



New South Wales

Supreme Court (Corporations) Amendment (No 6) Rules 2007

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 March 2007.

Steven Jupp
Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend the *Supreme Court (Corporations) Rules 1999*:

- (a) to provide that Part 6 Division 8 of the *Uniform Civil Procedure Rules 2005* applies to the determination of a question of law referred to the Court by:
 - (i) the Takeovers Panel under section 659A of the *Corporations Act 2001* of the Commonwealth, or
 - (ii) the Australian Securities and Investment Commission under section 61 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth, and
- (b) to ensure that the Court's attention is drawn to section 659B of the *Corporations Act 2001* of the Commonwealth in proceedings to which that section applies, and
- (c) to make certain amendments consequent on the repeal of Part 60 of the *Supreme Court Rules 1970*, and
- (d) to make minor amendments by way of law revision.

These rules, in so far as they give effect to the object referred to in paragraph (a) above, are made in connection with *Uniform Civil Procedure Rules (Amendment No 13) 2007*.

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Rule 1 Supreme Court (Corporations) Amendment (No 6) Rules 2007

Supreme Court (Corporations) Amendment (No 6) Rules 2007

under the

Supreme Court Act 1970

1 Name of Rules

These Rules are the *Supreme Court (Corporations) Amendment (No 6) Rules 2007*.

2 Commencement

These Rules commence on 5 April 2007.

3 Amendment of Supreme Court (Corporations) Rules 1999

The *Supreme Court (Corporations) Rules 1999* are amended as set out in Schedule 1.

Schedule 1 Amendments

(Rule 3)

- [1] **Rule 2.2 Originating process and interlocutory process—Forms 2 and 3**
Omit “interlocutory” from rule 2.2 (4) (b) (i).
- [2] **Rule 2.7 Service of originating process or interlocutory process and supporting affidavit**
Omit “interlocutory application” wherever occurring from rule 2.7 (2) (a) and (b).
Insert instead “application in the interlocutory process”.
- [3] **Rule 5.4 Affidavit in support of application for winding up (Corporations Act s 459P, s 462, s 464)**
Insert “a” after “seeking an order that” in rule 5.4 (1).
- [4] **Rules 12.1A and 12.1B**
Insert after rule 12.1:
- 12.1A Reference to Court of question of law arising in proceeding before Takeovers Panel (Corporations Act s 659A)**
Part 6 Division 8 of the *Uniform Civil Procedure Rules 2005* applies, with any necessary adaptations, to a reference of a question of law arising in a proceeding before the Takeovers Panel to the Court under section 659A of the Corporations Act.
- 12.1B Notification to Court where proceeding is commenced before end of takeover bid period (Corporations Act s 659B)**
- (1) This rule applies to a party to a proceeding who suspects or becomes aware that:
 - (a) the proceeding was commenced in relation to a takeover bid, or proposed takeover bid, before the end of the bid period, and
 - (b) the proceeding falls within the definition of *court proceedings in relation to a takeover bid or proposed takeover bid* in subsection 659B (4) of the Corporations Act.
 - (2) The party identified in subrule (1) must, immediately on suspecting or becoming aware of the matters mentioned in subrule (1), notify any other party to the proceeding and the Court of that suspicion or knowledge.

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Schedule 1 Amendments

- (3) The party must comply with subrule (2) unless any other party to the proceeding has given a notice under this rule to the party.

[5] Rule 15.1 Reference to Court of question of law arising at hearing of Commission (ASIC Act s 61)

Omit “Part 32 Divisions 1 and 2 of the *Supreme Court Rules 1970* apply” from the rule.

Insert instead “Part 6 Division 8 of the *Uniform Civil Procedure Rules 2005* applies”.

[6] Rule 16.1 Appeal from registrar: winding up order

Omit rule 16.1 (2) and (3). Insert instead:

- (2) Part 49 Division 3 of the *Uniform Civil Procedure Rules 2005* shall apply, making such changes as it is necessary to make, to an appeal under subrule (1).
- (3) For the purpose of the application of subrule (2), Part 49 Division 3 of the *Uniform Civil Procedure Rules 2005* shall be read as if:
- (a) “registrar” were substituted for “Associate Judge” wherever occurring, and
 - (b) except in rule 49.11 (3), “rule 16.1 of the *Supreme Court (Corporations) Rules 1999*” were substituted for “this Division” wherever occurring, and
 - (c) in rule 49.8 (1), “rule 16.1 of the *Supreme Court (Corporations) Rules 1999*” were substituted for “rule 49.4”, and
 - (d) there were no reference to the District Court in rule 49.10 (2).

[7] Schedule 1 Forms

Omit “INTERLOCUTORY” from the heading to Part A of Form 3.

[8] Schedule 1, Form 3 Interlocutory process

Omit “interlocutory” wherever occurring from Part A.

[9] Schedule 1, Form 4 Notice of appearance

Omit the note to Part A of the Form. Insert instead:

Note. Unless the Court otherwise orders, a company may not appear in or defend proceedings otherwise than by a solicitor or by a director authorised in accordance with rules 7.1 and 7.2 of the *Uniform Civil Procedure Rules 2005*.

BY AUTHORITY
