



New South Wales

# Uniform Civil Procedure Rules (Amendment No 21) 2008

under the

Civil Procedure Act 2005

The Uniform Rules Committee made the following rules of court under the *Civil Procedure Act 2005* on 3 March 2008.

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 update references in the Rules to the *Wills, Probate and Administration Act 1898* to reflect its renaming as the *Probate and Administration Act 1898* by the *Succession Act 2006*, and
- (b) to require an appellant in the Court of Appeal to specify in a notice of appeal any material facts that the appellant contends that the court below should, or should not, have found, and
- (c) to make other minor amendments in relation to practice and procedure in the Court of Appeal and the Land and Environment Court.

## **2008 No 63**

Rule 1 Uniform Civil Procedure Rules (Amendment No 21) 2008

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## **Uniform Civil Procedure Rules (Amendment No 21) 2008**

under the

Civil Procedure Act 2005

### **1 Name of Rules**

These Rules are the *Uniform Civil Procedure Rules (Amendment No 21) 2008*.

### **2 Amendment of Uniform Civil Procedure Rules 2005**

The *Uniform Civil Procedure Rules 2005* are amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Rule 2)

**[1] Rule 10.20 Personal service required only in certain circumstances**

Insert “the Land and Environment Court,” after “the Supreme Court,” in rule 10.20 (2) (a).

**[2] Rule 46.18 Interest on legacies**

Omit “*Wills*,” from rule 46.18 (1).

**[3] Rule 51.9A**

Insert after rule 51.9:

**51.9A Service of notice of intention to appeal by prospective respondent**

- (1) A prospective respondent who intends only to cross-appeal need not file a notice of intention to appeal in order to preserve the right to cross-appeal.
- (2) However, a prospective respondent who wishes to preserve a right to seek leave to appeal or to appeal in the event that the applicant giving notice of intention to appeal (the *original applicant*) does not commence the proceedings contemplated by the notice may, within 14 days of receiving the notice of intention to appeal, file and serve a notice of intention to appeal.
- (3) If a prospective respondent files and serves a notice of intention to appeal in accordance with subrule (2) and the original applicant does not commence the proceedings contemplated by the applicant’s notice of intention to appeal, the prospective respondent may file and serve the relevant originating process within 28 days of the expiration of the time allowed under rule 51.9 for the original applicant to commence proceedings.

**[4] Rule 51.18 Contents of notice of appeal**

Insert at the end of rule 51.18:

- (2) Without limiting subrule (1), the appellant must also specify in the notice of appeal any material facts that the appellant contends that the court below should, or should not, have found.

**[5] Rule 51.25 Preparation of Appeal Book**

Omit “50 millimetre” from rule 51.25 (4). Insert instead “5 millimetre”.

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Schedule 1 Amendments

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**[6] Rule 51.25 (5) (d)**

Omit “telex,”.

**[7] Rule 51.27 Contents of Red Book**

Insert at the end of the rule:

- (2) The pages of the Red Book must be one-sided (that is, with writing on one side of the page).

**[8] Rule 51.28 Contents of Black Book**

Insert after rule 51.28 (3):

- (4) The pages of the Black Book must be two-sided (that is, with writing on both sides of the page).

**[9] Rule 51.29 Contents of Blue Book**

Insert after rule 51.29 (5):

- (6) The pages of the Blue Book must be two-sided (that is, with writing on both sides of the page).

**[10] Rule 51.30 Contents of Orange Book**

Insert at the end of the rule:

- (2) The pages of the Orange Book must be one-sided (that is, with writing on one side of the page).

**[11] Rule 55.14 Notice of intended distribution**

Omit “*Wills*,” from rule 55.14 (3).

BY AUTHORITY

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