



New South Wales

## **District Court Rule (Affidavits) 2000**

under the

**District Court Act 1973**

The District Court Rule Committee made the following rule of court under the *District Court Act 1973* on 24 February 2000.

J G Cowen

Secretary to the Rule Committee

### **Explanatory note**

The objects of this Rule are to relax certain requirements in the *District Court Rules 1973* concerning the filing of affidavits and to make further provision in respect of the return of affidavits.

2000 No 109

## Clause 1 District Court Rule (Affidavits) 2000

## **District Court Rule (Affidavits) 2000**

## 1 Name of Rule

This Rule is the *District Court Rule (Affidavits) 2000*.

## 2 Commencement

This Rule commences on 3 April 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 6, rule 3**

Omit “shall file the affidavit and serve it”.

Insert instead “must serve the affidavit”.

### **[2] Part 6, rule 4 (a)**

Omit “files” and “filed”.

Insert instead “serves” and “served” respectively.

### **[3] Part 6, rule 4 (b)**

Omit “file” where firstly occurring.

Insert instead “serve”.

### **[4] Part 6, rule 10**

Omit “shall file the affidavit and serve it”.

Insert instead “must serve the affidavit”.

### **[5] Part 6, rule 11 (a)**

Omit “files” and “filed”.

Insert instead “serves” and “served” respectively.

### **[6] Part 6, rule 11 (b)**

Omit “file” where firstly occurring.

Insert instead “serve”.

### **[7] Part 6, rule 12 (1)**

Omit “filed an affidavit or notice” wherever occurring.

Insert instead “served an affidavit or filed a notice”.

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Schedule 1      Amendments

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#### **[8] Part 6, rule 40 (2)**

Omit “filed with the notice of appeal”.

Insert instead “to be served with the notice of appeal”.

#### **[9] Part 6, rule 42**

Omit “file the affidavit and”.

#### **[10] Part 6, rule 53 (2)**

Omit “filed with the notice”.

Insert instead “to be served with the notice”.

#### **[11] Part 6, rule 57**

Omit “shall file the affidavit or report and serve it”.

Insert instead “must serve the affidavit or report”.

#### **[12] Part 30, rule 6**

Omit the rule. Insert instead:

#### **6 Filing not generally required**

A affidavit must not be filed unless:

- (a) it is filed in accordance with the requirements of another provision of these Rules, or
- (b) a Judge or a registrar gives leave for it to be filed, or
- (c) it is filed in accordance with a Practice Note.

#### **[13] Part 30, rule 6A**

Insert after Part 30, rule 6:

#### **6A Return of affidavits**

- (1) Subject to any order of the Court or a registrar, affidavits filed in any proceedings must be returned to the person who filed them if they are no longer required for use in the proceedings.

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District Court Rule (Affidavits) 2000

Amendments

Schedule 1

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(2) The Court or a registrar may order that an affidavit filed in any proceedings be retained for a specified period of time or until the happening of a specified event. Any such order may be made on the application of a party or on the Court's or registrar's own motion.

**[14] Part 43, rule 1**

Insert "Part 30, rule 6 and" after "subject to".

BY AUTHORITY