

*Local Court Act*  
PRACTICE DIRECTION

**PROFESSIONAL FEES FOR CLAIMS LESS THAN \$5000**

The following practice direction is issued pursuant to section 21 of the *Local Court Act* and will apply from 1<sup>st</sup> July 1998.

**BACKGROUND**

There have been many queries about the application of costs to matters commenced in the Local Court for an amount less than \$5000.

Rule 38 of the new Local Court Rules sets out guidelines in relation to costs. Those Guidelines indicate that costs will not normally be awarded in relation to matters where the claim is for less than \$5000. This corresponds with the small claims jurisdiction where all claims for less than this amount must now be commenced (section 14(7) of the Local Court Act).

Rule 1.04(3) allows the court to apply rule 38 Guidelines to matters commenced in the Local Court prior to the 1 June changes.

**PROCEDURE**

Costs will only be awarded for Local Court matters in two instances;

- where an order is made that the old rules are to apply in accordance with rule 1.04(3); or
- where the court makes an order departing from the guidelines. The criteria for departing from the guidelines are set out in rule 38.04.

These orders would generally be made on application and any such application would have to be supported by material as to why the ordinary rule should be departed from.

- In relation to professional fees upon default judgment and registration on interstate judgements where the default judgment on interstate judgment is for a claim for less than \$5000, the Court will apply the guidelines and professional fees will not be allowed unless the party applies for one of the orders referred to above.

**HUGH BRADLEY**  
**CHIEF MAGISTRATE**

1 July 1998