



Supreme Court Rules (Amendment No 384) 2003

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 17 November 2003.

Steven Jupp

Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend Part 50 of the *Supreme Court Rules 1970* in relation to money that has been paid into the Supreme Court and is the subject of an order to pay the money to a party. In particular, these rules make provision for the following:

- (a) the payment of interest accruing on money that has been paid into Court to abide the decision in the proceedings,
- (b) the payment of such money and interest if parties fail to appear before the Court after being notified of the Court's intention to order the payment of the money or interest,
- (c) the payment of unclaimed money.

2003 No 883

Clause 1 Supreme Court Rules (Amendment No 384) 2003

Supreme Court Rules (Amendment No 384) 2003

under the

Supreme Court Act 1970

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 384) 2003*.

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 50, rules 5A and 6

Omit rule 6. Insert instead:

5A Interest—money paid into Court as security for costs or as security on an appeal

- (1) If money is paid into Court as security for costs or as security on an appeal, or is paid into Court pursuant to Part 72A Division 2 (which relates to money paid into Court in an arbitration), interest on the money is not to be paid to any party.
- (2) Subrule (1) does not apply to interest accruing on money paid to the Public Trustee under rule 6A.

6 Interest—money paid into Court to abide the decision in proceedings

- (1) This rule applies if money is paid into Court pursuant to an order, to abide the decision in the proceedings, and the money is invested under rule 5 or is paid to the Public Trustee as referred to in rule 6A.
- (2) The Court may, on application by a party or by its own motion, order the payment of interest to any party.
- (3) Despite subrule (2), if the Court makes an order that the whole of the money be paid to one or more parties and the order does not expressly provide for the payment (or non-payment) of any interest accruing on the money, any interest accruing on the money is to be paid to the party or parties.
- (4) The interest paid to a party under subrule (3) is to bear the same proportion to the total interest accruing on the total amount of money paid into Court as the money paid to the party bears to the total amount of money paid into Court, unless the Court orders otherwise.
- (5) In this rule:
interest accruing on money means any interest accruing on the money as a result of its investment under rule 5 or payment to the Public Trustee under rule 6A.

2003 No 883

Supreme Court Rules (Amendment No 384) 2003

Schedule 1 Amendments

[2] Rule 6AA

Insert after rule 6A:

6AA Non-attendance of parties following notice by Court

- (1) If the Court has given notice to parties of its intention to order the payment to a party or parties of money paid into Court or any interest accruing on that money and one or more of those parties fails or fail to attend Court as directed in the notice, the Court may:
 - (a) order the payment of the money or any interest accruing on that money (or both) to one or more parties, in such proportions as the Court thinks fit, or
 - (b) direct the registrar to pay the money or interest accruing on the money (or both) to the Treasurer for the purpose of paying the money and any interest on the money to the Consolidated Fund, or
 - (c) determine not to make any order.
- (2) In this rule:

interest accruing on money means any interest accruing on the money as a result of its investment under rule 5 or payment to the Public Trustee under rule 6A.

[3] Part 50, rule 6B Unclaimed funds

Insert “or interest accruing on those funds” after “into Court” in subrule (1).

[4] Part 50, rule 6B

Insert after subrule (1):

- (1A) For the purposes of subrule (1), funds or interest are unclaimed if:
 - (a) the funds or interest have not been paid to the Treasurer pursuant to a direction made under rule 6AA (1) (b), and
 - (b) judgment has been entered on a matter in relation to which funds have been paid into Court, and

- (c) the whole or any part of those funds is unclaimed within 6 years of either of the following:
- (i) the making of an order for the payment of the whole of the funds (or any part that is unclaimed),
 - (ii) if no such order is made—the date of judgment.

[5] Part 50, rule 6B

Insert after subrule (6):

- (7) In this rule:

interest accruing on funds means any interest accruing on the funds as a result of its investment under rule 5 or payment to the Public Trustee under rule 6A.

[6] Schedule E Powers of registrars

Insert in Part 1 of Schedule E after the matter relating to Part 49:

Part 50—

Rule 6 (2)	Payment out of Court of interest accruing on money paid into Court.	Restricted to matters where 12 months or more has elapsed since the Court has ordered that any money remaining in Court be paid.
Rule 6AA	Non-attendance of parties following notice by Court in relation to proposed order concerning money paid into Court.	Restricted to matters where 12 months or more has elapsed since judgment given.