

JM301*

**DISTRICT COURT OF WESTERN AUSTRALIA ACT 1969
DISTRICT COURT AMENDMENT RULES 2000**

Made by the Judges of the District Court of Western Australia.

1. Citation

These rules may be cited as the *District Court Amendment Rules 2000*.

2. Commencement

These rules come into operation on the day on which they are published in the *Government Gazette*.

3. Principal Rules

In these Rules the *District Court Rules 1996* (published in *Government Gazette*, 7 March 1996) and as amended are referred to as the principal rules.

4. Amendment of Order 1 Rule 5(a)

Delete the present subrule 5(a) and substitute:

“The Court may vary the timetable for an action at any time by consent or at any interlocutory hearing or conference in the event that it appears, having regard to the nature of the particular case, or for any other good cause, that the time allowed by the timetable should be varied.

5. Insertion of new Order 1A as follows:**"Facsimile lodgement and service of certain documents:**

1. (a) In addition to other prescribed modes of filing or lodgement, a document that is required to be filed or lodged in the Registry may be sent by facsimile in accordance with Rule 2.
 - (b) A document that is more than 20 pages long (including any annexure or exhibit) may not be sent by facsimile transmission.
 - (c) Where a document is sought to be filed or lodged in an existing proceeding it must be sent to an approved facsimile number for the Registry which is the proper place for the proceeding.
2. A document sent to a Registry by facsimile transmission must be:
 - (a) sent to an approved facsimile number for the Registry; and
 - (b) accompanied by a cover sheet stating:
 - (i) the sender's name, postal address, document exchange number (if any), telephone number and facsimile number;
 - (ii) the number of pages transmitted including the cover sheet;
 - (iii) what action is required of Registry Staff in relation to the document.
3. A document sent by facsimile transmission is taken to have been filed:
 - (a) if the whole document is received by 4.00 p.m. on the day when the Registry is open for business—on that day; and
 - (b) otherwise—on the next day when the Registry is open for business.
4. The Principal Registrar must approve one facsimile number for each Registry of the Court for the purpose of receiving documents.
5. (a) A person who sends a document to a Registry by facsimile transmission must:
 - (i) keep the original document and the transmission report evidencing successful transmission; and
 - (ii) produce the original document and transmission report as directed by the court.
- (b) If the Court directs that the original document be produced, the first page of the original document must be endorsed with:
 - (i) a statement that the document is the original of a document sent by facsimile transmission; and,
 - (ii) the date the document was sent by facsimile transmission.
6. In addition to other prescribed modes of service a document, other than a document that is required to be served personally, may be served by facsimile transmission in accordance with Rule 7.
7. Where personal service of a document is not required, the document may be served by facsimile transmission directed to the facsimile transmission number operated at or in connection with, the address for service.
8. The time for service of any document shall, where the copy of the document is sent by facsimile transmission in accordance with Rule 7, be one day after the copy is transmitted excluding Saturdays, Sundays and Public Holidays.

6. Amendment of Order 5 Rule 1:

- In subrule (1) delete "schedules" and substitute "a single schedule".
- In subrule (2) delete "schedules" and substitute "schedule".

7. Amendment of Order 6 Rule 11:

- Renumber the existing subrules (3) and (4) as (4) and (5) respectively.
- Insert a new subrule (3) as follows:
 - (a) This subrule applies to actions in the Perth Registry;
 - (b) Within 30 days of an appeal being commenced pursuant to this rule the appellant shall request the court to list the appeal before a Registrar for a directions hearing and the provisions of O 8 R 18 shall apply *mutatis mutandis* to that hearing;
 - (c) The appellant shall give not less than 7 days notice of the date fixed for the directions hearing to each other party to the appeal;
 - (d) In the event the appellant does not comply with (a) above then any other party to the appeal may:
 - (i) apply to strike out the appeal; or
 - (ii) request the court to list the appeal for directions."

8. Amendment of Order 8 Rule 18:

Delete the present Rule 18 and substitute the following:

- "18. (1) This rule applies to appeals in the Perth Registry.

- (2) Upon an appeal being entered for hearing it shall be listed for directions before a Registrar who shall have the power to make such directions as are necessary or desirable for the efficient conduct of the appeal including:
- (a) granting leave to amend the grounds of appeal or cross appeal;
 - (b) varying the time fixed by these rules for the doing of any act or filing of any document;
 - (c) directing the manner in which the material necessary to determine the appeal shall be presented including ordering the filing of appeal books;
 - (d) fixing time limits to undertake steps in the appeal including interlocutory applications for leave to adduce fresh evidence and any matter referred to under Rule 21;
 - (e) fixing the date, time and duration of the hearing.
- (3) The party entering an appeal for hearing shall give not less than 7 days notice of the date fixed for the directions hearing to all other parties to the appeal."

Dated this 21st Day of June 2000.

DISTRICT COURT AMENDMENT RULES 2000

Judges' signatures—

K. J. HAMMOND.
A. KENNEDY.
P. J. HEALY.
H. H. JACKSON.
R. J. VIOL.
P. J. WILLIAMS.
D. D. CHARTERS.
P. D. BLAXELL.
L. A. JACKSON.
M. G. MULLER.
M. A. YEATS.
M. D. F. O'SULLIVAN.
R. A. MACKNAY.
V. J. FRENCH.
A. D. FENBURY.
H. J. WISBEY.
S. M. DEANE.
P. M. NISBET.
W. G. GROVES.
C. J. O'BRIEN.