



New South Wales

District Court Rule (Public Health) 1999

under the

District Court Rules 1973

The District Court Rule Committee made the following rule of court under the *District Court Rules 1973* on 9 December 1999.

J G Cowen

Secretary to the Rule Committee

Explanatory note

Section 18 of the *Public Health Act 1991* enables the Court, on the application of the Director-General of the Department of Health, to make an order authorising service of a notice requiring a medical practitioner to disclose the name and address of a person who suffers a Category 5 medical condition. The section replaces section 50L of the *Public Health Act 1902*, which has been repealed.

The objects of this Rule are:

- (a) to replace Division 3 of Part 6 of the *District Court Rules 1973*, which presently relates to applications under section 50L of the repealed *Public Health Act 1902* with a new Division containing provisions concerning applications under section 18 of the *Public Health Act 1991*, and
- (b) to replace a reference to the repealed *Medical Practitioners Act 1938* in the definition of **medical practitioner** in Part 1, rule 4 (1) with a reference to the current *Medical Practice Act 1992*.

1999 No 705

Clause 1 District Court Rule (Public Health) 1999

District Court Rule (Public Health) 1999

1 Name of Rule

This Rule is the *District Court Rule (Public Health) 1999*.

2 Commencement

This Rule commences on 1 January 2000.

3 Amendment of District Court Rules 1973

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

4 Notes

The explanatory note does not form part of this Rule.

Schedule 1 Amendments

(Clause 3)

[1] Part 1, rule 4

Omit “*Medical Practitioners Act 1938*” from the definition of ***medical practitioner*** in rule 4 (1).

Insert instead “*Medical Practice Act 1992*”.

[2] Part 6, Division 3

Omit the Division. Insert instead:

Division 3 **Proceedings under section 18 of the Public Health Act 1991**

15 Interpretation

In this Division:

application means an application under section 18 of the *Public Health Act 1991*.

Director-General means the Director-General, Department of Health.

medical practitioner means the medical practitioner on whom it is sought, by the order applied for in an application, to serve a notice under section 19 of the *Public Health Act 1991*.

person concerned means the person whose name and address would be required to be supplied if the Court made the order sought in the application.

16 Application

(1) An application must be commenced:

- (a) at the proclaimed place nearest to the address at which the medical practitioner practises, or
- (b) at some other proclaimed place that in the special circumstances of the case appears to the registrar for that other proclaimed place to be more convenient.

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Schedule 1 Amendments

- (2) An application is to be commenced by the Director-General filing in quadruplicate a notice of the application.
- (3) The registrar is to fix the earliest convenient date for the hearing of the application.
- (4) A notice mentioned in subrule (2) must contain the following information:
 - (a) the date on which the application is to be heard,
 - (b) the name of the medical practitioner and the address at which he or she practises,
 - (c) particulars of the order for which that application is being made,
 - (d) particulars of the grounds on which the Director-General applies for the order sought, or a reference to the affidavit in which those particulars are contained,
 - (e) a notice to the medical practitioner explaining the requirement imposed on him or her by rule 18,
 - (f) a notice to the person concerned explaining the person's right to be heard in reply to the application without being required to disclose the person's name or address.

17 Service on medical practitioner

The Director-General must as soon as practicable after the application is commenced (and in any case not later than 14 days before the day fixed for the hearing) cause the following to be served on the medical practitioner:

- (a) a sealed copy of the notice of the application,
- (b) a copy of any affidavit filed with the notice.

18 Medical practitioner to advise registrar

- (1) A medical practitioner on whom a copy of the notice of an application is served must as soon as practicable (and in any case not later than 7 days after service of the application) advise the registrar, either by letter, facsimile or email or by telephone, of the name and address of the person concerned, so far as that name and address are known to the medical practitioner.

- (2) After a medical practitioner has complied with the requirements of subrule (1), the medical practitioner need take no further part in the proceedings on the application other than to comply with any notice authorised by the Court to be served on him or her.
- (3) If a medical practitioner fails to comply with the requirements of subrule (1) and the Director-General files an affidavit of service of the notice of the application on the medical practitioner, the Court may proceed to hear and determine the application even though rule 19 has not been complied with if it thinks fit to do so.

19 Registrar to advise person concerned

- (1) The registrar must as soon as practicable after receiving advice under rule 18 (1) send a sealed copy of the notice of the application by post addressed to the name and address advised to the registrar under that subrule.
- (2) The registrar must, when sending a copy under subrule (1), enclose the copy in an envelope endorsed with the return address of the registrar and marked "Confidential".

BY AUTHORITY