

JU301*

Magistrates Court Act 2004

Magistrates Court (General) Amendment Rules (No. 2) 2007

Made by the Magistrates Court.

1. Citation

These rules are the *Magistrates Court (General) Amendment Rules (No. 2) 2007*.

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 day after that day.

3. The rules amended

The amendments in these rules are to the *Magistrates Court (General) Rules 2005*.

4. Rule 3 amended

Rule 3 is amended by inserting in the appropriate alphabetical positions —

“

“**non-police registry**” means a registry where there is at least one registrar who is not a Deputy Registrar appointed under the Act section 26(5);

“**police registry**” means a registry where the only registrar is a Deputy Registrar appointed under the Act section 26(5);

”.

5. Rule 8A amended

Rule 8A(2) is amended as follows:

- (a) by inserting after “An application” —

“

made by a prosecutor without notice to the accused

”;

- (b) by deleting “Perth Court.” and inserting instead —

“ Court sitting at Perth. ”.

6. Rule 10 amended

Rule 10 is amended by deleting “the approved form.” and inserting instead —

“ a Form 1A. ”.

7. Rule 26 amended

Rule 26(1)(a) is deleted and the following is inserted instead —

“

- (a) a Form 1B; and

”.

8. Rule 46A amended

Rule 46A is amended as follows:

- (a) by inserting after “An application” —

“

made by a prosecutor without notice to the accused

”;

- (b) by deleting “Perth Court.” and inserting instead —

“ Court sitting at Perth. ”.

9. Rule 50A inserted

After rule 50 the following rule is inserted —

“

50A. Applications under RTA s. 71B, how to be made

- (1) An application under the RTA section 71B(7) must be made by lodging a Form 4A and any affidavit that the applicant proposes to tender at the hearing of the application.
- (2) When a form and any affidavit is lodged under this rule, 2 copies must also be lodged.

”.

10. Rule 51B replaced

Rule 51B is repealed and the following rule is inserted instead —

“

51B. Registries where applications may be lodged

- (1) An application referred to in rule 50A may be lodged at the nearest non-police registry to the place where the keys that are the subject of the application are being held.
- (2) An application referred to in rule 51 or 51A may be lodged at any registry of the Court, including a police registry.

”.

11. Rule 52 amended

Before rule 52(1) the following subrule is inserted —

“

- (1a) On accepting a Form 4A, a registrar must —
 - (a) list the application for hearing on the earliest convenient date; and
 - (b) insert the hearing details on the form; and
 - (c) return one copy of the form to the applicant and serve one copy on the Commissioner of Police in accordance with the CPA Schedule 2 clause 2 or 3 at least 5 clear days before the date set by the Court for the hearing of it.

”.

12. Rule 53 amended

Before rule 53(1) the following subrule is inserted —

“

- (1a) If the Court is satisfied that the Commissioner of Police has been served with an application made under the RTA section 71B(7), the Court may deal with it in the absence of the Commissioner of Police.

”.

13. Rule 57 amended

- (1) Rule 57(1) is repealed.
- (2) Rule 57(2) is amended by deleting the subrule designation “(2)”.

14. Schedule 2 amended

- (1) Before Schedule 2 Form 1 the following forms are inserted in Schedule 2 —

“

1A. Application for leave to lodge a document (r. 10)

<i>Magistrates Court Act 2004</i> s. 17(3)		Application for leave to lodge a document	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Telephone	Fax	
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Document to be lodged			
Application	I am a party to the above case and I would like leave to lodge the above document.		
Signature of applicant		Date	

1B. Appeal against registrar's decision (r. 26)

<i>Magistrates Court Act 2004</i> s. 29		Appeal against registrar's decision	
Magistrates Court at No:			
Appellant	Full name		
	Address		
	Telephone	Fax	
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Decision being appealed	Date of decision		
	Brief description of decision		
Appeal	Under the <i>Magistrates Court Act 2004</i> section 29 the appellant appeals against the above decision.		
Extension of time	Is this application lodged within 21 days after the date of the above decision? Yes/No If no, state why the application is lodged late:		
Grounds of appeal	1.		
Signature of appellant or lawyer	Appellant/Appellant's lawyer	Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

”

(2) After Schedule 2 Form 4 the following form is inserted —

“

**4A. Application for an order for seized keys to be handed over
(r. 50A)**

Road Traffic Act 1974 s. 71B(7) Magistrates Court at No:		Application for an order for seized keys to be handed over	
Applicant	Full name		
	Address		
Person described in s. 71B(5) of the Act	Full name		
	Address		
Application	The applicant applies for an order for the seized keys to be handed over to the applicant.		
Seized keys ¹			
Signature of applicant or lawyer	Applicant/Applicant's lawyer	Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

Notes to Form 10 —

1. Set out the details of the seizure and a description of the vehicle to which the keys relate.

”

Dated: 19 November 2007.

STEVEN HEATH

Chief Magistrate

E. WOODS

Deputy Chief Magistrate

J. PACKINGTON

Magistrate

P. G. COCKRAM

Magistrate
