



New South Wales

Supreme Court Rules (Amendment No 409) 2006

under the

Supreme Court Act 1970

The Supreme Court Rule Committee made the following rules of court under the *Supreme Court Act 1970* on 20 March 2006.

Steven Jupp
Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend the *Supreme Court Rules 1970* as a consequence of amendments made by the *Crimes (Administration of Sentences) Amendment (Parole) Act 2004* that make decisions of the Parole Authority reviewable by the Supreme Court, rather than the Court of Criminal Appeal. The decisions concerned are those made about the release of offenders on parole and the revocation of parole orders, periodic detention orders or home detention orders.

In particular, these Rules provide for the forms that are to be used for those applications and require the Secretary of the Parole Authority to send material to the Registrar concerning the decision to which such an application relates.

These Rules also provide for the relevant prescribed forms set out in the *Supreme Court Rules 1970* to be used for the purposes of criminal proceedings in the Supreme Court, rather than any forms that are approved by the Uniform Rules Committee constituted under the *Civil Procedure Act 2005*.

2006 No 137

Rule 1 Supreme Court Rules (Amendment No 409) 2006

Supreme Court Rules (Amendment No 409) 2006

under the

Supreme Court Act 1970

1 Name of Rules

These Rules are the *Supreme Court Rules (Amendment No 409) 2006*.

2 Amendment of Supreme Court Rules 1970

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

Schedule 1 Amendments

(Clause 2)

[1] Part 75 Criminal proceedings

Insert “, other than Part 1 rule 11 (3)” after “(preliminary matters)” in rule 2 (a).

[2] Part 75, rule 3 (1) (g) (i)

Insert “33.3 (1),” after “rules”.

[3] Part 75, rule 3AA

Insert after rule 3:

3AA Forms approved by Uniform Rules Committee not to be used

Despite anything to the contrary in this Part, a form approved under section 17 of the *Civil Procedure Act 2005* is not to be used for the purposes of proceedings in the Court that are specified in the Third Schedule to the Act or in proceedings to which Division 2 applies.

[4] Part 84

Insert after Part 83:

Part 84 Crimes (Administration of Sentences) Act 1999

1 Application by offender for direction relating to decision of Parole Authority

An application to the Court by an offender under section 155 or 176 of the *Crimes (Administration of Sentences) Act 1999* in relation to a decision of the Parole Authority is to be made by sending the application in Form 161 to the Registrar.

2 Application by State for direction relating to decision of Parole Authority

An application to the Court by the Attorney General or the Director of Public Prosecutions under section 156 or 177 of the *Crimes (Administration of Sentences) Act 1999* in relation to a decision of the Parole Authority is to be made by sending the application in Form 162 to the Registrar.

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Schedule 1 Amendments

3 Secretary of Parole Authority to forward documents to Registrar

- (1) On the request of the Registrar, the Secretary of the Parole Authority must, unless the Court otherwise orders, forward the following material to the Registrar concerning the decision to which a relevant application relates:
 - (a) copies of any reports, documents, submissions and other information placed before the Authority when it made the decision,
 - (b) a copy of that part of the minutes of the Authority in which the reason for the decision was recorded.
- (2) In this rule:

relevant application means an application made under section 155, 156, 177 or 178 of the *Crimes (Administration of Sentences) Act 1999*.

[5] Schedule F Forms

Insert at the end of the Schedule:

Form 161

P 84, r 1

APPLICATION FOR DIRECTION TO PAROLE AUTHORITY

To the Registrar:

Date:

I, (*full name*), apply to the Court for a direction to be given to the Parole Authority that the information on which the Authority on (*date*) based its decision:

- *(a) under section 141/149/150* of the *Crimes (Administration of Sentences) Act 1999* that I should not be released on parole was false/misleading/irrelevant*.
- *(b) under section 130/163/167/170 (1)* of the *Crimes (Administration of Sentences) Act 1999* to revoke the parole order/periodic detention order/home detention order* relating to me was false/misleading/irrelevant*.

The information that I believe was false/misleading/irrelevant* is set out on page 2 of this application.

* *Strike out any words that are not applicable.*

(*signed*)†
Applicant

† *This application must be signed by the applicant and, if the applicant cannot write, the applicant's mark must be attested by a witness whose name and address must be given.*

The applicant must answer the following question:
Do you desire to appear in person at the hearing or determination of your application?

If the answer is "yes", the applicant must state the grounds on which the applicant believes he or she should be allowed to do so.

(Page 2 of application)

The following information was false:*

The following information was misleading:*

The following information was irrelevant:*

* *Strike out any words that are not applicable.*

Form 162

P 84, r 2

**APPLICATION BY STATE FOR DIRECTION TO PAROLE
AUTHORITY**

To the Registrar:

Date:

The Attorney General/The Director of Public Prosecutions* applies to the Court for a direction to be given to the Parole Authority that the information on which the Authority on *(date)* based its decision under section *(number of appropriate section)* of the *Crimes (Administration of Sentences) Act 1999*:

*(a) that *(name of offender)* should be released on parole was false/misleading/irrelevant*.

*(b) not to revoke the parole order relating to *(name of offender)* was false/misleading/irrelevant*.

The information that I believe was false/misleading/irrelevant* is set out on page 2 of this application.

* *Strike out any words that are not applicable.*

(signed)

Applicant

(Page 2 of application)

The following information was false:*

The following information was misleading:*

The following information was irrelevant:*

* *Strike out any words that are not applicable.*

BY AUTHORITY