

# New South Wales Civil Practice & Procedure Practice Test (Sample)

## Study Guide



**Everything you need from our exam experts!**

**This is a sample study guide. To access the full version with hundreds of questions,**

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**SAMPLE**

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# Introduction

Preparing for a certification exam can feel overwhelming, but with the right tools, it becomes an opportunity to build confidence, sharpen your skills, and move one step closer to your goals. At Examzify, we believe that effective exam preparation isn't just about memorization, it's about understanding the material, identifying knowledge gaps, and building the test-taking strategies that lead to success.

This guide was designed to help you do exactly that.

Whether you're preparing for a licensing exam, professional certification, or entry-level qualification, this book offers structured practice to reinforce key concepts. You'll find a wide range of multiple-choice questions, each followed by clear explanations to help you understand not just the right answer, but why it's correct.

The content in this guide is based on real-world exam objectives and aligned with the types of questions and topics commonly found on official tests. It's ideal for learners who want to:

- Practice answering questions under realistic conditions,
- Improve accuracy and speed,
- Review explanations to strengthen weak areas, and
- Approach the exam with greater confidence.

We recommend using this book not as a stand-alone study tool, but alongside other resources like flashcards, textbooks, or hands-on training. For best results, we recommend working through each question, reflecting on the explanation provided, and revisiting the topics that challenge you most.

Remember: successful test preparation isn't about getting every question right the first time, it's about learning from your mistakes and improving over time. Stay focused, trust the process, and know that every page you turn brings you closer to success.

Let's begin.

# How to Use This Guide

**This guide is designed to help you study more effectively and approach your exam with confidence. Whether you're reviewing for the first time or doing a final refresh, here's how to get the most out of your Examzify study guide:**

## **1. Start with a Diagnostic Review**

**Skim through the questions to get a sense of what you know and what you need to focus on. Don't worry about getting everything right, your goal is to identify knowledge gaps early.**

## **2. Study in Short, Focused Sessions**

**Break your study time into manageable blocks (e.g. 30 - 45 minutes). Review a handful of questions, reflect on the explanations, and take breaks to retain information better.**

## **3. Learn from the Explanations**

**After answering a question, always read the explanation, even if you got it right. It reinforces key points, corrects misunderstandings, and teaches subtle distinctions between similar answers.**

## **4. Track Your Progress**

**Use bookmarks or notes (if reading digitally) to mark difficult questions. Revisit these regularly and track improvements over time.**

## **5. Simulate the Real Exam**

**Once you're comfortable, try taking a full set of questions without pausing. Set a timer and simulate test-day conditions to build confidence and time management skills.**

## **6. Repeat and Review**

**Don't just study once, repetition builds retention. Re-attempt questions after a few days and revisit explanations to reinforce learning.**

## **7. Use Other Tools**

**Pair this guide with other Examzify tools like flashcards, and digital practice tests to strengthen your preparation across formats.**

**There's no single right way to study, but consistent, thoughtful effort always wins. Use this guide flexibly — adapt the tips above to fit your pace and learning style. You've got this!**

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## **Questions**

- 1. In the case of Treloar Constructions Pty Limited v McMillan, what was the basis for the security for costs order?**
  - A. The defendant demonstrated the plaintiff's insolvency**
  - B. The plaintiff failed to provide sufficient evidence of ability to pay costs**
  - C. The court found a technicality in the plaintiff's claim**
  - D. The plaintiff had changed their registered office repeatedly**
- 2. What principle is outlined in section 60 regarding costs in court procedures?**
  - A. Costs should be maximized for thorough litigation**
  - B. Costs must be proportionate to the complexity and importance of proceedings**
  - C. Costs are irrelevant to case management**
  - D. Costs should be avoided in all circumstances**
- 3. What is a necessary condition for granting leave to amend a document or pleading?**
  - A. Proof of financial gain**
  - B. Determining it does not mislead the parties**
  - C. Common consent from all parties**
  - D. Log of all prior amendments**
- 4. What is the expectation for evidence accompanying an interlocutory motion?**
  - A. It can be submitted at a later date**
  - B. It must be attached to the original motion**
  - C. It should be in the form of an affidavit**
  - D. It is optional based on the seriousness of the case**
- 5. What does Rule 28.4 refer to regarding court procedures?**
  - A. The requirements for filing a defense**
  - B. The separation of questions for decision in court**
  - C. The process for dismissing counterclaims**
  - D. The rules for notifying a defendant**



- 6. In what scenario does the onus of proof switch to the paying party regarding indemnity costs?**
- A. When the costs exceed a predefined limit**
  - B. When the claiming party proves all costs were incurred**
  - C. When the paying party claims that costs were unreasonably incurred**
  - D. When the case is straightforward and lacks complexity**
- 7. What constitutes adequate proof of service according to UCPR?**
- A. Phone call confirmation**
  - B. Proof of delivery signature**
  - C. Affidavit of service**
  - D. Videotape of the service process**
- 8. Which is NOT a type of appeal listed for the District Court to Supreme Court Court of Appeal?**
- A. Appeal from DC to SC CA as of right**
  - B. Cross-appeal from DC to SC CA as of right**
  - C. Direct appeal from Supreme Court to High Court**
  - D. Appeal from SC to SC CA with leave**
- 9. What is the requirement for a court appointed expert's report?**
- A. It must include personal opinions of the judge**
  - B. It is taken into evidence unless courts order otherwise**
  - C. It must be prepared in collaboration with parties involved**
  - D. It requires a summary of previous cases**
- 10. What must a plaintiff do if they wish to proceed with default judgment?**
- A. Bring new evidence to trial**
  - B. File a notice of motion supported by required affidavits**
  - C. Meet with the defendant to negotiate**
  - D. Wait for the defendant to respond**

## **Answers**

1. B
2. B
3. B
4. C
5. B
6. C
7. C
8. C
9. B
10. B

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## **Explanations**

**1. In the case of Treloar Constructions Pty Limited v McMillan, what was the basis for the security for costs order?**

- A. The defendant demonstrated the plaintiff's insolvency**
- B. The plaintiff failed to provide sufficient evidence of ability to pay costs**
- C. The court found a technicality in the plaintiff's claim**
- D. The plaintiff had changed their registered office repeatedly**

The basis for the security for costs order in the case of Treloar Constructions Pty Limited v McMillan was that the plaintiff failed to provide sufficient evidence of an ability to pay costs. This situation often arises in civil proceedings where defendants seek security to ensure that they can recover their costs if they prevail in the legal proceedings. When a plaintiff does not demonstrate financial stability or offers credible evidence showing the capacity to cover potential costs, the court may grant an order for security for costs to protect the defendant's interests. In this case, the court's decision was influenced by the lack of assurance from the plaintiff regarding their financial ability, thereby justifying the requirement for a security for costs order. Other options do not align with the court's rationale; for instance, demonstrating insolvency or changing the registered office does not inherently support a good reason for ordering security for costs. Similarly, identifying a technicality in the plaintiff's claim does not directly address the financial issues relevant to securing costs. Thus, the focus was on the plaintiff's capacity to cover costs, underscoring the importance of financial evidence in securing such orders.

**2. What principle is outlined in section 60 regarding costs in court procedures?**

- A. Costs should be maximized for thorough litigation**
- B. Costs must be proportionate to the complexity and importance of proceedings**
- C. Costs are irrelevant to case management**
- D. Costs should be avoided in all circumstances**

The principle outlined in section 60 regarding costs in court procedures emphasizes that costs should be proportionate to the complexity and importance of the proceedings. This principle is crucial within the civil practice framework because it promotes fairness in litigation. By ensuring that the costs incurred in legal proceedings are balanced against the significance and complexity of the issues at stake, this principle helps to prevent parties from being deterred from pursuing legitimate claims due to the potential for excessive legal costs. It encourages a more equitable access to justice, where individuals and entities can seek resolution in a way that is fiscally responsible and reflective of the matters at hand. Furthermore, this principle aligns with the overarching aim of the court system to facilitate the just, quick, and cheap resolution of disputes. It prevents unnecessary expenditure on legal services that could arise from overly complicated or trivial disputes and ensures that resources are allocated efficiently within the judicial system.

**3. What is a necessary condition for granting leave to amend a document or pleading?**

- A. Proof of financial gain**
- B. Determining it does not mislead the parties**
- C. Common consent from all parties**
- D. Log of all prior amendments**

In the context of civil procedure, particularly in New South Wales, a necessary condition for granting leave to amend a document or pleading is that the amendment must not mislead any of the parties involved in the proceedings. This ensures that all parties have a fair understanding of the claims and defenses being presented, allowing for a just resolution of the matter. For an amendment to be considered appropriate by the court, it must contribute to the clarity and coherence of the issues at hand without causing confusion or prejudice to any party. If an amendment could mislead or confuse the parties regarding the litigation, it would be detrimental to the integrity of the judicial process. While the other options present considerations, they do not align with the fundamental requirement for allowing amendments in civil proceedings. Proof of financial gain does not pertain to the admissibility or appropriateness of an amendment. Common consent from all parties can be beneficial but is not strictly necessary; the court can grant leave to amend even if not all parties agree. Maintaining a log of prior amendments, while good practice, does not constitute a necessary condition for allowing an amendment to take place. Thus, ensuring that amendments do not mislead parties is the central principle at play.

**4. What is the expectation for evidence accompanying an interlocutory motion?**

- A. It can be submitted at a later date**
- B. It must be attached to the original motion**
- C. It should be in the form of an affidavit**
- D. It is optional based on the seriousness of the case**

For an interlocutory motion, the expectation is that evidence should be provided in the form of an affidavit. This requirement aligns with the principles of civil procedure, which emphasize the need for a clear and structured means of presenting evidence to support the requests made in the motion. An affidavit allows the party making the motion to present factual information and relevant evidence in a formalized, sworn document that can be scrutinized by the court. When preparing an interlocutory motion, it is essential to ensure that the evidence is credible and sufficiently detailed to support the relief sought. The format of an affidavit helps maintain consistency in how evidence is presented, allowing the court to easily assess the merits of the motion based on the presented facts. The other options do not accurately capture the procedural expectations. For example, submitting evidence at a later date might lead to delays and hinder the judicial process, while attempting to submit evidence in a different format could compromise the clarity and effectiveness of the motion. Thus, the requirement for evidence in the form of an affidavit is crucial for fostering an efficient and fair adjudication process within interlocutory proceedings.

**5. What does Rule 28.4 refer to regarding court procedures?**

- A. The requirements for filing a defense
- B. The separation of questions for decision in court**
- C. The process for dismissing counterclaims
- D. The rules for notifying a defendant

Rule 28.4 pertains to the separation of questions for decision in court, which allows the court to divide a claim into distinct issues that can be considered separately. This is particularly useful in complex cases where different aspects of a dispute can be resolved independently. By adopting this rule, the court can streamline proceedings, making them more efficient and focused. This approach emphasizes the importance of clarity and organization in the resolution of legal matters, allowing parties to better understand the specific issues at hand. It can also facilitate quicker decisions on preliminary matters without the need for an extensive examination of all related issues at once. When the court separates questions, it can provide a clear pathway for resolving disputes, which may ultimately help in achieving a fair and timely resolution for all parties involved.

**6. In what scenario does the onus of proof switch to the paying party regarding indemnity costs?**

- A. When the costs exceed a predefined limit
- B. When the claiming party proves all costs were incurred
- C. When the paying party claims that costs were unreasonably incurred**
- D. When the case is straightforward and lacks complexity

The scenario in which the onus of proof shifts to the paying party regarding indemnity costs arises when the paying party challenges the incurred costs as being unreasonably incurred. In such instances, the burden of proof falls on the paying party to provide evidence supporting their assertion that the costs claimed by the other party do not meet the standard of reasonableness. This principle is rooted in the rationale that when a party is seeking indemnity costs — which often signifies that the costs claimed are higher than what would usually be acceptable in ordinary circumstances — it is reasonable for the party incurring the costs to expect that any objections or allegations against the reasonableness of those costs are substantiated by the payor who disputes them. Thus, the paying party must demonstrate that the costs claimed are excessive or unreasonable. This shift in the onus serves to protect parties from unjustified challenges to their claims. Other options do not accurately capture the circumstances under which the onus of proof switches. For instance, exceeding a predefined limit, proving all costs were incurred, or having a straightforward case do not initiate a change in the burden of proof regarding indemnity costs. Therefore, the correct understanding revolves around the challenge made by the paying party about the reasonableness of the costs

**7. What constitutes adequate proof of service according to UCPR?**

- A. Phone call confirmation**
- B. Proof of delivery signature**
- C. Affidavit of service**
- D. Videotape of the service process**

In the context of the Uniform Civil Procedure Rules (UCPR), an affidavit of service is considered adequate proof of service. This document is a sworn statement by the person who has served the documents, confirming that they have completed the service in compliance with the relevant rules. The affidavit typically includes details such as the date, time, and manner of service, as well as information about the recipient. This provides a formalized and legally recognized method of demonstrating that service has been properly executed, establishing a clear record that can be relied upon in court. The other methods, although they may provide some level of evidence regarding service, do not meet the stringent requirements set forth by the UCPR. For example, a phone call confirmation lacks the legal standing and formal requirements necessary to be considered proof in a court setting. Similarly, while a proof of delivery signature may confirm receipt, it does not constitute a formal affidavit prepared under legal oath. A videotape of the service process could provide visual evidence but does not fulfill the requirements of a sworn statement, nor does it serve as a substitute for an affidavit as mandated by the rules. Therefore, the affidavit of service stands as the most reliable and appropriate form of proof of service according to UCPR.

**8. Which is NOT a type of appeal listed for the District Court to Supreme Court Court of Appeal?**

- A. Appeal from DC to SC CA as of right**
- B. Cross-appeal from DC to SC CA as of right**
- C. Direct appeal from Supreme Court to High Court**
- D. Appeal from SC to SC CA with leave**

The correct answer is rooted in the hierarchy of courts and the specific types of appeals recognized within New South Wales civil practice. In the context of appeals from the District Court to the Supreme Court Court of Appeal, the only truly relevant scenario mentioned is the direct appeal from the Supreme Court to the High Court. The High Court serves as the highest court in Australia, and it generally does not operate as an appellate court for decisions made by state courts like the District Court or the Supreme Court of New South Wales without first obtaining special leave. The other types of appeals listed pertain directly to how appeals are handled within the NSW courts, namely the appeals from the District Court principles and rules regarding appeals to the Supreme Court Court of Appeal. This makes "direct appeal from Supreme Court to High Court" distinct and not aligned with the procedural framework for appeals from the District Court to the Supreme Court Court of Appeal, which is why it stands out as the correct response. The other options specify appeal pathways that exist under the civil practice framework within New South Wales, including appeals "as of right" or with "leave," which are essential for understanding how litigants may seek to challenge decisions made by lower courts.



**9. What is the requirement for a court appointed expert's report?**

- A. It must include personal opinions of the judge**
- B. It is taken into evidence unless courts order otherwise**
- C. It must be prepared in collaboration with parties involved**
- D. It requires a summary of previous cases**

The requirement that a court-appointed expert's report is taken into evidence unless the court orders otherwise reflects the principle that such reports carry significant value in assisting the court in understanding complex issues that require specialized knowledge. Court-appointed experts are often used when the judge or the parties involved lack the necessary expertise to make informed decisions on highly technical matters. The report serves as a factual basis that the court can rely on, thereby facilitating an informed legal process. This approach ensures that the findings are presented to the court formally, thus providing a structured way for the judge to consider expert opinions within the framework of the case. If the court deems it necessary, it has the authority to order the exclusion of such evidence, but the default position is that the report will be admissible and treated as part of the case evidence. This is vital for ensuring that the proceedings are fair and that all relevant expert insights are available to inform the court's decisions. The other options do not accurately portray the requirements for a court-appointed expert's report. Personal opinions of the judge should not be included in the expert report as they should remain objective and fact-based. Collaboration with parties is not a standard requirement for the creation of an expert report, as the expert's role is to provide an independent

**10. What must a plaintiff do if they wish to proceed with default judgment?**

- A. Bring new evidence to trial**
- B. File a notice of motion supported by required affidavits**
- C. Meet with the defendant to negotiate**
- D. Wait for the defendant to respond**

To proceed with default judgment, a plaintiff must file a notice of motion supported by the required affidavits. This process is essential because a default judgment can only be granted when the defendant has failed to respond to the claim or has not appeared in court. The notice of motion formally requests the court to grant a judgment in favor of the plaintiff based on this failure of the defendant to engage with the proceedings. The supporting affidavits must provide sufficient evidence demonstrating the basis for the claim and that the defendant is in default, confirming there is no viable defense to the action. This establishes a legitimate claim for the court to consider and judge upon, leading to the issuance of a default judgment as per the relevant rules of civil procedure. In contrast, simply bringing new evidence to trial does not apply in a default judgment scenario, as there is no trial taking place due to the defendant's absence. Meeting with the defendant to negotiate is also irrelevant, since the purpose of a default judgment is predicated on the absence of a response from the defendant. Lastly, waiting for the defendant to respond delays the process, and if the defendant has already failed to do so, it does not aid in moving forward with obtaining a judgment.

# Next Steps

**Congratulations on reaching the final section of this guide. You've taken a meaningful step toward passing your certification exam and advancing your career.**

**As you continue preparing, remember that consistent practice, review, and self-reflection are key to success. Make time to revisit difficult topics, simulate exam conditions, and track your progress along the way.**

**If you need help, have suggestions, or want to share feedback, we'd love to hear from you. Reach out to our team at [hello@examzify.com](mailto:hello@examzify.com).**

**Or visit your dedicated course page for more study tools and resources:**

**<https://nswcivilpracticeprocedure.examzify.com>**

**We wish you the very best on your exam journey. You've got this!**