

## User Guide

### General Information

#### *Purpose*

The purpose of this book is to provide students, researchers, practitioners and judicial officers with a comprehensive guide to civil procedure in Vanuatu primarily through the medium of annotated rules of court.

#### *Binders*

The loose-leaf binder is designed to be durable and portable and is intended to enable users to update the work from time to time. Users should retain the binder and the chapter dividers as these will not be resupplied with future updates.

#### *Updates*

Updates will be made available from time to time. The frequency of updates will be a function of developments in procedural law. The method of obtaining updates will be advised from time to time.

Users are advised to keep an accurate record of updates to this binder by completion of the update record on p.19. The initial loose-leaf content is numbered as issue 1. Each update will be numbered consecutively, in the lower left corner of each page.

#### *Availability*

This book will be made available to legal practitioners and judicial officers of Vanuatu under the Vanuatu Legal Sector Strengthening Project for no charge, subject to availability. A limited number of copies will be made available to libraries and research institutions at the discretion of the Project. Requests should be made to mbrazel@vanuatu.gov.vu or to AusAID.

### Chapters

#### *Civil Procedure Rules*

This chapter contains the full text of the Civil Procedure Rules 2002, with interposed annotations.

Marginalia contain cross-references to similar rules of court in other jurisdictions. Part 1 is cross-referenced to several jurisdictions due to its novel and important content and the adoption of comparable provisions in other jurisdictions. Other parts are cross-referenced to such of the current (*Civil Procedure Rules 1998*) and/or former (*Rules of the Supreme Court 1965*) English rules as resemble the corresponding Vanuatu rule so as to be of possible interpretive assistance.

#### *Constitutional Procedures Rules*

This chapter contains the full text of the *Constitutional Procedures Rules 2003*, with interposed annotations.

Marginalia contain cross-references to rules of court in Vanuatu which are sufficiently similar in terms or content as to be of possible interpretive assistance.

#### *Election Petitions Rules*

This chapter contains the full text of the *Election Petitions Rules* 2003, with interposed annotations.

Marginalia contain cross-references to rules of court in Vanuatu which are sufficiently similar in terms or content as to be of possible interpretive assistance.

#### *Probate and Administration Rules*

This chapter contains the full text of the *Probate and Administration Rules* 2003, with interposed annotations.

Marginalia contain cross-references to rules of court in Vanuatu which are sufficiently similar in terms or content as to be of possible interpretive assistance.

#### *Court of Appeal Rules*

This chapter contains the partial text of the *Court of Appeal Rules* 1973, with interposed annotations. Parts 4 and 5 and the Schedules have been omitted due to obsolescence.

Marginalia contain cross-references to such of the former (*Rules of the Supreme Court* 1965) English rules (upon which they were based) as resemble the corresponding Vanuatu rule so as to be of possible interpretive assistance.

#### *Forms*

This chapter collects prescribed forms appended to each of the rules of court and other applicable forms. Accordingly, those schedules containing forms will appear only in this chapter.

The appearance of forms may be slightly different from the authorised reprints, reflecting a desire to standardise format and achieve economy of layout, and therefore ease of reference, within this book. Readers interested in viewing the precise layout of forms should consult the authorised reprint.

#### *Costs and Fees*

This chapter collects prescribed costs and fees appended to each of the rules of court. Accordingly, those schedules containing the same will appear only in this chapter.

#### *Related Legislation*

This chapter contains the full text of the *Constitution* and extracts from acts and statutory instruments and which may be useful for quick reference.

These appear in consolidated form as at the publication date and will be updated from time to time in the same way as other parts of this publication. Formal parts are omitted.

## *Index*

This chapter contains a subject index. The case index found in the first edition has been abandoned to reduce bulk and also to reduce the burden of updating.

## Annotations

### *Content*

This is not a conventionally-arranged book about law. The content is driven and ordered solely by the various rules of court and what can briefly be said about them as is likely to be of benefit to the reader. It is modelled on similar works in other jurisdictions, such as Sweet & Maxwell's *White Book* service. Accordingly, the complete spectrum of procedural law is not addressed.

The content of annotations is intended to be more practical than theoretical. Where, however, historical annotations or more general observations may assist in understanding the validity, scope or nuances of the rule, these have been included.

### *Appearance and numbering*

Annotations appear in smaller font size than the surrounding text so as not unduly to interrupt text flow of the rules. Paragraph numbers correspond to the part of the rule to which the annotation relates. For example, paragraph [2.4.1] to the *Civil Procedure Rules* is the first annotation to r.2.4. The second annotation would be numbered [2.4.2] and so on. Paragraph [8.1] to the *Court of Appeal Rules* is the first annotation to r.8. The second would be [8.2] and so on.

Annotations are divided, so far as possible, into paragraphs which deal with discrete content and numbered consecutively in accordance with the above style. A bold-type key phrase appears at the beginning of most annotations to facilitate quick-reference.

### *Selection of Citations*

Selection of case law appearing in annotations follows these general rules: (1) All relevant Vanuatu cases as appear on PaCLII are mentioned in annotations plus a few which do not and which coincidentally came to the attention of the author; (2) Court of Appeal decisions are cited before decisions of the Supreme Court and, if the former are comprehensive, the latter are omitted; (3) Foreign case law is cited if there is insufficient or otherwise less comprehensive domestic case law on the subject under consideration; (4) Foreign case law is selected for its persuasiveness and the extent to which it illustrates the act or rule under consideration; (5) Foreign cases are cited after Vanuatu cases where the latter is reasonably comprehensive and the former are complementary, otherwise cases appear in chronological order; (6) Among foreign cases, those from England (including Privy Council decisions) are preferred where there is a choice of authority, but otherwise all reasonably persuasive Commonwealth (especially Pacific) case law may be mentioned.

### *Citation Format*

For several reasons, most notably the modesty of library resources in Vanuatu, case citations appear in a slightly unorthodox format. Wherever a case is available freely on the internet, the media-neutral citation is given first. Following will appear any

authorised report of the case and finally, any unauthorised report(s). As to the latter, only the more common series have been referenced.

References are given to paragraph numbers wherever convenient and available and otherwise to page numbers. A reference which appears without either is usually cited for general relevance. Unfortunately, many decisions handed down in Vanuatu contain no paragraph numbers and only the original published decisions, which are seldom generally available, contain page numbers. Accordingly, readers may have to look carefully to identify that part of the decision to which the annotation refers. References to page numbers assigned by PaCLII are not given.

#### *Abbreviation of Case Names*

In order to reduce bulk and to facilitate speed of reference, case names appearing in annotations may be abbreviated.

### Abbreviations

#### *Abbreviations*

In order to reduce bulk and to facilitate speed of reference, a number of abbreviations to acts and rules have been used.

#### *Abbreviations of Rules*

<b>Full name</b>	<b>Abbreviated name</b>
Civil Procedure Rules 2002	<i>CPR</i>
Constitutional Procedures Rules 2003	<i>ConPR</i>
Election Petitions Rules 2003	<i>EPR</i>
Probate and Administration Rules 2003	<i>PaAR</i>
Court of Appeal Rules 1973	<i>CoAR</i>

#### *Abbreviations of Chapters in this Book*

The above abbreviations also correspond with major chapters. For simplicity, the same abbreviations are used, with one exception: An abbreviated reference to an act or rule will appear in italics, an abbreviated reference to a chapter will not (and will usually also appear with a paragraph number in square brackets). For example, a reference to “CPR [1.2.2]” is a reference to an annotation paragraph in the chapter “Civil Procedure Rules” whereas a reference to *CPR* r.7.2 is a reference to a particular rule in the *Civil procedure Rules*.

#### *Abbreviations in Marginalia*

Marginalia utilise the above abbreviations and also the following:

<b>Full name</b>	<b>Abbreviated name</b>
Rules of the Supreme Court 1965 (Eng)	<b>E RSC</b>
Civil Procedure Rules 1998 (Eng)	<b>E CPR</b>

Civil Procedure Act 2005 (NSW)	<b>NSW CPA</b>
Uniform Civil Procedure Rules 2005 (NSW)	<b>NSW UCPR</b>
Uniform Civil Procedure Rules 1999 (QLD)	<b>Q UCPR</b>
Supreme Court Civil Rules 2005 (SA)	<b>SA SCCR</b>
Supreme Court (General Civil Procedure) Rules 2005 (VIC)	<b>V SCR</b>
Supreme Court Rules 1971 (WA)	<b>WA SCR</b>
High Court Rules, Sch.2 Judicature Act 1908 (NZ)	<b>NZ HCR</b>
Federal Court Rules 1998 (CAN)	<b>CAN FCR</b>
Supreme Court Rules 1990 (BC)	<b>BC SCR</b>

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