

1995—No. 56

DISTRICT COURT ACT 1973—RULE

NEW SOUTH WALES



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1. This rule is made by the Rule Committee on 7 February 1995, and has effect on and from 17 February 1995.
2. The District Court Rules 1973 are amended as follows:
 - (a) Part 5 rule 6A (e) and (f)
After “Act” where occurring insert “or section 73 of the Motor Accidents Act 1988”.
 - (b) Part 18 rule 3
 - (i) In subrule (1), after “defendant” insert “or of its own motion”;
 - (ii) After subrule (2) insert the following subrules:
 - (3) The Court may not make an order under subrule (1) without giving the plaintiff a reasonable opportunity to be heard.
 - (4) The Court may, on application by any party, set aside an order that is made on the Court’s own motion under subrule (1).
 - (c) Part 19A rule 11 (1)
After “contribute” insert “, or to accept an amount in contribution.”.
 - (d) Part 24C rule 4
After subrule (2) insert the following subrule:
 - (3) Subrule (2) does not operate to prevent or delay the filing or issue of any document.
 - (e) Part 25 rules 9, 10
Omit the rules, insert instead the following rules:
Taking of depositions
 9. (1) The deposition of a person examined before an examiner shall be recorded by means of writing, shorthand, stenotype machine or sound-recording apparatus.

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(2) The deposition must contain as nearly as may be the statement of the person examined.

(3) The examiner may direct that the words of any question and the answer to the question be recorded.

(4) Subject to subrules (2) and (3) and subject to rule 8 (b) every question and answer need not be recorded.

Videotaping, etc., the examination

10. The Court or the examiner may give directions for making, by any audio-visual method, a recording of proceedings on an examination.

Authentication and filing

10A. (1) Where, for the purposes of rule 9 (1), the deposition of a person examined is recorded by means of writing, the written record shall be read over either to or by the person, as the examiner may direct, and be signed by the person examined.

(2) A transcript shall be prepared of a deposition recorded by one of the means, other than writing, referred to in rule 9 (1) and the person who prepared the transcript shall certify that it is a correct transcript of the deposition so recorded.

(3) The examiner shall authenticate by his signature the written record or transcript of the deposition and any document which constitutes a recording under rule 10.

(4) The examiner shall make on, or attach to, the written record or transcript of the deposition a note signed by him of the time occupied in the examination and the fees received by him in respect of the examination.

(5) The examiner shall send the written record or transcript of the deposition and any document which constitutes a recording under rule 10 to the registrar and the registrar shall file them in the proceedings.

(6) The examiner shall, unless the Court otherwise orders, send the exhibits to the registrar and the registrar shall deal with the exhibits in such a manner as the Court may direct.

(7) Subrules (1), (2), (4) and (5) do not apply where the examiner is a Judge.

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EXPLANATORY NOTE

The purpose of the amendment is:

- (a) to ensure that a reference to interest does not exclude interest payable under the Motor Accidents Act 1988;
- (b) to bring the rules into line with the Supreme Court Rules as to the powers of the Court of its own motion to dismiss an action for want of prosecution;
- (c) to enable an offer as to contribution in third party proceedings to be made by, as well as to, a defendant;
- (d) to enable documents to be filed or issued in an action in the Motor Accidents List despite the action being deemed struck out for failure to file a praecipe for trial;
- (e) to bring the rules into line with the Supreme Court Rules as to the taking and authentication of evidence on commission by video link, etc.

E. J. O'GRADY,
Secretary to the Rule Committee.
