

JU301\*

District Court of Western Australia Act 1969

## **District Court Amendment Rules 2010**

Made by the Judges of the District Court.

**1. Citation**

These rules are the *District Court Amendment Rules 2010*.

**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 1 January 2011.

**3. Rules amended**

These rules amend the *District Court Rules 2005*.

**4. Rule 45G replaced**

Delete rule 45G and insert:

**45G. Reception of plans etc. in evidence**

- (1) The RSC Order 36 rule 4 does not apply to a case.
- (2) Unless before or at the trial the Court otherwise orders, no plan, photograph or model shall be receivable in evidence at the trial in a case unless at least 28 days before the trial the parties, other than the party who intends to produce it, are given the opportunity to inspect it and to agree to its admission without further proof.

**5. Rule 45H amended**

In rule 45H(2) delete “Form 2” and insert:

Form 3

**6. Part 5B heading replaced**

Delete the heading to Part 5B and insert:

**Part 5B — Applications before trial**

**7. Rule 48A amended**

- (1) After rule 48A(1) insert:
  - (2A) The RSC Order 21 rule 3 operates as if subrule (1) of it were replaced by subrule (2B) of this rule.
  - (2B) A party may amend any of its pleadings, without the leave of the Court, by filing its amended pleading —
    - (a) before any party files a certificate under rule 43(3a); and
    - (b) not later than 14 days before the date fixed for the first listing conference.
- (2) In rule 48A(2) delete “rule 48C” and insert:

rule 48B

**8. Rule 50 amended**

In rule 50(4) delete “to made” and insert:

to be made

**9. Rule 51 amended**

Delete rule 51(5) and insert:

- (5) If an appeal is made under the *Criminal Injuries Compensation Act 2003* Part 7 —
- (a) the notice of appeal, and any other document filed in the appeal must be served on —
    - (i) the Chief Assessor of Criminal Injuries Compensation appointed under that Act; and
    - (ii) the State Solicitor’s Office, on behalf of the chief executive officer of the department of the Public Service that principally assists the Minister in the administration of that Act;
- and
- (b) service of the documents may be effected by ordinary prepaid post.

**10. Rule 53 amended**

Delete rule 53(6).

**11. Rule 59 amended**

Delete rule 59(3) and insert:

- (3) On determining an appeal, the Court may make any order as to any money paid to the Court as security for costs that is just having regard to any order made as to costs.

**12. Rule 71 amended**

(1) After rule 71(1) insert:

- (1A) Any person is, on payment of the prescribed fee, entitled to search for, inspect and receive a copy of any of these documents filed in a registry —
- (a) any writ and the statement of claim (if any) endorsed on it under the RSC Order 6 rule 3;

- (b) any judgment or order of the Court.
- (1B) Subrule (1A) does not apply in relation to any document filed, or any judgment or order made, in any proceedings under the *Surveillance Devices Act 1998*.
- (2) In rule 71(2) and (2a) delete “under this rule” and insert:  
made under subrule (3), (5) or (6)
- (3) Delete rule 71(4) and insert:
- (4) A party to a case is entitled, at no charge, to inspect and obtain a copy of any part of the court record in respect of the case.
- (4) In rule 71(6) after “record” insert:  
not referred to in subrule (1A)
- (5) After rule 71(9) insert:
- (10) This rule does not entitle a person to search, inspect or obtain a copy of any part of a document that contains information that the person is prevented by a written law, an order made under a written law, or an order of a court from possessing.

### 13. Schedule 1 amended

Delete Schedule 1 Form 1 and insert:

#### 1. Entry for trial (r. 37)

District Court of Western Australia		At:
<b>Entry for trial</b>		Number:
Matter	[Names of all parties]	
Certificate * delete if inapplicable	<p>The [party] certifies that —</p> <ul style="list-style-type: none"> <li>• the [party] has been given discovery and inspection by all of the other parties; and</li> <li>• *the [party] served interrogatories and has received answers; and</li> <li>• the [party] has complied with all directions and orders made by the Court at the case management hearing; and</li> <li>• the [party] has complied with all orders made by the Court since the case management hearing; and</li> <li>• no other interlocutory orders are needed; and</li> <li>• the [party] has complied with the <i>Rules of the Supreme Court 1971</i> Order 36A; and</li> </ul>	

	<ul style="list-style-type: none"> <li>• the [party] has complied with the <i>District Court Rules 2005</i> rule 36(1); and</li> <li>• the [party] has complied with the <i>District Court Rules 2005</i> rule 45C; and</li> <li>• *the [party] has complied with the <i>District Court Rules 2005</i> rule 45D; and</li> <li>• *the [party] has complied with the <i>District Court Rules 2005</i> rule 45E; and</li> <li>• this matter is in all respects ready for trial.</li> </ul>		
Entry for trial	The [party] enters this matter for trial.		
Unavailable dates	The parties are not available for a pre-trial conference on these dates:		
Contact details of party or lawyer	Name		
	Firm		
	Address		
	Phone		Fax
	Email		
	Reference		
Signature of party or lawyer	Party/[Party's] lawyer		Date

Dated: 29 November 2010.

Judges' signatures:

P. D. MARTINO. (J)

A. M. I. SCHOOMBEE. (J)

B. J. H. GOETZE. (J)

H. J. WISBEY. (J)

S. G. SCOTT. (J)

R. E. BIRMINGHAM. (J)

P. B. O'NEAL. (J)

M. A. YEATS. (J)

A. S. STAVRIANOU. (J)

F. C. E. DAVIS. (J)

C. P. STEVENSON. (J)

A. D. FENBURY. (J)

A. S. DERRICK. (J)

P. P. McCANN. (J)

J. G. STAUDE. (J)

K. F. SLEIGHT. (J)

J. A. WAGER. (J)

P. R. EATON. (J)

S. M. DEANE. (J)

T. D. SWEENEY. (J)