



New South Wales

# Uniform Civil Procedure Rules (Amendment No 44) 2011

under the

Civil Procedure Act 2005

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

Steven Jupp  
Secretary of the Uniform Rules Committee

## **Explanatory note**

The object of these Rules is to replace references in the Rules to the now repealed *Residential Tenancies Act 1987* with references to the *Residential Tenancies Act 2010*.

## **2011 No 189**

Rule 1 Uniform Civil Procedure Rules (Amendment No 44) 2011

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## **Uniform Civil Procedure Rules (Amendment No 44) 2011**

under the

Civil Procedure Act 2005

### **1 Name of Rules**

These Rules are the *Uniform Civil Procedure Rules (Amendment No 44) 2011*.

### **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 16.4 Default judgment on claim for possession of land**

Omit “*Residential Tenancies Act 1987*” from rule 16.4 (3) (a).

Insert instead “*Residential Tenancies Act 2010*”.

**[2]    Rule 16.4 (4)**

Insert after rule 16.4 (3):

- (4) A reference in this rule to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 2010* is taken to include a reference to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1987* as in force before its repeal.

**[3]    Rule 39.3 Affidavit in support of application for writ of execution**

Omit “*Residential Tenancies Act 1987*” from rule 39.3 (2) (a).

Insert instead “*Residential Tenancies Act 2010*”.

**[4]    Rule 39.3 (6)**

Insert after rule 39.3 (5):

- (6) A reference in this rule to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 2010* is taken to include a reference to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1987* as in force before its repeal.

**[5]    Rule 39.3A Sheriff to be informed of persons in occupation of land**

Omit rule 39.3A (2). Insert instead:

- (2) If the Sheriff so requests, the judgment creditor or other person for whose benefit the writ has been issued must inform the Sheriff as to whether any person is in occupation of the land pursuant to a right of occupation under a residential tenancy agreement, within the meaning of the *Residential Tenancies Act 2010*.

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Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

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**[6] Rule 39.3A (3)**

Insert after rule 39.3A (2):

- (3) A reference in this rule to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 2010* is taken to include a reference to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1987* as in force before its repeal.

**[7] Rule 45.4 The Possession List**

Omit “*Residential Tenancies Act 1987*” from rule 45.4 (2) (b).

Insert instead “*Residential Tenancies Act 2010*”.

**[8] Rule 45.4 (3)**

Insert after rule 45.4 (2):

- (3) A reference in this rule to an order made under the *Residential Tenancies Act 2010* is taken to include a reference to an order made under the *Residential Tenancies Act 1987* as in force before its repeal.

**[9] Schedule 8 Assignment of business in the Supreme Court**

Omit “*Residential Tenancies Act 1987*” from Column 1 in Part 1.

Insert instead “*Residential Tenancies Act 2010*”.