



New South Wales

Uniform Civil Procedure (Amendment No 89) Rule 2019

under the

Civil Procedure Act 2005

The Uniform Rules Committee has made the following rule of court under the *Civil Procedure Act 2005*.

Rebel Kenna
Secretary of the Uniform Rules Committee

Explanatory note

The object of this Rule is to amend the *Uniform Civil Procedure Rules 2005* to provide for notifying occupiers when interstate judgments for possession of land are registered in New South Wales.

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1 Name of Rule

This Rule is the *Uniform Civil Procedure (Amendment No 89) Rule 2019*.

2 Commencement

This Rule commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[1] Rule 6.8 Originating process for recovery of land to be served on occupier

Insert after rule 6.8 (3):

- (4) This rule does not apply to the registration of a judgment for possession of land given by a court of the Commonwealth or another State or Territory.

[2] Rule 36.8 Possession of land

Insert at the end of the rule:

- (2) This rule does not apply to the registration of a judgment for possession of land given by a court of the Commonwealth or another State or Territory.

[3] Rule 36.8A

Insert after rule 36.8:

36.8A Possession of land—interstate judgment

- (1) If a judgment for possession of land given by a court of the Commonwealth or another State or Territory is registered, the plaintiff must serve on the occupier:
- (a) the judgment, and
 - (b) the document initiating the proceedings in which the judgment was given, and
 - (c) a notice to the effect that:
 - (i) the occupier may apply to the court for an order staying enforcement of the judgment, and
 - (ii) if the occupier does not so apply within 10 days after service, the occupier may be evicted under a writ for possession issued in the occupier's absence.
- (2) For the purposes of subrule (1), documents may be served on the occupier personally or by leaving the documents on the land concerned addressed to the occupier by name or addressed simply "to the occupier".

[4] Rule 39.3 Affidavit in support of application for writ of execution

Omit rule 39.3 (2) (b) (iii). Insert instead:

- (iii) must state that the person has been served with a notice pursuant to rule 6.8 or rule 36.8A and that the time allowed for the person to apply to the court to be joined as a defendant or to stay enforcement of the judgment, as required, has now passed,