



New South Wales

District Court Amendment (Discovery and Inspection) Rule 2001

under the

District Court Act 1973

The District Court Rule Committee made the following rule of court under the *District Court Act 1973* on 31 May 2001.

J G Cowen

Secretary to the Rule Committee

Explanatory note

The object of this Rule is to amend Part 22 of the *District Court Rules 1973* to ensure that its provisions are consistent with the provisions of Part 23 of the *Supreme Court Rules 1970*.

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Clause 1 District Court Amendment (Discovery and Inspection) Rule 2001

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1 Name of Rule

This Rule is the *District Court Amendment (Discovery and Inspection) Rule 2001*.

2 Amendment of District Court Rules 1973

The *District Court Rules 1973* are amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Rule.

Schedule 1 Amendments

(Clause 2)

[1] Part 22, rule 1

Omit paragraph (c). Insert instead:

- (c) ***privileged document*** means in relation to an action, unless and until the Court directs that it cease to be a privileged document:
 - (i) a document of which evidence could not be adduced in the action over the objection of any person, by virtue of the operation of Division 1 of Part 3.10 of the *Evidence Act 1995*, or
 - (ii) a document the contents or production of which would disclose a protected confidence or the contents of a document recording a protected confidence or protected identity information, within the meaning of section 126B of the *Evidence Act 1995*, where:
 - (A) consent by the protected confider within the meaning of section 126C of the *Evidence Act 1995* has not been given to disclosure of the confidence, contents or information, and
 - (B) section 126D of the *Evidence Act 1995* would not operate to stop Division 1A of Part 3.10 of the *Evidence Act 1995* from preventing the adducing of evidence in respect of the confidence, contents or information, or
 - (iii) a document of which evidence could not be adduced in the action by virtue of the operation of section 126H of the *Evidence Act 1995*, or
 - (iv) where Party B is a natural person, a document the contents or production of which may tend to prove that party B:
 - (A) has committed an offence against or arising under an Australian law or a law of a foreign country, or

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Schedule 1 Amendments

- (B) is liable to pay a civil penalty, within the meaning of section 128 of the *Evidence Act 1995*, or
- (v) a document the admission or use of which in a proceeding would be contrary to section 129 of the *Evidence Act 1995*, or
- (vi) a document that relates to matters of state within the meaning of section 130 of the *Evidence Act 1995*, or
- (vii) a document to which section 131 of the *Evidence Act 1995* applies, or
- (viii) a document:
 - (A) the disclosure of the contents of which, or
 - (B) the production of which, or
 - (C) the admission or use of which,in the action would be contrary to any Act or Commonwealth Act other than the *Evidence Act 1995* or the *Evidence Act 1995* of the Commonwealth,

[2] Part 22, rule 4

Insert at the end of rule 4 (c):

- , or
- (d) inspect any document in relation to which a question arises under this Part, for the purpose of determining the question, and order that the document be produced to the Court for the purpose of inspection by the Court.

BY AUTHORITY