

JU302\*

Magistrates Court Act 2004

## Magistrates Court (General) Amendment Rules 2007

Made by the Magistrates Court.

### 1. Citation

These rules are the *Magistrates Court (General) Amendment Rules 2007*.

### 2. Commencement

These rules come into operation as follows:

- (a) rules 1, 2 and 3 — on the day on which these rules are published in the *Gazette* (“**Gazettal day**”);
- (b) the rest of the rules — on the day after the Gazettal day.

### 3. The rules amended

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

### 4. Rule 8 replaced by rules 8 and 8A

Rule 8 is repealed and the following rules are inserted instead —

“

### 8. Registry at which applications commencing a case must be lodged

Except as provided in —

- (a) Parts 6 to 9; and
- (b) the *Magistrates Court (Civil Proceedings) Rules 2005* rule 96; and
- (c) the *Magistrates Court (Minor Cases Procedure) Rules 2005* rule 46,

an application that is to commence a case may be lodged at any registry.

**8A. Registry at which documents must be lodged if a case has commenced**

- (1) Except as provided in subrule (2), a document that is to be lodged in respect of a case that has been commenced must be lodged at the registry at which the case is being conducted.
- (2) An application for an order under the CPA section 138 is to be lodged at the registry of the Perth Court.

”

**5. Rule 24 amended**

- (1) Rule 24 is amended by inserting before “In” the subrule designation “(1)”.
- (2) At the end of rule 24 the following subrule is inserted —  
“
  - (2) When a registrar exercises the conferred jurisdiction, the registrar can exercise any power of the Court that could be exercised if a magistrate were exercising that jurisdiction.”

”

**6. Part 3A inserted**

After regulation 28 the following Part is inserted —

“

**Part 3A — General matters**

**28A. Title and address**

In court and in relation to court proceedings, a magistrate is entitled —

- (a) to be addressed as “Your Honour”; and
- (b) to be referred to as “His Honour” or “Her Honour”.

”

**7. Rule 46A inserted**

After rule 46 the following rule is inserted into Part 6 —

“

**46A. Applications relating to disclosure requirements (CPA s. 138)**

An application for an order under the CPA section 138 must be heard by a magistrate sitting in chambers at the Perth Court.

”

**8. Rules 51A and 51B inserted**

After rule 51 the following rules are inserted —

“

**51A. Applications under RTA s. 103(6), how to be made**

- (1) An application under the RTA section 103(6) must be made by lodging a Form 9 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 be also be lodged.

**51B. Registries where applications may be lodged**

An application referred to in rule 51 or 51A may be lodged at any registry of the Court, even if the only registrar is a Deputy Registrar appointed under the Act section 26(5).

”.

**9. Rule 52 amended**

- (1) Rule 52(1) is amended as follows:
  - (a) by inserting after “rule 51” —  
“ or 51A ”;
  - (b) by inserting after “section 76” —  
“ or 103(6), as the case requires ”.
- (2) Rule 52(2) is amended by deleting “or 6,” and inserting instead —  
“ , 6 or 9, ”.

**10. Rule 54 amended**

Rule 54 is amended as follows:

- (a) by deleting “or”;
- (b) by inserting after “section 76(7)(a)” —  
“ or 103(6) ”.

**11. Part 9 replaced**

Part 9 is repealed and the following Part is inserted instead —

“

**Part 9 — *Criminal Investigation Act 2006* rules****56. Applications under *Criminal Investigation Act 2006* s. 151, how to be made**

- (1) An application under the *Criminal Investigation Act 2006* section 151(4) must be made by lodging a Form 10 and every seized record relating to the application.

- (2) The application must be lodged with —
  - (a) one or more affidavits that state the facts and circumstances on which it is based; and
  - (b) any records that are to be lodged with the application.
- (3) When a form and affidavits are lodged under this rule, 2 copies must be also be lodged.

**57. Registries where applications may be lodged**

- (1) In this rule —

“**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).
- (2) An application under rule 56 may be lodged at the nearest non-police registry to the place where the records were seized.

**58. Registrar’s functions when application is made**

On accepting a Form 10, 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 the 2 copies of the form and any affidavits to the applicant.

**59. Application must be served**

The applicant must serve a copy of the application and affidavits on every person entitled to possession of the records at least 5 clear days before the date listed for the hearing of the application.

”

## 12. Schedule 2 amended

After Schedule 2 Form 8 the following forms are inserted —

“

### 9. Application to set aside driving disqualification based on accumulation of points (r. 51A(1))

Road Traffic Act 1974 s. 103(6)		<b>Application to set aside driving disqualification based on accumulation of points</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Date of birth		
Details of disqualification	Notice No.		
	Date served		
	Date of disqualification (s. 103(4))		
Application	Under the <i>Road Traffic Act 1974</i> s. 103(6) I apply for an order setting aside the disqualification.		
Grounds for this application <sup>1</sup>			
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

Note to Form 9 —

1. Specify any alleged error in the number of points, or in the computation of the number of points, recorded against you.

**10. Application for decision on whether information in seized record is privileged (r. 56)**

<i>Criminal Investigation Act 2006</i>		<b>Application for decision on whether information in seized record is privileged</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
Person entitled to possession of the record	Full name		
	Address		
Application	The applicant applies for a decision on whether information in the seized record(s) set out below is privileged.		
Seized record(s) <sup>1</sup>			
Privilege claimed <sup>2</sup>			
Signature of applicant or lawyer	Applicant/Applicant's lawyer	Date	
Hearing details	This application will be heard — on <i>[date]</i> at <i>[time]</i> or as soon after as possible, at <i>[place]</i>		

Note to Form 10 —

1. Set out a description of the seized record or records.
2. Set out the basis or bases upon which the person entitled to possession of the record(s) claims that information in the record(s) is privileged and lodge the record(s) with this application.

”.

Dated: 23 July 2007.

STEVEN HEATH

Chief Magistrate

E. WOODS

Deputy Chief Magistrate

D. JONES

Magistrate

M. E. PONTIFEX

Magistrate