



Local Court of New South Wales

Practice Note 1 of 2009

Issued pursuant to section 15 of the *Civil Procedure Act 2005 (CPA)*
and section 27 Local Court Act 2007

CHANGE OF VENUE IN CIVIL PROCEEDINGS IN THE LOCAL COURT

This Practice Note applies to applications for change of venue for the hearing of proceedings in the Small Claims Division and General Division of the Local Court under Part 8 of the Uniform Civil Procedure Rules 2005.

This Practice Note commences on 2nd November, 2009

1. Objective

1.1 The purpose of the Practice Note is to facilitate the timely and cost effective resolution of applications for change of venue for the hearing of proceedings. The Practice Note promotes the overriding objective of the Local Court to achieve a just, quick and cheap determination of the real issues in dispute between the parties.

2. Application by way of Notice of Motion

2.1 Unless the Court grants leave, a notice of motion seeking a change of venue under Part 8 of the Uniform Civil Procedure Rules is to be filed at the same time as the filing of the defence.

2.2 The motion is to specify the venue to which the applicant seeks the proceedings to be changed and is to be supported by an affidavit addressing the matters contained in UCPR 8.2 and identifying the reasons upon which the applicant relies for the change of the venue.

2.3 An application to change the venue to another court less than 100 kilometres from the originating venue will not be granted unless exceptional circumstances are demonstrated.

3. Response to Motion

3.1 The registrar will list the proceedings for either Pre Trial Review or Call-over within six weeks. The registrar will send a notice of listing together with a copy of notice of motion to change venue and the defence to all other active parties.

3.2 If the respondent objects to the change of venue the respondent may, within 14 days from the date that the notice of listing was sent, file and serve an affidavit in response outlining the reasons why the venue should not be changed.

4. Determination of Motion

4.1 Unless the court otherwise orders, a motion for change of venue will be determined by any Magistrate or: where the proceedings are in the Small Claims Division, by a Magistrate or Assessor after the lapse of 14 days from the date that the notice of listing was sent. Unless otherwise ordered the motion will be dealt with in chambers without the necessity for a party to attend.

4.2 Where the Magistrate or Assessor determines that the venue be changed the Registrar of the originating court shall vacate the date of listing of the Pre Trial Review or Call over and obtain a new Pre Trial Review or Call over date at the venue to which the proceedings are transferred. The Registrar shall inform the parties of the re-listing of the proceedings.

4.3 Where the Magistrate or Assessor determines that the venue not be changed the Registrar shall inform the active parties that the Pre Trial Review or Call over date is confirmed.

5. Costs

5.1 Unless the Court orders otherwise, the Court will direct that the costs of the motion be the costs in the cause.

5.2 Unless the court otherwise orders, the maximum costs order that the Court may allow on the motion is \$150 in relation to proceedings in the Small Claims Division and \$300 in relation to proceedings in the General Division.

Graeme Henson
Chief Magistrate