

**SUPREME COURT RULES (Amendment No. 254) 1991**

NEW SOUTH WALES



*[Published in Gazette No. 82 of 24 May 1991]*

1. These rules are made by the Rule Committee on 13 May 1991.
2. The Supreme Court Rules 1970 are amended as follows—  
Part 22 rule 7 (3)  
Omit the subrule and insert instead—
  - (3) Subrules (1) and (2) shall not apply—
    - (a) where a notice of offer provides that the offer is not made without prejudice; or
    - (b) in so far as disclosure is necessary to enable the offer to be taken into account for the purpose of section 94 (3) of the Act.
3. The Supreme Court Rules 1970 are further amended as follows—
  - (a) Part 53 rule 2 (1) (d)  
Omit the comma and insert instead “; or”.
  - (b) Part 53 rule 2 (1)  
After paragraph (d) insert—
    - (e) that there is reason to believe that a plaintiff being a body corporate will be unable to pay the costs of the defendant if ordered to do so,
4. The Supreme Court Rules 1970 are further amended as follows—  
Part 14 rule 2 (2) (b)  
Omit “building and engineering list” and insert instead “Construction List”.
5. The Supreme Court Rules 1970 are further amended as follows—
  - (a) Part 23 rule 1 (1)

Omit the subrule and insert instead—

(1) Subject to this rule and to any direction given in a particular case, after the pleadings between any parties are closed, any of those parties may—

- (a) where the place of trial is Sydney, not later than two months prior to the call-over; and
- (b) in any other case, not later than two months prior to the beginning of the sittings at the place where the trial is to take place,

by notice for discovery served on any other of those parties, require the party served to give discovery of documents, with or without verification.

(b) Part 24 rule 1 (1)

Omit the subrule and insert instead—

(1) Subject to this rule and to any direction given in a particular case, after the pleadings between any parties are closed, any of those parties may—

- (a) where the place of trial is Sydney, not later than two months prior to the call-over; and
- (b) in any other case, not later than two months prior to the beginning of the sittings at the place where the trial is to take place,

serve on any other of those parties a notice requiring the party served to answer not more than 30, or such other number as the Court may by order specify, separate specified interrogatories relating to any matter in question between the interrogating party and the party served.

6. The Criminal Appeal Rules are amended as follows—

(a) rules 60 and 61

Omit the rules and insert instead—

60. Every person ordered by the Court to—

- (a) attend and be examined before the Court or an Examiner; or
  - (b) produce any document or thing to the Court,
- shall be personally served with a copy of the order.

61. (1) An order to attend and be examined before the Court shall be in Form XIII.
- (2) An order to produce any document or thing to the Court shall be in Form XIV.
- (3) An order to attend and be examined, otherwise than before the Court, shall be in Form XVI and shall specify the person appointed as Examiner and the place where the witness is to be examined.

(b) Forms XIV and XVI

Omit the Forms and insert instead—

XIII

Criminal Appeal Act, 1912

R. v.

*Order for Witness to attend before Court.*

The            day of            19    .

In the Court of Criminal Appeal.

THE Court of Criminal Appeal hereby orders that you attend before the said Court and be examined as a witness on the            day of            19    , at the Law Courts Building, Queen's Square, Sydney, at the hour of

By the Court,

To

Registrar.

XIV

Criminal Appeal Act, 1912

R. v.

*Order to Produce.*

The                    day of                    19                    .

In the Court of Criminal Appeal.

THE Court of Criminal Appeal hereby orders that you produce to the (said Court/Registrar‡) on the                    day of                    19                    , at the Law Courts Building, Queen's Square, Sydney at the hour of                    , the following documents and things—

By the Court,

To

Registrar.

\* *Here insert documents and things which the witness has been ordered to produce.*

‡ *Strike out word or words which are not applicable.*

## XVI

Criminal Appeal Act, 1912

R. v.

*Order for Witness to attend before Examiner.*

The            day of            19            .

In the Court of Criminal Appeal.

THE Court of Criminal Appeal hereby orders that you attend and be examined as a witness before \*            at †            on the            day of 19            , at such time as shall be appointed by the said \*            , (and have with you the following documents and things— # \*\*)

By the Court,

To

Registrar.

\* *Specify Examiner.*† *Specify place of examination.*# *Here insert anything which the witness has been ordered to produce.*\*\* *Strike out if not applicable.*

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**EXPLANATORY NOTE**

(This note does not form part of the rules).

1. The purpose of the amendment contained in paragraph 2 is to allow disclosure of an offer to enable the offer to be taken into account in deciding whether interest is to be awarded on a judgement for the recovery of money.
2. The amendment contained in paragraph 3 is made for an abundance of caution to make it clear that the power of the Court to order a plaintiff body corporate to give security for costs is not restricted to proceedings under the Corporations Law.
3. The purpose of the amendment contained in paragraph 4 is to change a reference to the building and engineering list to the Construction List, following the recent change of name of the List.
4. The purpose of the amendment contained in paragraph 5 is to extend the time for giving notice for discovery and for giving notice to answer interrogatories.
5. The purpose of the amendments contained in paragraph 6 is—
  - (a) to provide separate forms for a subpoena to produce to the Court and a subpoena to attend the Court; and
  - (b) to provide for the optional deletion of the reference to produce documents in the subpoena to attend before an Examiner; and
  - (c) to make the description of documents in a subpoena to produce more closely resemble the description in subpoenas prescribed by the Supreme Court Rules 1970; and
  - (d) to make consequential and ancillary amendments to rules 60 and 61.
6. Words and figures underlined in the above Rules are intended to be represented in italics when printed.

M. A. Blay, Secretary of the Rule Committee.

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