

**CROWN LAW**

CW301

## SUPREME COURT ACT 1935

## SUPREME COURT AMENDMENT RULES (NO. 6) 1991

Made by the Judges of the Supreme Court.

**Citation**

1. These rules may be cited as the *Supreme Court Amendment Rules (No. 6) 1991*.

**Principal rules**

2. In these rules the *Rules of the Supreme Court 1971\** are referred to as the principal rules.

[\* *Reprinted in the Gazette of 18 March 1986 at pp. 779-1100.*  
*For amendments to 10 December 1991 see 1990 Index to Legislation of Western Australia, pp. 377-8 and Gazettes of 8 February, 5 April, 19 April and 31 May 1991.]*

**Order 24A amended**

3. Order 24A of the principal rules is amended —
  - (a) in Rule 3 by deleting paragraph (9) and substituting the following paragraph —

“ (9) Where an offer is accepted under this Rule, any party to the compromise may apply to the Court for such judgment or order as he may be entitled to and on the hearing of the application the Court shall give such judgment or make such order as it thinks fit. ”;
  - (b) in Rule 8 by deleting paragraph (1) and substituting the following paragraph —

“ (1) Where a party to an accepted offer fails to comply with the terms of the offer, then unless for special cause the Court otherwise orders, the other party —

    - (a) shall be entitled to an order —
      - (i) where the party in default is the plaintiff, that the proceedings be dismissed;
      - and
      - (ii) where the party in default is the defendant, that the defence be struck out,

and in either case to judgment accordingly;

or

  - (b) may apply to the Court for such judgment or order as he may be entitled to and on the hearing of the application the Court shall give such judgment or make such order as it thinks fit. ”;

and

- (c) in Rule 10 (4) by deleting "a party and party" in the first place where it occurs, and substituting the following —

" an indemnity ".

#### Order 37 amended

4. Order 37 of the principal rules is amended —

- (a) after Rule 4 by inserting the following Rule —

##### **Affidavits by non-English speaking persons**

" 4A. Where a deponent to an affidavit is not sufficiently conversant with the English language to be able to swear an affidavit in English, and it is desired to file the affidavit in another language, the following procedure shall be followed —

- (a) the deponent shall swear the affidavit in the language of the deponent's choice;
- (b) the affidavit shall be translated by a suitably qualified interpreter;
- (c) the interpreter shall swear an affidavit setting out the interpreter's qualifications and verifying the translation;
- (d) the translation and the affidavit in the foreign language shall be exhibited to the affidavit by the interpreter; and
- (e) the 3 documents shall be filed together. ";

and

- (b) in Rule 10 (1A) —

- (i) in subparagraph (b) by deleting "or"; and
- (ii) by deleting subparagraph (c) and substituting the following subparagraphs —

- " (c) the officers known as Co-ordinators; or  
(d) the officer known as the Senior Probate Clerk, ".

#### Order 52 amended

5. Order 52 of the principal rules is amended by inserting after Rule 8 the following Rules —

##### **Injunction to include undertaking as to compensation to party restrained**

" 9. Unless the Court otherwise orders upon the grant of an interlocutory injunction the order shall include an undertaking to the Court on the part of the applicant that he will pay to any party restrained or affected by restraints imposed by the interlocutory injunction or by any interim continuation of the interlocutory injunction, such compensation as the Court may in

its discretion consider in the circumstances to be just and such compensation shall be —

- (a) assessed —
  - (i) by the Court; or
  - (ii) in accordance with such directions as the Court may make;
- and
- (b) paid in such manner as the Court may direct.

**Compensation to party  
restrained by undertaking**

10. Where upon the hearing of an application for an interlocutory injunction a restraint is imposed upon a party by an interlocutory undertaking to the Court, unless the Court otherwise orders there shall be a corresponding undertaking to the Court by the party having the benefit of the undertaking that he will pay to any party restrained or affected by the restraints imposed by the interlocutory undertaking such compensation as the Court may in its discretion consider in the circumstances to be just and such compensation shall be —

- (a) assessed —
  - (i) by the Court; or
  - (ii) in accordance with such directions as the Court may make;
- and
- (b) paid in such manner as the Court may direct. ”.

**Order 64 amended**

6. Order 64 of the principal rules is amended —

- (a) in Rule 1 —
  - (i) in subparagraph (e) by deleting “1893.” and substituting the following —
    - “ 1893; ”; and
  - (ii) after subparagraph (e) by inserting the following subparagraph —
    - “ (f) the Children’s Court means the Children’s Court of Western Australia. ”;
- and
- (b) in Rule 3 —
  - (i) in paragraph (1) by deleting “or the Barristers’ Board” and substituting the following —
    - “ , the Barristers’ Board or under section 43 (4) of the *Children’s Court of Western Australia Act 1988* ”;

and

- (ii) after paragraph (1) by inserting the following paragraph —

“ (1A) An appeal under section 40 (8) of the *Children's Court of Western Australia Act 1988* shall be brought in the time and manner provided for under section 695 (1) of the Criminal Code. ”

Dated 19th December 1991.

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