

**CROWN LAW**

CW301

**DISTRICT COURT OF WESTERN AUSTRALIA ACT 1969**

Pursuant to the powers conferred by the *District Court of Western Australia Act 1969*, and of all other powers hereunto enabling, the Judges of the District Court of Western Australia hereby make the following rules.

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Amendment of the Rules of the District Court

**Principal rules**

1. The rules made pursuant to the powers conferred by the *District Court of Western Australia Act 1969*, reprinted in the *Government Gazette* on 2 July 1982 pursuant to the *Reprinting of Regulations Act 1954* and amended by adding the rules published in the *Government Gazette* on 17 December 1982 those published in the *Government Gazette* on 11 July 1986 those published in the *Government Gazette* on 17 November 1989 and those published in the *Government Gazette* on 14 September 1990, are referred to hereinafter as the principal rules.

**Commencement**

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

**Order 2 amended**

3. Rule 9 of Order 2 of the principal rules is amended by deleting sub-rule (1) and substituting the following sub-rule—

A person affected by a judgment, order or decision of the Registrar may appeal therefrom to a Judge in chambers.

**Order 4 amended**

4. Order 4 of the principal rules is deleted and the following substituted.

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Order 4  
Pre-Trial Conferences

## 1. The Registrar

In this Order the expression “the Registrar” includes the Principal Registrar and each Registrar of the Court.

## 2. When pre-trial conferences required

The parties to every action commenced by writ, other than an action—

- (a) in which formal judgment is entered, whether by consent or otherwise, before a pre-trial conference is held and there remains no dispute between the parties as to any issue other than costs;
- (b) in respect of which a Judge makes an order dispensing with the requirement; or
- (c) falling within a class of actions which the Chief Judge directs is not subject to the provisions of this Order,

are required to attend a pre-trial conference as provided in this Order.

## 3. Parties must attend in person

- (1) Unless the Registrar orders otherwise a party must attend a pre-trial conference in person or, if a body corporate, by an authorised officer.

- (2) Where an action is being litigated on behalf of a party by an insurer, sub-rule (1) may be satisfied by the attendance of an authorised officer of that insurer.
- (3) Subject to sub-rule (1), a party may be represented at a pre-trial conference by counsel or a solicitor.
- (4) An application for an order dispensing with personal attendance at a pre-trial conference by a party must be made at least 7 days before the date fixed for the pre-trial conference.

#### 4. Procedure

- (1) A pre-trial conference in respect of an action must be held after the pleadings are closed and all interlocutory matters finalised but before the action is listed for trial.
- (2) Unless a Judge orders otherwise, a pre-trial conference shall be held before the Registrar and in accordance with any directions the Registrar makes.
- (3) A pre-trial conference may be adjourned from time to time.

#### 5. Parties must attempt to settle

- (1) The parties who attend a pre-trial conference must make a *bona fide* attempt to reach agreement on the matters in dispute between them.
- (2) If the Registrar is not satisfied that the parties to an action have complied with sub-rule (1) he may decline to list the action for trial until the parties have complied with that sub-rule.

#### 6. Evidence

- (1) Subject to sub-rule (2), evidence of anything said or any admission made in the course of a pre-trial conference is not admissible at the trial of the action.
- (2) Sub-rule (1) does not apply to—
  - (a) the trial of a person for an offence alleged to have been committed at a pre-trial conference;
  - (b) the hearing of an application for costs arising out of a pre-trial conference; or
  - (c) anything said or admitted which all parties to the pre-trial conference agree may be admitted in evidence at the trial and which the Registrar records in writing as having been so agreed.

#### 7. Expert evidence

- (1) In this rule "report" means a medical report or a report of an expert within the meaning of Order 36A of the Rules of the Supreme Court 1971.
- (2) Unless the Registrar directs otherwise, a party must serve on the other party, at least 14 days before the date fixed for a pre-trial conference, a copy of every report the substance of which that party intends to rely on at trial which is then in the hands of that party or his or her solicitor.

#### 8. Actions settled

- (1) Where a compromise is reached at a pre-trial conference—
  - (a) the parties and their counsel or solicitors shall sign and file a written consent to the making of an order giving effect to the compromise; and
  - (b) unless the approval of a Judge is required, judgement shall be entered at the pre-trial conference.
- (2) Where the approval of a Judge to a compromise is required the Registrar shall cause a date to be fixed for the matter to be brought before a Judge in chambers and the plaintiff's solicitors shall issue a summons returnable on that date.
- (3) Where the requirement of personal attendance of a party is dispensed with or is satisfied by the attendance of an authorised officer of an insurer, sub-rule (1) (a) is satisfied by the signing of a consent by the counsel or solicitor representing the party and, if an authorised officer of an insurer is in attendance, by that officer.

#### 9. Actions not settled

Where a compromise is not reached at a pre-trial conference—

- (a) the Registrar may give directions and make orders as though he were sitting in chambers and the pre-trial conference were the hearing of a summons for directions; and

- (b) if he is satisfied the action is in all respects ready for trial, the Registrar may fix a date for the trial of the action.

10. Costs

- (1) The Registrar may make any orders as to costs as though a pre-trial conference were a chambers matter before him.
- (2) Where an action is compromised the Registrar may also make all other necessary orders as to costs, including orders—
- (a) awarding costs reserved; and
  - (b) awarding costs of interrogatories.

Dated 24 June 1992.

D. C. HEENAN, Chief Judge.  
I. R. GUNNING, Judge.  
BRIAN T. O'DEA, Judge.  
K. J. HAMMOND, Judge.  
G. T. SADLIER, Judge.  
NIGEL CLARKE, Judge.  
H. H. JACKSON, Judge.  
A. KENNEDY, Judge.  
R. KEALL, Judge.  
ROBERT VIOL, Judge.  
J. G. BARLOW, Judge.  
P. J. WILLIAMS, Judge.  
P. D. BLAXELL, Judge.