

1991—No. 561

**SUPREME COURT (AMENDMENT No. 258) 1991—
RULE**

NEW SOUTH WALES



[Published in Gazette No. 151 of 25 October 1991]

1. These Rules are made by the Rule Committee on 14 October 1991.
2. The Service and Execution of Process Act (Courts other than the Supreme Court) Rules 1972 are amended as follows:
 - (a) Rule 6
 - (i) Omit “\$25.00” and “\$12.00” and insert instead “\$40.00” and “\$25.00” respectively;
 - (ii) After “6.” insert “(1)”; and
 - (iii) Insert after subrule (1):
 - (2) The fee for issuing a certificate of judgment under the Commonwealth Act in my Court shall be \$10.00.
 - (b) Rule 8

omit the rule and insert instead:

 8. The costs to be allowed under s. 22A of the Commonwealth Act shall not exceed the sum of:
 - (a) court fees paid by the plaintiff to the Court in which the certificate of judgment is registered in respect of registration or in respect of other proceedings in that Court under the Commonwealth Act to enforce the judgment; and
 - (b) \$233.00.
3. The amendment contained in paragraph 2 (a) takes effect on and from 18 November 1991.
4. The amendment contained in paragraph 2 (b) has effect in respect of proceedings in which a certificate of judgment is registered on or after 18 November 1991.

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5. The Supreme Court Rules 1970 are amended as follows:

SCHEDULE H Part 1

(a) Under the matter relating to the Public Health Act 1902 insert:

in the column “Act”—	in the column “Section— (unless otherwise stated)”—42 (a)	in column 2— Appeal from Local Court”
“Public Health Act 1991		

(b) Omit “Public Health Act 1902” and the matter beside that Act.

6. The amendment contained in paragraph 5 shall take effect on the date of commencement of the Public Health Act 1991.

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

(a) Part 11 rule 4

(i) Omit “(3)” and insert instead “(2)”.

(ii) After subrule (2) insert:

(3) A defendant who wishes to take no active part in proceedings may:

(a) include in the defendant’s appearance a statement that the defendant submits to the making of all orders sought and the giving or entry of judgment in respect of all claims made; and

(b) add to the statement “, save as to costs”.

(4) A defendant who has filed an appearance containing a statement referred to in subrule (3):

(a) shall not, except with the leave of the Court, file a defence or affidavit or take any other step in the proceedings; and

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(b) may at any time, by leave of the Court, file a defence or affidavit and take any other step in the proceedings upon such terms and conditions as may be imposed by the Court.

(5) Subrules (3) and (4) do not apply to proceedings in the Court of Appeal.

(b) Schedule F Form 16

Next under the first paragraph of the Form insert:
(*Include any statement under Part 11 rule 4 (3).*)

8. The Supreme Court Rules 1970 are further amended as follows:
Part 52 rule 59 (8)
Omit the subrule and insert instead:
(8) The Court may set aside or vary a certificate made pursuant to rule 50A (8).
9. The amendment contained in paragraph 8 shall not apply where a certificate is made in respect of a bill filed before 19 April 1991.
10. The Supreme Court Rules 1970 are further amended as follows:
Amendment 213 to the Supreme Court Rules
In paragraph 2 (2) omit “1988” and insert instead “1987”.
11. The Supreme Court Rules 1970 are further amended as follows:
Part 12 rule 5 (a)
Omit subparagraph (vi) and insert instead:
(vi) the Permanent Building Societies Act 1967;
12. The Supreme Court Rules 1970 are further amended as follows:
Part 34 rule 8A
Insert the following headnote to the rule:
Judgment notwithstanding verdict
13. The Supreme Court Rules 1970 are further amended as follows:
Part 6 rule 11
Omit “**Interest up to judgment**” .
14. The Supreme Court Rules 1970 are further amended as follows:
Part 36 rule 12 (1)
(a) Part 36 rule 12 (1) (a)
omit “or”

- (b) Part 36 rule 12 (1) (b)

After “;” insert “or”.

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

- (a) Part 60 rule 14 (2)

Omit “Part” and insert instead “Division”

- (b) Part 61 rule 3

After subrule (5) insert:

(6) This rule does not apply to an order to which Part 80 rule 23A (1) (which relates to an order for the winding up of a company) applies.

- (c) Part 80

After rule 23 insert:

Appeal from Registrar: winding up order

23A. (1) An appeal shall lie to the Court from a winding up order made by a registrar.

(2) Part 60 rules 9 and 11 to 15A shall apply, making such changes as it is necessary to make, to an appeal under subrule (1) as they apply to an appeal under Part 60 Division 3 (which relates to an appeal from a master to a Judge).

(3) For the purpose of the application of subrule (2), Part 60 rules 9 and 11 to 15A shall be read as if:

(a) “registrar” were substituted for “master”; and

(b) “Part 80 rule 23A” were substituted for “this Division”,

where appearing in those rules.

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

Schedule E Part 1

From the matter relating to Part 36 omit “13A (4)” and insert instead “13A (3)”.

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

1. The object of the amendment contained in paragraph 2 is to provide for increased fees and costs for registration and enforcement of judgments under the Service and Execution of Process Act 1901 of the Commonwealth.
2. The object of the amendment contained in paragraph 5 is to assign proceedings under Section 42 (a) of the Public Health Act 1991 to the Administrative Law Division and to omit a reference to the Public Health Act 1902.
3. The object of the amendment contained in paragraph 7 is to provide for entry of a submitting appearance (other than in the Court of Appeal).
4. The object of the amendment contained in paragraph 8 is to amend the reference to Part 52 rule 50A (7) contained in Part 52 rule 59 (8) so that the latter rule refers to rule 50A (8), following recent amendments to Part 52 rule 50A.
5. The object of the amendment contained in paragraph 10 is to put beyond doubt the taking of effect of paragraph 2 of Amendment 213 which contains an incorrect reference to an Act.
6. The object of the amendment contained in paragraph 11 is to correct an erroneous reference to a section in Amendment 237.
7. The object of the amendment contained in paragraph 12 is to insert a headnote to Part 34 rule 8A.
8. The object of the amendment contained in paragraph 13 is to omit a rule headnote inadvertently given to Part 6 rule 11 (2).
9. The object of the amendments contained in paragraph 14 is to move “or” to the end of the second last paragraph of rule 12 (1).
10. The object of the amendment contained in paragraph 15 (a) is to substitute a reference to the Division in which the amended rule is contained for an erroneous reference to the Part in which the rule is contained.
11. The object of the amendments contained in paragraphs 15 (b) and (c) is to require that a review of a winding up order of a company made by a registrar shall be by way of appeal and that the same rules that apply to an appeal from a master shall have effect.
12. The object of the amendment contained in paragraph 16 is to correct an erroneous reference to a rule.
13. Words and figures underlined in the above rules are intended to be represented in italics if printed.

M. A. BLAY,
Secretary of the Rule Committee
