



Uniform Civil Procedure Rules (Amendment No 49) 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 require a party who intends to tender an audio-visual recording at a hearing to allow the other parties an opportunity to inspect the recording and agree to its admission without proof at least 7 days before the commencement of the hearing (extending the current requirement relating to plans, photographs and models). However, photographs and audio-visual recordings that are made or obtained for the purpose of testing the credibility of a witness may be tendered despite this requirement if the court is satisfied that the party seeking to tender the evidence had a legitimate forensic purpose for not giving the other parties an opportunity to inspect the item. The existing exception, which allows such evidence to be tendered with leave of the court, is retained in relation to all other types of evidence.

2011 No 590

Rule 1 Uniform Civil Procedure Rules (Amendment No 49) 2011

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Civil Procedure Act 2005

1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 49) 2011*.

2 Commencement

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

3 Amendment of Uniform Civil Procedure Rules 2005

(1) **Rule 31.10 Plans, photographs, audio-visual recordings and models**

Insert “, audio-visual recording” after “photograph” in rule 31.10 (1).

(2) **Rule 31.10 (2)**

Omit subrule (2). Insert instead:

(2) A party who fails to comply with subrule (1) may not tender the plan, photograph, audio-visual recording or model in evidence except:

(a) in the case of a prescribed item—where the court is satisfied that the party had a legitimate forensic purpose for not giving the other parties an opportunity to inspect the item, or

(b) in any other case—by leave of the court.

(3) **Rule 31.10 (4)**

Insert after rule 31.10 (3):

(4) In this rule:

audio-visual recording includes a sound recording or a record of moving images (or both) whether stored on film, audio or video tape, digitally, electronically or by any other means.

prescribed item means a photograph or audio-visual recording that was made or obtained in connection with the relevant proceedings, by or at the request of a party, for the purpose of testing the credibility of a witness at the hearing.