



New South Wales

District Court Rule (Contractors Debts) 1998

under the

District Court Act 1973

The District Court Rule Committee made the following rule of court under the *District Court Act 1973* on 13 August 1998.

Margaret Lennan

Acting Secretary to the Committee

Explanatory note

The object of this Rule is to amend the *District Court Rules 1973*:

- (a) to provide for the procedure on an application under section 7 (1) of the *Contractors Debts Act 1997* for certification of a debt or an application under section 14 of that Act for an attachment order, and
- (b) to provide for the particulars of evidence required for an application under section 7 (1) of that Act, and
- (c) to allow the Registrar to exercise the powers of the District Court to make orders issuing a debt certificate under section 7 (1) of that Act.

1998 No 473

Clause 1 District Court Rule (Contractors Debts) 1998

District Court Rule (Contractors Debts) 1998

1 Name of Rule

This Rule is the *District Court Rule (Contractors Debts) 1998*.

2 Amendment of District Court Rules 1973

The *District Court Rules 1973* are amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Rule.

Schedule 1 Amendments

(Clause 2)

[1] Part 6, Division 9

Insert after Division 8 of Part 6:

Division 9 Applications under Contractors Debts Act 1997**64 Application for order issuing debt certificate**

- (1) The evidence in support of an application for a certificate under section 7 (1) of the *Contractors Debts Act 1997* must include evidence showing the following:
 - (a) how much of the judgment debt is for work carried out or for materials supplied (the *subject debt*),
 - (b) whether the subject debt consists of daily, weekly or monthly wages,
 - (c) if the subject debt so consists—whether the subject debt exceeds 120 days' wages,
 - (d) if the subject debt so consists and exceeds 120 days' wages—amount to be included in the certificate that does not exceed 120 days' wages,
 - (e) whether work resulting in the subject debt was done on something moveable and, if so, whether it would be practicable for the applicant to exercise a lien by retaining the thing in the applicant's possession.
- (2) The applicant may, unless the Court orders otherwise, proceed without service of notice of the application or other documents on any person.
- (3) The application may be determined or dealt with by the Court in the absence of the public and without any attendance by or on behalf of any person.

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District Court Rule (Contractors Debts) 1998

Schedule 1 Amendments

65 Application for attachment order

On an application under section 14 (1) of the *Contractors Debts Act 1997*, the applicant may, unless the Court orders otherwise, proceed without service of notice of the application or other documents on any person.

[2] Part 43, rule 10A (2) (c) (vii)

Omit "and" where lastly occurring.

[3] Part 43, rule 10A (2) (c) (ix)

Insert after 10A (2) (c) (viii):

, and

- (ix) orders issuing a debt certificate under section 7 (1) of the *Contractors Debts Act 1997*.