

LOCAL COURT (CIVIL JURISDICTION) RULES 1998

Rule 38.10 Public interest costs order

- (1) A party may apply to the Court at any stage of proceedings, including at the commencement, for a public interest costs order under this rule.
- (2) The applicant must satisfy the Court that the proceedings:
 - (a) will determine, enforce or clarify an important right or obligation affecting the community or a significant sector of the community;
 - (b) will affect the development of law generally and may reduce the need for further litigation; or
 - (c) otherwise has the character of public interest or test case proceedings.
- (3) If the Court is satisfied that there are grounds for it to make a public interest costs order, it may make the order it considers appropriate, having regard to:
 - (a) the resources of the parties;
 - (b) the likely cost of the proceedings to each party;
 - (c) the ability of each party to present his or her case properly or to negotiate a fair settlement; and
 - (d) the extent of a private or commercial interest each party may have in the litigation.
- (4) When considering the resources of the parties, the Court must have regard to the financial circumstances of each party and whether the financial capacity of a party to pay costs is affected either wholly or in part by legal aid, contingency fees, insurance, fighting funds, tax deductibility or any other factor.
- (5) The Court may make an order under this rule despite a party to the proceedings having a personal interest in the matter.
- (6) The orders the Court may make under this rule include an order that:
 - (a) costs follow the event;
 - (b) each party is to bear his or her own costs; and
 - (c) the party making the application, regardless of the outcome of the proceedings:
 - (i) is not to be liable for the other party's costs;
 - (ii) is to be liable to pay up to a specified amount or proportion only of the other party's costs; or
 - (iii) may recover all or part of his or her costs from the other party.