

DISTRICT COURT ACT 1973—RULE

NEW SOUTH WALES



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1. This rule is made by the Rule Committee on 18 August 1992, and has effect on and from 28 August 1992.

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

(a) Part 8 rule 9

After subrule (3) insert the following subrule:

(4) Where the address for service of a person to be served with a document is the office of a solicitor, and the solicitor has added to that address “will accept service to fax number” together with the solicitor’s facsimile transmission number, transmitting to that number the information contained in the document by a means that reproduces, in the hands of the recipient, that information as it appears in the document shall be taken to be good service of the document on the person on a day one day after the information is so transmitted.

(b) Part 23 rule 6B (2)

Omit ‘each of “treatment by way of rehabilitation” and “approved place” has’, insert instead ‘ “occupational rehabilitation” has’.

(c) Part 23 rule 6C (1)

Omit the subrule, insert instead the following subrule:

(1) The Court may, on terms, make orders for testing the party concerned for the purpose of assessing the extent of impairment of the party’s earning capacity, including an order to submit to tests, pursuant to the direction of a medical practitioner, during a specified period and at a specified place, being:

(a) a hospital;

(b) a rehabilitation centre conducted by a hospital; or

(c) some other suitable place,

at which:

(d) treatment by way of rehabilitation; or

(e) an occupational rehabilitation service,

is afforded.

(d) Part 24B rule 2 (d)

Omit “4 days”, insert instead “2 days”:

(e) Part 31 rule 9

Omit the rule, insert instead the following rule:

Written reasons

9. Where the Court gives any judgment or makes any order and reduces to writing its reasons for the judgment or order, it is sufficient to state orally the judgment or order without stating the reasons, but the written reasons must immediately thereafter be given by delivering them to the parties or their legal representatives in Court, or to an Associate, or other officer specified by the Court, for delivery to the parties.

(f) Part 35 rule 9

Omit the rule, insert instead the following rule:

Conditions of sale

9. (1) The Sheriff or bailiff shall sell personal property under a writ of execution, or require any auctioneer appointed to sell the property:

(a) on terms as to payment that the purchaser shall pay:

(i) an amount equal to at least 10% of the purchase price by way of deposit immediately upon the sale; and

(ii) the balance of the purchase price within such period, not exceeding 2 working days after the sale, as the Sheriff or bailiff may determine prior to the sale; or

(b) on terms as to payment that the purchaser shall pay the whole of the purchase price immediately upon the sale.

(2) The Sheriff or bailiff shall require payment to be in cash, by bank draft or, if the Sheriff so approves, by credit card.

(3) Where payment is made by credit card, any charge made to the Sheriff, bailiff or auctioneer in respect of the payment shall form part of the costs of the execution.

(g) Part 36 rule 11B

Omit the rule, insert instead the following rule:

Conditions of sale

11B. (1) The Sheriff or bailiff shall sell land under a writ of execution, or require any auctioneer appointed to sell the land:

(a) on terms as to payment that the purchaser shall pay:

(i) an amount equal to at least 10% of the purchase price by way of deposit immediately upon the sale; and

(ii) the balance of the purchase price within such period, not exceeding 6 weeks after the sale, as the Sheriff or bailiff may determine prior to the sale; or

(b) on terms as to payment that the purchaser shall pay the whole of the purchase price immediately upon the sale.

(2) Where a sale of property under a writ of execution is partly of land and partly of other property, the other property may be sold on the same terms as to payment as the land.

(3) The Sheriff or bailiff shall require payment to be in cash, by bank draft or, if the Sheriff so approves, by credit card.

(4) Where payment is made by credit card, any charge made to the Sheriff, bailiff or auctioneer in respect of the payment shall form part of the costs of the execution.

(5) Upon completion of a sale of land under a writ of execution, the Sheriff's Officer or bailiff required to execute the writ and the purchaser shall sign a contract of sale in the approved form.

(6) The purchaser of land sold under a writ of execution shall take at his own expense the registrar's assurance of the interest sold.

EXPLANATORY NOTE

The purpose of the amendments is:

- (a) to enable documents to be served by FAX on solicitors who indicate their willingness to accept such service;
- (b) and (c) to update the provisions regarding rehabilitation testing consequent on amendments to the Workers Compensation Act 1987;
- (d) to reduce the restrictions on entry of an action to the Commercial List;

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- (e) to clarify the provision which enables a Judge to distribute his reasons for judgment in written form rather than reading them in Court;
- (f) and (g) to restate the provisions regarding sales under writs of execution, and in particular to allow a purchaser of land up to 6 weeks to complete.

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