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**JUSTICE**

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JU301

Magistrates Court (Civil Proceedings) Act 2004

**Magistrates Court Rules Amendment  
Rules 2017**

Made by the Magistrates Court in accordance with the *Magistrates Court Act 2004* section 39.

**Part 1 — Preliminary****1. Citation**

These rules are the *Magistrates Court Rules Amendment Rules 2017*.

**2. Commencement**

These rules come into operation as follows —

- (a) Part 1 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day after that day.

**Part 2 — *Magistrates Court (Civil Proceedings) Rules 2005* amended****3. Rules amended**

This Part amends the *Magistrates Court (Civil Proceedings) Rules 2005*.

**4. Rule 7A amended**

After rule 7A(3) insert:

- (4) If a party does not comply with this rule, the registrar may, in the absence of the parties, give default judgment against the party, and in that case Part 5, except rule 24, with any necessary modifications, applies in relation to the default judgment.

**5. Rule 20 amended**

After rule 20(a) insert:

- (aa) lodged and served a statement of defence in accordance with rule 10; or

**6. Rule 22 amended**

In rule 22(3) delete “subrule (2) or rule 25,” and insert:

subrule (2),

**7. Rule 25 replaced**

Delete rule 25 and insert:

**25. Application for default judgment to be dismissed if not granted**

If the registrar decides not to grant an application for default judgment, the registrar must dismiss it.

**8. Rule 29 amended**

(1) In rule 29:

(a) delete “If a party” and insert:

(1) If a party

(b) delete “and serve”.

(2) At the end of rule 29 insert:

(2) The party must serve a copy of the notice of discontinuance on the other parties.

**9. Rule 43A amended**

In rule 43A(5) delete “may, after giving 10 days’ notice to the party,” and insert:

may

**10. Rule 71 amended**

Delete rule 71(2)(b) and insert:

(b) a draft witness summons, in the approved form, that requires the witness to produce to the Court, either at the same time as giving the oral evidence or at an earlier time specified in the summons, evidentiary material that is relevant to the case.

**11. Rule 71A inserted**

After rule 71 insert:

**71A. Compliance with witness summons**

- (1) A witness must comply with a witness summons requested under rule 71(2)(b) by delivering or sending the evidentiary material and a copy of the witness summons to the Court at the date, time and place specified for production.
- (2) In the case of a witness summons requested under rule 71(2)(a) and (b), compliance with subrule (1) does not discharge the witness from the requirement to attend Court to give evidence.
- (3) Unless a witness summons specifically requires the production of an original document, the witness may produce a copy of it.
- (4) The copy of a document may be —
  - (a) a photocopy; or
  - (b) in PDF format on a CD-ROM.

**Part 3 — Magistrates Court (Minor Cases Procedure)  
Rules 2005 amended****12. Rules amended**

This Part amends the *Magistrates Court (Minor Cases Procedure) Rules 2005*.

**13. Rule 18 amended**

In rule 18(3) delete “ subrule (2) or rule 22.” and insert:

subrule (2).

**14. Rule 22 replaced**

Delete rule 22 and insert:

**22. Application for default judgment to be dismissed if not granted**

If the registrar decides not to grant an application for default judgment, the registrar must dismiss it.

**15. Rule 39 amended**

Delete rule 39(2)(b) and insert:

- (b) a draft witness summons, in the approved form, that requires the witness to produce to the Court, either at the same time as giving the oral evidence or at an earlier time specified in the summons, evidentiary material that is relevant to the case.

**16. Rule 39A inserted**

After rule 39 insert:

**39A. Compliance with witness summons**

- (1) Your witness must comply with a witness summons requested under rule 39(2)(b) by delivering or sending the evidentiary material and a copy of the witness summons to the Court at the date, time and place specified for production.
- (2) In the case of a witness summons requested under rule 39(2)(a) and (b), compliance with subrule (1) does not discharge your witness from the requirement to attend Court to give evidence.
- (3) Unless your witness summons specifically requires the production of an original document, your witness may produce a copy of it.
- (4) The copy of a document may be —
  - (a) a photocopy; or
  - (b) in PDF format on a CD-ROM.

**17. Rule 76 amended**

- (1) In rule 76:
  - (a) delete “If you want” and insert:
    - (1) If you want
  - (b) delete “and serve”.
- (2) At the end of rule 76 insert:
  - (2) You must serve a copy of the notice of discontinuance on the other parties.

Mr STEVEN HEATH, Chief Magistrate,  
Magistrates Court in Perth.

Date 16 June 2017.