

Supreme Court Act 1935

Supreme Court Amendment Rules 2005

Made by the Judges of the Supreme Court.

1. Citation

These rules are the *Supreme Court Amendment Rules 2005*.

2. Commencement

These rules come into operation on 2 May 2005 or on the day on which they are published in the *Gazette*, whichever is the later.

3. The rules amended

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

[* *Reprint 6 as at 15 October 2004.*

For amendments to 26 April 2005 see Gazette 19 April 2005.]

4. Interpretation

In these rules, unless the contrary intention appears —

“**Form**”, if followed by a number, means the form of that number in the Second Schedule to the *Rules of the Supreme Court 1971*.

5. Order 3 amended

- (1) Order 3 rule 1 is amended by deleting “section 4 of the *Interpretation Act 1918*” and inserting instead —

“

the definition of the word “month” in section 5 of the *Interpretation Act 1984*

”.

- (2) Order 3 rule 5(4) is repealed.

6. Order 31 amended

- (1) Order 31 rule 8(1) is amended by deleting “or the Full Court”.

- (2) After Order 31 rule 8(1) the following subrule is inserted —

“

- (1a) This Rule does not apply to a case stated by a tribunal which is empowered or may be required to state a case

on a question of law for determination by or the opinion of the Court of Appeal.

”.

- (3) Order 31 rule 8(2) is amended by deleting “or the Full Court as the case may require”.
- (4) Order 31 rule 8(4) is amended by deleting “or the Full Court, as the case may be,”.
- (5) Order 31 rule 8(5) is amended by deleting “or Full Court”.
- (6) Order 31 rule 8(6) is amended by deleting “or the Full Court”.

7. Order 34 amended

Order 34 rule 14(2) and (3) are repealed.

8. Order 55 amended

Order 55 rule 2 is repealed and the following rule is inserted instead —

“

2. Committal for contempt of court

Subject to the Act, the power of the Court to punish for contempt of court may be exercised by an order of committal made by a Judge, or judge of appeal, sitting alone.

”.

9. Order 60A amended

- (1) Order 60A rule 3(4) is amended as follows:
 - (a) by inserting after paragraph (b) —
 - “ or ”;
 - (b) by deleting paragraph (c) and “or” after it.
- (2) After Order 60A rule 6 the following rule is inserted —

“

7. This Order not to apply to Court of Appeal Registrar

This Order does not apply to or in respect of the Court of Appeal Registrar or any decision made by that Registrar.

”.

10. Order 61 amended

- (1) Order 61 rule 28(1) is amended by deleting “apply to the Full Court by motion and in accordance with the provisions of Order 63 for an order discharging or varying the certificate.” and inserting instead —

“

appeal to the Court of Appeal which may vary or discharge the certificate.

”.

- (2) Order 61 rule 28(2) is repealed and the following subrules are inserted instead —

“

- (2) An appeal under subrule (1) must be commenced and conducted in accordance with the *Supreme Court (Court of Appeal) Rules 2005*.
- (3) If the Master’s certificate is to be acted upon by the Accountant, a copy of the appeal notice filed under the *Supreme Court (Court of Appeal) Rules 2005* must be served on the Accountant as soon as practicable after it is filed.

”

11. Orders 63, 63A and 64 repealed

Orders 63, 63A and 64 are repealed.

12. Order 67 amended

Order 67 rule 11(1)(b) is deleted and the following paragraphs are inserted instead —

“

- (b) any originating application made under the *Corporations Act 2001* of the Commonwealth;
- (ba) any appeal notice filed under the *Supreme Court (Court of Appeal) Rules 2005*;

”

13. Order 68 amended

Order 68 rule 1(1) is amended by deleting “sittings of the Full Court and the”.

14. Order 70 amended

Order 70 rule 10A is repealed and the following rule is inserted instead —

“

10A. Compromise of appeal by person under disability

If a person under disability is a party to an appeal to the Court of Appeal, any settlement or compromise of the appeal is subject to the *Supreme Court (Court of Appeal) Rules 2005*.

”

15. Order 75A amended

- (1) Order 75A rule 1 is amended as follows:
- (a) by inserting before “In this Order” the subrule designation “(1)”;

- (b) by inserting at the end of the rule the following subrule —

“

- (2) A term defined in the Act has the same meaning in this Order as it does in the Act, unless the contrary intention appears.

”.

- (2) Order 75A rule 2(1) is amended by deleting “Full Court” and inserting instead —

“ Supreme Court (Full Bench) ”.

16. Order 76 amended

- (1) Order 76 rule 2(1)(a) is amended by deleting “, pursuant to an order of the Full Court, under suspension from practice” and inserting instead —

“

a disqualified person as that term is defined in section 3 of that Act

”.

- (2) Order 76 rule 3(1) is amended by deleting “Full Court” and inserting instead —

“ Supreme Court (Full Bench) ”.

- (3) Order 76 rule 3(2) is amended by deleting “Full Court” and inserting instead —

“ Supreme Court (Full Bench) ”.

- (4) Order 76 rule 4(1) is amended by deleting “Full Court” and inserting instead —

“ Supreme Court (Full Bench) ”.

- (5) Order 76 rule 6(1) is amended by deleting “Full Court” and inserting instead —

“ Supreme Court (Full Bench) ”.

- (6) Form 93B is amended by deleting “Full Court” in the 2 places it occurs and in each place inserting instead —

“ Supreme Court (Full Bench) ”.

17. Order 77 repealed

Order 77 is repealed.

18. Order 81D amended

Order 81D rule 10 is repealed and the following rule is inserted instead —

“

10. Appeals and questions of law

The *Supreme Court (Court of Appeal) Rules 2005* apply to and in respect of —

- (a) an appeal, or an application for leave to appeal, under section 38; and
- (b) an application under section 40 to the Court for the determination of a question of law.

”

19. Order 85 amended

Order 85 rule 6(1)(b) is deleted and the following paragraph is inserted instead —

“

- (b) if the order sought is one that, had the judgment been one of a Judge or Master of the Supreme Court, could be made only by the Court of Appeal on an application for leave to appeal or on an appeal — by way of appellate proceedings to the Court of Appeal under the *Supreme Court (Court of Appeal) Rules 2005*.

”

20. References to “Full Court” changed to “Court of Appeal”

Each of the provisions listed in the Table to this rule is amended by deleting “Full Court” in each place it occurs and inserting instead —

“ Court of Appeal ”.

Table

Order 1 rule 7(2)(b)	Order 57 rule 1(1)	Order 66 rule 24(2)(b)
Order 31 rule 1(1)	Order 57 rule 2(1)	Order 70 rule 10(1)
Order 31 rule 7	Order 60 rule 3	Order 84 rule 3
Order 34 rule 17	Order 60A rule 6(2)	Second Schedule —
Order 56 rule 2	Order 61 rule 27(3)	Form No. 64
Order 56 rule 3		

Dated: 27 April 2005.

Judges' signatures:

DAVID K. MALCOLM, Chief Justice.

M. J. MURRAY

C. J. McLURE

N. J. OWEN

C. J. L. PULLIN

C. D. STEYTLER

E. M. HEENAN

C. A. WHEELER

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J. R. McKECHNIE

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