

1993—No. 382

DISTRICT COURT ACT 1973—RULE

NEW SOUTH WALES



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1. This rule is made by the Rule Committee on 3 August 1993, and has effect on and from 13 August 1993.

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

(a) Part 19A rule 2A

After Part 19A rule 2 insert the following rule:

Offer with further offer as to costs

2A. (1) A party may make an offer under rule 2 (1) (a “principal offer”) to compromise any claim in an action and, at the same or subsequent time, an offer (a “costs offer”) to compromise any claim of the plaintiff for his costs incurred in the action up to the date of any acceptance of the principal offer by paying or accepting an amount specified in the costs offer.

(2) Where a principal offer and a costs offer are made under subrule (1) and the offeree accepts the principal offer, the offeree may accept or fail to accept the costs offer.

(3) A costs offer is of no effect for the purposes of this rule if the principal offer is not accepted.

(4) Where:

- (a) a plaintiff accepts a principal offer and fails to accept a costs offer; and
- (b) the plaintiff’s costs in the action are taxed; and
- (c) the taxing officer is of opinion that the costs offer was in an amount not less than the costs reasonably incurred by the plaintiff up to and including the day when the principal offer was accepted,

the taxing officer may, notwithstanding Part 39 rule 25 (1), in his discretion award the costs, or any part of the costs, of the taxation to the defendant.

(b) Part 47 rule 3

- (i) In subrule (3) omit “Notwithstanding the provisions of the sub-rule, a document measuring about three hundred and forty millimetres long but otherwise complying with the Rules shall until 31 December 1983 be accepted for use in the Court.”;
- (ii) After subrule (4) insert the following subrule:
 (4A) Notwithstanding subrule (4), where an annexure to a document is a photocopy the annexure may be on both sides of the paper.

(c) Part 51A rule 2 (4)

- (i) In paragraph (a), after “Wollongong,” insert “and is not a place in respect of which a direction under rule 1 (2) is in effect.”;
 - (ii) In paragraph (b), after “Wollongong,” insert “or a place in respect of which a direction under rule 1 (2) is in effect.”.
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EXPLANATORY NOTE

The purpose of the amendments is:

- (a) to enable a party making an offer of compromise to include in the offer a specified amount offered as costs, and to establish what consequences flow from rejection of the offer as to costs;
- (b) to enable a photocopied annexure to a filed document to be copied on both sides of the paper;
- (c) to remove a monetary limitation on the referral of personal injuries actions to arbitration under the “circuit” system.

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