



New South Wales

Uniform Civil Procedure Rules (Amendment No 6) 2005

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 5 December 2005.

Jennifer Atkinson
Secretary of the Uniform Rules Committee

Explanatory note

The object of these Rules is to amend the *Uniform Civil Procedure Rules 2005*:

- (a) to require certain information in documents filed with a court to be in bold and underlined, and
- (b) to redefine the terms ***admitting party*** and ***requesting party*** for the purposes of rule 17.5 so that those terms more accurately reflect the underlying concepts and to make other consequential amendments to that rule, and
- (c) to remove from Part 46 certain references to the provisions of that Part being subject to the provisions of any Act because, as a matter of statutory construction, such references are unnecessary, and
- (d) to amend rule 19.5 so as to remove the requirement for a note indicating amendments to a filed document to be included in a fresh document that has been amended in accordance with the rules or an order or direction of the court.

2005 No 808

Rule 1 Uniform Civil Procedure Rules (Amendment No 6) 2005

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1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 6) 2005*.

2 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 2)

[1] Rule 4.3

Insert after rule 4.3 (3):

- (3A) The following information in a document must be set out in bold and underlined:
- (a) the name of the first plaintiff and first defendant in the title of the proceedings,
 - (b) in the case of a cross-claim, the name of the first cross-claimant and first cross-defendant in the title to the proceedings,
 - (c) in the case of a notice of motion, the name of the person or party for whom the notice is filed in the filing details for the notice.

Note. Rule 4.2 requires the title of proceedings to be included in the originating process or other documents filed on or behalf of a person in proceedings.

[2] Rule 17.5

Omit rule 17.5 (1). Insert instead:

- (1) In this rule:
- admitting party*** means the party on whom a list of documents is served under rule 21.3.
- requesting party*** means the party by whom a list of documents is served under rule 21.3.

[3] Rule 17.5 (2)

Omit “an admitting party allows inspection”.

Insert instead “a requesting party allows inspection”.

[4] Rule 17.5 (4)

Omit the subrule. Insert instead:

- (4) The admitting party and the requesting party are taken to be in the same position as they would have been in had the admitting party, on the date of service of the list of documents, served on the requesting party a notice requiring production at the trial of such of the documents specified in the list as are in the possession of the requesting party.

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Schedule 1 Amendments

[5] Rule 19.5

Omit the rule. Insert instead:

19.5 Mode of amendment generally (cf SCR Part 20, rules 7 and 8; DCR Part 17, rules 7 and 8; LCR Part 16, rules 7 and 8)

- (1) Subject to any directions referred to in rule 19.6, amendments to a filed document must be made by filing a fresh document that has been amended in accordance with these rules or pursuant to an order of the court.
- (2) The amendments must be indicated as follows:
 - (a) the omission of existing matter must be indicated in such manner (such as striking through the matter, with or without underlining) as does not affect the legibility of the matter being omitted, and
 - (b) the insertion of new matter must be indicated in such manner (such as the use of underlining, bolding or italics) as distinguishes it from existing matter (including existing matter to be omitted).
- (3) A document amended under this rule must be marked with the following particulars:
 - (a) the date of the amendment,
 - (b) if the amendment is made pursuant to an order of the court, the date of the order,
 - (c) if the amendment is made otherwise than pursuant to an order of the court, a reference to the provision of these rules that authorises the amendment,
 - (d) the manner in which the omission and insertion of matter have been indicated in the amended document.

[6] Rule 46.1

Omit “Subject to any Act, this” from rule 46.1 (1). Insert instead “This”.

[7] Rule 46.1

Insert at the end of the rule:

Note. The provisions of this Part, like the other provisions of these rules, are subject to any Act that makes provision to the contrary.

[8] Rule 46.3

Omit “Subject to any Act, a” from rule 46.3 (1). Insert instead “A”.

[9] Rule 46.3 (2)

Omit “form part of”. Insert instead “be included in”.

[10] Rule 46.3

Insert at the end of the rule:

Note. The provisions of this Part, like the other provisions of these rules, are subject to any Act that makes provision to the contrary. For example, section 24 of the *Companion Animals Act 1998* provides that an appeal to the District Court against an order disqualifying a person from owning a dog may only be made within 28 days after the date on which the order is made.

[11] Rule 46.12

Insert at the end of the rule:

Note. The provisions of this Part, like the other provisions of these rules, are subject to any Act that makes provision to the contrary. For example, section 39 of the *Victims Support and Rehabilitation Act 1996* provides that an appeal to the District Court against a determination of an application for statutory compensation under that Act may be made within 3 months after the day on which notice of the determination is served on the person or within such further time as the District Court may in exceptional circumstances allow.