

Civil Procedure Act 2005
Uniform Civil Procedure Rules 2005

Guide to preparing documents

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INDEX

- 1 INTRODUCTION 1
 - 1.1 When should you use this Guide? 1
 - 1.2 Terms used in this Guide 1
 - 1.3 Where can I get copies of the approved forms? 1
 - 1.4 What form must I use? 1
 - 1.5 Can I change an approved form? 2
 - 1.6 Where can I send feedback about an approved form?..... 2
 - 1.7 Where can I get more information?..... 3
- 2 GENERAL INFORMATION ABOUT PREPARING, FILING AND AMENDING DOCUMENTS..... 4
 - 2.1 How should I prepare a document? 4
 - 2.2 How should I describe parties and other persons in documents? 5
 - 2.3 How do I file a document?..... 5
 - 2.4 What fee do I have to pay to file a document? 5
 - 2.5 How do I commence proceedings?..... 6
 - 2.6 When do I need to serve documents other than the statement of claim or summons? 7
 - 2.7 How do I amend a document that has already been filed in court? 7
 - 2.8 How do I prepare documents that are being filed in relation to a cross-claim?8
- 3 INFORMATION THAT IS INCLUDED IN MOST DOCUMENTS 9
 - 3.1 Court details 9
 - 3.2 Title of proceedings 10
 - 3.3 Filing, issuing or preparation details 12
 - 3.4 Signature 14
 - 3.5 Certificate under s. 347 *Legal Profession Act 2004*..... 15
 - 3.6 Verification of pleadings 15
 - 3.7 Party details..... 16
 - 3.8 Further details about filing party 16
 - 3.9 Details about other parties 18
 - 3.10 Frequent user identifier 18
- 4 INFORMATION ABOUT SPECIFIC FORMS 19
 - 4.1 Form 1 - General form..... 19
 - 4.2 Form 2 - List of parties 19
 - 4.3 Form 3 - Statement of claim 19
 - 4.4 Form 4 - Summons..... 24
 - 4.5 Form 5 - Notice to occupier 26
 - 4.6 Form 6 - Appearance 27
 - 4.7 Form 7 - Defence 28
 - 4.8 Form 8 - Reply..... 28
 - 4.9 Form 9 - Statement of cross-claim 28
 - 4.10 Form 10 - Cross-summons 29
 - 4.11 Form 11 - List of documents 29
 - 4.12 Form 12 - Statement of issues 30
 - 4.13 Form 13 - Scott schedule 30
 - 4.14 Form 14 - Statement of particulars - personal injury proceedings..... 30
 - 4.15 Form 15 - Statement of particulars - compensation to relatives proceedings30
 - 4.16 Form 16 - Notice to plead facts - money claims 31
 - 4.17 Form 17 - Notice to admit facts and authenticity of documents..... 31
 - 4.18 Form 18 - Notice disputing facts and authenticity of documents..... 31
 - 4.19 Form 19 - Notice to produce for inspection..... 32
 - 4.20 Form 20 - Notice of motion..... 32
 - 4.21 Form 21 - Interrogatories 33
 - 4.22 Form 22 - Statement of answers to interrogatories 33
 - 4.23 Form 23 - Requisition for jury / notice of intention of jury trial (defamation).. 34
 - 4.24 Form 24 - Notice to produce to court 34

4.25	Form 25 - Subpoena to attend to give evidence.....	35
4.26	Form 26 - Subpoena to produce.....	35
4.27	Form 27 - Subpoena to attend to give evidence and to produce.....	36
4.28	Form 28 - Subpoena notice.....	36
4.29	Form 29 - Order for production.....	36
4.30	Form 30 - Consent to act as tutor.....	37
4.31	Form 31 - Arbitrator's award and registrar's notice.....	37
4.32	Form 32 - Notice of motion - rehearing after arbitration.....	37
4.33	Form 33 - Notice of discontinuance.....	37
4.34	Form 34 - Notice of payment.....	38
4.35	Form 35 - Acknowledgement of liquidated claim.....	38
4.36	Form 36 - Notice of motion - default judgment for possession of land.....	38
4.37	Form 37 - Notice of motion - default judgment for detention of goods.....	39
4.38	Form 38 - Notice of motion - default judgment for liquidated claim.....	40
4.39	Form 39 - Notice of motion - default judgment for unliquidated damages....	40
4.40	Form 40 - Affidavit.....	41
4.41	Form 41 - Affidavit of service.....	44
4.42	Form 42 - Exhibit certificate.....	45
4.43	Form 43 - Judgment / order.....	45
4.44	Form 44 - Consent judgment / order.....	45
4.45	Form 45 - Registration or filing of (certificate of) judgment / order.....	46
4.46	Form 46 - Notice of motion to pay by instalments - individual.....	47
4.47	Form 47 - Notice of motion to pay by instalments - corporation.....	47
4.48	Form 48 - Instalment order and notice.....	48
4.49	Form 49 - Order refusing instalment application and notice (formerly registrar's refusal to make instalment order).....	48
4.50	Form 50 - Notice of motion - objection to instalment order or order refusing instalment order.....	48
4.51	Form 51 - Examination notice - individual.....	48
4.52	Form 52 - Examination notice - corporation.....	49
4.53	Form 53 - Notice of motion - examination order.....	49
4.54	Form 54 - Examination order.....	50
4.55	Form 55 - Registrar's examination - individual.....	50
4.56	Form 56 - Registrar's examination - corporation.....	50
4.57	Form 57 - Notice of motion - arrest warrant for examination.....	50
4.58	Form 58 - Arrest warrant.....	51
4.59	Form 59 - Notice of motion - writ for possession of land.....	51
4.60	Form 60 - Writ of possession.....	51
4.61	Form 61 - Notice of motion - writ of restitution.....	52
4.62	Form 62 - Writ of restitution.....	52
4.63	Form 63 - Notice of motion - writ for delivery of goods.....	52
4.64	Form 64 - Writ of delivery.....	53
4.65	Form 65 - Notice of motion - writ for levy of property.....	53
4.66	Form 66 - Writ for levy of property.....	54
4.67	Form 67 - Judgment creditor's notice.....	54
4.68	Form 68 - Notice of sale.....	54
4.69	Form 69 - Notice of motion - garnishee order.....	55
4.70	Form 70 - Garnishee order for debts.....	55
4.71	Form 71 - Garnishee order for wages or salary.....	55
4.72	Form 72 - Garnishee's statement that no debt due or accruing or no wage or salary payable.....	57
4.73	Form 73 - Notice of motion - charging order.....	57
4.74	Form 74 - Charging order.....	57
4.75	Form 75 - Notice to Sheriff of disputed property.....	57
4.76	Form 76 - Notice of change of address for service.....	58
4.77	Form 77 - Notice of change or appointment of solicitor.....	58
4.78	Form 78 - Notice of removal of solicitor.....	58

	4.79	Form 79 - Notice of intention to file and serve notice of ceasing to act.....	58
	4.80	Form 80 - Notice of ceasing to act	59
	4.81	Form 81 - General form (Part 50 appeal).....	59
	4.82	Form 82 - List of parties (Part 50 appeal)	59
	4.83	Form 83 - Notice of contention (Parts 49 and 50).....	59
	4.84	Form 84 - Summons commencing an appeal (Part 50) / Summons seeking leave to appeal (Part 50)	60
	4.85	Form 85 - Notice of motion - transfer of Local Court proceedings	60
	4.86	Form 86 - Notice specifying appropriate Local Court or opposing transfer of Local Court	61
	4.101	Form 101 - General form (Court of Appeal)	61
	4.102	Form 102 - List of parties (Court of Appeal).....	62
	4.103	Form 103 - Notice of intention to appeal (Court of Appeal)	62
	4.104	Form 104 - Summons seeking leave to appeal (Court of Appeal)	62
	4.105	Form 105 - Notice of appeal (Court of Appeal)	63
	4.106	Form 106 - Notice of contention (Court of Appeal)	65
5		LIST OF FORMS	66
6		TYPES OF CLAIM	71
		Table 6.1 Types of claim applicable to Supreme Court proceedings	74
		Table 6.2 Types of claim applicable to Court of Appeal proceedings.....	88
		Table 6.3 Types of claim applicable to District Court proceedings.....	89
		Table 6.4 Types of claim applicable to Local Court proceedings	96

1 INTRODUCTION

1.1 When should you use this Guide¹?

This Guide gives you information that you should use when preparing documents for use in most civil proceedings in:

- The Supreme Court.
- The District Court.
- A Local Court.
- The Dust Diseases Tribunal.

The Guide does not give you advice about your legal rights. It is not a substitute for referring to the *Civil Procedure Act 2005* or Uniform Civil Procedure Rules 2005.

1.2 Terms used in this Guide

This Guide refers to:

- The *Civil Procedure Act 2005* (CPA).
- 'Person' - this includes a natural person and a corporation unless the context indicates otherwise (see s. 21 of the *Interpretation Act 1987*).
- 'Proceedings' - this means your case in court.
- The Uniform Civil Procedure Rules 2005 (UCPR).

You can get copies of NSW Acts, regulations and rules of court at <http://www.legislation.nsw.gov.au>.

1.3 Where can I get copies of the approved forms?

You can get a copy of the approved forms from any court registry or on the Lawlink website at <http://www.lawlink.nsw.gov.au/ucpr>.

A quick and simple reference guide to completing approved forms directly from the website is also available.

1.4 What form must I use?

The Uniform Rules Committee has approved the forms to be used in civil proceedings. From time to time, it amends existing forms and approves new forms.

An approved form has a version number in the top left hand corner. The most up to date version of a form is published on the Lawlink website.

You must use the form that relates to the step you are taking in the proceedings. For example, you must use form 9 when you are preparing a statement of cross-claim.

¹ There are a number of hyperlinks to other websites and web pages included in this Guide. If you view this Guide online at <http://www.lawlink.nsw.gov.au/ucpr> you will be able to access the further information this Guide mentions via those hyperlinks.

If there is no approved form for the step that you are taking in the proceedings, you can use form 1 and modify this form to suit the nature of the document you wish to file.

Any court registry can give you information about which form to use in your proceedings. You can find out the location of your nearest court registry from the court's website:

Supreme Court: http://www.lawlink.nsw.gov.au/lawlink/supreme_court/

District Court: <http://www.lawlink.nsw.gov.au/dc>

Local Court: http://www.lawlink.nsw.gov.au/lawlink/local_courts/

Dust Diseases Tribunal: <http://www.lawlink.nsw.gov.au/ddt>

1.5 **Can I change an approved form?**

You can change an approved form provided your document substantially complies with the approved form. (See s. 80 of the *Interpretation Act 1987*.)

For example, if you are using a word processing program you can use an alternative style or layout that has the same effect (eg a heading could be boxed or bolded rather than shaded). For example, this heading is not shaded but is boxed for emphasis:

TITLE OF PROCEEDINGS	
[First] plaintiff	[name]
#Second plaintiff	[#name #number]
#Number of plaintiffs (if more than two)	
[First] defendant	[name]
#Second defendant	[#name #number]
#Number of defendants (if more than two)	

The approved forms contain instructions in square brackets [], which are designed to help you to complete the form. The square brackets and text in '9 point font' are not intended to appear in the final document and may be deleted. For example, you should delete the instructional text appearing in square brackets and the square brackets before typing in the type of claim as this section in the form contemplates:

TYPE OF CLAIM
[Select type of claim from the list provided in section 6 of the Guide to preparing documents, available on the UCPR website at www.lawlink.nsw.gov.au/ucpr or at any NSW court registry.]

The approved forms contain optional information that may not be relevant to your proceedings. Optional information is marked with a hash (#). You should delete, or not include the words following the hash (#) if they are not relevant to your document.

1.6 **Where can I send feedback about an approved form?**

A committee of representatives from the courts, the legal profession and the Attorney General's Department is monitoring feedback about the forms.

You can email comments to uniformcivilprocedures@agd.nsw.gov.au.

1.7 **Where can I get more information?**

LawAccess NSW provides legal information, advice and referrals for people who have a legal problem in NSW. You can contact LawAccess NSW:

- on 1300 888 529 (free call)
- at <http://www.lawaccess.nsw.gov.au/>.

You can get legal advice about your proceedings from a legal practitioner. For the name of a private legal practitioner in your area contact the Law Society of NSW:

- on 9926 0300
- at <http://www.lawsociety.com.au/>.

2 GENERAL INFORMATION ABOUT PREPARING, FILING AND AMENDING DOCUMENTS

UCPR Part 4 outlines the requirements for preparing and filing documents. You should read those rules and this Guide before you prepare a document.

2.1 How should I prepare a document?

UCPR 4.3 lists the paper and writing requirements for preparing a document.

If possible, you should use a word processing program on a computer, type-writer or word processor to prepare your document. However, the court will accept handwritten documents if they are clear and legible.

Forms can be downloaded in Microsoft Word and PDF format on the Lawlink website at <http://www.lawlink.nsw.gov.au/ucpr>.

A quick and simple reference guide to completing approved forms directly from the website is also available.

A document must:

- be on A4 paper
- have a left margin of 25mm
- have a top margin of 30mm
- be one sided and stapled in the top left hand corner OR be double sided and stapled along the left hand side
- have at least 3mm between the lines of writing
- have page numbers.

The following information must be set out in bold text:

- the name of the first plaintiff and first defendant in the title of the proceedings
- the name of the party filing (or issuing or preparing) the document
- on documents relating to a cross-claim, the name of the first cross-claimant and first cross-defendant in the title to the proceedings
- on a notice of motion:
 - the name of the person or party for whom the notice is filed. This is included in the **FILING DETAILS** section of the form for the notice
 - the name of the person affected by the orders sought.

2.2 **How should I describe parties and other persons in documents?**

You should describe a party by the role they are given when they are initially involved in the proceedings – ie first plaintiff, second plaintiff or first defendant or second defendant. The party retains the name of this role throughout the proceedings.

If you are preparing a notice of motion and are not already a party in the proceedings, you should describe yourself as the applicant. If you are a party to the proceedings you should describe yourself in the notice of motion with the role you have already been given.

If there are persons who will be affected by the motion who are not already parties in the proceedings, you should describe those persons as respondents (see UCPR 18.3.).

2.3 **How do I file a document?**

See UPCR 4.10 to 4.16 (and UCPR 3.4 in relation to eFiling) for more information.

You can file a document by:

- lodging it with or posting it to the court registry
- sending it to the court's DX address
- electronically filing it with the court if eFiling is available.

2.4 **What fee do I have to pay to file a document?**

You must pay a fee before you file some documents, including:

- a statement of claim
- a summons
- a statement of cross-claim
- a cross-summons
- a requisition for jury
- most notices of motion
- a notice of intention to appeal
- a notice of appeal.

You must also pay a fee:

- before you issue a subpoena
- when someone produces documents to the court in response to you serving them with a notice to produce to the court under UCPR Part 34.

Fees are charged at different rates for individuals and corporations. A party must pay fees at the corporation rate if:

- the party is a corporation with an annual turnover of \$200,000 or more
- the party is a corporation with an annual turnover of \$200,000 or more, which is commencing or carrying on proceedings in the name of a natural person under a right of subrogation.

For example, an insurance company that commences and carries on proceedings in the name of the insured person must pay fees at the corporation rate.

You must tell the court if you are carrying on proceedings in the name of a natural person under the right of subrogation. See UCPR 4.16 and the Civil Procedure Regulation 2005 for more information.

If there is any reason (including lack of money) why you should not or cannot pay a fee, you can apply to the court to have the fee waived or postponed. You must read the fee waiver guidelines before you apply to the court. The guidelines are available at <http://www.lawlink.nsw.gov.au/ucpr> or from any court registry.

2.5 **How do I commence proceedings?**

See UCPR 6.1 and 6.2 for more information.

You generally commence proceedings by filing a statement of claim or a summons in the registry.

You must arrange for the statement of claim or summons to be served on each defendant.

If your proceedings are in the Supreme Court, the Dust Diseases Tribunal or a Local Court, you have six months to serve the statement of claim or summons on each defendant.

If your proceedings are in the District Court, you have one month to serve the statement of claim or summons on each defendant.

If you cannot serve the statement of claim or summons within this time, you can:

- apply to the court to extend the time for serving the documents, or
- commence fresh proceedings by filing another statement of claim or summons, if the limitation period for bringing the proceedings has not expired.

2.6 **When do I need to serve documents other than the statement of claim or summons?**

Unless the court orders otherwise, you must serve a copy of any filed document on all active parties as soon as practicable after you file the document (see UCPR 10.1).

If your proceedings are in a Local Court:

- You can ask the registry to serve the originating process (ie statement of claim, summons, statement of cross-claim or cross-summons) on all other parties.
- The registry will charge a fee to serve the originating process (see the Civil Procedure Regulation 2005 for more information).
- The registry must serve the defence on all other parties.
- See UCPR 10.7 and 10.8 for more information about how a court serves a document.

2.7 **How do I amend a document that has already been filed in court?**

You may amend a filed document under UCPR 19.1 and 19.2.

You must file a fresh copy of the amended document. Documents must either be amended in accordance with the UCPR or under a court order (see UCPR 19.5).

When you prepare the fresh document, you may show the amendments by:

- striking through the information which is being omitted.
- underlining, bolding or using italics for the new information.

You must retain the existing paragraph numbering, with any additional paragraphs to be given the number of the preceding paragraph and a letter (eg new paragraphs between 6 and 7 would be 6A, 6B, etc). This will mean a defendant does not need to amend its defence to an amended claim in relation to numbering, only in relation to the substantive amendments.

If you are changing any of the **FURTHER INFORMATION ABOUT FILING PARTY**, you must file and serve the appropriate notice of change (forms 76 - 80).

You must include the following information in the fresh document. An appropriate place to insert this information is beneath the title of the document on the first page.

AMENDMENT DETAILS - UCPR 19.5	
1	This document is amended pursuant to [#leave granted by the court on (date) #UCPR (rule number)].
2	The amendments are indicated as follows: (a) Omitted information is struck through. (b) New information is [#underlined #in bold text #in italics].

2.8 **How do I prepare documents that are being filed in relation to a cross-claim?**

For more information, see:

- UCPR Part 9.
- Paragraph 4.9 of this Guide for information about how to prepare a statement of cross-claim.
- Paragraph 4.10 of this Guide for information about how to prepare a cross-summons.

When you prepare a document that is being filed in relation to a cross-claim, you must:

- Amend the title of the document to include information about the number of the cross-claim eg '[first] cross-claim'.
- Include the title of the cross-claim as follows:

TITLE OF THIS CROSS-CLAIM	
[First] cross-claimant	[name]
#Second cross-claimant	[#name #number]
#Number of cross-claimants (if more than two)	
[First] cross-defendant	[name]
#Second cross-defendant	[#name #number]
#Number of cross-defendants (if more than two)	

3 INFORMATION THAT IS INCLUDED IN MOST DOCUMENTS

3.1 Court details

Each approved form contains a section called **COURT DETAILS**. See UCPR 4.2 for more information.

In this section, you must include the following details:

- The name of the court in which you are bringing the proceedings.

You should refer to the court by its full title ie 'Supreme Court of New South Wales' instead of 'Supreme Court'.

You can get more information about the court in which you should bring your proceedings:
 - in the *Supreme Court Act 1970*, the *District Court Act 1973* or the *Local Courts Act 1982*
 - from any registry.
- If relevant, the name of the division in which the proceedings are to be heard.
 - See UCPR 1.16 to 1.21 and UCPR Schedule 8 for how proceedings are allocated to divisions in the Supreme Court.
 - The District Court does not allocate proceedings to divisions. Delete this line if the proceedings are in the District Court.
 - In Local Courts, proceedings are normally allocated to the Small Claims Division if you are claiming up to \$10,000. All other proceedings are allocated to the General Division.
- If relevant, the name of the list in which the proceedings are intended to be entered should be stated on the form.
 - See UCPR Part 45 for how proceedings are entered in specialist lists in the Supreme Court and District Court.
 - Local Courts do not enter proceedings in specialist lists. Delete this line if the proceedings are in a Local Court.
- The location of the registry.
 - If you are preparing a statement of claim or summons, you must include the location of the registry of the place where you want the proceedings to be heard.

You can find out the location of your nearest court registry from the court's website.

- If you are preparing a document other than a statement of claim or summons:
 - copy the registry location from the statement of claim or summons, or
 - if relevant, include details of the registry location where the court has transferred the proceedings.

In the Supreme Court and Dust Diseases Tribunal, the registry will always be Sydney.

- The case number of the proceedings.
 - Leave this field blank if you are preparing a statement of claim or summons. The court will allocate a number and write it on the document.
 - If you are preparing a document other than a statement of claim or summons, copy this number from another document that has been filed in the proceedings.

3.2 Title of proceedings

Each approved form contains a section called **TITLE OF PROCEEDINGS**. See UCPR 4.2 for more information.

The court uses the **TITLE OF PROCEEDINGS** to describe the proceedings in its computer system, court lists, orders and other documents.

In this section, you must include details about:

- The full name of the plaintiff or, if there is more than one plaintiff, the first plaintiff. You must include this information in **bold** text.
- If the (first) plaintiff is a person, include the person's first name followed by their family name.
- If the (first) plaintiff is a company, include the full name of the company.
- The number of plaintiffs if there are more than two plaintiffs or the name of the second plaintiff in the proceedings if there are two plaintiffs. Delete this line if there is only one plaintiff.
- The full name of the defendant or, if there is more than one defendant, the first defendant. You must include this information in **bold** text.
- If the (first) defendant is a person, include the person's first name followed by their family name.
- If the (first) defendant is a company, include the full name of the company.
- The number of defendants if there are more than two defendants or the name of the second defendant in the proceedings if there are two defendants. Delete this line if there is only one or no defendant.
- Some proceedings that are commenced by summons will not have a defendant. You can delete the references to defendant in this section.

See UCPR 7.19 to 7.22 for more information where one of the parties is operating under a business name.

Do not include the names of any other parties in the title of proceedings.

Here are some examples:

(1) where there is one plaintiff and one defendant:

TITLE OF PROCEEDINGS	
Plaintiff	Peter Plaintiff
Defendant	Diana Defendant

(2) where there are two plaintiffs and three defendants (eg on an originating process document):

TITLE OF PROCEEDINGS	
First Plaintiff	Peter Plaintiff
Second plaintiff	P. Plaintiff Pty Limited
First defendant	Diana Defendant
Number of defendants	3 Refer to Party Details at rear for full list of parties

(3) where there is one plaintiff and two defendants:

TITLE OF PROCEEDINGS	
Plaintiff	Peter Plaintiff
First defendant	Diana Defendant
Second defendant	D. Defendant Pty Limited

(4) where there are two plaintiffs and two defendants:

TITLE OF PROCEEDINGS	
First plaintiff	Peter Plaintiff
Second plaintiff	P. Plaintiff Pty Limited
First defendant	Diana Defendant
Second defendant	D. Defendant Pty Limited

3.2.1 Additional information

You may need to include additional information in the title of proceedings if:

- Your proceedings are to be entered in the following lists:
 - Probate.
 - Adoption.
 - Protective.
- You are bringing your proceedings under a particular Act, for example, the *Confiscation of Proceeds of Crime Act 1989*.

You must include the following additional information if your proceedings are to be entered in the Probate List.

- Estate of [name of the deceased person]
- Date of death: [date of death of the deceased person]
- Gross value of estate
- Net value of estate
- Pages in will (if applicable)

3.3 **Filing, issuing or preparation details**

Most approved forms contain a section called **FILING DETAILS**. See UCPR 4.2 and 4.10 to 4.14 for more information.

In this section, you must include details about:

- The name and role of the party for whom the document is being filed. The role of the party means the role that a person takes in the main proceedings and in any cross-claim eg
 - **Angus Jones**, first defendant and cross-defendant to the first cross-claim.
 - **D & B Association Pty Limited**, second defendant and cross-claimant in the first cross-claim.
- If relevant, the legal representative of the party, ie the name of the solicitor on the record, and legal representative firm's name.
- If desired, the legal representative's reference number, ie any internal matter number or file reference number the legal representative uses.

3.4 Signature

Most approved forms contain a section called **SIGNATURE**. This section includes options for the various people who can sign a document for a party.

UCPR 4.4 lists who can sign a document for a party.

If a party is represented by a solicitor, the party must not sign the document. Instead, the document must be signed by:

- the party's solicitor
- another solicitor acting as agent for the party's solicitor
- another solicitor belonging to the same firm or organisation as the party's solicitor or the party's solicitor's agent

If a party does not have a solicitor, the document can be signed by:

- the party
- by a person who is authorised by UCPR 7.1 to commence proceedings on behalf of the party.

In proceedings in a Local Court, some documents can also be signed by:

- A commercial agent with respect to debt collection (within the meaning of the *Commercial Agents and Private Inquiry Agents Act 2004*). A commercial agent may sign a statement of claim or summons and also documents in relation to proceedings on an application for an instalment order, an examination order, a writ of execution, a garnishee order or a notice of motion for default judgment in matters in the Small Claims Division.
- A person holding a licence as a real estate agent, strata managing agent or on-site residential property manager (within the meaning of the *Property, Stock and Business Agents Act 2002*). These persons may sign a statement of claim or summons and also documents in relation to proceedings on an application for an instalment order, an examination order, a writ of execution, a garnishee order, the filing of a certificate under s. 51 *Consumer, Trader and Tenancy Tribunal Act 2001*.

You must include a date of signature on some documents.

A number of forms contain the following section. You must not sign in this section as it will be completed by the court.

SEAL & SIGNATURE
Court seal
Signature
Capacity
Date

3.5 **Certificate under s. 347 *Legal Profession Act 2004***

Where proceedings include a claim for damages, a legal practitioner must certify that there are reasonable prospects of success as required by s. 347 *Legal Profession Act 2004*. A party who is not legally represented does NOT need to complete this certificate. A number of forms provide for a suitable certificate to be given or in the alternative a statement that the proceedings do not require a certificate of reasonable prospects of success. For example:

#SIGNATURE OF LEGAL REPRESENTATIVE	
#This statement of claim does not require a certificate under section 347 of the Legal Profession Act 2004.	
#I certify that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.	
I have advised the plaintiff[s] that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.	
Signature	
Capacity	[eg solicitor on record, contact solicitor]
Date of signature	

A legal practitioner must complete either the certificate or the statement as required (see UCPR 4.2(3A)).

The final paragraph of the certificate is included in forms as a reminder to legal practitioners to inform their client about hearing allocation and other court fees.

See the Civil Procedure Regulation 2005, in particular clauses 7 - 10, for information on court fees.

3.6 **Verification of pleadings**

You must read this section if you are filing pleadings (ie a statement of claim, a defence, a statement of cross-claim or a reply) in the Supreme Court or the District Court.

You must verify your pleadings unless your claim relates to:

- defamation
- malicious prosecution
- false imprisonment
- trespass to the person
- death
- personal injury.

See UCPR Part 14, Div 4 for more information.

You verify pleadings by affidavit which must be included in the document which contains your pleading. In the affidavit you will swear or affirm that:

- the allegations of fact in the pleading are true
- the allegations of fact in the pleading which you deny are untrue
- you do not know whether the allegations of fact in the pleading, which you do not admit, are true.

See UCPR 35.3 and paragraph 4.40.1 of this Guide as to who may make an affidavit including an affidavit verifying a pleading.

If you are verifying a pleading on behalf of a party, you must replace paragraph 1 in the affidavit with the following information:

1 I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit].

For example, if the plaintiff is a corporation, insert the words:

'I am [an officer eg director] of [name of corporation] and am authorised to verify this statement of claim on its behalf.'

3.7 **Party details**

You must complete the **PARTY DETAILS** section when you are preparing a statement of claim, summons, statement of cross-claim and cross-summons in proceedings where there are more than two plaintiffs/cross-claimants and/or more than two defendants/cross-defendants.

The **PARTY DETAILS** section lists the parties in the proceedings.

See paragraph 4.2 of this Guide for more information about the List of parties form (form 2) that must also be filed.

3.8 **Further details about filing party**

In some forms you must complete further details about the parties. For example:

- You must complete the **FURTHER DETAILS ABOUT PLAINTIFF[S]** section when you are preparing a statement of claim (form 3A or 3B) or a summons (form 4A or 4B).
- You must complete the **FURTHER DETAILS ABOUT FILING PARTY** section when you are preparing an appearance (form 6) or a defence (form 7A or 7B) (unless already included in an appearance).
- You must complete the **FURTHER DETAILS ABOUT APPLICANT** section if you are preparing a notice of motion (form 20) and are not already a party to the proceedings.

The **FURTHER DETAILS** section provides additional information about:

- the filing party
 - if the filing party is a natural person, include the person's first name followed by their family name
 - if the filing party is a company, include the full name and ACN (ie the Australian Company Number) of the company.
- if relevant, the filing party's legal (or other) representative (see UCPR 4.4 and 7.1 for information about other representatives that are permitted in certain Local Court proceedings)
- if relevant, the filing party's authorised officer (see UCPR 7.1 and 7.2 - only provide these details if the filing party has no legal or other representative)

The forms provide for addresses to be set out in the following format.

Address	#[unit/level number]		#[building name]
	[street number]	[street name]	[street type]
	[suburb/city]	[state/territory]	[postcode]
	#[country (if not Australia)]		

In forms that are not being eFiled through JusticeLink, you may set out address information without separating each piece of information into fields. For example:

Firm	Law Firm & Co
Address	Legal Towers 21 Chambers Lane SYDNEY NSW 2000

If the filing party's representative has an agent, the section of the form headed **Legal representative for plaintiff[s]** or **Legal representative for filing party** should be repeated, and headed **Legal representative for plaintiff[s] agent** or **Legal representative for filing party's agent**.

You only have to provide the additional information about yourself in the first document you file in the proceedings. For example, if you provided the additional information in the statement of claim, you do not have to provide it again in the reply.

If any of the details relating to you change during the proceedings, you must file a notice advising the court of the change in details (forms 76 - 80).

3.8.1 Address for service

The detailed information includes your address for service. This is the address where other parties can serve you with documents in the proceedings. See UCPR 4.5 and 4.6 for more information about the address for service and changing your address for service.

If you are willing to be contacted by email, provide an 'Email address', which may be a personal address and is distinct from an 'Electronic service address'.

If you are willing for documents to be served on you by email, provide an 'Electronic service address'. See UCPR 3.8 and 10.5(2)(c).

If you wish to make it clear that you may be contacted by email (eg, for convenience), but do not wish to accept service by email (eg, you do not monitor your inbox sufficiently regularly), you may either delete the 'Electronic service address' row, or complete as follows:

Email	name@emailaddress.com.au
Electronic service address	Not applicable

3.9 Details about other parties

In some forms you must complete details about other parties. For example:

- You must complete the **DETAILS ABOUT DEFENDANT[S]** sections when you are preparing a statement of claim (form 3A or 3B) or a summons (form 4A or 4B) (unless there is no defendant).
- You must complete the **DETAILS ABOUT CROSS-DEFENDANTS THAT ARE NEW PARTIES** section when you are preparing a statement of cross-claim (form 9) or cross-summons (form 10) and are making a cross-claim against a person who is not already a party to the proceedings.
- You must complete the **FURTHER DETAILS ABOUT RESPONDENT[S]** section if you are preparing a notice of motion (form 20) and there are persons who will be affected by the motion that are not already a parties in the proceedings.

You must include the party's name and address:

- if the party is a natural person, include the person's first name followed by their family name
- if the party is a company, include the full name and ACN (ie the Australian Company Number) of the company.

The forms provide for addresses to be set out in the following format.

Address	#[unit/level number]		#[building name]
	[street number]	[street name]	[street type]
	[suburb/city]	[state/territory]	[postcode]
	#[country (if not Australia)]		

In forms that are not being eFiled through JusticeLink, you may set out address information without separating each piece of information into fields. For example:

Name	Diana Defendant
Address	12 Green Street, GREEN TOWN NSW 2999

3.10 Frequent user identifier

You must include your frequent user identifier if you are registered with the court as a frequent user. You may delete the provision for 'frequent user identifier' from the forms if this does not apply to you.

4 INFORMATION ABOUT SPECIFIC FORMS

4.1 Form 1 - General form

If there is no approved form for the step that you are taking in the proceedings, you can use form 1 and modify this form to suit the nature of the document you wish to file and the requirements of the rules.

4.2 Form 2 - List of parties

See UCPR 4.2A for more information.

Where there are more than two plaintiffs or more than two defendants, the list of parties must be filed and served by the plaintiff with the originating process. It must be updated, re-filed and re-served by the relevant party with any document that first records a change in the parties to the proceedings.

None of the approved forms has all the parties listed on the front (unless there are no more than two plaintiffs, and two defendants), so the list of parties form is intended to be a convenient reference document for the court and parties to retain at the front of the pleadings folder in any multi-party matter.

It will be helpful to the court and all parties to update, re-file and re-serve the list of parties whenever any of the information in the document changes (eg when all appearances or defences have been filed, when a party changes its representative etc), in addition to the occasions mandated by UCPR 4.2A.

In the **PARTY AND CONTACT DETAILS** section of the form, you should provide the contact details of the person with the day to day conduct of the matter (if the party is legally represented), which is the information that parties should provide at 'contact name and telephone' in the **FILING DETAILS** section on the front of all filed forms.

It is appropriate for parties to co-operate with each other to update the list of parties by exchanging electronic copies of the completed form, to avoid the need to re-create it when new parties are added or contact details are changed. One up-to-date version of this form will be of mutual benefit to the parties and the court.

4.3 Form 3 - Statement of claim

- Form 3A - Statement of claim - filing party legally represented
- Form 3B - Statement of claim - filing party acting in person or by authorised officer

See UCPR Parts 6 and 7 for more information.

The statement of claim is one type of 'originating process' (ie the document used to start proceedings).

4.3.1 Type of claim

You must include information about the **main** type of claim that you are making. The different types of claim are listed in Part 6 of this Guide. This information is collected by the courts for statistical purposes.

If there is no type of claim listed that matches your claim, leave this field blank and it will be completed by the court.

4.3.2 Relief claimed

See UCPR 6.12 for more information.

You must include information about the relief that you are claiming (ie what orders you are asking the court to make). For example, you may be seeking damages for personal injury or a breach of a contract.

(a) Liquidated Claims

If you are making a liquidated claim, you must include the following information under the heading **RELIEF CLAIMED**:

Amount of claim	\$
Interest	\$
Filing fees	\$
Service fees	\$
Solicitor's fees	\$
TOTAL	\$

In this table, set out the amounts claimed for each item. You must set out the orders you are asking the court to make and the details of any claim for interest in numbered paragraphs below the table.

You can find out more information about the interest you can claim in paragraph (d) below.

You can find out the amount of the filing fee from the Civil Procedure Regulation 2005.

You can find out the amount of the service fee charged by the Sheriff from the Civil Procedure Regulation 2005. If you use a process server you may claim the amount charged by the process server. If the process server's rate is higher than the Sheriff's fee you may need to justify the amount claimed.

You can find out the amount that can be claimed for solicitor's costs in Schedule 2 of the Legal Profession Regulation 2005.

(b) Detention of Goods

If your claim relates to the detention of goods, you must state whether you are seeking judgment for:

- delivery of the goods to the plaintiff and for costs, or
- payment to the plaintiff of the value of the goods and for costs.

You may also seek damages for the detention of the goods.

(c) Unliquidated Damages

See UCPR 14.13 for more information.

If you are claiming damages, you must not specify a monetary amount in your statement of claim (eg a claim for damages for personal injury).

However, if your proceedings are in the District Court or a Local Court, you can claim a specific amount for unliquidated damages if:

- The claim is for the recovery of:
 - the cost of repair to a motor vehicle, or
 - the value, less any salvage value, of a motor vehicle, or
 - the towing of a motor vehicle,

where the repair, loss or towing is a consequence of damage alleged to have been sustained as a result of the negligence of the defendant or the defendant's servant or agent, or

- The claim is for the recovery of:
 - the cost of repair to property other than a motor vehicle, or
 - the value, less any salvage value, of property other than a motor vehicle,

where the repair or loss is a consequence of damage alleged to have been sustained as a result of the negligence of the defendant or the defendant's servant or agent in driving, riding or controlling a motor vehicle.

(d) Interest

If you are seeking an order for interest up to judgment, you must specifically claim interest.

The claim may specify the rate or rates at which interest is claimed. If no rate of interest is specified then the rate will be:

- the rate set in UCPR Schedule 5, or
- the amount, if any, which was agreed under a contract between the parties.

For example, for liquidated claims you may ask the court to make an order to the following effect:

An order that the [role of party eg defendant] pay interest to the [role of party eg plaintiff] on [amount of claim (in liquidated claims table at (a) above)] pursuant to section 100 of the *Civil Procedure Act 2005* calculated at [rate]% [#the rate prescribed under Schedule 5 of the Uniform Civil Procedure Rules 2005 #(other, eg the rate under the contract on which you rely)] from [date] to [today's date], being \$[total amount of interest], and continuing at the rate of \$[daily amount] per day.

You may show the calculations of your claim for interest, eg:

$\frac{[\text{number of days}]}{365 \text{ (or 366 in a leap year)}} \times [\text{rate}] \% \times [\text{amount of claim}]$ and continuing at $\frac{1}{365 \text{ (or 366)}} \times [\text{rate}] \% \times [\text{amount of claim}]$ per day

In a Local Court, the court will not award interest up to judgment if the amount of the claim is less than \$1,000. See UCPR 36.7(2).

4.3.3 Pleading and Particulars

See UCPR Parts 14 and 15 for more information.

You must outline the facts on which you rely to support your claim. You must provide sufficient information so that the other party will be able to identify and respond to your claim.

You must state each fact or issue in separate numbered paragraphs.

If your claim relates to one of the following money claims, you can briefly state the facts using the words referred to below:

- goods sold and delivered by the plaintiff to the defendant
- goods bargained and sold by the plaintiff to the defendant
- work done or materials provided by the plaintiff for the defendant at the defendant's request
- money lent by the plaintiff to the defendant
- money paid by the plaintiff for the defendant at the defendant's request
- money had and received by the defendant for the plaintiff's use
- interest on money due from the defendant to the plaintiff, and forborne at interest by the plaintiff at the defendant's request
- money found to be due from the defendant to the plaintiff on accounts stated between them.

If you briefly state your claim using one of these sentences, the defendant can require you to provide a more detailed statement of your claim by filing and serving a notice to plead facts (see form 16). For more information see paragraph 4.16 of this Guide.

4.3.4 Registry address

You must include the street address, postal address and telephone number of the court registry of the place where you want the proceedings to be heard.

You can find out the street address, postal address and telephone number of your nominated court registry from the court's website.

4.3.5 Service of statement of claim on a defendant in Australia but outside New South Wales

See UCPR 10.3 and 10.4.

A statement of claim can be served on a defendant who is in Australia, but outside New South Wales, under the *Service and Execution of Process Act 1992* (Cth) (SEPA) or the UCPR.

You must include a statement to the following effect in your statement of claim:

SERVICE IN AUSTRALIA BUT OUTSIDE NEW SOUTH WALES

This statement of claim will be served on a defendant in Australia, but outside New South Wales. The plaintiff intends to proceed under the *Service and Execution of Process Act 1992* (Cth) #UCPR.

A convenient location for this statement is after the **NOTICE TO DEFENDANT** section of the form.

If you intend to proceed under SEPA, you must attach a copy of SEPA form 1 'Notice to Defendant' to your statement of claim. See *Service and Execution of Process Regulations 1993* (Cth) at <http://www.comlaw.gov.au/>

You can only proceed under the UCPR if your proceedings are in the Supreme Court.

4.3.6 Service of a statement of claim on a defendant outside Australia

See UCPR Part 11 for more information.

A statement of claim can be served on a defendant outside Australia:

- if your proceedings are in the Supreme Court, and
- in the circumstances referred to in UCPR Schedule 6.

You must include a notice to the following effect in your statement of claim.

NOTICE TO DEFENDANT SERVED OUTSIDE AUSTRALIA

- 1 You may apply to have service of this statement of claim set aside where:
 - service of the statement of claim is not authorised by the Uniform Civil Procedure Rules 2005, or
 - the Supreme Court of New South Wales is an inappropriate forum for the trial of the proceedings.
- 2 Alternatively, you may submit to the jurisdiction of the court by filing an appearance which includes a statement of submission.
- 3 If you do not make an application under paragraph 1, or file a notice of appearance under paragraph 2, the court may give leave to the plaintiff to proceed against you.

A convenient location for this notice is after the **NOTICE TO DEFENDANT** section of the form.

4.4 Form 4 - Summons

- Form 4A - Summons - filing party legally represented
- Form 4B - Summons - filing party acting in person or by authorised officer

See UCPR Parts 6 and 7 for more information.

The summons is one type of 'originating process' (ie the document used to start proceedings).

See paragraph 3.2.1 of this Guide for additional information you may need to include in the title of proceedings.

4.4.1 Type of claim

You must include information about the **main** type of claim that you are making. The different types of claim are listed in Part 6 of this Guide. This information is collected by the courts for statistical purposes.

If there is no type of claim listed that matches your claim, leave this field blank and it will be completed by the court.

4.4.2 Registry address

You must include the street address, postal address and telephone number of the court registry of the place where you want the proceedings to be heard.

You can find out the street address, postal address and telephone number of your nominated court registry from the court's website.

4.4.3 Service of summons on a defendant in Australia but outside New South Wales

See UCPR 10.3 and 10.4.

A summons can be served on a defendant who is in Australia, but outside New South Wales, under the *Service and Execution of Process Act 1992* (Cth) or the UCPR.

You must include a statement to the following effect in your summons:

SERVICE IN AUSTRALIA BUT OUTSIDE NEW SOUTH WALES

This summons will be served on a defendant in Australia, but outside New South Wales. The plaintiff intends to proceed under the *#Service and Execution of Process Act 1992* (Cth) #UCPR.

A convenient location for this statement is after the **NOTICE TO DEFENDANT** section of the form.

If you intend to proceed under SEPA, you must attach a copy of SEPA form 1 'Notice to Defendant' to your summons. See *Service and Execution of Process Regulations 1993* (Cth) at <http://www.comlaw.gov.au/>

You can only proceed under the UCPR if your proceedings are in the Supreme Court.

4.4.4 Service of a summons on a defendant outside Australia

See UCPR Part 11.

A summons can be served on a defendant outside Australia:

- if your proceedings are in the Supreme Court, and
- in the circumstances referred to in UCPR Schedule 6.

You must include a notice to the following effect in your summons.

NOTICE TO DEFENDANT SERVED OUTSIDE AUSTRALIA

- 1 You may apply to have service of this summons set aside where:
 - service of the summons is not authorised by the Uniform Civil Procedure Rules 2005, or
 - the Supreme Court of New South Wales is an inappropriate forum for the trial of the proceedings.
- 2 Alternatively, you may submit to the jurisdiction of the court by filing an appearance which includes a statement of submission.
- 3 If you do not make an application under paragraph 1, or file a notice of appearance under paragraph 2, the court may give leave to the plaintiff to proceed against you.

A convenient location for this notice is after the **NOTICE TO DEFENDANT** section of the form.

4.4.5 Hearing details

If your proceedings are to be entered in the Probate list, you must substitute the information in the hearing details section with the following statement:

The proceedings will be dealt with in the absence of the parties.

4.5 **Form 5 - Notice to occupier**

See UCPR 6.8 for more information.

You must prepare this document if:

- you are claiming possession of land
- you have not named the current occupier of the land as a defendant in the statement of claim.

UCPR 4.7A sets out how you are to describe the land in the notice.

You must arrange for a copy of the statement of claim and notice to occupier to be served on the occupier of the land.

The documents may be served on the occupier personally or by leaving the documents on the land concerned. Documents that are left on the land must be addressed to the occupier by name or addressed to 'the occupier'.

See UCPR Part 10 for more information about how to personally serve documents.

4.6 Form 6 - Appearance

See UCPR 6.1 and 6.9 - 6.11 for more information.

If you have been served with a statement of claim or summons, you must enter an appearance before you can take any step in proceedings (including appearing in court) unless:

- The court gives you leave to take a step without entering an appearance.
- You are a defendant who is applying to set aside the originating process under UCPR 12.11.
- You are a defendant who makes an application in relation to setting aside or enforcing any judgment.

You can include a statement of submission in the appearance if you want to submit (ie agree) to the court:

- making all of the orders that have been sought in the statement of claim or summons, or
- making all of the orders that have been sought in the statement of claim or summons save as to costs, or
- giving or entering judgment in respect of all of the claims made in the statement of claim.

You do not have to file an appearance if you have filed a defence in the proceedings. See UCPR 6.9.

If you are appearing for more than one party, eg if two defendants share legal representation, or an individual defendant is the authorised officer for a defendant corporation, in the appearance form, you should repeat the **Filing party** details for every party appearing:

Filing party

Name			
Address	#[unit/level number]	#[building name]	
[The filing party must give the party's address.]	[street number]	[street name]	[street type]
	[suburb/city]	[state/territory]	[postcode]
	#[country (if not Australia)]		
#Frequent user identifier	[include if the filing party is a registered frequent user]		

before completing either the section headed **#Legal representative for filing party** or **#Contact details for filing party acting in person or by authorised officer**, whichever is applicable.

4.7 **Form 7 - Defence**

- Form 7A - Defence - filing party legally represented
- Form 7B - Defence - filing party acting in person or by authorised officer

See UCPR Part 14 for more information.

If you are filing a defence to a cross-claim, see paragraph 2.8 of this Guide for information about how to modify a form of defence for use in a cross-claim.

4.7.1 Staying or transferring the proceedings

If a court of a state or territory other than New South Wales is the appropriate court to determine the statement of claim, you may be able to have the proceedings stayed or transferred by applying to the court that issued the statement of claim.

In the case of proceedings issued in the Supreme Court of New South Wales you may be able to apply for the proceedings to be transferred as appropriate to the Supreme Court of another state or territory or to the Federal Court or the Family Court.

In the case of proceedings issued in a Local Court you may file an application to transfer proceedings to an appropriate Local Court at the same time as filing a defence, (see form 85).

If you think the proceedings should be stayed or transferred you should get legal advice as soon as possible.

4.8 **Form 8 - Reply**

See UCPR Part 14 for more information.

In Local Court proceedings, a plaintiff may file a reply to a defence only by leave of the court.

4.9 **Form 9 - Statement of cross-claim**

See UCPR Part 9 for more information.

If you are a defendant in the proceedings, you may want to make a cross-claim against a plaintiff, another defendant or another person who is not a party to the proceedings.

If a statement of claim has been filed in the proceedings, you can make a cross-claim by filing a statement of cross-claim.

4.9.1 Title of the statement of cross-claim

Each cross-claim is numbered in the order in which the statements of cross-claims are filed.

The title of the statement of cross-claim includes the number of your cross-claim. Leave this field blank unless you know the number of your cross-claim. The registry will fill in this information.

4.9.2 Registry address

You must include the street address, postal address and telephone number of the court registry. You should:

- copy the registry street address, postal address and telephone number from the statement of claim, or
- if relevant, include details of the street address, postal address and telephone number of the registry where the court has transferred the proceedings.

4.10 **Form 10 - Cross-summons**

See UCPR Part 9 for more information.

If a summons has been filed in the proceedings, you can make a cross-claim by filing a cross-summons.

You must include the street address, postal address and telephone number of the court registry. You should:

- copy the registry street address, postal address and telephone number from the statement of claim or summons, or
- if relevant, include details of the street address, postal address and telephone number of the registry where the court has transferred the proceedings.

4.11 **Form 11 - List of documents**

See UCPR 21.3 for more information.

You must prepare a list of documents when you comply with an order for discovery.

You should refer to the *Evidence Act 1995* Part 3.10 for more information in relation to the types of privilege and the circumstances under which any privilege you intend to claim in respect of any documents referred to in your list of documents arises.

You must prepare an affidavit verifying your list of documents - see UCPR 21.4 for more information.

See UCPR 21.5 for more information about your obligations to keep and make available for inspection the documents referred to in your list of documents. You may be requested to produce those documents for inspection under UCPR 21.5. You may be required to provide facilities in order that those documents can be inspected and photocopied.

You may also be obliged to provide assistance to the inspecting party with the location and identification of documents in your list. You will usually be entitled to the reimbursement of your reasonable expenses incurred in providing photocopies.

If it is more convenient to set out Parts 1 and 2 of the list of documents in 'landscape' format, you may do so.

4.12 **Form 12 - Statement of issues**

See UCPR 14.2 for more information.

If this is an agreed statement of issues, it must be signed by, or on behalf of each party to the proceedings.

4.13 **Form 13 - Scott schedule**

See UCPR 15.2 for more information.

You must number each item in the schedule and give details of:

- the particulars of the item claimed
- the amount claimed

When the other party completes the form, the other party must include details of:

- the particulars of their answer to the item claimed
- the amount that is conceded.

Modify the form as appropriate if there is more than one other party responding.

If it is more convenient to set out the schedule in 'landscape' format, you may do so.

4.14 **Form 14 - Statement of particulars - personal injury proceedings**

See UCPR 15.12 for more information.

You must prepare this statement if you are claiming damages for personal injuries other than where you are making a claim under the *Compensation to Relatives Act 1897*.

You must serve the statement and copies of all of the documents listed in UCPR 15.12:

- on the defendant or on the defendant's insurer or solicitor
- when you serve the statement of claim or as soon as practicable after you serve the statement of claim.

If you are not able to serve copies of any of the documents listed in UCPR 15.12, you must include your reasons in the statement.

4.15 **Form 15 - Statement of particulars - compensation to relatives proceedings**

See UCPR 15.13 for more information.

You must serve the statement and copies of all of the documents listed in UCPR 15.13:

- on the defendant or on the defendant's insurer or solicitor
- when you serve the statement of claim or as soon as practicable after you serve the statement of claim.

If you are not able to serve copies of any of the documents listed in UCPR 15.13, you must include your reasons in the statement.

4.16 **Form 16 - Notice to plead facts - money claims**

See UCPR 14.12 for more information.

You can ask the plaintiff to plead their claim more fully (ie give more information about their claim) if the plaintiff used the following words to claim money in the statement of claim:

- goods sold and delivered by the plaintiff to the defendant
- goods bargained and sold by the plaintiff to the defendant
- work done or materials provided by the plaintiff for the defendant at the defendant's request
- money lent by the plaintiff to the defendant
- money paid by the plaintiff for the defendant at the defendant's request
- money had and received by the defendant for the plaintiff's use
- interest on money due from the defendant to the plaintiff, and forborne at interest by the plaintiff at the defendant's request
- money found to be due from the defendant to the plaintiff on accounts stated between them.

You must file the notice to plead facts within 28 days of being served with the statement of claim or such other time as the court directs for you to file a defence (see UCPR 6.2).

You must serve a copy of the notice on the plaintiff.

The plaintiff then has 28 days to file an amended statement of claim pleading the facts on which he or she relies in full. The amended statement of claim must include a note to the effect that the statement of claim has been amended in response to the notice. See paragraph 2.7 of this Guide for more information.

If you have not filed a defence before you serve a notice to plead facts, you do not have to file your defence until 14 days after you are served with the plaintiff's amended statement of claim.

4.17 **Form 17 - Notice to admit facts and authenticity of documents**

See UCPR 17.3 and 17.4 for more information.

You must list the facts or documents that you are requiring the other party to admit.

4.18 **Form 18 - Notice disputing facts and authenticity of documents**

See UCPR 17.3 and 17.4 for more information.

You must list the facts or documents that you are disputing.

4.19 **Form 19 - Notice to produce for inspection**

For more information, see UCPR 21.9 to 21.13 and 42.33.

A notice to produce to another party for inspection:

- requires a party to produce documents or things for inspection
- must clearly identify the documents or things to be produced for inspection. The documents or things must be referred to in any originating process, pleading, affidavit or witness statement filed or served by the party required to produce the document or things or be relevant to a fact in issue (see UCPR 21.10(1))
- does not have to be filed. This means that the court will not know that a notice to produce has been served
- may be served at any time before a hearing.

The parties will arrange how the documents are to be inspected eg they will agree that the documents should be inspected at one of their offices.

The party who produces the documents or things for inspection may request that you pay the amount of any reasonable loss or expense that they incur in complying with the notice to produce for inspection.

You should attempt to agree with the other party on the amount of any reasonable loss or expense. If you cannot agree, the court may be asked to make an order about the amount that you must pay.

4.20 **Form 20 - Notice of motion**

See UCPR Part 18 for more information.

Unless the UCPR provide otherwise, you must prepare a notice of motion if you are making an interlocutory or other application in the proceedings (see UCPR 18.1).

The courts receive large numbers of some types of application (eg an application for default judgment on a liquidated claim). The Uniform Rules Committee has approved specific forms for the more common types of notice of motion. You must use the specific form if one has been approved for the type of application you are making to the court.

The UCPR allow the court to deal with some notices of motion in the absence of the parties.

In the notice of motion, you must:

- state whether the application is to be dealt with in the absence of the parties (ie not in the court room), if relevant, or
- provide for a hearing date, if the application is to be dealt with in court. The registry will insert the hearing date and time, but you may insert this information if known (eg if the court has adjourned a matter for hearing of a motion on a particular date).

See UCPR 18.2, 18.4 and 18.5 for more information about how and when to serve a notice of motion.

See UCPR 18.3 and paragraph 2.2 of this Guide for more information about how to describe the persons who are filing or who are affected by a notice of motion.

Unless the court orders otherwise, a notice of motion must be served at least 3 days before the hearing date of the motion. You must include the following information if the court orders that the notice of motion has to be served by a particular time.

TIME FOR SERVICE

This notice of motion is to be served on or before [time and date] as ordered by the court on [date].

You must include the street address, postal address and telephone number of the court registry. You should:

- copy the registry street address, postal address and telephone number from the statement of claim or summons, or
- if relevant, include details of the street address, postal address and telephone number of the registry where the court has transferred the proceedings.

4.21 Form 21 - Interrogatories

See UCPR Part 22 for more information.

You can ask the court to order a party to answer interrogatories (ie questions about the issues in dispute between the parties in the proceedings) by filing:

- a notice of motion
- the proposed interrogatories (see UCPR 22.1).

The court will not order interrogatories unless it is satisfied that:

- such an order is necessary at the time it is made (see UCPR 22.1(4))
- in the case of proceedings on a claim for damages arising out of the death or bodily injury to a person or on a claim for contribution in relation to damages so arising, it is satisfied that special reasons exist that justifies the making of the order (see UCPR 22.1(3)).

4.22 Form 22 - Statement of answers to interrogatories

See UCPR Part 22 for more information.

You can only object to being ordered to answer interrogatories if:

- the interrogatory does not relate to any issue in dispute between that party and the party seeking the order
- the interrogatory is vexatious or oppressive; or
- the answer to the interrogatory could disclose privileged information (see UCPR 22.2).

If you do not sufficiently answer or fail to answer an interrogatory, the court may make further orders against you including:

- an order that you attend to be orally examined (see UCPR 22.4)
- giving judgment against you (see UCPR 22.5)
- if you are a plaintiff, an order that your proceedings be stayed or dismissed (see UCPR 22.5)
- if you are a defendant, an order that your defence be struck out (see UCPR 22.5).

4.23 **Form 23 - Requisition for jury / notice of intention of jury trial (defamation)**

For more information, see:

- *s. 85 Supreme Court Act 1970*
- *s. 76A District Court Act 1973*
- *s. 21 Defamation Act 2005*
- UCPR 29.2.

See the Civil Procedure Regulation 2005 for information about the fees charged for jury trials.

4.24 **Form 24 - Notice to produce to court**

For more information, see UCPR Part 34 and 42.33.

A notice to produce to court:

- requires a party to produce documents or things to the court:
 - on any hearing date in the proceedings
 - at any time fixed by the court for return of subpoenas
 - by leave of the court, at some other specified time
- must clearly identify the documents or things to be produced to the court
- does not have to be filed
- may be served at any time
- does not have to be personally served
- does not have to be served on all the other parties, unless the court so orders.

The court will generally not know that a notice to produce has been served until documents or things are produced to the court, unless the court has appointed a special time for the return of the notice to produce.

The court will charge a fee when the documents or things are produced to the court. The party that served the notice to produce to court has to pay this fee.

The party who produces the documents or things to court may request that you pay the amount of any reasonable loss or expense that they incur in complying with the notice to produce to court.

You should attempt to agree with the party producing the documents on the amount of any reasonable loss or expense. If you cannot agree, the court may be asked to make an order about the amount that you must pay.

4.25 **Form 25 - Subpoena to attend to give evidence**

See UCPR Part 33, the notes in the form and the notes in paragraph 4.26 of this Guide for more information.

See UCPR 31.32 and 31.33 for more information if you are issuing a subpoena against a medical expert.

4.26 **Form 26 - Subpoena to produce**

See UCPR Part 33 and 42.33 for more information.

These rules and the form of subpoena are harmonised nationally with other jurisdictions. The nationally harmonised form of subpoena is a combined form and provides three separate options for different types of subpoena (ie subpoena to produce, subpoena to attend to give evidence, subpoena to attend to give evidence and to produce). Feedback has indicated that retaining all three options without deleting the options that are not relevant to the individual subpoena has resulted in a longer document giving rise to potential confusion for the person receiving it.

Therefore a separate form has been approved for each type of subpoena to:

- increase user friendliness
- make it clear what is required of the person receiving the subpoena
- save on wasted paper.

You can indicate in the subpoena if you agree to the person receiving the subpoena to produce copies (rather than originals) of the documents to the court (see UCPR 33.7).

You should note that a subpoena will not be issued:

- if the court has made an order, or there is a rule of the court, having the effect of requiring that the proposed subpoena:
 - not be issued, or
 - not be issued without leave of the court and that leave has not been given (see UCPR 33.2)
- requiring the production of a document or thing in the custody of the court or another court (see UCPR 33.2).
- without the leave of the court, if the party is not represented by a solicitor or in proceedings in the Small Claims Division of a Local Court (see UCPR 7.3).

See UCPR 31.32 and 31.33 for more information if you are issuing a subpoena for the production of medical reports.

After the subpoena has been issued, you must arrange for:

- the subpoena to be served on the person to whom it is addressed not less than 5 clear working days before the date on the subpoena to produce. You must seek leave of the court if you wish to serve a subpoena a shorter time before the return day.
- a copy of the subpoena to be served on each other active party in the proceedings (see UCPR 33.5).

See UCPR Part 10 for more information about how to serve a subpoena or other document. A Supreme Court subpoena is required to be served personally.

The person who produces the documents or things to the court may request that you pay the amount of any reasonable loss or expense that they incur in complying with the subpoena to produce.

You should attempt to agree with the person producing the documents on the amount of any reasonable loss or expense. If you cannot agree, the court may be asked to make an order about the amount that you must pay.

4.27 **Form 27 - Subpoena to attend to give evidence and to produce**

See UCPR Part 33 and the notes in paragraphs 4.25 and 4.26 of this Guide for more information.

See UCPR 31.32 and 31.33 for more information if you are issuing a subpoena against a medical expert.

4.28 **Form 28 - Subpoena notice**

You must serve this notice with your subpoena to produce if your proceedings are in the District Court. See District Court Practice Note DC (Civil) No. 8 for more information. You can access a copy of the practice note at <http://www.lawlink.nsw.gov.au/dc>

The person to whom the subpoena is addressed must return this notice to the court with the subpoenaed items.

4.29 **Form 29 - Order for production**

See CPA s. 68 for more information.

You must use this form if the court has made an order for the production of documents or things and you wish to serve a copy of the order on the party to whom it is addressed.

4.29.1 Schedule

You must list the documents or things that are to be produced under the order for production.

4.29.2 Costs and expenses

The party who produces the documents or things to the court may request that you pay the amount of any reasonable loss or expense that they incur in complying with the order for production, if you sought the order.

You should attempt to agree with the party producing the documents on the amount of any reasonable loss or expense. If you cannot agree, the court may be asked to make an order about the amount that you must pay.

4.30 **Form 30 - Consent to act as tutor**

See UCPR 7.13 to 7.18 for more information.

A tutor must commence and carry on proceedings for a person under a legal incapacity. A person under a legal incapacity means someone who is under a legal incapacity in relation to the conduct of legal proceedings. Unless the court orders otherwise, a solicitor must represent the tutor.

You must file this document before you commence or carry on proceedings on behalf of a person under a legal disability.

4.31 **Form 31 - Arbitrator's award and registrar's notice**

See UCPR 20.11 for more information.

This form is prepared and issued by the registry.

4.32 **Form 32 - Notice of motion - rehearing after arbitration**

See CPA s. 42 and UCPR 20.12 for more information.

The application may (but need not) request that the rehearing be a full rehearing or a limited rehearing.

An order for rehearing will not be made unless the amount claimed in the proceedings, or the value of the property to which the proceedings relate, exceeds \$10,000 (see CPA s. 43(2)).

You must include the street address, postal address and telephone number of the court registry. You should:

- copy the registry street address, postal address and telephone number from the statement of claim or summons, or
- if relevant, include details of the street address, postal address and telephone number of the registry where the court has transferred the proceedings.

4.33 **Form 33 - Notice of discontinuance**

See UCPR 12.1 for more information.

A plaintiff may discontinue proceedings, either as to all claims for relief or as to all claims for relief so far as they concern a particular defendant:

- with the consent of each other active party to the proceedings, or
- with the leave of the court.

A plaintiff who discontinues proceedings is not prevented from claiming the same relief in fresh proceedings, subject to the terms of the discontinuance (see UCPR 12.3 for more information).

The notice of discontinuance must include a certificate by the plaintiff or by the plaintiff's solicitor to the effect that the plaintiff does not represent any other person.

See UCPR 42.19 for more information about the plaintiff's liability to pay the defendant's costs when the plaintiff files a notice of discontinuance.

4.34 **Form 34 - Notice of payment**

See UCPR 6.17 for more information.

If you are served with a statement of claim and agree that you owe the amount being claimed, you may pay the plaintiff all of the money and interest claimed. You may then file this form to inform court that you have made such a payment.

Once you have filed the notice, further proceedings against you will be stayed unless the court otherwise orders.

4.35 **Form 35 - Acknowledgement of liquidated claim**

See UCPR 20.34 for more information.

If you are served with a statement of claim and agree that you owe the amount being claimed, you may file an acknowledgment of claim for the full amount including interest, fees and solicitor's costs.

You cannot file an acknowledgment if you have already filed a defence or if the plaintiff has filed an application for default judgment under UCPR Part 16.

Once you have filed the acknowledgment, the court will enter judgment for the full amount.

If you wish to apply to pay the debt by instalments, you may also file form 46 - notice of motion to pay by instalments - individual or form 47 for corporations. The court will consider your application to pay by instalments after it has entered judgment for the full amount. See UCPR 37.2 for more information.

4.36 **Form 36 - Notice of motion - default judgment for possession of land**

See UCPR 16.3, 16.4 and 36.8 for more information.

You can only obtain a judgment for possession of land in the Supreme Court or the District Court.

You can apply for judgment using form 36 if:

- you have made a claim for possession of land in your statement of claim, and
- the defendant is 'in default' in relation to the claim (see UCPR 16.2).

UCPR 4.7A sets out how you are to describe the land in the notice of motion.

Form 36 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit or include reference to the source of the person's knowledge and belief.

See paragraph 4.5 of this Guide for more information about the notice to occupier which is referred to in the affidavit.

You must also file an affidavit of service deposing that the defendant was served with the statement of claim more than 28 days before you file the notice of motion. See form 41 for the form of the affidavit of service. The date the affidavit of service is sworn or affirmed must be not be more than 14 days before the date on which the notice of motion is filed.

The registrar will deal with your application in the absence of the parties.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees.

4.37 **Form 37 - Notice of motion - default judgment for detention of goods**

See UCPR 16.3 and 16.5 for more information.

You can apply for judgment using form 37 if:

- you have made a claim for the detention of goods in your statement of claim, and
- the defendant is 'in default' in relation to the claim (see UCPR 16.2).

You can seek orders for:

- the delivery of the detained goods and for costs, or
- payment of the value of the goods and for costs.

Form 37 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You must also file an affidavit of service deposing that the defendant was served with the statement of claim more than 28 days before you file the notice of motion. See form 41 for the form of the affidavit of service. The date the affidavit of service is sworn or affirmed must be not be more than 14 days before the date on which the notice of motion is filed.

The registrar will deal with your application in the absence of the parties.

If you are applying for judgment for payment of the value of the goods, then the registrar will list the matter so that the value of the goods can be assessed. See UCPR Part 30.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees in the District and Local Courts.

4.38 **Form 38 - Notice of motion - default judgment for liquidated claim**

See UCPR 16.3 and 16.6 for more information.

You can apply for judgment using form 38 if:

- you have claimed a specific amount of money in your statement of claim, and
- the defendant is 'in default' in relation to the claim (see UCPR 16.2).

Form 38 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit or include reference to the source of the person's knowledge and belief.

See paragraph 4.3.2(d) of this Guide for further information and examples of how to set out details of your claim for interest.

You must also file an affidavit of service deposing that the defendant was served with the statement of claim more than 28 days before you file the notice of motion. See form 41 for the form of the affidavit of service. The date the affidavit of service is sworn or affirmed must be not be more than 14 days before the date on which the notice of motion is filed.

The registrar will deal with your application in the absence of the parties.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees.

4.39 **Form 39 - Notice of motion - default judgment for unliquidated damages**

See UCPR 16.3 and 16.7 for more information.

You can apply for judgment using form 39 if:

- you have claimed an unspecified amount for damages in your statement of claim, and
- the defendant is 'in default' in relation to the claim (see UCPR 16.2).

Form 39 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You must also file an affidavit of service deposing that the defendant was served with the statement of claim more than 28 days before you file the notice of motion. See form 41 for the form of the affidavit of service. The date the affidavit of service is sworn or affirmed must be not be more than 14 days before the date on which the notice of motion is filed.

The registrar will deal with your application in the absence of the parties.

If the registrar enters judgment in your favour, the registrar will then refer the motion to the court to quantify the amount of the damages.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees in the District and Local Courts.

4.40 **Form 40 - Affidavit**

See UCPR Part 35 for more information. If you are preparing an affidavit of service you should use form 41.

4.40.1 Who can make an affidavit on behalf of a party?

See UCPR 35.3.

If a party is required to file an affidavit or verify any matter by affidavit, the affidavit must be made by:

- the party
- if the party is a *person under legal incapacity*, by the party's tutor
- if the party is a *corporation*, by a member or officer of the corporation or (if it is in liquidation) by its liquidator
- if the party is a *body of persons* lawfully suing or being sued:
 - in the name of the body, or
 - in the name of any member or officer of the body, or
 - in the name of any other person associated with the body,by a member or officer of the body
- if the party is the Crown or an officer of the Crown suing or being sued in his or her official capacity, by an officer of the Crown
- if the proceedings are being brought in the plaintiff's name by some other person pursuant to a right of *subrogation*:
 - by that other person, or
 - if that other person is a corporation, by a member or officer of the corporation or (if it is in liquidation) by its liquidator.

If the proceedings are in a Local Court, the affidavit can also be made:

- by the party's solicitor, or by a *commercial agent* with respect to debt collection (within the meaning of the *Commercial Agents and Private Inquiry Agents Act 2004*), in relation only to proceedings on an application for:
 - an instalment order, or
 - an order for examination, or
 - a writ of execution, or
 - a garnishee order, or
 - default judgment (but only in the Small Claims Division), or
- by a person holding a licence as a real estate agent, strata managing agent or on-site residential property manager (within the meaning of the *Property,*

Stock and Business Agents Act 2002), in relation only to proceedings on an application for:

- an instalment order, or
- an order for examination, or
- a writ of execution, or
- a garnishee order, or
- default judgment (but only in the Small Claims Division), or
- the filing of a certificate under s. 51 *Consumer, Trader and Tenancy Tribunal Act 2001*.

When you make an affidavit, you must:

- have knowledge of the facts being deposed to (ie stated) in the affidavit
- set out the facts that qualify you to make the affidavit (eg you are making the affidavit as tutor for the plaintiff).

4.40.2 Title of an affidavit

The title of the affidavit must include:

- the name of the deponent (ie the person making the affidavit)
- the date on which the affidavit is made (ie sworn or affirmed).

The Supreme Court Rules require additional information to be included in the title of some affidavits that are prepared for Supreme Court proceedings. For example, 'AFFIDAVIT OF EXECUTOR', 'AFFIDAVIT RELATING TO DE FACTO RELATIONSHIPS'.

4.40.3 Preparing an affidavit

When you are preparing an affidavit, you must make sure that you have at least one paragraph of the body of the affidavit on the page that contains the following information.

#SWORN #AFFIRMED at

Signature of deponent

Signature of witness

Name of witness

Address of witness

Capacity of witness

#Justice of the peace #Solicitor #Barrister
#Commissioner for affidavits #Notary public

4.40.4 How do I make an affidavit?

You (the deponent) make an affidavit by swearing or affirming that the affidavit's contents are true before a witness who must be one of the following:

- a justice of the peace (JP)
- a solicitor
- a barrister
- a commissioner for affidavits
- a notary public.

You must:

- sign in the presence of the witness
- sign the foot of each page (excluding annexures)
- initial any alterations, additions or erasures.

You or the witness must:

- write or type the date in the title at the top of the front page of the affidavit and in the introductory paragraph of the affidavit
- delete the word 'Affirmed', if you have taken an oath OR delete the word 'Sworn', if you have made an affirmation.

Following this, the witness must sign:

- underneath the words 'Sworn (or Affirmed) at [place]'
- at the foot of each page of the affidavit (although there is no need for the witness or deponent to sign the first page if it is only the title page of the affidavit, containing none of the substance)
- the certificate endorsed on any annexure
- the certificate attached to any exhibit.

The witness must initial any alterations, additions or erasures (see UCPR 35.5).

The affidavit must include:

- the witnesses' name and address
- the JP's registration number, if relevant.

If the witness is a JP, the JP may provide his or her registration number² as a JP in place of the JP's address.

² Justices of the Peace must write their registration number on any document they sign or witness as a Justice of the Peace in accordance with the *Guidelines for Justices of the Peace* developed in accordance with requirements under the *Justices of the Peace Act 2002* and the *Justices of the Peace Regulation 2003* and outlined in the *Justices of the Peace Handbook*.

If the witness is a notary public, the notary public must apply his or her seal.

4.40.5 Annexures to an affidavit

See UCPR 35.6 for more information.

If you are annexing documents to an affidavit, you must include a certificate on the annexure that contains the following information. The certificate must not be on a separate page from the annexure.

This is the annexure marked '[identifying mark]' referred to in the affidavit of [name] #sworn/#affirmed before me on [date].

Signature of witness

Name of witness

Address of witness

Capacity of witness #Justice of the peace #Solicitor #Barrister
#Commissioner for affidavits #Notary public

The pages of the affidavit and the annexures must be consecutively numbered in a single series of numbers.

4.40.6 Filing an affidavit

See UCPR 35.9.

You must not file an affidavit unless:

- the UCPR require you to file the affidavit
- the rules or practice note of the court in which you are filing the affidavit require you to file it
- the court gives you leave to file the affidavit.

4.41 **Form 41 - Affidavit of service**

See UCPR Part 10 and 35.8 for more information.

You can prepare an affidavit of service if you need to prove to the court that a document has been served on another person.

You must include the following information in the affidavit of service:

- a statement as to when, where, how and by whom service was effected,
- a statement as to what, if anything, was said by the recipient at the time service was effected,
- a statement that the person effecting service is over the age of sixteen years,
- a statement identifying the document that was served.

You should only attach a copy of the served document to your affidavit of service where that document has NOT been filed in court.

4.42 **Form 42 - Exhibit certificate**

See UCPR 35.6 for more information.

The form must be attached to an exhibit to an affidavit. The form must identify the affidavit it relates to and have an identifying mark.

The person who witnessed the affidavit must sign and date the certificate.

4.43 **Form 43 - Judgment / order**

See UCPR 36.11 and 36.12 for more information.

You may use this form to obtain a sealed copy of any judgment or order made by the court.

Judgments or orders are public documents, so you must include the ACN (ie the Australian Company Number) of all parties that are companies:

- Include this information (ie the company name plus ACN) in the **TITLE OF PROCEEDINGS** section if there are up to two plaintiffs and up to two defendants.
- Include this information (ie the company name plus ACN) in the **PARTY DETAILS** section if there are more than two plaintiffs and/or more than two defendants and/or any cross-claims.

You may be required to pay a fee under the Civil Procedure Regulation 2005 if the court furnishes a sealed or certified copy of a judgment or order.

Try to ensure that some text appears above the seal, and that a new page does not start with a court seal, so that the court is not asked to stamp an otherwise blank page.

You may specify 'Judgment' or 'Order' rather than 'Judgment / Order' in the title of the form and in the **DATE** and **TERMS** headings in the form if it is appropriate to do so.

On some occasions a non-party may require a copy of a judgment or order. In that instance, the non-party eg a trustee in bankruptcy, must provide an address where the sealed copy of the judgment or order may be sent.

4.44 **Form 44 - Consent judgment / order**

See UCPR 36.1A, 36.11 and 36.12 for more information.

4.44.1 When to use this form

You must use this form if you are preparing draft orders that you will ask the court to make, for example, where parties have agreed on directions or are seeking directions from the registrar or judge. These orders are usually prepared in consultation with the other parties in the proceedings.

Judgments or orders are public documents, so you must include the ACN (ie the Australian Company Number) of all parties that are companies:

- Include this information (ie the company name plus ACN) in the **TITLE OF PROCEEDINGS** section if there are up to two plaintiffs and up to two defendants.

- Include this information (ie the company name plus ACN) in the **PARTY DETAILS** section if there are more than two plaintiffs and/or more than two defendants and/or any cross-claims.

You may specify 'Consent judgment' or 'Consent order' rather than 'Consent judgment / order' in the title of the form and in the **TERMS** heading in the form if it is appropriate to do so.

There is no approved form called 'short minutes of order' although some courts, practitioners or practice notes use this expression. Where a court requests that 'short minutes of order' be filed, prepare a consent judgment / order (form 44) or judgment / order (form 43) instead and adapt the form accordingly.

Form 44 is also the form to use for settlements (ie consent judgments). There is no approved form called 'terms of settlement', although some courts and practitioners use this expression.

A signed copy of a consent judgment or order may be handed up in court and the court may make and enter the orders. If this occurs, you will not receive a sealed copy of the consent judgment or order for your records as a matter of course.

You can apply for a sealed copy of a consent judgment or order at the registry. See the Civil Procedure Regulation 2005 for the fee if the court furnishes a sealed or certified copy of a judgment or order.

4.44.2 Agreements between parties that the terms shall not be disclosed other than according to law

Unless the court, for special reasons, otherwise orders, the court must refuse to give judgment, or order that judgment be entered, in terms that restrict, or purport to restrict, any disclosure of the terms of the judgment or order (see UCPR 36.1A).

However the parties may agree that they will keep confidential or not disclose the terms of the judgment or order and this agreement could be recorded in a separate deed, agreement or undertaking. The agreement could be noted in the judgment or order.

4.45 **Form 45 - Registration or filing of (certificate of) judgment / order**

See CPA s. 133 (2) and UCPR 36.11 or 36.10 for more information.

You must use form 45 to register or file a certificate, judgment or order from another court, tribunal or costs assessor.

Once you have registered a certificate, judgment or order, you can enforce that certificate, judgment or order as a judgment of the court in which it is registered. For example, you would be able to apply for a writ for the levy of property.

Except where a costs assessor's certificate is filed in the proceedings to which it relates under UCPR 36.10(1)(a):

- when a judgment or order is registered, new proceedings are created in the court
- regardless of a person's title in the original proceedings:
 - the plaintiff will be the person seeking to enforce the judgment (generally the person in whose favour the judgment was given or the order was made)

- the defendant will be the person against whom the judgment was given or the order was made.

4.46 **Form 46 - Notice of motion to pay by instalments - individual**

See UCPR 37.2 for more information.

You must use this form if:

- You are a judgment debtor and want to apply to the court for an order to pay the judgment debt by instalments
- You have been served with a statement of claim, have filed the acknowledgement of the claim (see form 35), and want to apply to the court for an order to pay the amount of the claim by instalments.

You can ask to pay the instalments:

- weekly
- fortnightly
- monthly, or
- in a lump sum by a particular date.

Form 46 also includes a financial statement. You must fill out each section of the financial statement and sign the affidavit stating that the information you completed in the financial statement is true.

You must swear or affirm the affidavit before a justice of the peace, a solicitor, a barrister, a commissioner for affidavits or a notary public.

4.47 **Form 47 - Notice of motion to pay by instalments - corporation**

See UCPR 37.2 for more information.

You must use form 47 if:

- you are authorised to act on behalf of the company
- the judgment debtor is a company and it wishes to apply to the court for an order to pay the judgment debt by instalments
- the company has been served with a statement of claim, has filed the acknowledgement of the claim (see form 35), and wishes to apply to the court for an order to pay the amount of the claim by instalments.

Form 47 also includes a financial statement. An authorised officer of the corporation must fill out each section of the financial statement and sign an affidavit stating that the information that he or she completed in the financial statement is true.

The authorised officer must swear or affirm the affidavit before a justice of the peace, a solicitor, a barrister, a commissioner for affidavits or a notary public.

4.48 **Form 48 - Instalment order and notice**

See UCPR 37.3 for more information.

The registrar will issue form 48 to advise the parties of a decision to grant an application for an instalment order.

4.49 **Form 49 - Order refusing instalment application and notice (formerly registrar's refusal to make instalment order)**

See UCPR 37.3 for more information.

The registrar will issue form 49 to advise the parties of a decision to refuse an application for an instalment order.

4.50 **Form 50 - Notice of motion - objection to instalment order or order refusing instalment order**

See UCPR 37.3 for more information.

You must use form 50 if the registrar has made an order making or refusing an application for an instalment order and you wish to object to the order and to have it reviewed.

You must file your objection within 14 days after the registrar has made the order.

4.51 **Form 51 - Examination notice - individual**

See UCPR 38.1 for more information.

Use form 51 if you have a judgment for the payment of money and you want to obtain information about the judgment debtor's financial circumstances.

The examination notice requires the judgment debtor to:

- answer questions about their financial circumstances
- provide you with copies of documents about their financial circumstances.

You must issue an examination notice before you can apply for an order for examination, unless your proceedings are in the Supreme Court, (see CPA s. 108(3) and UCPR 38.3).

You do not have to file the examination notice or get the court's permission to issue the examination notice. You can post the examination notice to the judgment debtor's address.

You must give the judgment debtor at least 28 days to respond to the examination notice.

You can apply to the court for an examination order if the judgment debtor does not, within the time you have allowed:

- respond to the examination notice, or
- sufficiently respond to your questions and requests for information.

4.52 **Form 52 - Examination notice - corporation**

See UCPR 38.1 for more information.

Use form 52 if you have a judgment for the payment of money against a corporation and you want to obtain information about the corporation's financial circumstances.

The examination notice requires an authorised officer of the judgment debtor corporation to:

- answer questions about the corporation's financial circumstances
- provide you with copies of documents about the corporation's financial circumstances.

You must issue an examination notice before you can apply for an order for examination, unless your proceedings are in the Supreme Court, (see CPA s. 108(3) and UCPR 38.3).

You do not have to file the examination notice or get the court's permission to issue the examination notice. You can post the examination notice to the judgment debtor's address.

You must give the judgment debtor corporation at least 28 days to respond to the examination notice.

You can apply to the court for an examination order if an authorised officer of the judgment debtor corporation does not, within the time you have allowed:

- respond to the examination notice, or
- sufficiently respond to your questions and requests for information.

4.53 **Form 53 - Notice of motion - examination order**

See UCPR 38.2 for more information.

You can apply to the court for an examination order if:

- a judgment debtor does not respond or sufficiently respond to an examination notice, or
- you have a Supreme Court judgment for the payment of money and you want to obtain information about the judgment creditor's financial circumstances.

If the court makes an examination order, the judgment debtor will be ordered to attend court to be examined about his or her financial circumstances.

If you want the judgment debtor to produce copies of any documents at the examination you must describe the documents.

Form 53 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You can find out the amount of the filing fee from the Civil Procedure Regulation 2005.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees in the District and Local Courts.

If the Court grants the notice of motion the registrar will issue an examination order. Unless the court orders otherwise you or your legal representative must attend court to examine the judgment debtor.

If you are not legally represented and have difficulties attending the examination you should contact the registrar. In certain circumstances, the registrar may conduct the examination on your behalf.

4.54 Form 54 - Examination order

See UCPR 38.3 for more information.

If your notice of motion for an examination order is granted, the registrar will issue the examination order requiring the judgment debtor to attend court to be examined about his or her financial circumstances.

You must arrange for a copy of the examination order to be served on the judgment debtor at least 14 days before the date on which he or she is required to attend court for examination.

4.55 Form 55 - Registrar's examination - individual

See UCPR 38.5 for more information.

Form 55 is the standard form of questions that a registrar will use when examining a judgment debtor who is an individual.

You may use form 55 as a guide if you (as judgment creditor) are required to examine the judgment debtor.

4.56 Form 56 - Registrar's examination - corporation

See UCPR 38.5 for more information.

Form 56 is the standard form of questions that a registrar will use when examining a person in relation judgment debtor who is a corporation.

You may use form 56 as a guide if you (as judgment creditor) are required to examine a person in relation to a judgment debtor who is a corporation.

4.57 Form 57 - Notice of motion - arrest warrant for examination

See UCPR 38.6 for more information.

You must use form 57 if the judgment debtor has failed to attend court for an examination and you wish to apply for an arrest warrant that will authorise the Sheriff's officer to bring the judgment debtor to court to be examined.

Form 57 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You may apply for an arrest warrant at least 14 days, but no later than 3 months, after the court has served a notice on the judgment debtor that failure to attend for examination may result in the person's arrest.

4.58 **Form 58 - Arrest warrant**

See UCPR 38.6 for more information.

Form 58 is prepared and issued by the registrar.

4.59 **Form 59 - Notice of motion - writ for possession of land**

See s. 104 CPA and UCPR 39.1 - 39.3 for more information.

UCPR 4.7A sets out how you are to describe the land in the notice of motion.

Form 59 must be used if you are applying for a writ for possession of land. You can only apply for a writ for possession of land if the court has given you a judgment for the possession of land.

Form 59 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

If you obtained judgment by default, you still need to swear a separate affidavit in support of the application for writ, even though the evidence required is almost the same.

You can find out the amount of the Sheriff's execution fee from the Civil Procedure Regulation 2005.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees.

This form asks you to provide additional information to assist the Sheriff if the writ is granted. You should include, where known:

- a short description of the claim eg failure to pay mortgage
- a list of persons in occupation
- the telephone number of the occupier(s) (if known)
- details of any animals or anything else at the address where the writ is to be executed that might pose a threat to the health and safety of the Sheriff's officers.

4.60 **Form 60 - Writ of possession**

See CPA s. 104 and UCPR 39.1 - 39.3 for more information.

A writ of possession authorises the Sheriff to enter the land described in the writ and cause the person named in the writ to have possession of it.

4.61 **Form 61 - Notice of motion - writ of restitution**

A writ of restitution can be issued if a defendant resumes possession of a property after a writ of possession has been executed. A writ of restitution can also be issued where a defendant is successful in having a judgment for possession and a writ of possession set aside.

Form 61 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

This form asks you to provide additional information to assist the Sheriff if the writ is granted. You should include, where known:

- a short description of the claim
- a list of persons in occupation
- the telephone number of occupier(s) (if known)
- details of any animals or anything else at the address where the writ is to be executed that might pose a threat to the health and safety of the Sheriff's officers.

4.62 **Form 62 - Writ of restitution**

A writ of restitution authorises the Sheriff to enter the land described in the writ and cause possession of it to be restored to the person named in the writ.

4.63 **Form 63 - Notice of motion - writ for delivery of goods**

See CPA s. 105 and UCPR 39.2 - 39.3 for more information.

Form 63 must be used if you are applying for a writ for delivery of goods. You can only apply for a writ for delivery of goods if the court has given you a judgment for the delivery of goods.

Form 63 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You must clearly identify the goods that are to be delivered to you and the address(es) where you allege the goods are located. An execution fee must be paid before the Sheriff attempts to execute the writ. The fee is payable for each address at which, and each occasion on which, execution is effected or attempted.

You can find out the amount of the Sheriff's execution fee from the Civil Procedure Regulation 2005.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees.

This form asks you to provide additional information to assist the Sheriff if the writ is granted. You should include, where known:

- a short description of the claim

- the best time of day to contact the defendant
- the telephone number of the defendant (if known)
- specific details of any property owned by the defendant
- details of any animals or anything else at the address where the writ is to be executed that might pose a threat to the health and safety of the Sheriff's officers.

4.64 **Form 64 - Writ of delivery**

See CPA s. 105 and UCPR 39.2 for more information.

A writ of delivery authorises the Sheriff to seize the goods specified in the writ and deliver them to the person named in the writ.

4.65 **Form 65 - Notice of motion - writ for levy of property**

See UCPR 39.2 - 39.3 for more information.

You must use form 65 if you are applying for a writ for the levy of property. The court must give a judgment in your favour before you can apply for a writ for levy of property.

Form 65 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

You must identify the address(es) where you want a Sheriff's officer to attend to attempt to seize property that is owned by the judgment debtor. An execution fee must be paid before the Sheriff attempts to execute the writ. The fee is payable for each address at which, and each occasion on which, execution is effected or attempted.

If known, you should also include information about any property that is owned by the judgment debtor that may be located at this address.

You can find out the amount of the Sheriff's execution fee from the Civil Procedure Regulation 2005.

Schedule 2 of the Legal Profession Regulation 2005 sets out the amount you are entitled to claim for solicitors' fees.

This form asks you to provide optional additional information to assist the Sheriff's office if the writ is granted. You should include, where known:

- a short description of the claim
- the best time of day to contact the judgment debtor
- the telephone number of the judgment debtor (if known)
- specific details of any property owned by the judgment debtor that may be seized
- details of any animals or anything else at the address where the writ is to be executed that might pose a threat to the health and safety of the Sheriff's officers.

4.66 **Form 66 - Writ for levy of property**

See CPA s. 106 and UCPR 39.2 for more information.

A writ for levy of property authorises the Sheriff to seize and sell property that is owned by the judgment debtor.

The proceeds of the sale will be paid to:

- the Sheriff, to cover the Sheriff's fees and expenses in executing the writ
- the judgment creditor, for money outstanding on the judgment debt
- the judgment debtor, if there is any money remaining.

If the Sheriff receives more than one writ for the levy of property against the judgment debtor, the Sheriff will pay the judgment creditors in the order in which the Sheriff received the writs.

4.67 **Form 67 - Judgment creditor's notice**

See UCPR 39.21 for more information.

You must use a judgment creditor's notice if you:

- have registered a writ for the levy of property in the Register kept under s. 105 *Real Property Act 1900* or in the General Register of Deeds kept under s. 186 *Conveyancing Act 1919*.
- have received notice from the Sheriff that the debt cannot be satisfied against goods owned by the judgment debtor
- want the judgment debtor's land to be sold to satisfy the judgment debt.

UCPR 4.7A sets out how you are to describe the land in the notice.

Before you file the notice, you must file an affidavit that verifies that the writ has been registered and that you have received notice from the Sheriff that the debt cannot be satisfied against goods owned by the judgment debtor.

You must file two copies of the judgment creditor's notice at the court where the writ for levy of property was issued. The court will seal the notice and you must serve a copy on the judgment debtor.

4.68 **Form 68 - Notice of sale**

See UCPR 39.22 for more information.

You must use form 68 if you want the Sheriff to proceed with the sale of land owned by the judgment debtor.

Form 68 may be filed if:

- you have served a copy of the judgment creditor's notice on the judgment debtor
- four weeks have elapsed and the debt remains unpaid.

UCPR 4.7A sets out how you are to describe the land in the notice.

You must file six copies of the notice of sale with the court that issued the judgment creditor's notice. The court will seal the documents and return them to you. You must send the documents to the Sheriff.

The Sheriff will then fix a date for the sale of land and insert it in the six copies of the notice of sale. The Sheriff will then return two copies of the notice of sale to you. At least one week before the date for the sale of the land you must serve a copy of the notice of sale, in which the date for the sale of the land has been inserted, on the judgment debtor.

4.69 Form 69 - Notice of motion - garnishee order

See UCPR 39.34 and 39.35 for more information.

You must use form 69 if you are applying for a garnishee order. The court must give a judgment in your favour before you can apply for a garnishee order.

A garnishee order is an order that directs a person who holds money payable to the judgment debtor to pay that money to you in satisfaction of the judgment debt. A garnishee order may be directed to an employer, a bank manager or any other person who holds money payable to the judgment debtor.

You must include the name and address of the person who holds money payable to the judgment debtor. This person is referred to as the garnishee.

You must indicate whether the money payable is wages or salaries or some other debt due to the judgment debtor.

Form 69 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

4.70 Form 70 - Garnishee order for debts

See CPA s. 117 and UCPR 39.36 for more information.

A garnishee order for debt directs a person (the garnishee) who holds money payable to the judgment debtor to pay that money to the judgment creditor in satisfaction of the judgment debt.

You must serve a copy of the garnishee order for debts on the garnishee.

4.71 Form 71 - Garnishee order for wages or salary

See CPA s. 119 and UCPR 39.37 for more information.

A garnishee order for wages or salary directs a person (the garnishee) to make payments from any wage or salary that is payable by the garnishee to the judgment debtor to the judgment creditor in satisfaction of the judgment debt.

You must serve a copy of the garnishee order for wages or salary on the garnishee.

The garnishee order for wages or salary will continue to operate until the judgment debt is paid.

4.71.1 Amount not to be garnisheed

See CPA s. 122 for more information.

The amounts attached under one or more garnishee orders must not, in total, reduce the net weekly amount of any wage or salary received by the judgment debtor from the garnishee to less than 80 per cent of the standard workers compensation weekly benefit (the amount prescribed by s. 37(1)(a)(i) *Workers Compensation Act 1987*, as adjusted from time to time under s. 82). The objective of this requirement is that any person whose wages or salary are garnisheed may continue to receive some income.

See the Important information for the garnishee sheet attached to the rear of the form, under the heading 'Making payments', in particular:

Any amount paid under one or more garnishee orders must not, in total, reduce the net weekly amount of any wage or salary received by the judgment debtor to less than 80 per cent of the standard workers compensation weekly benefit (section 122 Civil Procedure Act 2005). This amount is adjustable – refer to <http://www.workcover.nsw.gov.au/WorkersCompensation/WorkplaceInjuries/Benefits/weekly.htm> to determine the applicable rate.

The standard workers compensation weekly benefit is \$235.20 (s. 37(1)(a)(i) *Workers Compensation Act 1987*). This adjustable amount is notified in the NSW Government Gazette periodically. The notice concerns indexation of WorkCover benefits and damages, but is used to calculate the amount that is not to be garnisheed. The amount is usually changed on 1 April and 1 October each year.

HISTORICAL TABLE OF AMOUNTS NOT TO BE GARNISHEED				
Adjustment applies from	Adjustable Amount \$	Adjusted Amount \$	80% of adjusted amount	Gazette reference of notice
1/10/05	235.20 (from s. 37(1)(a)(i) <i>Workers Compensation Act 1987</i>)	340.90	272.72	Gaz 111, 2/9/05, p 7223
1/4/06		347.90	278.32	Gaz 32, 10/3/06, p 1183
1/10/06		354.40	283.52	Gaz 116, 15/9/06, p 8068
1/4/07		361.30	289.04	Gaz 33, 23/2/07, p1114
1/10/07		367.70	294.16	Gaz 127, 21/9/07, p 7218
1/4/08		374.90	299.92	Gaz 30, 7/3/08, p 1439

4.71.2 Amounts garnishee may retain

See the Important information for the garnishee sheet attached to the rear of the form, under the heading 'Making payments', for details of the amount a garnishee may retain to cover the expense of complying with a garnishee order.

4.72 **Form 72 - Garnishee's statement that no debt due or accruing or no wage or salary payable**

See UCPR 39.40 for more information.

You must use form 72 if a garnishee order is served on you and you believe that there is no debt payable to the judgment debtor at the time of service of the order or that there are no wages or salaries that will become payable to the judgment debtor.

You must include information about the grounds on which you believe that there is no debt, wage or salary due or accruing. This information must be verified by affidavit.

You must serve this statement on the judgment creditor.

4.73 **Form 73 - Notice of motion - charging order**

See CPA s. 126 and UCPR 39.44 and 39.45 for more information.

You must use form 73 if you are applying for a charging order against security interests owned by the judgment debtor.

You may only apply for a charging order in proceedings in the Supreme Court or the District Court.

Security interests include stocks and shares in a company and any equitable interest in property. They do not include legal interests in land and so do not include the interest of a registered proprietor under a certificate of title.

Form 73 includes an affidavit in support of your application. The affidavit should be made by the person or persons who have knowledge of the facts that are included in the affidavit and include reference to the source of the person's knowledge and belief, if appropriate.

4.74 **Form 74 - Charging order**

See UCPR 39.44 for more information.

A charging order operates as a charge on the property specified in the order and restrains the chargee from dealing with the property other than in accordance with the judgment creditor's directions.

4.75 **Form 75 - Notice to Sheriff of disputed property**

See UCPR 43.3 for more information.

You must use form 75 if:

- the Sheriff has taken, or intends to take, possession of property under a writ of execution, and
- you claim that the property is owned by you and not by the judgment debtor or that you have a claim in respect of the proceeds of the sale or the value of the property.

The notice to Sheriff of disputed property must include information about your claim in respect of the property. You must lodge the notice with the Sheriff.

4.76 **Form 76 - Notice of change of address for service**

See UCPR 4.6 for more information.

You must file and serve a copy of form 76 on all active parties in the proceedings if:

- the address for service changes
- the legal representative's details change (eg the name of the firm changes).

It is not sufficient to send a letter to the other parties and the court notifying them of the change of details.

4.77 **Form 77 - Notice of change or appointment of solicitor**

See UCPR 7.26 and 7.28 for more information.

You must file and serve a copy of form 77 on all active parties in the proceedings if a party's legal representation changes, eg where:

- an unrepresented party appoints a solicitor
- a party changes firms of solicitors (and the address for service changes)
- a solicitor's agent changes.

A party who changes solicitor or whose solicitor changes agents must also serve a copy of form 77 on the former solicitor or agent, if practicable.

Where a legal practitioner who is the solicitor on the record retires from a partnership or an employed solicitor leaves the employment of a legal firm and another solicitor or partner in the **same** legal firm assumes the conduct of the proceedings, it is not necessary to file and serve a notice of change or appointment of solicitor (form 77). As a matter of courtesy, all parties and the court should be informed as soon as practicable either at the next occasion when the parties are in court or by letter to the Judge's associate or registrar and copied to all active parties or where parties are legally represented, copied to their legal representatives.

4.78 **Form 78 - Notice of removal of solicitor**

See UCPR 7.27 for more information.

You must file and serve a copy of form 78 on all active parties in the proceedings if you:

- have terminated the authority of a solicitor to act on your behalf
- are now representing yourself.

You must also serve a copy of form 78 on your former solicitor, if practicable.

4.79 **Form 79 - Notice of intention to file and serve notice of ceasing to act**

See UCPR 7.29(2) for more information. This form applies to legal representatives.

Unless you have the leave of the court, you must serve a copy of form 79 on the registrar and on your client before you can file a notice of ceasing to act.

- If a trial date has been fixed, you must serve form 79 at least 28 days before you file and serve a notice of ceasing to act (see form 80).
- If a trial date has not been fixed, you must serve form 79 at least 7 days before you file and serve a notice of ceasing to act (see form 80).

A 'trial' is defined under the CPA as any hearing which is not an interlocutory hearing.

If the name of party for whom you are ceasing to act does not appear in the title of proceedings section (eg a third defendant) it will be helpful to include the party's name as well as the party's role in the proceedings in the **NOTICE** section of form 79.

4.80 **Form 80 - Notice of ceasing to act**

See UCPR 7.29 for more information. This form applies to legal representatives.

Unless you have the leave of the court, you must have served a notice of intention to file and serve notice of ceasing to act (see form 79) before you can file form 80.

You must file and serve a copy of form 80 on all active parties.

4.81 **Form 81 - General form (Part 50 appeal)**

See forms numbered 101 - 106 if you require forms for use in the Court of Appeal.

For Part 50 appeal proceedings, if there is no approved form for the step that you are taking, you can use form 81 and modify it to suit the nature of the document you wish to file and the requirements of the rules.

Other approved forms may be used and adapted as necessary in Part 50 appeal proceedings. For example an appearance (form 6), a notice of motion (form 20) and an affidavit (form 40) may be adapted so that the front cover of these forms appears in the format of the general form for Part 50 appeals (form 81).

4.82 **Form 82 - List of parties (Part 50 appeal)**

See UCPR 4.2A and paragraph 4.2 of this Guide for more information.

4.83 **Form 83 - Notice of contention (Parts 49 and 50)**

See UCPR 49.13 and 50.11 for more information.

You must use form 83 if you are:

- a party to an appeal under UCPR Part 49 Division 3, or
- a defendant to an appeal (other than an appeal to the Court of Appeal, an appeal against a conviction or sentence in the Local Court or an appeal from the decision of a liquidator, receiver or manager)

and contend that the decision of an associate Judge of the Supreme Court or court below (as applicable) should be affirmed on grounds other than those relied on by the associate Judge or court below, but do not seek a discharge or variation of any part of the decision.

4.84 **Form 84 - Summons commencing an appeal (Part 50) / Summons seeking leave to appeal (Part 50)**

See UCPR 50.4, 50.12 and 50.13 for more information.

You must use form 84 if you are filing a summons commencing an appeal (other than an appeal to the Court of Appeal, an appeal against a conviction or sentence in the Local Court or an appeal from the decision of a liquidator, receiver or manager) or summons seeking leave to appeal or cross appeal.

A summons commencing an appeal must include information about the grounds relied on in support of the appeal and in particular, any grounds on which it is contended that there is an error of law in the decision of the court below (UCPR 50.4).

A summons seeking leave to appeal must include information about:

- the nature of the case
- the reasons why leave should be given
- if applicable, the reason why time for leave to appeal should be extended
- the grounds relied on in support of the appeal and in particular, any grounds on which it is contended that there is an error of law in the decision of the court below (UCPR 50.12).

A summons seeking leave to cross-appeal must include information about:

- the nature of the case
- the reasons why leave should be given
- if applicable, the reason why time for leave to cross-appeal should be extended
- the grounds relied on in support of the cross-appeal and in particular, any grounds on which it is contended that there is an error of law in the decision of the court below (UCPR 50.13).

4.85 **Form 85 - Notice of motion - transfer of Local Court proceedings**

See UCPR 44.1 for more information.

You must use form 85 if:

- you are defending a claim in the Local Court
- you wish to apply to transfer the proceedings to an appropriate Local Court.

You must file form 85 at the same time as you file your defence (see paragraph 4.7 in the Guide).

You can only apply to transfer proceedings to another Local Court if the proceedings have not been commenced at an appropriate Local Court.

An appropriate court means the Local Court nearest to any of the following places:

- your residence
- your residence at the time the cause of action arose
- your place of business
- your place of business at the time the cause of action arose
- your place of employment
- your place of employment at the time the cause of action arose
- the place where the cause of action arose.

If there is more than one appropriate Local Court, you must list all appropriate Local Courts and nominate the Local Court to which you want the proceedings to be transferred.

4.86 **Form 86 - Notice specifying appropriate Local Court or opposing transfer of Local Court**

See UCPR 44.1 for more information.

You must use form 86 if:

- you are served with a notice of motion to transfer the proceedings
- you want to:
 - nominate your preferred Local Court, or
 - oppose the transfer of the proceedings.

You must file form 86 within 14 days after you are served with the notice of motion for the transfer of the Local Court proceedings.

4.101 **Form 101 - General form (Court of Appeal)**

From 1 January 2008 the Court of Appeal rules are contained in UCPR Part 51. Part 51 of the Supreme Court Rules 1970 (old appeal rules) is repealed.

If there is no approved form for the step that you are taking in Court of Appeal proceedings, you can use form 101 and modify this form to suit the nature of the document you wish to file and the requirements of the rules.

Other approved forms may be adapted for use in the Court of Appeal (eg an appearance (form 6), a notice of motion (form 20), a notice of discontinuance (form 33) and an affidavit (form 40) may be adapted so that the front cover of these forms appears in the format of the general form (Court of Appeal) (form 101).

4.102 **Form 102 - List of parties (Court of Appeal)**

See UCPR 4.2A and paragraphs 4.2, 4.104.2 and 4.105.4 of this Guide for more information.

You must file a list of parties with a summons seeking leave to appeal and notice of appeal.

4.103 **Form 103 - Notice of intention to appeal (Court of Appeal)**

See UCPR 51.6 for more information.

A notice of intention to appeal is a notice that the applicant intends to file a notice of appeal or, if necessary, a summons seeking leave to appeal within three months after the material date. It replaces the holding summons and notice of appeal without appointment under the old appeal rules.

You must file the notice of intention to appeal within 28 days after the material date. 'Material date' is defined in UCPR 51.2 and is usually the date of judgment in the court below (see UCPR 51.2).

You cannot file a notice of intention to appeal if a summons seeking leave to appeal or a notice of appeal has been filed, or an Act or statutory rule (other than the UCPR) specifies the period within which the appeal or an application for leave to appeal must be commenced.³

The filing of a notice of intention to appeal does not have the effect of commencing proceedings in the Court (UCPR 51.9(3)). A filing fee is payable, but no case number will be allocated, so the court will leave this row of the form blank. A record of the filings of notices of intention to appeal will be maintained on a separate Court of Appeal registry database.

You must file or lodge a copy of the notice of intention to appeal with the court below (UCPR 51.42).

4.104 **Form 104 - Summons seeking leave to appeal (Court of Appeal)**

See UCPR 51.10 for more information.

If you need leave to appeal:

- you must file a summons seeking leave to appeal within 28 days after the material date unless you have filed and served a notice of intention to appeal
- if you have filed a notice of intention to appeal, you must file and serve a summons seeking leave to appeal within three months *after the material date* (not the date of filing of the notice of intention to appeal) (UCPR 51.6). For example, if the material date is 1 December 2007, then you must file the summons seeking leave to appeal by 2 March 2008, but as that is a Sunday, then filing the originating process by Monday 3 March 2008 would be acceptable (see UCPR 1.11 - reckoning of time).

³ Note that the time for bringing appeals from GREAT is fixed at 21 days by s. 55 *Government and Related Employees Appeal Tribunal Act* and cannot be extended by filing a notice of intention to appeal (see *Commissioner of Corrective Services v Walker* [2007] NSWCA 213).

You must also file or lodge a copy of the summons with the court below (UCPR 51.42).

4.104.1 Details of application for leave to appeal

You must state the statutory provision under which the application for leave to appeal is brought. See paragraph 4.105.1 of this Guide for more information.

4.104.2 List of parties

You must file and serve a list of parties (form 102) with a summons seeking leave to appeal. Its purpose is to set out:

- the parties in the Court of Appeal and in the court below
- the contact details of parties in the Court of Appeal.

4.104.3 White folder

You must file three copies of a folder of supporting documents (the 'White folder') and serve the folder with the summons seeking leave to appeal. See UCPR 51.12 for more information.

4.104.4 Cross-appeals

See paragraph 4.105.3 of this Guide for more information.

4.105 **Form 105 - Notice of appeal (Court of Appeal)**

See UCPR 51.16, 51.18, 51.20 for more information.

You must file and serve a notice of appeal:

- If the notice is filed pursuant to leave to appeal - within seven days after leave is given.
- If you have filed a notice of intention to appeal - within three months after the material date.
- If you have not filed and served a notice of intention to appeal and the notice of appeal is not filed pursuant to leave - within 28 days after the material date.

You must also file or lodge a copy of the notice of appeal with the court below (UCPR 51.42).

4.105.1 Details of appeal

You must identify the statutory provision under which the right of appeal arises.

Even where an appeal may be brought as of right under a particular provision, attention should be paid to any qualification requiring leave in particular circumstances. Where leave is required, you must file a summons seeking leave to appeal (form 104) or summons seeking leave to cross appeal (see paragraphs 2.8 and 4.105.3 of this Guide for guidance on how to modify form 104 for a cross appeal).

In relation to appeals from Tribunals or other bodies, the matters assigned to the Court of Appeal are identified in s. 48 *Supreme Court Act 1970*.

The scope of appellate jurisdiction may be limited, for example as to questions of law, or subject in certain cases to the grant of leave to appeal.

The main provisions creating appellate jurisdiction in the Court of Appeal and stating when leave to appeal is required are:

- Appeals from Supreme Court: Part 7 *Supreme Court Act 1970*, ss. 101 (general provision, including matters requiring leave in s. 101(2)), 101A (question of law concerning criminal contempt), 102 (appeal after Supreme Court jury trial), 103 (appeal from separate decision in Supreme Court).
- Appeals from Land and Environment Court: *Land and Environment Court Act 1979*, ss. 57, 58. See also *Supreme Court Act 1970*, s. 48(1)(a)(i).
- Appeals from Dust Diseases Tribunal: *Dust Diseases Tribunal Act 1989*, s. 32. See also *Supreme Court Act 1970*, s. 48(1)(a)(ia).
- Appeals from District Court: *District Court Act 1973*, ss. 127, 142N. See also *Supreme Court Act 1970*, s. 48(1)(a)(iv).
- Appeals from Government and Related Employees Appeal Tribunal: *Government and Related Employees Appeal Tribunal Act 1980*, s. 54. See also *Supreme Court Act 1970*, s. 48(1)(a)(iii).
- Appeals from Workers Compensation Commission constituted by Presidential member: *Workplace Injury Management and Workers Compensation Act 1998*, s. 353.
- Appeals from other Tribunals: If the relevant statute confers a right of appeal to the Supreme Court and if s. 48(1)(a)(vii) *Supreme Court Act 1970* applies, the appeal is assigned to the Court of Appeal.

4.105.2 Orders sought

You must identify the orders made by the court below which are the subject of challenge.

Appeals are brought from orders, not from the reasons of the court below. You must identify the orders you want set aside or varied and the orders you seek in their place.

If part or all of the judgment has been paid, you must identify that fact, together with any consequential order sought with respect to repayment (including any claim for interest) if the appeal succeeds (see UCPR 51.19).

4.105.3 Cross-appeals

See UCPR 51.17 for more information.

There is no separate form for cross-appeal or cross-summons seeking leave to cross-appeal. Forms in cross-appeals (or applications for leave to cross-appeal) may be prepared based on other approved appeal forms, and modified in accordance with paragraph 2.8 of this Guide, with the following additional modifications:

- replace 'cross-claim' with 'cross-appeal' (or 'cross-summons', as applicable)
- replace references to 'cross-claimant' with 'cross-appellant' (or 'cross-applicant', as applicable)

- replace references to 'cross-defendant' with 'cross-respondent'.

4.105.4 List of parties

You must file and serve a list of parties (form 102) with a notice of appeal. Its purpose is to set out:

- the parties in the Court of Appeal and in the court below
- the contact details of parties in the Court of Appeal.

4.106 **Form 106 - Notice of contention (Court of Appeal)**

See UCPR 51.40 for more information.

You must use form 106 if you are a respondent and contend that the decision below should be affirmed on grounds other than those relied on by the court below, but do not seek a discharge or variation of any part of the orders of the court below.

You must state briefly, but specifically, the grounds relied on in support of the contention.

A notice of contention must be filed and served within 28 days after service of the notice of appeal.

5 LIST OF FORMS

Number	Prior form number	Reference	Title
1	1		General form
2	NEW	4.2A	List of parties
3A	2	6.2	Statement of claim - filing party legally represented
3B	2	6.2	Statement of claim - filing party acting in person or by authorised officer
4A	3	6.2	Summons - filing party legally represented
4B	3	6.2	Summons - filing party acting in person or by authorised officer
5	5	6.8	Notice to occupier
6	4	6.9	Appearance
7A	6	14.3	Defence - filing party legally represented
7B	6	14.3	Defence - filing party acting in person or by authorised officer
8	7	14.4	Reply
9	8	9.1	Statement of cross-claim
10	9	9.1	Cross-summons
11	10	21.3 - 21.4	List of documents
12	11	14.2	Statement of issues
13	14	15.2	Scott schedule
14	12	15.12	Statement of particulars - personal injury proceedings
15	13	15.13	Statement of particulars - compensation to relatives proceedings
16	15	14.12(2)	Notice to plead facts - money claims
17	16	17.3 & 17.4	Notice to admit facts and authenticity of documents
18	17	17.3 & 17.4	Notice disputing facts and authenticity of documents
19	22	21.10	Notice to produce for inspection

Number	Prior form number	Reference	Title
20	18	18.1 & 18.3	Notice of motion
21	19	22.1	Interrogatories
22	20	22.3	Statement of answers to interrogatories
23	21	29.2	Requisition for trial by jury/ Notice of intention to elect trial by jury in defamation proceedings
24	22	34.1	Notice to produce to court
25	23	33.3	Subpoena to attend to give evidence
26	23	33.3	Subpoena to produce
27	23	33.3	Subpoena to attend to give evidence and to produce
28	NEW		Subpoena notice
29	23A	CPA s.68	Order for production
30	24	7.16	Consent to act as tutor
31	25	20.11	Arbitrator's award and registrar's notice
32	26	CPA s.42, 20.12	Notice of motion - rehearing after arbitration
33	27	12.1	Notice of discontinuance
34	NEW	6.17	Notice of payment
35	29	20.34	Acknowledgement of liquidated claim
36	NEW	16.3, 16.4 & 36.8	Notice of motion - default judgment on claim for possession of land
37	30	16.3 & 16.5	Notice of motion - default judgment for detention of goods
38	31	16.3 & 16.6	Notice of motion - default judgment for liquidated claim
39	32	16.7	Notice of motion - default judgment for unliquidated damages
40	62	35.1	Affidavit
41	NEW	35.6	Affidavit of service
42	NEW	35.1	Exhibit certificate

Number	Prior form number	Reference	Title
43	33	36.11	Judgment /order
44	NEW	36.1A	Consent judgment /order
45	NEW	CPA s.133, 36.11 or 36.10	Registration/filing of certificate of judgment /order
46	36	37.2	Notice of motion to pay by instalments - individual
47	37	37.2	Notice of motion to pay by instalments - corporation
48	40	37.3	Instalment order and notice
49	38	37.3	Order refusing instalment application and notice
50	39	37.3 & 37.4	Notice of motion - objection to instalment order or order refusing instalment application
51	41	38.1	Examination notice - individual
52	41	38.1	Examination notice - corporation
53	42	38.2	Notice of motion - examination order
54	43	38.3	Examination order
55	44	38.5	Registrar's examination - individual
56	45	38.5	Registrar's examination - corporation
57	46	38.6	Notice of motion - arrest warrant for examination
58	65		Arrest warrant
59	47	39.1 - 39.3	Notice of motion - writ for possession of land
60	50	CPA s.104, 39.1	Writ of possession
61	NEW	39.1 - 39.3	Notice of motion - writ of restitution
62	NEW	39.1	Writ of restitution
63	48	39.2 - 39.3	Notice of motion - writ for the delivery of goods
64	51	CPA s.105, 39.1	Writ of delivery
65	49	39.2 - 39.3	Notice of motion - writ for the levy of property
66	52	CPA s.106, 39.1	Writ for levy of property

Number	Prior form number	Reference	Title
67	NEW	39.21	Judgment creditor's notice
68	52A	39.22	Notice of sale
69	53	39.34	Notice of motion - garnishee order
70	54	39.36	Garnishee order for debts
71	55	39.36	Garnishee order for wages or salary
72	NEW	39.40	Garnishee's statement that no debt due or accruing or no wage or salary payable
73	56	39.44	Notice of motion - charging order
74	57	CPA s.106(1), 39.44	Charging order
75	58	43.3	Notice to Sheriff of disputed property
76	64	4.6	Notice of change of address for service
77	NEW	7.26 or 7.28	Notice of change of solicitor or appointment of solicitor
78	NEW	7.27	Notice of removal of solicitor
79	NEW	7.29(2)	Notice of intention to file notice of ceasing to act
80	NEW	7.29(1)	Notice of ceasing to act
81	NEW		General form (Part 50 appeal)
82	NEW	4.2A	List of parties (Part 50 appeal)
83	63	49.13 or 50.11	Notice of contention (Parts 49 or 50)
84	NEW	50.4 or 50.12	Summons commencing an appeal (Part 50) / Summons seeking leave to appeal (Part 50)
85	59	44.1	Notice of motion – transfer of Local Court proceedings
86	60	44.1	Notice specifying other appropriate Local Court or opposing transfer of Local Court proceedings
<i>Intentional gap left to allow for the inclusion of other forms in the future</i>			
101	NEW		General form (Court of Appeal)
102	NEW	4.2A	List of parties (Court of Appeal)

Number	Prior form number	Reference	Title
103	NEW	51.6	Notice of intention to appeal (Court of Appeal)
104	NEW	51.10	Summons seeking leave to appeal (Court of Appeal)
105	NEW	51.16, 51.18, 51.20	Notice of appeal (Court of Appeal)
106	NEW	51.40	Notice of contention (Court of Appeal)

6 TYPES OF CLAIM

See 4.3.1 and 4.4.1.

Statements of claim and summonses must include information about the main type of claim that you are making. This information is collected for statistical purposes only and will not impact on how your proceedings will be dealt with by the court. The tables in this section list the descriptions of the type of claim that you should include in the 'type of claim' section of the statement of claim or summons.

Types of claim are generally based on the subject matter of the proceedings rather than the type of relief you are seeking. If there is more than one type of claim that might be applied to your proceedings, select the type of claim that is most applicable, or the type of claim that applies to the main part of your claim.

The notes beside the descriptions of the types of claim have been provided to assist you to select the most appropriate type of claim, and to assist you in determining whether the proceedings should be commenced in a particular division or list of a court.

If there is no type of claim listed that matches your claim, leave this field blank and it will be completed by the court.

Some types of claim must be commenced by either a statement of claim or a summons. See UCPR 6.3 for proceedings where a statement of claim is required and UCPR 6.4 for proceedings where a summons is required. If you nominate a division or list on your statement of claim or summons this will have an impact on how your case proceeds; special rules and practice notes may apply.

- **Table 6.1** lists types of claim that apply to proceedings that are filed in the Supreme Court. This table also shows which types of claim are appropriate to be entered in a specified division or list. The specialist lists in the Supreme Court and the criterion for whether they are appropriate for particular types of claims is set out in UCPR Part 45 Division 1.
- **Table 6.2** lists types of claim that apply to proceedings that are filed in the Court of Appeal. If the appeal is from the Supreme Court or District Court, include the type of claim included in the originating process in the Supreme Court or District Court proceedings. If the appeal is from another court or tribunal, include one of the listed types of claim.
- **Table 6.3** lists types of claim that may apply to proceedings that are filed in the District Court. Where proceedings with a main type of claim of a certain type are entered in (ie. assigned to) specific specialist lists in the District Court, this is indicated in the notes beside the description. The specialist lists in the District Court and the criterion for whether they are appropriate for particular types of claims is set out in UCPR Part 45 Division 2. The maximum claim for money that can be determined by the District Court is \$750,000, although the District Court can determine any motor vehicle or work injury claims irrespective of the amount that is claimed or is likely to be awarded.
- There are other restrictions on the types of matters that the District Court can determine including restrictions as to the value of the subject of the proceedings. These restrictions are set out in the *District Court Act 1973* Part 3 Divisions 2 and 8. Restrictions may apply to certain types of

proceedings that can be brought or to what relief the District Court can provide even though they are listed in Table 6.3.

- **Table 6.4** lists types of claim that apply to Local Court proceedings whether they are filed in the General or Small Claims Division.

If the value of a claim exceeds \$10,000 it should be filed in the General Division of the Local Court; claims for \$10,000 or less should be filed in the Small Claims Division. The maximum claim for money that can be determined in the Local Court is \$60,000.

If your claim is for more than this amount or is likely to be for more than this amount you should file your claim in the District or Supreme Court.

Some types of proceedings relating to neighbourhood disputes are filed in the Local Court but are not governed by the UCPR and the approved civil forms are not applicable; these proceedings include applications relating to fences, noise abatement and trees. These types of proceedings are commenced by an application. For further information regarding these types of applications see www.lawlink.nsw.gov.au/lc and access the relevant fact sheet.

The Local Court also has jurisdiction to deal with some industrial relation matters. These applications are governed by the regulations and rules of the Industrial Relations Commission.

Categorisation of types of claim

Types of claim are grouped into the following broad categories. Not every category will apply to each court. Some categories apply to proceedings that are more appropriately brought in a specialist tribunal or court not governed by the UCPR.

- Administrative Law – relating to decisions or duties of public officers or bodies. These applications are generally entered in the Supreme Court, Administrative Law List. The Administrative Decisions Tribunal has some jurisdiction in this category.
- Applications under specific Commonwealth Acts – where these applications can be made is governed by the relevant legislation and rules of court. See UCPR Schedule 8 Part 2 for those applications that are assigned to a specific division (and lists) in the Supreme Court. Some types of applications made under commonwealth legislation have their own nature of claim assigned to them; if a more specific nature of claim exists in the table below you should select it rather than the generic nature of claim.
- Applications under specific State laws – where these applications can be made is governed by the relevant legislation and rules of court. See UCPR Schedule 8 Part 1 for those applications that are assigned to a specific division (and list) in the Supreme Court, and UCPR Schedule 9 Part 1 for those applications that are assigned to a specific list in the District Court. Some types of applications made under state law have their own nature of claim assigned to them; if a more specific nature of claim exists in the table below you should select it rather than the generic nature of claim.
- Children, Family and De facto relationships – this category includes applications under the *Property (Relationships) Act 1984* by a de-facto partner which can be brought in the District Court (Property Relationships List) or the Supreme Court (Equity Division) depending on the value of the amount in dispute – see *District Court Act 1973* s. 134. Applications for the

adoption of children are made to the Adoptions List in the Equity Division of the Supreme Court. Many proceedings in this category relating to divorce or parenting of children can only be brought in the Family Court of Australia or the Federal Magistrates Court. The Local Court has limited jurisdiction to deal with some Family Court proceedings. See *the Family Court Act 1975* (Cth) and the Family Court Rules 2004. Applications relating to guardianship of persons who may be incapable of managing their own affairs and in relation to their estates are made to the Protective list in the Equity Division of the Supreme Court.

- Corporations Law – generally these proceedings are entered in the Corporations List in the Equity Division of the Supreme Court. Special rules apply to Corporations Law proceedings and the approved UCPR forms may not always be applicable. See the Supreme Court (Corporations) Rules 1999. The Federal Court also has jurisdiction to deal with these types of proceedings.
- Employment and workplace relationships – In New South Wales most proceedings in this category (such as industrial disputes and for unfair dismissal) are brought in the Industrial Relations Commission or before the Chief Industrial Magistrate of the Local Court. See s. 382 of the *Industrial Relations Act 1996* for the jurisdiction of the Chief Industrial Magistrate. Proceedings under the *Industrial Relations Act 1996* are governed by the regulations and rules of the Industrial Relations Commission. The jurisdiction of the Industrial Relations Commission has been restricted by Commonwealth workplace legislation.
- Intellectual Property – relating to legal rights of authors, performers, artists and inventors and the protections of patents, trademarks and copyright. Some of these proceedings can be commenced in the Equity Division of the Supreme Court, however the Federal Court also has jurisdiction to deal with many of these types of proceedings.
- Mercantile Law - relating to commercial transactions. Most proceedings relating to the breach of a contract and to recover debts fall into this category. The amount being claimed will determine the court that the statement of claim should be filed in. Complex proceedings may be entered in the Commercial Lists of the District or Supreme Court.
- Real Property – this category includes claims for possession of land (entered in the Possession List of the Common Law Division of the Supreme Court), as well as other applications relating to land that are generally assigned to the Equity Division of the Supreme Court. The Consumer Trader & Tenancy Tribunal has jurisdiction to deal with certain applications regarding home building, tenancy, strata schemes and retirement villages – see www.fairtrading.nsw.gov.au/cttt. The Administrative Decisions Tribunal has jurisdiction to deal with certain applications involving commercial leases.
- Regulation of Professions – most proceedings relating to the regulation of professions are made to specialist tribunals such as the Administrative Decisions Tribunal, and are not governed by the UCPR.
- Resource Management & Planning – most proceedings in this category are filed in the Land and Environment Court.
- Torts – actions brought to recover loss or damage from a wrongful act, other than a breach of contract. The wrongful act may have been deliberate or a result of negligence.

- Trusts and Succession – this category includes applications for grants of probate or other grants of representation in relation to the estate of deceased persons (these are entered in the Probate List in the Equity Division of the Supreme Court), as well as applications relating to the construction of wills and as to the administration of estates. These proceedings are usually brought in the Equity Division of the Supreme Court, although the District Court can determine some applications under the *Family Provisions Act* (see *District Court Act 1973* s. 134).
- Workers Compensation – the NSW Courts have limited jurisdiction to consider workers compensation proceedings. Most applications for workers compensation are made to the Workers Compensation Commission.

Table 6.1 Types of claim applicable to Supreme Court proceedings

Types of claim applicable to Supreme Court proceedings	Notes
Administrative law - Inherent power of court or under common law (Individual rights)	<p>An application to require a public officer or body to perform a public duty or to restrain a public officer or body from performing any act or to determine any matter concerning the power of a public officer or body, where that public officer or body's decision will affect your individual rights, and where the application is not pursuant to the provisions of legislation.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>
Administrative law - Inherent power of court or under common law (collective rights)	<p>An application to require a public officer or body to perform a public duty or to restrain a public officer or body from performing any act or to determine any matter concerning the power of a public officer or body, where that public officer or body's decision will affect the rights of more than one person, and where the application is not pursuant to the provisions of legislation.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>

Types of claim applicable to Supreme Court proceedings	Notes
Administrative law - Inherent power of court or under common law (financial rights)	<p>An application to require a public officer or body to perform a public duty or to restrain a public officer or body from performing any act or to determine any matter concerning the power of a public officer or body, where that public officer or body's decision will specifically affect a financial right, and where the application is not pursuant to the provisions of legislation.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>
Administrative law - Review decision arising under statute (individual rights)	<p>An application to review a decision of a public officer or body that affects your individual rights pursuant to a statutory provision that provides for the review of that decision.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>
Administrative law - Review decision arising under statute (collective rights)	<p>An application to review a decision of a public officer or body that affects the rights of more than one person pursuant to a statutory provision that provides for the review of that decision.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>
Administrative law - Review decision arising under statute (financial rights)	<p>An application to review a decision of a public officer or body that affects a financial right in particular pursuant to a statutory provision that provides for the review of that decision.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>

Types of claim applicable to Supreme Court proceedings	Notes
Administrative Law - other	<p>An application relating to arising from a duty, act or decision of a public officer or body where the application cannot be categorised as one of the other types of Administrative Law claims.</p> <p>Applications of this type are generally made in the Administrative Law List of the Common Law Division. For assignment of business to the Administrative Law List and other Lists in the Supreme Court see UCPR 45.3 and Schedule 8.</p>
Children, Family and De Facto Relationships - Adoption	<p>An application for the adoption of a child.</p> <p>These applications are entered in the Adoptions List in the Equity Division.</p>
Children, Family and De Facto Relationships - Care & Protection - Care and Protection - Guardianship	<p>An application to appoint a guardian of a child or of a person unable to manage their affairs or an application in relation to the estate of a protected estate pursuant to the <i>Protected Estates Act 1983</i>. Applications for the appointment of a guardian pending the adoption of a child are made in the Adoptions List in the Equity Division. Applications for the appointment of a guardian pursuant to the <i>Guardianship Act 1987</i> or any applications pursuant to the <i>Protected Estates Act 1983</i> are made in the Protective List in the Equity Division.</p>
Children, Family and De Facto Relationships - Paternity - Declaration of paternity	<p>An application seeking a declaration as to the paternity of a child under s. 21 of the <i>Status of Children Act 1996</i>. These applications are assigned to the Equity Division.</p>
Children, Family and De Facto Relationships - Paternity - Paternity testing order	<p>An application requiring a parentage testing procedure under s. 26 of the <i>Status of Children Act 1996</i>. These applications are assigned to the Equity Division.</p>
Children, Family and De Facto Relationships - Property Division - De Facto Relationships	<p>An application pursuant to the <i>Property (Relationships) Act 1984</i>, other than an application for an injunction or a contested application for an adjustment of interest. This may include an application for maintenance.</p> <p>These applications are assigned to the Equity Division.</p>
Children, Family and De Facto Relationships - Property Division - De Facto Relationships - Injunction	<p>An application for an injunction pursuant to s. 53 of the <i>Property (Relationships) Act 1984</i>. These applications are assigned to the Equity Division.</p>
Children, Family and De Facto Relationships - Property Division - De Facto Relationships -Contested division	<p>An application for an adjustment of the interests of a domestic (de-facto) relationship (other than by consent) pursuant to Part 3 of the <i>Property (Relationships) Act 1984</i>. These applications are assigned to the Equity Division.</p>

Types of claim applicable to Supreme Court proceedings	Notes
Mercantile Law - Sale of Goods and Services	<p>A claim for money for goods you have sold and delivered to a customer or for services you have provided to a customer. Simple debt recovery proceedings are usually assigned to the Common Law Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.</p>
Mercantile Law - Consumer Protection & Trade Practices	<p>A claim by a 'consumer' relating to or arising out of product safety and product information, and/or against a manufacturer and/or importer of defective goods and/or relating to unfair practices by a product or service provider including 'misleading and deceptive' conduct.</p> <p>Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.</p>
Mercantile Law - Building disputes	<p>A claim relating to or arising out of:</p> <ul style="list-style-type: none"> • the design, carrying out, supervision or inspection of any building or engineering work, or • the performance by any building or engineering expert of any other services with respect to any building or engineering work, or • any certificate, advice or information given or withheld with respect to any building or engineering work, or • the <i>Building and Construction Industry Security of Payment Act 1999</i>. <p>These proceedings may be entered in the Technology & Construction List in the Equity Division.</p>

Types of claim applicable to Supreme Court proceedings	Notes
<p>Mercantile Law -Partnership disputes</p>	<p>A claim relating to or arising out of a partnership, brought by one or more members of the partnership against another or other members of the partnership.</p> <p>Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which to seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.</p>
<p>Mercantile Law - Mortgages & other securities</p>	<p>A claim arising from or relating to a mortgage or other form of security including recovering moneys lent or in arrears.</p> <p>Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.</p>
<p>Mercantile Law - Consumer credit</p>	<p>A claim to recover a loan to a customer (eg credit card or credit advance) that has either not been repaid or is an arrears. Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.</p>

Types of claim applicable to Supreme Court proceedings	Notes
Mercantile Law - Principal & agent issues	A claim arising from or relating to a dispute between a principal and an agent including disputes as to commission. Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Mercantile Law - Bailment	A claim arising from or relating to ownership of goods. Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Mercantile Law - Insurance disputes	A claim arising from or relating to a contract of insurance either brought by the insurer or the insured party. Simple debt recovery proceedings are usually assigned to the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be more appropriately assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Mercantile Law - Restrictive Trade Practices	A claim arising from or related to an agreement that seeks to restrict one of the party's rights to conduct a business. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract are usually assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Mercantile Law - Statutory Obligation of Debt Recovery - <i>Income Tax Assessment Act 1936</i>	A claim for assessed tax brought by the Commissioner of Taxation. Simple debt recovery proceedings are usually assigned to the Common Law Division.

Types of claim applicable to Supreme Court proceedings	Notes
Mercantile Law - Statutory Obligation of Debt Recovery - Land tax	A claim for unpaid land tax brought by the Commissioner of State Revenue. Simple debt recovery proceedings are usually assigned to the Common Law Division.
Mercantile Law - Statutory Obligation of Debt Recovery - Stamp duty	A claim for unpaid stamp duty brought by the Commissioner of State Revenue. Simple debt recovery proceedings are usually assigned to the Common Law Division.
Mercantile Law – Other	Any other claim for money arising out of a commercial transaction or contract that does not have a specific associated type of claim. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract are usually assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Corporations Law - Incorporation & Registration	An application relating to the incorporation or registration of a company. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.
Corporations Law - Restructuring/Takeovers	An application relating to the restructuring or takeover of a company. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.
Corporations Law - Liquidation/Winding Up	An application relating to the liquidation or winding up of a company. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.
Corporations Law - Directors Duties	An application relating to the duties of a director of a company. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.
Corporations Law - Misleading/Deceptive Conduct	An application brought pursuant to the <i>Corporations Act 2001</i> (Cth) relating to misleading or deceptive conduct. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.

Types of claim applicable to Supreme Court proceedings	Notes
Corporations Law – Other	An application brought pursuant to the <i>Corporations Act 2001</i> (Cth) that does not otherwise fall into one of the preceding natures of claim. These proceedings are governed by the Supreme Court (Corporations) Rules 1999 and are commenced by an originating process in the Corporations List in the Equity Division.
Intellectual Property - Trade Marks	A claim arising from or related to protecting the legal rights of the owner of a trademark. These proceedings are assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Intellectual Property – Patents	A claim arising from or related to protecting the legal rights of the owner of a patent. These proceedings are assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Intellectual Property – Copyright	A claim arising from or related to protecting the legal rights of a copyright owner. These proceedings are assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Intellectual Property – Design	A claim arising from or related to protecting the legal rights of a designer not otherwise protected by copyright, patent or a trademark. These proceedings are assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Intellectual Property – Other	A claim arising from or related to protecting the legal rights associated with intellectual property not otherwise protected by copyright, patent or a trademark. These proceedings are assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.

Types of claim applicable to Supreme Court proceedings	Notes
Real Property - Possessory Title	A claim for possession of land other than pursuant to a lease. Claims based on a mortgage are usually commenced in the Possession List of the Common Law Division. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract are usually assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Freehold Title	A claim arising from or related to the ownership of freehold land. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract are usually assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Leasehold Title - Rent due	A claim to recover unpaid rent (and related expenses) from a tenant or by a tenant disputing the amounts claimed by the landlord. Simple debt recovery proceedings are usually assigned to the Common Law Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Leasehold Title - Bond and security	A claim arising from or related to a bond or security provided by a tenant to a landlord, other than a claim against that bond relating to damage to the property. Simple debt recovery proceedings are usually assigned to the Common Law Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Leasehold Title - Eviction	A claim for possession of land pursuant to a lease. Simple claims are usually commenced in the Possession List of the Common Law Division. The Supreme Court has limited jurisdiction to deal with residential leases – see <i>Residential Tenancies Act 1987</i> . Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.

Types of claim applicable to Supreme Court proceedings	Notes
Real Property - Leasehold Title – Abandonment	A claim for possession of land pursuant to the abandonment of that land under a lease. Simple claims are usually commenced in the Possession List of the Common Law Division. The Supreme Court has limited jurisdiction to deal with residential leases – see <i>Residential Tenancies Act 1987</i> . Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Leasehold Title - Damage to property	A claim by a landlord relating to damage to lease property. Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Leasehold Title - Interpretation of lease	A claim arising from or related to the interpretation of a lease for land (but not principally related to the bond or for recovery of money for rent arrears or damage to the property). Proceedings that require the taking of accounts or that raise issues such as undue influence and unconscionable conduct or which seek to set aside transactions or seek specific performance of a contract may be assigned to the Equity Division. Complex proceedings in which there is an issue that has importance in trade or commerce may be entered in the Commercial List in the Equity Division.
Real Property - Strata Title	A claim arising from or related to a dispute as to ownership or other rights of a strata-title property.
Real Property - Easements & Covenants	A claim arising from or related to a dispute as to easements or covenants affecting real property. These would usually be assigned to the Equity Division.
Real Property – Other	A claim arising from or related to real property not otherwise specified as a type of claim related to real property.
Regulation of Professions - Mutual Recognition	Applications under the <i>Mutual Recognition Act</i> or the <i>Trans Tasman Mutual Recognition Act</i> for admission as a legal practitioner are to be in accordance with the form prescribed by Practice Note SC Gen 8, and assigned to the Common Law Division.

Types of claim applicable to Supreme Court proceedings	Notes
Regulation of Professions - Disciplinary proceedings	Disciplinary proceedings in relation to the legal profession are assigned to the Court of Appeal and should be commenced by summons.
Trusts & Succession - Wills & Estates - Probate	An application by an executor for a grant of probate of the will of a deceased person. These are entered in the Probate List in the Equity Division. These applications can be in solemn or common form.
Trusts & Succession - Wills & Estates - Election to administer	An election to administer the estate of a deceased person by the Public Trustee. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Wills & Estates - Letters of Administration	An application for a grant of administration of the estate of a deceased person. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Wills & Estates – Reseals	An application for a reseal of grant of representation (granted by another jurisdiction) of a deceased persons estate. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Wills & Estates - Interpretation of Wills	An application arising from or relating to the construction of the terms of a will or other testamentary document. These are assigned to the Equity Division.
Trusts & Succession - Wills & Estates - Validity of Wills	An application brought to contest the validity of a will or to set aside a grant of probate on the basis that the will is invalid. These are assigned to the Equity Division.
Trusts & Succession - Wills & Estates - Rectification of Wills	An application arising from or relating to the terms of a will or other testamentary document that seeks to have the terms of the will rectified by the court. These are assigned to the Equity Division.
Trusts & Succession - Wills & Estates - Administration with will annexed	An application for a grant of administration, with the will annexed, of the estate of a deceased person. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Wills & Estates - Probate - Special administration	An application for a grant of special administration of a deceased person. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Wills & Estates - Accounts	An application by an executor or administrator to have accounts in respect of an estate passed with or without commission, or by a beneficiary requiring accounts to be passed. These are entered in the Probate List in the Equity Division.
Trusts & Succession - Trusts - Removal of Trustee	An application for the removal of a trustee; this can be brought by a beneficiary, the trustee or another trustee. These are assigned to the Equity Division.

Types of claim applicable to Supreme Court proceedings	Notes
Trusts & Succession - Trusts - Appointment of new trustee/s	An application for the appointment of a trustee; this can be brought by a beneficiary, the proposed trustee or another trustee. These are assigned to the Equity Division.
Trusts & Succession - Trusts - Vesting orders	An application in relation to trust property seeking to have the relevant property conveyed to somebody. These are assigned to the Equity Division.
Trusts & Succession - Trusts - Breach of Trust	A claim against a trustee alleging a breach of trust. These are assigned to the Equity Division.
Trusts & Succession - Trusts - Application for accounts	An application by a beneficiary or a trustee requiring accounts to be passed. These are assigned to the Equity Division.
Trusts & Succession - Family Provision/TFM	An application by an 'eligible person' for provision or additional provision from the estate of a deceased person. These are assigned to the Equity Division.
Trusts & Succession – Other	An application relating to or arising from an estate of a deceased person or the administration of a trust which does not fall into one of the preceding natures of claim. These are assigned to the Equity Division.
Torts – Trespass - Trespass to land	A claim arising from the defendant unlawfully entering onto or interfering with your land. Assigned to the Common Law Division.
Torts – Trespass – Nuisance	A claim arising from the defendant disturbing your use and enjoyment of land. Assigned to the Common Law Division.
Torts – Trespass - Trespass to Goods	A claim arising from the defendant unlawfully interfering with your goods. Assigned to the Common Law Division.
Torts – Trespass – Conversion	A claim arising from the defendant unlawfully stealing moving, transferring, discarding, hiding, vandalizing, or destroying your goods so as to deprive you of the ownership of those goods. Assigned to the Common Law Division.
Torts – Trespass – Detinue	A claim arising from the defendant unlawfully detaining your goods. Assigned to the Common Law Division.
Torts – Trespass -Trespass to person	A claim arising from the defendant unlawfully interfering with yourself. Assigned to the Common Law Division.
Torts – Trespass – Assault	A claim arising from the defendant unlawfully causing apprehension of immediate harm or contact to yourself. Assigned to the Common Law Division.

Types of claim applicable to Supreme Court proceedings	Notes
Torts – Trespass – Battery	A claim arising from the defendant unlawfully causing immediate harm or contact to yourself. Assigned to the Common Law Division.
Torts – Trespass - False imprisonment	A claim arising from the defendant unlawfully detaining or confining you. Assigned to the Common Law Division.
Torts – Trespass – Other	A claim arising from the defendant unlawfully doing something that interferes with you, your goods or land that does not fall into one of the other categories of trespass. Assigned to the Common Law Division.
Torts - Negligence - Personal Injury	A claim arising from the defendant negligently doing something that caused you to suffer personal injury (other than as a result of a motor vehicle accident or as the result of an accident in the course of your employment, or where the only injury suffered was nervous shock). Assigned to the Common Law Division.
Torts - Negligence - Motor Vehicle Accident	A claim for injuries to yourself arising from a motor vehicle accident. Assigned to the Common Law Division.
Torts - Negligence - Industrial Accident	A claim for injuries to yourself arising during the course of your employment. Assigned to the Common Law Division.
Torts - Negligence - Nervous Shock	A claim for nervous shock to yourself arising from the defendant negligently doing something. Nervous shock is often claimed when a defendant has negligently caused an injury to someone else which impacts upon you. Assigned to the Common Law Division.
Torts - Negligence - Public Liability	A claim against a government or other public authority for personal injury caused by the negligence of that authority. This type of claim would include personal injury claims against Local Councils. Assigned to the Common Law Division.
Torts - Negligence - Other	A claim arising from the defendant negligently doing something that caused you to suffer some loss other than as a result of a personal injury, and where the negligence does not relate to a professional service provided to you by the defendant. Assigned to the Common Law Division.

Types of claim applicable to Supreme Court proceedings	Notes
Torts - Professional Negligence - Legal Profession	<p>A claim against a lawyer (barrister or solicitor) arising from a breach of a duty of care or a contractual obligation in the provision of professional services.</p> <p>Entered in the Professional Negligence List in the Common Law Division.</p>
Torts - Professional Negligence - Medical Profession	<p>A claim against a medical practitioner or health professional (including dentists, chemists and physiotherapists) arising from a breach of a duty of care or a contractual obligation in the provision of professional services.</p> <p>Entered in the Professional Negligence List in the Common Law Division.</p>
Torts - Professional Negligence - Financial Services Industry	<p>A claim against an accountant or other financial professional arising from a breach of a duty of care in the provision of professional services. Assigned to the Common Law Division.</p>
Torts - Professional Negligence – Other	<p>A claim against a person holding professional qualifications (other than medical, financial, or legal) arising from a breach of a duty of care in the provision of professional services. Assigned to the Common Law Division.</p>
Torts - Other – Defamation	<p>A claim arising from the publication of a statement that harms your reputation.</p> <p>These matters are entered in the Defamation List in the Common Law Division.</p>
Torts – Other – Deceit	<p>A claim arising from a dishonest statement made by the defendant that caused you to suffer loss or damage. Assigned to the Common Law Division.</p>
Torts – Other - Passing Off	<p>A claim arising from a dishonest representation that the defendant's goods or services are your goods or services or associated with you, and consequently damaging your 'good-will'. Assigned to the Common Law Division.</p>
Torts – Other – Other	<p>A claim arising from a civil wrong other than of a type that can otherwise be categorised. Assigned to the Common Law Division.</p>
Applications Under Specific Commonwealth Acts - <i>Income Tax Assessment Act 1936</i>	<p>An application pursuant to a provision of the <i>Income Tax Assessment Act 1936</i> (Cth). Simple debt recovery actions are assigned to the Common Law Division. Proceedings which raise questions of law are assigned to the Revenue List in the Equity Division.</p>

Types of claim applicable to Supreme Court proceedings	Notes
Applications Under Specific Commonwealth Acts - <i>Admiralty Act 1988</i>	Any claim under the <i>Admiralty Act 1988</i> (Cth). These proceedings are governed by the Admiralty rules and the UCPR approved forms do not generally apply. Entered in the Admiralty List in the Equity Division.
Applications Under Specific Commonwealth Acts - Other	An application pursuant to a provision of a Commonwealth Act other than the <i>Income Tax Assessment Act 1936</i> (Cth) or the <i>Admiralty Act 1988</i> (Cth). See UCPR Schedule 8 Part 2 for the assignment of business to the Common Law or Equity Division.

Table 6.2 Types of claim applicable to Court of Appeal proceedings

If the appeal is from the Supreme Court or District Court, include the type of claim included in the originating process in the Supreme Court or District Court proceedings.

If the appeal is from another court or tribunal, include one of the following types of claim.

Types of claim applicable to Court of Appeal proceedings
Commercial - Building Construction - Guarantee - Trade Practices - Fair Trading
Contract - Interpretation - Review - Joint Venture - Franchise Agreement
Corporations - Interpretation - Directors' Duties - Share Transactions
Damages – Excessive – Inadequate
Family Provision – Distribution of Estate – Intestacy
Government and Related Employee – Disciplinary – Promotional
Insurance – Indemnity – Contribution – Subrogation
Land – Acquisition – Valuation – Possession – Trespass
Liability – Contributory Negligence
Local Environmental Plan – Building Approval – Restrictions – Use of Land
Personal Injuries – Motor Vehicle Accident – Workplace Incident – Footpath – Occupier's Liability – Civil Liability Act
Procedure – Fairness – Natural Justice - Bias
Professional Conduct – Legal – Medical
Professional Negligence – Legal – Medical
Property (Relationships) – De Facto – Division of Assets – Adjustment of Interests

Types of claim applicable to Court of Appeal proceedings
Real Property – Title – Lease – Easement – Right of Way – Caveat – Specific Performance
Retail Lease
Statutory Interpretation
Wills – Probate - Succession
Workers Compensation

Table 6.3 Types of claim applicable to District Court proceedings

Types of claim applicable to District Court proceedings	Notes
Children, Family and De Facto Relationships - Property Division - De Facto Relationships -Contested division	An application for an adjustment of the interests of a domestic (de facto) relationship (other than by consent) pursuant to Part 3 of the <i>Property (Relationships) Act 1984</i> . These applications are entered in the Property Relationships List.
Children, Family and De Facto Relationships - Appeals	An application under s. 91 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> (appealing a decision of the Children’s Court for the care of children). These applications are entered in the Child Care List.
Mercantile Law - Sale of Goods and Services	A claim for money for goods you have sold and delivered to a customer or for services you have provided to a customer. Complex proceedings may be entered in the Commercial List.
Mercantile Law - Consumer Protection & Trade Practices	A claim by a 'consumer' relating to or arising out of product safety and product information, and/or against a manufacturer and/or importer of defective goods and/or relating to unfair practices by a product or service provider including 'misleading and deceptive' conduct. The District Court has restricted jurisdiction to determine some of these types of matters.

Types of claim applicable to District Court proceedings	Notes
Mercantile Law - Building Disputes	<p>A claim relating to or arising out of:</p> <ul style="list-style-type: none"> • the design, carrying out, supervision or inspection of any building or engineering work, or • the performance by any building or engineering expert of any other services with respect to any building or engineering work, or • any certificate, advice or information given or withheld with respect to any building or engineering work, or • the <i>Building and Construction Industry Security of Payment Act 1999</i>. <p>These matters are usually entered in the Construction List.</p>
Mercantile Law -Partnership Disputes	<p>A claim relating to or arising out of a partnership, brought by one or more members of the partnership against another or other members of the partnership.</p> <p>The jurisdiction of the District Court to deal with these matters maybe restricted – see <i>District Court Act 1973</i> s. 41 (1)(c). Complex proceedings may be entered in the Commercial List.</p>
Mercantile Law - Mortgages & Other Securities	<p>A claim arising from or relating to a mortgage or other form of security including recovering moneys lent or in arrears.</p> <p>The District Court jurisdiction in respect to the foreclosure or redemption of a mortgage or the enforcing of any charge or lien is limited to where the amount owing in respect of the mortgage, charge or lien does not exceed \$20,000 – <i>District Court Act 1973</i> s. 143 (1)(a). Complex proceedings may be entered in the Commercial List.</p>
Mercantile Law - Consumer Credit	<p>A claim to recover a loan to a customer (eg credit card or credit advance) that has either not been repaid or is an arrears. Complex proceedings may be entered in the Commercial List.</p>
Mercantile Law - Principal & Agent Issues	<p>A claim arising from or relating to a dispute between a principal and an agent including disputes as to commission. Complex proceedings may be entered in the Commercial List.</p>

Types of claim applicable to District Court proceedings	Notes
Mercantile Law - Bailment	A claim arising from or relating to ownership of goods. Complex proceedings may be entered in the Commercial List.
Mercantile Law - Insurance Disputes	A claim arising from or relating to a contract of insurance either brought by the insurer or the insured party. Complex proceedings may be entered in the Commercial List.
Mercantile Law - Statutory Obligation of Debt Recovery - Income Tax Assessment Act	A claim for assessed tax brought by the Commissioner of Taxation.
Mercantile Law - Statutory Obligation of Debt Recovery - Land tax	A claim for assessed land tax brought by the Commissioner of State Revenue.
Mercantile Law - Statutory Obligation of Debt Recovery - Stamp duty	A claim for unpaid stamp duty brought by the Commissioner of State Revenue.
Mercantile Law – Other	Any other claim for money arising out of a commercial transaction or contract that does not have a specific associated type of claim. Complex proceedings may be entered in the Commercial List.
Employment & Workplace Relations - Employment Relationships/Contracts	A claim arising from or relating to a contract of employment either brought by the employee or the employer.
Employment & Workplace Relations - Unfair Employment Practices	A claim arising from or relating to employment brought by the employee alleging unfair employment practices.
Employment & Workplace Relations - Termination of Employment	A claim arising from or relating to employment brought by the employee relating to the termination of his or her employment.
Employment & Workplace Relations – Other	A claim arising from or relating to employment brought by the employee or the employer, other than one relating to the contract, employment practices or termination of employment.
Real Property - Possessory Title	<p>A claim arising from or relating to the possession of land.</p> <p>The District Court jurisdiction in respect to claims for land is limited by the <i>District Court Act 1973</i> ss. 48, 133 and 134.</p>

Types of claim applicable to District Court proceedings	Notes
Real Property - Freehold Title	<p>A claim arising from or related to the ownership of freehold land.</p> <p>The District Court jurisdiction in respect to claims for land is limited by the <i>District Court Act 1973</i> ss. 48, 133 and 134.</p>
Real Property - Leasehold Title - Rent due	<p>A claim to recover unpaid rent (and related expenses) from a tenant or by a tenant disputing the amounts claimed by the landlord. Complex proceedings may be entered in the Commercial List.</p>
Real Property - Leasehold Title - Bond and security	<p>A claim arising from or related to a bond or security provided by a tenant to a landlord, other than a claim against that bond relating to damage to the property. Complex proceedings may be entered in the Commercial List.</p>
Real Property - Leasehold Title - Damage to property	<p>A claim by a landlord relating to damage to lease property. Complex proceedings may be entered in the Commercial List.</p>
Real Property - Leasehold Title - Interpretation of lease	<p>A claim arising from or related to the interpretation of a lease for land (but not principally related to the bond or for recovery of money for rent arrears or damage to the property).</p> <p>The District Court jurisdiction in respect to claims seeking the specific performance, rectification, delivery up or cancellation of any agreement for the lease of any property is limited to where the value of the lease does not exceed \$20,000 - <i>District Court Act 1973</i> s. 134(1)(b). Complex proceedings may be entered in the Commercial List.</p>
Real Property - Strata Title	<p>A claim arising from or related to a dispute as to ownership or other rights of a strata-title property.</p> <p>The District Court's jurisdiction regarding these types of proceedings is very limited.</p> <p>See <i>District Court Act 1973</i> Part 3 Divisions 2 and 8.</p>
Real Property - Easements & Covenants	<p>A claim arising from or related to a dispute as to easements or covenants affecting real property.</p> <p>The District Court's jurisdiction regarding these types of proceedings is very limited.</p> <p>See <i>District Court Act 1973</i> Part 3 Divisions 2 and 8.</p>

Types of claim applicable to District Court proceedings	Notes
Real Property – Other	<p>A claim arising from or related to real property not otherwise specified as a type of claim related to real property.</p> <p>The District Court’s jurisdiction regarding these types of proceedings is very limited.</p> <p>See <i>District Court Act 1973</i> Part 3 Divisions 2 and 8. Complex proceedings may be entered in the Commercial List.</p>
Torts – Trespass - Trespass to land	A claim arising from the defendant unlawfully entering onto or interfering with your land.
Torts – Trespass – Nuisance	A claim arising from the defendant disturbing your use and enjoyment of land.
Torts – Trespass - Trespass to Goods	A claim arising from the defendant unlawfully interfering with your goods.
Torts – Trespass – Conversion	A claim arising from the defendant unlawfully stealing moving, transferring, discarding, hiding, vandalizing, or destroying your goods so as to deprive you of the ownership of those goods.
Torts – Trespass – Detinue	A claim arising from the defendant unlawfully detaining your goods.
Torts – Trespass -Trespass to person	A claim arising from the defendant unlawfully interfering with yourself.
Torts – Trespass – Assault	A claim arising from the defendant unlawfully causing apprehension of immediate harm or contact to yourself.
Torts – Trespass – Battery	A claim arising from the defendant unlawfully causing immediate harm or contact to yourself.
Torts – Trespass - False imprisonment	A claim arising from the defendant unlawfully detaining or confining you.
Torts – Trespass – Other	A claim arising from the defendant unlawfully doing something that interferes with you, your goods or land that does not fall into one of the other categories of trespass.
Torts - Negligence - Personal Injury	A claim arising from the defendant negligently doing something that caused you to suffer personal injury (other than as a result of a motor vehicle accident or as the result of an accident in the course of your employment, or where the only injury suffered was nervous shock)

Types of claim applicable to District Court proceedings	Notes
Torts - Negligence - Motor Vehicle Accident	A claim for injuries to yourself arising from a motor vehicle accident.
Torts - Negligence - Industrial Accident	A claim for injuries to yourself arising during the course of your employment.
Torts - Negligence - Nervous Shock	A claim for nervous shock to yourself arising from the defendant negligently doing something. Nervous shock is often claimed when a defendant has negligently caused an injury to someone else which impacts upon you.
Torts - Negligence - Public Liability	A claim against a government or other public authority for personal injury caused by the negligence of that authority. This type of claim would include personal injury claims against Local Councils.
Torts - Negligence - Other	A claim arising from the defendant negligently doing something that caused you to suffer some loss other than as a result of a personal injury, and where the negligence does not relate to a professional service provided to you by the defendant.
Torts - Professional Negligence - Legal Profession	<p>A claim against a lawyer (barrister or solicitor) arising from a breach of a duty of care or a contractual obligation in the provision of professional services.</p> <p>These matters are usually entered into the Professional Negligence List.</p>
Torts - Professional Negligence - Medical Profession	<p>A claim against a medical practitioner or health professional (including dentists, chemists and physiotherapists) arising from a breach of a duty of care or a contractual obligation in the provision of professional services.</p> <p>These matters are usually entered into the Professional Negligence List.</p>
Torts - Professional Negligence - Financial Services Industry	A claim against an accountant or other financial professional arising from a breach of a duty of care in the provision of professional services.
Torts - Professional Negligence – Other	A claim against a person holding professional qualifications (other than medical, financial, or legal) arising from a breach of a duty of care in the provision of professional services.
Torts - Other – Defamation	<p>A claim arising from the publication of a statement that harms your reputation.</p> <p>These matters are entered into the Defamation List.</p>

Types of claim applicable to District Court proceedings	Notes
Torts – Other – Deceit	A claim arising from a dishonest statement made by the defendant that caused you to suffer loss or damage.
Torts – Other - Passing Off	A claim arising from a dishonest representation that the defendant's goods or services are your goods or services or associated with you, and consequently damaging your 'good-will'.
Torts – Other – Other	A claim arising from a civil wrong other than of a type that can otherwise be categorised.
Workers Compensation – Other	<p>The jurisdiction conferred on the District Court by operation of the <i>Compensation Court Repeal Act 2002</i> is the following jurisdiction:</p> <ul style="list-style-type: none"> • to examine, hear and determine all coal miner matters (within the meaning of the <i>Workplace Injury Management and Workers Compensation Act 1998</i>) except matters arising under Part 5 of the <i>Workers Compensation Act 1987</i>, • to make determinations under s. 216A of the <i>Police Act 1990</i>, s. 21 of the <i>Police Regulation (Superannuation) Act 1906</i>, s. 29 of the <i>Sporting Injuries Insurance Act 1978</i> and ss. 16 and 30 of the <i>Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987</i>, • to determine appeals under s. 81 of the <i>Compensation (Dust Diseases) Act 1942</i>. <p>Many of these proceedings are assigned to the Coal Miners' Workers Compensation List. See District Court Rules 1973 Part 24D.</p>
Applications Under Specific Commonwealth Acts - <i>Income Tax Assessment Act 1936</i>	An application pursuant to a provision of the <i>Income Tax Assessment Act 1936</i> .
Applications Under Specific Commonwealth Acts - Other	An application pursuant to a provision of a Commonwealth Act other than the <i>Income Tax Assessment Act 1936</i> .
Applications Under Specific State Laws - criminal injuries compensation	An application to review a decision or order of the Victims Compensation Tribunal. These applications are entered in the Special Statutory Compensation List.
Trusts & Succession - Family Provision/TFM	An application by an 'eligible person' for provision or additional provision from the estate of a deceased person. These are entered in the Property Relationships List.

Table 6.4 Types of claim applicable to Local Court proceedings

Types of claim applicable to Local Court proceedings	Notes
Torts - Negligence - Motor Vehicle Accident – Driver	A claim for money to repair damage to your car (or other motor vehicle) and other related expenses resulting from a motor vehicle accident, where the defendant is the driver of the vehicle that you claim caused the accident.
Torts - Negligence - Motor Vehicle Accident - Write Off	A claim for money to repair damage to your car (or other motor vehicle) and other related expenses resulting from a motor vehicle accident where your car or vehicle has been 'written off' and where the defendant is the driver of the vehicle that you claimed caused the accident.
Torts - Negligence - Motor Vehicle Accident - Vicarious Liability	A claim for money to repair damage to your car (or other motor vehicle) and other related expenses resulting from a motor vehicle accident where the defendant was not the driver of the vehicle causing the accident.
Mercantile Law - Sale of Goods and Services - Goods sold and delivered	A claim for money for goods you have sold and delivered to a customer.
Mercantile Law - Sale of Goods and Services - Work done	A claim for money for services you have provided to a customer.
Mercantile Law - Other - Money lent	A claim to recover a loan that has either not been repaid at all or has not been fully repaid, including for arrears of a credit advance.
Mercantile Law - Other - Rent due and owing	A claim to recover unpaid rent (and related expenses) from a tenant.