



New South Wales

## SUPREME COURT RULES (AMENDMENT No. 313) 1997

1. These rules are made by the Rule Committee on 12 August 1997.
2. The Supreme Court Rules 1970 are amended as follows:
  - (a) Part 52A rule 33  
Before subrule (1) insert:
    - (1A) In this rule “motor accident claim” has the same meaning as it has in the District Court Act 1973”.
  - (b) Part 52A rule 33 (1) (b)
    - (i) In subparagraph (iii) omit “.” and insert instead “;”.
    - (ii) After subparagraph (iii) insert:
      - (iv) to proceedings that have been considered by the Court under section 143 (5) of the District Court Act 1973 and have not been ordered to be transferred to the District Court under section 143 of that Act.
  - (c) Part 52A rule 33 (2) (d) and (e)  
Omit the paragraphs and insert instead:
    - (d) in proceedings commenced after 31 March 1983, but on or before 30 June 1993, a plaintiff recovers a sum not more than \$10,000;
    - (e) in proceedings commenced after 30 June 1993, but on or before 1 October 1997, a plaintiff recovers a sum not more than \$75,000; or
    - (f) in proceedings commenced after 1 October 1997, where a plaintiff recovers:
      - (i) in the case of proceedings that include a motor accident claim—a sum not more than \$500,000; or
      - (ii) in any other case—a sum not more than \$225,000,
  - (d) Part 52A rule 33 (2)
    - (i) Omit “he” wherever occurring and insert instead “the plaintiff”.
    - (ii) After “his” insert “or her”.

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- (e) Part 52A rule 33 (4) (d) and (e)  
Omit the paragraphs and insert instead:
  - (d) in respect of proceedings commenced after 31 March 1983, but on or before 30 June 1993, where he or she recovers a sum more than \$10,000 but not more than \$50,000, be only a half of the whole amount;
  - (e) in respect of proceedings commenced after 30 June 1993, but on or before 1 October 1997, where he or she recovers a sum more than \$75,000 but not more than \$150,000; and
  - (f) in respect of proceedings commenced after 1 October 1997, where he or she recovers:
    - (i) in the case of proceedings that include a motor accident claim—a sum more than \$500,000 but not more than \$750,000; or
    - (ii) in any other case—a sum more than \$225,000 but not more than \$450,000,
- (f) Part 52A rule 33 (6)  
After “subrule (5),”, insert “in a case referred to in subrule (4) (f) (ii)”.
- (g) Part 52A rule 33 (7) (c) and (d)  
Omit the paragraphs and insert instead:
  - (c) in proceedings commenced after 31 March 1983, but on or before 30 June 1993, the plaintiff recovers a sum not more than \$50,000;
  - (d) in proceedings commenced after 30 June 1993, but on or before 1 October 1997, the plaintiff recovers a sum not more than \$150,000; or
  - (e) in proceedings commenced after 1 October 1997, the plaintiff recovers:
    - (i) in the case of proceedings that include a motor accident claim—sum a not more than \$750,000; or
    - (ii) in any other case—a sum not more than \$450,000,
- (h) Part 52A rule 4 (8) (c) and (d)  
Omit the paragraphs and insert instead (c), (d) and (e):
  - (c) after 31 March 1983, but on or before 30 June 1993, the plaintiff claims a sum not more than \$50,000;

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- (d) after 30 June 1993, but on or before 1 October 1997, the plaintiff claims a sum not more than \$150,000; or
  - (e) after 1 October 1997, in a case other than a the case of proceedings that include a motor accident claim, the plaintiff claims a sum not more than \$450,000,
  - (i) Part 52A rule 33

After subrule (9) insert:

(10) Where proceedings commenced on or after 1 October 1997 that include a motor accident claim are transferred to the District Court, the defendant shall be entitled to an order against the plaintiff for the defendant's costs thrown away as a result of the commencement in the Court and the transfer to the District Court of the proceedings, unless the Court otherwise orders.

#### EXPLANATORY NOTE

*(This note does not form part of the rules)*

52A r. 33 reduces the costs entitlement of plaintiffs, and to a very limited extent defendants, where certain proceedings are brought in the Common Law Division which might be brought in the District Court. The rule is intended to discourage plaintiffs from bringing such proceedings in the Supreme Court. Recent changes made by the District Court Amendment Act 1997 increase the jurisdiction of the District Court and the object of the amendment contained in paragraph 2 is to update rule 33 to take account of these changes. The amendment repeats a number of paragraphs from the existing rules as these have minor amendments made necessary by the addition of the latest material.

M.A. Blay, the Secretary of the Rule Committee