



New South Wales

Local Courts (Civil Claims) Amendment (Proceeds of Writs) Rule 2001

under the

Local Courts (Civil Claims) Act 1970

The Local Court (Civil Claims) Rule Committee made the following rule of court under the *Local Courts (Civil Claims) Act 1970* on 9 October 2001.

Stephen Olischlager
Secretary to the Rule Committee

Explanatory note

The object of this Rule is to amend the *Local Courts (Civil Claims) Rules 1988* to make further provision in respect of the receipt, custody and disbursement of money levied or received by a Sheriff's officer or bailiff by virtue of a writ of execution.

2001 No 901

Clause 1 Local Courts (Civil Claims) Amendment (Proceeds of Writs) Rule 2001

Local Courts (Civil Claims) Amendment (Proceeds of Writs) Rule 2001

1 Name of Rule

This Rule is the *Local Courts (Civil Claims) Amendment (Proceeds of Writs) Rule 2001*.

2 Commencement

This Rule commences on 1 January 2002.

3 Amendment of Local Courts (Civil Claims) Rules 1988

The *Local Courts (Civil Claims) Rules 1988* 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 30 rule 20

Omit the rule. Insert instead:

20 Receipt, custody and disbursement of money

- (1) A Sheriff's officer or bailiff levying or receiving money by virtue of a writ of execution must, where practicable, give an acknowledgment of the money to the judgment debtor or other person from whom the money has been received.
- (2) A Sheriff's officer or bailiff levying or receiving money by virtue of a writ of execution must do either of the following after levying or receiving the money:
 - (a) with the consent of the registrar at the court where the Sheriff's officer or bailiff is located—pay the amount levied or received to the registrar within 24 hours of its receipt and provide a return to the registrar specifying the following:
 - (i) the amounts payable from the proceeds of the writ to the judgment creditor in reduction or satisfaction of the judgment debt, and
 - (ii) the amount to be retained for the Sheriff's officer's costs of the writ,
 - (b) pay to the judgment creditor the amount levied or received (to the extent of the judgment debt) within 21 days of its receipt, less the amount of the Sheriff's officer or bailiff's costs of the writ.
- (3) If payment is made to the registrar under subrule (2) (a), the registrar must pay the money in accordance with the return provided by the Sheriff's officer or bailiff within 21 days of its receipt.
- (4) If the money levied or received by the Sheriff's officer or bailiff exceeds the total of the amount necessary to satisfy the writ of execution (including interest) and the costs of the execution, the amount in excess of that total amount must be paid to the judgment debtor within 21 days of its receipt.

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Schedule 1 Amendments

- (5) The Sheriff's officer or bailiff at a court must:
- (a) keep a trust account with a bank approved by the Treasurer, and
 - (b) pay into that account all money received by the Sheriff's officer or bailiff in respect of any writ and not paid immediately to a registrar, a judgment creditor or, in respect to money referred to in subrule (4), a judgment debtor.

[2] Part 30A rule 15A

Insert after rule 15:

15A Receipt custody and disbursement of money from sale of land

- (1) If a Sheriff's officer or bailiff sells land under a writ of execution, the Sheriff's officer or bailiff may make such adjustments and directions for payment of settlement moneys as is necessary under the conditions contained in the approved contract for the transfer of the property to the purchaser.
- (2) The Sheriff's officer or bailiff is entitled to retain from settlement moneys the costs of execution.
- (3) The Sheriff's officer or bailiff must pay to the judgment creditor from settlement moneys the amount of the judgment debt (including interest) as provided under the writ of execution within 21 days of settlement.
- (4) The balance of any settlement moneys in excess of the amounts disbursed under subrules (1)–(3) are to be paid by the Sheriff's officer or bailiff to the registrar of the court where the writ was issued within 21 days of settlement with a return outlining the disbursement of moneys.

BY AUTHORITY