



New South Wales

Uniform Civil Procedure Rules (Amendment No 53) 2012

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 amend the *Uniform Civil Procedure Rules 2005* to make provision in relation to the filing of written submissions in leave applications that are to be heard concurrently and in relation to the commencement of certain proceedings that are assigned to the Court of Appeal.

2012 No 365

Rule 1 Uniform Civil Procedure Rules (Amendment No 53) 2012

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1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 53) 2012*.

2 Commencement

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

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

[1] Part 51, Division 5, Subdivision 5A

Insert after Subdivision 5:

**Subdivision 5A Written submissions—concurrent
hearings**

51.39A Concurrent hearings under rule 51.14

- (1) If the Court directs a concurrent hearing under rule 51.14 and the summaries of argument do not address (or do not adequately address) the substantive arguments to be raised on the appeal, written submissions must be filed:
 - (a) by the appellant—within 6 weeks of the direction by the Court, and
 - (b) by the respondent—within 10 weeks of the direction by the Court.
- (2) Chronologies must also be filed by each party in accordance with rule 51.37 (2).
- (3) If either party does not intend to file written submissions but is content to rely on the summary of argument contained in the White Folder, the other party and the Registrar are to be so advised in writing within the time provided for filing written submissions.
- (4) If written submissions are filed, they are to contain a note at the beginning indicating whether, and if so to what extent, they replace the summary of argument contained in the White Folder.

[2] Rule 51.45

Omit the rule. Insert instead:

51.45 Proceedings in supervisory jurisdiction

- (1) Proceedings for relief of the kind referred to in section 65 or 69 of the *Supreme Court Act 1970* and assigned to the Court under section 48 of that Act are to be commenced by summons.
- (2) The party commencing any such proceedings is referred to as the applicant and the party against whom any such proceedings are brought is referred to as the respondent.

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Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

- (3) The summons must be accompanied by a folder containing the following:
 - (a) a copy of the summons,
 - (b) a statement of the orders or decision in respect of which relief is sought,
 - (c) the reasons for the decision (if any),
 - (d) the written submissions of the parties (when available),
 - (e) any other documents that the applicant is seeking to rely on.
- (4) The folder must also comply with the requirements set out in rule 51.12 (5).
- (5) The applicant must, within 28 days of filing the summons, file and serve written submissions which must:
 - (a) be divided into paragraphs numbered consecutively, and
 - (b) contain an outline of the procedural history of the matter, and
 - (c) briefly set out, by reference to the grounds contained in the summons, the applicant's contentions in support of the relief claimed, and
 - (d) be signed by the barrister or solicitor who prepares the submissions or, where the party is not represented by a barrister or solicitor, by the party, and
 - (e) have the following typed or printed in a neat and legible manner under the signature referred to in paragraph (d):
 - (i) the name of the signatory,
 - (ii) a telephone number at which the signatory can be contacted,
 - (iii) if available, the signatory's facsimile number,
 - (iv) if available, the signatory's email address, and
 - (f) not exceed 20 pages.
- (6) A respondent seeking to resist the relief claimed by the applicant must, within 28 days of service of the applicant's written submissions, file and serve written submissions in support of the respondent's response which must:
 - (a) not exceed 20 pages, and
 - (b) comply with the requirements set out in subrule (5) (d) and (e).

- (7) A summons is to be made returnable before the Registrar for directions.
- (8) Any party seeking interlocutory relief is, as far as practicable, to file and serve a notice of motion, with supporting affidavit, specifying the nature of the relief sought before the first return date on the summons.