act, by rule of court or by order in any proceedings) directed to account from time to time to the Court, or to file any report or account in any registry of the Court, the Court may order compliance with the direction, on the application of any party interested or of its own motion.
Rules of court.			Section 104 ..	Omit the section; insert the following section:— 104. (1) Rules of court may be made under the Supreme Court Act, 1970, for better carrying the provisions and objects of this Act into effect. (2) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.

(ad) by inserting next after the matter relating to Act No. 18, 1930, the following new matter:—

No. 37, 1930	Reclamation ..	Subsection (3) of section 18.	Omit "by summons in chambers in the Supreme Court in its equitable jurisdiction"; insert "to the Supreme Court". Omit ", and with regard to the costs of the application,".
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(ae) by omitting from the matter relating to subsection one of section forty of Act No. 47, 1935, in the sub-column headed "Amendment." of the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

SECOND

## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

(af) by inserting next after the matter relating to Act No. 47, 1935, the following new matter:—

No. 11, 1938	Hunter District Water, Sewerage and Drainage.	Paragraph (a) of subsection (3) of section 81.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture has been lost or destroyed before it has been paid off;
		Paragraph (b) of subsection (3) of section 81.	Omit "judge"; insert "Court".
		Subsection (1) of section 82.	Omit "in its equitable jurisdiction in accordance with rules of court,".
		Subsection (3) of section 135.	Omit the subsection; insert the following subsections:—
			(3) Proceedings shall not be commenced against the board or any member thereof or any officer of the board or any person acting in its or his aid for anything done or intended to be done or omitted to be done under the provisions of this Act, until the expiration of one month after notice in writing has been served on the board or such member, officer or person, as provided in this section.
			(4) The notice shall clearly state—
			(a) the cause of action; and
			(b) the name and place of abode of the intended plaintiff and of his solicitor or agent, if any, in the case.
			(5) At the trial of any such action the plaintiff shall not be permitted to go into evidence on any cause of action that is not stated in the notice served and, unless the notice has been served, the plaintiff shall not be entitled to maintain the action.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 11, 1938 — <i>cont.</i>	Hunter District Water, Sewerage and Drainage — <i>cont.</i>	Subsection (3) of section 135 — <i>cont.</i>	(6) Subject to subsection seven of this section, every such action shall be commenced within the period (in subsection seven of this section referred to as the "prescribed period") of twelve months next after the occurring of the cause of action.  (7) Where application is made to the Supreme Court for an extension of the prescribed period the court may, if it is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.  An application under this subsection may be made either within the prescribed period or at any time within twelve months thereafter.
No. 20, 1938	Broken Hill Water and Sewerage.	Subsection (1) of section 137. Subsection (2) of section 137.	Omit "debt in"; insert "debt or liquidated demand in". Omit the subsection.
		Paragraph (a) of subsection (3) of section 67.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture has been lost or destroyed before it has been paid off;
		Paragraph (b) of subsection (3) of section 67.	Omit "judge"; insert "Court".
		Subsection (1) of section 68.	Omit "in its equitable jurisdiction, in accordance with rules of court,".
		Subsection (1) of section 128.	Omit "debt"; insert "debt or liquidated demand".
		Subsection (2) of section 128.	Omit the subsection.

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

(ag) by inserting next after the matter relating to Act No. 11, 1940, the following new matter:—

No. 28, 1941	Auctioneers and Agents.	Paragraph (a) of subsection (4) of section 31.	Omit "either by special case or upon notice of motion".
		Paragraph (b) of subsection (4) of section 31.	Omit "The provisions of Part VI of the District Courts Act, 1912-1936, shall, mutatis mutandis, extend to and in respect of any such appeal. For the purposes of such extension the word "party" where used in that Part"; insert "For the purposes of any such appeal the parties to the appeal to the District Court".
		Subsection (1) of section 42A.	Omit "suit"; insert "other proceedings".
		Subsection (2) of section 42A.	Omit the subsection.
		Section 50D ..	Omit "no action"; insert "no action or other proceedings". Omit "action is"; insert "action is or proceedings are".
		Paragraph (a) of subsection (4) of section 61.	Omit "either by special case or upon notice of motion".
		Paragraph (b) of subsection (4) of section 61.	Omit "The provisions of Part VI of the District Courts Act, 1912-1936, shall, mutatis mutandis, extend to and in respect of any such appeal. For the purposes of such extension the word "party" where used in that Part"; insert "For the purposes of such appeal the parties to the appeal to the District Court".
		Subsection (4) of section 74.	Omit "or a judge thereof". Omit "court, judge,"; insert "court".
		Subsection (1) of section 78.	Omit "by action at law".
		Subsection (2) of section 78.	Omit "actions"; insert "proceedings". Omit "such action"; insert "such proceedings".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 28, 1941 — <i>cont.</i>	Auctioneers and Agents — <i>cont.</i>	Subsection (2) of section 78 — <i>cont.</i>	Omit "or the presiding judge"; insert "or, where the proceedings are tried with a jury, the judge presiding at the trial".
		Subsection (3) of section 78.	Omit "an order for the recovery of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts"; insert "a judgment debt under the Courts of Petty Sessions (Civil Claims) Act, 1970". Omit "Act, as so amended"; insert "Act".
		Subsection (1) of section 83c.	Omit the subsection: insert the following subsection:— (1) The Court may dispense with service of the originating process of an application under this Division for the appointment of a receiver.
		Subsection (2) of section 83c.	Omit the subsection: insert the following subsection:— (2) Unless the Court otherwise orders the originating process shall be served upon the licensee not less than forty-eight hours before the hearing of the application.
		Subsection (3) of section 83c.	Omit "Upon and during the hearing of any such application or any subsequent proceeding of any kind relating to the order or the conduct of the receivership thereunder, no person shall be or be permitted to be present in Court, or if the proceedings are heard in chambers, in chambers"; insert "No person shall be or be permitted to be present at the hearing of any such application or any part of such hearing or at the hearing of any subsequent proceeding of any kind relating to the order or the conduct of the receivership thereunder or any part of the hearing of any such subsequent proceeding".
		Paragraph (a) of subsection (3) of section 83c.	Omit "to whom the application is being made"; insert "who constitutes the Court for the hearing".

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 67, 1941	Money-lenders and Infants Loans.	Subsection (7) of section 5.	Omit "rehearing."; insert "rehearing, and the decision of the District Court shall be final and without appeal."
		Subsection (4) of section 12.	Omit "rehearing."; insert "rehearing, and the decision of the District Court shall be final and without appeal."
		Subsection (6) of section 12.	Omit "an action"; insert "any proceedings". Omit "the action"; insert "the proceedings".
No. 15, 1942	Motor Vehicles (Third Party Insurance).	Paragraph (a) of subsection (4) of section 13.	Omit "either by way of special case or upon notice of motion". Omit "The provisions of Part VI of the District Courts Act, 1912, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of any such appeal."
		Subsection (8) of section 14.	Omit "The jurisdiction of the Supreme Court in any appeal under this section may be exercised by any judge of that court." The decision of the Court on any such appeal shall be final, and the Minister shall give effect to the same. Rules of court of the Supreme Court may be made"; insert "Without limiting the rule-making powers conferred by the Supreme Court Act, 1970, rules may be made under that Act".
		Paragraph (a) of subsection (1) of section 15.	Omit "the court or any judge of the court (or, where the judgment was obtained under the Small Debts Recovery Act, 1912-1933, any stipendiary or police magistrate)"; insert "the Supreme Court, where the judgment was obtained in that court, or any District Court judge, where the judgment was obtained in a District Court, or any stipendiary magistrate, where the judgment was obtained under the Courts of Petty Sessions (Civil Claims) Act, 1970,".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 15, 1942 —cont.	Motor Vehicles (Third Party Insurance)— cont.	Subsection (5) of section 31.	Omit "an order for the payment of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts"; insert "a judgment debt under the Courts of Petty Sessions (Civil Claims) Act, 1970". Omit "Small Debts Court"; insert "court of petty sessions".
No. 17, 1943	Legal Assistance.	Paragraph (c) of section 37.	Omit "Companies Act, 1936,"; insert "Companies Act, 1961,".
		Section 6 ..	Omit "a judge of" wherever occurring. Insert next after subsection (4B) the following new subsection:— (4C) Where the application is made in respect of proceedings for an order under subsection one of section eighty-four of the Supreme Court Act, 1970, the Public Solicitor may grant to the applicant a certificate that the applicant is entitled to legal assistance under this Act if he is satisfied on the matters mentioned in paragraphs (b) and (c) of subsection four of this section.
		Section 11 ..	Insert next after subsection (6) the following new subsection:— (6A) An order mentioned in paragraph (c) of subsection five of this section or in subsection six of this section may, in the case of litigation pending in a court other than the Supreme Court, be made by a judge of the court. Omit "or judge" wherever occurring. Insert next after subsection (2) the following new subsection:— (2A) In the case of proceedings in a court other than the Supreme Court, the powers of the court under subsection one and subsection two of this section may be exercised by a judge of the court.

SECOND



*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 17, 1943 — <i>cont.</i>	Legal Assistance— <i>cont.</i>	Section 15 ..	Omit "a judge of" wherever occurring. Omit "such judge"; insert "such court". Insert next after subsection (3) the following new subsection:— (4) An order mentioned in subsection two or subsection three of this section may, in the case of litigation pending in a court other than the Supreme Court, be made by a judge of the court.
		Section 18 ..	Insert next after subsection (1) the following new subsection:— (1A) Subsection one of this section does not apply to the Supreme Court, but this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.

- (ah) (i) by omitting from the matter relating to subsection one of section two of Act No. 33, 1946, in the sub-column headed "Amendment." of the Second Column the word "Any" and by inserting in lieu thereof the word "any";
- (ii) by omitting from the matter relating to subsection one of section three of the same Act in the same sub-column of the Second Column the word "any" and by inserting in lieu thereof the word "Any";
- (iii) by omitting from the matter relating to subsection three of section four of the same Act in the same sub-column of the Second Column the words "Small Debts Recovery Act, 1912" and by inserting in lieu thereof the words "Courts of Petty Sessions (Civil Claims) Act, 1970";

(ai) by inserting next after the matter relating to Act No. 33, 1946, the following new matter:—

No. 10, 1947	New South Wales— Queensland Border Rivers.	Section 10 ..	Omit "writ"; insert "writ or order".
		Section 11 ..	Omit "may be made a rule or order of the Supreme Court and shall be enforceable accordingly"; insert "shall be enforceable by order of the Supreme Court".

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 10, 1947 — <i>cont.</i>	New South Wales— Queensland Border Rivers— <i>cont.</i>	Section 19	Omit "any judge of". Omit "made without action, and either by summons or by motion upon notice to the claimant for compensa- tion,". Omit "the judge"; insert "the Court". Omit "and shall be made in accordance with rules of court". Omit "shall be final, and".
No. 11, 1949	Technical Edu- cation.	Subsection (5) of section 10.	

(aj) by omitting from the matter relating to subsection five of section one hundred of Act No. 22, 1950, in the sub-column headed "Amendment." in the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

(ak) by inserting next after the matter relating to Act No. 22, 1950, the following new matter:—

No. 7, 1951..	Traffic Safety (Lights and Hoardings).	Section 3	Next after subsection (1) insert the following new subsection:— (1A) The decision of the District Court upon any appeal under this section shall be final.
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(al) (i) by omitting from the matter relating to subsection five of section thirty-four of Act No. 11, 1951, in the sub-column headed "Amendment." in the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

(ii) by omitting from the matter relating to subsection seven of the same section in the same sub-column of the Second Column the words "than action" and by inserting in lieu thereof the words "than an action";

(am) by omitting from the matter relating to subsection five of section fifty-six of Act No. 36, 1954, in the sub-column headed "Amendment." of the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

(an) by inserting next after the matter relating to the same Act the following new matter:—

No. 45, 1958	Mental Health	Section 4	<p>In the definition of "Court" omit "in its Protective Jurisdiction"; insert "of New South Wales".</p> <p>Omit the definition of "Judge".</p> <p>In the definition of "Master" omit "Master in the Protective Jurisdiction of the Supreme Court"; insert "such Master of the Court as is prescribed by rules of Court".</p> <p>Insert next after the definition of "Regulations" the following new definition:—</p> <p style="padding-left: 40px;">"Rules of Court" means rules of Court made or in force by or under the Supreme Court Act, 1970.</p>
		Section 6	Omit the section.
		Section 16	Omit "a judge"; insert "the Court".
		Section 18	Omit the section; insert the following section:—
			<p>18. Where the Court receives information upon oath, or a judge of the Court has reason or cause to suspect that any person who is not a mentally ill person is detained in any admission centre, mental hospital or authorised hospital the Court may order the superintendent of such admission centre, mental hospital or authorised hospital to bring such person before the Court for examination at a time to be specified in such order, and if upon the examination of such person, and of such superintendent, and of any medical or other witnesses, it appears to the Court that such person is not a mentally ill person, the Court may order that such person be immediately discharged from such admission centre, mental hospital or authorised hospital.</p>
		Section 37	Omit the section.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

	No. 45, 1958 —cont.	Mental Health —cont.	Section 49 ..	Omit “, and every such order shall have the same effect as orders for the payment of money made by the Supreme Court in its equitable jurisdiction”.
Protective Commissioner and Protective Chief Clerk.			Section 50 ..	Omit the section.
			Section 51 ..	<p>Omit the section; insert the following section:—</p> <p>51. (1) The title of the office of Deputy Master in the Protective Jurisdiction of the Supreme Court shall, on the commencement of the Supreme Court Act, 1970, be changed to “Protective Commissioner”.</p> <p>(2) The Governor may appoint a Protective Commissioner.</p> <p>(3) The Protective Commissioner may exercise the powers and shall perform the duties conferred or imposed upon the Master by or under any Act (other than the Supreme Court Act, 1970) or by any order of the Court.</p> <p>(4) Rules of Court may confer upon the Protective Commissioner any powers or duties which are conferred or imposed upon the Master by the Supreme Court Act, 1970, or which are capable of being conferred or imposed upon the Master by rules of Court.</p> <p>(5) The title of the office of Chief Clerk in the Protective Jurisdiction of the Supreme Court shall, on the commencement of the Supreme Court Act, 1970, be changed to “Protective Chief Clerk”.</p> <p>(6) During the illness or absence of the Protective Commissioner, the Court may authorise the Protective Chief Clerk to exercise all the powers conferred and perform all the duties imposed upon the Protective Commissioner.</p> <p>(7) Each of them, the Protective Commissioner and the Protective</p>

SECOND

*Supreme Court (Amendment).*

SECOND SCHEDULE— <i>continued.</i>			No. 41, 1972
No. 45, 1958 — <i>cont.</i>	Mental Health — <i>cont.</i>	Section 51— <i>cont.</i>	<p>Chief Clerk, shall be an officer of the Court.</p> <p>(8) In any Act, rule of court or regulation in force immediately before the commencement of the Supreme Court Act, 1970,—</p> <p>(a) a reference to the Deputy Master in the Protective Jurisdiction of the Court shall be construed as a reference to the Protective Commissioner; and</p> <p>(b) a reference to the Chief Clerk in the Protective Jurisdiction of the Court shall be construed as a reference to the Protective Chief Clerk.</p>
		Subsection (1) of section 55.	Omit “(general or particular)”.
		Section 56 ..	Omit “before him in his equity jurisdiction”; insert “before the Court”.
		Section 58 ..	Omit “writ of subpoena ad testificandum”; insert “subpoena to give evidence”.
			Omit “to a judge”; insert “as prescribed by rules of Court”.
			Omit “such judge”; insert “the Court”.
		Section 64 ..	Omit the section.
		Section 92 ..	Omit “Supreme”.
		Section 102 ..	Omit “general rule or special”.
		Subsection (4) of section 108.	Omit “Full Court of the Supreme Court”; insert “Court of Appeal”.
		Section 113 ..	Omit the section; insert the following section:—
			113. (1) Rules of Court may be made under the Supreme Court Act, 1970,—
			(a) for regulating the form and mode of proceeding before and by the Master;
			(b) for carrying into effect the objects of Parts X, XI and XIII of this Act (section fifty-four excepted) so far as the same relate to the powers or duties of the Master; and

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 45, 1958 — <i>cont.</i>	Mental Health — <i>cont.</i>	Section 113— <i>cont.</i>	(c) for giving general directions and orders with respect to the matters mentioned in section one hundred and two of this Act. (2) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.
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(ao) by inserting next after the matter relating to Act No. 36, 1954, the following new matter:—

No. 71, 1961	Companies	Subsection (1) of section 5. Subsection (16) of section 9. Paragraph (c) of subsection (2) of section 20. Paragraph (b) of subsection (2) of section 64. Subsection (4) of section 65. Section 65 ..  Subsection (3) of section 96.	In the definition of "Court" omit "in its equitable jurisdiction". Omit "in accordance with rules of Court". Omit "petition"; insert "proceedings". Omit "on affidavit". Omit ", and the decision of the Court shall be final". Insert next after subsection (4) the following new subsection:— (4A) An appeal shall not lie to the Court of Appeal from a decision of the Court under subsection (4) of this section, except by leave of the Court of Appeal. Omit the subsection; insert the following subsection:— (3) If any person refuses or neglects to comply with a notice given under subsection (2) of this section the Court may, on application by the transferor, order
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SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 71, 1961 — <i>cont.</i>	Companies— <i>cont.</i>	Subsection (3) of section 96 — <i>cont.</i>	that person to deliver up the documents mentioned in the notice to the com- pany upon such terms or conditions as to the Court seem fit.
		Subsection (4) of section 96.	Omit the subsection.
		Subsection (3) of section 99.	Omit “, and the order may provide that all costs of and incidental to the applica- tion shall be borne by the company or by any officer of the company in default in such proportions as the Court thinks fit”.
		Section 117 ..	Insert next after subsection (2) the following new sub- section:— (3) Service on the Com- mission of originating pro- cess in proceedings for leave under this section shall be sufficient service on it of notice of intention to apply therefor for the purposes of subsection (2) of this section.
		Section 122 ..	Insert next after subsection (2) the following new sub- section:— (2A) Service on the Com- mission of originating pro- cess in proceedings for leave under this section shall, if the hearing is not less than ten days after the day of service, be sufficient compliance with subsection (2) of this section.
		Subsection (2) of section 155.	Omit the subsection.
		Subsection (1) of section 181.	Omit “in a summary way”.
		Subsection (9) of section 181.	Omit “in a summary way”.
		Subsection (3) of section 186.	Omit “restrain”; insert “stay or restrain”.
		Subsection (3) of section 186.	Omit “upon a petition duly presented to the Court”; in- sert “in proceedings in the Court commenced”.
		Subsection (3) of section 216.	Omit the subsection.
		Subsection (4) of section 216.	Omit the subsection.
		Subsection (5) of section 216.	Omit the subsection.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 71, 1961 — <i>cont.</i>	Companies— <i>cont.</i>		
		Subsection (6) of section 216.	Omit the subsection.
		Subsection (1) of section 221.	Omit "petition"; insert "application".
		Paragraph (a) of subsection (2) of section 221.	Omit "present the petition"; insert "commence proceedings for winding up".
			Omit "presentation of the petition"; insert "commencement of the proceedings".
		Paragraph (b) of subsection (2) of section 221.	Omit the paragraph; insert the following paragraph:— (b) proceedings for winding up on the ground of default in lodging the statutory report or in holding the statutory meeting shall not be commenced by any person except a contributory nor before the expiration of fourteen days after the last day on which the meeting ought to have been held;
		Paragraph (c) of subsection (2) of section 221.	Omit "petition if presented"; insert "proceedings if commenced".
		Section 223 ..	Omit "presentation of the petition" wherever occurring; insert "commencement of the proceedings".
		Section 224 ..	Omit "petition" wherever occurring; insert "application". Omit "petitioner" wherever occurring; insert "applicant".
		Subsection (1) of section 225.	Omit "On hearing a winding up petition the Court may dismiss it with or without costs"; insert "On hearing proceedings for winding up the Court may dismiss the proceedings".
		Subsection (2) of section 225.	Omit "petition coming on for hearing or at any time on the application of the petitioner"; insert "hearing of the proceedings or at any time on motion of the applicant".

SECOND



## Supreme Court (Amendment).

SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 71, 1961 — <i>cont.</i>	Companies— <i>cont.</i>		
		Subsection (2) of section 225 — <i>cont.</i>	Omit “on the hearing of the petition”; insert “on the hearing”.
		Paragraph (a) of subsection (2) of section 225.	Omit “hearing of the petition;”; insert “hearing; and”.
		Paragraph (b) of subsection (2) of section 225.	Omit “Court;”; insert “Court.”.
		Paragraph (c) of subsection (2) of section 225.	Omit the paragraph.
		Paragraph (d) of subsection (2) of section 225.	Omit the paragraph.
		Paragraph (e) of subsection (2) of section 225.	Omit the paragraph.
		Paragraph (f) of subsection (2) of section 225.	Omit the paragraph.
		Subsection (3) of section 225.	Omit “petition is presented”; insert “proceedings are commenced”.
			Omit “petitioners” wherever occurring; insert “applicants”.
		Subsection (4) of section 225.	Omit “petition is presented”; insert “proceedings are commenced”.
		Section 226 ..	Omit “presentation of a winding up petition”; insert “commencement of proceedings for winding up”.
		Section 229 ..	Omit “petition”; insert “proceedings”.
		Subsection (1) of section 230.	Omit “petitioner”; insert “applicant”.
		Subsection (2) of section 230.	Omit “On the passing and entering of the winding up order the petitioner shall within seven days”; insert “The applicant shall within the time prescribed by the rules”.
		Paragraph (a) of subsection (2) of section 230.	Omit “order”; insert “winding up order”.
		Subsection (4) of section 230.	Omit “petition”; insert “application”.
		Subsection (5) of section 230.	Omit “petitioner”; insert “applicant”.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 41, 1972	No. 71, 1961 — <i>cont.</i>	Companies— <i>cont.</i>	Subsection (1) of section 249.	Omit "summon before it"; insert "make orders for the attendance before it of".
			Subsection (4) of section 249.	Omit the subsection.
			Subsection (5) of section 249.	Omit "summoned"; insert "ordered to attend".
				Omit "or the Master or other officer of the Court".
				Omit "or the Master or other officer, as the case may be,".
			Subsection (6) of section 249.	Omit the subsection.
			Subsection (6) of section 250.	Omit "and if the Court, after hearing any evidence given or witnesses called by the liquidator, grants the appli- cation the Court may allow the applicant such costs as in its discretion it thinks fit".
			Subsection (8) of section 250.	Omit the subsection.
			Section 267 . . .	Omit the section; insert the following section:—
				267. (1) Any member or creditor or the liquidator may at any time before the dissolution of the company apply to the Court to review the amount of the remunera- tion of the liquidator.
				(2) An appeal shall not lie to the Court of Appeal from a decision of the Court under subsection (1) of this section, except by leave of the Court of Appeal.
			Section 276 . . .	Omit "a petition has been presented to the Court to wind up"; insert "proceed- ings in the Court have been commenced for the winding up of".
			Subsection (2) of section 282.	Omit the subsection.
			Section 290 . . .	Omit the section.
			Paragraph (a) of subsection (2) of section 293.	Omit "presentation of the petition" wherever occur- ring; insert "commence- ment of the proceedings".
			Subsection (2) of section 363.	Omit the subsection.
			Subsection (1) of section 365.	Omit "Court"; insert "court".

Review of  
liquidator's  
remunera-  
tion.N.S.W.  
s. 311.  
Vic. s. 206.  
Tas. s. 217.

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 71, 1961 — <i>cont.</i>	Companies— <i>cont.</i>	Section 366 ..	Insert next after subsection (4) the following new subsection:—
		Subsection (1) of section 368.	(5) This section does not limit the operation of section eighty-one of the Supreme Court Act, 1970, or the operation of any rules relating to the enlargement or abridgement of time. Omit "an application made to a judge of the Court in chambers"; insert "application to the Court".
		Subsection (2) of section 368.	Omit the subsection; insert the following subsection:— (2) An appeal shall not lie to the Court of Appeal from any order or decision of the Court on or in relation to an application under this section, except by leave of the Court of Appeal.
		Section 384 ..	Omit the section; insert the following section:— 384. (1) Rules of Court may be made under the Supreme Court Act, 1970— (a) with respect to any matter or thing which is by this Act required or permitted to be prescribed by rules or which is necessary or convenient to be prescribed under the provisions of any of the enactments of this Act; and (b) without limiting the generality of the provisions of this section, with respect to meetings ordered by the Court. (2) Subsection (1) of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.
		Subsection (3) of section 385.	Omit the subsection; insert the following subsection:— (3) Regulations made under any provision of this Act shall— (a) be published in the Gazette: Rules. N.S.W. s. 380 (2). Vic. s. 10. Qld. s. 384. S.A. s. 372. W.A. s. 407. Tas. s. 323.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 71, 1961 —cont.	Companies— cont.	Subsection (3) of section 385 —cont.	(b) take effect from the date of publication, or from a later date specified in the regulations.
No. 11, 1962	Business Names.	Section 5A ..	Insert next after subsection (4) the following new subsection:— (4A) No appeal shall lie from the decision of the District Court on an application made under subsection three of this section.
		Subsection (1) of section 14.	Omit "any suit or action"; insert "any proceedings". Omit "suit or action is"; insert "proceedings are". Omit "all proceedings in the suit or action"; insert "the proceedings".
		Subsection (2) of section 14.	Omit "in the case of the Supreme Court by a Judge thereof in chambers".
		Subsection (3) of section 14.	Omit "Proceedings may"; insert "Subject to the Supreme Court Act, 1970, proceedings may".
No. 4, 1963	Commercial Agents and Private Inquiry Agents.	Subsection (3) of section 19. Section 14 ..	Omit "in its equitable jurisdiction". Omit "rehearing"; insert "rehearing, and the decision of the District Court thereon shall be final and without appeal."
		Subsection (3) of section 30.	Omit "an order for the payment of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts"; insert "a judgment debt under the Courts of Petty Sessions (Civil Claims) Act, 1970".
		Subsection (3) of section 37.	Omit "action" where firstly occurring; insert "proceedings". Omit "such action" where secondly occurring; insert "action for indemnity".
No. 44, 1963	Cobar Water Supply.	Paragraph (a) of subsection (3) of section 33.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture has been lost or destroyed before it has been paid off;
		Paragraph (b) of subsection (3) of section 33.	Omit "judge"; insert "Court".

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

(ap) by omitting from the matter relating to subsection five of section seventy of Act No. 59, 1963, in the sub-column headed "Amendment." of the Second Column the words "Omit 'in accordance with rules of court.'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring.";

(aq) by inserting next after the matter relating to Act No. 59, 1963, the following new matter:—

No. 23, 1965	Adoption of Children.	Section 6 ..	In the definition of "Court" omit "in its equitable jurisdiction". Insert at the end of the section the following new definition:— "the nominated officer" means the Registrar in Equity and includes any other officer of the Court specified by rules of Court as the nominated officer for the purposes of this Act.
		Section 7 ..	Omit the section.
		Subsection (2) of section 14.	Omit the subsection; insert the following subsection:— (2) Subject to rules of Court an appeal under subsection one of this section may, where the organisation is unincorporate, be brought and continued by one or more of the persons comprising the organisation as representing all persons comprising the organisation.
		Subsection (3) of section 22.	Omit "may, in accordance with the rules of Court, dispense"; insert "may dispense".
		Section 28 ..	Omit "Master in Equity" wherever occurring; insert "nominated officer".
		Subsection (1) of section 32.	Omit "a request"; insert "application".
		Subsection (1A) of section 32.	Omit "a request"; insert "application".
		Subsection (2) of section 32.	Omit "request"; insert "application".
		Subsection (4) of section 32.	Omit "request" wherever occurring; insert "application".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

Rules of Court.	No. 23, 1965 —cont.	Adoption of Children— cont.	Paragraph (a) of subsection (5) of section 32.	Omit "request" wherever occurring; insert "application".
			Paragraph (b) of subsection (5) of section 32.	Omit "requesting" wherever occurring; insert "applying for".
			Subsection (6) of section 32.	Omit "request" wherever occurring; insert "application".
			Subsection (6) of section 47.	Omit the subsection.
			Section 61 ..	Omit "Master in Equity"; insert "nominated officer".
			Section 62 ..	Omit "Master in Equity"; insert "nominated officer".
			Section 63 ..	Omit "Master" where secondly occurring; insert "nominated officer".
			Section 63 ..	Omit "Master in Equity"; insert "nominated officer".
			Section 72 ..	Omit the section; insert the following section:—
				72. (1) Rules of Court may be made under the Supreme Court Act, 1970, regulating practice and procedure in respect of proceedings under this Act. (2) Subsection one of this section does not limit the rule-making powers conferred by the Supreme Court Act, 1970.

(ar) by omitting from the matter relating to section three of Act No. 32, 1965, in the sub-column headed "Amendment." of the Second Column the words "POWER TO ENTER SUBSTITUTED" and by inserting in lieu thereof the words "POWER TO ENTER SUBSTITUTED";

(as) by inserting next after the matter relating to Act No. 32, 1965, the following new matter:—

No. 10, 1966	State Development and Country Industries Assistance.	Paragraph (a) of subsection (3) of section 17.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the
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SECOND

## Supreme Court (Amendment).

SECOND SCHEDULE—continued.		No. 41, 1972
No. 10, 1966 —cont.	State Development and Country Industries Assistance— <i>cont.</i>	Paragraph (a) of subsection (3) of section 17— <i>cont.</i>  Paragraph (b) of subsection (3) of section 17.  Section 38 ..
		debenture has been lost or destroyed before it has been paid off;  Omit “judge”; insert “Court”.  Omit the section; insert the following section:—  38. (1) Where the registrar refuses to register a society or any of its rules, or any alteration of its rules or directs a change of its name, the registrar shall, if so required by the society, set forth in writing under his hand the grounds of his refusal or the grounds upon which the direction was given.  (2) The society may, unless the grounds of the registrar’s refusal or direction are that the society would be, or is, registered by a name, or a name of a kind, that the Minister has directed the registrar not to accept for registration, apply to the Supreme Court for review of the refusal or direction.  (3) On the review, the Supreme Court may make such orders as may be proper in the circumstances.  Review of decisions of registrar. cf. Act No. 1, 1924, s. 122.
No. 18, 1967	Permanent Building Societies.	Paragraph (b) of subsection (9) of section 81.  Paragraph (c) of subsection (9) of section 81.  Subsection (6) of section 85.
		Omit “in its equitable jurisdiction”. Omit “that court”; insert “the Court”. Omit “by a judge”. Omit “the judge” where firstly occurring; insert “the presiding judge at the trial”. Omit “or a Judge thereof”.

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

- (at) (i) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section two of Act No. 72, 1967, and by inserting in lieu thereof the following matter:—

Insert next after the definition of "Judge" the following new definition:—

"Rules" means rules made under the Supreme Court Act, 1970.

- (ii) by inserting in the Second Column next after the matter relating to section two of the same Act the following new matter:—

Subsection (1) of section 4. Omit "of court."

- (iii) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to section eight of the same Act and by inserting in lieu thereof the following matter:—

Omit "of court".

- (iv) by omitting from the same sub-column of the Second Column the matter relating to section ten of the same Act and by inserting in lieu thereof the following matter:—

Omit "of court".

- (v) by omitting from the same sub-column of the Second Column the matter relating to subsection two of section sixteen of the same Act and by inserting in lieu thereof the following matter:—

Omit "of court".

- (vi) by omitting from the same sub-column of the Second Column the matter relating to subsection three of section eighteen of the same Act and by inserting in lieu thereof the following matter:—

Omit "rules of the Court of Appeal"; insert "the rules".

SECOND



*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

- (vii) by omitting from the same sub-column of the Second Column the matter relating to subsection one of section nineteen of the same Act and by inserting in lieu thereof the following matter:—

Omit “special”; insert “stated”.  
 Omit “that Court”; insert “the Court of Appeal”.  
 Omit “rules of the Court of Appeal”; insert “rules”.

- (viii) by omitting from the same sub-column of the Second Column the matter relating to subsection one of section twenty-four of the same Act and by inserting in lieu thereof the following matter:—

Omit “of this Act”; insert “of this Act has been made,”.

Omit “, within twenty-one days after the conviction or order,”.

- (ix) by omitting from the matter relating to subsection three of section twenty-four of the same Act in the same sub-column of the Second Column the words “the Appeal” and by inserting in lieu thereof the words “the appeal”;

- (x) by omitting from the matter relating to the same Act all matter in the Second Column that follows the matter relating to section twenty-seven of that Act and by inserting in lieu thereof the following matter:—

Subsection (1) of section 29.	Omit “The Judges or any five of them may make general rules”; insert “Rules may be made under the Supreme Court Act, 1970,”.
Subsection (2) of section 29.	Omit “made under that subsection”.
Paragraph (f) of subsection (2) of section 29.	Omit “of the Court” where firstly occurring.
Subsection (3) of section 29.	Omit the subsection; insert the following subsection:— (3) Subsections one and two of this section do not limit the rule-making powers conferred by the Supreme Court Act, 1970.
Subsection (4) of section 29.	Omit the subsection.

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

(au) by inserting next after the matter relating to Act No. 72, 1967, the following new matter:—

No. 90, 1967	Pipelines	Subsection (4) of section 33.	Omit "an action"; insert "proceedings".
		Subsection (5) of section 33.	Omit "action"; insert "proceedings".
		Subsection (7) of section 33.	Omit the subsection.
		Subsection (2) of section 52.	Omit the subsection.
		Subsection (5) of section 52.	Omit the subsection.

(av) (i) by omitting from the matter relating to Act No. 11, 1968, in the sub-column headed "Subject." of the First Column the word "Marketing" wherever occurring and by inserting in lieu thereof the word "Market";

(ii) by omitting from the matter relating to subsection five of section forty-four of the same Act in the sub-column headed "Amendment." of the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

(aw) by inserting next after the matter relating to Act No. 11, 1968, the following new matter:—

Rules.	No. 15, 1968	Companies (Transfer of Domicile).	Section 28	Omit the section; insert the following section:— 28. The power to make rules conferred by section three hundred and eighty-four of the Companies Act with respect to the matters and things mentioned in that section shall include power to make rules with respect to the like matters and things arising under this Act.
			Subsection (4) of section 29.	Omit the subsection.

(ax) (i) by omitting from the matter relating to subsection seven of section fifty-three of Act No. 56, 1968, in the sub-column headed "Amendment." of the Second Column the words "Omit 'in accordance with rules of court'" and by inserting in lieu thereof the words "Omit 'in accordance with rules of court' where firstly occurring";

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

(ii) by omitting from the matter relating to the same subsection in the same sub-column of the Second Column the words "court, if" and by inserting in lieu thereof the words "court may, if";

(ay) (i) by omitting from the matter relating to Act No. 8, 1969, in the Second Column all matter that precedes the matter relating to subsection twelve of section sixty-six and by inserting in lieu thereof the following matter:—

Section 32 . . . Omit the section; insert the following section:—

32. (1) Where the registrar refuses to register a proposed credit union, or a proposed association, or any of its proposed rules, or any proposed alteration of the rules of a credit union or of an association, or directs a change of its name, the registrar shall, if so required by the applicant for registration or, as the case may be, the credit union or association, set forth in writing under his hand within two months of the date of receipt of the requisition, the grounds of his refusal or, in the case of a direction, the grounds upon which the direction was given.

(2) The applicant for registration or, as the case may be, the credit union or association may, unless the grounds of the registrar's refusal or direction are that the credit union or association would be, or is, registered by a name, or a name of a kind, that the Minister has directed the registrar not to accept for registration, apply to the Supreme Court for review of the refusal or direction.

(3) On the review the Supreme Court may make such orders as may be proper in the circumstances.

(ii) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to subsection twelve of section sixty-six of the same Act and by inserting in lieu thereof the following matter:—

Omit "in its equitable jurisdiction".

Omit "that Court"; insert "the Court";

(iii) by omitting from the same sub-column of the Second Column the matter relating to subsection thirteen of the same section and by inserting in lieu thereof the following matter:—

Omit "by a judge".

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

Omit "the judge" where firstly occurring; insert "the presiding judge at the trial";

- (az) (i) by omitting from the sub-column headed "Amendment." of the Second Column the matter relating to subsection one of section forty of Act No. 30, 1969, and by inserting in lieu thereof the following matter:—

Omit "sheriff, bailiff,,"; insert "bailiff";

- (ii) by omitting from the same sub-column of the Second Column the matter relating to subsection two of the same section and by inserting in lieu thereof the following matter:—

Omit "sheriff, bailiff,,"; insert "bailiff".

- (ba) by omitting from the sub-column headed "Amendment." of the Second Column in the matter relating to subsection one of section seventy-seven of Act No. 31, 1969, the words "Small Debts Recovery Act, 1912" and by inserting in lieu thereof the words "Courts of Petty Sessions (Civil Claims) Act, 1970";

- (bb) by inserting next after the matter relating to Act No. 53, 1969, the following new matter:—

No. 11, 1970	Courts of Petty Sessions (Civil Claims)	Section 21 ..	Omit "twenty-one"; insert "eighteen".
		Subsection (3) of section 41.	Omit "duces tecum"; insert "for production".
		Subsection (3) of section 69.	Omit "117A"; insert "one hundred and fifteen".
		Subsection (2) of section 72.	Omit "duces tecum"; insert "for production".
		Section 74 ..	Omit "a plaint filed in a court or any order or proceedings thereon under this Act, shall not be removed out of a court by writ of certiorari or otherwise"; insert "no order of removal out of a court into the Supreme Court shall be made of a plaint filed in a court or of any order or proceedings thereon under this Act".
No. 22, 1970	Land Development Contribution Management.	Section 62 ..	Omit "at the suit of"; insert "by".

SECOND

## Supreme Court (Amendment).

## SECOND SCHEDULE—continued.

No. 41, 1972

No. 29, 1970	Dairy Industry Authority.	Section 31 ..	Omit "action, suit"; insert "action or other proceedings".
		Subsection (3) of section 32.	Omit the subsection; insert the following subsection:— (3) In any proceedings (whether at law or in equity) by any dairyman, transferee, or party aforesaid in respect of any such milk or chese in action or part, the Authority may plead this section as a defence to the proceedings.
		Paragraph (a) of subsection (3) of section 73.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before it has been paid off;
		Paragraph (b) of subsection (3) of section 73.	Omit "judge"; insert "Court".
		Section 77 ..	Omit the section; insert the following section:— 77. Any charge, fee or money due to the Authority under the provisions of this Act may be recovered as a debt or liquidated demand in a court of competent jurisdiction. <b>Recovery of charges, &amp;c.</b>
		Subsection (1) of section 81.	Omit "A writ or other process"; insert "Proceedings". Omit "sued out or served upon"; insert "commenced against".
		Subsection (4) of section 81.	Omit "or any judge of the court". Omit "or judge" wherever occurring.
		Subsection (5) of section 81.	Omit "a judge of". Omit "in accordance with rules of court". Omit "judge may, if he"; insert "Court may, if it".
		Subsection (7) of section 81.	Omit the subsection.
		Subsection (8) of section 81.	Omit "in bar"; insert "as a defence to the action".
		Subsection (9) of section 81.	After "action" insert "other than an action in the Supreme Court".

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 35, 1970	Securities Industry.	Subsection (1) of section 4.	In the definition of "Court" omit "has the meaning ascribed thereto in the Companies Act, 1961"; insert "means the Supreme Court of New South Wales".
		Subsection (2) of section 60.	Omit "within twenty-eight days after receipt of notice thereof appeal to the Court in accordance with rules of court"; insert "within the time prescribed by rules of court appeal to the Court".
		Subsection (3) of section 60.	Omit the subsection; insert the following subsection:— (3) An appellant shall, on the day on which he commences proceedings in the Court by way of appeal, lodge a copy of the originating process in the proceedings with the secretary of the committee against whose opinion he is appealing.
		Subsection (4) of section 60.	Omit "The Court shall inquire into and decide upon the appeal which shall be in the nature of a re-hearing and, if"; insert "If".
		Subsection (3) of section 61.	Omit "lie"; insert "lie nor shall proceedings for damages be taken".
		Subsection (3) of section 62.	Omit "in accordance with rules of court,".
		Subsection (2) of section 63.	Omit "action at law"; insert "proceedings". Omit "such action"; insert "such proceedings". Omit "and all questions of costs shall be in the discretion of the Court".
		Subsection (3) of section 68.	Omit "lie"; insert "lie nor shall proceedings be taken".
		Section 69 ..	Omit "action"; insert "action or claim".
No. 37, 1970	Legal Practitioners (Legal Aid).	Section 8 ..	Insert next after subsection (2) the following new subsection:— (2A) Subsection two of this section does not apply to the issue of a certificate in respect of proceedings for an order against the applicant under subsection one of section eighty-four of the Supreme Court Act, 1970.

SECOND

*Supreme Court (Amendment).*SECOND SCHEDULE—*continued.*

No. 41, 1972

No. 60, 1970	Minors (Property and Contracts).	Section 51	Omit the section; insert the following section:—
			51. (1) The practice and procedure in proceedings under this Act in the Supreme Court shall be as prescribed by rules of court made under the Supreme Court Act, 1970.
			(2) Rules of court not inconsistent with this Act may be made by a majority of the District Court judges for the regulation of the practice and procedure in proceedings under this Act in the District Courts.
			(3) A rule made in the exercise of the power to make rules given by subsection two of this section shall—
			(a) be published in the Gazette;
			(b) take effect on and from the date of publication or a later date specified in the rule; and
			(c) be laid before each House of Parliament within fourteen sitting days of that House after the date of publication.
			(4) If either House of Parliament passes a resolution, of which notice has been given within fifteen sitting days of that House after a rule referred to in subsection three of this section has been laid before it, disallowing the rule or any part thereof, the rule or part thereupon ceases to have effect.
			(5) For the purposes of subsections three and four of this section, sitting days shall be counted whether or not they occur during the same session.
			(6) Rules of court not inconsistent with this Act may be made by the Governor for the regulation of the practice and procedure in proceedings under this Act in courts of petty sessions.

SECOND

## Supreme Court (Amendment).

No. 41, 1972

## SECOND SCHEDULE—continued.

No. 66, 1970	Wheat Quotas	Subsection (1) of section 31.	Omit "writ of injunction or mandamus"; insert "proceeding for an injunction or for a judgment or order commanding the doing of an act".
No. 95, 1970	State Pollution Control Commission.	Subsection (1) of section 30.	Omit "A writ or other process"; insert "Proceedings". Omit "sued out or served upon"; insert "commenced against".
		Subsection (4) of section 30.	Omit "or any judge of the court". Omit "or judge" wherever occurring.
		Subsection (5) of section 30.	Omit "a judge of". Omit "in accordance with rules of court". Omit "judge may, if he"; insert "Court may, if it".
		Subsection (7) of section 30.	Omit the subsection.
		Subsection (8) of section 30.	Omit "in bar"; insert "as a defence to the action".
No. 96, 1970	Summary Offences.	Subsection (9) of section 30.	After "action" insert "other than an action in the Supreme Court".
		Section 62	Omit "liable, at the suit of the person who laid the information for the offence, to any civil proceedings in respect of the cause for which he was convicted"; insert "liable to any civil proceedings in respect of the cause for which he was convicted brought by the person who laid the information for the offence".
No. 97, 1970	Waste Disposal	Subsection (5) of section 65.	Omit "defendant, he"; insert "defendant and the action is not in the Supreme Court, the defendant".
		Paragraph (a) of subsection (3) of section 40.	Omit the paragraph; insert the following paragraph:— (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
		Paragraph (b) of subsection (3) of section 40.	Omit "judge"; insert "Court".

SECOND



## Supreme Court (Amendment).

SECOND SCHEDULE— <i>continued.</i>		No. 41, 1972
No. 97, 1970 — <i>cont.</i>	Waste Disposal — <i>cont.</i>	<p>Subsection (1) of section 54. Omit "A writ or other process"; insert "Proceedings". Omit "sued out or served upon"; insert "commenced against".</p> <p>Subsection (4) of section 54. Omit "or any judge of the court". Omit "or judge" wherever occurring.</p> <p>Subsection (5) of section 54. Omit "a judge of". Omit "in accordance with rules of court". Omit "judge may, if he"; insert "Court may, if it".</p> <p>Subsection (7) of section 54. Omit the subsection.</p> <p>Subsection (8) of section 54. Omit "in bar"; insert "as a defence to the action".</p> <p>Subsection (9) of section 54. After "action" insert "other than an action in the Supreme Court".</p>
No. 16, 1971	Builders Licensing.	<p>Subsection (1) of section 58. Omit "A writ or other process"; insert "Proceedings". Omit "sued out or served upon"; insert "commenced against".</p> <p>Subsection (4) of section 58. Omit "or any judge of the court". Omit "or judge" wherever occurring.</p> <p>Subsection (5) of section 58. Omit "in accordance with rules of court".</p> <p>Subsection (7) of section 58. Omit the subsection.</p> <p>Subsection (8) of section 58. Omit "in bar"; insert "as a defence to the action".</p>
No. 18, 1971	Land Aggregation Tax Management.	<p>Subsection (5) of section 35. Omit "in writing request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court, and the Commissioner shall, within thirty days of the receipt by him of the request, forward it accordingly"; insert "appeal to the Supreme Court from the assessment."</p> <p>Subsection (1) of section 37. Omit the subsection.</p> <p>Subsection (2) of section 37. Omit "the appeal"; insert "an appeal to the Supreme Court under section thirty-five of this Act".</p> <p>Subsection (5) of section 37. Omit the subsection.</p> <p>Subsection (6) of section 37. Omit the subsection.</p>

SECOND

*Supreme Court (Amendment).*

No. 41, 1972

SECOND SCHEDULE—*continued.*

No. 18, 1971 — <i>cont.</i>	Land Aggregation Tax Management — <i>cont.</i>	Subsection (7) of section 37.	Omit the subsection.
		Subsection (8) of section 37.	Omit the subsection.
		Subsection (9) of section 37.	Omit the subsection.
No. 22, 1971	Pay-roll Tax . .	Section 38 . .	Omit the section.
		Subsection (1) of section 33.	Omit "by a request in writing accompanied by a fee of five dollars, request the Commissioner to treat his objection as an appeal and to forward it to the Supreme Court and the Commissioner shall, as soon as practicable, forward it accordingly"; insert "appeal to the Supreme Court".
		Subsection (2) of section 33.	Omit the subsection.
No. 78, 1971	Local Government (Appeals) Amendment.	Section 2 . .	Omit from the new Part inserted by the section the word "cause" where secondly occurring in subsection four of the new section 342BH; insert "proceedings, other than criminal proceedings,".

## Sec. 14.

## THIRD SCHEDULE.

The Second Schedule to the Supreme Court Act, 1970, is further amended—

- (a) by omitting from the Second Column the matter relating to paragraphs (a), (b), (c), (d), (e) and (f) of Schedule N to Act No. 18, 1899;
- (b) by omitting from the Second Column the matter relating to section nine of Act No. 16, 1900;
- (c) by omitting from the matter relating to section seven of Act No. 42, 1924, in the Second Column the words "scales of fees and";
- (d) by omitting from the Second Column the matter relating to paragraph (a) of subsection three of section sixty-three of Act No. 15, 1926.

SYDNEY