

1990 - No. 298

**DISTRICT COURT ACT 1973 - RULE**

NEW SOUTH WALES



*[Published in Gazette No. 68 of 25 May 1990]*

1. This Rule is made by the Rule Committee on 24 April 1990, and has effect on and from 25 May 1990.
2. The District Court Rules 1973 are amended by inserting after Part 24A the following Part:

**PART 24B**

**COMMERCIAL LIST**

**Commercial List**

1. The registrar for Sydney shall keep a Commercial List, and shall, in accordance with this Part, enter in that List only proceedings the proper place in relation to which is Sydney.

**Proceedings for entry in List**

2. There may, subject to this Part, be entered in the Commercial List any proceedings which
  - (a) are not proceedings for trial by a jury or proceedings on a claim for damages in respect of the death of, or personal injuries to, any person;
  - (b) are not proceedings which may be entered in the Building and Engineering List;
  - (c) are proceedings:
    - (i) arising out of commercial transactions; or
    - (ii) in which there is an issue that has importance in trade or commerce; and

- (d) are realistically estimated on the part of a party to require more than 4 days of sitting time to complete their hearing.

#### **Entry in List on commencement of proceedings**

3. (1) Where, in proceedings which may under rule 2 be entered in the Commercial List, a plaintiff on his statement of claim, or a defendant on the notice of the grounds of his defence, requires the proceedings to be so entered, the proceedings shall be so entered without any order of the Court.

(2) A requirement under subrule (1) shall be made by a party adding "Commercial List - Long Trial" next under the heading and title on his statement of claim or the notice of the grounds of his defence, as the case may require.

#### **Entry in List by consent**

4. Proceedings which may under rule 2 be entered in the Commercial List shall be so entered on the filing, after a notice of grounds of defence has been filed, of a consent order for that entry.

#### **Motion for entry in List**

5. (1) A plaintiff, or a defendant who has filed notice of the grounds of his defence in any proceedings, may move under Part 16 for entry of the proceedings in the Commercial List at any time after a notice of grounds of defence has been filed.

(2) A motion mentioned in subrule (1) shall be returnable before a Judge appointed by the Chief Judge for the control of proceedings in the Commercial List.

(3) A party moving on notice for an order for entry of any proceedings in the Commercial List shall, as far as practicable, move at the same time for such other directions and orders relating to the conduct of the proceedings as he may require.

#### **Order for entry in List**

6. The Court may of its own motion direct that any proceedings which may under rule 2 be entered in the Commercial List be so entered.

### **Directions**

7. (1) Where a Judge makes an order under rule 5 for the entry of any proceedings in the Commercial List, the proceedings shall thereupon be before him for directions under this rule.

(2) Where any proceedings are entered in the Commercial List under rule 3, 4 or 6, the registrar shall, as soon as convenient after a notice of grounds of defence has been filed, list the proceedings before a Judge (appointed by the Chief Judge for the control of proceedings in the Commercial List) for directions under this rule, and shall advise the parties of the listing.

(3) Where any proceedings are before a Judge for directions under this rule, the Judge may give such directions as he thinks fit concerning the preparation of the proceedings for trial.

(4) Without limiting the generality of subrule (1), directions which may be given under that subrule include directions as to the times within which, and the modes in which, particulars are to be given, lists of documents are to be prepared and exchanged, documents are to be inspected, and interrogatories are to be administered and answered.

(5) A direction given under this rule, and an order made in respect of non-compliance with such a direction, shall apply notwithstanding any time, mode, or penalty for non-compliance otherwise fixed by the rules or the practice of the Court.

### **Removal from List**

8. (1) Where any proceedings are entered in the Commercial List, the Court on the application of a party or of its own motion, may, if it is satisfied that it is proper to do so, order, on terms, that the proceedings be removed from that List, and may give such further directions as to the continuance of the proceedings as it thinks fit.

(2) Notice of motion for an order under subrule (1) shall be filed and served before the proceedings are before a Judge for directions under rule 7.

(3) Without limiting the generality of subrule (1), the Court shall under that subrule order that proceedings be removed from the Commercial List if it is of the opinion that the proceedings are not proceedings which may under rule 2 be entered in that List.

**EXPLANATORY NOTE**

The purpose of the amendment is to establish a Commercial List in the District Court, so that lengthy commercial actions can receive the benefit of case-flow management by Judges. The amendment will not give commercial actions priority in hearing over other actions, but will assist in their preparation for trial and expedite any possible settlement.

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