



New South Wales

DISTRICT COURT ACT 1973—RULE

1. This rule is made by the Rule Committee on 18 June 1997, and has effect on and from 27 June 1997.

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

(a) After Part 6 Division 7 insert:

DIVISION 7A—Appeals under section 39 of the Victims Compensation Act 1996

Interpretation

60A. In this Division:

“appeal” means appeal under section 39 of the Compensation Act;

“application for leave” means application for the leave of the District Court under section 39 (1) of the compensation Act to institute an appeal;

“Compensation Act” means the Victims Compensation Act 1996;

“Tribunal” means the Victims Compensation Tribunal constituted under section 59 of the Compensation Act.

Venue

60B. Subject to any order made under section 40 of the Act, an application for leave and an appeal may be heard and determined at any proclaimed place.

Application for leave

60C. (1) An application for leave must be made by notice of motion under Part 16.

(2) An application for leave must be filed and served within 2 months of the date on which the relevant notice of the determination sought to be appealed against was served as referred to in section 39 (2) of the Compensation Act.

(3) An application to extend the time prescribed in subrule (2), or to allow further time to appeal under section 39 (2) of the Compensation Act, must be made by notice of motion under Part 16.

(4) An application for leave must include or be accompanied by a statement identifying the determination sought to be appealed against, a statement of the question of law on which it is sought to appeal and the grounds of the proposed appeal.

(5) The respondent to a motion referred to in subrule (1) or (3) is the Victims Compensation Fund Corporation constituted under section 66 of the Compensation Act.

(6) The applicant shall, as soon as practicable after filing a notice of motion referred to in subrule (1) or (3), deliver a copy of the notice of motion and any document accompanying it as required by subrule (4) to the Registrar of the Tribunal.

Tribunal record

60D. The Registrar of the Tribunal shall, as soon as practicable after delivery of a copy of a notice of motion under rule 60C (6), forward to the registrar of the District Court at the proclaimed place at which the appeal is to be heard the record of the proceedings in the Tribunal leading to the determination sought to be appealed against.

Appeal

60E. Where the Court grants leave to institute an appeal, it may give directions as to the extent, if any, to which matter which was before it, and decisions made by it, on the application for leave are admissible or binding on the hearing of the appeal, and may:

- (a) proceed immediately to hear and determine the appeal; or
 - (b) give such directions as to filing and service of documents, conferences, fixing of a hearing date, and any other matter as appear requisite for the hearing and determination of the appeal.
- (b) Part 34 rule 1 (2)
Omit the subrule.
- (c) Part 34 rule 3
- (i) In paragraph (a), after “costs” insert “(whether the judgment is for any other matter or not)”;
 - (ii) In paragraph (d), after “costs” where secondly occurring insert “unless a certificate of determination issues in respect of the costs and the certificate is not filed in the Court”.

EXPLANATORY NOTE

The purpose of amendment (a) is to provide a procedure for appeals to the Court under the Victims Compensation Act 1996.

The purpose of amendments (b) (c) is to continue the process of establishing as much uniformity with the Supreme Court Rules as can be achieved without substantially altering procedures.

J. G. Cowen
Secretary to the Rule Committee