



Western Australia

Supreme Court Act 1935

## **Supreme Court (Arbitration) Rules 2016**



# Supreme Court (Arbitration) Rules 2016

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## Supreme Court (Arbitration) Rules 2016

### Part 1 — Preliminary matters

#### 1. Citation

These rules are the *Supreme Court (Arbitration) Rules 2016*.

#### 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 14<sup>th</sup> day after that day.

#### 3. Terms used

- (1) In these rules —

***arbitration*** means an arbitration to which the WA Act or the Commonwealth Act applies, as the case requires;

***Commonwealth Act*** means the *International Arbitration Act 1974* (Commonwealth);

***Form***, if followed by a number, means the form of that number in Schedule 1;

***Model Law*** means the UNCITRAL Model Law on International Commercial Arbitration, adopted by the United Nations Commission on International Trade Law on 21 June 1985, as amended by the United Nations Commission on International Trade Law on 7 July 2006, the English text of which is set out in the Commonwealth Act Schedule 2;

***RSC*** means *Rules of the Supreme Court 1971*;

***WA Act*** means the *Commercial Arbitration Act 2012*.

- (2) Unless the contrary intention appears —
  - (a) expressions used in this Part have the same meaning as in the Commonwealth Act or the WA Act, as the case requires; and
  - (b) expressions used in Part 2 and in the forms in Schedule 1 referred to in that Part have the same meaning as in the Commonwealth Act; and
  - (c) expressions used in Part 3 and in the forms in Schedule 1 referred to in that Part have the same meaning as in the WA Act.

**4. Application of *Rules of the Supreme Court 1971***

- (1) These rules must be read with the RSC.
- (2) For the purposes of subrule (1) —
  - (a) a reference in the RSC to the RSC (whether “these rules” or other words are used) is to be taken as including a reference to these rules, unless the context requires otherwise; and
  - (b) a reference in these rules to these rules (whether “these rules” or other words are used) is to be taken as including a reference to the RSC, unless the context requires otherwise.
- (3) If there is a conflict or inconsistency between these rules and the RSC, these rules prevail.

**5. Documents not in English**

A party to a proceeding to which these rules apply who seeks to rely on a document that is not in the English language must provide a certified English translation of the document —

- (a) to the Court; and
- (b) to any other party to the proceeding.



Notes for this rule —

1. The Commonwealth Act section 9 also deals with the translation of awards and arbitration agreements in proceedings to which the Commonwealth Act Part II applies.
2. The WA Act section 35 also deals with the translation of awards in proceedings to which the WA Act Part 8 applies.

## **Part 2 — International commercial arbitration**

**6. Application for stay and referral to arbitration (Cwlth Act s. 7)**

- (1) An application under the Commonwealth Act section 7 to stay the whole or part of a proceeding and refer the parties to arbitration must be made by way of a summons in the form of Form 1.
- (2) The summons must be accompanied by —
  - (a) a copy of the arbitration agreement; and
  - (b) an affidavit stating the material facts on which the summons is based.

**7. Application to enforce foreign award (Cwlth Act s. 8(2))**

- (1) An application under the Commonwealth Act section 8(2) to enforce a foreign award must be made by way of an originating summons in the form of Form 2.
- (2) The application must be accompanied by —
  - (a) the documents referred to in the Commonwealth Act section 9; and
  - (b) an affidavit stating the following —
    - (i) the extent to which the foreign award has not been complied with at the date of the summons;
    - (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the foreign award or, if the person is a company, the last known registered office of the company.

**8. Application for referral to arbitration (Model Law art. 8)**

- (1) An application under the Model Law article 8 to refer parties to arbitration must be made by way of a summons in the form of Form 3.
- (2) The summons must be accompanied by the following —
  - (a) a copy of the arbitration agreement;
  - (b) an affidavit stating the material facts on which the summons is based.

**9. Subpoenas (Cwlth Act s. 23(3))**

- (1) An application for the issue of a subpoena under the Commonwealth Act section 23(3) must be made by way of an originating summons in the form of Form 4.
- (2) The summons must be accompanied by the following —
  - (a) a draft subpoena in accordance with subrule (3);
  - (b) an affidavit stating the following —
    - (i) the names of the parties to the arbitration;
    - (ii) the name of the arbitrator, or the names of the arbitrators constituting the arbitral tribunal, conducting the arbitration;
    - (iii) the place where the arbitration is being conducted;
    - (iv) the nature of the arbitration;
    - (v) the terms of the permission given by the arbitral tribunal for the application;
    - (vi) the conduct money (if appropriate) to be paid to the addressee;
    - (vii) the witness expenses payable to the addressee.

- (3) A draft subpoena must be —
  - (a) for a subpoena to attend for examination before an arbitral tribunal — in the form of Form 5; or
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena — in the form of Form 6; or
  - (c) for a subpoena to attend for examination and produce documents — in the form of Form 7.
- (4) The Court may —
  - (a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and
  - (b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.
- (5) An amount fixed under subrule (4) may be in addition to any conduct money or witness expenses referred to in subrule (2)(b).
- (6) A subpoena must be —
  - (a) for a subpoena to attend for examination before an arbitral tribunal — in the form of Form 5; or
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena — in the form of Form 6; or
  - (c) for a subpoena to attend for examination and produce documents — in the form of Form 7.
- (7) A person served with a subpoena must comply with the subpoena in accordance with its terms.
- (8) The RSC Order 36B applies so far as is practicable to a subpoena referred to in this rule.

**10. Application relating to evidence for arbitration (Cwlth Act s. 23A(3))**

- (1) An application for an order under the Commonwealth Act section 23A(3) must be made by way of an originating summons in the form of Form 8.
- (2) The summons must state the ground relied on under the Commonwealth Act section 23A(1).
- (3) The summons must be accompanied by an affidavit stating the following —
  - (a) if the permission of the arbitral tribunal is needed for the application, the terms of the permission;
  - (b) the material facts relied on.

**11. Application relating to disclosure of confidential information (Cwlth Act s. 23F or 23G)**

- (1) An application under the Commonwealth Act section 23F or 23G for an order prohibiting or allowing the disclosure of confidential information must be made by way of an originating summons in the form of Form 9.
- (2) The summons must be accompanied by an affidavit stating the following —
  - (a) the material facts relied on;
  - (b) if the application is made under the Commonwealth Act section 23F —
    - (i) the terms of the order of the arbitral tribunal allowing disclosure of the information; and
    - (ii) the date the order was made;
  - (c) if the application is made under the Commonwealth Act section 23G —
    - (i) the date the arbitral tribunal's mandate was terminated; or

- (ii) the date and the terms of the request made to the arbitral tribunal for disclosure of the confidential information and of the arbitral tribunal's refusal to make the order.

**12. Application for relief under miscellaneous provisions of the Model Law**

- (1) An application for relief under the Model Law article 11(3), 11(4), 13(3), 14, 16(3), 17H, 17J or 27 must be made by way of an originating summons in the form of Form 10.
- (2) The summons must be accompanied by an affidavit stating the material facts on which the summons is based.

**13. Application to set aside award (Model Law art. 34)**

- (1) An application under the Model Law article 34 to set aside an award must be made by way of an originating summons in the form of Form 11.
- (2) The summons must state the following —
  - (a) if the applicant relies on the Model Law article 34(2)(a), which subparagraph of article 34(2)(a) is relied upon;
  - (b) if the applicant relies on the Model Law article 34(2)(b), which subparagraph of article 34(2)(b) is relied upon;
  - (c) the grounds for seeking the order.
- (3) The summons must be accompanied by an affidavit —
  - (a) exhibiting the following —
    - (i) a copy of the arbitration agreement;
    - (ii) a copy of the award, including the reasons of the arbitral tribunal for the award;and
  - (b) stating the following —
    - (i) the material facts relied on; and

- (ii) the date on which the applicant received the award or, if a request was made under the Model Law article 33 to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.
- (4) The summons and supporting affidavit must be served on any person whose interest might be affected by the setting aside of the award.
- (5) Any application by a party to the arbitration under the Model Law article 34(4) must be made by a summons in the proceeding commenced under subrule (1).

**14. Application to enforce award (Model Law art. 35)**

- (1) An application under the Model Law article 35 to enforce an award must be made by way of an originating summons in the form of Form 12.
- (2) The summons must be accompanied by an affidavit —
  - (a) exhibiting the documents referred to in the Model Law article 35(2); and
  - (b) stating the following —
    - (i) the extent to which the award has not been complied with at the date of the summons;
    - (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

**15. Application to enforce Investment Convention award (Cwlth Act s. 35(2))**

- (1) An application under the Commonwealth Act section 35(2) for leave to enforce an award to which the Commonwealth Act

Part IV applies must be made by way of an originating summons in the form of Form 13.

- (2) The summons must be accompanied by an affidavit stating the following —
- (a) the extent to which the award has not been complied with at the date of the summons;
  - (b) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.



### **Part 3 — Domestic commercial arbitration**

**16. Application for referral to arbitration (WA Act s. 8)**

- (1) An application under the WA Act section 8 to refer the parties to arbitration must be made by way of a summons in the form of Form 14.
- (2) The summons must be accompanied by an affidavit —
  - (a) exhibiting a copy of the arbitration agreement; and
  - (b) stating the material facts on which the summons for relief is based.

**17. Subpoenas (WA Act s. 27A)**

- (1) An application for the issue of a subpoena under the WA Act section 27A must be made by way of an originating summons in the form of Form 15.
- (2) The summons must be accompanied by the following —
  - (a) a draft subpoena in accordance with subrule (3);
  - (b) an affidavit stating the following —
    - (i) the names of the parties to the arbitration;
    - (ii) the name of the arbitrator or the names of the arbitrators constituting the arbitral tribunal conducting the arbitration;
    - (iii) the place where the arbitration is being conducted;
    - (iv) the nature of the arbitration;
    - (v) the terms of the permission given by the arbitral tribunal for the application;
    - (vi) the conduct money (if appropriate) to be paid to the addressee;
    - (vii) the witness expenses payable to the addressee.

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- (3) A draft subpoena must be —
  - (a) for a subpoena to attend for examination before an arbitral tribunal — in the form of Form 16; or
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena — in the form of Form 17; or
  - (c) for a subpoena to attend for examination and produce documents — in the form of Form 18.
- (4) The Court may —
  - (a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and
  - (b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.
- (5) An amount fixed under subrule (4) may be in addition to any conduct money or witness expenses referred to in subrule (2)(b).
- (6) A subpoena must be —
  - (a) for a subpoena to attend for examination before an arbitral tribunal — in the form of Form 16; or
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena — in the form of Form 17; or
  - (c) for a subpoena to attend for examination and produce documents — in the form of Form 18.
- (7) A person served with a subpoena must comply with the subpoena in accordance with its terms.
- (8) The RSC Order 36B applies so far as is practicable to a subpoena referred to in this rule.

**18. Application relating to evidence for arbitration (WA Act s. 27B)**

- (1) An application for an order under the WA Act section 27B must be made by way of an originating summons in the form of Form 19.
- (2) The summons must state the ground relied on under the WA Act section 27B(1).
- (3) The summons must be accompanied by an affidavit stating the following —
  - (a) the terms of the permission given by the arbitral tribunal for the application;
  - (b) the material facts relied on.

**19. Application relating to disclosure of confidential information (WA Act s. 27H or 27I)**

- (1) An application under the WA Act section 27H or 27I for an order prohibiting or allowing the disclosure of confidential information must be made by way of an originating summons in the form of Form 20.
- (2) The summons must be accompanied by an affidavit stating the following —
  - (a) the material facts relied on;
  - (b) if the application is made under the WA Act section 27H —
    - (i) the terms of the order of the arbitral tribunal allowing disclosure of the information; and
    - (ii) the date the order was made;
  - (c) if the application is made under the WA Act section 27I —
    - (i) the date the arbitral tribunal's mandate was terminated; or

- (ii) the date and terms of the request made to the arbitral tribunal for disclosure of the confidential information and of the arbitral tribunal's refusal to make the order.

**20. Application for relief under miscellaneous provisions of WA Act**

- (1) An application for relief under the WA Act section 11(3), 11(4), 13(4), 14, 16(9), 17H, 17J, 19(6) or 27 must be made by way of an originating summons in the form of Form 21.
- (2) The summons must be accompanied by an affidavit stating the material facts on which the summons for relief is based.

**21. Determination of question of law (WA Act s. 27J)**

- (1) An application under the WA Act section 27J for leave to apply for determination of a question of law arising in the course of an arbitration and, if leave is granted, for the determination of the question of law, must be made by way of an originating summons in the form of Form 22.
- (2) The summons must be accompanied by an affidavit —
  - (a) exhibiting the following —
    - (i) a copy of the arbitration agreement;
    - (ii) evidence of the consent of the arbitrator or the consent of all the other parties as required by the WA Act section 27J(2);
  - and
  - (b) stating the following —
    - (i) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company;

- (ii) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
  - (iii) the facts on the basis of which the question of law is to be determined and the basis on which those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise.
- (3) The summons and supporting affidavit must be served on any person whose interest might be affected by determination of the question of law.
- (4) The Court may, if it thinks fit, hear and determine the question of law at the same time as the application for leave to apply for the determination of the question.
- (5) If the Court first hears and grants the application for leave, it may make such orders as it thinks fit for the hearing and determination of the question of law.

**22. Application to set aside award (WA Act s. 34)**

- (1) An application under the WA Act section 34 to set aside an award must be made by way of an originating summons in the form of Form 23.
- (2) The summons must state the following —
  - (a) if the applicant relies on the WA Act section 34(2)(a), which subparagraph of section 34(2)(a) is relied upon;
  - (b) if the applicant relies on the WA Act section 34(2)(b), which subparagraph of section 34(2)(b) is relied upon;
  - (c) the grounds for seeking the order.
- (3) The summons must be accompanied by an affidavit —
  - (a) exhibiting the following —
    - (i) a copy of the arbitration agreement;

- (ii) a copy of the award including the reasons of the arbitral tribunal for the award;
- and
- (b) stating the following —
  - (i) the material facts relied on;
  - (ii) the date on which the applicant received the award or, if a request was made under the WA Act section 33 to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.
- (4) The summons and supporting affidavit must be served on any person whose interest might be affected by the setting aside of the award.
- (5) Any application by a party to the arbitration under the WA Act section 34(4) must be made by way of a summons in the proceeding commenced under subrule (1).

**23. Appeal on question of law in award (WA Act s. 34A)**

- (1) An application under the WA Act section 34A for leave to appeal on a question of law arising out of an award must be made by way of an originating summons in the form of Form 24.
- (2) The summons must state the following —
  - (a) the question of law to be determined;
  - (b) the grounds on which it is alleged that leave to appeal should be granted.
- (3) The summons must be accompanied by an affidavit showing that, before the end of the appeal period referred to in the WA Act section 34A(1) and (6), the parties agreed that an appeal may be made under section 34A of that Act.

- (4) The affidavit must exhibit the following —
- (a) a copy of the arbitration agreement;
  - (b) a copy of the award, including the reasons of the arbitral tribunal for the award.
- (5) The summons must be accompanied by a submission setting out the following —
- (a) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed appeal or, if the person is a company, the last known registered office of the company;
  - (b) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
  - (c) when and how the arbitral tribunal was asked to determine the question of law and where in the award or the reasons, and in what way, the arbitral tribunal determined it;
  - (d) the relevant facts found by the arbitral tribunal on the basis of which the question of law is to be determined by the Court;
  - (e) the basis on which it is contended that the determination of the question of law will substantially affect the rights of one or more parties;
  - (f) the basis on which it is contended that —
    - (i) the decision of the arbitral tribunal on the question of law is obviously wrong; or
    - (ii) the question of law is of general public importance and the decision of the arbitral tribunal is open to serious doubt;
  - (g) the basis on which it is contended that, despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in the circumstances for the Court to determine the question;

- (h) a succinct statement of the argument in support of the application for leave and the appeal if leave is granted.
- (6) The summons and the supporting material must be served on any person whose interest might be affected by the proposed appeal.
- (7) Within 14 days after service on a party or within such further period as the Court may allow, that party must file and serve any answering material, including a succinct statement of any argument in opposition to the application for leave and the appeal if leave is granted.
- (8) If it appears to the Court that an oral hearing of the application for leave to appeal is required, the Court may, if it thinks fit, hear and determine the appeal on the question of law at the same time as it hears the application for leave to appeal.
- (9) If the Court grants the application for leave before hearing the appeal, it may make such orders as it thinks fit for the hearing and determination of the appeal.
- (10) When an application for leave to appeal is brought or leave to appeal is granted, the Court may suspend or discharge any enforcement order made in respect of the award the subject of the proposed appeal.

**24. Application to enforce award (WA Act s. 35)**

- (1) An application under the WA Act section 35 to enforce an award must be made by way of an originating summons in the form of Form 25.
- (2) The summons must be accompanied by the following —
  - (a) the documents referred to in the WA Act section 35;
  - (b) an affidavit stating the following —
    - (i) the extent to which the award has not been complied with at the date of the summons;



- (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the domestic award or, if the person is a company, the last known registered office of the company.

**Part 4 — Miscellaneous matters**

**25.        Taxing costs of arbitration**

The RSC Order 66, with any necessary changes, applies if the Court is required to tax or assess the costs of an arbitration (other than the fees or expenses of an arbitrator).

**26.        *Rules of the Supreme Court 1971* amended**

(1) This rule amends the *Rules of the Supreme Court 1971*.

(2) Delete Order 60A rule 2(2)(a)(x) and insert:

(x) the *Supreme Court (Arbitration) Rules 2016*;

(3) Delete Order 81D.

Schedule 1 — Forms

1. Summons for stay and referral to arbitration under foreign arbitration agreement (Cwlth Act s. 7) (r. 6(1))

In the Supreme Court of Western Australia *Commercial and Managed Cases List *Court of Appeal	No.: <b>Summons for stay and referral to arbitration: foreign arbitration agreement</b>
*Subject of case	
Parties to case	[Name] Plaintiff [Name] Defendant
Parties to this summons	Applicant: [Name] [*Plaintiff/Defendant] Respondent: [Name] [*Plaintiff/Defendant]
Reason for this summons	The applicant is a party to an arbitration agreement and, by this summons, applies for — (a) an order under the <i>International Arbitration Act 1974</i> (Commonwealth) s. 7 that stays *the whole/part of this proceeding and refers [ <i>identify parties and dispute to be referred</i> ] to arbitration; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying documents	This summons is accompanied by these documents — 1. A copy of the arbitration agreement. 2. An affidavit stating the material facts on which this summons is based.
Notice to respondent	The Court will hear this summons, or make orders for the hearing of it — on [date] at [time], or as soon after then as possible, at the [address of Supreme Court or of Court of Appeal]. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b>
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.

**Form 2**

Applicant's signature	..... [Name] [Capacity, e.g. Defendant, Lawyer for plaintiff]	Date:
Applicant's service details <sup>1</sup>		

Footnotes to Form 1 —

\* Delete the inapplicable.

1. The service details must comply with the RSC Order 71A rule 3.

**2. Originating summons to enforce foreign award (Cwlth Act s. 8(2)) (r. 7(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons to enforce foreign award</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 8(2). Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff, by this originating summons, applies for — (a) an order under the <i>International Arbitration Act 1974</i> (Commonwealth) s. 8(2) to enforce [state details of foreign award and how it is sought to be enforced]; and (b) [state briefly but specifically any other orders sought].
Accompanying documents	This summons is accompanied by these documents — 1. The documents referred to in the <i>International Arbitration Act 1974</i> (Commonwealth) section 9. 2. An affidavit stating — (a) the extent to which the foreign award has not been complied with at the date of this summons; and (b) the usual or last known place of residence or business of the person against whom it is sought to enforce the foreign award or, if the person is a company, the last known registered office of the company.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the [address of Supreme Court or of Court of Appeal]. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.

Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [ <i>Select one of these 3 options and delete the others.</i> ] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [ <i>Name</i> ] [ <i>Capacity, e.g. Plaintiff, Lawyer for plaintiff</i> ]	Date:

Footnotes to Form 2 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**3. Summons for referral to arbitration (Model Law art. 8) (r. 8(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:
	<b>Summons for referral to arbitration under Model Law art. 8</b>
*Subject of case	
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Parties to this summons	Applicant: [ <i>Name</i> ] [ <i>*Plaintiff/Defendant</i> ] Respondent: [ <i>Name</i> ] [ <i>*Plaintiff/Defendant</i> ]
Reason for this summons	The applicant is a party to an arbitration agreement and, by this summons, applies for — (a) an order under the Model Law article 8 that stays *the whole/part of this proceeding and refers [ <i>identify parties and dispute to be referred</i> ] to arbitration; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying documents	This summons is accompanied by these documents — 1. A copy of the arbitration agreement. 2. An affidavit stating the material facts on which this summons is based.

**Supreme Court (Arbitration) Rules 2016**  
**Schedule 1**      Forms

**Form 4**

Notice to respondent	The Court will hear this summons, or make orders for the hearing of it — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b>	
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.	
Applicant's signature	..... [Name] [Capacity, e.g. Defendant, Lawyer for plaintiff]	Date:
Applicant's service details <sup>1</sup>		

Footnotes to Form 3 —

\* Delete the inapplicable.

1. The service details must comply with the RSC Order 71A rule 3.

**4. Originating summons for issue of subpoena (Cwlth Act s. 23) (r. 9(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:	
	<b>Originating summons for issue of subpoena</b>	
Subject of case	<i>International Arbitration Act 1974 (Commonwealth)</i> s. 23. Arbitration agreement between [parties] dated [date].	
Parties to case	[Name]    Plaintiff	
	[Name]    Defendant	
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) the issue of a subpoena under the <i>International Arbitration Act 1974 (Commonwealth)</i> s. 23(3) to [identify person to whom subpoena will be addressed and type of subpoena]; and (b) [state briefly but specifically any other orders sought].	

Accompanying documents	This summons is accompanied by these documents — 1. A draft subpoena in accordance with *Form 5/Form 6/Form 7. 2. An affidavit stating the following — (a) the names of the parties to the arbitration; (b) the name of the arbitrator or the names of the arbitrators constituting the arbitral tribunal conducting the arbitration; (c) the place where the arbitration is being conducted; (d) the nature of the arbitration; (e) the terms of the permission given by the arbitral tribunal for the application; (f) the conduct money (if appropriate) to be paid to the addressee; (g) the witness expenses payable to the addressee.	
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 4 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

Form 5

5. Subpoena to give oral evidence to arbitral tribunal (Cwlth Act s. 23) (r. 9)

In the Supreme Court of Western Australia General Division		No.:
		<b>Subpoena to give oral evidence to arbitral tribunal</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 23. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].	
Parties to case	[ <i>Name</i> ] [ <i>Name</i> ]	Plaintiff Defendant
To	[ <i>Name of witness</i> ] of [ <i>address</i> ]	
Order	<b>You are ordered to attend and give oral evidence to an arbitral tribunal.</b> See below for details. <b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b> Please read Notes 1 to 8 at the end of this subpoena.	
Last date for service	The last date for service of this subpoena is [ <i>date</i> ]. (See Note 1).	
Issuing details	Issued at the request of: [ <i>Name of party</i> ], [ <i>role of party</i> ] Address for service: [ <i>See RSC Order 71A rule 3</i> ] Email:	
	Date of issue:	[ <i>Seal or stamp of Court</i> ]
Details of subpoena	Date, time and place at which you must attend and give oral evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [ <i>Name(s) of arbitrator(s) constituting arbitral tribunal</i> ] at [ <i>address</i> ]. You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.	
<b>Notes</b>		
<b>Last day for service</b>	1. 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.	
<b>Informal service</b>	2. 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.	



<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.
<b>Conduct money</b>	4. You need not comply with the subpoena 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 your attendance is required.
<b>Applications in relation to subpoena</b>	5. 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 any claim you may have for privilege, public interest immunity or confidentiality.
<b>Loss or expense of compliance</b>	6. 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.
<b>Contempt of court — arrest</b>	7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 8. Note 7 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**6. Subpoena to produce documents to arbitral tribunal (Cwlth Act s. 23) (r. 9)**

In the Supreme Court of Western Australia General Division	No.: <b>Subpoena to produce documents to arbitral tribunal</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 23. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
To	[ <i>Name of witness</i> ] of [ <i>address</i> ]
Order	<b>You are ordered to produce this subpoena or a copy of it and the documents specified in the schedule of documents to an arbitral tribunal.</b> See below for details. <b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b> Please read Notes 1 to 16 at the end of this subpoena.
Last date for service	The last date for service of this subpoena is [ <i>date</i> ]. (See Note 1).

**Form 6**

Issuing details	Issued at the request of: [ <i>Name of party</i> ], [ <i>role of party</i> ] Address for service: [ <i>See RSC Order 71A rule 3</i> ] Email:	
	Date of issue:	[ <i>Seal or stamp of Court</i> ]
Details of subpoena	<p>You must comply with this subpoena —</p> <p>(a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or</p> <p>(b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5-12).</p> <p>Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted —</p> <p>Date:</p> <p>Time:</p> <p>Place: [<i>Name(s) of arbitrator(s) constituting arbitral tribunal</i>] at [<i>address</i>].</p> <p>Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted —</p> <p>[<i>Name</i>] at [<i>address</i>].</p>	
<b>Schedule of documents</b>		
<p>The documents you must produce are as follows:          [<i>List the documents and state whether the original of any document is required. If insufficient space, attach list.</i>]</p>		
<b>Notes</b>		
<b>Last day for service</b>	1. 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.	
<b>Informal service</b>	2. 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.	
<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.	

<b>Conduct money</b>	4. You need not comply with the subpoena unless conduct money sufficient to meet your reasonable expenses of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s) as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.
<b>Production of subpoena or copy of it and documents by delivery or post</b>	5. Instead of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s), you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the documents to the arbitral tribunal — (a) at the address specified in the subpoena for the purpose; or (b) if more than one address is specified — at any of those addresses, so that they are received not less than 2 clear business 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 the later date or time.
<b>Objection to the inspection of document or thing produced</b>	6. 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 arbitral tribunal in writing of your objection and of the grounds of your objection. 7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the arbitral tribunal may permit the parties to the proceeding to inspect the document or thing.
<b>Production of a number of documents</b>	8. If you produce more than one document, you must, if requested by the arbitral tribunal, produce a list of the documents produced.
<b>Production of copy instead of original</b>	9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce. 10. The copy of a document may be — (a) a photocopy; or (b) in an electronic form on a CD-ROM, DVD or USB device in any of the following electronic formats: .doc and .docx – Microsoft Word documents .pdf – Adobe Acrobat documents .xls and .xlsx – Microsoft Excel spreadsheets .jpg – image files .rtf – rich text format .gif – graphics interchange format .tif – tagged image format.

Form 7

<b>Return or destruction of documents or copies</b>	11. You may, at the time of production, inform the arbitral tribunal that any document or copy of a document produced need not be returned and may be destroyed. 12. If you have so informed the arbitral tribunal, the arbitral tribunal may destroy the document or copy instead of returning it to you.
<b>Applications in relation to subpoena</b>	13. 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 any claim you may have for privilege, public interest immunity or confidentiality.
<b>Loss or expense of compliance</b>	14. 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.
<b>Contempt of court — arrest</b>	15. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 16. Note 15 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**7. Subpoena to give oral evidence and produce documents to arbitral tribunal (Cwlth Act s. 23) (r. 9)**

In the Supreme Court of Western Australia General Division	No.:
	<b>Subpoena to give oral evidence and produce documents to arbitral tribunal</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 23. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
To	[ <i>Name of witness</i> ] of [ <i>address</i> ]
Order	<b>You are ordered to attend and give oral evidence and to produce this subpoena or a copy of it and the documents specified in the schedule of documents to an arbitral tribunal.</b> See below for details. <b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b> Please read Notes 1 to 16 at the end of this subpoena.
Last date for service	The last date for service of this subpoena is [ <i>date</i> ]. (See Note 1).

Issuing details	Issued at the request of: [ <i>Name of party</i> ], [ <i>role of party</i> ] Address for service: [ <i>See RSC Order 71A rule 3</i> ] Email: <hr/> Date of issue: _____ [ <i>Seal or stamp of Court</i> ]
Details of subpoena	<p>In so far as you are required by this subpoena to attend and give oral evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted —</p> Date: Time: Place: [ <i>Name(s) of arbitrator(s) constituting arbitral tribunal</i> ] at [ <i>address</i> ]. <p>You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.</p> <p>In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents, you must comply with this subpoena —</p> <ul style="list-style-type: none"> <li>(a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or</li> <li>(b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5-12).</li> </ul> <p>Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted —</p> Date: Time: Place: [ <i>Name(s) of arbitrator(s) constituting arbitral tribunal</i> ] at [ <i>address</i> ]. <p>Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted —                  [<i>Name</i>] at [<i>address</i>].</p>

**Form 7**

<b>Schedule of documents</b>	
<p>The documents and things you must produce are as follows —  <i>[List the documents and state whether the original of any document is required. If insufficient space, attach list.]</i></p>	
<b>Notes</b>	
<b>Last day for service</b>	1. 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.
<b>Informal service</b>	2. 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.
<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.
<b>Conduct money</b>	4. You need not comply with the subpoena unless conduct money sufficient to meet your reasonable expenses of attending to give oral evidence and attending to produce the subpoena (or a copy of it) and the document(s) or thing(s) as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.
<b>Production of subpoena or copy of it and documents by delivery or post</b>	5. In so far as this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s), you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the documents to the arbitral tribunal, <ul style="list-style-type: none"> <li>(a) at the address specified in the subpoena for the purpose; or</li> <li>(b) if more than one address is specified — at any of those addresses,</li> </ul> so that they are received not less than 2 clear business 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 the later date or time.
<b>Objection to the inspection of document or thing produced</b>	6. 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 arbitral tribunal in writing of your objection and of the grounds of your objection. 7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the arbitral tribunal may permit the parties to the proceeding to inspect the document or thing.

<b>Production of a number of documents</b>	8. If you produce more than one document, you must, if requested by the arbitral tribunal, produce a list of the documents produced.
<b>Production of copy instead of original</b>	9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce. 10. The copy of a document may be — (a) a photocopy; or (b) in an electronic form on a CD-ROM, DVD or USB device in any of the following electronic formats: .doc and .docx – Microsoft Word documents .pdf – Adobe Acrobat documents .xls and .xlsx – Microsoft Excel spreadsheets .jpg – image files .rtf – rich text format .gif – graphics interchange format .tif – tagged image format.
<b>Return or destruction of documents or copies</b>	11. You may, at the time of production, inform the arbitral tribunal that any document or copy of a document produced need not be returned and may be destroyed. 12. If you have so informed the arbitral tribunal, the arbitral tribunal may destroy the document or copy instead of returning it to you.
<b>Applications in relation to subpoena</b>	13. 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 any claim you may have for privilege, public interest immunity or confidentiality.
<b>Loss or expense of compliance</b>	14. 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.
<b>Contempt of court — arrest</b>	15. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 16. Note 15 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Form 8

8. Originating summons for order to give evidence or produce documents (Cwlth Act s. 23A) (r. 10(1))

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for order to give evidence, produce documents or do relevant thing</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 23A. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — 1. an order under the <i>International Arbitration Act 1974</i> (Commonwealth) s. 23A(3) that [ <i>identify person against whom order is sought</i> ] do the following — *(a) attend before the Court for examination; *(b) produce the following documents to the Court: [ <i>specify</i> ]; *(c) do the following things: [ <i>specify</i> ]; and 2. [ <i>state briefly but specifically any other orders sought</i> ]. This application relies on the <i>International Arbitration Act 1974</i> (Commonwealth) s. 23A(1) [ <i>insert relevant paragraph number</i> ].
Accompanying document	This summons is accompanied by an affidavit stating the following — (a) if the permission of the arbitral tribunal is required for this application, the terms of the permission; (b) the material facts relied on.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.
Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [ <i>Select one of these 3 options and delete the others.</i> ] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.



Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 8 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**9. Originating summons to prohibit or allow disclosure of confidential information in relation to arbitral proceedings (Cwlth Act s. 23F, 23G) (r. 11(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:
	<b>Originating summons to *prohibit/ allow disclosure of confidential information in relation to arbitral proceedings</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. *23F/23G. Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>International Arbitration Act 1974</i> (Commonwealth) s. *23F/23G that the disclosure by [name of party] of confidential information [insert details of the confidential information] be *prohibited/allowed *absolutely/on the following terms [insert any terms sought]; and (b) [state briefly but specifically any other orders sought].

**Form 9**

Accompanying document	<p>This summons is accompanied by an affidavit stating the following —</p> <p>(a) the material facts relied on;</p> <p>(b) *<i>[For an application made under s. 23F]</i> the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made.</p> <p>(b) *<i>[For an application made under s. 23G]</i> —</p> <p>*the date the arbitral tribunal’s mandate was terminated.</p> <p>*the date and terms —</p> <p>(i) of the request made to the arbitral tribunal for disclosure of the confidential information; and</p> <p>(ii) of the arbitral tribunal’s refusal to make the order.</p>	
Notice to defendant <sup>1</sup>	<p>The Court will hear this summons, or make orders for the conduct of this case —</p> <p>on <i>[date]</i> at <i>[time]</i>, or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth.</p> <p><b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b></p> <p>You must file a memorandum of appearance before attending Court or taking any other steps in this case.</p>	
Serving this summons	<p>*The time for serving this summons has been abridged to <i>[date and time]</i> by an order made by the Court on <i>[date]</i>.  <i>[Select one of these 3 options and delete the others.]</i></p> <p>*It is intended to serve this summons on all other parties.</p> <p>*It is intended to serve this summons on the following other parties:  <i>[insert name of each party on whom summons is to be served]</i>.</p> <p>*It is not intended to serve this summons on any party.</p>	
Plaintiff’s service details <sup>2</sup>	<p>*Name of lawyer:</p> <p>*Address where lawyer conducts business:</p> <p>Postal address for service of documents:</p> <p>Email address:</p> <p>Fax no.: Telephone no.:</p>	
Plaintiff’s signature	<p>.....</p> <p><i>[Name]</i></p> <p><i>[Capacity, e.g. Plaintiff, Lawyer for plaintiff]</i></p>	<p>Date:</p>

Footnotes to Form 9 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**10. Originating summons for relief under certain miscellaneous provisions of Model Law (r. 12(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for relief under certain miscellaneous provisions of Model Law</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth). Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is *a party to/the arbitral tribunal for the above arbitration agreement and, by this originating summons, applies for — (a) an order under the Model Law article *11(3), 11(4), 13(3), 14, 16(3), 17H, 17J or 27 that [ <i>insert details of the specific order sought</i> ]; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying document	This summons is accompanied by an affidavit stating the material facts relied on.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.
Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [ <i>Select one of these 3 options and delete the others.</i> ] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:

**Form 11**

Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:
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Footnotes to Form 10 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**11. Originating summons to set aside award (Model Law art. 34) (r. 13(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons to set aside award under Model Law art. 34</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth). Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the Model Law article 34(2) setting aside the award [identify award]; and (b) [state briefly but specifically any other orders sought]. This application relies on the Model Law article 34(2) [identify the subparagraphs of article 34(2)(a) or (b) relied on]. The grounds for this application are: [Set out the grounds, if necessary on an attached list.].
Accompanying document	This summons is accompanied by an affidavit — (a) that exhibits the following — (i) a copy of the arbitration agreement; (ii) a copy of the award, including the reasons of the arbitral tribunal for the award; and (b) that states the following — (i) the material facts relied on; (ii) the date on which the applicant received the award or, if a request was made under the Model Law article 33 to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.

Notice to defendant <sup>1</sup>	<p>The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.</p>	
Serving this summons	<p>*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.</p>	
Plaintiff's service details <sup>2</sup>	<p>*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:</p>	
Plaintiff's signature	<p>..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]</p>	Date:

Footnotes to Form 11 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

Form 12

12. Originating summons to enforce award (Model Law art. 35)  
 (r. 14(1))

In the Supreme Court of Western Australia Commercial and Managed Cases List		No.:
		<b>Originating summons to enforce award under Model Law art. 35</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth). Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].	
Parties to case	[ <i>Name</i> ] [ <i>Name</i> ]	Plaintiff Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the Model Law article 35 to enforce the award [ <i>identify award and state how it is to be enforced</i> ]; and (b) [ <i>state briefly but specifically any other orders sought</i> ].	
Accompanying document	This summons is accompanied by an affidavit — (a) that exhibits the document referred to in the Model Law article 35(2); and (b) that states the following — (i) the extent to which the award has not been complied with at the date of this summons; (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.	
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [ <i>Select one of these 3 options and delete the others.</i> ] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.	

Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 12 —

\* Delete the inapplicable.

1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
2. The service details must comply with the RSC Order 71A rule 3.

### 13. Originating summons for leave to enforce award to which Cwlth Act Part IV applies (Cwlth Act s. 35(2)) (r. 15(1))

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:
	<b>Originating summons for leave to enforce award to which <i>International Arbitration Act 1974</i> (Commonwealth) Part IV applies</b>
Subject of case	<i>International Arbitration Act 1974</i> (Commonwealth) s. 35(2). Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff, by this originating summons, applies for — (a) an order under the <i>International Arbitration Act 1974</i> (Commonwealth) s. 35(2) granting leave to enforce an award to which Part IV of that Act applies [identify award and state how it is to be enforced]; and (b) [state briefly but specifically any other orders sought].
Accompanying document	This summons is accompanied by an affidavit stating the following — (a) the extent to which the award has not been complied with at the date of this summons; (b) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

**Form 14**

Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 13 —

\* Delete the inapplicable.

1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
2. The service details must comply with the RSC Order 71A rule 3.

**14. Summons for referral to arbitration (WA Act s. 8) (r. 16(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:	
	<b>Summons for referral to arbitration</b>	
*Subject of case		
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Parties to this summons	Applicant: [Name]	[*Plaintiff/Defendant]
	Respondent: [Name]	[*Plaintiff/Defendant]



Reason for this summons	The applicant is a party to an arbitration agreement and, by this summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012</i> s. 8 that refers [ <i>identify parties and dispute to be referred</i> ] to arbitration; and (b) [ <i>state briefly but specifically any other orders sought</i> ].	
Accompanying documents	This summons is accompanied by these documents — 1. A copy of the arbitration agreement. 2. An affidavit stating the material facts on which this summons is based.	
Notice to respondent	The Court will hear this summons, or make orders for the hearing of it — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b>	
Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [ <i>Select one of these 3 options and delete the others.</i> ] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.	
Applicant's signature	..... [ <i>Name</i> ] [ <i>Capacity, e.g. Defendant, Lawyer for plaintiff</i> ]	Date:
Applicant's service details <sup>1</sup>		

Footnotes to Form 14 —

\* Delete the inapplicable.

1. The service details must comply with the RSC Order 71A rule 3.

**Form 15**

**15. Originating summons for issue of subpoena (WA Act s. 27A)**  
**(r. 17(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for issue of subpoena</b>
Subject of case	<i>Commercial Arbitration Act 2012 s. 27A.</i> Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) the issue of a subpoena under the <i>Commercial Arbitration Act 2012 s. 27A</i> to [ <i>identify person to whom subpoena will be addressed and type of subpoena</i> ]; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying documents	This summons is accompanied by these documents — 1. A draft subpoena in accordance with *Form 16/Form 17/ Form 18. 2. An affidavit stating the following — (a) the names of the parties to the arbitration; (b) the name of the arbitrator or the names of the arbitrators constituting the arbitral tribunal conducting the arbitration; (c) the place where the arbitration is being conducted; (d) the nature of the arbitration; (e) the terms of the permission given by the arbitral tribunal for the application; (f) the conduct money (if appropriate) to be paid to the addressee; (g) the witness expenses payable to the addressee.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.

Serving this summons	<p>*The time for serving this summons has been abridged to [<i>date and time</i>] by an order made by the Court on [<i>date</i>].                  [Select one of these 3 options and delete the others.]                  *It is intended to serve this summons on all other parties.                  *It is intended to serve this summons on the following other parties:                  [<i>insert name of each party on whom summons is to be served</i>].                  *It is not intended to serve this summons on any party.</p>	
Plaintiff's service details <sup>2</sup>	<p>*Name of lawyer:                  *Address where lawyer conducts business:                  Postal address for service of documents:                  Email address:                  Fax no.: Telephone no.:</p>	
Plaintiff's signature	<p>.....                  [Name]                  [Capacity, e.g. Plaintiff, Lawyer for plaintiff]</p>	Date:

Footnotes to Form 15 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**16. Subpoena to give oral evidence to arbitral tribunal (WA Act s. 27A) (r. 17)**

In the Supreme Court of Western Australia General Division	No.:
	<b>Subpoena to give oral evidence to arbitral tribunal</b>
Subject of case	<i>Commercial Arbitration Act 2012 s. 27A.</i> Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[Name] Plaintiff [Name] Defendant
To	[Name of witness] of [address]
Order	<b>You are ordered to attend and give oral evidence to an arbitral tribunal.</b> See below for details. <b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b> Please read Notes 1 to 8 at the end of this subpoena.
Last date for service	The last date for service of this subpoena is [ <i>date</i> ]. (See Note 1).

**Form 16**

Issuing details	Issued at the request of: [ <i>Name of party</i> ], [ <i>role of party</i> ] Address for service: [ <i>See RSC Order 71A rule 3</i> ] Email:	
	Date of issue:	[ <i>Seal or stamp of Court</i> ]
Details of subpoena	Date, time and place at which you must attend and give oral evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [ <i>Name(s) of arbitrator(s) constituting arbitral tribunal</i> ] at [ <i>address</i> ]. You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.	
<b>Notes</b>		
<b>Last day for service</b>	1. 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.	
<b>Informal service</b>	2. 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.	
<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.	
<b>Conduct money</b>	4. You need not comply with the subpoena 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 your attendance is required.	
<b>Applications in relation to subpoena</b>	5. 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 any claim you may have for privilege, public interest immunity or confidentiality.	
<b>Loss or expense of compliance</b>	6. 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.	

<b>Contempt of court — arrest</b>	<p>7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.</p> <p>8. Note 7 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.</p>
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**17. Subpoena to produce documents to arbitral tribunal (WA Act s. 27A) (r. 17)**

In the Supreme Court of Western Australia General Division	No.:
	<b>Subpoena to produce documents to arbitral tribunal</b>
Subject of case	<i>Commercial Arbitration Act 2012 s. 27A.</i> Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
To	[Name of witness] of [address]
Order	<b>You are ordered to produce this subpoena or a copy of it and the documents specified in the schedule of documents.</b> See below for details. <b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b> Please read Notes 1 to 16 at the end of this subpoena.
Last date for service	The last date for service of this subpoena is [date]. (See Note 1).
Issuing details	Issued at the request of: [Name of party], [role of party] Address for service: [See RSC Order 71A rule 3] Email:
	Date of issue: [Seal or stamp of Court]
Details of subpoena	You must comply with this subpoena — (a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or (b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5 to 12). Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice of a later date or

**Form 17**

	<p>time from the issuing party, in which case the later date or time is substituted —</p> <p>Date:</p> <p>Time:</p> <p>Place: <i>[Name(s) of arbitrator(s) constituting arbitral tribunal]</i> at <i>[address]</i>.</p> <p>Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted — <i>[Name]</i> at <i>[address]</i>.</p>
<b>Schedule of documents</b>	
<p>The documents and things you must produce are as follows:  <i>[List the documents and state whether the original of any document is required. If insufficient space, attach list.]</i></p>	
<b>Notes</b>	
<b>Last day for service</b>	1. 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.
<b>Informal service</b>	2. 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.
<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.
<b>Conduct money</b>	4. You need not comply with the subpoena unless conduct money sufficient to meet your reasonable expenses of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s) as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.
<b>Production of subpoena or copy of it and documents by delivery or post</b>	5. Instead of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s), you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the documents to the arbitral tribunal — (a) at the address specified in the subpoena for the purpose; or (b) if more than one address is specified — at any of those addresses, so that they are received not less than 2 clear business 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 the later date or time.

<b>Objection to the inspection of document or thing produced</b>	<p>6. 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 arbitral tribunal in writing of your objection and of the grounds of your objection.</p> <p>7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the arbitral tribunal may permit the parties to the proceeding to inspect the document or thing.</p>
<b>Production of a number of documents</b>	<p>8. If you produce more than one document, you must, if requested by the arbitral tribunal, produce a list of the documents produced.</p>
<b>Production of copy instead of original</b>	<p>9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.</p> <p>10. The copy of a document may be —</p> <ul style="list-style-type: none"> <li>(a) a photocopy; or</li> <li>(b) in an electronic form on a CD-ROM, DVD or USB device in any of the following electronic formats: <ul style="list-style-type: none"> <li>.doc and .docx – Microsoft Word documents</li> <li>.pdf – Adobe Acrobat documents</li> <li>.xls and .xlsx – Microsoft Excel spreadsheets</li> <li>.jpg – image files</li> <li>.rtf – rich text format</li> <li>.gif – graphics interchange format</li> <li>.tif – tagged image format.</li> </ul> </li> </ul>
<b>Return or destruction of documents or copies</b>	<p>11. You may, at the time of production, inform the arbitral tribunal that any document or copy of a document produced need not be returned and may be destroyed.</p> <p>12. If you have so informed the arbitral tribunal, the arbitral tribunal may destroy the document or copy instead of returning it to you.</p>
<b>Applications in relation to subpoena</b>	<p>13. You have the right to apply to the Court —</p> <ul style="list-style-type: none"> <li>(a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and</li> <li>(b) for an order with respect to any claim you may have for <u>privilege, public interest immunity or confidentiality</u>.</li> </ul>
<b>Loss or expense of compliance</b>	<p>14. 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>
<b>Contempt of court — arrest</b>	<p>15. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.</p>

Form 18

	16. Note 15 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.
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**18. Subpoena to give oral evidence and produce documents to arbitral tribunal (WA Act s. 27A) (r. 17)**

In the Supreme Court of Western Australia General Division	No.:	
	<b>Subpoena to give oral evidence and produce documents to arbitral tribunal</b>	
Subject of case	<i>Commercial Arbitration Act 2012 s. 27A.</i> Arbitration agreement between [parties] dated [date].	
Parties to case	[Name] Plaintiff [Name] Defendant	
To	[Name of witness] of [address]	
Order	<p><b>You are ordered to attend and give oral evidence and to produce this subpoena or a copy of it and the documents specified in the schedule of documents to an arbitral tribunal.</b></p> <p>See below for details.</p> <p><b>Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.</b></p> <p>Please read Notes 1 to 16 at the end of this subpoena.</p>	
Last date for service	The last date for service of this subpoena is [date]. (See Note 1).	
Issuing details	Issued at the request of: [Name of party], [role of party] Address for service: [See RSC Order 71A rule 3] Email:	
	Date of issue:	[Seal or stamp of Court]
Details of subpoena	<p>In so far as you are required by this subpoena to attend and give oral evidence, you must attend as follows, unless you receive notice 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: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address].</p> <p>You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.</p>	



	<p>In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents, you must comply with this subpoena —</p> <p>(a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or</p> <p>(b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5-12).</p> <p>Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice 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: <i>[Name(s) of arbitrator(s) constituting arbitral tribunal]</i> at <i>[address]</i>. Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted — <i>[Name]</i> at <i>[address]</i>.</p>
<b>Schedule of documents</b>	
<p>The documents and things you must produce are as follows: <i>[List the documents and state whether the original of any document is required. If insufficient space, attach list.]</i></p>	
<b>Notes</b>	
<b>Last day for service</b>	1. 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.
<b>Informal service</b>	2. 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.
<b>Addressee a company</b>	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.
<b>Conduct money</b>	4. You need not comply with the subpoena unless conduct money sufficient to meet your reasonable expenses of attending to give oral evidence and attending to produce the subpoena (or a copy of it) and the document(s) or thing(s) as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

**Form 18**

<b>Production of subpoena or copy of it and documents by delivery or post</b>	<p>5. Instead of attending to produce the subpoena (or a copy of it) and the document(s) or thing(s), you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the documents to the arbitral tribunal —</p> <p>(a) at the address specified in the subpoena for the purpose; or</p> <p>(b) if more than one address is specified — at any of those addresses,</p> <p>so that they are received not less than 2 clear business 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 the later date or time.</p>
<b>Objection to the inspection of document or thing produced</b>	<p>6. 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 arbitral tribunal in writing of your objection and of the grounds of your objection.</p> <p>7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the arbitral tribunal may permit the parties to the proceeding to inspect the document or thing.</p>
<b>Production of a number of documents</b>	<p>8. If you produce more than one document, you must, if requested by the arbitral tribunal, produce a list of the documents produced.</p>
<b>Production of copy instead of original</b>	<p>9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.</p> <p>10. The copy of a document may be —</p> <p>(a) a photocopy; or</p> <p>(b) in an electronic form on a CD-ROM, DVD or USB device in any of the following electronic formats:</p> <p>.doc and .docx – Microsoft Word documents</p> <p>.pdf – Adobe Acrobat documents</p> <p>.xls and .xlsx – Microsoft Excel spreadsheets</p> <p>.jpg – image files</p> <p>.rtf – rich text format</p> <p>.gif – graphics interchange format</p> <p>.tif – tagged image format.</p>
<b>Return or destruction of documents or copies</b>	<p>11. You may, at the time of production, inform the arbitral tribunal that any document or copy of a document produced need not be returned and may be destroyed.</p> <p>12. If you have so informed the arbitral tribunal, the arbitral tribunal may destroy the document or copy instead of returning it to you.</p>

<b>Applications in relation to subpoena</b>	13. 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 any claim you may have for privilege, public interest immunity or confidentiality.
<b>Loss or expense of compliance</b>	14. 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.
<b>Contempt of court — arrest</b>	15. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 16. Note 15 is without prejudice to 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 defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**19. Originating summons for order to give evidence or produce documents (WA Act s. 27B) (r. 18(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for order to give evidence, produce documents or do relevant thing</b>
Subject of case	<i>Commercial Arbitration Act 2012</i> s. 27B. Arbitration agreement between [parties] dated [date].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff is *a party to/the arbitral tribunal for the above arbitration agreement and, by this originating summons, applies for — 1. an order under the <i>Commercial Arbitration Act 2012</i> s. 27B that [identify person against whom order is sought] do the following — *(a) attend before the Court for examination; *(b) produce the following documents to the Court: [specify]; *(c) do the following things: [specify]; and 2. [state briefly but specifically any other orders sought]. This application relies on the <i>Commercial Arbitration Act 2012</i> s. 27B(1) [insert relevant paragraph number].

**Form 19**

Accompanying document	This summons is accompanied by an affidavit stating the following — (a) the terms of the permission given by the arbitral tribunal for this application; (b) the material facts relied on.	
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 19 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**20. Originating summons to prohibit or allow disclosure of confidential information in relation to arbitral proceedings (WA Act s. 27H, 27I) (r. 19(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons to *prohibit/ allow disclosure of confidential information in relation to arbitral proceedings</b>
Subject of case	<i>Commercial Arbitration Act 2012</i> s. *27H/27I. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012</i> s. *27H/27I that the disclosure by [ <i>name of party</i> ] of confidential information [ <i>insert details of the confidential information</i> ] be *prohibited/allowed *absolutely/on the following terms [ <i>insert any terms sought</i> ]; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying document	This summons is accompanied by an affidavit stating the following — (a) the material facts relied on; (b) *[ <i>For an application made under s. 27H</i> ] the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made. (b) *[ <i>For an application made under s. 27I</i> ] — *the date the arbitral tribunal’s mandate was terminated. *the date and terms — (i) of the request made to the arbitral tribunal for disclosure of the confidential information; and (ii) of the arbitral tribunal’s refusal to make the order.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.

**Form 21**

Serving this summons	<p>*The time for serving this summons has been abridged to [<i>date and time</i>] by an order made by the Court on [<i>date</i>].                  [*Select one of these 3 options and delete the others.]                  *It is intended to serve this summons on all other parties.                  *It is intended to serve this summons on the following other parties:                  [<i>insert name of each party on whom summons is to be served</i>].                  *It is not intended to serve this summons on any party.</p>	
Plaintiff's service details <sup>2</sup>	<p>*Name of lawyer:                  *Address where lawyer conducts business:                  Postal address for service of documents:                  Email address:                  Fax no.: Telephone no.:</p>	
Plaintiff's signature	<p>.....                  [<i>Name</i>]                  [<i>Capacity, e.g. Plaintiff, Lawyer for plaintiff</i>]</p>	Date:

Footnotes to Form 20 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**21. Originating summons for order under certain miscellaneous provisions of WA Act (r. 20(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:
	<b>Originating summons for relief under certain miscellaneous provisions of <i>Commercial Arbitration Act 2012</i></b>
Subject of case	<i>Commercial Arbitration Act 2012</i> s. [ <i>specify</i> ] Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is *a party to/the arbitral tribunal for the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012</i> s. *11(3), 11(4), 13(4), 14, 16(9), 17H, 17J, 19(6) or 27 that [ <i>insert details of the specific order sought</i> ]; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying document	This summons is accompanied by an affidavit stating the material facts relied on.

Notice to defendant <sup>1</sup>	<p>The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth.</p> <p><b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b></p> <p>You must file a memorandum of appearance before attending Court or taking any other steps in this case.</p>	
Serving this summons	<p>*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.]</p> <p>*It is intended to serve this summons on all other parties.</p> <p>*It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served].</p> <p>*It is not intended to serve this summons on any party.</p>	
Plaintiff's service details <sup>2</sup>	<p>*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:</p>	
Plaintiff's signature	<p>..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]</p>	Date:

Footnotes to Form 21 —

\* Delete the inapplicable.

1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
2. The service details must comply with the RSC Order 71A rule 3.

[Form 21 amended: Gazette 25 Jul 2017 p. 4076.]

Form 22

22. **Originating summons for determination of a question of law (WA Act s. 27J) (r. 21(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for determination of question of law</b>
Subject of case	<i>Commercial Arbitration Act 2012 s. 27J.</i> Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012 s. 27J</i> granting leave to apply for the determination of a question of law arising in the course of an arbitration and, if leave is granted, for determination of that question of law; and (b) [ <i>state briefly but specifically any other orders sought</i> ]. The grounds on which leave should be granted are: [ <i>Set out the grounds, if necessary on an attached list</i> ].
Accompanying document	This summons is accompanied by an affidavit — (a) that exhibits a copy of the arbitration agreement and evidence of the consent of the arbitrator or all other parties to the determination of the question of law under the <i>Commercial Arbitration Act 2012 s. 27J</i> ; and (b) that states the following — (i) the name and usual or last known place of residence or business of any person whose interest might be affected by this application or, when that person is a company, its last known registered office or address for service in the arbitration; (ii) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises; (iii) the facts on the basis of which the question of law is to be determined and the basis on which those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise.
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [ <i>date</i> ] at [ <i>time</i> ], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b>





**Form 23**

Accompanying document	<p>This summons is accompanied by an affidavit —</p> <p>(a) that exhibits the following —</p> <p>(i) a copy of the arbitration agreement;</p> <p>(ii) a copy of the award, including the reasons of the arbitral tribunal for the award;</p> <p>and</p> <p>(b) that states the following —</p> <p>(i) the material facts relied on;</p> <p>(ii) the date on which the applicant received the award or, if a request was made under the <i>Commercial Arbitration Act 2012</i> s. 33 to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.</p>	
Notice to defendant <sup>1</sup>	<p>The Court will hear this summons, or make orders for the conduct of this case —</p> <p>on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth.</p> <p><b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b></p> <p>You must file a memorandum of appearance before attending Court or taking any other steps in this case.</p>	
Serving this summons	<p>*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date].</p> <p>[Select one of these 3 options and delete the others.]</p> <p>*It is intended to serve this summons on all other parties.</p> <p>*It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served].</p> <p>*It is not intended to serve this summons on any party.</p>	
Plaintiff's service details <sup>2</sup>	<p>*Name of lawyer:</p> <p>*Address where lawyer conducts business:</p> <p>Postal address for service of documents:</p> <p>Email address:</p> <p>Fax no.: Telephone no.:</p>	
Plaintiff's signature	<p>.....</p> <p>[Name]</p> <p>[Capacity, e.g. Plaintiff, Lawyer for plaintiff]</p>	Date:

Footnotes to Form 23 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**24. Originating summons for leave to appeal against award (WA Act s. 34A) (r. 23(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.: <b>Originating summons for leave to appeal against award</b>
Subject of case	<i>Commercial Arbitration Act 2012</i> s. 34A. Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[ <i>Name</i> ] Plaintiff [ <i>Name</i> ] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012</i> s. 34A granting leave to appeal on a question of law arising out of the following award [ <i>identify award</i> ]; and (b) if leave to appeal is granted, an order that the appeal be allowed and [ <i>set out the substantive orders sought on the proposed appeal</i> ]; and (c) [ <i>state briefly but specifically any other orders sought</i> ]. <b>Question of law to be determined:</b> [ <i>set out succinctly the question of law to be determined</i> ]. <b>The grounds on which leave to appeal should be granted:</b> [ <i>set out grounds in numbered paragraphs</i> ].
Accompanying documents	This summons is accompanied by these documents — 1. An affidavit that — (a) shows that, before the end of the appeal period referred to in the <i>Commercial Arbitration Act 2012</i> s. 34A(1) and (6), the parties agreed that an appeal may be made under section 34A of that Act; and (b) exhibits a copy of the arbitration agreement and a copy of the award, including the reasons of the arbitral tribunal for the award. 2. A submission setting out the matters referred to in <i>Supreme Court (Arbitration) Rules 2016</i> rule 23(5).
Notice to defendant <sup>1</sup>	In accordance with the <i>Commercial Arbitration Act 2012</i> s. 34A(5), the Court will determine this summons for leave to appeal without a hearing unless it appears to the Court that a hearing is required. If you wish to oppose any of the orders or relief sought by the plaintiff, you must, within 14 days after service of this summons on you or within such further time as the Court may allow, file and serve any answering material, including a succinct statement of any argument in opposition to the summons for leave and the appeal if leave is granted.

**Form 25**

	You must file a memorandum of appearance before taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [ <i>date and time</i> ] by an order made by the Court on [ <i>date</i> ]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [ <i>insert name of each party on whom summons is to be served</i> ]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 24 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**25. Originating summons to enforce award (WA Act s. 35) (r. 24(1))**

In the Supreme Court of Western Australia Commercial and Managed Cases List	No.:
	<b>Originating summons to enforce award</b>
Subject of case	<i>Commercial Arbitration Act 2012 s. 35.</i> Arbitration agreement between [ <i>parties</i> ] dated [ <i>date</i> ].
Parties to case	[Name] Plaintiff [Name] Defendant
Reason for this summons	The plaintiff is a party to the above arbitration agreement and, by this originating summons, applies for — (a) an order under the <i>Commercial Arbitration Act 2012 s. 35</i> that the following award [ <i>identify award</i> ] be enforced; and (b) [ <i>state briefly but specifically any other orders sought</i> ].
Accompanying document	This summons is accompanied by an affidavit — (a) that exhibits the document referred to in the <i>Commercial Arbitration Act 2012 s. 35</i> ; and (b) that states the following — (i) the extent to which the award has not been complied with at the date of this summons; and

	(ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.	
Notice to defendant <sup>1</sup>	The Court will hear this summons, or make orders for the conduct of this case — on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack Street, Perth. <b>If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.</b> You must file a memorandum of appearance before attending Court or taking any other steps in this case.	
Serving this summons	*The time for serving this summons has been abridged to [date and time] by an order made by the Court on [date]. [Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served]. *It is not intended to serve this summons on any party.	
Plaintiff's service details <sup>2</sup>	*Name of lawyer: *Address where lawyer conducts business: Postal address for service of documents: Email address: Fax no.: Telephone no.:	
Plaintiff's signature	..... [Name] [Capacity, e.g. Plaintiff, Lawyer for plaintiff]	Date:

Footnotes to Form 25 —

- \* Delete the inapplicable.
- 1. Memorandum of appearance. See the RSC Order 12 rule 2 and Schedule 2 Form 6.
- 2. The service details must comply with the RSC Order 71A rule 3.

**Notes**

<sup>1</sup> This is a compilation of the *Supreme Court (Arbitration) Rules 2016* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Supreme Court (Arbitration) Rules 2016</i>	20 Dec 2016 p. 5819-85	Pt. 1: 20 Dec 2016 (see r. 2(a)); Pt. 2-4 and Sch. 1: 3 Jan 2017 (see r. 2(b))
<i>Supreme Court (Arbitration) Amendment Rules 2017</i>	25 Jul 2017 p. 4076	r. 1 and 2: 25 Jul 2017 (see r. 2(a)); Rules other than r. 1 and 2: 26 Jul 2017 (see r. 2(b))

## Defined terms

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

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
arbitration.....	3(1)
Commonwealth Act .....	3(1)
Form.....	3(1)
Model Law.....	3(1)
RSC.....	3(1)
WA Act.....	3(1)