

JU302*

Magistrates Court (Civil Proceedings) Act 2004

Magistrates Court (Minor Cases Procedure) Amendment Rules 2013

Made by the Magistrates Court.

1. Citation

These rules are the *Magistrates Court (Minor Cases Procedure) Amendment Rules 2013*.

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. Rules amended

These rules amend the *Magistrates Court (Minor Cases Procedure) Rules 2005*.

4. Part 10A inserted

After rule 44 insert:

Part 10A — Inactive Cases

45A. Term used: Inactive Cases List

In this Part —

Inactive Cases List means the list kept by the Principal Registrar under rule 45B(4).

45B. When your case becomes inactive

- (1) If neither you nor any other party to your case has taken any procedural step for 12 months your case becomes an inactive case, unless the Court orders otherwise.
- (2) A magistrate or registrar who makes an order or direction in relation to your case may direct that, unless the order or direction is complied with by a stated date, your case becomes an inactive case on that date.
- (3) Unless it is cancelled by a magistrate or registrar before it takes effect, a direction made under subrule (2) takes effect according to its terms.

- (4) The Principal Registrar is to keep a list of inactive cases.

45C. Notification of inactive cases

- (1) If your case becomes an inactive case, the Principal Registrar is —
 - (a) to put the case on the Inactive Cases List; and
 - (b) to give you and all other parties to the case written notice of —
 - (i) the fact that the case is on the Inactive Cases List and why; and
 - (ii) the effect of rule 45D.
- (2) If an agent representing a party to a case receives a notice under subrule (1), the agent is to notify the party as soon as practicable of —
 - (a) the fact that the case is on the Inactive Cases List and why; and
 - (b) the effect of rule 45D.

45D. Consequences of your case being on Inactive Cases List

So long as your case is on the Inactive Cases List, the only documents that you may lodge with the Court in relation to the case are —

- (a) an application for an order under rule 45E; or
- (b) a notice of discontinuance under rule 76; or
- (c) a memorandum of consent under rule 33 to an order or judgment that would settle or conclude the case.

45E. Removing your case from Inactive Cases List

- (1) If your case is on the Inactive Cases List, you may apply to the Court to order your case to be taken off the Inactive Cases List.
- (2) The Court may order your case to be taken off the Inactive Cases List —
 - (a) if it is satisfied that the case will be conducted in a timely way; or
 - (b) for any other good reason.
- (3) When the Court orders your case to be taken off the Inactive Cases List, it may make further orders for the conduct of the case in a timely way.

45F. Dismissal of inactive cases

- (1) If your case remains on the Inactive Cases List for 6 continuous months, it is taken to be dismissed.
- (2) If the Court orders your case to be taken off the Inactive Cases List and neither you nor any other party to the case takes any procedural step in the case in the 6 months after the date of the order, your case is taken to be dismissed.
- (3) If your case is taken to be dismissed under subrule (1) or (2), the Principal Registrar is to —
 - (a) give you and all other parties to the case written notice of the dismissal; and
 - (b) if it has not already been taken off — take the case off the Inactive Cases List.
- (4) If your case is taken to be dismissed under subrule (1) or (2) —
 - (a) you or any other party to the case may apply for an order for costs; and
 - (b) the Court may make an order for costs.

5. Rule 58 amended

- (1) In rule 58:
 - (a) in paragraph (a) delete “with his” and insert:
to his
 - (b) in paragraph (d) delete “person’s” and insert:
individual’s
 - (c) in paragraph (e) delete “person.” and insert:
individual.
 - (d) after each of paragraphs (a) to (c) insert:
or

Dated: 6 December 2013.

Magistrates’ signatures:

S. A. HEATH, Chief Magistrate.
E. A. WOODS, Deputy Chief Magistrate.
M. D. WHEELER, Magistrate.
R. G. BAYLY, Magistrate.