

JUSTICE**JM301**

SUPREME COURT ACT 1935

SUPREME COURT AMENDMENT RULES 1995

Made by the Judges of the Supreme Court.

Citation

1. These rules may be cited as the *Supreme Court Amendment Rules 1995*.

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 29 March 1986 at pp. 779-1100.
For amendments to 16 December 1994 see 1993 Index to
Legislation of Western Australia, Table 4, pp. 267-9, and Gazettes
of 1 March, 28 June, 1 and 22 July, 26 August, 9 September and
11 November 1994.]

Order 20 amended

3. Order 20 of the principal rules is amended in Rule 19 —

(a) in paragraph (3) (a) by inserting after "pleading" the following —

" , or amended pleading, "; and

(b) after paragraph (4) by inserting the following paragraph —

"

(5) Unless special circumstances are shown, an application to amend pleadings consequent upon an order striking the pleadings out, in whole or in part, shall be accompanied by a minute of the proposed amendment.

"

Order 21 amended

4. Order 21 of the principal rules is amended in Rule 5 by deleting paragraph (1) and substituting the following paragraph —

"

(1) Subject to —

(a) Order 18 Rules 6, 7 and 8;

(b) Order 20 Rule 19 paragraphs (2) to (5); and

(c) the following provisions of this Rule,

the Court may at any stage of the proceedings allow the plaintiff to amend his writ, or any party to amend his pleading, on such terms as to costs or otherwise as may be just and in such manner (if any) as the Court may direct.

"

Order 27 amended

5. Order 27 of the principal rules is amended —

(a) in paragraph (1) by deleting "Any" and substituting the following —

" Subject to this Rule any ";

(b) after paragraph (1) by inserting the following paragraphs —

"

(1a) Unless the Court otherwise orders, no interrogatory for the purpose of proving documents in the possession, custody or power of another party shall be administered unless the relevant parties have conferred with a view to agreement that the document may be tendered by consent and a certificate to that effect has been filed.

(1b) Interrogatories shall not be permitted and the cause or matter shall not be entered for trial unless paragraph (1a) has been complied with.

(1c) A conference referred to in paragraph (1a) may be used to resolve other issues between the parties.

"

and

(c) in paragraph (5) by deleting "Rule 1" and substituting the following —

" paragraph (1) "

Order 64 amended

6. Order 64 of the principal rules is amended in Rule 4 by deleting paragraph (1) and substituting the following paragraph —

“

(1) This Rule applies to —

- (a) an application under section 79 (1) of the *District Court of Western Australia Act 1969* or section 107 (3) of the *Local Courts Act 1904* for leave to appeal to the Full Court from a judgment or order of the District Court;
- (b) an application under section 136 (2) of the *Workers' Compensation and Rehabilitation Act 1981* for leave to appeal against a determination or order of the Board;
- (c) an application for leave to appeal to the Full Court under section 19 of the *Guardianship and Administration Act 1990* from a determination of the Guardianship Board; and
- (d) an application under section 118 (1) of the *Adoption Act 1994* for leave to appeal against a decision of the Family Court of Western Australia.

”

Order 67 amended

7. Order 67 of the principal rules is amended —

(a) by deleting Rule 5 and substituting the following rule —

“

Abuse of process: Reference by Registrar to Judge

5. (1) If any writ, process, motion, application or commission, which is presented for filing, issue or sealing appears to the Registrar to be an abuse of the process of the Court or a frivolous or vexatious proceeding, the Registrar shall refuse to file or issue such writ, process, motion, application or commission without the leave of a Judge or a Master first had and obtained by the party seeking to file or issue it.

(2) In the case of a motion or an application ordinarily returnable before a Master in chambers, an application for leave to file or issue such motion or application shall be made to a Master in chambers.

(3) In all other cases, an application or commission shall be made to a Judge in chambers.

(4) Applications for leave under paragraphs (2) and (3) shall be made *ex parte* and shall be supported by affidavit.

”

and

(b) in Rule 20 —

(i) by inserting after the rule designation “20.” the paragraph designation “(1)”; and

(ii) by inserting the following paragraph --

“

(2) When a Registrar refers an application or a matter to the Court pursuant to --

- (a) paragraph (1);
- (b) Order 43 Rule 11 (2);
- (c) Order 63 Rule 2 (4); or
- (d) Order 66 Rule 45 or 52,

the referral shall be by memorandum containing short background notes, the reason or reasons for the referral and the Registrar's preliminary views on the issue or issues upon which the referral is sought.

”

Dated the 19th day of January 1995.

Judges' signatures
G. A. KENNEDY,
W. P. PIDGEON,
B. ROWLAND,
E. M. FRANKLYN,
TERENCE A. WALSH,
D. A. IPP,
N. J. OWEN,
M. J. MURRAY,
K. H. PARKER.
