



New South Wales

Uniform Civil Procedure Rules (Amendment No 26) 2009

under the

Civil Procedure Act 2005

The Uniform Rules Committee has made the following rules of court under the *Civil Procedure Act 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 provide that:
 - (i) a person who, pursuant to rule 4.4 (1) (b) or 4.4 (3) is authorised to sign documents on behalf of a party to proceedings in a Local Court is also authorised to e-file, or direct the e-filing of, certain documents, and
 - (ii) if such a person directs the e-filing of a document, he or she will be taken to have affirmed the giving of the direction and to have undertaken that, if the court so directs, he or she will produce a written record of the direction for the e-filing having been given, and
- (b) to require the filing of a notice of intention to file and serve a notice of change of solicitor instead of it being served on a registrar, and
- (c) to provide that a person who elects to have proceedings for defamation tried by jury must produce to the court a copy of the notice of intention to make an election at the first hearing date that takes place more than 3 days after service on the active parties of the notice of intention, and
- (d) to make further provision with respect to court appointed referral for legal assistance.

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Rule 1 Uniform Civil Procedure Rules (Amendment No 26) 2009

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under the

Civil Procedure Act 2005

1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 26) 2009*.

2 Commencement

These Rules commence on the day on which they are published on the NSW legislation website.

Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[1] Rule 3.3 Registration of users

Insert at the end of rule 3.3 (2) (c):

, or

- (d) a person who, pursuant to rule 4.4 (1) (b) or 4.4 (3), is authorised to sign documents on behalf of a party in proceedings in a Local Court, but only in connection with proceedings and matters in relation to which that paragraph or subrule authorises documents to be so signed.

[2] Rule 3.4A Written record to be kept of direction to e-file document

Insert after rule 3.4A (2):

- (2A) If the person by whom the direction was given is a person who, pursuant to rule 4.4 (1) (b) or 4.4 (3), is authorised to sign documents on behalf of a party in proceedings in a Local Court, that person is taken:
 - (a) to have affirmed to the court that he or she has given the direction, and
 - (b) to have undertaken to the court that, if the court so directs, he or she will produce to the court the written record referred to in subrule (1).
- (2B) If in any proceedings in which a document has been filed as referred to in rule 3.4 (2) (b) the court directs production of the written record referred to in subrule (1), it may also stay the proceedings until the record is produced.

[3] Rule 7.29 Withdrawal of solicitor

Omit “served on the client and the registrar” from rule 7.29 (2).

Insert instead “filed and served on the client”.

[4] Rule 7.36 Referral to a barrister or solicitor

Insert after rule 7.36 (2):

- (2A) The court may not refer a litigant for assistance under this rule if the litigant has obtained assistance under a previous referral at any time during the immediately preceding period of 3 years unless the court is satisfied that there are special reasons that justify a further referral.

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Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[5] Rule 7.36 (4A)

Insert after rule 7.36 (4):

- (4A) If the registrar is unable to arrange legal assistance for a litigant who is referred under this rule within 28 days after the litigant's referral, the registrar may make an order terminating the litigant's referral.

[6] Rule 7.39 Cessation of assistance

Insert after rule 7.39 (2):

- (3) If a barrister or solicitor ceases to provide legal assistance to a litigant, the referral of the litigant for legal assistance in the proceedings concerned is taken, unless the court otherwise orders, to have been terminated on that cessation.

[7] Rule 29.2 Applications, elections and requisitions for jury

Insert after rule 29.2 (4):

- (4A) A party who makes an election for trial by jury must, at the hearing referred to in subrule (4), produce to the court a copy of the notice of intention filed under subrule (3).