



New South Wales

Uniform Civil Procedure Rules (Amendment No 2) 2005

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 1 August 2005.

Jennifer Atkinson
Secretary of the Rule Committee

2005 No 396

Rule 1 Uniform Civil Procedure Rules (Amendment No 2) 2005

Uniform Civil Procedure Rules (Amendment No 2) 2005

under the

Civil Procedure Act 2005

1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 2) 2005*.

2 Commencement

These Rules commence on the commencement of section 9 of the *Civil Procedure Act 2005*.

3 Amendment of Uniform Civil Procedure Rules 2005

The *Uniform Civil Procedure Rules 2005* are amended as set out in Schedule 1.

Schedule 1 Amendments

(Rule 3)

[1] Rule 1.9

Omit the rule. Insert instead:

1.9 **Objections to production of documents and answering of questions founded on privilege** (cf SCR Part 36, rule 13; DCR Part 28, rule 16)

- (1) This rule applies in the following circumstances:
 - (a) if the court orders a person, by subpoena or otherwise, to produce a document to the court or to an authorised officer,
 - (b) if a party requires another party, by notice under rule 34.1, to produce a document to the court or to an authorised officer,
 - (c) if a question is put to a person in the course of an examination before the court or an authorised officer,but does not apply in circumstances in which Part 3.10 of the *Evidence Act 1995* or Part 3.10 of the *Evidence Act 1995* of the Commonwealth applies.
- (2) In subrule (1), **authorised officer** means:
 - (a) any officer of the court, or
 - (b) any examiner, referee, arbitrator or other person who is authorised by law to receive evidence.
- (3) A person may object to producing a document on the ground that the document is a privileged document or to answering a question on the ground that the answer would disclose privileged information.
- (4) A person objecting under subrule (3) may not be compelled to produce the document, or to answer the question, unless and until the objection is overruled.
- (5) For the purpose of ruling on the objection:
 - (a) evidence in relation to the claim of privilege may be received from any person, by affidavit or otherwise, and
 - (b) cross-examination may be permitted on any affidavit used, and
 - (c) in the case of an objection to the production of a document, the person objecting may be compelled to produce the document.

2005 No 396

Uniform Civil Procedure Rules (Amendment No 2) 2005

Schedule 1 Amendments

- (6) This rule does not affect any law that authorises or requires a person to withhold a document, or to refuse to answer a question, on the ground that producing the document, or answering the question, would be injurious to the public interest.

[2] Schedule 1 Application of rules

Omit “Parts 44, 45 and 46” from Column 4 in relation to a Local Court sitting in its Small Claims Division.

Insert instead “Part 44, except for rule 44.1”.

BY AUTHORITY
