
JUSTICE

JM301*

Supreme Court Act 1935

Supreme Court Amendment Rules (No. 2) 2001

Made by the Judges of the Supreme Court.

1. Citation

These rules may be cited as the *Supreme Court Amendment Rules (No. 2) 2001*.

2. The rules amended

The amendments in these rules are to the *Rules of the Supreme Court 1971**.

[* Reprinted as at 21 November 1994.

For amendments to 29 December 2000 see 1999 Index to Legislation of Western Australia, Table 4, pp. 287-8, and Gazette 10 March, 8 May, and 30 June 2000.]

3. Order 81G Rule 16 amended

(1) The Table to Order 81G Rule 16(3) is amended as follows:

- (a) by deleting the items relating to section 254E(1), 266(4), 445G(1), (2) and (3), 449B, 473(2) and (3), 511(1)(b), 532(2), 598, 1224(1) and (4), 1226, 1317JA(2), (4) and (5), 1318(2), and 1322(4);
- (b) by inserting the following items after the item relating to section 601CL(9) —

“

Chapters 6,6A,6B, 6C, 6D or 7	Any application under these Chapters
Section 1317S(2), (4) and (5)	For relief from liability for contravention of a civil penalty provision

”.

4. Order 81G Rule 21 amended

Order 81G Rule 21(1) is amended as follows:

- (a) after paragraph (a), by deleting “or”;

- (b) by deleting the comma after paragraph (b) and inserting instead —

“

; or

- (c) any other interested person,

”.

5. Order 81G Rule 30 amended

Order 81G Rule 30(a) is deleted and the following paragraph is inserted instead —

“

- (a) an application for an order under Part 2F.1 of the Law;

”.

6. Order 81G Rule 41 amended

Order 81G Rule 41(3) is repealed and the following subrule is inserted instead —

“

- (3) If —

- (a) an order is made appointing a provisional liquidator; and
(b) the order provides that the provisional liquidator may take into the provisional liquidator’s custody part only of the property of the company,

the order must include a short description of the part of the property of the company that the provisional liquidator may take into custody.

”.

7. Order 81G Rule 57 amended

Order 81G Rule 57(6) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
(b) after paragraph (c) by inserting the following paragraph —

“

- (ca) state particulars of any objection of which the receiver has received notice; and

”.

8. Order 81G Rule 58 amended

- (1) Order 81G Rule 58(2) is repealed and the following subrule is inserted instead —

“

- (2) The administrator must not apply for the order until after the date of the meeting of creditors mentioned in section 449E(1)(a) of the Law.

”.

- (2) Order 81G Rule 58(3)(b) is amended by deleting “committee of inspection” and inserting instead —
“ committee of creditors ”.

- (3) Order 81G Rule 58(7) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
(b) after paragraph (c) by inserting the following paragraph —

“

- (ca) state particulars of any objection of which the administrator has received notice; and

”.

9. Order 81G Rule 59 amended

- (1) Order 81G Rule 59(3)(b) is amended by deleting “committee of inspection” in both places where it occurs and inserting instead —

“ committee of creditors ”.

- (2) Order 81G Rule 59(7) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
(b) after paragraph (c) by inserting the following paragraph —

“

- (ca) state particulars of any objection of which the provisional liquidator has received notice; and

”.

10. Order 81G Rule 60 amended

- (1) Order 81G Rule 60(2)(b) is amended by deleting “the end of 28 days after”.

- (2) Order 81G Rule 60(3)(b) is amended by deleting “committee of inspection” and inserting —

“ committee of creditors ”.

- (3) Order 81G Rule 60(7) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
(b) after paragraph (c) by inserting the following paragraph —

“

- (ca) state particulars of any objection of which the liquidator has received notice; and

”.

11. Order 81G Rule 61 amended

- (1) Order 81G Rule 61(3)(b) is amended by deleting “committee of inspection” in both places where it occurs and inserting instead —

“ committee of creditors ”.

- (2) Order 81G Rule 61(7) is amended as follows:
- (a) after paragraph (c) by deleting “and”;
 - (b) after paragraph (c) by inserting the following paragraph —

“

 - (ca) state particulars of any objection of which the special manager has received notice; and

”.
- 12. Order 81G Rule 66 amended**
- (1) Order 81G Rule 66(1) is amended by deleting “411” and inserting instead —

“ 411(9)(b) ”.
 - (2) Order 81G Rule 66(3) is amended by deleting “411” and inserting instead —

“ 411(9)(b) ”.
- 13. Order 81G Rule 67 amended**
- (1) Order 81G Rule 67(2) is repealed and the following subrule is inserted instead —

“

 - (2) The application need not name the person whose examination is sought as a respondent to the application.

”.
 - (2) Order 81G Rule 67(8) is amended by deleting “is to be” and inserting instead —

“ must be ”.
- 14. Order 81G Part 12 heading replaced**
- The heading to Part 12 of Order 81G is deleted and the following heading is inserted instead —
- “
- Part 12 — Takeovers, acquisitions of shares, etc.
(Chapters 6 to 6D of the Law) and Securities
(Chapter 7 of the Law)**
- ”.
- 15. Order 81G Rule 76 replaced**
- Order 81G Rule 76 is repealed and the following Rule is inserted instead —
- “
- 76. Service on Commission in relation to proceedings under Chapter 6, 6A, 6B, 6C, 6D or 7 of the Law**
- If the Commission is not a party to an application made under Chapter 6, 6A, 6B, 6C, 6D or 7 of the Law, the

plaintiff must serve a copy of the originating process and the supporting affidavit on the Commission as soon as practicable after filing the originating process.

”.

16. Schedule 7 Part 1 amended

- (1) Form 2 in Part 1 of Schedule 7 is amended by deleting Parts A and B and inserting the following Parts instead —

“

A. DETAILS OF APPLICATION

This application is made under *section/*regulation [number] of the *Corporations Law/*ASIC Law/*Corporations Regulations.

[State briefly the nature of the proceeding, e.g. application for winding-up on ground of insolvency; or complaint about a receiver.]

On the facts stated in the supporting affidavit(s), the plaintiff claims:

1

2

etc.

AND

Date:

.....

*Signature of plaintiff or
plaintiff's legal practitioner*

This application will be heard by
at [address of Court] at *a.m./*p.m. on

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: *[name and address of each defendant (if any)]*.

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen —

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

”.

- (2) Form 3 in Part 1 of Schedule 7 is amended by deleting Parts A and B and inserting the following Parts instead —

“

A. DETAILS OF INTERLOCUTORY APPLICATION

*This interlocutory application is made under *section/*regulation [number] of the *Corporations Law/*ASIC Law/*Corporations Regulations.

On the facts stated in the supporting affidavit(s), the applicant, [name], applies for the following interlocutory relief —

1

2

etc.

AND

Date:

.....

Signature of applicant making this application or applicant's legal practitioner

This interlocutory application will be heard by
..... at [address of Court] at *a.m./*p.m. on

B. NOTICE TO RESPONDENT(S) (IF ANY)

TO: [name and address of each respondent to this interlocutory process (if any). If applicable, also state the respondent's address for service.]

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence.

Before appearing before the Court, you must, except if you have already done so or you are the plaintiff in this proceeding, file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff in the originating process.

”.

- (3) Form 17 in Part 1 of Schedule 7 is amended by deleting “Summons for public examination” and inserting the following heading instead —

“ **Summons for examination** ”.

- (4) Form 17 in Part 1 of Schedule 7 is amended by deleting Part B and inserting the following Part instead —

“

B. NOTICE TO PERSON TO BE EXAMINED

The Court may order that the questions put to you and the answers given by you at the examination are to be recorded in writing and signed by you.

If you do not attend the examination in accordance with this summons, without reasonable cause, you may be arrested and imprisoned without further notice.

This summons is issued at the request of [*name*] whose address for service is [*address of person's legal practitioner or a person*].

”.

Dated: 6 January 2001.

DAVID K. MALCOLM
Chief Justice's signature

G. A. KENNEDY

C. D. STEYTLER

W. P. PIDGEON

K. H. PARKER

D. A. IPP

H. A. WALLWORK

A. J. TEMPLEMAN

C. A. WHEELER

G. P. MILLER

R. J. M. ANDERSON

J. R. McKECHNIE

N. J. OWEN

G. F. SCOTT

L. W. ROBERTS-SMITH

Judges' signatures.
