

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1943.

A BILL

To make certain provisions in relation to general rules and orders, rules of court, rules, orders and regulations made or promulgated by the Supreme Court, or any Judge or Judges thereof; for this purpose to amend the Common Law Procedure Act, 1899, the Supreme Court Procedure Act, 1900, the Supreme Court and Circuit Courts Act, 1900-1943, the Equity Act, 1901-1940, the Conveyancing Act, 1919-1942, the Wills, Probate and Administration Act, 1898-1940, the Legal Practitioners Act, 1898-1936, the Matrimonial Causes Act, 1899, and certain other Acts in certain respects; and for purposes connected therewith.

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the " Supreme Court Rules Act, 1943." Short title.

2. In sections four and five of this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

10 " Rules of court " shall include general rules, general orders, rules, orders and regulations made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof, but shall not include any rule, order or regulation made in
15 a particular case, action, suit or proceeding before the Supreme Court and having force and effect in relation to and being applicable to that particular case, action, suit or proceeding only.

3. The enactments mentioned in the Schedule to this Amendment of Acts enumerated in Schedule.
20 Act are hereby amended in the manner indicated in the said Schedule.

4. (1) This section shall apply to rules of court made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power Rules of court made pursuant to power conferred otherwise than by Acts enumerated in Schedule.
25 conferred on such Supreme Court, Judge or Judges otherwise than pursuant to the Acts mentioned in the Schedule to this Act.

(2) All rules of court to which this section applies shall—

- 30 (a) be published in the Gazette ;
- (b) take effect from the date of such publication or from a later date to be specified in such rules of court ; and
- 35 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of
40 which notice has been given at any time within fifteen sitting

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sitting days after such rules of court have been laid before such House disallowing any rule of court or part thereof such rule of court or part shall thereupon cease to have effect.

5 **5.** Rules of court made or promulgated by the Supreme Court of New South Wales or any Judge or Judges thereof by virtue of any power howsoever conferred on such Supreme Court, Judge or Judges, and in force at the commencement of this Act, shall not be affected by the provisions of this Act, but may be amended, repealed or replaced by rules of court lawfully made after such commencement.

Saving as to rules of court.

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SCHEDULE.

Reference to Act.	Short Title.	Amendment.
No. 13, 1898 ...	Wills, Probate and Administration Act, 1898.	<p>Section 154.—Omit subsection two insert the following new subsection :—</p> <p>(2) All such general rules shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such general rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules have been laid before such House disallowing any general rule or part thereof such general rule or part shall thereupon cease to have effect.</p>
No. 17, 1898 ...	Conveyancing and Law of Property Act, 1898.	<p>Section 81.—Omit subsection two insert the following new subsection :—</p> <p>(2) All such rules and orders shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of publication or from a later date to be specified in such rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.</p>
No. 22, 1898 ...	Legal Practitioners Act, 1898.	<p>Section 6.—Insert at the end thereof the following new subsection :—</p> <p>(2) All rules so made and promulgated shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in</p>

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Reference to Act.	Short Title.	Amendment.
No. 22, 1898 ...	Legal Practitioners Act, 1898— <i>continued.</i>	<p>session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.</p> <p>Section 81.—Omit all words following the words "rescind such rules" insert the following new subsection :—</p> <p>(2) All rules of court and any amendment or rescission thereof made under the authority of this section shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified therein; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules of court, amendment or rescission have been laid before such House disallowing any rule of court or part thereof or any amendment or rescission such rule of court or part or amendment or rescission shall thereupon cease to have effect.</p>
No. 45, 1898 ...	Lunacy Act of 1898	<p>Section 169.—Omit subsection two insert the following new subsection :—</p> <p>(2) All general orders and rules made under this section shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such general orders and rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p>

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Reference to Act.	Short Title.	Amendment.
No. 45, 1898 ...	Lunacy Act of 1898 — <i>continued.</i>	If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general orders and rules have been laid before such House disallowing any general order or rule or part thereof such general order or rule or part shall thereupon cease to have effect.
No. 14, 1899 ...	Matrimonial Causes Act, 1899.	Section 91.—Omit from subsection four the words "A copy of every such rule shall be" insert the following words—"Every such rule shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules; and (c) be".
No. 18, 1899 ...	Landlord and Tenant Act of 1899,	Section 15.—Insert at the end thereof the following new subsection :— (2) Such general rules and orders shall— (a) be published in the Gazette; (b) take effect from the date of publication or from a later date to be specified in such rules and orders; and (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules and orders have been laid before such House disallowing any rule or order of part thereof, such rule or order or part shall thereupon cease to have effect.
No. 21, 1899 ...	Common Law Procedure Act, 1899.	Section 266.—Insert at the end thereof the following new subsection :— (2) All such rules shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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Reference to Act.	Short Title.	Amendment.
No. 21, 1899 ...	Common Law Procedure Act, 1899 — <i>continued.</i>	<p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.</p> <p>Section 268.—</p> <p>(a) Omit from subsection three the words “ or before the Colonial Parliament at any time before the commencement of the operation of any such rule.”</p> <p>(b) Insert next after subsection three the following new subsection :—</p> <p>(3A) All general rules and orders, rules, orders or regulations made pursuant to the foregoing provisions of this section shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such general rules and orders, rules, orders or regulations; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules and orders, rules, orders or regulations have been laid before such House disallowing any general rule or order, or rule, order or regulation, or part thereof, such general rule or order, or rule, order or regulation, or part, shall thereupon cease to have effect.</p> <p>Section 269.—Insert at the end thereof the following new subsection :—</p> <p>(4) All rules and orders (other than rules and orders applicable to a particular case only) so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after</p>

*Supreme Court Rules.*SCHEDULE—*continued.*

Reference to Act.	Short Title.	Amendment.
No. 21, 1899 ...	Common Law Procedure Act, 1899 — <i>continued.</i>	<p>publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules and orders have been laid before such House disallowing any rule or order or part thereof such rule or order or part shall thereupon cease to have effect.</p>
No. 49, 1900 ...	Supreme Court Procedure Act, 1900.	<p>Section 17.—Omit the section insert the following new section :—</p> <p>17. All rules of court made under the powers herein contained shall—</p> <p>(a) be published in the Gazette; rules.</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules of court; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules of court have been laid before such House disallowing any rule of court or part thereof such rule of court or part shall thereupon cease to have effect.</p>
No. 35, 1900 ...	Supreme Court and Circuit Courts Act, 1900.	<p>Section 40.—Insert at the end thereof the following new subsection :—</p> <p>(2) All rules and orders so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen</p>

*Supreme Court Rules.*SCHEDULE—*continued.*

Reference to Act.	Short Title.	Amendment.
No. 35, 1900 ...	Supreme Court and Circuit Courts Act, 1900— <i>continued.</i>	sitting days after such rules and orders have been laid before such House disallowing any rule or order or part thereof such rule or order or part shall thereupon cease to have effect.
No. 24, 1901 ...	Equity Act, 1901...	Section 94.—Omit subsection three insert the following new subsection :— (3) All rules made under this Act shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.
No. 24, 1902 ...	Arrest on Mesne Process Act, 1902.	Section 35.—Insert at the end thereof the following new subsection :— (2) All rules so made shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.
No. 27, 1902 ...	Justices Act, 1902	Section 107.—Insert at the end thereof the following new subsection :— (3) Rules and orders made under this section shall— (a) be published in the Gazette;

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Reference to Act.	Short Title.	Amendment.
No. 27, 1902 ...	Justices Act, 1902 —continued.	<p>(b) take effect from the date of publication or from a later date to be specified in such rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules and orders have been laid before such House disallowing any rule or order or part thereof, such rule or order or part shall thereupon cease to have effect.</p>
No. 29, 1902 ...	Arbitration Act, 1902.	<p>Section 20.—Insert at the end thereof the following new subsection :—</p> <p>(2) All general rules and orders so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such general rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules and orders have been laid before such House disallowing any general rule or order or part thereof such general rule or order or part shall thereupon cease to have effect.</p>
No. 19, 1903 ...	Commercial Causes Act, 1903.	<p>Section 8.—Insert at the end thereof the following new subsection :—</p> <p>(2) All such rules of court shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p>

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Reference to Act.	Short Title.	Amendment.
No. 19, 1903 ...	Commercial Causes Act, 1903— <i>continued.</i>	If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.
No. 6, 1904 ...	Legal Process Facilitation Act, 1904.	Section 3.—Insert at the end thereof the following new subsection:— (2) All rules of court so made shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules of court; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules of court have been laid before such House disallowing any rule of court or part thereof such rule of court or part shall thereupon cease to have effect.
No. 49, 1906 ...	Mining Act, 1906...	New section 186A.—Insert next after section one hundred and eighty-six the following new section:— 186A. All rules, general rules, Rules, and rules and orders made or pre- etc., of scribed under subsection two of Supreme Court section one hundred and sixty, and subsection two of section one judges hundred and sixty-seven and sub- thereof. section two of section one hundred and seventy-four of this Act shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified therein; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting

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SCHEDULE—*continued.*

Reference to Act.	Short Title.	Amendment.
No. 49, 1906 ...	Mining Act, 1906 — <i>continued.</i>	days after such rules, general rules, and rules and orders have been laid before such House disallowing any rule, general rule, or order or part thereof, such rule, general rule, or order, or part shall thereupon cease to have effect.
No. 16, 1912 ...	Criminal Appeal Act of 1912.	Section 28.—Omit subsection three insert the following new subsection :— (3) All rules of court made under this Act shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules of court; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules of court have been laid before such House disallowing any rule of court or part thereof such rule of court or part shall thereupon cease to have effect.
No. 24, 1912 ...	Inebriates Act, 1912.	Section 27.—Insert at the end thereof the following new subsection :— (2) All rules so made shall— (a) be published in the Gazette; (b) take effect from the date of such publication or from a later date to be specified in such rules; and (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.

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Reference to Act.	Short Title.	Amendment.
No. 27, 1912 ...	Claims Against the Government and Crown Suits Act, 1912.	<p>Section 13.—Omit paragraphs (ii), (iii), (iv) insert the following new paragraph :—</p> <p>(ii) All general rules so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such general rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules have been laid before such House disallowing any general rule or part thereof such general rule or part shall thereupon cease to have effect.</p>
No. 31, 1912 ...	Jury Act, 1912 ...	<p>Section 77.—Insert at the end thereof the following new subsection :—</p> <p>(2) Such general rules shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of publication or from a later date to be specified in such rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.</p>
No. 36, 1918 ...	Poor Persons Legal Remedies Act, 1918.	<p>Section 3.—Omit subsection three insert the following new subsection :—</p> <p>(3) All rules of court so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules of court; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p>

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Reference to Act.	Short Title.	Amendment.
No. 36, 1918 ...	Poor Persons Legal Remedies Act, 1918— <i>continued.</i>	<p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules of court have been laid before such House disallowing any rule of court or part thereof such rule of court or part shall thereupon cease to have effect.</p>
No. 6, 1919 ...	Conveyancing Act, 1919.	<p>Section 172.—Insert at the end thereof the following new subsection :—</p> <p>(2) Such general rules shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of publication or from a later date to be specified in such general rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules have been laid before such House disallowing any general rule or part thereof, such general rule or part shall thereupon cease to have effect.</p> <p>Section 210.—Omit the section insert the following new section :—</p> <p>210. Any general order under <small>General orders,</small> this Part shall—</p> <p>(a) be published in the Gazette; <small>publication and</small></p> <p>(b) take effect from the date of <small>disallow-</small> such publication or from a <small>ance.</small> later date to be specified in such general order; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general order has been laid before such House disallowing any general order or part thereof such general order or part shall thereupon cease to have effect.</p>

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SCHEDULE—*continued.*

Reference to Act.	Short Title.	Amendment.
No. 42, 1924 ...	Administration of Justice Act, 1924.	<p>Insert next after section seven the following new section :—</p> <p>7A. Any rules of court made under this Part of this Act shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof such rule or part shall thereupon cease to have effect.</p>
No. 14, 1925 ...	Trustee Act, 1925...	<p>Section 104.—Insert at the end thereof the following new subsection :—</p> <p>(2) All general rules and orders so made shall—</p> <p>(a) be published in the Gazette;</p> <p>(b) take effect from the date of such publication or from a later date to be specified in such rules and orders; and</p> <p>(c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.</p> <p>If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such general rules and orders have been laid before such House disallowing any general rule or order or part thereof such general rule or order or part shall thereupon cease to have effect.</p>