

1991—No. 568

LOCAL COURTS (CIVIL CLAIMS) ACT 1970—RULE

(Relating to the costs recoverable in civil actions in Local Courts)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Courts (Civil Claims) Act 1970, has been pleased to make the Rule set forth hereunder.

TERRY GRIFFITHS
Minister for Justice.

Commencement

1. Clauses 2 and 4 commence on 1 November 1991.

Amendment of Past 31, rule 6

2. Part 31 of the Local Courts (Civil Claims) Rules 1988 is amended:
 - (a) by inserting in rule 6 (1) (a) after the word “reduction” the words “or increase”;
 - (b) by omitting rule 6 (1) (b) and by inserting instead the following paragraph:
 - (b) fees to solicitors, properly incurred, are to be calculated:
 - (i) at 35% of the fixed fee, if costs are allowed on the 1st scale;
 - (ii) at 55% of the fixed fee, if costs are allowed on the 2nd scale;
 - (iii) at 90% of the fixed fee, if costs are allowed on the 3rd scale;

- (iv) at the amount of the fixed fee, if costs are allowed on the 4th scale; or
 - (v) at 125% of the fixed fee, if costs are allowed on the 5th scale.
- (c) by inserting after rule 6 (1) the following subrule:
- (1A) In subrule (1) (b), “fixed fee” means the fee determined or fixed under rule 7, 8 or 10, whichever is applicable.
- (d) by omitting rule 6 (2) (c) and (d) and by inserting instead the following paragraphs:
- (c) exceeds \$2,000 but does not exceed \$5,000, on the 3rd scale;
 - (d) exceeds \$5,000 but does not exceed \$15,000, on the 4th scale; or
 - (e) exceeds \$15,000, on the 5th scale.
- (e) by inserting in rule 6 (2A) after the word “reduced” wherever occurring the words “or increased”.

Amendment of Part 31, rule 7

3. Part 31 of the Local Courts (Civil Claims) Rules 1988 is further amended:

- (a) by omitting from rule 7 (1) the words “Magistrate before whom the action or cross-claim is heard (or, in the case of an action or cross-claim determined under section 15 (1) of the Arbitration (Civil Actions) Act 1983, a Magistrate on the application of a party)” and by inserting instead the words “court or arbitrator”;
- (b) by omitting from rule 7 (2) the word “Magistrate” wherever occurring and by inserting instead the words “court or arbitrator”.

Saving

4. The amendments made by clause 2 have no effect in relation to an action commenced before 1 November 1991. Costs in any such action are to be ascertained in accordance with Part 31, rule 6 of the Local Courts (Civil Claims) Rules 1988 as in force immediately before 1 November 1991.

EXPLANATORY NOTE

The object of this Rule is to amend Part 31, rule 6 of the Local Courts (Civil Claims) Rules 1988 to provide for additional scales of costs to apply in civil actions in Local Courts as a consequence of the increase of the jurisdiction of those courts to \$40,000 on 1 November 1991.

An amendment is also made, by way of law revision, to Part 31, rule 7 of those Rules.
