

Nationally harmonised interest rates

Changes to Uniform Civil Procedure Rules 2005 (UCPR)

Practitioners should note the changes to the UCPR under the [Uniform Civil Procedure Rules \(Amendment No 32\) 2010](#) and the Uniform Civil Procedure Rules (Amendment No 34) 2010 commence on **1 July 2010**.

These amendments provide for the adoption in NSW of nationally harmonised provisions for the awarding of post-judgment interest under s.101 of the *Civil Procedure Act 2005 (CPA)* as well as changes to the calculation of claims for pre-judgment interest under s.100 CPA.

Post-judgment interest

Schedule 5 to the UCPR sets out the applicable default rates for post-judgment interest. It will be repealed with effect as and from 1 July 2010. Schedule 5 rates will be replaced with a new nationally harmonised formula for the calculation of interest based on the Reserve Bank of Australia's cash rate. This is set out in UCPR 36.7 (1) and is as follows:

The prescribed rate at which interest is payable under s. 101 of the CPA is:

- (a) in respect of the period from 1 January to 30 June in any year – the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced, and
- (b) in respect of the period from 1 July to 31 December in any year – the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period commenced.

The change to post-judgment interest does not have retrospective effect – s. 30 *Interpretation Act 1987 (NSW)*. Interest for post-judgment periods up to and including 30 June 2010 should be calculated with reference to the rates in Schedule 5. Practitioners are reminded that they may access [historic versions](#) of the UCPR via the NSW Government's legislation website to review Schedule 5 rates.

Pre-judgment interest

The Court may award pre-judgment interest under s.100 CPA.

NSW courts will issue Practice Notes with respect to the adoption of a nationally harmonised formula based on the Reserve Bank of Australia's cash rate for pre-judgment interest claimed under s.100 (1) and s.100 (2) CPA as follows:

- (a) in respect of the period from 1 January to 30 June in any year – the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before that period commenced, and
- (b) in respect of the period from 1 July to 31 December in any year – the rate that is 4% above the cash rate last published by the Reserve Bank of Australia before that period commenced.

The Supreme Court issued its Practice Note ([SC Gen 16](#)) on 16 June.

Practitioners should note UCPR 6.12 (8), as amended. This provides for claims for pre-judgment interest where a contractual or statutory rate of interest does not apply. The effect of the change is that in liquidated statements of claim filed after 1 July where no other rate applies, the interest calculation for the entire pre-judgment period should be based on the new harmonised formula for pre-judgment interest.