JUSTICE

JU301*

Supreme Court Act 1935

Supreme Court Amendment Rules (No. 3) 2015

Made by the Judges of the Supreme Court.

1. Citation

These rules are the *Supreme Court Amendment Rules (No. 3) 2015*.

2. Commencement

These rules come into operation as follows —

(a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;

(b) the rest of the rules — on the 14th day after that day.

3. Rules amended

These rules amend the *Rules of the Supreme Court 1971*.

4. Order 4A amended

(1) Delete Order 4A rule 2(4).

(2) After Order 4A rule 5(2) insert:

(3) In the case of a master, subrule (1) is subject to Order 60 rule 1(3) and (4).

(4) In the case of a registrar, subrule (1) is subject to Order 60A rule 2(2), (3) and (4).

(3) After Order 4A rule 5 insert:

6A. Represented parties excused from interlocutory hearings

A party who is represented by a practitioner need not attend an interlocutory hearing in the case unless subpoenaed or ordered to do so by the case manager.

(4) Delete Order 4A rule 15(2).

5. Order 8 amended

Delete Order 8 rule 5A and insert:

5A. Form and content of notices

A notice filed under rule 2, 3, 4 or 5 —

(a) must be in Form 5AA; and

(b) must state, in accordance with Order 71A —

(i) the party's geographical address; and

(ii) the party's service details.

6. Order 56 amended

(1) In Order 56 rule 2(2)(c) delete "a remedy having" and insert:

an order having

(2) After Order 56 rule 2(2) insert:

(3A) An application must, in accordance with Order 71A, state —

(a) the applicant's geographical address; and

(b) the applicant's service details.

7. Order 58 amended

(1) Delete Order 58 rule 18(b).

(2) Delete Order 58 rule 30(3).

8. Order 60 amended

(1) In Order 60 rule 1(2) delete "or the judge in charge of the civil list".

(2) In Order 60 rule 1(3):

(a) in paragraph (a) delete "person;" and insert:

person including seeking a writ of *habeas corpus ad subjiciendum* under Order 57;

(b) delete paragraph (c) and insert:

(c) proceedings seeking judicial review under Order 56, other than proceedings relating to the adjudication or purported adjudication of a payment dispute under the *Construction Contracts Act 2004* Part 3;

(3) Delete Order 60 rule 1(5) and insert:

(5) For the purposes of any proceedings before him or her, a master may exercise the powers of the Court under the *Evidence Act 1906* section 16(1)(b), 51 or 52.

9. Order 60A amended

(1) In Order 60A rule 1:

(a) delete "A registrar" and insert:

(1) A registrar

(b) delete paragraphs (b) and (d).

(2) At the end of Order 60A rule 1 insert:

(2) An application in relation to a power of the Court that is exercisable by a registrar under this rule must be made to a registrar, unless —

(a) the application or matter has been referred under rule 3 to a judge or master; or

(b) a judge, master or registrar has granted leave for the application to be made to a master or to a judge.

Note: The heading to amended Order 60A rule 1 is to read:

Registrars' general jurisdiction

(3) Delete Order 60A rules 2 to 6 and insert:

2. Registrars' jurisdiction with respect to case management

(1) For the purposes of Order 4A, a case management registrar has, in relation to a case for which the registrar is the case manager, the same jurisdiction that a judge sitting in chambers would have under the *Supreme Court Act 1935* or these rules if a judge were the case manager.

(2) However, a case management registrar does not have jurisdiction under subrule (1) in respect of any of the following —

(a) proceedings to which any of the following applies —

(i) Order 51 (Receivers);

(ii) Order 52 (Interlocutory injunctions, interim preservation of property);

(iii) Order 52A (Freezing orders);

(iv) Order 52B (Search orders);

(v) Order 61 (Proceedings under judgments and orders);

(vi) Order 70 rule 7 (removal of next friend or guardian *ad litem*);

(vii) Order 70 rule 10 (approval of settlement, compromise or acceptance of money paid into court);

(viii) Order 70 rule 11 (approval of agreement for settlement or compromise);

(ix) Order 70 rule 12 (control of money recovered for person under disability);

(x) Order 81D (Arbitration law rules);

(b) proceedings referred to in Order 60 rule 1(3);

(c) a review of the taxation of costs under Order 66 rule 55;

(d) proceedings under any of the following —

(i) the *Transfer of Land Act 1893*;

(ii) the *Trustees Act 1962*;

(iii) the *Australian Securities and Investments Commission Act 2001* (Commonwealth);

(iv) the *Corporations Act 2001* (Commonwealth);

(v) the *Cross-Border Insolvency Act 2008* (Commonwealth).

(3) Subrule (2) does not apply to or in relation to a matter that is referred to a case management registrar by a judge or master.

(4) A case management registrar cannot order the attachment or committal of any person.

(5) An interlocutory order made by a case management registrar is not enforceable by a writ of attachment or order of committal.

3. Registrar may refer proceedings to judge or master

(1) A registrar may refer any proceedings before him or her to a judge or master.

(2) The judge or master may deal with the proceedings or refer them back to the registrar with or without directions.

(3) Pending the determination of the proceedings by the judge or master, the registrar may make an interim order.

4. Appeals from decisions of registrars

(1) A party who is dissatisfied with an order or decision of a registrar may appeal from it.

(2) The appeal must be made to a judge, but a judge may order that it be heard by a master.

(3) This rule does not apply to an order or decision of a registrar —

(a) made or given in relation to a cause, matter, question or issue referred to or tried by the registrar under section 50 or 51 of the Act; or

(b) made or given in proceedings to which Order 61 applies; or

(c) when acting as a taxing officer.

5. Appeal procedure

(1) An appeal from the decision of a registrar must be commenced within 10 days after the date of the order or decision appealed against or any longer period allowed by a judge or master.

(2) The appeal must be commenced and proceed on the file in which the action was commenced.

(3) The appeal must be commenced by filing an appeal notice in Form 80A, stating the following —

(a) the order or direction appealed against;

(b) briefly, but specifically, the grounds of the appeal;

(c) the order or directions sought at the appeal;

(d) any directions considered necessary to facilitate the hearing of the appeal;

(e) for the period of 32 days beginning on the 14th day after the date of the filing of the appeal notice, any days within that period on which the appellant will be unavailable to attend the hearing of the appeal.

(4) No appeal books are required for the appeal.

(5) Within one day after filing an appeal notice under this rule a copy of it must be served on the other parties.

6A. Other parties to appeal to advise certain matters

Each party on whom an appeal notice is served under rule 5(5) must, within 3 days after the date of service on them, advise the party who filed the appeal notice and the Court, in writing, of —

(a) any directions that the party considers necessary to facilitate the appeal; and

(b) for the period of 32 days beginning on the 14th day after the date of service of the appeal notice, any days within that period on which the party will be unavailable to attend the hearing of the appeal.

6. Appeal is by way of new hearing

An appeal from a registrar is to be by way of a new hearing of the matter that was before the registrar.

10. Order 71A amended

(1) After Order 71A rule 2 insert:

3A. Court may dispense with requirement to state geographical address

(1) The Court may, on the application of a person or on its own initiative, order that the person's geographical address does not have to be stated in a document that is

otherwise required under these rules to state the person's geographical address.

(2) Subject to subrule (3), the Court must not make an order under subrule (1) in relation to a person unless the person —

(a) is an individual; and

(b) has provided an address for service; and

(c) has provided his or her geographical address to the Court on a confidential basis.

(3) In exceptional circumstances, the Court may make an order under subrule (1) even though the person has not provided his or her geographical address to the Court.

(4) The Court may, on the application of any person or on its own initiative, do one or more of the following —

(a) amend or cancel an order made under subrule (1);

(b) order that the person's geographical address be given to another person.

(2) In Order 71A rule 4 delete "The" and insert:

(1) The

(3) At the end of Order 71A rule 4 insert:

(2) A document is not to be rejected on the basis that it does not state a person's geographical address if the Court has ordered, under rule 3A, that it is not required to be stated.

(4) Before Order 71A rule 5(2)(a) insert:

(aa) must be in Form 5AA; and

11. Schedule 2 Form 1 amended

(1) In Schedule 2 Form 1:

(a) delete "geographical address" and insert:

geographical address[1]

(b) delete "service details" and insert:

service details[2]

(2) At the end of Schedule 2 Form 1 insert:

Notes to Form No. 1 —

1. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
2. Must be in accordance with Order 71A.

12. Schedule 2 Form 5AA inserted

After Schedule 2 Form 5 insert:

5AA. Notice of change of representation, service details or address (O. 8 r. 5A; O. 71A r. 5(2)(aa))

Supreme Court of Western Australia		No:	
		Notice of change of representation, service details or address	
Parties	Plaintiff/Applicant/Appellant[1] Defendant/Respondent[1]		
Party filing notice	Plaintiff/Applicant/Appellant[2] Defendant/Respondent[2] Third Party[2]		
Date of filing			
CURRENT ADDRESS AND SERVICE DETAILS			
Geographical address of party[3]			
Postal address for service of documents[4]			
Telephone number[5]		Fax number[6]	
Email address[6]			
Reference[7]			
CHANGE OF REPRESENTATION - IF APPLICABLE			
Change in representation[8]	❒ I intend to act in person ❒ I have changed lawyers		
Name of new lawyer[9]			
Address where new lawyer conducts business[10]			
New lawyer's postal address[10]			
Signature of party or lawyer	Party/Party's Lawyer		Date:

Notes to Form No. 5AA —

1. Add full party details.
2. Delete inapplicable. Add other party designation if required.
3. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
4. Must be provided - to be lawyer's postal address if party is legally represented.

5. Must be provided - to be lawyer's telephone number if party is legally represented.
6. Optional - if provided, may be used for service of documents.
7. Optional.
8. Tick relevant box. If changing lawyers complete new lawyer's contact details below.
9. Must be provided if a new lawyer has been appointed.
10. Must be provided if a new lawyer has been appointed. Write "as above" if the same as the party's postal address for service of documents.

13. Schedule 2 Form 6 replaced

Delete Schedule 2 Form 6 and insert:

6. Memorandum of appearance (O. 12 r. 2(2))

Supreme Court of Western Australia		No:	
		Memorandum of appearance	
Parties		Plaintiff/Applicant[1] Defendant/Respondent[1]	
Enter an appearance for the Defendant/Respondent/Third Party[2]:			
Date of filing			
ADDRESS AND SERVICE DETAILS			
Geographical address of party[3]			
Name of lawyer[4]			
Address where lawyer conducts business[4]			
Postal address for service of documents[5]			
Email address[6]			
Telephone number[7]		Fax number[6]	
Reference[8]			
Signature of party or lawyer	Party/Party's Lawyer		Date:

Notes to Form No. 6 —

1. Add full party details.
2. Delete inapplicable. Add other party designation if required.
3. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
4. Must be provided if a lawyer has been appointed.
5. Must be provided - to be lawyer's postal address if party is legally represented.
6. Optional - if provided, may be used for service of documents.
7. Must be provided - to be lawyer's telephone number if party is legally represented.
8. Optional.

14. Schedule 2 Form 67A replaced

Delete Schedule 2 Form 67A and insert:

67A. Application for judicial review (O. 56 r. 2)

<table>
<tr><td colspan="2">Supreme Court of Western Australia</td><td colspan="2">No:</td></tr>
<tr><td colspan="2"></td><td colspan="2">Application for judicial review</td></tr>
<tr><td>Applicant</td><td colspan="3"></td></tr>
<tr><td>Respondent[1]</td><td colspan="3">Name:
Office:</td></tr>
<tr><td>Other parties</td><td colspan="3"></td></tr>
<tr><td>Decision or conduct to be reviewed</td><td colspan="3">Date:
Where made or occurring:
Written law governing:
Description:</td></tr>
<tr><td>Application[2]</td><td colspan="3">The applicant applies for judicial review of the above decision or conduct and —
❒ a writ of certiorari;
❒ a writ of mandamus;
❒ a writ of prohibition;
❒ a writ of procedendo;
❒ an information of quo warranto;
❒ a declaration;
❒ an injunction;
❒ this order (being an order which would have the same effect as a remedy that could be provided by means of one or more of the above writs) —</td></tr>
<tr><td>Grounds of application</td><td colspan="3">The grounds for the above application are these —
1.</td></tr>
<tr><td>Late application[3]</td><td colspan="3">❒ The applicant also applies for leave to proceed with this application which is made outside the limitation period.</td></tr>
<tr><td>Applicant's geographical address[4]</td><td colspan="3"></td></tr>
<tr><td>Applicant's lawyer[5]</td><td colspan="3"></td></tr>
<tr><td>Address where lawyer conducts business[5]</td><td colspan="3"></td></tr>
<tr><td>Intention to act in person[3]</td><td colspan="3">❒ I intend to act in person in this application.</td></tr>
<tr><td>Postal address for service of documents[6]</td><td colspan="3"></td></tr>
<tr><td>Email address[7]</td><td colspan="3"></td></tr>
<tr><td>Telephone number[8]</td><td></td><td>Fax number[7]</td><td></td></tr>
<tr><td>Signature of applicant or lawyer</td><td colspan="2">Applicant/Applicant's lawyer</td><td>Date:</td></tr>
</table>

Notes to Form No. 67A —

1. The respondent is the person whose decision or conduct is to be reviewed.
2. Tick one or more.
3. Tick only if necessary.

4. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
5. Must be provided if a lawyer has been appointed.
6. Must be provided - to be lawyer's postal address if applicant is legally represented.
7. Optional - if provided, may be used for service of documents.
8. Must be provided - to be lawyer's telephone number if applicant is legally represented.

15. Schedule 2 Form 80A inserted

After Schedule 2 Form 78 insert:

80A. Appeal notice (Registrar's decision) (O. 60A r. 5(3))

<table>
<tr><td colspan="3">Supreme Court of Western Australia</td><td colspan="4">No:
Notice of appeal from decision of Registrar</td></tr>
<tr><td>Parties</td><td colspan="6">Plaintiff
Defendant</td></tr>
<tr><td>Name of party appealing</td><td colspan="6"></td></tr>
<tr><td>Name of Registrar</td><td colspan="6"></td></tr>
<tr><td>Date of decision</td><td colspan="6"></td></tr>
<tr><td>Last date for appealing[1]</td><td colspan="6">Last date:
Is an extension of time needed? Yes/No</td></tr>
<tr><td>Orders or directions appealed against</td><td colspan="6">1.
2.
3.</td></tr>
<tr><td>Grounds of appeal</td><td colspan="6"></td></tr>
<tr><td>Orders sought on appeal</td><td colspan="6">1.
2.
3.</td></tr>
<tr><td>Directions sought to facilitate appeal[2]</td><td colspan="6">1.
2.
3.</td></tr>
<tr><td>Dates when unavailable for hearing of appeal[3]</td><td colspan="6"></td></tr>
<tr><td>Date of notice</td><td colspan="2"></td><td>Date of filing</td><td colspan="3"></td></tr>
<tr><td>Signature of party appealing or lawyer</td><td colspan="5">Party appealing/Lawyer</td><td>Date:</td></tr>
<tr><td rowspan="6">Contact details of party appealing or lawyer</td><td>Name</td><td colspan="5"></td></tr>
<tr><td>Firm</td><td colspan="5"></td></tr>
<tr><td>Address</td><td colspan="5"></td></tr>
<tr><td>Phone</td><td colspan="2"></td><td>Fax</td><td colspan="2"></td></tr>
<tr><td>Email</td><td colspan="5"></td></tr>
<tr><td>Reference</td><td colspan="5"></td></tr>
</table>

Notes to Form No. 80A —

1. The date being 10 days after the date of the order or decision appealed against. See Order 60A r. 5(1).
2. For example, filing of further affidavits or submission.
3. For the period of 32 days beginning on the 14th day after the date of the filing of the appeal notice. See Order 60A r. 5(3)(e).

16. Schedule 2 Forms 83, 85 and 108 amended

(1) In Schedule 2 Form 83:

(a) delete "service details[3]" and insert:

service details[4]

(b) in the notes delete note 3 and insert:

3. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
4. Must be in accordance with Order 71A.

(2) In Schedule 2 Form 85:

(a) delete "service details[2]" and insert:

service details[3]

(b) in the notes delete note 2 and insert:

2. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
3. Must be in accordance with Order 71A.

(3) In Schedule 2 Form 108:

(a) delete "service details[4]" and insert:

service details[5]

(b) in the notes delete note 4 and insert:

4. Must be provided unless otherwise ordered by the Court. See Order 71A r. 2 and 3A.
5. Must be in accordance with Order 71A.

THE HON. WAYNE MARTIN AC,
Chief Justice of Western Australia.

Dated 9 November 2015.