

SUPREME COURT RULES (AMENDMENT No. 255) 1991

NEW SOUTH WALES



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1. These rules are made by the Rule Committee on 17 June 1991.
2. The Supreme Court Rules 1970 are amended as follows—

(a) Part 23

In Division 3 next after rule 15 insert—

Challenge to claim of privilege (cf P36-13 (3A)).

15A. Where a party making a list of documents claims that any document in his possession, custody or power is privileged from production, the Court may, if it thinks fit—

- (a) permit evidence in relation to the claim to be given by any other party by affidavit or otherwise; and
- (b) permit cross-examination on any affidavit used in support of the claim.

(b) Part 36 rule 13

After subrule (3) insert—

(3A) Where a party to any proceedings claims privilege from production of any document, the Court may, if it thinks fit—

- (a) permit evidence in relation to the claim to be given by any other party by affidavit or otherwise; and
- (b) permit cross-examination on any affidavit used in support of the claim.

(c) Part 36 rule 13 (5)

Omit “This rule does” and insert instead “Subrules (1), (2) and (3) do”.

3. The Supreme Court Rules 1970 are further amended as follows—

(a) Part 1 rule 3

In the matter relating to Part 77 insert, next under “National Crime Authority Act 1984”—

in the column “Statute”—	in the column “Division”—	in the column “Rules”—
“Police Regulation (Allegations of Misconduct) Act 1978	32	98”

(b) Part 77

After Division 31 insert—

DIVISION 32—Police Regulation (Allegations of Misconduct) Act 1978

98. Where a contempt of the Tribunal constituted by (1) the Police Regulation (Allegations of Misconduct) Act 1978 (“the subject Act”) is punishable by the Court, the Tribunal may present to the Court a certificate setting out the details which the Tribunal considers constitute the contempt.

(2) If the Tribunal presents such a certificate to the Court, the practice and procedure under section 18B of the Royal Commissions Act 1923 shall apply in the same way as it does when a Commissioner presents a certificate to the Court under that section.

(3) Such a certificate is prima facie evidence of the matters certified.

4. The Supreme Court Rules 1970 are further amended as follows—
Part 66 Rule 9 (1)

Omit the subrule and insert instead—

(1) Where any signature by a solicitor (“the Solicitor”) is required or permitted for the purpose of any proceedings, the signature for the Solicitor by any of the following persons shall, as well as the signature of the Solicitor, be sufficient—

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- (a) a partner of the Solicitor;
 - (b) a solicitor who is agent of the Solicitor for the purpose of the proceedings;
 - (c) a partner of the agent;
 - (d) a solicitor employed by—
 - (i) the Solicitor;
 - (ii) the agent of the Solicitor;
 - (iii) the Solicitor’s employer; or
 - (iv) the firm in which the Solicitor or the agent is a partner; and
 - (e) a signatory authorized under subrule (2).
5. The Supreme Court Rules 1970 are further amended as follows—
- (a) Part 12 rule 5 (a) (xxx)—
Omit “.” and insert instead “;”
 - (b) Part 12 rule 5 (a)
After paragraph (xxx) insert—
(xxxi) any “national scheme law” as defined in section 60 of the Corporations (New South Wales) Act 1990.

EXPLANATORY NOTE

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

1. The purpose of the amendments contained in paragraph 2 is to allow, if the court thinks fit—
 - (a) evidence to be given in opposition to a claim for privilege from production; and
 - (b) cross-examination on any affidavit used in support of a claim for privilege from production.
2. The purpose of the amendments contained in paragraph 3 is to prescribe, in relation to contempt under the Police Regulation (Allegations of Misconduct) Act 1978, a certification procedure similar to that prescribed by the Royal Commissions Act 1923.
3. The purpose of the amendment contained in paragraph 4 is to put beyond doubt the right of a solicitor employed by the employer of the solicitor on the record or by a firm in which the solicitor on the record or his agent is a partner, to sign court documents which can be signed by the solicitor on the record.

4. The purpose of the amendments contained in paragraph 5 is to place beyond doubt that proceedings under any “national scheme law”, as defined in section 60 of the Corporations (New South Wales) Act 1990, are assigned to the Equity Division.
5. 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.