

DISTRICT COURT ACT 1973—RULE

NEW SOUTH WALES



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1. This rule is made by the Rule Committee on 18 June 1996, and has effect on and from 21 June 1996.

2. The District Court Rules 1973 are amended as follows:

(a) Part 5 rule 13 (1) (a)

Omit the paragraph, insert instead:

(a) a party, or a registrar of the Supreme Court, shall lodge a copy of the order and a copy of the pleadings (if any) in the proceedings with the registrar for that place;

(b) Part 6 rule 40

(i) In subrule (3), omit “for the call-over of the appeal under rule 45 and the place where that call-over is to be held”, insert instead “, which shall be as early as practicable, for the listing of the appeal before a Judge for directions, and the place where that listing is to occur”;

(ii) Omit subrule (5).

(c) Part 6 rule 41

Omit “call-over of the appeal is to be held”, insert instead “listing of the appeal for directions is to occur”.

(d) Part 6 rule 45

Omit the rule.

(e) Part 17 rule 2 (1)

Omit “before a praecipe for trial is filed”, insert instead “not more than 4 months after the filing of the statement of claim”.

(f) Part 17 rule 7 (3)

Omit the subrule.

- (g) Part 18 rule 1

Omit the rule, insert instead:

Discontinuance

1. A party making a claim for relief may, before the beginning of the trial or hearing of the proceedings on the claim (but not otherwise), discontinue the proceedings so far as concerns the whole or any part of any claim for relief made by him:

- (a) where he or his solicitor certifies that he does not represent any other person and all other parties having an address for service in the proceedings consent; or
- (b) with the leave of the Court.

- (h) Part 22 rule 8A

Omit the rule.

- (i) Part 22 rule 16

Omit the rule, insert instead:

Privilege

16. For the purposes of this Part, a document shall be privileged from production if, and only if, it is:

- (a) a document of which evidence could not be adduced over the objection of any person by reason of the operation of Part 3.10 of the Evidence Act 1995; or
- (b) a document that relates to matters of state within the meaning of section 130 of the Evidence Act 1995 unless and until the Court decides that it cease to be a privileged document.

- (j) Part 39A rule 8 (1)

After “proceedings” where first occurring insert “other than proceedings in the Commercial List or the Construction List”.

- (k) Part 52 rule 5

Omit the rule.

EXPLANATORY NOTE

The purpose of the amendments is:

- (a): to recognise the practice that the pleadings in proceedings transferred from the Supreme Court may be lodged in the District Court by a Supreme Court Registrar;
- (b)–(d): to provide that appeals under the Children (Care and Protection) Act 1987 are to be brought as soon as practicable before a Judge for case-management purposes;

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- (e) to regularise the prescribed time limit for amending a pleading without leave;
- (f) to accord with the Supreme Court Rules by enabling an amended pleading to be served without a prior attendance at the registry;
- (g) to accord with the Supreme Court Rules as to the time and circumstances in which proceedings may be discontinued;
- (h), (i): to accord with the Supreme Court Rules as to privilege from discovery of documents;
- (j) to accord with the Supreme Court Rules as to the time at which costs ordered during the course of proceedings become payable;
- (k) to accord with the Supreme Court Rules by removing a time limit on applying for a stay of proceedings pending lodging of an appeal.

E. J. O'Grady
Secretary to the Rule Committee
