

## FORM 44A

Rule 44.01

### EXPERT WITNESS CODE OF CONDUCT

1. A person engaged as an expert witness has an overriding duty to assist the Court impartially on matters relevant to the area of expertise of the witness.
2. An expert witness is not an advocate for a party.
3. Every report prepared by an expert witness for the use of the Court shall state the opinion or opinions of the expert and shall state, specify or provide –
  - (a) the name and address of the expert;
  - (b) an acknowledgment that the expert has read this code and agrees to be bound by it;
  - (c) the qualifications of the expert to prepare the report;
  - (d) the facts, matters and assumptions on which each opinion expressed in the report is based (a letter of instructions may be annexed);
  - (e)
    - (i) the reasons for,
    - (ii) any literature or other materials utilised in support of,
    - (iii) a summary of –each such opinion;
  - (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;
  - (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;
  - (h) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate, and that no matters of significance which the expert regards as relevant have, to the knowledge of the expert, been withheld from the Court;
  - (i) any qualification of an opinion expressed in the report without which the report is or may be incomplete or inaccurate; and
  - (j) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason.
4. Where an expert witness has provided to a party (or that party's legal representative) a report for the use of the Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i) and (j) of clause 3 of this code and, if applicable, paragraph (f) of that clause.
5. If directed to do so by the Court, an expert witness shall –
  - (a) confer with any other expert witness; and
  - (b) provide the Court with a joint report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing.
6. Each expert witness shall exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement.