

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)	