

CROWN LAW**CW301****SUPREME COURT ACT 1935
SUPREME COURT AMENDMENT RULES 1992**

Made by the Judges of the Supreme Court.

Citation

1. These rules may be cited as the *Supreme Court Amendment Rules 1992*.

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 30 April 1992 see 1990 Index to Legislation of
Western Australia, pp.377-8 and Gazettes of 8 February, 5 and
19 April 1991 and 7 and 28 February 1992.]

Order 14 amended

3. Order 14 of the principal rules is amended in Rule 1 (1) by inserting after "claimed," the following —

" within 21 days after appearance or at any later time by leave of the Court, "

Order 15 amended

4. Order 15 of the principal rules is amended —

(a) in Rule 1 (1) by inserting after "the action," the following —

" within 21 days after service of the writ or at any later time by leave of the Court, ";

(b) in Rule 2 —

(i) by deleting paragraph (1) and substituting the following paragraph —

" (1) An application under Rule 1 shall be made by summons supported by affidavit verifying the facts on which the cause of action is based and stating that in the deponent's belief there is no defence to the action. ";

and

(ii) after paragraph (2) by inserting the following paragraph —

" (3) Unless the Court otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof. ";

and

(c) in Rule 4 by inserting after paragraph (3) the following paragraph —

" (4) Unless the Court otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof. "

Order 16 amended

5. Order 16 of the principal rules is amended —

(a) in Rule 1 —

(i) by inserting after the Rule designation "1." the paragraph designation "(1)";

(ii) by deleting "10" and substituting the following —

" 21 "; and

- (iii) after paragraph (1) by inserting the following paragraphs —

“ (2) An application under paragraph (1) shall be made by summons supported by affidavit verifying the facts upon which the application is based.

(3) Unless the Court otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof.

(4) The summons and a copy of the affidavit in support and its annexures, if any, shall be served on the plaintiff not less than 7 days before the return day of the summons.

”;

- (b) in Rule 2 —

- (i) in paragraph (1) by deleting “or by *viva voce* evidence”;
and

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

“ (1a) Unless the Court otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof.

”;

and

- (c) after Rule 3 by inserting the following Rule —

“ 4. Any judgment given against a party who does not appear at the hearing of the application under Rule 1 may be set aside or varied by the Court on such terms as it thinks just.

”

Order 26 amended

5. Order 26 of the principal Rules is amended —

- (a) by inserting before Rule 1 the following Rule —

Interpretation

“ 1A. For the purposes of this Order —

“document” means any record of information and includes —

(a) any disc, tape, sound-track or other device in which sounds or other means of transmitting data (not being visual images); and

(b) any film, negative, disc, tape or other device in which one or more visual images,

are embodied so as to be capable, with or without the aid of some other device, of being reproduced therefrom;

“inspection”, in relation to a document which is not in writing or otherwise capable of being understood by visual means alone, includes the right to require the party making discovery to supply a copy of the document in a form in which it is in writing or otherwise capable of being understood by visual means alone.

”.

- (b) by inserting after Rule 2 the following Rule —

Continuing obligation to give discovery

“ 2A. (1) Where discovery has been requested by notice under Rule 1, or has been ordered under Rule 2, the party to whom the request or order is directed shall be under a continuing obligation, until the conclusion of the trial, to disclose any document relevant to any matter in issue and not already discovered by that party.

(2) Where a party becomes aware of the existence of a document which is discoverable by that party in accordance with this Order, that party shall, forthwith, file and serve a supplementary list of such documents, verified by affidavit.

”;

and

- (c) by inserting after Rule 11 the following Rule —

Costs of preparation of document to facilitate inspection

“ 11A. Unless the Court otherwise orders for the purposes of inspection the reasonable costs of supplying a copy of a document in a form in which it is capable of being understood by visual means alone shall be included in the party and party costs in the proceedings.

”.

Order 37 amended

6. Order 37 of the principal Rules is amended —

- (a) in Rule 6 (1) by inserting after “and 4 (2),” the following —

“ Order 15 Rules 2 (2) and 4 (4) and Order 16 Rules 1 (3) and 2 (1a),

”;

and

- (b) by repealing Rule 12 and substituting the following Rule —

Affidavit not to be sworn before a solicitor or his agent etc

“ 12. An affidavit is not sufficient if sworn before any solicitor who has participated in any way in the preparation of the affidavit or in the proceedings in which the affidavit is intended to be filed, or before the party himself.

”.

Order 51 amended

5. Order 51 of the principal rules is amended by inserting after Rule 8 the following Rules —

Compensation to party restrained

- “ 9. Unless the Court otherwise orders, the making of an application for the appointment of a receiver shall be deemed to include an undertaking by the applicant for that relief that he will pay to any party affected by that order such compensation as the Court may in its discretion consider in the circumstances to be just, such compensation to be assessed by the Court, or in accordance with such directions as the Court may make and to be paid in such manner as the Court may direct.

Compensation by applicant to party restrained

10. If upon the hearing of an application for the appointment of a receiver a restraint is imposed upon a party by an interlocutory undertaking to the Court, unless the Court otherwise orders there is 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 that the Court may in its discretion consider in the circumstances to be just, such compensation to be assessed by the Court, or in accordance with such directions as the Court may make and to be paid in such manner as the Court may direct. ”

Second Schedule amended

8. The Second Schedule to the principal rules is amended by deleting Form 15.

Dated the 22nd day of May 1992.

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