



New South Wales

# Uniform Civil Procedure Rules (Amendment No 30) 2009

under the

Civil Procedure Act 2005

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

J Atkinson  
Secretary of the Rule Committee

## Explanatory note

The objects of these Rules are:

- (a) to clarify the circumstances in which a court should allow proceedings to be commenced or carried on as representative proceedings, and
- (b) to make adjustments to the manner in which proceedings are entered in or removed from the specialist lists of the District Court, and
- (c) to provide that a plaintiff, in respect of a personal injury case or claim under the *Compensation to Relatives Act 1897*, must file a copy of the statement of particulars (without any accompanying documentation) with the court as soon as practicable after serving the statement on the defendant, and
- (d) to make changes to rules dealing with subpoenas to produce documents to ensure that the *Uniform Civil Procedure Rules 2005* remain consistent with the *Federal Court Rules* in respect of subpoenas.

## **2009 No 569**

Rule 1 Uniform Civil Procedure Rules (Amendment No 30) 2009

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## **Uniform Civil Procedure Rules (Amendment No 30) 2009**

under the

Civil Procedure Act 2005

### **1 Name of Rules**

These Rules are the *Uniform Civil Procedure Rules (Amendment No 30) 2009*.

### **2 Commencement**

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

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**Schedule 1      Amendment of Uniform Civil Procedure  
Rules 2005**

**[1]    Rule 6.8A**

Insert after rule 6.8:

**6.8A    Originating process for proceedings to be entered in Possession  
List**

The originating process in proceedings in the Common Law Division of the Supreme Court that are to be entered in The Possession List is to have a coversheet in the approved form.

**[2]    Rule 7.4 Representation of concurrent interests**

Insert after rule 7.4 (4C):

- (4D) Without limiting subrule (2), the court may, on application by the defendant or of its own motion, order that proceedings no longer continue under this rule where it is satisfied that it is in the interests of justice to do so because:
- (a) the costs that would be incurred if the proceedings were to continue are likely to exceed the costs that would be incurred if each represented person conducted separate proceedings or
  - (b) where the relief sought is the payment of money, the cost to the defendant of identifying the represented persons and distributing to them the amounts ordered to be paid to them would be excessive having regard to the likely total of those amounts, or
  - (c) all the relief sought can be obtained by means of proceedings other than proceedings under this rule, or
  - (d) the proceedings will not provide an efficient and effective means of dealing with the claims of all represented persons, or
  - (e) a representative party is not able to adequately represent the interests of the represented persons.

**[3]    Rule 15.12 Particulars required for proceedings generally**

Insert after rule 15.12 (2):

- (2A) On or as soon as practicable after serving the statement required by subrule (2), the plaintiff must file a copy of that statement (without the accompanying documents required by this rule).

## 2009 No 569

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Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

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**[4] Rule 15.13 Particulars required for proceedings under Compensation to Relatives Act 1897**

Insert after rule 15.13 (2):

- (3) On or as soon as practicable after serving the statement required by subrule (2), the plaintiff must file a copy of that statement (without the other documents required to be served by this rule).

**[5] Rule 33.6 Compliance with subpoena**

Insert after rule 33.6 (5):

- (6) Unless a subpoena specifically requires the production of the original, the addressee may produce a copy of any document required to be produced by the subpoena.
- (7) The copy of a document may be:
  - (a) a photocopy, or
  - (b) in PDF format on a CD-ROM, or
  - (c) in any other electronic form that the issuing party has indicated will be acceptable.

**[6] Rule 33.10 Disposal of documents and things produced**

Insert after rule 33.10 (2):

- (3) The issuing party must attach, to the front of a subpoena to produce to be served on the addressee, a notice and declaration in the approved form.
- (4) The addressee must complete the notice and declaration and attach it to the subpoena or copy of the subpoena that accompanies the documents produced to the court under the subpoena.
- (5) Subject to subrule (6), the registrar may, on the expiry of 4 months from the conclusion of the proceeding, cause to be destroyed all the documents produced in the proceedings in compliance with a subpoena, that were declared by the addressee to be copies.
- (6) The registrar may cause to be destroyed those documents, declared by the addressee to be copies, that have become exhibits in the proceeding when they are no longer required in connection with the proceeding, including on any appeal.

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**[7] Rules 45.9 and 45.10**

Omit the rules. Insert instead:

**45.9 Specialist lists**

The following specialist lists operate in the District Court:

- The Child Care List
- The Coal Miners' Workers Compensation List
- The Construction List
- The Commercial List
- The Defamation List
- The Professional Negligence List
- The Property Relationships List
- The Special Statutory Compensation List

**45.10 Entry as indicated by originating process**

- (1) If the originating process in proceedings in the District Court indicates that the proceedings are intended to be entered in one of the following lists (or, where the originating process contains no such indication, if the defence so indicates) the proceedings are to be entered in that list:
  - The Child Care List
  - The Coal Miners' Workers Compensation List
  - The Defamation List
  - The Special Statutory Compensation List
- (2) Proceedings are to be entered in, or removed from, a specialist list in subrule (1) if the court so orders.

**[8] Rule 45.11 The Construction List**

Omit "the Construction List" from rule 45.11 (1).

Insert instead " , or removed from, the Construction List if the court so orders".

**[9] Rule 45.12 The Commercial List**

Omit "the Commercial List" from rule 45.12 (1).

Insert instead " , or removed from, the Commercial List if the court so orders".

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### [10]    **Rule 45.13 The Professional Negligence List**

Omit “the Professional Negligence List” from rule 45.13 (1).

Insert instead “, or removed from, the Professional Negligence List if the court so orders”.

### [11]    **Rule 45.13A**

Insert after rule 45.13:

#### **45.13A    The Property Relationships List**

Proceedings in the District Court under the *Property (Relationships) Act 1984* or Chapter 3 of the *Succession Act 2006* may, subject to any relevant practice note, be entered in, or removed from, the Property Relationships List if the court so orders.