



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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District Court Rule (Affidavits) 2000

Schedule 1 Amendments

[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.

- (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".