



New South Wales

### Supreme Court Rules (Amendment No 308) 1997

1. These rules are made by the Rule Committee on 17 February 1997.
2. The *Criminal Appeal Rules* are amended as follows:
  - (a) Rules 31A and 31B  
Omit the rules and insert instead:  
**Application to Court—section 23 (1) or section 41 (1) of Sentencing Act 1989**  
31A. (1) Application may be made to the Court under section 23 (1) of the *Sentencing Act 1989* by sending to the Registrar an application in Form VA.  
(2) Application may be made to the Court under section 41 (1) of the *Sentencing Act 1989* by sending to the Registrar an application in Form VB.  
**Application to Court—section 23A (1) or section 41A (1) of Sentencing Act 1989**  
31B. Application may be made to the Court under section 23A (1) or section 41A (1) of the *Sentencing Act 1989* by sending to the Registrar an application in Form VBA.
  - (b) Rule 31C  
After “Form VB” insert “or Form VBA”.
  - (c) Rules 31D and 31E and Form VBA  
Omit the rules and Form.
  - (d) Form VA
    - (i) Omit “Offenders Review” wherever appearing and insert instead “Parole”.
    - (ii) Omit “22” and insert instead “(22 or 22J or 22K\*)”.
  - (e) Form VB  
Omit “Offenders Review” wherever appearing and insert instead “Parole”.

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(f) Form VBA

After Form VB insert:

VBA

Criminal Appeal Act 1912

Parole Board and (*name of inmate*)

*Application to the Court*

To the Registrar:

The                      day of                      19

The Attorney General (or The Director of Public Prosecutions) applies to the Court for a direction to be given by the Court to the Parole Board that the information upon which the Board on (*date*) made a determination pursuant to section (*number of appropriate section*) of the *Sentencing Act 1989* that

(*name of inmate*) should not be released on parole\*

the parole order relating to (*name of inmate*) be revoked\*

was (false misleading irrelevant.\*)

The information which I contend was (false misleading irrelevant\*) is set forth on page 2 hereof.

(signed)

Applicant

\* *Strike out any inapplicable word or words.*

(*Page 2 of application*)

The following information was false: (*set out the information*) or

The following information was misleading (*set out the information*) or

The following information was irrelevant (*set out the information*).

3. The *Supreme Court Rules 1970* are amended as follows:

(a) Part I rule 8 (1)

In alphabetical order insert:

“barrister” has the same meaning as it has in the *Legal Profession Act 1987*.

“solicitor” has the same meaning as it has in the *Legal Profession Act 1987*.

(b) Part 38 rule 2 (4A)

Insert the following footnote to the subrule:

NB S 27 (1) of the *Oaths Act 1900* authorises only solicitors having a practicing certificate issued under the *Legal Profession Act 1987* to take affidavits and accordingly interstate solicitors practising in the State, who do not hold such a certificate, are not entitled to take affidavits.

(c) Part 65A

After rule 5 insert:

**Furnishing information**

6. The registrar shall furnish information that is required by section 48Y of the *Legal Profession Act 1987* to be furnished by the Court.

**Removal from Roll pursuant to s 48Z (5) of the Legal Profession Act 1987**

7. Unless the Court otherwise orders, the Prothonotary shall, pursuant to an order under section 48Z (5) of the *Legal Profession Act 1987*, remove from the Roll of Legal Practitioners in the Court the name of a legal practitioner upon the expiration of 10 days after a copy of the order is filed, being a copy that:

- (a) if the regulatory authority making the order is a tribunal—is signed by a member of the tribunal,
- (b) if the regulatory authority is a court—is signed by a Judge or Registrar of the Court, or
- (c) in any case—is sealed with the seal of the regulatory authority.

4. The *Supreme Court Rules 1970* are further amended as follows:

Part 75

After rule 3H insert:

**Return of exhibits**

3I. Where proceedings in the Criminal Division have been concluded and:

- (a) 28 days have expired since the conclusion, and
- (b) there is no undisposed of appeal, or application for leave to appeal, in respect of the proceedings,

the registrar may, unless the Court otherwise orders, return any exhibits in the proceedings still in the custody of the registrar by forwarding them to the Director of Public Prosecutions.

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5. The *Supreme Court Rules 1970* are further amended as follows:

- (a) Part 36 rules 14 and 15  
Omit “prisoner” wherever appearing and insert instead “inmate”.
- (b) Part 54 rule 5
  - (i) Omit “prisoners” and insert instead **“inmates”**.
  - (ii) Omit “prison” and insert instead “correctional centre”.
  - (iii) Omit “prisoner” and insert instead “inmate”.
  - (iv) Omit “Prisons” and insert instead “Correctional Centres”.
- (c) Part 55 rules 13 and 14  
Omit “prison” wherever appearing and insert instead “a correctional centre”.
- (d) SCHEDULE F Form 44
  - (i) Omit “Prisons” and insert instead “Correctional Centres”.
  - (ii) Omit “prisoner” wherever appearing and insert instead “inmate”.
- (e) SCHEDULE F Form 66
  - (i) Omit “prison” wherever occurring and insert instead “correctional centre”.
  - (ii) Omit “prison” wherever occurring and insert instead “correctional centre”.
- (f) SCHEDULE F Index of Forms  
In the matter relating to Form 44, omit “prisoner” and insert instead “inmate”.

6. The *Supreme Court Rules 1970* are further amended as follows:

SCHEDULE J

Omit “after 28 February 1995...” 12 ”

and insert instead:

Column 1	Column 2
the beginning of 1 March 1995 to the end of 28 February 1997...	12
after 28 February 1997	10.5

**EXPLANATORY NOTE**

*(This note does not form part of the rules)*

1. The object of the amendment contained in paragraph 2 is to make rules in respect of ss 23A and 41A of the *Sentencing Act 1989* [inserted by the *Sentencing Amendment (Parole) Act 1996*] similar to the already existing rules in respect of ss 23 and 41 of the *Sentencing Act* and to take account of changes in terminology made by the *Prisons Amendment Act 1996* to the *Prisons Act 1952*.

2. The object of the amendment contained in paragraph 3 is to take account of the changes to the *Legal Profession Act 1987* made by the *Legal Profession Amendment (National Practising Certificates) Act 1996*.

3. The object of the amendment contained in paragraph 4 is to allow the registrar to return unreturned exhibits in the Criminal Division after the expiration of 28 days from the conclusion of proceedings if there is no undisposed of appeal or application for leave to appeal.

4. The object of the amendment contained in paragraph 5 is to take account of changes to terminology made by the *Prisons Amendment Act 1996*.

5. The object of the amendment contained in paragraph 6 is to decrease the rate of interest payable on judgments of the Court from 12% to 10.5%.

M. A. Blay, the Secretary of the Rule Committee