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## UCPR PROVISIONS

### **5 Philosophy—Overriding Obligations of Parties and Court**

(1) The purpose of these rules is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense.

(2) Accordingly, these rules are to be applied by the courts with the objective of avoiding undue delay, expense and technicality and facilitating the purpose of these rules.

(3) In a proceeding in a court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way.

(4) The court may impose appropriate sanctions if a party does not comply with these rules or an order of the court.

Example: The court may dismiss a proceeding or impose a sanction as to costs, if, in breach of the implied undertaking, a plaintiff fails to proceed as required by these rules or an order of the court.

### **8 Starting proceedings**

1. A proceeding starts when the originating process is issued by the court.
2. These rules provide for the following types of originating process—
  - a. claim
  - b. application
  - c. notice of appeal
  - d. notice of appeal subject to leave.
3. An application in, about or pending the trial, hearing or outcome of a proceeding is not an originating process.

### **9 Claim compulsory**

A proceeding must be started by claim unless these rules require or permit the proceeding to be started by application.

### **10 Application compulsory**

A proceeding must be started by application if an Act or these rules require or permit a person to apply to a court for an order or another kind of relief and—

- a. the Act or rules do not state the type of originating process to be used; or
- b. a type of originating process (other than a claim or application) is required or permitted under a law.

### **11 Application permitted**

A proceeding may be started by application if—

- a. the only or main issue in the proceeding is an issue of law and a substantial dispute of fact is unlikely; or
- b. there is no opposing party to the proceeding or it is not intended to serve any person with the originating process; or
- c. there is insufficient time to prepare a claim because of the urgent nature of the relief sought.

### **12 Oral application permitted**

A court may allow a proceeding to be started by oral application by a counsel or solicitor for an applicant if—

- a. urgent relief is sought; and
- b. the counsel or solicitor undertakes to file an application within the time directed by the court; and
- c. the court considers it appropriate having regard to all relevant circumstances.

### **13 Proceeding Incorrectly Started by Claim**

1. This rule applies if the court considers a proceeding started by claim should have been started by application or may more conveniently continue as if started by application.
2. The court may—
  - a. order that the proceeding continue as if started by application; and
  - b. give the directions the court considers appropriate for the conduct of the proceeding; and

Example: See rule 367 (Directions).

make any other order the court considers appropriate.

### **14 Proceeding Incorrectly Started by Application**

1. This rule applies if the court considers a proceeding started by application should have been started by claim or may more conveniently continue as if started by claim.
2. The court may—
  - a. order that the proceeding continue as if started by claim; and
  - b. give the directions the court considers appropriate for the conduct of the proceeding; and
  - c. if the court considers it appropriate—order that any affidavits filed in the proceeding be treated as pleadings, alone or supplemented by particulars; and
  - d. make any other order the court considers appropriate.

### **17 Contact Details And Address For Service**

1. A plaintiff or applicant must ensure—
  - a. if the plaintiff or applicant intends to act personally, the following details are on the originating process before it is issued—
    - i. the residential or business address of the plaintiff or applicant;
    - ii. for a proceeding in the Supreme Court or the District Court—if the address specified under subparagraph (i) is not in Queensland, an address in Queensland where documents may be served on the plaintiff or applicant;
    - iii. the telephone number (if any) of the plaintiff or applicant;
    - iv. if the plaintiff or applicant does not have a telephone number—a way of contacting the person by telephone;
    - v. the fax number (if any) of the plaintiff or applicant; or

Example: The fax number may be relevant for ordinary service—see chapter 4 (Service), part 4 (Ordinary service).
  - b. if a solicitor is appointed to act for the plaintiff or applicant, the following details are on the originating process before it is issued—
    - i. the residential or business address of the plaintiff or applicant;
    - ii. the name of the solicitor and, if the solicitor practises in a firm of solicitors, the name of the firm;
    - iii. the address of the solicitor's place of business;
    - iv. if the address specified under subparagraph (iii) is not the plaintiff's or applicant's address for service or is not a Queensland address—an address in Queensland including, for example, an address approved by the court as the address for service;
    - v. the solicitor's telephone number;
    - vi. the solicitor's fax number.
2. If the plaintiff or applicant intends to act personally and has an email address, the plaintiff or applicant must include the email address with the details required under subrule (1)(a).
3. If the solicitor, or the solicitor's firm, has an email address, the solicitor—
  - a. must include the firm's email address; and
  - b. may include the email address of the solicitor having conduct of the matter.