



Western Australia

Industrial Relations Act 1979

Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000

These regulations were repealed by the *Industrial Magistrates Courts (General Jurisdiction) Regulations 2005* as at 1 May 2005 (see *Gazette* 15 Apr 2005 p. 1273).

Ceased on 01 May 2005

Version 00-d0-09

Extract from www.slp.wa.gov.au, see that website for further information

Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000

Contents

Part 1 — Preliminary

1.	Citation	1
2.	Commencement	1
3.	Interpretation	1
4.	Application of the <i>Local Courts Act 1904</i>	3
5.	Chief stipendiary magistrate's directions	3
6.	Court directions	3
7.	Time	4
8.	Non-compliance does not invalidate proceeding	4
9.	Court where action is to be conducted	4
10.	Proceedings flow chart	5

Part 2 — Documents

11.	Filing a document	6
12.	Requirements for filed documents	6
13.	Service of a document on a natural person	6
14.	Service of a document on a public sector employing authority that is not a body corporate	7
15.	Service of a document on a body corporate	7
16.	Substituted service	8
17.	Amending a document	8
18.	Court fees relating to documents	9

Part 3 — Claims

19.	Making a claim (including a counterclaim or third party claim)	10
-----	---	----

Contents

20.	Time for making a counterclaim or third party claim	10
21.	Response to a claim	11
22.	Time for filing a response	11
23.	Consent to a final order in a response	11
24.	Person under a legal disability	12
Part 4 — Interlocutory applications		
25.	Making an interlocutory application	13
26.	If the party making the interlocutory application fails to appear	13
27.	If the party making the interlocutory application appears but another party fails to appear	13
28.	Orders made by a court hearing an interlocutory application	14
29.	Setting aside an order for default judgment or dismissal of a claim	14
Part 5 — Pre-trial conferences		
Division 1 — General		
30.	Listing a pre-trial conference	15
31.	Conduct of a pre-trial conference	15
32.	Status of things said or done at a pre-trial conference	15
33.	Failure to appear at a pre-trial conference	16
34.	Party to act by next friend or guardian in certain circumstances	16
35.	General duties and powers of the clerk at a pre-trial conference	17
36.	Directions for proceedings in complex or exceptional cases	17
37.	Review of a decision of the clerk	18
38.	Failure to comply with a direction or order	18
39.	Listing an action for trial	19
Division 2 — Proceedings in complex or exceptional cases		
40.	Interpretation	19
41.	Particulars	19
42.	Discovery and inspection of documents	20
43.	Inspection of property	21

44.	Interrogatories	21
45.	Notice to admit facts or documents	22
	Part 6 — Witness summonses	
46.	Witness summons	24
47.	Early compliance with requirement of a witness summons to produce evidentiary material	24
48.	Witness summons may be set aside	24
	Part 7 — Trials	
49.	Conduct of trial	26
50.	Failure of party to appear at trial	26
	Part 8 — Miscellaneous	
51.	Joinder	27
52.	Memorandum of consent	27
53.	Costs	27
54.	Pre-judgment interest	27
55.	Final orders suspended	28
56.	Enforcement of a final order for the payment of money other than under the <i>Workplace Agreements Act 1993</i>	29
57.	Repeal and savings	29
	Schedule 1 — Court fees relating to documents	
	Division 1 — Filing fees	
	Division 2 — Fees for obtaining documents	
	Appendix 1 — Proceedings flow chart	
	Notes	
	Compilation table	33

Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000*.

2. Commencement

These regulations come into operation on the 30th day after the day on which they are published in the *Gazette*.

3. Interpretation

In these regulations unless the contrary intention appears —

“**action**” means a claim and any related counterclaim, third party claim or interlocutory application;

“**approved**” means approved by the chief stipendiary magistrate;

“**claim**” means an application made under regulation 19 for a final order;

“**claimant**” means a person making a claim;

“**counterclaim**” means a claim made by a respondent against a claimant, relating to the claim against the respondent;

“**court**” means an industrial magistrate's court;

“final order” means an order that determines a substantive right or liability of a party to an action;

“general jurisdiction” has the same meaning as in section 81CA(1) of the Act;

“interlocutory application” means an application made under regulation 25 for an interim order under section 83E of the Act or order in relation to practice and procedure, default judgment or dismissal of a claim;

“memorandum of consent” means a memorandum under regulation 52;

“order” means an order of the court in its general jurisdiction;

“party”, in relation to an action, means a claimant, a respondent or a third party in or to the action;

“Perth court” means the industrial magistrate’s court at Perth;

“pre-trial conference” means a conference under Part 5;

“proceeding” means a step taken in an action;

“property” means real or personal property;

“respondent” means a person against whom a claim is made;

“response” means a response made under regulation 21 to a claim;

“third party” means a person against whom a third party claim is made;

“third party claim” means a claim made by a respondent against a person other than the claimant relating to the claim against the respondent;

“witness summons” means a summons issued under regulation 46 requiring a person to attend at a trial to give evidence or to produce evidentiary material.

[Regulation 3 amended in Gazette 26 July 2002 p. 3465.]

4. Application of the *Local Courts Act 1904*

The provisions of the *Local Courts Act 1904* set out in the Table to this regulation are prescribed for the purposes of section 81CA(2) of the Act as provisions that do not apply to a court when it is exercising its general jurisdiction.

Table

section 49	Part V	Part VIB
section 92	Part VI	Part VII
section 93	Part VIA	

5. Chief stipendiary magistrate's directions

- (1) The chief stipendiary magistrate may give directions as to the practice and procedure to be followed in proceedings generally, if—
 - (a) these regulations do not provide for the practice or procedure in the proceedings; and
 - (b) the *Local Courts Act 1904* does not provide for the practice or procedure in the proceedings, or provides for a practice or procedure that is inconsistent with these regulations.
- (2) The chief stipendiary magistrate may amend or revoke directions given under subregulation (1).
- (3) The court is to make available to the public directions given under subregulation (1).

6. Court directions

- (1) A court hearing an action may, of its own motion or on an interlocutory application by a party, give a direction on the practice and procedure in relation to a proceeding in the action if—
 - (a) these regulations do not provide for the practice or procedure in the proceeding;

r. 7

- (b) the *Local Courts Act 1904* does not provide for the practice or procedure in the proceeding or provides for a practice or procedure that is inconsistent with these regulations; and
- (c) no direction under regulation 5 in relation to a proceeding of that kind is in force.

- (2) A direction given under subregulation (1) is subject to review at any time by the court making the direction and such further directions may be given as the court thinks necessary or proper in the interests of justice.

7. Time

- (1) A court hearing an action may, of its own motion or on an interlocutory application by a party, extend or abridge the time specified in these regulations for the conduct of a proceeding on such terms as it thinks fit.
- (2) For the purposes of subregulation (1), a court may extend the time for the conduct of a proceeding even if the time has expired.

8. Non-compliance does not invalidate proceeding

A proceeding is not invalid by reason only of a failure to comply with the practice and procedure provided for in, or under, these regulations and a court may make orders on such terms it thinks just to remedy any defect caused by the failure to comply.

9. Court where action is to be conducted

- (1) An action is to be commenced in the Perth court.
- (2) Except as provided in this regulation, an action is to be conducted at a court chosen by the clerk after the filing of a response to the claim giving rise to the action.

- (3) The clerk is to choose a court by determining in which court the action can most conveniently and fairly be conducted.
- (4) The court may order that the action be transferred to another court if —
 - (a) a party makes an interlocutory application to transfer the action to the other court and the court is satisfied that the action could more conveniently or fairly be conducted in the other court; or
 - (b) the parties consent to the action being so transferred by filing a memorandum of consent to that effect.
- (5) If an action is transferred to another court —
 - (a) the clerk of the court from which the action is being transferred is to make arrangements for all the original documents relating to the action to be sent to the other court as soon as practicable after the transfer; and
 - (b) all subsequent documents that are filed in relation to the action are to be filed at the other court.

10. Proceedings flow chart

- (1) A flow chart of proceedings is set out in Appendix 1.
- (2) Appendix 1 is for information only and is not part of the regulations.

Part 2 — Documents

11. Filing a document

A document is filed in relation to an action when —

- (a) it has been lodged with the clerk of the relevant court by hand delivery, by pre-paid post or, where the clerk so approves, by electronic transmission;
- (b) any fee required under regulation 18 has been paid; and
- (c) the clerk has accepted the document for filing and stamped it with the court's stamp.

12. Requirements for filed documents

- (1) A document filed in relation to an action is to contain an address for service.
- (2) A document filed in relation to an action by a person representing the party is to contain the name, address and telephone number of the representative.
- (3) The clerk may refuse to accept a document for filing if it has not been lodged in accordance with regulation 11(a) or if it fails to comply with this regulation or any other provision of these regulations.
- (4) When the clerk approves of a document being lodged by electronic transmission, and the form of the document requires it to be signed by a particular person, the document is to be regarded as having been signed by that person if his or her name appears in the appropriate place on the document.

13. Service of a document on a natural person

- (1) Except as provided in regulation 14, a natural person may be served with a document in accordance with this regulation.
- (2) A document may be served by delivering it to the person personally.

- (3) Any document except a witness summons may be served —
- (a) if an address for service has been provided under regulation 12(1), by delivering it, or sending it by pre-paid post, to that address; or
 - (b) if no address for service has been provided under regulation 12(1) —
 - (i) by leaving it at the person's usual or last known place of residence with a person who, on reasonable grounds, is believed to be over the age of 16 years; or
 - (ii) if the person is the principal of a business, by leaving it at the person's usual or last known place of business with a person who, on reasonable grounds, is believed to be in charge of the business.

14. Service of a document on a public sector employing authority that is not a body corporate

An employing authority as defined in section 5 of the *Public Sector Management Act 1994* that is not a body corporate may be served with a document —

- (a) if an address for service has been provided under regulation 12(1), by delivering it, or sending it by pre-paid post, to that address; or
- (b) if no address for service has been provided under regulation 12(1), by delivering it, or sending it by pre-paid post to the office of the employing authority.

15. Service of a document on a body corporate

- (1) Except as provided in section 60 of the Act, a body corporate may be served with a document in accordance with this regulation.

r. 16

- (2) A document may be served by delivering it to a person who, on reasonable grounds, is believed to be a director, manager or secretary of the body corporate.
- (3) A document may be served —
 - (a) if an address for service has been provided under regulation 12(1), by delivering it, or sending it by pre-paid post, to that address; or
 - (b) if —
 - (i) no address for service has been provided under regulation 12(1); and
 - (ii) on a reasonable inquiry, a director, manager or secretary cannot be found,
by leaving it at the body's principal place of business or registered office in the State with a person who, on reasonable grounds, is believed to be over the age of 16 years and employed by the body corporate.

16. Substituted service

- (1) If the service of a document cannot be practicably effected a court may, on an interlocutory application by a party to the action, make an order for substituted service in such terms as the court thinks fit.
- (2) The court may hear an interlocutory application under subregulation (1) in the absence of another party.

17. Amending a document

- (1) A court may, on an interlocutory application by a party to an action, allow the party to amend a document filed in relation to the action at any time before the court makes its final orders in relation to the action.

- (2) A court may, of its own motion, amend any defect or error in a document filed in relation to an action at any time before the court makes its final orders in relation to the action.

18. Court fees relating to documents

- (1) A person who wishes to file a document in, or obtain a document from, the court is to pay the fee set out opposite the document in Schedule 1.
- (2) The clerk may, as the clerk thinks fit, waive the payment of a fee set out in Schedule 1 or accept payment of the fee in instalments.

Part 3 — Claims

19. Making a claim (including a counterclaim or third party claim)

- (1) A person may make an application to the court for a final order —
 - (a) by completing and filing 3 copies of the application, namely —
 - (i) a copy for the court;
 - (ii) a copy for the respondent to keep; and
 - (iii) a copy on which the respondent can endorse a response;
 - (b) by having the copies referred to in paragraph (a)(ii) and (iii) stamped with the court's stamp, and serving those copies on the respondent within 30 days, or, if in a particular case the clerk so approves, 60 days, of the filing of the application; and
 - (c) by having an affidavit of service completed, and filing the affidavit.
- (2) The copies of the application and the affidavit of service are to be in an approved form.

20. Time for making a counterclaim or third party claim

A person against whom a claim is made may make a claim that is a counterclaim or third party claim at any time, unless the clerk at a pre-trial conference has specified a time within which a counterclaim or third party claim may be made, in which case the counterclaim or third party claim must be made within that time.

21. Response to a claim

- (1) A person against whom a claim is made is to make a response to the claim —
 - (a) by completing a response on the copy of the application referred to in regulation 19(1)(a)(iii), and filing the response within the relevant time specified in regulation 22; and
 - (b) by serving a copy of the response, stamped with the court's stamp, on the claimant, within 14 days of the filing of the response.
- (2) If a person is served with a claim but the person does not make a response, the claimant may make an interlocutory application for default judgment in respect of the orders sought in the claim.

22. Time for filing a response

A person is to file a response —

- (a) if the person's address for service is less than 1 000 km from the Perth court, within 21 days of the service of the claim; and
- (b) if the person's address for service is more than 1 000 km from the Perth court, within 28 days of the service of the claim.

23. Consent to a final order in a response

- (1) A person may, in a response, consent to the court making a final order sought against that person in the claim to which the response relates.
- (2) The court may make a final order consented to under subregulation (1) without the need for an appearance by the parties before the court.

24. Person under a legal disability

Except as directed by the clerk under regulation 34(1), a person who is under the age of 18 or who has any other legal disability may make or respond to a claim in the person's own right.

Part 4 — Interlocutory applications

25. Making an interlocutory application

- (1) A party to an action may make an interlocutory application —
 - (a) by completing and filing the interlocutory application together with a supporting affidavit; and
 - (b) except when the interlocutory application may be heard in the absence of another party, by serving the interlocutory application and affidavit on every other party within 2 clear days of the hearing of the interlocutory application.
- (2) The interlocutory application and affidavit are to be in an approved form.

26. If the party making the interlocutory application fails to appear

If the party making the interlocutory application fails to appear at the hearing of an interlocutory application, the court may, as it thinks fit —

- (a) adjourn the interlocutory application to a fixed date; or
- (b) dismiss the interlocutory application.

27. If the party making the interlocutory application appears but another party fails to appear

- (1) This regulation applies if the party making the interlocutory application appears at the hearing of an interlocutory application but another party does not.
- (2) If the application —
 - (a) has been served on the party in accordance with regulation 25(1)(b); or
 - (b) is of a kind that may be heard in the absence of the other party (whether or not it has been served),

the court may hear and determine the interlocutory application in the absence of that party.

- (3) If the application —
- (a) has not been served on the party in accordance with regulation 25(1)(b); and
 - (b) is not of a kind that may be heard in the absence of the other party,

the court is to adjourn the hearing of the interlocutory application to a fixed date to allow for that service.

28. Orders made by a court hearing an interlocutory application

In addition to any power in the Act or in these regulations to make an order in relation to the action, a court hearing an interlocutory application may, if it thinks fit —

- (a) adjourn the interlocutory application to a fixed date;
- (b) dismiss the interlocutory application; or
- (c) make an order that takes effect in circumstances specified in the order.

29. Setting aside an order for default judgment or dismissal of a claim

- (1) When a court hearing an interlocutory application makes an order for default judgment or for the dismissal of a claim a party to the action may, within 14 days, make an interlocutory application for the order to be set aside.
- (2) A court hearing an application under subregulation (1) for an order to be set aside may, on such terms as the court thinks fit, set aside the order if there are good reasons for doing so.
- (3) When a court sets aside the order the clerk is to list the action for a pre-trial conference.

Part 5 — Pre-trial conferences

Division 1 — General

30. Listing a pre-trial conference

- (1) If a final order sought in a claim is not consented to in a response, the clerk is to list the action for a pre-trial conference as soon as is practicable.
- (2) At or after a pre-trial conference the clerk may, of the clerk's own motion or on an application by a party to the action, list the action for a further pre-trial conference.
- (3) When the clerk lists an action for a pre-trial conference, the clerk is to give written notice of the pre-trial conference to each party by pre-paid post.

31. Conduct of a pre-trial conference

- (1) A pre-trial conference is to be conducted before the clerk, in private and at any time or place the court thinks fit.
- (2) Unless the clerk directs otherwise, a party must appear at a pre-trial conference in person or, in the case of a body corporate, by an authorised representative, regardless of whether or not the party's agent or legal practitioner also appears.

32. Status of things said or done at a pre-trial conference

- (1) Anything said or done during a pre-trial conference is not to be used as evidence or referred to in a submission in the trial of the action or in any other legal proceeding as defined in section 3 of the *Evidence Act 1906*.
- (2) Nothing in subregulation (1) prevents evidence of anything said or done at a pre-trial conference from being used —
 - (a) in support of an interlocutory application for default judgment or for the dismissal of a claim; or

- (b) on the trial of a person for an offence committed at the pre-trial conference.

33. Failure to appear at a pre-trial conference

- (1) If a party to an action is given notice of a pre-trial conference but fails to appear at the conference, the clerk may, of the clerk's own motion or on an oral application by a party at the pre-trial conference, list the action before the court.
- (2) Subregulation (1) does not apply if the clerk has directed that the party is not required to appear at the pre-trial conference.
- (3) If the clerk lists an action before the court under subregulation (1) the clerk is to give written notice of the listing to each party by pre-paid post.
- (4) A court before which an action is listed under subregulation (1) may make the same orders as a court hearing an interlocutory application for default judgment or for the dismissal of a claim, as the case requires, and regardless of whether or not any party attends the court on the listing.

34. Party to act by next friend or guardian in certain circumstances

- (1) Except as provided in subregulation (2), if the clerk at a pre-trial conference is of the opinion that a party is not competent to make or respond to a claim in the party's own right, the clerk is to direct that the party is to make or respond to the claim by a next friend or guardian appointed by the party for that purpose.
- (2) The clerk is not to make the direction unless the proposed next friend or guardian —
 - (a) has been informed of his or her liability under subregulation (3); and
 - (b) has agreed to act in that capacity.

- (3) The next friend or guardian is liable to pay any costs ordered by the court to be paid by the party referred to in subregulation (1).

35. General duties and powers of the clerk at a pre-trial conference

- (1) The clerk at a pre-trial conference is to —
- (a) explain to an unrepresented party the practice and procedure of the court and direct the party to any information that may assist the party made available by the department principally assisting the Minister in the administration of the Act;
 - (b) assist the parties in any attempt to settle the action; and
 - (c) specify a time (being the soonest practicable time) within which any counterclaim or third party claim may be made.
- (2) The clerk at a pre-trial conference may direct the parties to file and serve on each other —
- (a) outlines of the parties' respective cases in an approved form;
 - (b) copies of the statements of any witnesses who the parties intend to call at trial; or
 - (c) copies of any documents that the parties intend to use in evidence at trial.

36. Directions for proceedings in complex or exceptional cases

- (1) The clerk at a pre-trial conference may, of the clerk's own motion or on an application by a party, direct a party to provide, within a time specified by the clerk —
- (a) particulars, or further and better particulars of a claim or response in accordance with regulation 41;
 - (b) for the discovery or inspection, or further and better discovery or inspection, of a particular class of

documents nominated by the party seeking the discovery or inspection in accordance with regulation 42;

- (c) for the inspection or further and better inspection of property in accordance with regulation 43;
 - (d) answers, or further and better answers, to interrogatories in accordance with regulation 44; or
 - (e) a reply to a notice to admit facts in accordance with regulation 45.
- (2) The clerk may give a direction under subregulation (1) if the clerk is satisfied that, given the complexity or the exceptional nature of the action, the direction is necessary for the just hearing and determination of the action.

37. Review of a decision of the clerk

- (1) If a party objects to a decision of the clerk under this Part the party may, within 5 days (excluding Saturday and Sunday), make an interlocutory application for a review of the decision.
- (2) The court may hear an interlocutory application under subregulation (1) in the absence of another party.
- (3) A court hearing an interlocutory application under subregulation (1) may affirm, vary or set aside the decision as the court considers necessary for the just and expeditious hearing and determination of the action.

38. Failure to comply with a direction or order

- (1) If a party fails to comply with a direction of the clerk or an order of the court under this Part the clerk may, of the clerk's own motion or on an application by a party, list the action before the court.
- (2) When the clerk lists an action before the court under subregulation (1) the clerk is to give written notice of the listing to each party by pre-paid post.

- (3) A court before which an action is listed under subregulation (1) may make the same orders as a court hearing an interlocutory application for default judgment or for the dismissal of a claim, as the case requires, and regardless of whether or not any party attends the listing.
- (4) This regulation does not apply to a direction to provide a reply to a notice to admit facts under regulation 36(1)(e).

39. Listing an action for trial

- (1) The clerk at a pre-trial conference may, after consultation with the parties, list the action for trial if —
 - (a) the action has not been settled at the pre-trial conference;
 - (b) the clerk is of the opinion that the action will not be settled at a further pre-trial conference; and
 - (c) there are no further proceedings to be conducted before the trial.
- (2) If the clerk lists an action for trial the clerk is to give written notice of the trial to each party by pre-paid post.

Division 2 — Proceedings in complex or exceptional cases

40. Interpretation

In this Division —

“document” includes any electronic or mechanical means by which data or information is stored or recorded.

41. Particulars

- (1) In the case of particulars, or further and better particulars, of a claim, a direction under 36(1)(a) may require a party —
 - (a) to set out in an approved form the relevant facts the party relies on to establish the claim; and

- (b) to file and serve the particulars within the time specified by the clerk.
- (2) In the case of a response to particulars, or further and better particulars, of a claim, a direction under 36(1)(a) may require a party —
 - (a) to set out in an approved form —
 - (i) whether the party admits, does not admit or denies each of the particulars; and
 - (ii) if a particular is denied, what the party claims to be the relevant facts in relation to that particular;
 - and
 - (b) to file and serve the response to particulars within the time specified by the clerk.

42. Discovery and inspection of documents

- (1) A direction under 36(1)(b) may require a party to —
 - (a) prepare a list of discoverable documents in an approved form;
 - (b) file and serve the list of documents within the time specified by the clerk; and
 - (c) make the documents specified in the list available for inspection and copying.
- (2) A direction under 36(1)(b) may require a party to provide discovery on oath.
- (3) A document in the possession, custody or power of the party is not to be used by the party as evidence in the trial of the action if it is not disclosed —
 - (a) in the list of documents; or
 - (b) otherwise before the listing of the action for trial.

- (4) Despite subregulation (3), the court may, on an interlocutory application by the party or on an oral application by the party at the trial, order that the document be used as evidence.

43. Inspection of property

A direction under 36(1)(c) may require a party to make property available for —

- (a) inspection, whether during a particular process or not;
- (b) the taking of measurements or samples;
- (c) the conducting of experiments; and
- (d) the filming, videotaping or taking of photographs.

44. Interrogatories

- (1) For the purposes of a direction under regulation 36(1)(d), a party is to be regarded as having issued interrogatories to another party if the party has —
- (a) prepared the interrogatories in an approved form;
 - (b) filed the interrogatories within the time specified by the clerk; and
 - (c) served the interrogatories within the time specified by the clerk on the party to whom the interrogatories are addressed.
- (2) Except as provided in subregulation (3), a direction under regulation 36(1)(d) may require a party to —
- (a) set out in numbered paragraphs, in an approved form and on oath, the answers to each of the interrogatories;
 - (b) file the answers within the time specified by the clerk; and
 - (c) serve the answers within the time specified by the clerk on the interrogating party.

- (3) A court is not to make an order for default judgment or for the dismissal of a claim in relation to a failure to answer an interrogatory if the interrogatory is —
- (a) not issued in accordance with subregulation (1);
 - (b) irrelevant;
 - (c) scandalous or indecent;
 - (d) vexatious or oppressive;
 - (e) not genuinely required for the purpose of prosecuting or defending the action; or
 - (f) not sufficiently material at that stage.

45. Notice to admit facts or documents

- (1) For the purposes of a direction under regulation 36(1)(e), a party is to be regarded as having issued a notice to admit facts or documents to another party if the party has —
- (a) prepared a notice in an approved form, setting out, in numbered paragraphs, the facts or documents which the party to whom the notice is addressed may admit;
 - (b) filed the notice within the time specified by the clerk; and
 - (c) served the notice within the time specified by the clerk on the party to whom the notice is addressed.
- (2) A direction under regulation 36(1)(e) may require a party to —
- (a) set out, in numbered paragraphs and in an approved form, the facts or documents admitted, not admitted or denied by the party replying to the notice;
 - (b) file the reply within the time specified by the clerk; and
 - (c) serve the reply within the time specified by the clerk on the party issuing the notice.
- (3) If a party fails to respond to a notice to admit a particular fact in accordance with subregulation (2), the fact or document is taken

to be admitted unless, on an interlocutory application or an oral application at the trial, the court orders otherwise.

Part 6 — Witness summonses

46. Witness summons

- (1) A party to an action that has been listed for trial may apply to the clerk to issue a summons requiring a person to attend at the trial to give evidence or to produce evidentiary material as specified in the summons, and on such application the clerk is to issue the summons.
- (2) An application under subregulation (1) is to be made by filing a summons in an approved form.
- (3) A person is summoned under this regulation when the person is served with the copy of the witness summons stamped with the court's stamp.

47. Early compliance with requirement of a witness summons to produce evidentiary material

A person served with a witness summons requiring the person to attend at the trial to produce evidentiary material (but not to give oral evidence) may comply with the summons by giving the material, a written list describing the material and a copy of the summons to the clerk at least 2 days before the date when the summons requires the material to be produced.

48. Witness summons may be set aside

- (1) A person summoned to give evidence or to produce evidentiary material at a trial may make an interlocutory application to set aside the summons, and in that case Part 4 applies as if the person were a party to the action in question.

- (2) The court may, of its own motion or on an interlocutory application under subregulation (1), set aside the summons if it is satisfied that —
- (a) the person does not have either evidence to give or evidentiary material to produce that is relevant to the action;
 - (b) the person can not be lawfully compelled to give any evidence or produce any evidentiary material to the court; or
 - (c) there are other good reasons for doing so.

Part 7 — Trials

49. Conduct of trial

- (1) A trial is to be conducted in public unless the court is of the opinion that the interests of justice will be better served by conducting the trial in private.
- (2) A court may hear a trial at any time or place the court thinks fit.
- (3) A court hearing a trial may adjourn the trial to a fixed date as the court thinks fit.
- (4) Unless the court directs otherwise, a party must appear at a trial in person or, in the case of a body corporate, by an authorised representative, regardless of whether or not the party's agent or legal practitioner also appears.
- (5) Except as provided in these regulations, a court hearing a trial is not bound by the rules of evidence and may inform itself on any matter and in any manner as it thinks fit.

50. Failure of party to appear at trial

- (1) If a party is given notice of a trial but fails to appear at the trial the court may, as it thinks fit, dismiss a claim made by the party or make a final order sought in a claim against the party.
- (2) Subregulation (1) does not apply if the court has directed that the party is not required to appear at the trial.

Part 8 — Miscellaneous

51. Joinder

- (1) If in 2 or more actions a common question of law or fact arises and the actions relate to or arise out of the same act or series of acts a court may, of its own motion or on an interlocutory application by a party to one of the actions, join those actions.
- (2) A court may, of its own motion or on an interlocutory application by a party, join a person as a respondent in an action.

52. Memorandum of consent

- (1) The parties to an action may consent to the court making an order by filing a memorandum to that effect in an approved form, signed by each party to the action.
- (2) The court may make an order consented to under subregulation (1) without the need for an appearance by the parties before the court.

53. Costs

In an action other than an action under section 77 or 83 of the Act, costs are not to be given to a party unless, in the opinion of the court, the action has been frivolously or vexatiously instituted or defended, as the case requires, by another party.

54. Pre-judgment interest

- (1) Except as provided in this regulation, if a court orders a party to pay a sum of money, the court may order the party to pay interest on the sum —
 - (a) at the yearly rate for judgment debts set out in the notice published under section 142 of the *Supreme Court Act 1935* and applicable to the period from the date

when the cause of action arose to the date when the final order is made; and

- (b) on the whole or any part of the money for the whole or any part of the period from the date when the cause of action arose to the date when the final order is made.
- (2) When a court orders a party to pay the total of the amounts that another party was entitled to be paid on different dates, the court may order interest to be paid on the total and if it does so it is to calculate the interest as follows —
- (a) find the date midway between the date the first amount was to be paid and the date the last amount was to be paid;
 - (b) calculate the number of days between the midway date under paragraph (a) and the date when the final order is made, then divide that number by 365;
 - (c) multiply the number under paragraph (b) (rounded to 2 decimal places) by 0.15;
 - (d) multiply the number under paragraph (c) by the total of the amounts ordered to be paid.
- (3) This regulation does not authorise the ordering of interest to be paid on costs or any penalty other than a deemed penalty under section 83A of the Act.
- (4) Unless good cause is shown to the contrary, if a court orders a party to pay a sum of money under section 83A of the Act, the court is to order the party to pay interest on the sum, at such rate as it thinks fit, from the date when the cause of action arose to the date when the final order is made.
- (5) An order to pay interest under subregulation (4) may be expressed as an order to pay a lump sum.

[Regulation 54 amended in Gazette 26 July 2002 p. 3465-6.]

55. Final orders suspended

A final order is suspended —

- (a) until 21 days after the making of the order; or
- (b) if an appeal is lodged with the Full Bench and the Full Bench has not ordered otherwise, until that appeal is heard and determined.

56. Enforcement of a final order for the payment of money other than under the *Workplace Agreements Act 1993*

- (1) This regulation applies when a court makes a final order for a person to pay a sum of money.
- (2) A party to the action in which the order was made may, either orally or in writing, apply to the clerk for a certified copy of a final order.
- (3) When a party makes an application under subregulation (2), the clerk is to ensure that a certified copy of the final order is issued to the party.
- (4) A party to the action in which the order was made may, after the period that the order is suspended under regulation 55 —
 - (a) lodge a certified copy of the final order with the Local Court in accordance with the rules of that court; and
 - (b) recover the sum of money as a judgment debt in the Local Court as if the final order were a judgment of that court.

[Regulation 56 amended in Gazette 15 Aug 2003 p. 3685.]

57. Repeal and savings

- (1) The *Industrial Relations (Industrial Magistrates Courts) Regulations 1980* are repealed.
- (2) Subject to subregulation (3), a legal proceeding under the repealed regulations subsisting immediately before the commencement day may be continued as if the repealed regulations had not been repealed.

- (3) An order determining a substantive right or liability of a party to a legal proceeding under the repealed regulations is enforceable as if it were a final order under these regulations, whether the order was made before or after the commencement day.
- (4) In this regulation —
- “commencement day”** means the day on which these regulations come into operation;
- “legal proceeding”** has the same meaning as in section 3 of the *Evidence Act 1906*;
- “repealed regulations”** means the regulations repealed by subregulation (1).

Schedule 1 — Court fees relating to documents

[r. 18]

Division 1 — Filing fees

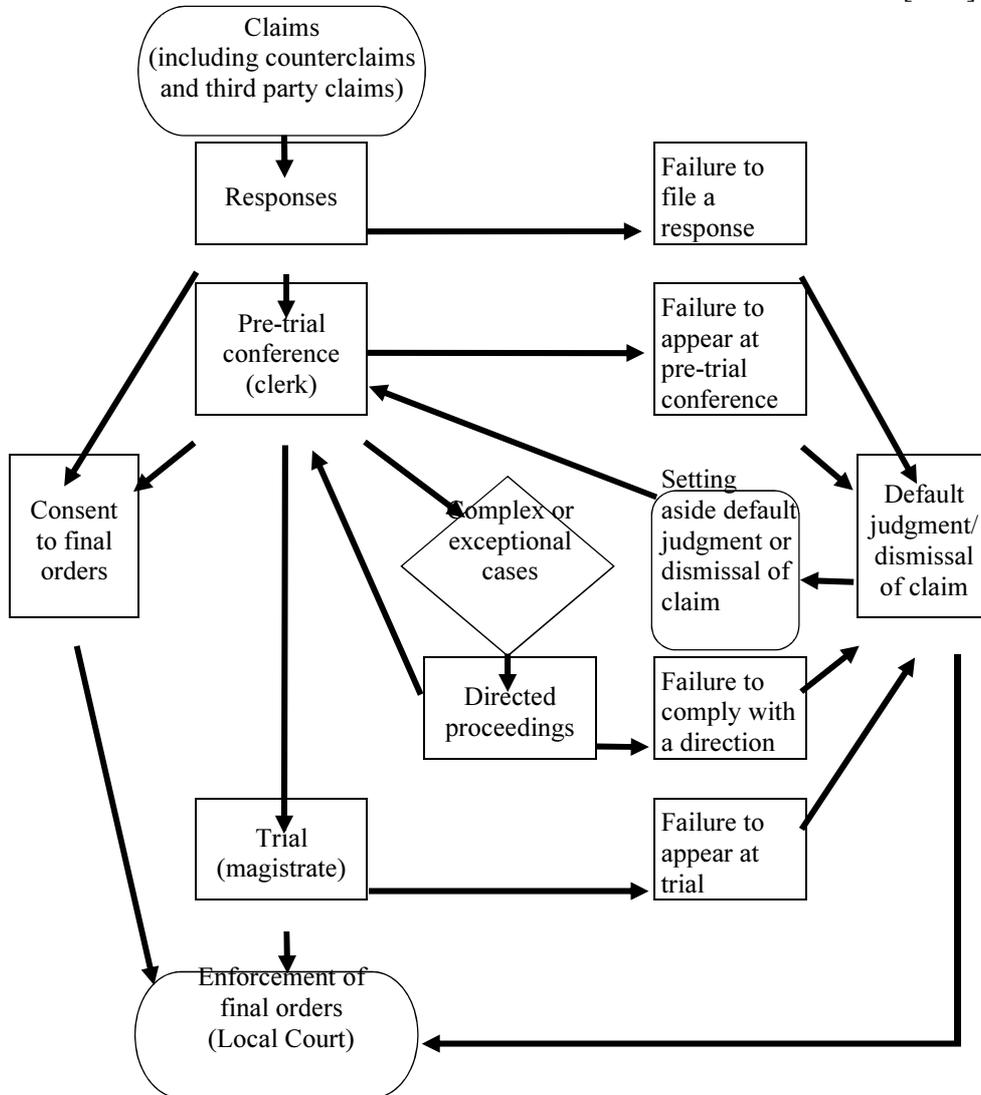
Document	Fee
Claim	\$40.00
Interlocutory application	\$10.00
Witness summons	\$6.00
Any other document	\$5.00

Division 2 — Fees for obtaining documents

Document	Fee
Photocopy of a document	\$1.00 per page
Transcript of a hearing	\$4.00 for the first page and \$1.00 per subsequent page, subject to a minimum of \$13.00 per transcript

Appendix 1 — Proceedings flow chart

[r. 10]



Notes

- ¹ This is a compilation of the *Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000* and includes the amendments referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Industrial Magistrates' Courts (General Jurisdiction) Regulations 2000</i>	19 Dec 2000 p. 7309-44	18 Jan 2001 (see r. 2)
<i>Industrial Magistrates' Courts (General Jurisdiction) Amendment Regulations 2002</i>	26 Jul 2002 p. 3465-6	1 Aug 2002 (see r. 2 and <i>Gazette</i> 26 Jul 2002 p. 3459)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003 r. 3</i>	15 Aug 2003 p. 3685-92	15 Sep 2003 (see r. 2)

These regulations were repealed by the *Industrial Magistrates Courts (General Jurisdiction) Regulations 2005* as at 1 May 2005 (see *Gazette* 15 Apr 2005 p. 1273)

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
action	3
approved	3
claim	3
claimant.....	3
commencement day	57(4)
counterclaim	3
court	3
document.....	40
final order.....	3
general jurisdiction	3
interlocutory application	3
legal proceeding.....	57(4)
memorandum of consent.....	3
order.....	3
party	3
Perth court.....	3
pre-trial conference	3
proceeding.....	3
property	3
repealed regulations	57(4)
respondent.....	3
response	3
third party.....	3
third party claim.....	3
witness summons	3