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DISTRICT COURT OF WESTERN AUSTRALIA ACT 1969



DISTRICT COURT AMENDMENT RULES 2013

District Court of Western Australia Act 1969

District Court Amendment Rules 2013

Made by the Judges of the District Court.

1. Citation

These rules are the *District Court 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 19 August 2013.

3. Rules amended

These rules amend the *District Court Rules 2005*.

4. Rule 3 amended

In rule 3 insert in alphabetical order:

health professional has the meaning given in the *Civil Liability Act 2002* section 5PA;

5. Rule 6 amended

In rule 6(2)(bb) delete “rules;” and insert:

rules; and

District Court Amendment Rules 2013**r. 6**

6. Rules 22A to 22C inserted

At the beginning of Part 3 Division 4 insert:

22A. RSC Order 12 rule 2 modified: form of memorandum of appearance

- (1) The RSC Order 12 rule 2 applies, subject to this rule.
- (2) A memorandum of appearance filed in the Court must be in the form of Form 1AA.

22B. Form of notice of change of address for service or change of solicitors

- (1) The RSC Orders 8 and 71A apply, subject to this rule.
- (2) A notice given under the RSC Order 8 or Order 71A rule 5 must be in the form of Form 1AB.

22C. Party may not be required to state geographical address

- (1) The Court may, on the application of the party or on its own initiative, order that a party is not required to state his or her geographical address in a document required to be served under the RSC or these rules.
- (2) The Court must not make an order under subrule (1) in relation to a party unless the party —
 - (a) is an individual; and
 - (b) has provided his or her geographical address to the Court on a confidential basis; and
 - (c) is represented by a practitioner.

District Court Amendment Rules 2013

r. 7

- (3) The Court may, on the application of any party or on its own initiative —
- (a) amend or cancel an order made under subrule (1); or
 - (b) order that the party's geographical address be given to another party.

7. Rule 30 deleted

Delete rule 30.

8. Rule 32 amended

- (1) Delete rule 32(1)(c).
- (2) In rule 32(2)(a):
 - (a) delete paragraph (a);
 - (b) in paragraph (b) delete “other”.

9. Rule 37 amended

Delete rule 37(1) and insert:

- (1) Unless otherwise ordered, the plaintiff must enter the case for trial within 120 days after the date on which a defence (or if there is more than one defendant, the first defence) is filed.

10. Rule 38 amended

- (1) In rule 38(1) delete “on or before the date for entry for trial in the timetable applicable to the case,” and insert:

in accordance with rule 37(1),

District Court Amendment Rules 2013**r. 11**

(2) Delete rule 38(2) and insert:

(2) After receiving a Form 2 —

- (a) the plaintiff must, on or before the date specified in the form (which must be at least 14 days after the date of the form), enter the case for trial; and
- (b) a party, other than the plaintiff, may enter the case for trial even if the case is taken to be inactive under rule 44 or 44A.

(3) In rule 38(5) delete “rule 44(2)” and insert:

rule 44

(4) In rule 38(6) delete “complying with rule 44(1).” and insert:

entering the case for trial notwithstanding that the case is inactive under rule 44.

11. Rule 44 replaced

Delete rule 44 and insert:

44. Effect of non-compliance with Notice of Default

If a plaintiff does not comply with rule 38(2)(a), the case is taken to be inactive.

District Court Amendment Rules 2013

r. 12**12. Rule 44D amended**

In rule 44D(1) delete “rule 44(2)” and insert:

rule 44

13. Rule 44E amended

Before rule 44E(a) insert:

(aa) a Form 1AA (Memorandum of appearance);

14. Part 5BA inserted

After rule 48 insert:

Part 5BA — Subpoenas**48AA. RSC Order 36B rules 1 and 2 modified: subpoena must not require both attendance and production**

- (1) The RSC Order 36B rule 1(1) applies as if, in the definition of *subpoena*, paragraph (c) were deleted.
- (2) The RSC Order 36B rule 2(1) applies as if paragraph (c) were deleted.
- (3) This rule does not apply to a subpoena for which leave to serve the subpoena in New Zealand is to be sought pursuant to the RSC Order 39A.

48AB. RSC Order 36B rule 3 modified: form of subpoena

- (1) The RSC Order 36B rule 3(1) applies, subject to this rule.

District Court Amendment Rules 2013**r. 14**

- (2) A subpoena to attend to give evidence must —
 - (a) be in the form of Form 4A; and
 - (b) have attached to it a notice in the form of Form 4B.
- (3) A subpoena to produce must be in the form of Form 4C.
- (4) This rule does not apply to a subpoena for which leave to serve the subpoena in New Zealand is to be sought pursuant to the RSC Order 39A.

48AC. RSC Order 36B rule 3A modified: notice must be filed and served on all parties

- (1) The RSC Order 36B rule 3A applies, subject to this rule.
- (2) An issuing party must, as soon as practicable after giving a notice under the RSC Order 36B rule 3A(1) to the addressee —
 - (a) file a copy of the notice; and
 - (b) serve a copy of the notice on each other party.

48AD. RSC Order 36B rule 6 modified: producing copy of document on CD-ROM or DVD

The RSC Order 36B rule 6(7) applies as if the reference to CD-ROM were amended to CD-ROM or DVD.

48AE. Subpoenas to produce not addressed to health professionals

- (1) This rule applies to a subpoena to produce other than a subpoena to which rule 48AF applies.

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r. 14

- (2) Unless the Court otherwise directs under the RSC Order 36B rule 8, a document produced in response to a subpoena may —
 - (a) be inspected by a party; and
 - (b) with the approval of a registrar, be copied by a party.

48AF. Subpoenas to produce addressed to health professionals

- (1) This rule applies to a subpoena to produce —
 - (a) issued in a personal injuries action; and
 - (b) addressed to a health professional, a hospital, or a person that manages the records of a health professional.
- (2) Unless the Court otherwise directs under the RSC Order 36B rule 8, a document produced in response to a subpoena may —
 - (a) be inspected and copied by the plaintiff; and
 - (b) after 7 days from the date for production specified in the subpoena, be inspected and, with the approval of a registrar, copied by each other party.

48AG. RSC Order 36B rule 10 modified: disposal of documents and things produced

- (1) The RSC Order 36B rule 10 applies subject to —
 - (a) this rule; and
 - (b) the RSC Order 34 rule 14.
- (2) The RSC Order 36B rule 10 applies as if subrule (3) were replaced by subrule (3) of this rule.

District Court Amendment Rules 2013**r. 15**

- (3) The issuing party must attach to the front of a subpoena to produce to be served on the addressee —
 - (a) if the action is a personal injuries action and the addressee is a health professional, a hospital, or a person that manages the records of a health professional, a notice and declaration in the form of Form 4D; and
 - (b) otherwise, a notice and declaration in the form of Form 4E.

48AH. RSC Order 36B rule 11 modified: losses and expenses incurred in compliance

- (1) The RSC Order 36B rule 11 applies, subject to this rule.
- (2) Unless the Court orders, or the issuing party and the addressee agree, otherwise, when serving a subpoena to produce, the issuing party must pay to the addressee the amount of \$80 for any loss or expense incurred in complying with it.
- (3) This rule does not —
 - (a) affect the Court's power to make an order under the RSC Order 36B rule 11(1); or
 - (b) limit the amount that may be fixed under the RSC Order 36B rule 11(2).

15. Rule 53 amended

In rule 53(4)(b) after "grounds" insert:

for

District Court Amendment Rules 2013**r. 16****16. Rule 57 amended**

In rule 57(1) after “appeal to” insert:

be

17. Schedule 1 Forms 1AA and 1AB inserted

At the beginning of Schedule 1 insert:

1AA. Memorandum of appearance (r. 22A)

| | | |
|--|------------------------|---------------------------------|
| District Court of Western Australia | | Action No: |
| Held at Perth ¹ | | Memorandum of appearance |
| Parties | Plaintiff Defendant | |
| Enter an appearance for the *Defendant/Third party/ *delete inapplicable or add further party title | | |
| Date of filing | | |
| Service and contact details | | |
| Geographical address of party (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C) | | |
| Name of lawyer (If one has been appointed) | | |

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| | | |
|---|--------------|------------------|
| Postal address for service of documents (Must be provided) | | |
| Email address (Optional — if provided, may be used for service of documents) | | |
| Fax number (Optional — if provided, may be used for service of documents) | | |
| Telephone number | | |
| Reference | | |
| Signature of party or lawyer | Party/lawyer | Date of signing: |

Note to Form 1AA —

1. If not held at Perth, state the location of the relevant registry.

1AB. Notice of change of address for service (r. 22B)

| | |
|---|---|
| District Court of Western Australia Held at Perth ¹ | Appeal No/Action No: |
| | Notice of change of address for service |
| Parties | *Appellant/Plaintiff *Respondent/Defendant *delete inapplicable and/or add full party details |
| Party filing document | *Appellant/Respondent/Plaintiff/Defendant *delete inapplicable or add party designation |
| Date of filing | |

District Court Amendment Rules 2013**r. 17**

| New service and contact details | | |
|--|--------------|------------------|
| Geographical address of party (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C) | | |
| Name of lawyer (If one has been appointed) | | |
| Postal address for service of documents (Must be provided) | | |
| Email address (Optional — if provided, may be used for service of documents) | | |
| Fax number (Optional — if provided, may be used for service of documents) | | |
| Telephone number | | |
| Reference | | |
| Signature of party or lawyer | Party/lawyer | Date of signing: |

Note to Form 1AB —

1. If not held at Perth, state the location of the relevant registry.

District Court Amendment Rules 2013**r. 18****18. Schedule 1 Form 1A amended**

In Schedule 1 Form 1A:

- (a) delete “District Court of Western Australia” and insert:

District Court of Western Australia
Held at Perth^{1A}

- (b) after “Person making affidavit” insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (c) before Note 1 insert:

1A. If not held at Perth, state the location of the relevant registry.

19. Schedule 1 Form 1 amended

- (1) In Schedule 1 Form 1 delete:

| | |
|-------------------------------------|------------------------|
| District Court of Western Australia | At: |
| Entry for trial | Number: |
| Matter | [Names of all parties] |

and insert:

| | |
|-------------------------------------|------------------------|
| District Court of Western Australia | Action No: |
| Held at Perth ¹ | Entry for trial |
| Matter | [Names of all parties] |

District Court Amendment Rules 2013**r. 20**

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (2) At the end of Schedule 1 Form 1 insert:

Note to Form 1 —

1. If not held at Perth, state the location of the relevant registry.

20. Schedule 1 Form 2 amended

- (1) In Schedule 1 Form 2 delete:

| | |
|--|---------|
| District Court of Western Australia | At: |
| Notice of default (entry for trial) | Number: |

and insert:

| | |
|-------------------------------------|--|
| District Court of Western Australia | Action No: |
| Held at Perth ¹ | Notice of default (entry for trial) |

- (2) At the end of Schedule 1 Form 2 insert:

Note to Form 2 —

1. If not held at Perth, state the location of the relevant registry.

District Court Amendment Rules 2013**r. 21****21. Schedule 1 Form 3 amended**

(1) In Schedule 1 Form 3 delete:

| | |
|-------------------------------------|---|
| District Court of Western Australia | At: |
| Outline of submissions | Number: |
| Matter | <i>[Names of all parties]</i> |
| Party filing outline | <i>[Name of party filing outline and whether plaintiff or defendant, appellant or respondent]</i> |

and insert:

| | |
|-------------------------------------|---|
| District Court of Western Australia | Action No: |
| Held at Perth ¹ | Outline of submissions |
| Matter | <i>[Names of all parties]</i> |
| Party filing outline | <i>[Name of party filing outline and whether plaintiff or defendant, appellant or respondent]</i> |
| Date of filing | |

(2) At the end of Schedule 1 Form 3 insert:

Note to Form 3 —

1. If not held at Perth, state the location of the relevant registry.

22. Schedule 1 Forms 4A to 4E inserted

After Schedule 1 Form 3 insert:

4A. Subpoena to attend to give evidence (r. 48AB)

| | |
|-------------------------------------|--|
| District Court of Western Australia | Action No: |
| Held at Perth ¹ | Subpoena to attend to give evidence |

District Court Amendment Rules 2013**r. 22**

| | | | |
|---|--|-----------------------|----------------------|
| Parties | Plaintiff Defendant | | |
| To: [Full name and address of addressee] | | | |
| Warning | Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest. | | |
| Notes | Please read the information in the Notice to addressee (Form 4B) which accompanies this subpoena. | | |
| Date of issue | | Last date for service | |
| Order | <p>You are ordered to attend to give evidence on the date, and at the time and place, specified below unless you receive notice in writing of a later date or time from the issuing party, in which case the later date or time is substituted:</p> <p>Date: Time: Place:</p> <p>You must continue to attend from day-to-day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.</p> | | |
| Issuing details | Issued at the request of [<i>name of party</i>], whose service details are: | | Seal of the Court |

Note to Form 4A —

1. If not held at Perth, state the location of the relevant registry.

4B. Subpoena notice — evidence (r. 48AB)

| | |
|---|-----------------------------------|
| District Court of Western Australia Held at Perth ¹ | Action No: |
| | Subpoena notice — evidence |

District Court Amendment Rules 2013**r. 22**

| | |
|---|------------------------|
| Parties | Plaintiff Defendant |
| Notice to addressee | |
| <p>Contempt of court — arrest</p> <p>1. Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to attend Court to give evidence. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.</p> <p>2. Note 1 does not limit any power of the Court, under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.</p> <p>Last day of service</p> <p>3. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.</p> <p>Informal service</p> <p>4. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.</p> <p>Conduct money</p> <p>5. You need not comply with it unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.</p> <p>Losses or expenses incurred in compliance</p> <p>6. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.</p> | |

District Court Amendment Rules 2013**r. 22**

Note to Form 4B —

1. If not held at Perth, state the location of the relevant registry.

4C. Subpoena to produce documents (r. 48AB)

| | | | |
|---|--|----------------------------|--|
| District Court of Western Australia | | Action No: | |
| Held at Perth ¹ | | Subpoena to produce | |
| Parties | Plaintiff Defendant | | |
| To: [Full name and address of addressee] | | | |
| Warning | Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest. | | |
| Notes | Please read the information in the Notice to addressee (Form 4D or Form 4E as applicable) which accompanies this subpoena. | | |
| Date of issue | | Last date for service | |
| Date of production | The date applies unless you receive notice in writing of a later date or time from the issuing party, in which case the later date or time is substituted. | | |
| Order | <p>You must comply with this subpoena —</p> <p>(a) by attending to produce this subpoena (or a copy of it), the completed declaration (Form 4D or Form 4E as applicable) and the documents or things specified in the Schedule below on the date of production:</p> <p>Place: District Court of Western Australia 500 Hay Street Perth, Western Australia ²</p> | | |

District Court Amendment Rules 2013**r. 22**

| | | |
|--|--|--------------------------|
| | <p>OR</p> <p>(b) by delivering or sending this subpoena (or a copy of it), the completed declaration (Form 4D or Form 4E as applicable) and the documents or things specified in the Schedule below to the registrar at the address below, so that they are received not less than 2 clear days before the date of production:</p> <p>The Registrar District Court of Western Australia 500 Hay Street PERTH WA 6000 ²</p> | |
| <p>Schedule</p> <p>[If insufficient space attach list]</p> | <p>The documents or things you must produce are as follows:</p> | |
| <p>Issuing details</p> | <p>Issued at the request of [<i>name of party</i>], whose service details are:</p> | <p>Seal of the Court</p> |

Notes to Form 4C —

1. If not held at Perth, state the location of the relevant registry.
2. If the documents or things are to be produced to a registry other than at Perth, state the address of the relevant registry.

District Court Amendment Rules 2013

r. 22

**4D. Subpoena notice and declaration — documents or things
(r. 48AG)**

| | | |
|---|------------------------|--|
| District Court of Western Australia | | Action No: |
| Held at Perth ¹ | | Subpoena notice — documents or things |
| Parties | Plaintiff Defendant | |
| Notice to addressee (To a health professional, hospital or person that manages the records of a health professional) | | |
| Contempt of court — arrest | | |
| 1. Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to produce documents (or things) as described to the Court on or before the date indicated (the return date). Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. | | |
| 2. Note 1 does not limit any power of the Court, under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena. | | |
| Attached declaration in relation to copies | | |
| 3. At the same time as complying with the subpoena, you are also required to complete the declaration at the end of this notice and attach it to the subpoena or copy of the subpoena that accompanies the documents or things produced to the Court under the subpoena. | | |
| Last day for service | | |
| 4. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena. | | |
| Informal service | | |
| 5. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date | | |

District Court Amendment Rules 2013**r. 22**

for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

6. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Production of subpoena or copy of it and documents or things by delivery or post

7. Instead of attending to produce the subpoena or a copy of it and the documents or things, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the documents or things to the registrar at the address specified in the subpoena for the purpose, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.

Production of copy instead of original

8. Unless the subpoena specifically requires production of the original of a document, you may comply with the subpoena by producing a copy of the document.
9. The copy of a document may be:
- (a) a photocopy; or
 - (b) in PDF format on a CD-ROM or DVD.

Production of a number of documents or things

10. If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

Inspection and copying

11. Unless the Court otherwise orders, the following will apply to the documents and things produced —
- (a) the plaintiff will be permitted to inspect and copy the subpoenaed documents as soon as they are received by the Court; and
 - (b) the other parties will be permitted to inspect the documents at any time after 7 days from the date on which production is due under the subpoena and, with the approval of a registrar, copy the documents.

District Court Amendment Rules 2013**r. 22**

12. Each party who copies the documents produced must give an undertaking to the Court not to use the document otherwise than for the purpose of the action.

Objections

13. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Principal Registrar in writing of your objection and of the grounds of your objection.
14. If your objection relates to timeframes and/or access, any dispute may be resolved by way of correspondence with a registrar.
15. If your objection raises substantive issues concerning the ambit of the subpoena, for example claims of privilege, these will be referred for determination by the Court.
16. You have the right to apply to the Court —
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing to which the subpoena applies.

Losses or expenses incurred in compliance²

17. When you were served with the subpoena, you also received the amount of \$80 for your reasonable losses or expenses incurred in complying with the subpoena. The receipt of this amount does not affect your right to apply to the Court for a higher amount to be fixed. If you wish to claim that your reasonable costs of compliance are higher than \$80, you should make a claim in writing to the issuing party. If you are not able to resolve your claim with the issuing party, you should send a copy of your claim and any other relevant correspondence to the Principal Registrar. The Principal Registrar will make arrangements for your claim to be assessed by the Court.

| | |
|-------------------------------------|-----------------------------|
| District Court of Western Australia | Action No: |
| Held at Perth ¹ | Subpoena declaration |

District Court Amendment Rules 2013

r. 22

| | |
|---|------------------------|
| Parties | Plaintiff Defendant |
| Declaration by addressee | |
| <p>You are required to:</p> <ul style="list-style-type: none"> • Tick the relevant option below. • If originals are to be returned, provide your address as appropriate. • Sign and date the declaration. • Attach the declaration to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena. <p>If you declare that the material you produce is copies of documents, the Court may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.</p> <p>If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the declaration below. Unless the Court otherwise directs, these documents will be returned to you after the expiry of 28 days from the date on which production is due under the subpoena.</p> <p><input type="checkbox"/> All of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court may destroy the copies once they are no longer required, without further notice to me.</p> <p><input type="checkbox"/> Some or all of the material I am providing to the Court in compliance with the attached subpoena is an original document. Once the material is no longer required, all of the material should be returned to me at the following address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>[Signature of addressee]</p> | |

District Court Amendment Rules 2013**r. 22**

| |
|---|
| [Name of addressee] [Date] |
|---|

Notes to Form 4D —

1. If not held at Perth, state the location of the relevant registry.
2. If *District Court Rules 2005* rule 48AH(2) does not apply because the Court has ordered, or the issuing party and the addressee have agreed, otherwise, item 17 must be amended to reflect the order or agreement.

4E. Subpoena notice and declaration — documents or things (r. 48AG)

| | | |
|---|--|--|
| District Court of Western Australia | | Action No: |
| Held at Perth ¹ | | Subpoena notice — documents or things |
| Parties | | Plaintiff Defendant |
| Notice to addressee (Other than a health professional, hospital or person that manages the records of a health professional) | | |
| Contempt of court — arrest | | |
| <ol style="list-style-type: none"> 1. Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to produce documents (or things) as described to the Court on or before the date indicated (the return date). Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 2. Note 1 does not limit any power of the Court, under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena. | | |

District Court Amendment Rules 2013**r. 22****Attached declaration in relation to copies**

3. At the same time as complying with the subpoena, you are also required to complete the declaration at the end of this notice and attach it to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena.

Last day for service

4. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

5. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

6. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Production of subpoena or copy of it and documents or things by delivery or post

7. Instead of attending to produce the subpoena or a copy of it and the documents or things, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the documents or things to the registrar at the address specified in the subpoena for the purpose, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.

Production of copy instead of original

8. Unless the subpoena specifically requires production of the original of a document, you may comply with the subpoena by producing a copy of the document.
9. The copy of a document may be —
 - (a) a photocopy; or
 - (b) in PDF format on a CD-ROM or DVD.

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r. 22

Production of a number of documents or things

10. If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

Inspection and copying

11. Unless the Court otherwise orders (for example, if an objection is made), the following will apply to the documents and things produced —
- (a) all parties to the action are permitted to inspect the documents and things immediately upon production; and
 - (b) all parties to the action are permitted, with the approval of a registrar, to copy the documents.
12. Each party who copies the documents produced must give an undertaking to the Court not to use the document otherwise than for the purpose of the action.

Objections

13. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Principal Registrar in writing of your objection and of the grounds of your objection.
14. If your objection relates to timeframes and/or access, any dispute may be resolved by way of correspondence with a registrar.
15. If your objection raises substantive issues concerning the ambit of the subpoena, for example claims of privilege, these will be referred for determination by the Court.
16. You have the right to apply to the Court —
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing to which the subpoena applies.

Losses or expenses incurred in compliance²

17. When you were served with the subpoena, you also received the amount of \$80 for your reasonable losses or expenses incurred in complying with

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the subpoena. The receipt of this amount does not affect your right to apply to the Court for a higher amount to be fixed. If you wish to claim that your reasonable costs of compliance are higher than \$80, you should make a claim in writing to the issuing party. If you are not able to resolve your claim with the issuing party, you should send a copy of your claim and any other relevant correspondence to the Principal Registrar. The Principal Registrar will make arrangements for your claim to be assessed by the Court.

| | | |
|---|-----------|-----------------------------|
| District Court of Western Australia | | Action No: |
| Held at Perth ¹ | | Subpoena declaration |
| Parties | Plaintiff | |
| | Defendant | |
| Declaration by addressee | | |
| You are required to: | | |
| <ul style="list-style-type: none"> • Tick the relevant option below. • If originals are to be returned, provide your address as appropriate. • Sign and date the declaration. • Attach the declaration to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena. | | |
| If you declare that the material you produce is copies of documents, the Court may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal. | | |
| If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the declaration below. Unless the Court otherwise directs, these documents will be returned to you at the expiry of 28 days from the date on which production is due under the subpoena. | | |
| <input type="checkbox"/> All of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court may destroy the copies once they are no longer required, without further notice to me. | | |

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| | |
|--------------------------|---|
| <input type="checkbox"/> | <p>Some or all of the material I am providing to the Court in compliance with the attached subpoena is an original document. Once the material is no longer required, all of the material should be returned to me at the following address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>[<i>Signature of addressee</i>]</p> <p>.....</p> <p>[<i>Name of addressee</i>]</p> <p>.....</p> <p>[<i>Date</i>]</p> |
|--------------------------|---|

Notes to Form 4E —

1. If not held at Perth, state the location of the relevant registry.
2. If *District Court Rules 2005* rule 48AH(2) does not apply because the Court has ordered, or the issuing party and the addressee have agreed, otherwise, item 17 must be amended to reflect the order or agreement.

23. Schedule 1 Form 4 amended

In Schedule 1 Form 4:

- (a) delete “District Court of Western Australia” and insert:

District Court of Western Australia
Held at Perth ^{1A}

- (b) delete “No:” and insert:

Action No:

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- (c) after “Respondent” insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (d) before Note 1 insert:

- 1A. If not held at Perth, state the location of the relevant registry.

24. Schedule 1 Form 5 amended

In Schedule 1 Form 5:

- (a) delete “District Court of Western Australia” and insert:

District Court of Western Australia
Held at Perth ^{1A}

- (b) delete “No:” and insert:

Action No:

- (c) after “Respondent” insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (d) before Note 1 insert:

- 1A. If not held at Perth, state the location of the relevant registry.

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25. Schedule 1 Form 6 replaced

Delete Schedule 1 Form 6 and insert:

6. Appeal notice (r. 51(1))

| | | |
|---------------------------------------|---|----------------------|
| District Court of Western Australia | | Appeal No: |
| Held at Perth ¹ | | Appeal notice |
| Parties | Appellant Respondent | |
| Primary court's decision | | |
| Primary court | | |
| Case number | | |
| Parties | | |
| Date of decision | | |
| Judicial officer | | |
| Decision details ² | | |
| Appeal details | | |
| Notice of appeal | The appellant appeals to the District Court against the above decision. | |
| Grounds of appeal ³ | 1. | |
| Acts that allows appeal ⁴ | section: | |
| Notice to the respondent ⁵ | If you want to take part in this appeal you must file a Form 8 (attached) under the <i>District Court Rules 2005</i> within 21 days after the date on which you are served with this notice and serve it on the appellant. If you file a Form 8 you must attend a directions hearing at the time and place stated below. | |
| Last date for appealing | Last date: Is an extension of time needed? Yes/No | |

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| | | |
|--|------------------------------|-------|
| Date of filing | | |
| Directions hearing ⁶ | Date: Place: | Time: |
| Appellant's service details | | |
| Geographical address of appellant (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C) | | |
| Name of lawyer (If one has been appointed) | | |
| Postal address for service of documents (Must be provided) | | |
| Email address (Optional — if provided, may be used for service of documents) | | |
| Fax number (Optional — if provided, may be used for service of documents) | | |
| Telephone number | | |
| Reference | | |
| Signature of appellant or lawyer | Appellant/Appellant's lawyer | Date: |

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Notes to Form 6 —

1. If not held at Perth, state the location of the relevant registry.
2. Examples:
 - Judgment against the defendant for \$40 000.
 - Dismissal of claim to recover possession of real property.
3. Set out the grounds in numbered paragraphs.
4. State the short title of the Act under which the appeal is being made.
5. A copy of Form 8 (Notice of respondent's intention) must be attached to this form when it is served on the respondent.
6. The Court will complete this row when the appeal notice is filed.

26. Schedule 1 Form 7 amended

In Schedule 1 Form 7:

- (a) delete "District Court of Western Australia" and insert:

District Court of Western Australia
Held at Perth ^{1A}

- (b) after "Parties" insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (c) before Note 1 insert:

- 1A. If not held at Perth, state the location of the relevant registry.

District Court Amendment Rules 2013**r. 27****27. Schedule 1 Forms 8A and 8 replaced**

Delete Schedule 1 Forms 8A and 8 and insert:

8A. Appeal notice (WCIMA appeal) (r. 51(4A))

| | | |
|-------------------------------------|--|-------------------------------------|
| District Court of Western Australia | | Appeal No: |
| Held at Perth ¹ | | Appeal notice (WCIMA appeal) |
| Parties | Appellant Respondent | |
| Primary court's decision | | |
| Primary court | WorkCover WA Arbitration Service | |
| Case number | | |
| Parties | | |
| Date of decision | | |
| Arbitrator | | |
| Decision details ² | | |
| Appeal details | | |
| Notice of appeal | The appellant applies for leave to appeal to the District Court against the above decision. | |
| Act that allows appeal | <i>Workers' Compensation and Injury Management Act 1981 (WCIMA) section 247.</i> | |
| Question of law ³ | | |
| Amount in issue ⁴ | | |
| Grounds of appeal ⁵ | 1. | |
| Decision sought ⁶ | 1. | |
| Leave | The appellant applies for leave to appeal under WCIMA section 247 on the ground that: ⁷ | |

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| | |
|--|---|
| Other orders | The appellant also seeks orders that: ⁸ |
| Notice to the respondent ⁹ | If you want to take part in this appeal you must file a Form 8 (attached) under the <i>District Court Rules 2005</i> within 21 days after the date on which you are served with this notice and serve it on the appellant. If you file a Form 8 you must attend a directions hearing at the time and place stated below. |
| Last date for appealing | Last date: |
| Date of filing | |
| Directions hearing ¹⁰ | Date: _____ Time: _____ Place: _____ |
| Appellant's details for service | |
| Geographical address of appellant (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C) | |
| Name of lawyer (If one has been appointed) | |
| Postal address for service of documents (Must be provided) | |
| Email address (Optional — if provided, may be | |

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| | | |
|--|------------------------------|-------|
| used for service of documents) | | |
| Fax number (Optional — if provided, may be used for service of documents) | | |
| Telephone number | | |
| Reference | | |
| Signature of appellant or lawyer | Appellant/Appellant's lawyer | Date: |

Notes to Form 8A —

1. If not held at Perth, state the location of the relevant registry.
2. Examples:
 - Determination of liability in favour of the respondent.
 - Dismissal of application seeking determination of liability.
 - Orders for cessation/reduction of weekly payments.
 - Orders for recovery of payments made.
3. Specify question(s) of law the subject of the appeal.
4. This is the amount that will be used to determine whether leave is able to be granted under WCIMA section 247.
5. Set out the grounds in numbered paragraphs.
6. See rule 51(4B)(c).
7. Specify subsection(s) under which the application is made. The grounds for leave should be in numbered paragraphs.
8. For example, to adduce fresh or further evidence under WCIMA section 247(6) or a stay under section 250(1).
9. A copy of Form 8 (Notice of respondent's intention) must be attached to this form when it is served on the respondent.
10. The Court will complete this row when the appeal notice (WCIMA appeal) is filed.

8. Notice of respondent's intention (r. 53)

| | |
|-------------------------------------|---|
| District Court of Western Australia | Appeal No: |
| Held at Perth ¹ | Notice of respondent's intention |

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| Parties | Appellant Respondent |
|--|---|
| Notice [Tick one box] | <input type="checkbox"/> ² The respondent intends to take part in this appeal. <input type="checkbox"/> ³ The respondent does not intend to take part in this appeal and will accept any order made by the Court in the appeal other than as to costs. |
| Grounds for upholding | <input type="checkbox"/> The respondent will argue the primary court's decision should be upheld on the grounds relied on by the primary court in its decision. |
| Other grounds for upholding ⁴ | <input type="checkbox"/> The respondent will argue the primary court's decision should be upheld on the following grounds, not relied on by the primary court in its decision: 1. |
| Variation ⁴ | <input type="checkbox"/> The respondent applies for the primary court's decision to be varied as follows — 1. <input type="checkbox"/> The respondent will argue the primary court's decision should be varied on the following grounds: 1. |
| Cross-appeal ⁴ | <input type="checkbox"/> The respondent also appeals against the primary court's decision and will rely on the following grounds: 1. |
| Other orders | The respondent also seeks order that: ⁵ |
| Last date for appealing ⁶ | Last date: Is an extension of time needed? Yes/No |
| Date of filing | |

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| Respondent's details for service | | | | | |
|---|--|--|-------|--------------------------------|--|
| Geographical address of respondent (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C) | | | | | |
| Name of lawyer (If one has been appointed) | | | | | |
| Postal address for service of documents (Must be provided) | | | | | |
| Email address (Optional — if provided, may be used for service of documents) | | | | | |
| Fax number (Optional — if provided, may be used for service of documents) | | | | | |
| Telephone number | | | | | |
| Reference | | | | | |
| Signature of respondent or lawyer | <table border="1"> <tr> <td style="width: 60%;"></td> <td style="width: 40%;">Date:</td> </tr> <tr> <td>Respondent/Respondent's lawyer</td> <td></td> </tr> </table> | | Date: | Respondent/Respondent's lawyer | |
| | Date: | | | | |
| Respondent/Respondent's lawyer | | | | | |

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Notes to Form 8 —

1. If not held at Perth, state the relevant registry.
2. If this box is ticked, complete one or more of the next 5 rows and the respondent's details for service.
3. If this box is ticked, ignore the next 5 rows and complete the respondent's details for service.
4. Set out the grounds in numbered paragraphs.
5. For possible orders see rule 57(2).
6. Complete this only if the respondent also appeals against the primary court's decision.

28. Schedule 1 Form 9 amended

In Schedule 1 Form 9:

- (a) delete "District Court of Western Australia" and insert:

District Court of Western Australia
Held at Perth ^{1A}

- (b) after "Parties" insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

- (c) before Note 1 insert:

1A. If not held at Perth, state the relevant registry.

29. Schedule 1 Form 10 amended

- (1) In Schedule 1 Form 10:

- (a) delete "District Court of Western Australia" and insert:

District Court of Western Australia
Held at Perth ¹

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(b) after “Parties” insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

(2) At the end of Schedule 1 Form 10 insert:

Note to Form 10 —

1. If not held at Perth, state the relevant registry.

30. Schedule 1 Form 11 amended

(1) In Schedule 1 Form 11:

(a) delete “District Court of Western Australia” and insert:

District Court of Western Australia
Held at Perth¹

(b) after “Parties” insert:

| | |
|----------------|--|
| Date of filing | |
|----------------|--|

(2) At the end of Schedule 1 Form 11 insert:

Note to Form 11 —

1. If not held at Perth, state the relevant registry.

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Date: 17 July 2013.

Judges' signatures:

Chief Judge P. D. Martino

Judge A. M. I. Schoombee

Judge A. D. Fenbury

Judge C. P. Stevenson

Judge S. M. Deane

Judge P. B. O'Neal

Judge P. R. Eaton

Judge J. G. Staude

Judge J. A. Wager

Judge A. S. Derrick (SC)

Judge A. S. Stavrianou

Judge A. G. Braddock

Judge T. D. Sweeney (SC)

Judge J. C. Curthoys

Judge R. E. Keen

Judge M. E. Herron