

**1990 - No. 570**

**DISTRICT COURT ACT 1973 - RULE**

NEW SOUTH WALES



*[Published in Gazette No. 106 of 24 August 1990]*

1. This rule is made by the Rule Committee on 14 August 1990, and has effect on and from 24 August 1990.
2. The District Court Rules 1973 are amended as follows:
  - (a) Part 11 rule 1 (1)  
Omit paragraphs (a), (b) and (c), insert instead the following paragraphs:
    - (a) a defendant has not filed a notice of the grounds of his defence under Part 10 rule 1 (1), or has filed such a notice which the Court has ordered to be struck out; and
    - (b) a period of 28 days after service of the statement of claim on that defendant has elapsed,
  - (b) Part 12 rule 1
    - (i) Omit "(1) Subject to subrule (2), the", insert instead "The";
    - (ii) Omit subrule (2).
  - (c) Part 12 rule 4
    - (i) Omit "Subject to", insert instead "(1), Subject to subrule (2) and";
    - (ii) After subrule (1) insert the following subrule:
      - (2) Where in proceedings to which rule 4A applies a date has been fixed for call-over under subrule (1) and the plaintiff has not, within the time prescribed for the purposes of rule 4A (2):

- (a) served on all other parties who have separately pleaded the statement, documents and reports mentioned in rule 4A (2); and
- (b) filed the copy of the statement, endorsed with the certificate, mentioned in rule 4A (2A), the registrar shall vacate the date fixed for call-over of the proceedings, and shall not fix a further date for that call-over until at least 2 months after the plaintiff has filed the copy, endorsed with the certificate, mentioned in rule 4A (2A).

(d) Part 12 rule 4A

After subrule (2A) insert the following subrules:

(2B) The statement, documents and reports required under subrule (2) to be served shall be final and complete as to the plaintiffs case except as regards any medical examination to be conducted after the date of service, and shall contain such details as the plaintiff can then provide as to the arrangement for any such medical examination.

(2C) Where, after service of any statement, document or report mentioned in subrule (2) and before the hearing of the proceedings, the plaintiff becomes aware that any information contained in the statement, document or report is no longer accurate and complete information as regards the plaintiffs claim, the plaintiff shall as soon as practicable give to all other parties who have separately pleaded such advice as is necessary to make that information accurate and complete.

(e) Part 13 rule 1 (1)

Omit paragraphs (a), (b) and (c), insert instead the following paragraphs:

- (a) a defendant has not filed a notice of the grounds of his defence under Part 10 rule 1 (2), or has filed such a notice which the court has ordered to be struck out; and
- (b) a period of 28 days after service of the statement of claim on that defendant has elapsed,

- (f) Part 24A rule 4 (1)  
After “shall” insert “, on the filing of a praecipe for trial.”.
- (g) Part 24A rule 5  
Omit “has”, insert instead “and a praecipe for trial have”.
- (h) Part 24A rule 6 (1)  
Omit “is”, insert instead “and a praecipe for trial have been”.
- (i) Part 24A rule 7  
After “proceedings” insert “in which a praecipe for trial has been filed and”.
- (j) Part 24A rule 8 (2)  
Omit “has”, insert instead “and a praecipe for trial have”.
- (k) Part 24B rule 3 (1)  
After “shall” insert “, on the filing of a praecipe for trial.”.
- (l) Part 24B rule 4  
Omit “has”, insert instead “and a praecipe for trial have”.
- (m) Part 24B rule 5 (1)  
Omit “has”, insert instead “and a praecipe for trial have”.
- (n) Part 24B rule 6  
After “proceedings” insert “in which a praecipe for trial has been filed and”.
- (o) Part 24B rule 7 (2)  
Omit “has”, insert instead “and a praecipe for trial have”.
- (p) Part 51A rule 6 (1)  
Omit “less”, insert instead “later”.

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**EXPLANATORY NOTE**

The purposes of the amendments are:

- to ensure that an order for judgment may be made, or default judgment entered, after a notice of grounds of defence is struck out;
- to ensure that actions in the Building and Engineering List and Commercial List are not exempted from the obligation to file a praecipe for trial;
- to remove actions from call-over lists where particulars have not been given within the prescribed time, and to ensure that particulars are final and complete when given and are updated to the time of hearing;
- to make other amendments of a minor or consequential nature.

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