

1992—No. 655

LOCAL COURTS (CIVIL CLAIMS) ACT 1970—RULE

NEW SOUTH WALES



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1. This rule is made by the Rule Committee on 8 December 1992, and has effect on and from 1 July 1993.

2. The Local Courts (Civil Claims) Rules 1988 are amended as follows:

(a) Part 1 rule 3 (1)

Insert in alphabetical order:

“**personal injuries**” includes any disease and any impairment of a person’s physical or mental condition;

(b) Part 9 rule 2B

After Part 9 rule 2A insert the following rule:

Particulars in personal injuries actions

2B. (1) This rule applies to an action in which a claim is made for damages in respect of personal injuries.

(2) In an action to which this rule applies the plaintiff shall, before filing a certificate of readiness, serve on every defendant (or other party) who has filed notice of grounds of defence a statement setting out:

(a) particulars of injuries received;

(b) particulars of continuing disabilities;

(c) details of out-of-pocket expenses; and

(d) where any claim is made in respect of loss of income:

(i) the name and address of each employer during the 12 months preceding the accident together with details of the periods of employment, capacity in which employed and net earnings during each period of employment;

- (ii) the name and address of each employer since the accident together with details of the periods of employment, capacity in which employed and net earnings;
- (iii) the amount claimed in respect of loss of income to the date of the statement by comparison between what the plaintiff has earned since the accident and what he would have earned but for the accident, setting out, in respect of what the plaintiff would have earned but for the accident, particulars thereof, including, where appropriate, particulars of the earnings of comparable employees and the identity of those employees, or, where appropriate, particulars of payment which the plaintiff would have received under a relevant award or industrial agreement and the description of that award or industrial agreement;
- (iv) particulars of any alleged loss of earning capacity and future economic loss; and
- (v) where self-employed, such additional particulars as will achieve full disclosure of the basis of the claim for loss of income,

together with:

- (e) copies or originals of all documents available to the plaintiff in support of a claim for special damage and economic loss, whether past, present or continuing, including:
 - (i) hospital, medical and similar accounts;
 - (ii) letters from a workers' compensation insurer indicating moneys paid to or on behalf of the plaintiff, and
 - (iii) letters from employers, wage records, income records and group certificates; and
- (f) copies or originals of all hospital and medical reports available at the time of serving the statement upon which the plaintiff intends to rely at the hearing.

(3) The plaintiff shall, either before or when filing a certificate of readiness in the action, file a copy of the statement mentioned in subrule (2) endorsed with a certificate by the plaintiff or his solicitor to the effect that the statement and the documents mentioned in paragraphs (e) and (f) of that subrule have been served as required by that subrule.

(4) The statement, documents and reports required under subrule (2) to be served shall be final and complete as to the plaintiff's 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 arrangements for any such medical examination.

(5) Where, after service of any statement, document or report mentioned in subrule (2) and before the hearing of the action, the plaintiff becomes aware that any information contained in the statement, document or report is no longer accurate and complete information as regards the plaintiff's claim, the plaintiff shall as soon as practicable give to all other parties who have filed notice of grounds of defence such advice as is necessary to make that information accurate and complete.

EXPLANATORY NOTE

The purpose of the amendments is to import into the Local Courts the provisions of the District Court Rules which require that in an action for damages for personal injuries full particulars and supporting documents must be given to the defendant before the action will be set down for hearing. The requirement applies only in the General Division and affects actions in which a certificate of readiness is filed on or after 1 July 1993.

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