



New South Wales

The District Court Rule (Motor Accidents) Rule 1999 published in Gazette No. 144 on 24th December, 1999 at page 12335 contained a typographical error at clause 2.

The District Court Rule (Motor Accidents) Rule 1999 is republished in correct form.

## **District Court Rule (Motor Accidents) 1999**

under the

District Court Act 1973

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

J G Cowen

Secretary to the Rule Committee

### **Explanatory note**

The object of this Rule is to insert a new Division in Part 24C of the *District Court Rules 1973* dealing with proceedings in respect of a claim to which Chapter 4 of the *Motor Accidents Compensation Act 1999* applies.

**2000 No 19**

Clause 1            District Court Rule (Motor Accidents) 1999

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**District Court Rule (Motor Accidents) Rule 1999**

**1 Name of Rule**

This Rule is the *District Court Rule (Motor Accidents) Rule 1999*.

**2 Commencement**

This Rule commences on 1 March 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 24C, Division 1**

Insert before Part 24C, rule 1:

**Division 1 Actions under the Motor Accidents Act 1988**

**[2] Part 24C, rule 1 (1)**

Omit “Part” where firstly occurring. Insert instead “Division”.

**[3] Part 24C, rule 1 (2)**

Omit “Part” wherever occurring . Insert instead “Division”.

**[4] Part 24C, rule 3**

Omit “*Motor Accidents Act 1988*” from rule 3 (3) (a).

Insert instead “*Motor Accidents Compensation Act 1999*”.

**[5] Part 24C, Division 2**

Insert after rule 8:

**Division 2 Actions under the Motor Accidents Compensation Act 1999**

**9 Interpretation**

(1) In this Division, *action under the Act* means proceedings in respect of a claim to which Chapter 4 of the *Motor Accidents Compensation Act 1999* applies.

(2) This Division applies to an action under the Act despite anything in these Rules other than this Division.

## 2000 No 19

District Court Rule (Motor Accidents) 1999

Schedule 1 Amendments

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### 10 Motor Accidents List

The registrar must enter into the Motor Accidents List maintained under rule 2 any action under the Act as soon as the action is commenced.

### 11 Statement of claim

The statement of claim in an action under the Act must bear in the heading the words "Motor Accidents Compensation Act 1999" and must have attached to it as a separate document:

- (a) a statement of the date on which the accident the subject of the action occurred, and
- (b) a statement that the accident was reported in compliance with section 70 of the *Motor Accidents Compensation Act 1999*, and
- (c) a statement that the claim is made in respect of the accident in compliance with section 72 of that Act or an indication of what explanation will be, or has been, provided under section 73 of that Act, and
- (d) a statement that a certificate in respect of the claim has been issued under section 92 or 94 of that Act and as to the provision under which that certificate was issued, and
- (e) where the action is commenced after the time prescribed by section 109 of that Act—a statement that leave of the Court has been granted as referred to in that section.

### 12 Service of statement of claim

- (1) The statement of claim in an action under the Act must be served on the defendant and, where the defendant's insurer is a third-party insurer within the meaning of the *Motor Accidents Compensation Act 1999*, on the defendant's insurer.
- (2) Service of a statement of claim in an action under the Act may be effected as though the statement of claim were a notice or other document referred to in section 222 of the *Motor Accidents Compensation Act 1999*.

- (3) The requirement in subrule (1) for service on the defendant's insurer is satisfied by service:
- (a) where the defendant is the Nominal Defendant under the *Motor Accidents Compensation Act 1999*—on the Nominal Defendant, or
  - (b) where the defendant is insured in respect of the liability alleged in the action under a policy issued other than in New South Wales—on the insurer who issued the policy.

**13 Non-compliance with Act**

A defendant may not move the Court to dismiss an action under the Act on the ground that the accident the subject of the action was not reported as referred to in section 70 of the *Motor Accidents Compensation Act 1999* unless the defendant so moves within 2 months after service of the statement of claim in the action on:

- (a) where the defendant is a third-party insurer—the insurer, or
- (b) where the defendant's insurer is not a third-party insurer—the defendant.