



THE HIGH COURT AMENDMENT RULES 1995

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 27th day of March 1995

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 51c of the Judicature Act 1908, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least two of the other members of the Rules Committee (of whom at least one was a Judge of the High Court), hereby makes the following rules.

RULES

1. Title and commencement—(1) These rules may be cited as the High Court Amendment Rules 1995, and shall be read together with and deemed part of the High Court Rules from time to time set out in the Second Schedule to the Judicature Act 1908 (hereinafter referred to as the High Court Rules).

(2) These rules shall come into force on the 1st day of April 1995.

2. Search of Court records generally—(1) Rule 66 (2) of the High Court Rules is hereby amended by omitting the expression “subclause (7)”, and substituting the expression “subclauses (7) and (7A)”.

(2) Rule 66 of the High Court Rules is hereby further amended by inserting, after subclause (7), the following subclause:

“(7A) No file and no document on any file relating to an application under rule 446U or rule 502c shall, without the leave of a Judge, be searched, inspected, or copied.”

3. Issue of subpoenas for service in Australia—(1) Rule 446U of the High Court Rules (as inserted by rule 2 of the High Court Amendment Rules (No. 3) 1990) is hereby amended by revoking subclause (2), and substituting the following subclauses:

“(2) Every application for the issue of an order of subpoena under subclause (1) shall be made *ex parte* by originating application and the provisions of Part IVA (other than rule 458H) shall apply, subject to all necessary modifications, to the application.

“(2A) Every such application shall be accompanied by an affidavit containing the following matters:

“(a) The name, designation, occupation, and address of the witness:

“(b) The nature of the evidence required from the witness and the relevance of that evidence:

“(c) The date on which it is intended to serve the order of subpoena:

“(d) The availability of suitable means of transport to enable the witness to comply with the order of subpoena:

“(e) The amounts proposed to be paid or tendered to the witness in respect of expenses in complying with the order of subpoena:

“(f) In any case where the subpoena requires the witness to testify, an estimate of the date on which and the length of time that person will be required to attend at the Court:

“(g) If the applicant is aware of any fact or circumstance which may constitute a ground for setting the subpoena aside under section 56c of the Act, the fact or circumstance.”

(2) Rule 446U of the High Court Rules (as so inserted) is hereby further amended by inserting, after subclause (6), the following subclause:

“(6A) The file relating to every such application shall be kept separate from the file relating to the New Zealand proceeding.”

4. Application of Part IVA—Rule 458D (1) of the High Court Rules (as substituted by rule 4 of the High Court Amendment Rules (No 2) 1994) is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Any application to the Court under rule 446U or rule 502c:”.

5. New heading and rules inserted—The High Court Rules are hereby amended by inserting, after rule 502, the following heading and rules:

“Evidence in Trans-Tasman Proceedings

“502A. **Interpretation**—In rules 502B to 502J, unless the context otherwise requires, terms that are defined in the Evidence Amendment Act 1994 have the meanings given to them by that Act.

“502B. **Issue of subpoenas by High Court for service in Australia**—(1) An order of subpoena of the High Court for service on a witness in Australia that requires the witness to testify, whether or not it also requires the witness to produce documents or things, shall be in form 35A.

“(2) An order of subpoena of the High Court for service on a witness in Australia that requires the witness to produce documents or things, but does not require the witness to testify, shall be in form 35B.

“(3) An order of subpoena referred to in subclause (1) or subclause (2) may be obtained in the same manner and subject to the same conditions as an order of subpoena under rule 497.

“502c. **Leave to serve New Zealand subpoena on witness in Australia**—(1) Every application for leave to serve a New Zealand subpoena on a witness in Australia shall be made *ex parte* by originating application and the provisions of Part IVA (other than rule 458H) shall apply, subject to all necessary modifications, to the application.

“(2) Every application for leave to serve a New Zealand subpoena on a witness in Australia shall be accompanied by an affidavit containing the following matters:

“(a) The name, occupation, and residential address of the witness:

“(b) Proof that the witness has attained the age of 18 years:

“(c) If the subpoena requires the witness to testify and to attend at the New Zealand Court, whether consideration has been given to requiring the witness to testify from Australia by video link or telephone conference and the reason it is not considered appropriate that the witness do so:

“(d) The latest date proposed for service of the subpoena:

“(e) If the subpoena requires the witness to attend at the New Zealand Court or at any other place,—

“(i) The availability of suitable means of transport to enable the witness to comply with the subpoena:

“(ii) An estimate of the length of time that the witness will be required to attend at the Court or other place; and

“(iii) An estimate of the cost of transport and accommodation likely to be incurred by the witness in complying with the subpoena:

“(f) The amounts or the amounts represented by vouchers, as the case may be, proposed to be paid or tendered to the witness to enable the witness to comply with the subpoena:

“(g) If the applicant is aware of any fact or circumstance that may constitute a ground for setting the subpoena aside under section 11 of the Evidence Amendment Act 1994, the fact or circumstance.

“(3) A Judge may direct that a New Zealand subpoena may be served in Australia on a body corporate by serving the subpoena on a member or officer or employee of the body corporate in such manner as the Judge directs.

“(4) The file relating to every such application shall be kept separate from the file relating to the proceeding to which the subpoena relates.

“(5) Notwithstanding rule 66, no document relating to an application under this rule shall be searched or inspected or copied without the leave of a Judge.

“502d. **Service of subpoena on witness in Australia**—Every statement that, in accordance with section 7(2) of the Evidence Amendment Act 1994, is required to accompany a subpoena that is served on a witness in Australia shall be in form 35c.

“502E. Application to set aside New Zealand subpoena—(1) An application to set aside a New Zealand subpoena served on a witness in Australia may be filed by—

“(a) A person who is entitled to file documents under these rules; or

“(b) A person who is entitled to practise as a solicitor of a Supreme Court of a State or Territory of Australia and who is in practice on his or her own account or as a principal in a firm of solicitors.

“(2) The application may be filed by sending it by facsimile to the office of the High Court in which leave to serve the subpoena was given.

“(3) Every application shall be made by way of interlocutory application.

“(4) The heading on the application may be the same as the heading on the order granting leave to serve the subpoena.

“(5) Every application—

“(a) Shall state an address in New Zealand or Australia that is the applicant’s address for service:

“(b) May state a facsimile number in New Zealand or Australia to which documents relating to the application may be sent to the applicant.

“(6) Where the application is filed by facsimile, the Registrar—

“(a) Shall send by facsimile to the applicant or the applicant’s solicitor, as the case may be, an acknowledgment that the application has been received:

“(b) May, if the application is not clear or legible, require the applicant or the applicant’s solicitor, as the case may be, to transmit the application by facsimile again.

“502F. Service of documents on applicant—(1) A document relating to an application to set aside a New Zealand subpoena may be served on the applicant by:

“(a) Leaving it at the address for service of the applicant stated in the application; or

“(b) If a facsimile number is stated in the application, sending it by facsimile to that number.

“(2) Where a document relating to the application is served on the applicant by facsimile, the document shall, subject to subclauses (3) and (4), be deemed to have been served on the day on which it was sent.

“(3) Where a document is sent by facsimile to a facsimile number in a State or Territory of Australia at a time later than 5 pm in that State or Territory, the document shall, subject to subclause (4), be deemed to have been served on the first working day after the day on which it was sent.

“(4) A document sent to a facsimile number in Australia shall, unless the contrary is proved, be deemed to have been received in a complete and legible condition.

“502G. Hearing of application—(1) Notwithstanding any other rule, if neither the applicant for an order to set aside a New Zealand subpoena nor the person at whose request the subpoena was issued states that a hearing is required, the Court may determine an application to set the subpoena aside without a hearing.

“(2) For the purposes of determining an application, the Court may, if it thinks fit, hold a hearing by video link or telephone conference pursuant to section 19 of the Evidence Amendment Act 1994.

“(3) Subject to the Evidence Amendment Act 1994, the Court shall hold a hearing by video link or telephone conference if the applicant requests,

either in the application or within a reasonable time after the filing of the application, that the Court direct that the hearing be held by video link or telephone conference.

“502H. **Failure to comply with subpoena**—A certificate under section 12 of the Evidence Amendment Act 1994 shall be in form 35D.

“502I. **Transmission of documents or things to Australian Court**—(1) Every person who produces a document or thing at a registry of the High Court in compliance with an Australian subpoena shall provide the Registrar with a copy of the subpoena.

“(2) Where a document or thing is produced at a registry of the High Court, the Registrar shall, on compliance with subclause (1),—

“(a) Issue a receipt for the document or thing that states the date and time of its production; and

“(b) Send to the Registrar of the Australian Court that issued the subpoena, by facsimile or other means of communication, a copy of the receipt and of the subpoena; and

“(c) Send the document or thing together with a copy of the subpoena, without delay, to the Australian Court by a means that will enable it to be received before the date on which it is required to be produced to that Court.

“502J. **Evidence and submissions by video link and telephone conference**—(1) An application under section 19 of the Evidence Amendment Act 1994 for a direction that evidence be given from Australia or submissions be made from Australia by video link or telephone conference may be made *ex parte* and, except in the case of an application under section 11 of that Act, shall be accompanied by an affidavit containing the following matters:

“(a) The nature of the evidence or the submissions:

“(b) The place in Australia from which the evidence is to be given or the submissions are to be made:

“(c) If it is proposed that evidence be given or submissions be made by video link, particulars of the video link facilities available at the courtroom or other place where the Court is to sit in New Zealand and at the place where the evidence is to be given or the submissions are to be made in Australia:

“(d) If it is proposed that evidence be given or submissions be made by telephone conference, particulars of the telephone conference facilities available at the courtroom or other place where the Court is to sit in New Zealand and at the place where the evidence is to be given or the submissions are to be made in Australia:

“(e) In a case where evidence is proposed to be given, an estimate of the time that the examination of the witness will take:

“(f) Whether issues of character or credibility are likely to be raised:

“(g) In a case where submissions are proposed to be made, an estimate of the time that will be required to make the submissions.

“(2) Where the Court gives a direction under section 19(1) of the Evidence Amendment Act 1994, the Court shall instruct the Registrar to make appropriate arrangements in New Zealand and Australia in accordance with any particular directions which the Court may make.

“(3) Without limiting the generality of subclause (2), the Court may—

“(a) Direct that the evidence be given or the submissions be made at an Australian Court or at another place in Australia:

- “(b) Request that an officer of an Australian Court or other person approved by the Judge be present to assist in the transmission of evidence or submissions, and in particular to—
- “(i) Introduce witnesses giving evidence or a barrister or solicitor, or both, making submissions:
 - “(ii) Assist with the administration of oaths:
 - “(iii) Assist with the implementation of any directions or requests given or made by the Judge hearing the evidence or submissions:
- “(c) Direct that the evidence or the submissions be heard at a location other than the precincts of the High Court.

6. New forms inserted—The First Schedule to the High Court Rules is hereby amended by inserting, after form 35, the new forms 35A, 35B, 35C, and 35D set out in the Schedule to these rules.

SCHEDULE

NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES

Form 35A

Rule 502B(1)

SUBPOENA TO GIVE EVIDENCE FOR SERVICE IN AUSTRALIA
(General heading-Form 1 and endorsement)

TO [Name, place of residence, occupation].

You are ordered to attend at [Here state the High Court of New Zealand and the place of the Court or, if the witness is required to attend at a place other than the High Court, that other place] on theday of 19..... at a.m. (or p.m.) and from day to day thereafter until you are discharged from attendance to give evidence on behalf of the [State party] in the above-named proceeding.

*And you are ordered to bring with you and produce at the same time and place [Set out details of the documents to be produced].

This order of subpoena is issued by [Full name] (*solicitor for) the [State party] under the Seal of the High Court of New Zealand at [Place] this day of 19.....

*Delete if inapplicable.

.....
(Deputy) Registrar

Full name of (Deputy) Registrar:
Postal address of Registry:
Telephone:
Facsimile:



SCHEDULE—continued

NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES—continued

Rule 502B (2)

Form 35B

SUBPOENA FOR PRODUCTION ONLY FOR SERVICE IN AUSTRALIA
(General heading-Form 1 and endorsement)

TO [Name, place of residence, occupation].

You are ordered to produce this subpoena and the documents or things set out in the Schedule at the High Court of New Zealand at [Place] on the day of 19..... at a.m. (or p.m.).

You may comply with this subpoena by producing the documents or things at any registry of an Australian Court authorised by the law of the Commonwealth of Australia to receive such documents or things not later than 10 days before the above date.

SCHEDULE

(Description)

This order of subpoena is issued by [Full name] (*solicitor for) the [State party] under the Seal of the High Court of New Zealand at [Place] this day of 19.....

*Delete if inapplicable.

.....
(Deputy) Registrar

Full name of (Deputy) Registrar:
Postal address of Registry:
Telephone:
Facsimile:



SCHEDULE—*continued*NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES—*continued*

Form 35c

Rule 502b

STATEMENT OF RIGHTS AND OBLIGATIONS OF PERSON SERVED
IN AUSTRALIA WITH SUBPOENA ISSUED BY HIGH COURT OF
NEW ZEALAND

(General heading-Form 1 and endorsement)

THIS STATEMENT IS IMPORTANT
PLEASE READ THE STATEMENT AND THE ATTACHED
DOCUMENT OR DOCUMENTS CAREFULLYIF YOU ARE IN ANY DOUBT ABOUT THIS STATEMENT OR THE
ATTACHED DOCUMENT OR DOCUMENTS, YOU SHOULD GET
LEGAL ADVICE IMMEDIATELY

Attached to this statement is a subpoena issued by the High Court of New Zealand. A subpoena is a summons to a witness to give evidence or produce documents. The subpoena attached to this statement requires you to [*Here state whether the witness is required to attend at the High Court or some other place to give evidence or give evidence and produce documents or is required only to produce documents.*]

The subpoena may be served in Australia under section 19 of the Evidence and Procedure (New Zealand) Act 1994.

This statement sets out your rights and obligations relating to the subpoena.

YOUR RIGHTS

You are entitled to have paid or tendered to you at the time the subpoena is served on you or at some other reasonable time before you are required to comply with the subpoena, allowances and travelling expenses or vouchers in substitution for allowances and travelling expenses that are sufficient to meet your reasonable expenses of complying with the subpoena.

You are not required to comply with the subpoena unless those allowances and travelling expenses or vouchers are paid or tendered to you.

You are also entitled to be paid any reasonable expenses you incur in complying with the subpoena in addition to any expenses tendered or paid to you. You may apply to the High Court of New Zealand for an order specifying such an amount.

You may apply to the High Court of New Zealand to have the subpoena set aside. If you wish to have the subpoena set aside, you should get legal advice as soon as possible.

An application to set the subpoena aside can be made and determined without you having to go to New Zealand. You are entitled to have Australian solicitors act for you.

The High Court of New Zealand may determine the application without a hearing if neither you nor the party who requested the issue of the subpoena require a hearing. The Court may hold a hearing by video link or telephone conference if the Court thinks fit. If a party applies to the Court for a direction to hear the application

SCHEDULE—*continued*NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES—*continued*Form 35c—*continued*

by video link or telephone conference, the Court is required to hear it by video link or telephone conference.

[Note: Details of the grounds on which a subpoena can be set aside and the procedure for setting aside a subpoena are referred to later in this statement.]

YOUR OBLIGATIONS

Unless the subpoena is set aside, you must comply with it if:

- (a) When the subpoena was served on you, or at some reasonable time before the time specified for compliance, there have been paid or tendered to you allowances and travelling expenses or vouchers in substitution for them sufficient to meet your reasonable expenses of complying with the subpoena; and
- (b) A copy of the order of the Judge of the High Court of New Zealand granting leave to serve the subpoena was served on you with the subpoena;
- (c) The subpoena was served on you not later than the date specified by the Judge of the High Court who granted leave to serve the subpoena; and
- (d) Any other conditions relating to the service of the subpoena have been complied with; and
- (e) You have attained 18 years of age.

If the subpoena only requires you to produce documents or things, you may comply with the subpoena by producing the documents or things at any registry of an Australian Court that is authorised by the law of the Commonwealth of Australia to receive them not later than 10 days before the date specified in the subpoena for producing them in the High Court. If you produce the documents or things at a registry of an Australian Court, you will be required to produce the subpoena and to pay the cost of sending the documents or things to the High Court. You are entitled to have the costs of producing the documents or things and of sending them to the New Zealand court paid or tendered to you before you are required to comply with the subpoena.

FAILURE TO COMPLY WITH THE SUBPOENA

Failure to comply with the subpoena constitutes contempt of the Federal Court of Australia and, unless you establish that the failure to comply should be excused, is punishable accordingly.

SETTING SUBPOENA ASIDE

You are entitled to apply to the High Court of New Zealand to have this subpoena set aside. An application to do so must be made under section 11 of the Evidence Amendment Act 1994. Section 11 provides that the High Court must set the subpoena aside if—

- (a) The subpoena requires the witness to attend at a sitting of a Court and the High Court is satisfied that—

SCHEDULE—*continued*NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES—*continued*Form 35c—*continued*

- (i) The witness does not have, and cannot by the exercise of reasonable diligence within the time required for compliance obtain, the necessary travel documents; or
 - (ii) The witness is liable to be detained in New Zealand for the purpose of serving a sentence; or
 - (iii) The witness is liable to prosecution for an offence, or is being prosecuted for an offence, in New Zealand; or
 - (iv) The witness is liable to the imposition of a civil penalty in civil proceedings in New Zealand, not being proceedings for a pecuniary penalty under the Commerce Act 1986; or
- (b) The witness is subject to a restriction on his or her movements, imposed by law or by order of a court, that would prevent the witness complying with the subpoena.

Section 11 further provides that the High Court may set a subpoena aside if it is satisfied that—

- (a) The evidence of the witness could be obtained satisfactorily without significantly greater expense by other means; or
- (b) Compliance with the subpoena would cause hardship or serious inconvenience to the witness; or
- (c) In the case of a subpoena that requires a witness to produce documents or things, whether or not it also requires the witness to give oral evidence, the documents or things should not be taken out of Australia and that satisfactory evidence of the contents of the documents or evidence of the things can be given by other means.

An application to set the subpoena aside must be filed in the office of the High Court of New Zealand in which leave to serve the subpoena was given together with any affidavit setting out the grounds on which you rely.

The application and the affidavit may be sent by facsimile. The facsimile number of the office of the Court is [*Specify facsimile number*]. The application must contain an address for service in New Zealand or Australia and may also state a facsimile number in New Zealand or Australia to which documents relating to the application may be sent. The Registrar of the High Court will arrange for service of the application and any affidavit.

The High Court can decide the application without a hearing if neither you nor the party who requested the issue of the subpoena state that a hearing is required. If there is to be a hearing, the hearing may, if the Court thinks fit, be by video link or telephone conference. You may, however, either in your application to set the subpoena aside or within a reasonable time after filing the application, request that the Court direct that the hearing be by video link or telephone conference. If you make such a request, the Court will direct that the hearing be by video link or telephone conference.

SCHEDULE—*continued*NEW FORMS INSERTED IN FIRST SCHEDULE TO HIGH COURT RULES—*continued*

Rule 502H

Form 35D

CERTIFICATE OF NON-COMPLIANCE WITH SUBPOENA FOR
SERVICE IN AUSTRALIA

(General heading-Form 1 and endorsement)

To: The Federal Court of Australia

[Place]

The High Court of New Zealand hereby certifies that on the
 .day of 19..... the Honourable Justice
 gave leave to serve a subpoena, being a subpoena to which Part 3 of the
 Evidence and Procedure (New Zealand) Act 1994 applies, on [Specify name
 of person subpoenaed] and that [Specify name of person subpoenaed] has failed to
 comply with the subpoena in that [State particulars of the failure to comply].

Dated at this day of 19.....

.....
(Deputy) Registrar

MARIE SHROFF,
 Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules amend the High Court Rules by inserting a number of new rules and forms relating to the service of subpoenas on witnesses in Australia and the giving of evidence and the hearing of submissions from Australia by video link and telephone conference. The Evidence Amendment Act 1994 provides for the service of subpoenas issued by New Zealand courts on witnesses in Australia and for evidence to be given and submissions made from Australia in proceedings in New Zealand courts by video link and telephone conference.

Rule 1 provides that the rules come into force on 1 April 1995. The Evidence Amendment Act 1994 also comes into force on that date.

Rule 2 inserts a new subclause (7A) into rule 66 of the High Court Rules. Rule 66 relates to the searching of Court records. The new subclause (7A) prohibits the searching, inspection, or copying of a file or any document on a file relating to an application under rule 446U or the new rule 502c without the leave of a Judge. Rule 446U relates to the issue of subpoenas for service in Australia in certain proceedings in the High Court under the Commerce Act 1986. The new rule 502c is inserted by rule 5 of these rules and relates to applications for leave to serve in Australia subpoenas issued in proceedings (other than criminal and family proceedings) in the High Court and other New Zealand courts.

Rule 3 amends rule 446U of the High Court Rules so as to require applications under the rule to be by way of originating application.

Rule 4 amends rule 458D (1) of the High Court Rules by adding applications under rule 446U and the new rule 502c to the list of proceedings that may be commenced by way of originating application.

Rule 5 inserts new rules 502A to 502J into the High Court Rules.

The new rule 502A relates to matters of interpretation.

The new rule 502_B prescribes the form of subpoenas that may be issued by the High Court for service on witnesses in Australia and provides for the issue of such subpoenas in the same manner as subpoenas may be issued under rule 497.

The new rule 502_C relates to applications to the High Court for leave to serve a subpoena issued by a New Zealand court on a witness in Australia. Section 5 of the Evidence Amendment Act 1994 provides that a subpoena issued by a New Zealand court may, with leave of a Judge of the High Court, be served in Australia.

The new rule requires an application for leave to serve a subpoena to be made *ex parte* and to be made by way of originating application.

The new rule requires every application to be accompanied by an affidavit and specifies the matters that must be contained in the affidavit.

The new rule 502_D prescribes the form of statement that must, in accordance with section 7 (2) (b) of the Evidence Amendment Act 1994, be served on a witness in Australia with a subpoena.

The new rule 502_E prescribes the procedure for the making of an application to set aside a subpoena issued by a New Zealand court. Section 11 of the Evidence Amendment Act 1994 gives the High Court jurisdiction to set aside such subpoenas. The new rule authorises an application to be made by an Australian solicitor and to be made by facsimile.

The new rule 502_F relates to the service of documents on persons applying to have a subpoena set aside and provides for service by facsimile.

The new rule 502_G relates to the hearing of an application to set aside a subpoena issued by a New Zealand court. If neither party requires a hearing, the High Court may determine the application without a hearing. The Court may hold a hearing by video link or telephone conference and is required to do so if the applicant requests the Court to direct that it be held by video link or telephone conference.

The new rule 502_H prescribes the form of certificate under section 12 of the Evidence Amendment Act 1994 to be issued by the High Court in the event of failure by a witness to comply with a subpoena issued by the Court and served in Australia. Section 12 of the Evidence Amendment Act 1994 provides that if a witness fails to comply with a New Zealand subpoena, the court that issued the subpoena may issue a certificate stating that a Judge of the High Court has given leave to serve the subpoena and that the witness has failed to comply with it. By virtue of section 21 of the Evidence and Procedure (New Zealand) Act 1994, failure to comply with a subpoena issued by a New Zealand court and served on a witness in Australia constitutes contempt of the Federal Court of Australia and is punishable accordingly.

The new rule 502_I relates to the sending of documents or things that have been produced at a registry of the High Court in compliance with a subpoena issued by an Australian court to the Australian court that issued the subpoena. In such a case, the Registrar must—

- (a) Issue a receipt that states the date and time of production of the document or thing; and
- (b) Send a copy of the receipt and the subpoena to the Registrar of the Australian court; and
- (c) Send the document or thing to the Australian court so that it is received before the date on which it has to be produced.

The new rule 502_J relates to giving evidence and making submissions by video link or telephone conference from Australia in proceedings before the High Court. Section 19 of the Evidence Amendment Act 1994 provides that a New Zealand court may direct that evidence be given or submissions be made in proceedings before the court by video link or telephone conference from Australia if it is satisfied as to the necessary facilities and that the evidence or submissions could more conveniently be given from Australia. The new rule provides that such an application must be made *ex parte* and be accompanied by an affidavit and specifies the matters with which the affidavit is required to deal.

Rule 6 inserts a number of new forms into the First Schedule to the High Court Rules.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 30 March 1995.

These rules are administered in the Department of Justice.