



Supreme Court Rules (Amendment No 364) 2002

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 19 August 2002.

Steven Jupp

Secretary of the Rule Committee

Explanatory note

Part 52A rule 42 (1) of the *Supreme Court Rules 1970* provides that a trustee or mortgagee who is a party to proceedings in the Supreme Court in the capacity of trustee or mortgagee is entitled to pay the costs of the proceedings out of the fund held by the trustee or out of the mortgaged property, unless the Court orders otherwise.

Part 52A rule 42 (2) provides that the Court may only order otherwise where the trustee or mortgagee has acted unreasonably or (in the case of a trustee) has acted for the trustee's own benefit rather than for the benefit of the fund.

The object of these Rules is to amend the *Supreme Court Rules 1970* so as to enable a Registrar of the Court to exercise the power of the Court to make an order as to costs under Part 52A rule 42. A Registrar will only be able to exercise the power in proceedings that are in the Possession List (which comprises certain proceedings on a claim for possession of land).

2002 No 654

Clause 1 Supreme Court Rules (Amendment No 364) 2002

Supreme Court Rules (Amendment No 364) 2002

under the

Supreme Court Act 1970

1 Name of rules

These rules are the *Supreme Court Rules (Amendment No 364) 2002*.

2 Amendment of Supreme Court Rules 1970

The *Supreme Court Rules 1970* are amended as set out in Schedule 1.

Schedule 1 Amendment

(Rule 2)

Schedule E

Insert in numerical order in Part 1 of Schedule E in the matter relating to Part 52A:

Rule 42

Costs against trustee or mortgagee

Restricted to proceedings in the Possession List