



New South Wales

Local Courts (Criminal and Applications Procedure) Rule (Amendment No 2) 2007

under the

Local Courts Act 1982

The Local Court Rule Committee made the following rule of court under the *Local Courts Act 1982* on 14 March 2007.

Stephen Olischlager
Secretary of the Rule Committee

Explanatory note

The object of this Rule is to amend the *Local Courts (Criminal and Applications Procedure) Rule 2003*, in part as a consequence of the enactment of the *Crimes Amendment (Apprehended Violence) Act 2006*. The amendments made by that Act provide for the commencement of court proceedings relating to apprehended violence orders by means of an application in accordance with Part 6 of the *Local Courts Act 1982* rather than by way of complaint and remove provisions relating to the issue of a summons on the making of such a complaint.

In particular, this Rule:

- (a) removes a requirement that an application notice must be served not less than 21 days before the first listing date for the notice unless leave is granted for later service, and
- (b) provides for service of an application notice relating to proceedings under Part 15A of the *Crimes Act 1900* to be effected in the same manner as service of a court attendance notice commencing proceedings for an indictable offence, and
- (c) requires service of such an application notice to be by a police officer or a person nominated by the Court or a registrar, and
- (d) removes a provision dealing with the service of a summons in proceedings under Part 15A of the *Crimes Act 1900* and provides that the circumstances in which a registrar may refuse to issue process under that Part is to be dealt with under that Part, and
- (e) provides for a statement of service to be completed as proof of service of a document issued in proceedings rather than requiring a copy of the document to be endorsed, and
- (f) provides for court documents to be in a form approved by the Chief Magistrate and for those forms to be publicly available.

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Clause 1

Local Courts (Criminal and Applications Procedure) Rule (Amendment
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under the

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1 Name of Rule

This Rule is the *Local Courts (Criminal and Applications Procedure)
Rule (Amendment No 2) 2007*.

**2 Amendment of Local Courts (Criminal and Applications Procedure) Rule
2003**

The *Local Courts (Criminal and Applications Procedure) Rule 2003* is
amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

- [1] **Clause 24 Service of application notices (other than those relating to proceedings under Part 15A of the Crimes Act 1900)**
Insert “(other than proceedings under Part 15A of the *Crimes Act 1900*)” after “application proceedings” in clause 24 (1).
- [2] **Clause 24 (5)**
Omit the subclause.
- [3] **Clause 24A**
Insert after clause 24:
- 24A Service of application notices relating to proceedings under Part 15A of the Crimes Act 1900**
Except as provided by clause 25 (3), this Rule applies, with any necessary modifications, to and in respect of the service of an application notice in relation to proceedings under Part 15A of the *Crimes Act 1900* in the same way as it applies to and in respect of the service of a court attendance notice commencing proceedings for an indictable offence.
- [4] **Clause 25 Persons who may serve application notices**
Insert after clause 25 (2):
- (3) Despite the other provisions of this clause, an application notice in relation to proceedings under Part 15A of the *Crimes Act 1900* may be served only by a police officer or a person nominated by the Court or a registrar.
- [5] **Clause 37 Proof of service**
Omit “an endorsement as to service on a copy of the document” from clause 37 (1).
Insert instead “a statement as to service of the document”.
- [6] **Clause 37 (2) and (3)**
Omit “The endorsement” wherever occurring. Insert instead “The statement”.

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Schedule 1 Amendments

[7] Clause 37 (2A)

Insert after clause 37 (2):

- (2A) A copy of the document served must be attached to the statement or the statement must clearly identify that document.

[8] Clause 37 (4)

Omit the subclause. Insert instead:

- (4) In the case of a document served by a police officer, the statement is not required to be signed by the police officer who serves the document.

[9] Clause 39 Service of summons in proceedings under Part 15A of the Crimes Act 1900

Omit the clause.

[10] Clause 57 Grounds of refusal of private prosecutions or application notices

Insert at the end of the clause:

- (2) Subclause (1) does not apply to proceedings under Part 15A of the *Crimes Act 1900*.

Note. Part 15A of the *Crimes Act 1900* makes provision for the circumstances in which a registrar may refuse to issue process under that Part.

[11] Clause 59

Omit the clause. Insert instead:

59 Forms

- (1) The Chief Magistrate, for the purposes of this Rule:
- (a) may approve forms for documents to be used in connection with proceedings in the Court, and
 - (b) in the case of documents filed with the Court, or issued by the Court, by means of an ECM system within the meaning of the *Electronic Transactions Act 2000*, may approve the format in which such documents are to be filed or issued.
- (2) Copies of the approved forms are to be made available for public inspection at each registry of the Court and on the Court's internet website.

- (3) Subject to this Rule, if a form is approved in relation to a document to be used in connection with proceedings in the Court, a document that is filed with or issued by the Court is to be in that form.

Note. See section 80 of the *Interpretation Act 1987* with respect to compliance with approved forms.