

SUPREME COURT RULES (AMENDMENT No. 257) 1991
NEW SOUTH WALES



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1. These rules are made by the Rule Committee on 16 September 1991.
2. The Supreme Court Rules 1970 are amended as follows:

(a)	<i>Part</i>	<i>rule</i>	<i>omit</i>	<i>insert</i>
	7	2 (1) (c)	for him	
	7	2 (2)	him <i>where</i> <i>appearing</i>	the solicitor
	9	4 (e)	his	the solicitor's
	9	6 (2)	his agent	agent
	9	6 (3)	his agent	agent
	9	8 (1) (c)	his	the solicitor's
	11	4 (1) (c)	him	the solicitor
	23	6 (8) (a)	him	the solicitor
	23	15 (3)	his	the solicitor's
	23	15 (3)	he	the solicitor
	24	9 (3)	his	the solicitor's
	24	9 (3)	he	the solicitor
	52	56 (1)	he	the solicitor
	52	56 (1)	file his	file a
	52	56 (1)	copying his	copying the
	52	56 (2)	he	the solicitor
	52	59 (2)	his own	the solicitor's own
	52	66 (4)	his	the solicitor's
	52	68 (2)	his	the solicitor's
	52	68 (3)	he	the solicitor
	52	69 (2)	his	a
	63	5 (3) (b)	he knows	the solicitor knows
	66	2	his partner	a partner of the solicitor
	66	7 (2)	he	the solicitor
	66	7 (2)	his former	the former
	66	7 (2)	his intention	intention
	66	7 (4)	his	the

(b) Part 4 rule 4 (2)

After “corporation” insert “(other than a solicitor corporation)”.

(c) Part 9 rule 4 (1) (e)

Omit ‘ “I will accept service to my fax number” together with his’ and insert instead ‘the solicitor’s name and “will accept service to fax number” together with the solicitor’s’.

(d) Part 11 rule 1 (3)

After “corporation” insert “(other than a solicitor corporation)”.

(e) Part 23 rule 6

After subrule (8) insert:

(9) Where the solicitor for a party is a solicitor corporation, the certificate and explanation required by subrule (8) shall be given to the person instructing the corporation by a director of the corporation or by an officer or employee of the corporation who is a solicitor.

(f) Part 66 rule 9

After subrule (1) insert:

(1A) Anything that is required or permitted for the purpose of any proceedings to be signed by a solicitor is to be taken to have been signed by the solicitor (being a solicitor corporation) if

- (a) it has the corporation’s seal affixed to it; or
- (b) it is signed by a director of the corporation or by an officer or employee of the corporation who is a solicitor.

(g) Part 66

After rule 9 insert:

Actions by a solicitor corporation

10. Where, by or under these rules:

- (a) any act, matter or thing is authorised or required to be done by a solicitor for a person;

- (b) the solicitor is a solicitor corporation; and
- (c) the act, matter or thing can, in the circumstances of the case, only be done by a natural person, the act, matter or thing may be done by a director of the corporation or by an officer or employee of the corporation who is a solicitor.
- (h) SCHEDULE F Form 70A
 - (i) After “I” where first appearing insert “(or, name of solicitor corporation)”;
 - (ii) After “I have” insert “(or, it has)”.
- 3. Rule 5 of the Criminal Appeal Rules is amended by omitting “Any” and inserting instead “(1) Any” and by inserting after subrule (1):
 - (2) For the purposes of rule 3 and this rule, a notice is to be taken to have been signed by a solicitor (being a solicitor corporation) if:
 - (a) it has the corporation’s seal affixed to it; or
 - (b) it is signed by a director of the corporation or by an officer or employee of the corporation who is a solicitor.
- 4. The Supreme Court Rules 1970 are further amended as follows:
 - Part 2 rule 5 (1)
 - (a) Omit “the day on which the fixed vacation begins” and insert instead “25 December”.
 - (b) Omit “14” insert instead “9”.
- 5. The Supreme Court Rules 1970 are further amended as follows:
 - (a) Part 1 rule 3

Next under “Motor Accidents Act 1988” in the matter relating to Part 77 insert:

in the column “Statute”—	in the column “Division” —	in the column “Rules”—
“Mutual Assistance in Criminal Matters Act 1987 (Commonwealth)	26B	87K–87L
 - (b) Part 77

After Division 26A insert:

DIVISION 26B—*Mutual Assistance in Criminal
Matters Act 1987 (Commonwealth)*

Assignment of business

87K. Proceedings in the Court under the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth (the “subject Act”) are assigned to the Criminal Division.

Registration (s. 34)

87L. (1) A register of orders to which section 34 of the subject Act applies shall be kept in the registry.

(2) A copy mentioned in section 34 (9) of the subject Act is registered when it is included in the register.

(3) The registration of an order mentioned in section 34 (13) of the subject Act is cancelled when the Registrar notes its cancellation on the copy order included in the register.

6. The Supreme Court Rules 1970 are further amended as follows:
Part 52 rule 66 (1) (c)

Omit “indemnity” and insert instead “indemnify”.

7. The Supreme Court Rules 1970 are further amended as follows:

- (a) Part 1 rule 3

After “PART 16—PARTICULARS” insert:

DIVISION 1—*General—rr. 1–7*

DIVISION 2—*Interim payments—r. 8*

- (b) Part 16

- (i) After:

PART 16
PARTICULARS

insert:

DIVISION 1—*General*

- (ii) After rule 7 insert:

DIVISION 2—*Interim payments*

Interim payments

8. Where an application for an order under section 76E of the Act is made in proceedings in the Common Law Division, the plaintiff shall serve on

the defendant against whom the order is sought, no later than the date of filing of notice of the motion:

- (a) where the application relates to a claim made for damages in respect of personal injuries—the statement and the copies or originals of documents referred to in Part 33 rule 8A (2); or
- (b) where the application relates to a claim for damages under the Compensation to Relatives Act 1897 which includes a claim for loss of maintenance and support—the statement and the copies or originals of documents referred to in Part 33 rule 8A (4) and shall comply with Section 6 of that Act.
- (c) Part 22 rule 1 (2)

Omit the subrule and insert instead:

- (2) A notice of offer shall:
 - (a) be prepared in accordance with Part 65 rules 1–4;
 - (b) bear a statement to the effect that the offer is made in accordance with this Part; and
 - (c) where the offeror has made or been ordered to make an interim payment referred to in Division 2 of Part 5 of the Act to the offeree, state whether or not the offer is in addition to the payment so made or ordered.

EXPLANATORY NOTE

(This note does not form part of the rules)

1. The object of the amendments contained in paragraphs 2 and 3 are to make such changes as it is necessary to make in consequence of the passing of the Legal Profession (Solicitor Corporations) Amendment Act 1990.
2. The object of the amendment contained in paragraph 4 is to substitute the period from 25 December until 9 January (both dates inclusive) for the period from the beginning of the fixed vacation until 14 January (both dates inclusive), as the period during which time does not run during the fixed vacation in reckoning time fixed by the rules or any judgment or order for the doing of any act by a party.

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3. The object of the amendment contained in paragraph 5 is to:
 - (a) assign proceedings under the Mutual Assistance in Criminal Matters 1987 (Commonwealth) to the Criminal Division; and
 - (b) provide for registration and cancellation of orders under s. 34 of that Act.
4. The object of the amendment contained in paragraph 6 is to correct a typographical error.
5. The object of the amendments contained in paragraph 7 are:
 - (a) where a plaintiff is applying for an interim payment under section 76E of the Supreme Court Act 1970, to require the statement and copy documents referred to in Part 33 rules 8A (2) and (4) to be served on the defendant not later than the date of the application; and
 - (b) to require a notice of offer under Part 22 to state whether the offer is in addition to any interim payment that has been made or ordered to be made by the offeror.
6. Words or figures underlined in the above rules are intended to be represented in italics if printed.

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