



New South Wales

Uniform Civil Procedure (Amendment No 71) Rule 2015

under the

Civil Procedure Act 2005

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

Steven Jupp
Secretary of the Uniform Rules Committee

Explanatory note

The object of this Rule is to provide that a defendant to an appeal who objects to the competency of the appeal is required to file a notice of motion for an order dismissing the appeal as incompetent.

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1 Name of Rule

This Rule is the *Uniform Civil Procedure (Amendment No 71) Rule 2015*.

2 Commencement

This Rule commences on the day on which it is published on the NSW legislation website.

3 Amendment of Uniform Civil Procedure Rules 2005

Rule 50.16A

Insert after rule 50.16:

50.16A Objections to competency of appeal

- (1) A defendant who objects to the competency of an appeal must, by notice of motion filed and served on all other parties to the appeal within 14 days after service on the defendant of the notice of appeal, apply to the court for an order dismissing the appeal as incompetent.
- (2) If the defendant fails to comply with subrule (1) and the appeal is nevertheless dismissed as incompetent:
 - (a) the defendant is not entitled to costs of the appeal unless the court otherwise orders, and
 - (b) the court may order the defendant to pay the plaintiff any costs of the appeal proving useless or unnecessary.