



SECOND SUPPLEMENT
TO THE
VICTORIA
GOVERNMENT GAZETTE

OF FRIDAY, JUNE 27, 1884.

Published by Authority.

No. 73.]

TUESDAY, JULY 1.

[1884.]

RULES OF THE SUPREME COURT.

WHEREAS by "*The Judicature Act 1883*" it is amongst other things enacted that "from and after the passing of this Act, the Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting for that purpose held, alter and annul any Rules of Court for the time being in force, and make any further or additional Rules of Court for carrying this Act into effect, and in particular for all or any of the following matters, that is to say:—

- (1.) For regulating the sittings of the Court and of the Judges of the Court sitting in Chambers;
- (2.) For regulating the pleading, practice, and procedure in the Court; and the initiating actions and proceedings therein; and
- (3.) Generally, for regulating any matters relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of proceedings therein":

And whereas it is expedient to make further Rules for carrying the said Act into effect:

It is ordered, with the concurrence of the majority of the Judges of the Court present at a meeting held for this purpose, as follows:—

1. From and after the 1st day of July, 1884, all Papers left at the Prothonotary's Office to be filed shall be written or printed on not less than half a sheet of foolscap paper folded lengthways.

2. From and after the 1st day of July, 1884, every copy of a case transmitted by any Court of Criminal Jurisdiction, and every copy of an appeal case, or of any case stated, for the consideration of the Court, delivered to the Judges, shall be written or printed on foolscap paper folded lengthways.

3. The several Rules of Court mentioned in the Schedule to this Order to be repealed to the extent to which such Rules are therein expressed shall be and the same are hereby repealed.

THE SCHEDULE.

Date of Rule.					Extent.
9th March, 1877	...	...	...	...	The whole.
12th November, 1880	...	...	...	...	The whole.
15th August, 1876	...	...	...	...	Section 6. Section 8.

WE, being a majority of the Judges of the Court present at a meeting held for the purpose on this first day of July, 1884, do hereby signify our concurrence with the Rules hereto annexed being made, and do hereby authorize the Prothonotary to affix the Seal of the Court thereto.

By the Court,

(L.S.)

WILLIAM F. STAWELL, C.J.,
GEO. HIGINBOTHAM,
E. D. HOLROYD.

REGULÆ GENERALES.

In the Supreme Court of the }
Colony of Victoria.

Dated the first day of July, 1884.

WHEREAS by "The Insolvency Statute 1871," section 25, it is provided that the Judges of the Supreme Court may make Rules in the same way as Rules of the Supreme Court might then be made for the purpose of giving effect to the said Act in all matters in which jurisdiction is thereby given to the Supreme Court or a Judge thereof. And whereas it is expedient to make the following Rules for such purpose: It is ordered as follows:—

1. These Rules shall, except Rules 14 and 15, come into operation on the 1st day of July, 1884, and, except as hereinafter mentioned, shall apply, so far as may be practicable, to all proceedings taken on or after that day in all causes or matters then pending.

Rules 14 and 15 shall not have any effect until they shall have lain for one calendar month on the table of the Legislative Council and Legislative Assembly, and have been published in the *Government Gazette*.

The Rules of the Supreme Court under "The Insolvency Statute 1871," of the dates respectively mentioned in the First Schedule hereto, except Rules 8 and 9 of the Rules of 2nd August, 1871 (relating to Fees payable to solicitors and to the Crown), are hereby repealed. Rules 8 and 9 of the Rules of the 2nd August, 1871, shall be repealed when Rules 14 and 15 hereof take effect.

2. Every appeal against any order of the Court of Insolvency shall be heard on such day of hearing as shall occur first after one clear week from the notice of appeal, or upon such day or days as the Supreme Court shall direct.

3. The petition to a Judge of the Supreme Court for an order *nisi* for sequestration under section 39 of "The Insolvency Statute 1871" shall be generally verified by the affidavit of the petitioning creditor or creditors, or one of them, as to all the material facts therein stated, and the date of the alleged act of insolvency, or by the affidavit of the duly authorized agent or agents of such creditors or creditor stating, besides the verification of the petition, that he is duly authorized, and disclosing facts within his own knowledge which account for the inability of the creditors or creditor to verify the same; and such petition shall also be verified by the affidavit of the Sheriff's Officer or other person best informed of the fact of the alleged act of insolvency. But the Judge may under circumstances dispense with the above affidavits, or require further evidence by affidavit or *vivâ voce* examination upon the above or other matters.

4. The petition and affidavits used for obtaining any such order *nisi* shall, before the same is signed by the Judge, be deposited with him or his Associate.

5. The Associate of the Judge to whom an application is made for an order *nisi* or an order absolute for compulsory sequestration, as the case may be, may issue separate summonses for the examination of witnesses upon the hearing of such application.

6. All documents used for obtaining an order *nisi* for compulsory sequestration from a Court of Insolvency under the said 39th section, and such order *nisi*, shall be deposited with the Associate of the Judge by whom the application for the order absolute is to be heard, before the hearing thereof, for use at the said hearing or appeal.

7. All orders made by a single Judge exercising the powers of the Supreme Court, either in disposing of orders *nisi* for compulsory sequestration or otherwise in insolvency, may be signed by the Associate of such Judge, and all orders of the Full Court upon appeal may be signed by the Chief Clerk.

8. When an order *nisi* is made absolute, and the petitioning creditor shall not take out the same within one week, any person interested may apply by summons before a Judge for liberty to take out the same, and the Judge may direct accordingly and order the petitioning creditor to pay the costs and fees necessary for taking out the order and the costs of the application.

9. When an order *nisi* for compulsory sequestration made by a Judge of the Court of Insolvency or of the Supreme Court is made absolute, discharged, or allowed to lapse, and there is no appeal, or the appeal is disposed of, the Associate of such Judge who shall have the custody of the petition, affidavits, and other documents used at the hearing shall forward the same to the Chief Clerk of the District Court of Insolvency, to be filed in such Court.

10. The Officer of the Supreme Court to whom the Judge shall forward a copy of his notes of evidence, with the statement of his reasons, under the 12th section of the said Act, shall be the Prothonotary.

11. All notices in writing of intention to oppose an order *nisi* for compulsory sequestration, and of the grounds of opposing the same, under section 45 of the said Act, shall be filed in the office of the Associate of the Judge by whom the application to make the order absolute is to be heard.

12. Costs awarded by any order of the Supreme Court, or any Judge thereof under the said Act, shall be taxed by the taxing officers of such Court.

13. The Associate of any Judge of the Supreme Court making an order *nisi* for sequestration under Part IV. of the said Act may sign office copies for service under section 44 thereof.

14. The fees payable to solicitors for proceedings before the Supreme Court or a Judge thereof in the insolvency jurisdiction shall be the same as heretofore allowed.

15. The fees payable to the Crown or the Consolidated Revenue of Victoria for proceedings before the Supreme Court or a Judge thereof in the insolvency jurisdiction shall be those contained in the Second Schedule hereto.

FIRST SCHEDULE.

Date of Rule.

10th February, 1871.

2nd August, 1871.

SECOND SCHEDULE.

	£	s.	d.
Upon every petition for compulsory sequestration or any other object ...	0	5	0
For every affidavit ...	0	1	0
For every order <i>nisi</i> for compulsory sequestration ...	0	10	0
For every order absolute for compulsory sequestration when the order <i>nisi</i> is by a Judge of the Supreme Court ...	1	3	0
For every order absolute for compulsory sequestration when the order <i>nisi</i> has been made by a Judge of the Court of Insolvency, an additional fee equal to the fees which should be paid on the petition and order <i>nisi</i> if such order had been made by a Judge of the Supreme Court.			
For every other order of the Supreme Court or a Judge thereof ...	0	5	0
For every summons to give evidence ...	0	5	0
For examining and certifying office copies, 1s. for the first folio of ninety words; and 1s. additional for each succeeding ten folios or parts of folios.			
For taxing costs in any case, 3d. in the pound upon the amount allowed in the allocatur.			

By the Court,

(L.S.)

WILLIAM F. STAWELL, C.J.,
GEO. HIGINBOTHAM,
E. D. HOLROYD.*In the Supreme Court of the }
Colony of Victoria.*

Dated the 1st day of July, 1884.

THE Court directs that all causes, matters, and proceedings, whether civil or criminal, which were pending at the commencement of "*The Judicature Act 1883*," except matters and proceedings in Insolvency, shall, so far as relates to the form and manner of procedure, be continued and concluded in the like manner in which they would have been continued and concluded before the passing of the said Act, subject to any Order of the Court or a Judge to the contrary in any particular case.

By Order,

(L.S.)

W. P. FIREBRACE,
Prothonotary.

