

High Court Rules – Amendment to Order 69A

The Justices of the High Court of Australia have issued the following explanatory statement to the amendment of Order 69A of the Rules of the Court.

The Court has revised the procedure for the determination of applications for leave or special leave to appeal under Order 69A of the Rules of the Court.

The amendments to Order 69A were the subject of extensive consultation with the Law Council of Australia and the Australian Bar Association and, through those organisations, each of the State and Territory Law Societies and Bar Associations. The revised version includes amendments suggested by the profession in the course of this consultative process.

Main Features of the Rules:

1. Time for filing application

The time for filing applications has been extended to 28 days after the judgment below was pronounced (rule 3 (1)).

2. Abolition of statement in support

The applicant is no longer required to file a statement in support of the application.

3. Time for filing summaries of argument

In order to clarify the issues between the parties before settling the index to the application book the time for filing the summaries of argument has been brought forward. The applicant's summary of argument is to be filed within 28 days after filing the application (rule 6 (1)). The respondent's summary of argument is to be filed within 21 days after service of the applicant's summary (rule 7(1)). Rule 9 allows an applicant to file a reply to the respondent's summary.

4. Time limitations on oral arguments

The time limitations in the presentation of oral argument, introduced by the Court in 1993, remain unchanged.

5. Determination of applications on the basis of written material

The opportunity to present an application in writing and without oral argument, previously limited to unrepresented persons, has been extended to all parties (rule 15(1)). However, any party, whether represented or unrepresented, wishing to make oral submissions may elect to do so.

6. Deemed abandonment

The previous rules provided that an application was deemed to be abandoned if the application books were not filed within the prescribed time. The deemed abandonment provision has now been linked more generally with other steps in the application, with a requirement that all preparatory work be completed within six months of filing the application (rule 13).

7. Transitional arrangements

The registrars may give directions, pursuant to rule 14, to bring applications filed prior to 1 January 1997 into line with the amended rules.

8. First schedule

The precedent forms in the first schedule have been amended to accord with the amendments to Order 69A (Forms 61, 62, 62A, 63 and 64).

These Rules commence on 1 January 1997. The full text of the amendments and sample forms are available from the Law Society. See also the Chief Justice of the High Court's remarks on these changes on page 18.

Amendment of Legal Practitioners' Rules

The Legal Practitioners' Admission Board advises that the Rules have recently been amended to require that the Board be satisfied that "the articles of clerkship that the applicant proposes to enter or has entered will provide the applicant with satisfactory experience" (see Rule 22(3)(d)).

For this reason the Board requires that all applications for approval of articles of clerkship include a letter or document from the person with whom the applicant proposes to enter into articles providing information as to the nature of the work which will be available to the applicant.

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