

1 Short title

This rule may be cited as the *Uniform Civil Procedure Amendment Rule (No. 4) 2005*.

2 Rules amended

This rule amends the *Uniform Civil Procedure Rules 1999*.

3 Insertion of new ch 10, pt 5

Chapter 10, after rule 389—

insert—

‘Part 5 Restricting particular applications

‘389A Restricting applications that are frivolous, vexatious or abuse of court’s process

- ‘(1) This rule applies if the court is satisfied that a party (the *relevant party*) to a proceeding (the *existing proceeding*) has made more than 1 application in relation to the existing proceeding that is frivolous, vexatious or an abuse of process.
- ‘(2) The court may make an order under this rule on application by a party to the existing proceeding or on its own initiative.
- ‘(3) The court may order that—
 - (a) the relevant party must not make a further application in relation to the existing proceeding without leave of the court; or
 - (b) the relevant party must not start a similar proceeding in the court against a party to the existing proceeding or against a party to the existing proceeding and any other person without leave of the court.
- ‘(4) The Supreme Court may also order that the relevant party must not start a similar proceeding in another court against a party to the existing proceeding or against a party to the existing proceeding and any other person without leave of that court.

- ‘(5) A court may dismiss an application made to the court in contravention of an order made under subrule (3) or (4) without hearing the applicant or another party to the application.
- ‘(6) A court may at any time vary or revoke an order made by it under this rule.
- ‘(7) If the Supreme Court makes an order under subrule (4) or varies or revokes an order made under subrule (4), the registrar of the Supreme Court must advise the registrars of the other courts.
- ‘(8) Practice directions may set out procedures in relation to an application or order made under this rule.
- ‘(9) This rule does not limit any inherent or other power of a court or judge.
- ‘(10) In this rule—
- application in relation to the existing proceeding*** includes an appeal in relation to the existing proceeding.
- similar proceeding***, in relation to an existing proceeding, means a proceeding in which—
- (a) the relief claimed is the same or substantially the same as the relief claimed in the existing proceeding; or
- (b) the relief claimed arises out of, or concerns, the same or substantially the same matters as those alleged in the existing proceeding.’

4 Insertion of new r 395A

After rule 395—

insert—

**'395A Application to obtain evidence for civil proceedings
in another jurisdiction**

'An application under the *Evidence Act 1977*, section 36¹ may be made without notice to any person.'

ENDNOTES

- 1 Made by the Governor in Council on 15 December 2005.
- 2 Notified in the gazette on 16 December 2005.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney General.

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1 *Evidence Act 1977*, section 36 (Application to Supreme Court to obtain evidence for civil proceedings in another jurisdiction)