

**DISTRICT COURT ACT 1973—RULE**

NEW SOUTH WALES



*[Published in Gazette No. 64 of 29 May 1992]*

1. This rule is made by the Rule Committee on 19 May 1992, and has effect on and from 29 May 1992.
2. The District Court Rules 1973 are amended as follows:
  - (a) Part 5 rule 6 (2)
    - (i) In paragraph (b) omit “Transport Accidents Compensation Act 1987, where the repairs (or the loss of the vehicle)”, insert instead “Motor Accidents Act 1988 or a trailer within the meaning of that Act, where the repairs (or the loss of the vehicle or trailer)”;
    - (ii) In paragraph (c):
      - (a) After “vehicle” where first occurring insert “or trailer”;
      - (b) Omit “Transport Accidents Compensation Act 1987”, insert instead “Motor Accidents Act 1988 or in controlling a trailer within the meaning of that Act”.
  - (b) Part 28 rule 2 (2)

Omit the subrule, insert instead the following subrule:

    - (2) Subrule (1) applies subject to:
      - (a) the Act;
      - (b) the rules;
      - (c) any direction of the Court; and
      - (d) any agreement between the parties.

## (c) Schedule—Fees to counsel

After Item 68A insert the following Item:

68B. For attending on a directions hearing or conference not allowed for under Item 68A, if in the taxing officer's opinion it was necessary for counsel to attend 150 150

3. The District Court Rules 1973 are amended, with respect only to notices disputing facts or the authenticity of documents served on or after 1 July 1992, by omitting Part 15 rule 7 (1) and by inserting instead the following subrules:

(1) Where a party to any proceedings (in this rule called the "disputing party") serves, on or after 1 July 1992, a notice disputing a fact under rule 2 (2) or a notice disputing the authenticity of a document under rule 4 (2) and afterwards that fact or authenticity is:

- (a) proved in the proceedings: or
- (b) admitted for the purpose of the proceedings by the disputing party,

the disputing party shall, unless the Court otherwise orders, pay the costs of the party upon whom the notice is served, taxed on an indemnity basis, occasioned by:

- (c) proof of the fact or authenticity: or
- (d) preparation for the purpose of proving the fact or authenticity,

as the case may be.

(1A) An entitlement to costs under this rule shall not be affected by any order as to costs unless that order refers to the notice by the disputing party giving rise to the entitlement.

(1B) A party entitled to costs under this rule may not, except with the leave of the Court, tax the costs until after the conclusion of the proceedings.

(1C) This rule has effect notwithstanding Part 18 rule 6, Part 19A rule 9 and Part 26 rule 7 (7).

**EXPLANATORY NOTE**

The purpose of the amendments is:

- (a) to update a statutory reference in the provision that enables a statement of liquidated claim to be issued;
- (b) to declare the Court's power to direct that evidence may be given other than orally;
- (c) to establish an item in the scale of counsel's fees for attending on a directions hearing;
- (d) to strengthen the costs sanctions supporting a notice to admit facts or the authenticity of documents.

E. J. O'Grady  
Secretary to the Rule Committee.

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