



Supreme Court Rules (Amendment No 370) 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 18 November 2002.

Steven Jupp

Secretary of the Rule Committee

Explanatory note

The object of these rules is to amend the *Supreme Court Rules 1970* to provide that an originating process and a defence on a claim for damages, as originally filed and as amended, must not be filed unless the certification required under section 198L of the *Legal Profession Act 1987* is made. The form for the certification is also prescribed.

Section 198L of the *Legal Profession Act 1987* provides that a solicitor or barrister cannot file originating process or a defence on a claim for damages unless the solicitor or barrister certifies that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim or the defence (as appropriate) has reasonable prospects of success.

2002 No 886

Rule 1 Supreme Court Rules (Amendment No 370) 2002

Supreme Court Rules (Amendment No 370) 2002

under the

Supreme Court Act 1970

1 Name of rules

These rules are the *Supreme Court Rules (Amendment No 370) 2002*.

2 Amendment of Supreme Court Rules 1970

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

Schedule 1 Amendments

(Rule 2)

[1] Part 1, rule 9A

Insert after rule 9A (1):

- (1A) A document that is an originating process on a claim for damages or a defence on a claim for damages, and any fresh document filed to amend such a document, must not be filed unless it includes a certification referred to in section 198L (2) of the *Legal Profession Act 1987* and made by the relevant solicitor or barrister in the form prescribed by Form 158.
- (1B) Notwithstanding anything in these rules, the obligation to comply with subrule (1A) must not be waived.

[2] Schedule F Forms

Insert at the end of Forms 5, 9, 10, 11A, 11B, 17 and 19 the following:

Certification under section 198L of the *Legal Profession Act 1987*

I, (full name), certify that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that this claim (or, as the case may be, this defence/this cross-claim/this defence to cross-claim) has reasonable prospects of success.

(Signature) Date (Date certification signed)

Solicitor/barrister for the plaintiff/defendant/cross-claimant/cross-defendant (as the case may be)

[3] Schedule F

Insert before “*(This form does not apply to proceedings in the Court of Appeal)*” wherever occurring in Forms 6 and 7 the following:

Certification under section 198L of the *Legal Profession Act 1987*

I, (full name), certify that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that this claim (or, as the case may be, this defence/this cross-claim/this defence to cross-claim) has reasonable prospects of success.

(Signature) Date (Date certification signed)

Solicitor/barrister for the plaintiff/defendant/cross-claimant/cross-defendant (as the case may be)

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Schedule 1 Amendments

[4] Schedule F

Insert after Form 157:

Form 158

P 1, r 9A (1A)

Certification under section 198L of the Legal Profession Act 1987

I, (full name), certify that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that this claim (or, as the case may be, this defence/this cross-claim/this defence to cross-claim) has reasonable prospects of success.

(Signature) Date (Date certification signed)

Solicitor/barrister for the plaintiff/defendant/cross-claimant/cross-defendant (as the case may be)

[5] Schedule F

Omit “158–160. (Repealed)” from the Index of Forms. Insert instead:

158. Certification under section 198L of the *Legal Profession Act 1987*.

159–160. (Repealed)

BY AUTHORITY
