

**Statutory Rules**

**1980 No. 88**

HIGH COURT OF AUSTRALIA
RULE OF COURT AMENDING THE HIGH COURT RULES1

(As of Thursday the 17th Day of April 1980)

PURSUANT to the *Judiciary Act* 1903 and to all other powers thereunto enabling, it is ordered that the High Court Rules, being Statutory Rules, 1952, No. 23, as amended,2 be further amended as follows:—

 **1.** These Rules shall come into operation on the day on which the *High Court of Australia Act* 1979 comes into operation.

 **2.** Until such time as the seat of the Court shall be at the seat of Government pursuant to a Proclamation made under section 14 of the *High Court of Australia Act* 1979, the seat of the Court shall be at Sydney in the State of New South Wales.

 **3.** An office of the Registry shall be located in Canberra, and in the capital city of each State, and at Darwin in the Northern Territory.

 **4.** Subject to rule 5 of these Rules, the Rules of the High Court in force immediately prior to the coming into operation of the *High Court of Australia Act* 1979 shall upon that Act coming into operation continue in full force and effect.

 **5.** The High Court Rules are amended as follows:—

 **(1)** Order 1 rule 5 is amended:

 (i) By deleting the definitions of the following words and expressions

“Registrar”

“Registry”

“seal” and “seal of the Court”

“sealed”

 (ii) By inserting the following definitions

“District Registrar” means an officer of a State or Territory who performs on behalf of the Court at any office of the Registry in such State or Territory any function under section 30 of the *High Court of Australia Act* 1979.

“District Registry” means an office of the Registry located elsewhere than at the seat of the Court.

“Judiciary Act” means the *Judiciary Act* 1903-1979.

“Principal Registrar” means the Registrar.

“Principal Registry” means the office of the Registry located at the seat of the Court.

“Registrar” means the Registrar appointed under section 26 of the *High Court of Australia Act* 1979 and includes a Deputy Registrar so appointed.

“Registry”, “a Registry” and “any Registry” mean the Registry established under section 30 of the *High Court of Australia Act* 1979 and include each office of the Registry.

“seal” and “seal of the Court” mean the seal of the Court referred to in section 32 of the *High Court* *of Australia Act* 1979 and include such other seal as is prescribed by these Rules.

“sealed” means sealed with the seal of the Court referred to in section 32 of the *High Court of Australia Act* 1979 or such other seal as is prescribed by these Rules.

“the Registry in which the proceeding is commenced” and “the Registry in which the matter is then pending” and words to the like effect mean “the office of the Registry at which the proceeding was lodged or issued”.

 **(2)** Order 1 rule 8 (2) is repealed and replaced by the following sub-rule:

 “(2) There shall be added below the words ‘In the High Court of Australia’ the location of the office of the Registry in which the proceeding was commenced.”

 **(3)** Order 2 rule 8 is repealed.

 **(4)** Order 5 rule 3 is repealed.

 **(5)** Order 11 rule 1 is amended by deleting the words “or the *High Court Procedure Act* 1903-1950” and substituting therefor the words “of the *High Court of Australia Act* 1979 or the Judiciary Act”.

 **(6)** Order 11 rule 17 is amended by deleting paragraph (b).

 **(7)** Order 12 rule 5 (2) is amended by deleting the words “of the Registry in which the interlocutory judgment is entered”.

 **(8)** Order 13 rule 10 (1) is amended by deleting the words “of the Registry in which the interlocutory judgment is entered”.

 **(9)** Order 26 rule 9 (3) is amended by deleting the words “If the action is pending” and substituting therefor the following words “If the originating process in the action was issued by an office of the Registry other than that where the seat of the Court is located”.

 **(10)** Order 28 rule 4 (1) is amended by deleting the words “of the Registry in which the interlocutory judgment was entered”.

 **(11)** Order 30 rule 14 is amended by deleting the words “of the Registry from which the warrant for arrest issued”.

 **(12)** Order 36 rule 4 is amended by deleting the words “section 13 of the *High Court Procedure Act* 1903-1950” and substituting therefor the words “section 77B of the Judiciary Act”.

 **(13)** Order 43 rule 12 is repealed.

 **(14)** Order 58 rule 3 (1) is repealed.

 **(15)** Order 58 rule 5A is repealed.

 **(16)** Order 58 rule 14 is amended by deleting the words “the *High Court Procedure Act* 1903-1950” and substituting the words “the *High Court of Australia Act* 1979 or the Judiciary Act”.

 **(17)** Order 59 rule 6 (1) is amended by deleting the words “(other than the District Registry in the Australian Capital Territory)”.

 **(18)** Order 59 rule 6 (2) is repealed.

 **(19)** Order 70 rule 9 (1) is repealed and replaced by the following sub-rule:

 “(1) In the case of an appeal from a judgment of the Supreme Court of a State, or some other Court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, security in the sum of One hundred dollars for the prosecution of the appeal without delay and for the payment of costs that may be awarded against the appellant shall be given within—

 (a) one month after the institution of the appeal;

 (b) such other time as may be fixed by an order giving leave or special leave to appeal; or

 (c) such further time as the Court or a Justice allows.”.

 **(20)** Order 70 rule 10 (1) is amended by deleting the words “sub-section (2) of section 35 of the *High Court Procedure Act* 1903-1950” and substituting the words “the last preceding rule”.

 **(21)** Order 70 rule 15 is amended by deleting the words “at the place of hearing”.

 **(22)** Order 70 rule 16 (2) is amended by deleting the words “in which the appeal is pending”.

G. E. BARWICK C.J.

H. T. GIBBS J.

N. M. STEPHEN J.

(L.S.) A. F. MASON J.

L. K. MURPHY J.

K. A. AICKIN J.

R. D. WILSON J.

Justices of the High Court of Australia

FRANK JONES

Acting Principal Registrar

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 21 April 1980.

2. Statutory Rules 1952 No. 23 as amended by Statutory Rules 1953 Nos. 1 and 46; 1954 No. 102; 1955 Nos. 25 and 34; 1959 No. 107; 1960 Nos. 19 and 94; 1961 Nos. 19 and 89; 1968 No. 4; 1970 No. 17; 1973 Nos. 94 and 205; 1976 No. 44; 1977 No. 41; 1978 Nos. 10 and 46.