Western Australia

Magistrates Court (Civil Proceedings) Act 2004

Magistrates Court (Civil Proceedings) Rules 2005

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Defined terms

Magistrates Court (Civil Proceedings) Rules 2005

Part 1 — Preliminary

1. Citation

These rules are the *Magistrates Court (Civil Proceedings) Rules 2005*.

2. Commencement

These rules come into operation on the day on which the *Magistrates Court (Civil Proceedings) Act 2004* comes into operation.

3. These rules to be read with *Magistrates Court (General) Rules 2005*

These rules are to be read with the *Magistrates Court (General) Rules 2005*.

4. Terms used

In these rules, unless the contrary intention appears —

Act means the *Magistrates Court (Civil Proceedings) Act 2004*;

application means an application made under Part 18;

approved form means the form approved by the Chief Magistrate;

approved user, of the ECMS, has the meaning given in the *Criminal Procedure Regulations 2005* regulation 3(1);

counterclaim means a claim made by a defendant against a claimant including a claim for set-off;

default judgment means a judgment given under the Act section 19(2)(b), and includes a dismissal of a claim for want of service without consideration of its merits;

defendant means a party against which a claim is made by a claimant;

ECMS means the electronic case management system for the management of proceedings in Western Australian courts and tribunals;

enforcement officer has the meaning given to that term in the *Civil Judgments Enforcement Act 2004* section 3;

lodge has the meaning affected by rule 95;

order includes a direction;

originating claim means a claim that commences a case;

partnership means —

(a) a partnership as defined in the *Partnership Act 1895* section 7; or

(b) an unincorporated company or association formed for the purposes of gain; or

(c) 3 or more persons who otherwise have a joint or several interest or liability in a case;

personal service has a meaning corresponding with the meaning of ***serve personally***;

pre-trial conference means a conference held under Part 9;

Public Trustee means the Public Trustee under the *Public Trustee Act 1941*;

registrar does not include a deputy registrar;

response means a response made under rule 9 to a claim;

serve has a meaning affected by rule 100;

serve personally, in relation to a document, means to serve the document in accordance with Part 17 Division 2;

status conference means a conference held under Part 10;

successful party, in relation to a costs order, means the party in whose favour the order is made;

third party means a party against which a third party claim is made;

third party claim means a claim made by a defendant against a party other than the claimant relating to the claim against the defendant;

trial date means the first day of the trial;

unsuccessful party, in relation to a costs order, means a party against which the order is made;

working day means a day other than a Saturday, a Sunday, or a public holiday.

[Rule 4 amended: Gazette 24 Aug 2007 p. 4328; 3 Jun 2008 p. 2123; SL 2020/54 r. 4; SL 2020/67 r. 4.]

5. Application of these rules

(1) Unless the contrary intention appears or the Court in a particular case orders otherwise, these rules apply in every case except a minor case.

(2) Unless the contrary intention appears, these rules do not apply to or in relation to an application made to the Court under the *Residential Tenancies Act 1987*.

[Rule 5 amended: Gazette 2 Jul 2010 p. 3191; SL 2021/25 r. 4.]

Part 2 — Claims generally

6. Application of this Part

This Part applies to a claim except a claim to recover possession of real property.

[Rule 6 inserted: Gazette 3 Jun 2008 p. 2124.]

7. Originating claim, making and serving

(1) If a party wants to make an originating claim the party must lodge the approved form.

(2) The claim must be lodged and served together with an approved form that may be used for making a response under rule 9.

(3) The claim may, but need not, be lodged and served together with a statement of claim.

(4) The claim must be served as soon as practicable, and in any event within one year, after the day on which it is lodged.

(5) Unless these rules or an Act provides otherwise, the claim must be served personally.

[Rule 7 inserted: Gazette 3 Jun 2008 p. 2124; amended: Gazette 30 Sep 2016 p. 4177.]

7A. Statement of claim

(1) Unless the party has lodged and served its statement of claim with its claim under rule 7 the party must lodge and serve the statement of claim —

(a) if the claim is an originating claim, within 14 days after the party has received a response that indicates an intention to defend the claim, or such other time as is ordered by the registrar; and

(b) if the claim is a third party claim, within 14 days after the party has received a response that indicates an

intention to defend the claim, or such other time as is ordered by the registrar.

(2) A statement of claim must be in the approved form.

(3) Unless otherwise ordered by the registrar under rule 41A, the statement of claim must contain all of the following —

(a) the material facts relevant to the claim;

(b) any necessary particulars of the claim;

(c) the legal basis of the claim;

(d) the remedy or relief claimed;

(e) if the amount of the claim has been reduced in order to bring the claim within the jurisdictional limit, a statement to that effect.

(3A) A statement of claim is not to include evidence.

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

[Rule 7A inserted: Gazette 30 Sep 2016 p. 4177-8; amended: Gazette 21 Jul 2017 p. 4024; SL 2020/67 r. 5.]

8. Making and serving third party claim

(1) If a party wants to make a third party claim the party must lodge the approved form.

(2) The third party claim must be lodged and served together with —

(a) the relevant statement of defence referred to in rule 10; and

(b) an approved form that may be used for making a response under rule 9.

(3) The third party claim may, but need not, be lodged and served together with a statement of claim.

(4) Unless these rules or an Act provides otherwise, a third party claim must be served personally.

[(5) deleted]

[Rule 8 inserted: Gazette 3 Jun 2008 p. 2124; amended: Gazette 2 Jul 2010 p. 3192; 30 Sep 2016 p. 4178; SL 2020/67 r. 6.]

9. Response to claim

(1) A party against which a claim is made must complete the response served with the claim and lodge it with the Court within 14 days after the claim is served.

(1A) If a statement of claim has been lodged together with a claim under rule 7(3) or 8(3), a response may, but need not, be lodged together with a statement of defence.

(2) The Court must give a copy of the response to every other party.

[Rule 9 amended: Gazette 3 Jun 2008 p. 2124; 30 Sep 2016 p. 4178.]

10. Statement of defence or statement of defence and counterclaim

(1) Unless the party has lodged and served its statement of defence with its response under rule 9, the party must lodge and serve its statement of defence or, if the party wants to make a counterclaim, its statement of defence and counterclaim, within 14 days, or such other time as is ordered by the registrar, after the party has been served with the relevant statement of claim.

(2) A statement of defence must be in the approved form.

(2A) A statement of defence and counterclaim must be in the approved form.

(3) Unless otherwise ordered by the registrar under rule 41B, the statement of defence (including the statement of defence in a statement of defence and counterclaim) must contain all of the following —

(a) the material facts relevant to the defence;

(b) any necessary particulars of the defence;

(c) the legal basis of the defence;

(d) the details of anyone who the party alleges is liable for the claim and the grounds upon which the party so alleges.

(4) A statement of defence is not to include evidence.

(5) A counterclaim in a statement of defence and counterclaim —

(a) must contain all of the items set out in rule 7A(3); and

(b) is not to include evidence.

[Rule 10 inserted: Gazette 30 Sep 2016 p. 4178-9; amended: SL 2020/67 r. 7.]

11. Objecting to counterclaim (Act s. 9(4))

A party wanting to object under the Act section 9(4) to a counterclaim must —

(a) lodge the objection in the approved form; and

(b) serve it on the other parties.

[Rule 11 inserted: SL 2020/67 r. 8.]

12. Reply and statement of defence to counterclaim

(1) Within 14 days after being served with a statement of defence, the claimant may lodge and serve on the defendant a reply to the statement of defence.

(2) Within 14 days after being served with a statement of defence and counterclaim, the claimant must —

(a) lodge a statement of defence to the counterclaim; and

(b) serve it on the defendant.

(3) A statement of defence to a counterclaim —

(a) must contain all of the items set out in rule 10(3); and

(b) may include a reply; and

(c) is not to include evidence.

[Rule 12 inserted: SL 2020/67 r. 8.]

Part 3 — Claims to recover possession of real property

13. Claim to recover possession of real property, making

(1) If a party wants to make a claim to recover possession of real property the party must lodge the approved form.

(2) If the party making the claim does not know the name of the person or persons in possession of the real property, the claim may be made against "the person or persons in possession of [description of the property]".

14. Notice demanding possession, lodging

The claim must be lodged together with any written notice demanding possession of the property.

15. Serving claim

(1) The claim must be served as soon as practicable, and in any event within one year, after the day on which it is lodged.

(2) The claim must be served personally or in accordance with subrule (3).

(3) If the party making the claim does not know who is in possession of the real property, the party may serve the claim —

(a) by leaving the claim in a conspicuous position on the real property; or

(b) by serving the claim personally on a person allegedly in possession.

16. Registrar to list case for status conference

As soon as practicable after the claim is lodged, a registrar must list the case for a status conference.

[Rule 16 amended: SL 2020/67 r. 9.]

[Part 4 (r. 17-19) deleted: Gazette 3 Jun 2008 p. 2125.]

Part 5 — Failure to defend a claim

20. Application of this Part

This Part applies if an application for default judgment is made against a party because the party has not —

(a) lodged a response in accordance with rule 9(1); or

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

(b) lodged and served a statement of defence or a statement of defence and counterclaim in accordance with rule 41B; or

(c) lodged and served a statement of defence to a counterclaim in accordance with rule 12.

[Rule 20 amended: Gazette 3 Jun 2008 p. 2125; 21 Jul 2017 p. 4024; SL 2020/67 r. 10.]

21. Assessing claims when application for default judgment is made

(1) Except as provided in rule 24, a registrar may, in the absence of the parties, give default judgment against the party against whom the application for default judgment is made for a specified amount if —

(a) the claim, or the relevant part of the claim, is for a liquidated amount; or

(b) the claim, or the relevant part of the claim, is for an unliquidated amount of $10 000 or less; or

(c) the claim, or the relevant part of the claim, is for an unliquidated amount of more than $10 000 but not more than the jurisdictional limit, if the registrar is able to assess the amount from any supporting material lodged in relation to the claim.

(2) If a claim is for an unliquidated amount of more than $10 000 but not more than the jurisdictional limit and the registrar is unable to assess the unliquidated amount from the supporting material lodged in relation to the claim, the registrar may do any or all of the following —

(a) request that a party lodge additional supporting material in relation to the claim;

(b) give default judgment against the party against whom the application for default judgment is made for a specified amount, if the registrar is able to assess the amount from any additional supporting material lodged in relation to the claim;

(c) give default judgment against the party against whom the application for default judgment is made for an unliquidated amount and list the matter for a hearing by the Court of the claim to assess the amount that should be awarded.

(3) A registrar listing a matter for hearing under subrule (2)(c), may, but is not required to, notify the party against whom the application for default judgment is made of the hearing date.

(4) If a registrar notifies the party against whom the application for default judgment is made of the hearing under subrule (3) —

(a) the party who made the application for default judgment must lodge and serve a supporting affidavit at least 14 days before the hearing; and

(b) the Court may request that a party lodge additional supporting material in relation to the claim.

[Rule 21 amended: Gazette 3 Jun 2008 p. 2125; 24 May 2013 p. 2060; SL 2020/67 r. 11.]

*[**22.** Deleted: SL 2020/67 r. 12.]*

23. Claim to recover possession of personal property, default judgment for

Except as provided in rule 24, a registrar may, in the absence of the parties, give default judgment for a claim to recover possession of personal property.

[Rule 23 amended: Gazette 3 Jun 2008 p. 2125.]

24. Default judgment not to be given in certain cases

(1) A registrar must not give default judgment under this Part against a party for a failure to lodge and serve a statement of defence or a statement of defence and counterclaim if —

(a) the party has lodged an application under the Act section 17 to strike out the relevant statement of claim; and

(b) the application —

(i) has not been dealt with; or

(ii) has been granted; or

(iii) has been dismissed, and the party has lodged a statement of defence or a statement of defence and counterclaim within 14 days after the dismissal.

(2) A registrar must not, without the approval of a Magistrate, give default judgment under this Part if one year or more has passed since the originating claim was served.

[Rule 24 inserted: Gazette 3 Jun 2008 p. 2125-6; amended: Gazette 24 May 2013 p. 2061; SL 2020/67 r. 13.]

25A. Default judgment one year or more after originating claim, referral to Magistrate

(1) If one year or more has passed since the originating claim was served, a registrar may, if an application for default judgment has been made, refer the matter to a Magistrate.

(2) A matter referred to a Magistrate must be accompanied by an affidavit from the applicant for default judgment setting out the reasons for the delay in the claim being finalised.

(3) On referral of a matter under this rule a Magistrate may give approval for the registrar to give default judgment under this Part.

[Rule 25A inserted: Gazette 24 May 2013 p. 2061.]

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

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

[Rule 25 inserted: Gazette 21 Jul 2017 p. 4025.]

26. Costs when registrar gives default judgment

When the registrar gives default judgment under this Part the registrar may also make an order for costs.

Part 6 — Admission and discontinuance

27. Admitting alleged facts, manner of

If a party wants to admit a particular fact alleged in a claim made against the party, the case statement or in an invitation to admit under rule 28, the party must lodge and serve a notice of admission in the approved form.

[Rule 27 inserted: Gazette 3 Jun 2008 p. 2126.]

28. Invitation to admit alleged fact

(1) If a party wants to invite another party to admit a particular alleged fact the party must lodge and serve an invitation to admit in the approved form at least 5 working days before the trial date.

(2) If —

(a) a party does not admit a fact when invited to do so; and

(b) the Court subsequently finds the fact to be proven; and

(c) the Court awards the costs of proving that fact against the party,

the costs of proving the fact are to be assessed on a party and party basis.

29A. Party admitting whole claim, judgment in case of

(1) If in a response a party admits liability for the whole of the claim and agrees to pay the amount claimed, a registrar may give judgment against the party in accordance with that admission.

(2) When the registrar gives judgment under this rule the registrar may also make an order for costs.

[Rule 29A inserted: Gazette 3 Jun 2008 p. 2126.]

29B. Party admitting part of claim may offer to settle claim

(1) If in a response a party admits liability for part of a claim made against the party and indicates an intention to defend the balance of the claim, the party may offer an amount as full satisfaction for the claim in the response.

(2) A party may accept an offer under subrule (1) by lodging and serving a notice of acceptance in an approved form within 14 days after receiving the response.

(3) If a party makes an offer under subrule (1) and the offer is accepted under subrule (2), the registrar may give judgment against the party in accordance with the party's admission and offer.

(4) When the registrar gives judgment under this rule the registrar may also make an order for costs.

[Rule 29B inserted: Gazette 3 Jun 2008 p. 2126-7.]

29C. Party admitting whole claim may dispute amount claimed

(1) If in a response a party admits liability for the whole of the claim for an unliquidated amount but does not agree to the relevant amount sought, the party may, in the response, apply to the Court to determine the amount that should be awarded for the claim.

(2) If a party applies to the Court to determine the amount that should be awarded for the claim under subrule (1), the registrar must list the case for a pre-trial conference and notify the parties in writing.

(3) At the pre-trial conference a registrar may —

(a) make any orders necessary to facilitate settlement or ensure the case is ready to be listed for a determination of the amount that should be awarded for the claim; or

(b) list the matter for a determination of the amount that should be awarded for the claim.

[Rule 29C inserted: Gazette 3 Jun 2008 p. 2127; amended: Gazette 24 May 2013 p. 2061.]

29. Party may discontinue claim

(1) If a party wants to discontinue the whole or part of a claim made by the party, it must lodge a notice of discontinuance in the approved form.

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

(3) If a party lodges a notice of discontinuance, any other party to the claim may apply to the Court for an order for costs.

[Rule 29 amended: Gazette 21 Jul 2017 p. 4025; SL 2020/67 r. 14.]

Part 7 — Disclosure of documents

30A. Informal disclosure

At least 14 days before the date of a pre-trial conference listed under rule 39(4), each party to the case must disclose documents relating to any matter in question in the case by providing an informal list of documents to the other parties.

[Rule 30A inserted: SL 2020/67 r. 15.]

30. Party must disclose documents when ordered

(1) In this rule —

relevant order means an order made by a registrar or the Court under the Act section 16(1)(n) that a party must provide additional information by disclosing documents relevant to the case.

(2) A party against whom a relevant order is made must lodge and serve an affidavit containing a list of the documents by the date ordered.

(3) If the party subsequently comes into possession, or becomes aware that it is in possession, of further documents required to be disclosed under a relevant order, the party must, as soon as practicable after that, lodge and serve an affidavit containing a list of those documents.

(4) A party may object under rule 32 to the disclosure of any document otherwise required to be disclosed under a relevant order.

[Rule 30 inserted: SL 2020/67 r. 16.]

31. Affidavit of disclosure

(1) An affidavit lodged under rule 30 must state that, to the best of the deponent's knowledge and belief, every document required to be disclosed under an order of a registrar or the Court, has

either been disclosed or is the subject of an objection under rule 32.

(2) If a party objects to the disclosure of a document, the party must raise the objection, and state the grounds for the objection, in the affidavit.

(3) The affidavit must be made by the deponent personally.

[(4) deleted]

[Rule 31 amended: Gazette 3 Jun 2008 p. 2127; SL 2020/67 r. 17.]

32. Objecting to disclosure of documents

A party may object to the disclosure of a document if it —

(a) is privileged from production; or

(b) is inadmissible in evidence,

under these rules or any other law.

33. Inspecting disclosed documents

(1) If a party wants to inspect documents disclosed by another party it must serve the other party with a written request to inspect.

(2) A party receiving a request for inspection must make the documents available for inspection within 14 days after the service of the request.

(3) If asked to do so by the party which requested inspection, a party making documents available for inspection must also —

(a) provide copies of the documents, at a reasonable cost, to the party which requested inspection; or

(b) permit the documents to be copied at another place by the party which requested inspection.

34. Disclosed documents to be available at trial

If a party discloses a document, the party must have the document available at the trial.

Part 8 — Answers to interrogatories and requests for further particulars

[Heading amended: SL 2020/67 r. 18.]

35. Order to answer interrogatories, application for (Act s. 16(1)(n))

(1) An application for an order under the Act section 16(1)(n) that a party must provide additional information by answering interrogatories must contain or be accompanied by a list of interrogatories that comply with subrule (2).

(2) An interrogatory must not seek information that —

(a) is irrelevant to the case; or

(b) is inadmissible in evidence under these rules or any other law; or

(c) cannot practicably be disclosed; or

(d) is sought so as to harass or annoy, or to cause delay; or

(e) is frivolous, vexatious, scandalous or improper; or

(f) is otherwise not genuinely required for the purposes of the case.

[Rule 35 inserted: Gazette 3 Jun 2008 p. 2128.]

36. Party must answer interrogatories when ordered

When a registrar or the Court orders a party to answer interrogatories, the party must lodge and serve an affidavit containing the answers within the period ordered by the registrar or the Court.

[Rule 36 inserted: Gazette 3 Jun 2008 p. 2128.]

37. Affidavit of answers

(1) An affidavit lodged under rule 36 must state that the answers are provided to the best of the deponent's knowledge and belief.

(2) If a party objects to answering an interrogatory, the party must raise the objection, and state the grounds for the objection, in the affidavit.

(3) The affidavit must be made by the party personally.

38. Requesting further particulars of a pleading

(1) In this rule —

pleading means any of the following documents lodged and served under Part 2 —

(a) a statement of claim;

(b) a defence;

(c) a third party claim;

(d) a statement of defence;

(e) a statement of defence and counterclaim;

(f) a statement of defence to a counterclaim;

(g) a reply.

(2) A party (the ***requesting party***) may request from another party further particulars of a pleading.

(3) The requesting party may apply to the Court for an order directing the other party to provide further particulars if —

(a) the other party has failed to respond to the request within 14 days of receiving it; or

(b) the further particulars given are, in the opinion of the requesting party, inadequate.

[Rule 38 inserted: SL 2020/67 r. 19.]

Part 9 — Pre-trial conferences

39. Listing of pre-trial conferences

(1) A party to a claim may apply to the Court for a registrar to list the case for a pre-trial conference —

(a) after the claimant has lodged and served an originating claim; but

(b) before the claimant is served with a statement of defence or a statement of defence and counterclaim.

(2) An application under subrule (1) must be —

(a) in the approved form; and

(b) accompanied by a memorandum of consent signed by the parties to the claim.

(3) If a party does not make an application under subrule (1), the claimant must apply to the Court for a registrar to list the case for a pre-trial conference —

(a) if the defendant has lodged a statement of defence — within 14 days after the claimant is served with the statement of defence;

(b) if the defendant has lodged a statement of defence and counterclaim — within 14 days after the claimant has lodged a statement of defence to the counterclaim.

(4) If a party makes an application under subrule (1) that complies with subrule (2), or a claimant makes an application under subrule (3), the registrar must list the case for a pre-trial conference and notify the parties in writing.

(5) If the case is listed for a pre-trial conference pursuant to an application under subrule (1) —

(a) the parties are not required to lodge and serve any document relating to the claim referred to in Part 2 within the period specified in Part 2; and

(b) at the pre-trial conference, the registrar must order the period within which the parties are required to lodge and serve documents relating to the claim referred to in Part 2.

[Rule 39 inserted: SL 2020/67 r. 20.]

40. Pre-trial conference, purpose of and registrar's powers at

(1) The purpose of a pre-trial conference is to give the parties an opportunity to settle the case.

(2) The registrar at a pre-trial conference may do any or all of the following —

(a) determine what facts, if any, are agreed by the parties;

(b) order the parties to lodge and serve statements of claim and defence;

(ba) order what statements of claim or defence must contain;

(c) exercise the jurisdiction of the Court under the Act section 16(1)(a) to extend the time for making counterclaims or third party claims (even if the time for making those claims has passed);

(d) exercise the jurisdiction of the Court under the Act section 16(1)(m) to allow a party to amend its case statement;

(e) exercise the jurisdiction of the Court under the Act section 16(1)(n) to order the parties —

(i) to provide additional information by disclosing documents relevant to the case in accordance with Part 7; and

(ii) to answer interrogatories in accordance with Part 8;

(f) make any other orders necessary to facilitate settlement or ensure the case is ready for trial.

[Rule 40 amended: Gazette 3 Jun 2008 p. 2129; 30 Sep 2016 p. 4179.]

41A. Statement of claim, effect of order to lodge

If the registrar at the pre-trial conference orders a party to lodge and serve a statement of claim, the party must do so in accordance with rule 7A(2), (3) and (3A).

[Rule 41A inserted: Gazette 30 Sep 2016 p. 4179; amended: SL 2020/67 r. 21.]

41B. Effect of order to lodge statement of defence or statement of defence and counterclaim

If the registrar at the pre-trial conference orders a party to lodge and serve a statement of defence or a statement of defence and counterclaim, the party must do so in accordance with rule 10(2) to (5).

[Rule 41B inserted: Gazette 30 Sep 2016 p. 4179; amended: SL 2020/67 r. 22; SL 2021/25 r. 5.]

*[**41C.** Deleted: SL 2020/67 r. 23.]*

41D. Amending documents lodged and served under Part 2

(1) In this rule —

pleading means any of the following documents lodged and served under Part 2 —

(a) a statement of claim;

(b) a defence;

(c) a third party claim;

(d) a statement of defence;

(e) a statement of defence and counterclaim;

(f) a statement of defence to a counterclaim;

(g) a reply.

(1A) A party may amend a pleading —

(a) before a date is set for the trial of the case, without the leave of a registrar or the Court; or

(b) after a date is set for the trial of the case, with the leave of a registrar or the Court.

(1B) A party seeking leave under subrule (1A)(b) must lodge and serve an affidavit in accordance with subrule (2) or (3) together with the proposed amended pleading.

(2) If the party is not represented by a legal practitioner, the affidavit must be made by the party personally and must state that —

(a) any new or amended allegations of fact are true to the best of the party's belief; and

(b) the proposed amended pleading is not frivolous, vexatious, scandalous or improper.

(3) If the party is represented by a legal practitioner, the affidavit must be made by the party's legal practitioner and must state that —

(a) the party has instructed the legal practitioner that all of the allegations of fact are true and correct; and

(b) all the arguments raised are, in the opinion of the legal practitioner, reasonable; and

(c) in the opinion of the legal practitioner the proposed amended pleading is not frivolous, vexatious, scandalous or improper.

[Rule 41D inserted: Gazette 3 Jun 2008 p. 2131-2; amended: SL 2020/67 r. 24; SL 2022/106 r. 4.]

41. Attendance at pre-trial conferences

(1) Unless a registrar or the Court orders otherwise, a party must attend a pre-trial conference.

[(2)-(3) deleted]

(4) If a party fails to attend a pre-trial conference, the registrar at the pre-trial conference may give default judgment against the party, and in that case Part 5, except rule 24, with any necessary modifications, applies in relation to the default judgment.

[Rule 41 amended: Gazette 3 Jun 2008 p. 2132.]

42. Further pre-trial conference or status conference may be listed

(1) After a pre-trial conference the registrar must either —

(a) list the case for a further pre-trial conference; or

(b) list the case for a status conference.

(2) The registrar must notify the parties in writing of the listing.

[Rule 42 inserted: SL 2020/67 r. 25.]

*[**43A.** Deleted: SL 2020/67 r. 25.]*

43. Things said or done at pre-trial conference, status of

(1) A pre-trial conference must be conducted before a registrar, in private.

(2) Anything said or done by a party for the purpose of attempting to settle a case at a pre-trial conference is to be taken to be said or done without prejudice to any evidence or submission that the party —

(a) has adduced or made; or

(b) may subsequently adduce or make,

in or in respect of the proceedings, and the saying or doing of that thing does not disqualify the registrar who conducted the pre-trial conference from later dealing with the case.

Part 10 — Status conferences

[Heading inserted: SL 2020/67 r. 26.]

*[**44.** Deleted: Gazette 3 Jun 2008 p. 2133.]*

45. Purpose of status conference

The purpose of a status conference is to allow for the management of a case.

[Rule 45 inserted: SL 2020/67 r. 27.]

46. Attendance at status conference

(1) A party must attend a status conference and, subject to subrule (2), may do so in person or may be represented by the party's solicitor or counsel.

(2) The Court may order that any or all of the following persons must attend a status conference —

(a) a party in person;

(b) a party's solicitor;

(c) a party's counsel.

(3) If a party or a person ordered to attend a status conference under subrule (2) fails to attend, the magistrate at the status conference may give default judgment against the party.

[Rule 46 inserted: SL 2020/67 r. 27.]

47. Powers of magistrate at status conference

(1) The magistrate at a status conference may do any or all of the following —

(a) order that the parties attend before a mediator;

(b) order that the parties attend a pre-trial conference;

(c) order that the parties attend a further status conference;

(d) exercise the jurisdiction of the Court under the Act section 16(1)(m) to allow a party to amend its case statement;

(e) exercise the jurisdiction of the Court under the Act section 16(1)(n) to order a party —

(i) to provide additional information by disclosing documents relevant to the case in accordance with Part 7; or

(ii) to answer interrogatories in accordance with Part 8;

(f) exercise the jurisdiction of the Court under the Act section 16(1)(o)(i) to order the parties to exchange the written statements of the evidence that is anticipated will be given by witnesses in accordance with Part 13 Division 2;

(g) order a party to provide further particulars;

(h) list the case for trial;

(i) make any other orders necessary to facilitate settlement or to ensure the case is ready for trial.

(2) If under subrule (1) the magistrate orders the parties to an application to which Part 21 Division 1 applies to attend before a mediator, then, despite rule 128, Part 11 applies.

(3) If under subrule (1) the magistrate orders the parties to an application to which Part 21 Division 1 applies to attend a pre-trial conference, then, despite rule 128, Part 9, other than rule 40(2)(c), applies.

[Rule 47 amended: Gazette 2 Jul 2010 p. 3192; SL 2020/67 r. 28.]

*[**48.** Deleted: SL 2020/67 r. 29.]*

Part 11 — Mediation

49. Mediation conference, parties to arrange if Court orders mediation

(1) If the Court orders the parties to attend before a mediator, each party must ensure that a mediation conference before the mediator is arranged.

(2) A mediation conference must be conducted in private.

50. Attendance at mediation conferences

Unless the mediator otherwise approves, a party must attend a mediation conference in person.

51. Outcome of mediation, claimant to lodge notice of

(1) The claimant must, within 14 days after the mediation conference, lodge a notice of the outcome of the mediation.

(2) The notice must be in the approved form.

52. Further status conference if case not settled at mediation

If the case is not settled at the mediation conference a registrar must list the case for a further status conference and notify the parties in writing.

[Rule 52 amended: SL 2020/67 r. 30.]

Part 12 — Consent orders and settlement

Division 1 — Consent

53. Consenting to judgment or order, manner of

The parties may consent to the Court giving a judgment, or making an order (whether applied for or not), in a case by signing a memorandum to that effect in the approved form and lodging it.

[Rule 53 inserted: Gazette 2 Jul 2010 p. 3192-3.]

54. Memorandum of consent, registrar's powers on

(1) When a memorandum of consent is lodged, a registrar may, except as provided in subrule (2), make the orders or give the judgment consented to.

(2) The registrar must not make an order —

(a) adjourning the trial of a case; or

(b) extending the time for complying with any rule of court or practice direction, or any order made by the Court.

55. Consent by one party, manner of giving

Where the Act or these rules require the consent of one party before something can be done, that consent may be given by the party lodging a notice of consent to that effect in the approved form and signed by the party.

56. Person under legal disability, settling claims involving

(1) An application for the approval of the settlement of a case in which there is a claim by or against a person under a legal disability —

(a) is not required to be served on any other party; and

(b) may be dealt with in the absence of the parties.

(2) Unless the Court orders otherwise, in addition to the supporting affidavit required under rule 110, the application must be supported by an affidavit of an independent legal practitioner verifying that the settlement is in the best interests of the person under a legal disability.

(3) The settlement of a case in which there is a claim by or against a person under a legal disability has effect on and from the day the Court gives its approval to it.

[Rule 56 amended: Gazette 3 Jun 2008 p. 2133; SL 2022/106 r. 4.]

Division 2 — Offers of settlement

57. Offer of settlement, making

(1) If a party wants to make an offer of settlement to another party it must serve the offer on the other party.

(2) The offer of settlement must be in the approved form.

(3) The offer of settlement must specify —

(a) whether it includes costs and interest up to the date of the offer; and

(b) if it includes the costs and interest, the amount offered in relation to those costs and that interest.

(4) If an offer of settlement does not comply with subrule (3) the offer is to be taken to exclude costs and interest up to the date of the offer.

58. Offers to be confidential and made without prejudice

(1) An offer of settlement must not be lodged, nor otherwise disclosed to the Court, except in accordance with this Division.

(2) Unless it specifies otherwise, an offer of settlement is to be taken to have been made without prejudice.

59. Receipt of offer to be acknowledged

(1) A party receiving an offer of settlement must, within 3 working days after the offer is served, serve an acknowledgment of the receipt of the offer on the party making the offer.

(2) The acknowledgment must be in the approved form.

60. Period within which offer may be accepted

(1) An offer of settlement may specify a period that is not less than 28 days as the period within which the offer may be accepted.

(2) If an offer of settlement specifies a period within which it may be accepted, a party may accept the offer —

(a) before the expiration of the period; or

(b) if the offer is made within 28 days before the trial date, before judgment.

(3) If an offer of settlement does not specify a period within which it may be accepted, a party may accept the offer —

(a) before the expiration of a period of 28 days after the day on which the offer is made; or

(b) if the offer is made within 28 days before the trial date, before judgment.

61. Accepting offer

(1) A party receiving an offer of settlement may accept the offer, or any part of the offer, by lodging and serving a notice of acceptance on the party making the offer.

(2) The notice of acceptance must be in the approved form.

62. Period within which offered sums must be paid

If an offer of settlement provides for the payment of a sum of money to a party, the party making the offer must pay that sum to the party before the expiration of —

(a) any period for payment specified in the offer; or

(b) if no such period is specified, a period of 28 days after the day on which the offer is accepted.

63. Withdrawing acceptance of offer

(1) If a party accepts an offer, or part of an offer, of settlement, the party may withdraw an acceptance of an offer of settlement —

(a) if, on an application by the party, the Court has given the party leave to withdraw the acceptance; or

(b) otherwise, if —

(i) the offer provides for the payment of a sum of money to a party; and

(ii) that sum was not paid in accordance with rule 62; and

(iii) the notice of withdrawal of acceptance is served on the party making the offer within 7 working days after the expiration of the period referred to in rule 62.

(2) If a party wants to withdraw an acceptance of an offer, or part of an offer, of settlement, the party must serve a notice of withdrawal of acceptance on the party making the offer.

64. Requesting and giving judgment after offer accepted

(1) If a party accepts an offer of settlement, either party to the offer may lodge a request for judgment in terms of the offer.

(2) The request for judgment must be in the approved form and must have annexed to it copies of the offer of settlement and the acceptance.

(3) When the request for judgment is lodged, a registrar may, except as provided in subrule (4), give the judgment in the absence of the parties.

(4) The registrar must not give judgment in relation to a party if —

(a) the party has withdrawn acceptance of the offer; or

(b) the party has made an application for leave to withdraw acceptance of an offer and that application has not been dealt with by the Court.

65. Post-offer costs, orders for

(1) In this rule —

claimant means a party which makes a claim;

defendant means a party against which a claim is made;

post-offer costs means costs from and after the day when an offer is made.

(2) If —

(a) a claimant makes an offer of settlement that specifies an amount to be paid by the defendant; and

(b) the defendant does not accept the offer; and

(c) judgment is given for the claimant for an amount that is not less than the amount specified in the offer; and

(d) under the Act section 25(1) the Court makes an order under which the claimant is entitled to, among any other costs, its post-offer costs,

the post-offer costs are to be assessed on a party and party basis.

(3) If —

(a) a defendant makes an offer of settlement that specifies an amount to be paid by the defendant; and

(b) the claimant does not accept the offer; and

(c) judgment is given for the claimant for an amount that is not more than the amount specified in the offer; and

(d) under the Act section 25(2) the Court, after considering that there is good reason not to make an order for the claimant for post-offer costs, makes an order for the defendant for post-offer costs,

the post-offer costs are to be assessed on a party and party basis.

Part 13 — Trial

Division 1 — General

66. Terms used

In this Part —

first party means the party which first presents its case at a trial;

subsequent party means any party except the first party.

67. Who is first party to present case

(1) When the burden of proof on any question is on the claimant, the claimant is to be the first party.

(2) When the burden of proof on every question is on the defendant, the defendant is to be the first party.

68. Opening addresses and adducing evidence, order of

(1) The first party may make an opening address and adduce the party's evidence.

(2) A subsequent party may then make an opening address and adduce the party's evidence.

69. Closing addresses, order of

(1) If a subsequent party —

(a) tenders exhibits into evidence while the first party is adducing evidence; or

(b) adduces evidence,

each subsequent party may, after all the evidence has been adduced, make a closing address after which the first party may make a closing address.

(2) If a subsequent party —

(a) does not tender any exhibits into evidence while the first party is adducing evidence; and

(b) does not adduce evidence,

the first party may make a closing address after which each subsequent party may make a closing address.

70. Attendance at trial

Unless the Court orders otherwise, a party must attend the trial in person.

Division 2 — Witnesses

71. Witness summons

(1) If a party wants to require a person to give evidence at a trial or to produce evidentiary material the party must lodge a request for the Court to issue a witness summons.

(2) The request must be in the approved form and must be accompanied by —

(a) a draft witness summons, in the approved form, that requires the witness to attend the Court to give oral evidence in the case; or

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

(2A) The request may be made before the case is listed for trial.

(3) If the Court issues the requested witness summons, the party must serve —

(a) the witness summons on the witness at least 14 days before the trial date or by an earlier date as directed by the Court; and

(b) a copy of the witness summons on each other party as soon as practicable after the summons is served on the witness.

(4) The witness summons must be served personally on the witness.

(5) At the time a witness is served with a witness summons, or at a reasonable time before the attendance date —

(a) an amount that is likely to be sufficient to meet the reasonable expenses of attending the Court must be tendered to the witness; or

(b) arrangements to enable the witness to attend the Court must be made with the witness; or

(c) the means to enable the witness to attend the Court must be provided to the witness.

(6) The party which serves a witness with a witness summons must ensure that subrule (5) is complied with.

(7) The person who serves a witness with a witness summons must record how subrule (5) was complied with on a copy of the witness summons.

(8) If a copy of a witness summons contains information recorded in accordance with subrule (7) it is to be presumed that the information is true, unless the contrary is proved.

[Rule 71 amended: Gazette 2 Jul 2010 p. 3193; 21 Jul 2017 p. 4025; SL 2020/67 r. 31; SL 2025/42 r. 4.]

71A. Compliance with witness summons

(1) A witness must comply with a witness summons requested under rule 71(2)(b) by delivering or sending the evidentiary

material and a copy of the witness summons to the Court at the date, time and place specified for production.

(1A) For the purposes of subrule (1), evidentiary material and a copy of the witness summons that are delivered or sent by using the ECMS are taken to have been delivered or sent to the Court at the place specified for production.

(2) In the case of a witness summons requested under rule 71(2)(a) and (b), compliance with subrule (1) does not discharge the witness from the requirement to attend Court to give evidence.

(3) Unless a witness summons specifically requires the production of an original document, the witness may produce a copy of it.

(4) The copy of a document may be —

(a) a photocopy; or

(b) in PDF format on a CD-ROM.

[Rule 71A inserted: Gazette 21 Jul 2017 p. 4026; amended: SL 2022/54 r. 4.]

72. Expert evidence, orders required for

(1) A party must not adduce expert evidence at a trial except in accordance with orders given by the Court.

(2) If the Court orders a party to lodge and serve a statement of an expert witness, the statement must set out, or be accompanied by a document setting out —

(a) the full name of the expert; and

(b) details of the expert's qualifications to give the evidence; and

(c) to the extent practicable, details of any material on which the expert has relied in reaching his or her opinion.

[Rule 72 amended: Gazette 3 Jun 2008 p. 2133-4.]

73. Children and special witnesses, application for orders as to evidence of

Any application for an order under the *Evidence Act 1906* section 106S must be made at least 14 days before the trial date.

[Rule 73 amended: Gazette 3 Jun 2008 p. 2134.]

74. Affidavit evidence, when may be adduced

(1) A party may, if the other parties do not object, adduce the evidence of a witness at a trial by tendering an affidavit of the witness.

(2) A party wishing to adduce affidavit evidence under subrule (1) must lodge and serve the affidavit at least 14 days before the trial date.

(3) If a party wants to object to the affidavit evidence the party must lodge and serve a notice of objection in the approved form as soon as practicable after the affidavit is served on the party.

Division 3 — Exhibits

75. Records requiring device to read, admission of

If a record cannot be read without using another device, then the Court must not receive the record into evidence unless each party has had the opportunity to inspect the record using that device.

76. Return of exhibits after trial

(1) If an exhibit tendered at a trial is retained by the Court without being received into evidence, a person who was lawfully entitled to the possession of the exhibit before it was tendered is not entitled to the return of that exhibit until the end of the trial.

(2) If an exhibit is received into evidence at a trial, a person who was lawfully entitled to the possession of the exhibit before it was received is not entitled to the return of that exhibit —

(a) if no appeal against the judgment is lodged, until 21 days after the day on which the judgment is given; or

(b) if an appeal against the judgment is lodged, until the appeal has been dealt with.

(3) The Court must give written notice to a person of the person's entitlement to the return of an exhibit under subrule (1) or (2).

(4) The notice must be given as soon as practicable after the exhibit is tendered at a trial.

(5) If the person does not take possession of the exhibit within 60 days after the entitlement to the return of an exhibit under subrule (1) or (2) arises, the registrar may dispose of the exhibit as the registrar thinks fit.

[Rule 76 amended: Gazette 18 Sep 2018 p. 3515.]

Part 14 — Orders and judgments

77. Person under legal disability, payments to

(1) If, under a judgment, money is to be paid to a person under a legal disability, the money is to be paid to the Public Trustee to hold on trust for the person.

(2) The Public Trustee must invest the money for the person and may, if the Court so orders, invest it other than in accordance with the *Public Trustee Act 1941* section 39C.

[Rule 77 amended: Gazette 24 May 2013 p. 2062.]

78. Certificate of judgment, requesting

If a party wants a certificate of a judgment, the party must lodge a request for the judgment in an approved form.

79. Applying to set aside summary or default judgment (Act s. 17(3), 18(6) and 19(3))

An application for an order under the Act section 17(3), 18(6), or 19(3) to set aside a judgment must be made within 21 days after the date of the judgment or such other time as is ordered by the Court.

[Rule 79 amended: Gazette 3 Jun 2008 p. 2134; SL 2020/67 r. 32.]

80. Registrars' decisions taken to be decision of Court

(1) If a registrar exercises any jurisdiction of the Court, the decision of the registrar is to be taken to be a decision of the Court unless it is set aside on an appeal.

(2) Nothing in this rule limits the application of the *Magistrates Court (Civil Proceedings) Act* 2004 section 19(3) to the judgment of a registrar made under section 19(2) of that Act.

[Rule 80 amended: Gazette 24 May 2013 p. 2062.]

Part 15 — Costs

Division 1 — Assessments

81. Bill of costs: lodging and serving

(1) When the Court makes an order for costs to be assessed the successful party may lodge a bill of those costs.

(2) Unless the bill of costs relates to a judgment given under Part 5, the successful party must serve the bill on each unsuccessful party as soon as practicable after it has been lodged.

82. Bill of costs: objecting to

(1) An unsuccessful party may, within 21 days after being served with a bill of costs, object to any item in the bill by lodging and serving on the successful party a notice of objection.

(2) The notice of objection must be in the approved form and must specify reasons for each objection.

(3) If the party does not object to a particular item in a bill the party is to be taken to have admitted the item.

(4) However nothing in subrule (3) requires the registrar to allow costs claimed in relation to the item if the registrar considers it is inappropriate to do so.

[Rule 82 amended: Gazette 3 Jun 2008 p. 2134.]

83. Assessment when objection made

If an objection is made in relation to a bill of costs, a registrar must list the case for an assessment and notify the parties in writing.

84. Assessment when no objection made

If —

(a) a bill of costs is lodged in relation to a judgment given under Part 5; or

(b) in any other case, 21 days have passed from the service of a bill of costs and no objection to it has been made,

the registrar may assess the costs in the absence of the parties and give a certificate of the assessment to the successful party, otherwise the registrar must list the case for an assessment and notify the parties in writing.

85. Bill of costs: form of, and supporting documents

A bill of costs must be in the approved form and must be supported by —

(a) receipts for each expense except court and enforcement officer fees; and

(b) any other documents required by the registrar at the assessment.

[Rule 85 amended: Gazette 24 Aug 2007 p. 4328.]

86. Assessments, conduct of

(1) An assessment must be conducted before the registrar, in private.

(2) The registrar must assess the costs and give a certificate of the assessment to the parties appearing before the registrar.

(3) The registrar may assess the costs in the absence of any party.

(4) The registrar must allow the costs of the assessment in favour of the successful party unless subrule (5) applies.

(5) If any disallowed costs represent 25% or more of the costs claimed in respect of the bill, the unsuccessful party's costs of attending the assessment are to be subtracted from the successful party's costs.

Division 2 — Determining value of claim

87. Value of claim to be determined under this Division

For the purposes of assessing a party's costs under the applicable costs determination, the value of a claim is the amount determined under this Division (the ***determined value***).

88. Originating claim successful and no successful counterclaim, value of originating claim

(1) Except as provided in subrule (2), if an originating claim is successful and —

(a) there is no counterclaim; or

(b) if there is a counterclaim, each counterclaim is unsuccessful,

then the determined value of the originating claim is the amount of the judgment.

(2) If an unsuccessful counterclaim was for an amount greater than the judgment sum, then the determined value of the originating claim made is the amount of the greatest counterclaim.

89. Originating claim and counterclaim successful, value of each

If an originating claim is successful and there is a successful counterclaim, then —

(a) the determined value of the originating claim is the amount of the judgment given in relation to the originating claim; and

(b) the determined value of the counterclaim is the amount of the judgment given in relation to the counterclaim.

90. Originating claim unsuccessful and counterclaim successful, value of counterclaim

If an originating claim is unsuccessful and there is a successful counterclaim, then the determined value of the counterclaim is —

(a) the amount of the originating claim; or

(b) the amount of the judgment given in relation to the counterclaim,

whichever is the greater.

91. Originating claim and counterclaim unsuccessful, value of each

If the originating claim is unsuccessful and there is an unsuccessful counterclaim, then —

(a) the determined value of the originating claim is the amount of the originating claim;

(b) the determined value of the counterclaim is the amount of the counterclaim.

92. Claims by or against third parties, value of

Rules 88 to 91, with the necessary modifications, apply to claims against or by third parties.

93. Claims to recover possession of real property, value of

[(1) deleted]

(2) The determined value of a claim to recover possession of real property is the sum of —

(a) the determined value of any claim for damages or rent determined in accordance with rules 88 to 91; and

(b) the gross annual rental value of the property determined in accordance with the Act section 6(3).

[Rule 93 amended: Gazette 2 Jul 2010 p. 3193.]

94. Claims to recover possession of personal property, value of

The determined value of a claim to recover possession of personal property is the sum of —

(a) the determined value of any claim for damages determined in accordance with rules 88 to 91; and

(b) the value of the personal property.

Division 3 — Security for costs

[Heading inserted: Gazette 30 Sep 2016 p. 4180.]

94A. Term used: claimant

In this Division —

claimant includes a defendant counterclaiming in respect of a claim not arising out of the claim made against the defendant.

[Rule 94A inserted: Gazette 30 Sep 2016 p. 4180.]

94B. Factors that are not grounds for ordering security for costs

The Court may order security for costs to be given by a claimant, but an order must not be made merely on account of the poverty of the claimant or the likely inability of the claimant to pay any costs which may be awarded against the claimant.

[Rule 94B inserted: Gazette 30 Sep 2016 p. 4180.]

94C. Grounds for ordering security for costs

Without limiting rule 94B, the Court may order security for costs to be given by the claimant in the following circumstances —

(a) the claimant is ordinarily resident out of the jurisdiction, notwithstanding that the claimant may be temporarily within the jurisdiction;

(b) the claimant is about to depart from the jurisdiction;

(c) the claimant enjoys within the jurisdiction some privilege which renders the claimant immune, wholly or partially, from the normal processes of execution;

(d) the claimant is an undischarged bankrupt or a person who has suspended, or given notice of suspension of, debts;

(e) the claimant is a company in liquidation or under official management, or a company in respect of which a receiver of its property has been appointed;

(f) the claimant is a relator suing for the enforcement or declaration of some public right or to have some public trust carried out or some charitable scheme settled;

(g) the claimant is in default in respect of any costs ordered to be paid by the claimant in any proceedings previously brought by the claimant against the same defendant or another defendant for substantially the same cause of action or in relation to substantially the same subject matter;

(h) the claimant is a person who has in the past vexatiously brought litigation against the same defendant or against any other defendant;

(i) the claimant is suing the Sheriff in respect of anything done or omitted to be done by the Sheriff or the Sheriff's officers in the execution of any judgment of the Court.

[Rule 94C inserted: Gazette 30 Sep 2016 p. 4180-1.]

94D. Court has discretion

(1) The granting of security may be in the discretion of the Court.

(2) In determining whether an order should be made, the Court may take the following into consideration —

(a) the prima facie merits of the claim;

(b) what property within the jurisdiction may be available to satisfy any order for costs against the claimant;

(c) whether the normal processes of the Court would be available within the jurisdiction for enforcement of any order for costs made against the claimant.

[Rule 94D inserted: Gazette 30 Sep 2016 p. 4181.]

94E. Manner of giving security

In fixing security the Court may direct the form and manner in which the security is to be given and may from time to time vary the amount and form of the security.

[Rule 94E inserted: Gazette 30 Sep 2016 p. 4181.]

94F. Action may be stayed

Where security is ordered the action or other proceedings may be stayed until the security is furnished, unless the Court otherwise orders.

[Rule 94F inserted: Gazette 30 Sep 2016 p. 4181.]

94G. Payment out

(1) Where money has been paid into Court as security for costs and the action has been finally disposed of, the amount of the security is to be paid out to the party for whose security it was furnished to the extent that costs are due from the securer to such party.

(2) Unless the Court orders otherwise, the Principal Registrar is to pay out the security accordingly, and the balance (if any) may be refunded to the securer without the necessity for any special order.

[Rule 94G inserted: Gazette 30 Sep 2016 p. 4181.]

Part 16A — Inactive cases

[Heading inserted: Gazette 5 Apr 2019 p. 1012.]

95A. Term used: inactive case

In this Part —

inactive case means a case that is taken to be inactive under rule 95B.

[Rule 95A inserted: Gazette 5 Apr 2019 p. 1013.]

95B. Case taken to be inactive

(1) If no procedural step is taken in a case for 12 months by a party to a case, the case is taken to be inactive unless the Court orders otherwise.

(2) A magistrate or registrar making an order or direction in exercise of a case management power may direct that, unless the order or direction in exercise of the case management power is complied with by a specified date, the case is to be taken to be inactive.

(3) Unless countermanded by a magistrate or registrar before it has effect, a direction made under subrule (2) has effect according to its terms.

[(4) deleted]

[Rule 95B inserted: Gazette 31 Dec 2013 p. 6543; amended: Gazette 5 Apr 2019 p. 1013.]

95C. Notification of inactive case

(1) When a case becomes an inactive case, the Court is to give all parties to the case written notice of —

(a) the fact that the case has become an inactive case and why; and

(b) the effect of rule 95D.

(2) If a legal practitioner representing a party receives a notice under subrule (1), the legal practitioner is to notify the party as soon as practicable of —

(a) the fact that the case has become an inactive case and why; and

(b) the effect of rule 95D.

[Rule 95C inserted: Gazette 5 Apr 2019 p. 1013; amended: SL 2022/106 r. 4.]

95D. Consequences of case becoming an inactive case

The only documents that may be lodged in the Court in relation to an inactive case are —

(a) an application for an order under rule 95E; or

(b) a notice of discontinuance under rule 29; or

(c) a memorandum of consent under rule 53 to an order or judgment that would finally dispose of the case.

[Rule 95D inserted: Gazette 31 Dec 2013 p. 6544; amended: Gazette 5 Apr 2019 p. 1013.]

95E. Cases no longer taken to be inactive

(1) A party to an inactive case may apply to the Court for an order that the case is no longer taken to be inactive.

(2) The Court may order that an inactive case is no longer taken to be inactive —

(a) if it is satisfied that the case will be conducted in a timely way; or

(b) for any other good reason.

(3) When the Court orders that an inactive case is no longer taken to be inactive, it may make further orders for the conduct of the case in a timely way.

[Rule 95E inserted: Gazette 5 Apr 2019 p. 1013-14.]

95F. Certain inactive cases taken to be dismissed

(1) A case that is an inactive case for 6 continuous months is taken to be dismissed.

(2) If no procedural step is taken in the 6 months after the Court orders that an inactive case is no longer taken to be inactive, the case is taken to be dismissed.

(3) If a case is taken to have been dismissed under subrule (1) or (2) —

(a) a party to the case may apply for an order for costs; and

(b) the Court may make an order for costs.

(4) The Court may, in exceptional circumstances and on such terms as it thinks just, set aside the dismissal of a case under this rule.

(5) For the purposes of subrule (4), it does not matter that the case was taken to be dismissed before the commencement of that subrule.

[Rule 95F inserted: Gazette 5 Apr 2019 p. 1014.]

Part 16 — Lodging documents

[Heading inserted: SL 2021/25 r. 6.]

95. Terms used

In this Part —

ECMS exempt, in relation to a document, has the meaning given in rule 96;

lodge a document means to present the document for lodgment in accordance with this Part.

[Rule 95 inserted: SL 2021/25 r. 6.]

96. ECMS exempt

(1) A person is ECMS exempt in relation to a document if —

[(a) deleted]

(b) the document is lodged for the purposes of an application under the *Restraining Orders Act 1997*; or

(c) the document is lodged for the purposes of an application under the *Children and Community Services Act 2004* section 35; or

(d) the document is in a class of documents declared in practice directions to be exempt from the requirement to be lodged by using the ECMS; or

(e) the person is in a class of persons declared in practice directions to be exempt from the requirement to lodge by using the ECMS; or

(f) the document is lodged for the purposes of an application for exemption under subrule (2) or (3); or

(g) the person is exempt in relation to the document under subrule (2) or (3).

(2) The Court may, for any good reason and without a formal application or request, exempt a person from a requirement to use the ECMS in relation to —

(a) a document relating to a proceeding; or

(b) all documents relating to a proceeding; or

(c) all documents relating to all proceedings.

(3) A registrar may, on the application of a person, exempt the person from a requirement to use the ECMS in relation to —

(a) a document relating to a proceeding; or

(b) all documents relating to a proceeding.

(4) The application must be in the approved form.

(5) If the Court or a registrar exempts a person under subrule (2) or (3), the Court or the registrar may give directions as to the manner in which a document is to be presented for lodgment, including as to whether the document is to be presented to the Court —

(a) by delivering it by hand; or

(b) by email in accordance with rule 98D; or

(c) by post in accordance with rule 98F; or

(d) by fax in accordance with rule 98G.

[Rule 96 inserted: SL 2021/25 r. 6; amended: SL 2021/133 r. 4.]

97. General rules about lodging documents

(1) A person who is required by these rules or the Court to lodge a document, or who wants to do so, must present the document to the Court for lodgment in accordance with this Part.

(2) The person must present the document for lodgment together with —

(a) any fee required to be paid under the *Magistrates Court (Fees) Regulations 2005*; or

(b) any information the Court needs to enable the Court to be paid the fee.

(3) A party required by these rules or the Court to lodge a document cannot, without the Court's leave, refer to or rely on the document in any hearing, or in any other document to be lodged, unless it has been lodged.

(4) For the purposes of subrule (3), a document is lodged if it has —

(a) been lodged with the Court in accordance with this Part; and

(b) not been rejected by the Court or a registrar under rule 98B(1); and

(c) been recorded by the Court as having been lodged.

(5) A party given leave under subrule (3) must lodge the document as soon as practicable after leave is given or otherwise in accordance with a relevant order of the Court.

[Rule 97 inserted: SL 2021/25 r. 6.]

98. Registry at which originating claims and applications must be lodged

(1) Except as provided in this rule, an originating claim or an application referred to in rule 124 may be lodged at any registry of the Court where there is at least 1 registrar who is not a deputy registrar appointed under the *Magistrates Court Act 2004* section 26(5).

(2) An originating claim to recover possession of real property must be lodged at the registry of the Court referred to in subrule (1) that is nearest to the property.

(3) An application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52N(1) must be lodged at the registry of the Court referred to in subrule (1) that is nearest to the last known address of the offender (as defined in rule 123).

(4) An application under the *Criminal Investigation Act 2006* section 49 or 147 must be lodged at the registry of the Court referred to in subrule (1) that is nearest to the relevant protected forensic area or the place where the relevant seized thing is secured, as the case requires.

[Rule 98 inserted: SL 2021/25 r. 6.]

98A. Lodging multiple copies

(1) A person must not present more than 1 copy of a document to the Court for lodgment unless these rules or the Court requires more than 1 copy to be lodged.

(2) A person is taken to have complied with a requirement in these rules or in the *Magistrates Court (General) Rules 2005* or by the Court to lodge 2 or more copies of a document if the document is lodged by using the ECMS or by email.

[Rule 98A inserted: SL 2021/25 r. 6; amended: SL 2021/133 r. 5.]

98B. Powers of the Court in relation to lodgment

(1) The Court or a registrar may reject a document that is presented for lodgment if —

(a) the form and content of the document do not comply with these rules and any Court order or direction; or

(b) the document is not presented in accordance with this Part.

(2) If the Court or a registrar rejects a document under subrule (1), a registrar must notify the person who presented the document for lodgment.

(3) If a document is lodged other than by using the ECMS, the Court or a registrar may, where necessary, convert the document

to an electronic format and record it in the ECMS as if it had been lodged by using the ECMS.

[Rule 98B inserted: SL 2021/25 r. 6.]

98C. Requirement to lodge documents using the ECMS

(1) A person must present a document for lodgment by using the ECMS unless —

(a) the person is ECMS exempt in relation to the document; or

(b) the ECMS —

(i) has been declared unavailable for use under rule 99; or

(ii) is otherwise unavailable for use; or

(iii) does not permit the document to be lodged.

(2) A person who is not required to present a document for lodgment by using the ECMS may, subject to rule 96(5), lodge the document —

(a) by delivering it by hand; or

(b) by email in accordance with rule 98D; or

(c) by post in accordance with rule 98F; or

(d) by fax in accordance with rule 98G; or

(e) by using the ECMS.

(2A) Subrules (1) and (2) do not apply to a document that is lodged for the purposes of an application made under the *Commonwealth Workplace Protection Orders Act 2025* (Cth) Part 2 Division 2 or 4.

(3) The Court may at any time, on the application of a party or on the Court's own initiative, order a person who has presented a

document for lodgment by using the ECMS to do either or both of the following —

(a) have the original document with the person at any conference or hearing in the course of the case concerned;

(b) lodge the original document by a means specified in the order.

[Rule 98C inserted: SL 2021/25 r. 6; amended: SL 2026/69 r. 4.]

98D. Lodging by email

(1) An email by which documents are presented for lodgment in relation to a proceeding must —

(a) state the sender's name; and

(b) state the title and number of the proceeding to which the documents relate; and

(c) list and describe the documents being presented for lodgment by the email; and

(d) give an explanation of the basis on which the documents may be lodged by email instead of by using the ECMS.

(2) A person who presents a document for lodgment by email must —

(a) endorse the first page of the original document with —

(i) a statement that the document is the original of a document sent by email; and

(ii) the date and time the document was sent by email;

and

(b) keep the endorsed original document and produce it if required to do so by the Court.

(3) A document presented for lodgment by email must be sent to the email address of the Court registry where the case is being heard.

(4) The Court may at any time, on the application of a party or on the Court's own initiative, order a person who has presented a document for lodgment by email to do either or both of the following —

(a) have the original document with the person at any conference or hearing in the course of the case concerned;

(b) lodge the original document by a means specified in the order.

[Rule 98D inserted: SL 2021/25 r. 6.]

98E. Form of documents lodged using ECMS or by email

(1) This rule applies to a document presented for lodgment —

(a) by using the ECMS; or

(b) by email.

(2) Subrule (3) applies to a document that —

(a) under these rules or the *Magistrates Court (General) Rules 2005*, must be signed before it is lodged; and

(b) is not listed in subrule (4).

(3) If a document to which this subrule applies is to be presented for lodgment —

(a) the document must be signed; and

(b) a copy of the document, in .docx format, must be presented instead of the signed copy; and

(c) the copy of the document in .docx format must, at any place in it where a signature would otherwise be required, state the name of the person who is required to sign it.

(4) Subrule (5) applies to the following documents —

(a) an affidavit;

(b) a consent to the Court doing anything;

(c) a document to be signed by a person who is not a party to the proceedings.

(5) A document to which this subrule applies must be —

(a) signed; and

(b) presented in .pdf format.

(6) A person who presents a document for lodgment under subrule (3) or (5) must keep the signed copy and produce it if required to do so by the Court.

[Rule 98E inserted: SL 2021/25 r. 6.]

98F. Lodging by post

(1) A document presented for lodgment by post must have a cover page —

(a) stating the name of the person sending the document; and

(b) stating the title and number of the proceeding to which the document relates; and

(c) stating a description of the document; and

(d) giving an explanation of the basis on which the document is being lodged by post instead of by using the ECMS.

(2) A document presented for lodgment by post must be sent to the postal address of the Court registry where the case is being heard.

[Rule 98F inserted: SL 2021/25 r. 6.]

98G. Lodging by fax

(1) A document presented for lodgment by fax must have a cover page —

(a) stating the name, postal address, telephone number and fax number of the person sending the document; and

(b) stating the title and number of the proceeding to which the document relates; and

(c) stating a description of the document; and

(d) giving an explanation of the basis on which the document is being lodged by fax instead of by using the ECMS; and

(e) stating the number of pages (including the cover page) being sent by fax.

(2) A person who presents a document for lodgment by fax must —

(a) endorse the first page of the original document with —

(i) a statement that the document is the original of a document sent by fax; and

(ii) the date and time the document was sent by fax;

and

(b) keep the endorsed original document and the fax machine's report evidencing the successful transmission of the document; and

(c) produce the items referred to in paragraph (b) if directed to do so by the Court.

(3) A document presented for lodgment by fax must be sent to the fax number of the Court registry where the case is being heard.

(4) A person must not present a document for lodgment by fax that, with any attachments and a cover page, has more than 20 pages and any such document received by the Court is taken not to have been presented for lodgment.

(5) The Court may at any time, on the application of a party or on the Court's own initiative, order a person who has presented a document for lodgment by fax to do either or both of the following —

(a) have the original document with the person at any conference or hearing in the course of the case concerned;

(b) lodge the original document by a means specified in the order.

[Rule 98G inserted: SL 2021/25 r. 6.]

98H. Time of lodgment

(1) A document lodged by using the ECMS is taken to have been lodged on the day and at the time recorded by the ECMS.

(2) Subrule (1) does not apply to a document that is recorded in the ECMS under rule 98B(3) as if it had been lodged by using the ECMS.

(3) A document lodged by email or fax is taken to have been lodged —

(a) if the whole document is received before 4 pm on a day when the Court registry is open for business, on that day;

(b) otherwise, on the next day when the Court registry is open for business.

[Rule 98H inserted: SL 2021/25 r. 6.]

99. Chief Magistrate may declare ECMS unavailable

(1) The Chief Magistrate may, in any manner the Chief Magistrate thinks fit, declare that the ECMS is unavailable for use for a period specified by the Chief Magistrate.

(2) The Chief Magistrate, in writing, may delegate the Chief Magistrate's function under this rule to 1 or more other officers of the Court.

(3) For the purposes of these rules, a declaration made by a delegate of the Chief Magistrate under this rule is taken to be a declaration made by the Chief Magistrate.

[Rule 99 inserted: SL 2021/25 r. 6.]

Part 17 — Serving documents

Division 1 — General

99A. Terms used

In this Division —

administrative staff member means a person referred to in the *Magistrates Court Act 2004* section 26(1);

departmental officer means a person employed in the department of the Public Service principally assisting in the administration of the *Magistrates Court Act 2004*.

[Rule 99A inserted: Gazette 3 May 2016 p. 1360.]

100. Service of documents

If these rules require a party to serve a document —

(a) the party must serve a copy of the document returned after lodgment bearing the seal of the Court; and

(b) unless the rules provide otherwise, the party must serve it on each other party.

101. How documents served

(1) Unless personal service is required under these rules, if a person wants to serve a document on someone, the person must do so —

(a) by delivering it, or sending it by pre-paid post —

(i) if an address has been provided under rule 102, to that address; or

(ii) if an address has not been provided under rule 102, to the party's usual or last known place of residence or principal or last known place of business, as the case may be, or the party's usual postal address;

or

(b) subject to the *Magistrates Court (General) Rules 2005*, by email or fax.

(2) In order to serve a document on someone personally, a person must do so in accordance with Division 2.

(3) Nothing in this rule prevents a person from consenting to being served in a manner other than in accordance with this rule.

[Rule 101 amended: Gazette 24 May 2013 p. 2063.]

102. Address for service in lodged documents

(1) A document lodged in relation to a case must contain a residential or business address for service.

(1A) The address for service specified on the document is to be taken to be the party's address for service under this Division until —

(a) if the document specified the address of a legal practitioner under subrule (5), the legal practitioner lodges a notice in the approved form —

(i) stating that the legal practitioner no longer acts for the party; and

(ii) specifying the party's address for service under subrule (2), (3) or (4), as the case requires, or any new address for service under subrule (5) that is known to the legal practitioner;

or

(b) a notice of change of address is lodged under subrule (6).

(2) If the party lodging the document is an individual who is not represented by a legal practitioner, the address for service must be the usual place of residence or principal place of business address or the postal address of the individual.

(3A) A party who is an individual not represented by a legal practitioner and who provides a postal address as an address for

service must also provide the Court and each of the other parties details of the usual place of residence or principal place of business address of the individual.

(3) If the party lodging the document is a partnership that is not represented by a legal practitioner, the address for service must be the principal place of business of the partnership.

(4) If the party lodging the document is a corporation that is not represented by a legal practitioner, the address for service must be the registered office or principal place of business of the corporation.

(5) If the party lodging the document is represented by a legal practitioner, the address for service must be the principal place of business of the legal practitioner or the legal practitioner's number (if any) at a document exchange approved by the Chief Magistrate.

(6) If a party's address for service under this rule changes after the lodgment of documents in relation to a case, the party must lodge and serve a notice of change of address as soon as practicable after the address has changed.

(7) The notice of change of address must be in the approved form.

[Rule 102 amended: Gazette 3 Jun 2008 p. 2134-5; 24 May 2013 p. 2063; SL 2022/106 r. 4.]

103. Certificate of service by enforcement officer, administrative staff member or departmental officer

(1) If a document is served by an enforcement officer, an administrative staff member or a departmental officer on behalf of a party, the person who served the document must, as soon as practicable after the service, give a certificate of the service to the party.

(2) The certificate must be in an approved form.

(3) The certificate is admissible as evidence and, in the absence of proof to the contrary, is proof that the document was served by the enforcement officer, administrative staff member or departmental officer.

[Rule 103 amended: Gazette 24 Aug 2007 p. 4329; 3 May 2016 p. 1360-1.]

104. Affidavit of service by other persons

(1) If a document is served by a party, or on behalf of a party by a person other than an enforcement officer, administrative staff member or departmental officer, the party must lodge an affidavit of service completed by the person who served the document.

(2) The affidavit of service must state when, where, how and by whom service was effected.

[Rule 104 amended: Gazette 24 Aug 2007 p. 4329; 3 May 2016 p. 1361.]

Division 2 — Personal service

105. Personal service on individual, how effected

In order to serve a document on an individual personally a person must —

(a) hand the document to the individual or, if the individual is a person under a legal disability, to the individual's parent, guardian or litigation guardian; or

(b) if the individual or the individual's parent, guardian or litigation guardian, as the case may be, does not accept the document, put the document down in his or her presence and advise him or her of the nature of the document; or

(c) hand the document to a person who is authorised in writing to receive documents on behalf of the individual; or

(d) hand the document to someone at the person's usual or last known place of residence or business who is believed, on reasonable grounds, to have reached 18 years of age; or

(e) hand the document to a legal practitioner who is acting for the individual.

[Rule 105 amended: SL 2022/106 r. 4.]

106. Personal service on partnership, how effected

In order to serve a document on a partnership personally a person must —

(a) hand the document to one of the partners; or

(b) if the partner does not accept the document, put the document down in the partner's presence and advise the partner of the nature of the document; or

(c) hand the document to someone at the partnership's principal or last known place of business who, on reasonable grounds, is believed to be in charge of the business at the time of service; or

(d) hand the document to a legal practitioner who is acting for the partnership.

[Rule 106 amended: SL 2022/106 r. 4.]

107. Personal service on corporation, how effected

(1) In order to serve a document on a corporation personally a person must hand the document to —

(a) a person who, on reasonable grounds, is believed to be a director of the corporation who resides in Australia; or

(b) a legal practitioner who is acting for the corporation.

(2) This rule applies in addition to the *Corporations Act 2001* of the Commonwealth.

[Rule 107 inserted: Gazette 3 Jun 2008 p. 2135; amended: SL 2022/106 r. 4.]

108. Personal service on public authority, how effected

In order to serve a document on a public authority personally a person must —

(a) hand the document to a person who, on reasonable grounds, is believed to be the chief executive officer of the public authority or a person authorised by the chief executive officer to receive documents for the purposes of this paragraph; or

(b) hand the document to a legal practitioner who is acting for the public authority.

[Rule 108 amended: SL 2022/106 r. 4.]

Division 3 — Miscellaneous

[Heading inserted: Gazette 3 Jun 2008 p. 2135.]

109A. Substituted service, applying for (Act s. 16(1)(t))

(1) If a party cannot serve a document on another party in accordance with Divisions 1 and 2, the party may apply to the Court to make an order under the Act section 16(1)(t) that —

(a) the party may be served by a substituted form of service; or

(b) if it is appropriate in the circumstances, the requirement for service be dispensed with altogether.

(2) The application —

(a) is not required to be served on any other party; and

(b) may be dealt with in the absence of the parties.

[Rule 109A inserted: Gazette 3 Jun 2008 p. 2135-6.]

Part 18 — Applications

109. Applying for Court order except judgment

(1) This rule applies to —

(a) an application for a Court order other than —

(i) a judgment after trial; or

(ii) an order made in or as a consequence of a judgment, not being an order to set aside a judgment given under the Act section 17(3), 18(6) or 19(3);

or

(b) an application in relation to which rule 111(1) does not apply.

(2) A party may make an application —

(a) subject to subrule (3), by lodging the approved form; or

(b) with the leave of the Court, orally at any hearing.

(3) Before making an application under subrule 2(a), the party must confer with the other party to try to resolve the matters giving rise to the application.

[Rule 109 inserted: SL 2020/67 r. 33.]

110. Supporting affidavit

A written application must be lodged together with a supporting affidavit.

[Rule 110 amended: SL 2020/67 r. 34.]

111. Application must be served

(1) Except as provided in subrule (2), a party making a written application must serve a copy of the application and supporting affidavit on every other party after it has been lodged.

(2) Subrule (1) does not apply —

(a) in relation to an application for default judgment —

(i) for a failure to lodge a response in accordance with rule 9(1); or

(ii) for a failure to lodge a statement of defence or a statement of defence and counterclaim in accordance with rule 41B; or

(iii) if these rules state that the default judgment may be given in the absence of the parties;

or

(b) in relation to any other application, if —

(i) these rules provide otherwise; or

(ii) the Court dealing with the application orders otherwise.

[Rule 111 amended: Gazette 3 Jun 2008 p. 2136; 20 May 2011 p. 1842; SL 2020/67 r. 35.]

112. Response to application

(1) A party which has been served with an application must, no later than 14 days after the party was served with the application, lodge and serve —

(a) a response to the application stating whether the party consents or objects in relation to each order sought in the application; and

(b) unless the party consents to every order sought in the application, an affidavit supporting the response; and

(c) any related application by the party.

(2) The response must be in the approved form.

[Rule 112 amended: SL 2020/67 r. 36.]

113. Dealing with application

An application must be dealt with in the presence of the parties to the application unless —

(a) these rules provide otherwise; or

(b) the Court dealing with the application orders otherwise.

[Rule 113 amended: Gazette 3 Jun 2008 p. 2136.]

113A. No response filed

(1) If a party fails to lodge and serve a response to an application in accordance with rule 112, a registrar may —

(a) grant the application, if satisfied that the party making the application is entitled to relief; or

(b) refer the application to a magistrate.

(2) A magistrate to whom an application is referred under subrule (1)(b) may, in chambers —

(a) without hearing the party making the application, grant it; or

(b) direct a registrar to list the application for hearing by a magistrate.

(3) A magistrate hearing the application may grant or refuse it.

[Rule 113A inserted: SL 2020/67 r. 37.]

Part 19 — Affidavits

114. Form of affidavits

An affidavit must be in the approved form.

115. Content of affidavits

(1) Except as provided in subrule (2), an affidavit must be confined to facts to which the person making the affidavit is able to depose from his or her own knowledge.

(2) An affidavit may contain statements based on information received by the person making the affidavit, and believed by that person to be true, if the affidavit also contains the sources or grounds of that information or belief.

(3) Any addition, alteration or erasure in an affidavit must be initialled by the person making the affidavit and the person before whom the affidavit was sworn or affirmed.

[Rule 115 amended: Gazette 3 Jun 2008 p. 2136.]

Part 20 — Litigation guardians

116. Terms used

In this Part —

child means a person who is under 18 years of age and who is not a represented person;

represented person has the meaning given to that term in the *Guardianship and Administration Act 1990* section 3(1).

117. Application of this Part

This Part applies in relation to a person under a legal disability if the person is, or intends to be, a party to a case.

118. Represented persons to have litigation guardians

(1) A represented person must have a litigation guardian to conduct the case on his or her behalf unless the Court orders otherwise.

(2) Except as provided in subrule (3), a guardian or administrator of a represented person is to be the litigation guardian of the person if the relevant guardianship or administration order —

(a) is plenary; or

(b) otherwise confers on the guardian or administrator the function of conducting or settling legal proceedings on behalf of the person.

(3) If the Public Trustee is a joint administrator of the estate of a represented person, the Public Trustee is to be the person's sole litigation guardian.

(4) A represented person not referred to in subrule (2) may have as his or her litigation guardian anyone who —

(a) is not under a legal disability; and

(b) does not have an interest in the case that is adverse to the interests of the represented person.

(5) A person may act as a litigation guardian of a represented person without being appointed by the Court to act in that capacity.

119. Litigation guardian of represented person must lodge affidavit

(1) A litigation guardian of a represented person must, in accordance with this rule, lodge and serve an affidavit that is sworn by the litigation guardian —

(a) when first lodging and serving a claim or response; or

(b) if he or she becomes the litigation guardian after proceedings on behalf of the represented person have commenced, as soon as practicable after he or she becomes the litigation guardian.

(2) In the case of a litigation guardian of a represented person referred to in rule 118(2), the affidavit must verify that —

(a) the person for whom the litigation guardian is acting is a represented person; and

(b) the litigation guardian has been appointed the guardian or administrator of the person under the *Guardianship and Administration Act 1990*; and

(c) the relevant guardianship or administration order —

(i) is plenary; or

(ii) otherwise confers on the guardian or administrator the function of conducting or settling legal proceedings on behalf of the person.

(3) In the case of a litigation guardian of a represented person not referred to in rule 118(2), the affidavit must —

(a) verify that the person for whom the litigation guardian is acting is a represented person; and

(b) state the nature of the litigation guardian's relationship with the represented person; and

(c) verify that the litigation guardian consents to acting in that capacity for the represented person; and

(d) verify that the litigation guardian is not under a legal disability and does not have an interest in the case that is adverse to the interests of the represented person; and

(e) set out the grounds for any knowledge or belief expressed in the affidavit.

120. Children, litigation guardians for

(1) A child may have as his or her litigation guardian anyone who —

(a) is not under a legal disability; and

(b) does not have an interest in the case that is adverse to the interests of the child.

(2) A person may act as litigation guardian of a child without being appointed by the Court to act in that capacity.

121. Litigation guardian of child must lodge affidavit

(1) A litigation guardian of a child must, in accordance with subrule (2), lodge and serve an affidavit sworn by the litigation guardian —

(a) when first lodging and serving a claim or response; or

(b) if proceedings on behalf of the child have already begun, as soon as practicable after the litigation guardian assumes that capacity.

(2) The litigation guardian's affidavit must —

(a) verify that the person for whom the litigation guardian is acting is a child; and

(b) state the nature of the litigation guardian's relationship with the child; and

(c) verify that the litigation guardian consents to acting in that capacity for the child; and

(d) verify that the litigation guardian is not under a legal disability and does not have an interest in the case that is adverse to the interests of the child; and

(e) set out the grounds for any knowledge or belief expressed in the affidavit.

(3) If the child has reached 14 years of age, the litigation guardian must, together with the litigation guardian's affidavit, lodge and serve an affidavit sworn by the child, verifying that he or she wants the litigation guardian to act in that capacity.

(4) If —

(a) the child has not reached 14 years of age; and

(b) the litigation guardian is not the parent or guardian of the child,

the litigation guardian must, together with the litigation guardian's affidavit, lodge and serve an affidavit sworn by the parent or guardian of the child, verifying that the parent or guardian consents to the litigation guardian acting in that capacity.

122. Litigation guardian, application by to be appointed

(1) A person may make an application to be appointed as the litigation guardian, or to replace the litigation guardian, of a person under a legal disability.

(2) Except as provided in subrules (3) and (4), the application must be made in accordance with Part 18.

(3) If the application relates to a represented person, the application must be supported by an affidavit in accordance with rule 119(3).

(4) If the application relates to a child, the application must be supported by affidavits in accordance with rule 121.

Part 20A — Litigation funders

[Heading inserted: SL 2023/148 r. 4.]

122A. Term used: litigation funder

In this Part —

litigation funder means a person who —

(a) provides funding or other financial assistance to a claimant for the purposes of conducting the claimant's case; and

(b) exercises direct or indirect control or influence over the conduct of the claimant's case; and

(c) does not exercise control or influence as —

(i) a legal practitioner advising or representing the claimant; or

(ii) the claimant's insurer.

[Rule 122A inserted: SL 2023/148 r. 4]

122B. Claimant to notify Court of litigation funder

(1) A claimant who receives funding or other financial assistance from a litigation funder must notify the Court of the existence of the litigation funder.

(2) The notice must be given in writing as soon as is reasonably practicable after the person provides or agrees to provide funding or other financial assistance to the claimant.

[Rule 122B inserted: SL 2023/148 r. 4]

122C. Disclosure of agreements relating to litigation funder

The Court may, at any time, order the claimant to give to the Court a copy of any agreement relating to funding or other

financial assistance a litigation funder provides or is to provide to the claimant for the purposes of conducting the case.

[Rule 122C inserted: SL 2023/148 r. 4]

Part 21 — Jurisdiction conferred by other Acts

Division 1 — General

123. Terms used

In this Division —

application means an application to which this Division applies;

audio link has the meaning given in the *Criminal Procedure Act 2004* section 3(1);

conferring Act means legislation referred to in rule 124;

Fines Enforcement Registrar means the Registrar as defined in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 3(1);

offender —

(a) has the meaning given in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 28(1); and

(b) includes a person liable to pay an amount referred to in Part 5 of that Act;

video link has the meaning given in the *Criminal Procedure Act 2004* section 3(1);

warrant of commitment inquiry has the meaning given in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52M(1).

[Rule 123 amended: Gazette 2 Jul 2010 p. 3193; 20 May 2011 p. 1842; SL 2021/25 r. 7.]

124. Applications to which this Division applies

(1) This Division applies to an application made to the Court under a provision listed in the Table.

Table

Written law	Provision(s)
Animal Welfare Act 2002	s. 44, 56.
Auction Sales Act 1973	s. 8, 9, 11, 13, 14, 15, 17, 18, 19, 22, 33.
Building Act 2011	s. 86(1).
Conservation and Land Management Act 1984	s. 108A.
Criminal and Found Property Disposal Act 2006	s. 11, 12, 26, 30.
Criminal Investigation Act 2006	s. 49, 147.
Disposal of Uncollected Goods Act 1970	s. 17(3), 19(1), 20.
Dividing Fences Act 1961	s. 9, 11, 13, 15.
Dog Act 1976	s. 39, 40(4).
Fines, Penalties and Infringement Notices Enforcement Act 1994	s. 52N(1), 69(1), 91B(2), 94.
Local Government Act 1995	s. 3.26(4).
Mandatory Testing (Infectious Diseases) Act 2014	s. 16.
Pawnbrokers and Second-hand Dealers Act 1994	s. 85, 86.
Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967	s. 17(4)
Prohibited Behaviour Orders Act 2010	s. 5, 21.

Written law	Provision(s)
Restraining Orders Act 1997	Any provision.
Restraint of Debtors Act 1984	Any provision.
Tobacco and Other Products Control Act 2006	s. 120C(1), (6).
Weapons Act 1999	s. 17(1).

(2) This Division applies to an application made to the Court under the *Corporations Act 2001* (Commonwealth).

(3) This Division does not apply to a claim for the recovery of an amount that is permitted to be made in a court of competent jurisdiction by a provision referred to in subrule (1) or by the *Corporations Act 2001* (Commonwealth).

(4) This Division applies to an application made to the Court under the *National Credit Code*, as defined in the *National Consumer Credit Protection Act 2009* (Commonwealth) section 5(1), sections 100 and 101.

(5) This Division applies to an application made to the Court under the *Commonwealth Workplace Protection Orders Act 2025* (Cth) Part 2 Division 2 or 4.

[Rule 124 inserted: Gazette 2 Jul 2010 p. 3193-4; amended: Gazette 20 May 2011 p. 1842; 23 Mar 2012 p. 1367; 24 May 2013 p. 2063; 8 Jan 2015 p. 160; 15 May 2015 p. 1726; 18 Sep 2018 p. 3516; SL 2021/25 r. 8; SL 2026/69 r. 5; S: 2026/92 r. 4.]

125. Application, form of

Unless the conferring Act provides otherwise, an application must be in the approved form.

126. Application must be served

(1) Except as provided in the conferring Act or in rule 129B, 129C, 129D, 130A, 131AA, 131B or 131H, a party making an application must serve a copy of the application and any supporting affidavit on every other party —

(a) as soon as practicable, and in any event within one year, after it has been lodged; and

(b) at least 5 clear days before the hearing of the application.

(2) Unless rule 131G(6) or an Act provides otherwise, the application must be served personally.

[Rule 126 inserted: Gazette 24 Aug 2007 p. 4330; amended: Gazette 2 Jul 2010 p. 3194; 20 May 2011 p. 1842; 3 Jun 2014 p. 1743; 15 May 2015 p. 1726; SL 2021/25 r. 9; SL 2026/69 r. 6.]

127. Registrar to list case for status conference

(1A) This rule does not apply to an application made to the Court under a provision listed in the Table.

Table

Written law	**Provision(s)**
Animal Welfare Act 2002	s. 44, 56.
Criminal and Found Property Disposal Act 2006	Any provision.
Criminal Investigation Act 2006	s. 49(1), 147(5).
Criminal Law (Mental Impairment) Act 2023	s. 88(3).
Fines, Penalties and Infringement Notices Enforcement Act 1994	s. 52N(1), 94.
Mandatory Testing (Infectious Diseases) Act 2014	s. 16.

Written law	**Provision(s)**
Prohibited Behaviour Orders Act 2010	s. 5, 21.
Restraining Orders Act 1997	Any provision.
Tobacco and Other Products Control Act 2006	s. 120C(1), (6).
Weapons Act 1999	s. 17(1).

(1AA) This rule does not apply to an application made to the Court under the *Commonwealth Workplace Protection Orders Act 2025* (Cth) Part 2 Division 2 or 4.

(1) As soon as practicable after an application is lodged, a registrar must list the case for a status conference.

[(2) deleted]

(3) If the conferring Act does not require the application to be served, the registrar must notify the parties in writing of the status conference.

[Rule 127 amended: Gazette 24 Aug 2007 p. 4330; 2 Jul 2010 p. 3194; 20 May 2011 p. 1843; 3 Jun 2014 p. 1743; 15 May 2015 p. 1727; SL 2020/67 r. 38; SL 2021/25 r. 10; SL 2024/155 r. 4; SL 2026/69 r. 7; SL 2026/92 r. 5.]

128. Application of rules generally

(1) This rule does not apply to an application made to the Court under —

(a) the *Mandatory Testing (Infectious Diseases) Act 2014* section 16; or

(b) the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52N(1); or

(c) the *Tobacco and Other Products Control Act 2006* section 120C(1) or (6).

(2) Unless the conferring Act provides otherwise, rule 29, rules 40 to 41B, rule 43, Part 10, Part 12 Division 1, and Parts 13 to 20

and 22 apply, with any necessary modifications, to an application.

[Rule 128 amended: Gazette 2 Jul 2010 p. 3195; 24 May 2013 p. 2063; 15 May 2015 p. 1727; 30 Sep 2016 p. 4182; SL 2021/25 r. 11; SL 2026/92 r. 6.]

129A. Dealing with application

(1) This rule does not apply to an application made to the Court under —

(a) the *Mandatory Testing (Infectious Diseases) Act 2014* section 16; or

(b) the *Commonwealth Workplace Protection Orders Act 2025* (Cth) section 16.

(2) Except as provided in the conferring Act and this Part, an application must be dealt with in the presence of the parties to the application.

[Rule 129A inserted as rule 128A: Gazette 24 Aug 2007 p. 4330; renumbered as rule 129A: Gazette 3 Jun 2008 p. 2137; amended: Gazette 15 May 2015 p. 1727; SL 2026/69 r. 8.]

129AB. *Animal Welfare Act 2002* s. 44 and 56, application under

An application under the *Animal Welfare Act 2002* section 44 or 56 must be lodged together with a supporting affidavit.

[Rule 129AB inserted: Gazette 20 May 2011 p. 1843.]

129B. *Criminal and Found Property Disposal Act 2006*, application under

(1) An application under the *Criminal and Found Property Disposal Act 2006* must be lodged together with a supporting affidavit.

(2) When the application and supporting affidavit are lodged, 2 copies must also be lodged.

(3) When the application and supporting affidavit are lodged, a registrar must —

(a) list the application for hearing on the earliest convenient date; and

(b) insert the hearing details on the application; and

(c) return a copy of the application and supporting affidavit to the applicant and give a copy to every other party to the application at least 5 clear days before the date listed for the hearing of the application.

[Rule 129B inserted as rule 128B: Gazette 24 Aug 2007 p. 4331; renumbered as rule 129B: Gazette 3 Jun 2008 p. 2137; amended: Gazette 23 Jan 2015 p. 411.]

129C. *Criminal Investigation Act 2006* s. 49(1) and 147(5), application under

(1) An application under the *Criminal Investigation Act 2006* section 49(1) must be lodged together with a supporting affidavit and a map of the protected forensic area to which the application relates.

(2) An application under the *Criminal Investigation Act 2006* section 147(5) must be lodged together with a supporting affidavit and a map of the place where the seized thing to which the application relates has been secured.

(3) When the application, supporting affidavit and map are lodged, 2 copies must also be lodged.

(4) When the application, supporting affidavit and map are lodged, a registrar must —

(a) list the application for hearing on the earliest convenient date; and

(b) insert the hearing details on the application; and

(c) return a copy of the application, supporting affidavit and map to the applicant and give a copy to every other party to the application at least 5 clear days before the date listed for the hearing of the application.

[Rule 129C inserted as rule 128C: Gazette 24 Aug 2007 p. 4331; renumbered as rule 129C: Gazette 3 Jun 2008 p. 2137; amended: Gazette 23 Jan 2015 p. 411.]

129CA. Application under *Criminal Law (Mental Impairment) Act 2023* s. 88

An application under the *Criminal Law (Mental Impairment) Act 2023* section 88 must be lodged together with a supporting affidavit.

[Rule 129CA inserted: SL 2024/155 r. 5.]

129D. *Mandatory Testing (Infectious Diseases) Act 2014*

(1) An application under the *Mandatory Testing (Infectious Diseases) Act 2014* section 16 must be lodged together with a supporting affidavit.

(2) Rule 126(1) does not apply to the application.

(3) The Court may make, vary or revoke a disease test order under the *Mandatory Testing (Infectious Diseases) Act 2014* section 19 orally or in writing.

[Rule 129D inserted: Gazette 15 May 2015 p. 1727.]

129. *Disposal of Uncollected Goods Act 1970*, application under

An application under the *Disposal of Uncollected Goods Act 1970* must be lodged together with a supporting affidavit.

130A. Application under *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 52N(1)

(1) An application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52N(1) must be lodged

with any documentation and evidence required by section 52O(2) of that Act.

(2) The evidence required by the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52O(2)(b) must be provided by way of affidavit.

(3) Rule 126(1) does not apply to the application.

(4) Parts 16, 19 and 22 apply, with any necessary modifications, to the application.

[Rule 130A inserted: SL 2021/25 r. 12.]

130B. Dealing with application under *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 52N(1)

(1) The magistrate dealing with an application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52N(1) may, in chambers and in the absence of the Fines Enforcement Registrar and the offender —

(a) grant the application; or

(b) direct that the application be listed for hearing by a magistrate.

(2) The Court must notify the Fines Enforcement Registrar of the details of a hearing referred to in subrule (1)(b).

(3) The notification must be at least 5 clear days before the date listed for the hearing unless the magistrate considers the hearing to be urgent.

(4) The magistrate hearing the application may grant or refuse it.

[Rule 130B inserted: SL 2021/25 r. 12.]

130C. Process where summons issued under *Fines, Penalties and Infringement Notices Enforcement Act 1994* Pt. 4 Div. 3E

(1) This rule applies if the Court decides to hold a warrant of commitment inquiry and issues a summons under the *Fines,*

Penalties and Infringement Notices Enforcement Act 1994 section 52Q(1)(a) for the offender to appear at the inquiry.

(2) The inquiry must be held at the registry of the Court at which the application for the inquiry was lodged.

(3) The Fines Enforcement Registrar must arrange service of the summons in accordance with the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52V.

[Rule 130C inserted: SL 2021/25 r. 12.]

130D. Process where arrest warrant issued under *Fines, Penalties and Infringement Notices Enforcement Act 1994* Pt. 4 Div. 3E

(1) In this rule —

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*.

(2) This rule applies if the Court decides to hold a warrant of commitment inquiry and issues an arrest warrant under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52Q(1)(b) to have the offender arrested and brought before the Court for the inquiry.

(3) If the offender is to be released under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52ZB(1)(b) or (3), the Court must set a time and place for the warrant of commitment inquiry.

(4) If the arrest warrant ceases to be in force as a result of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52ZA(b)(ii) or (iv), the Court must notify the Commissioner of Police that the arrest warrant is no longer in force.

[Rule 130D inserted: SL 2021/25 r. 12.]

130E. Process for warrant of commitment inquiry under *Fines, Penalties and Infringement Notices Enforcement Act 1994* Pt. 4 Div. 3E

(1) This rule applies if the Court decides to hold a warrant of commitment inquiry.

(2) The Court must notify the Fines Enforcement Registrar of the time and location at which the inquiry will be held.

(3) The notification under subrule (2) must be given immediately in the case of an offender who is brought before the Court under an arrest warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52Q(1)(b), or who appears voluntarily in Court following the issue of the warrant.

(4) The Fines Enforcement Registrar may appear before the Court at the inquiry —

(a) in the case of an inquiry held outside the metropolitan region (as defined in the *Planning and Development Act 2005* section 4(1)) — in person or by video link or audio link; or

(b) in any other case — in person or, with the leave of the Court, by video link or audio link.

(5) If the Court makes an order under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 52S(1), the Court must immediately notify the Fines Enforcement Registrar of the order.

[Rule 130E inserted: SL 2021/25 r. 12.]

130. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 69(1), application under

(1) An application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 69(1) must be lodged together with a supporting affidavit.

[(2) deleted]

(3) The application may be dealt with by a registrar.

(4) The application may be dealt with in the absence of —

(a) the debtor mentioned in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 69(1)(a); or

(b) the person mentioned in the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 69(1)(b),

as is relevant in the case.

[Rule 130 amended: Gazette 24 Aug 2007 p. 4332; 2 Jul 2010 p. 3195; 20 Aug 2013 p. 3817; 3 Jun 2014 p. 1743.]

131AA. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94(2), application under

(1) An application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94(2) must be lodged by the Sheriff together with copy of the written notice of claim.

(2) As soon as practicable after an application made by the Sheriff under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94(2) is lodged, a registrar must —

(a) list the application for hearing on the earliest convenient date; and

(b) endorse the hearing date on the application; and

(c) return one copy of the application to the Sheriff and serve one copy of the application on the claimant by service by ordinary post.

(3) If the claimant files notice of withdrawal and gives notice in writing of the withdrawal to the Court before the time of the hearing, the property seized by the Sheriff or the proceeds of the

sale of the property must be dealt with and disposed of as if the claim had not been made.

[Rule 131AA inserted: Gazette 3 Jun 2014 p. 1744; amended: Gazette 15 May 2015 p. 1728.]

131AB. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94, location of interpleader proceedings

(1) The proceedings under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94 are to be held at the place where the Court has a registry that is nearest to the place where the property the subject of the proceedings is located.

(2) If the Court is satisfied that it would be more convenient or fair to the parties if the whole or a part of the interpleader proceedings were conducted at another place in the State (whether or not a registry of the Court is there), the Court may order accordingly.

(3) An order may be made under subrule (2) only on the application of a party of which any other party has had notice.

(4) If the Court makes an order under subrule (2) it may make any necessary ancillary or consequential order.

[Rule 131AB inserted: Gazette 3 Jun 2014 p. 1744; amended: Gazette 15 May 2015 p. 1728.]

131AC. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94, interpleader proceedings

(1) The claimant must, at least 10 clear days before the time of the hearing, file with the Court 2 copies of the particulars of any property alleged to be the property of the claimant and of the claimant's grounds for the claim.

(2) The following details and information must be fully set out in, or accompany, those particulars —

(a) the name, address and description of the claimant;

(b) information as to possession of the property;

(c) information as to the claimant's interest in the property;

(d) details of, and a copy of, any document that supports the claimant's claim to possession of or interest in the property.

(3) The Court must immediately give the Sheriff a copy of the particulars by service by ordinary post.

(4) A hearing in relation to a claim is to proceed as if the claimant were the plaintiff, and the Sheriff the defendant.

[Rule 131AC inserted: Gazette 3 Jun 2014 p. 1745; amended: Gazette 15 May 2015 p. 1728.]

131AD. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94, power to delay sale

(1) The Sheriff may, in his or her discretion, delay selling any property in respect of which a claim has been made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 93 until a Court has adjudicated on the claim.

(2) The Sheriff is to be allowed such costs out of pocket only as the Court may order for the keeping of continued possession of the property under subrule (1).

[Rule 131AD inserted: Gazette 3 Jun 2014 p. 1745; amended: Gazette 15 May 2015 p. 1728.]

131A. *National Consumer Credit Protection Act 2009* (Cwlth) s. 199(1)(b), application under

Under the *National Consumer Credit Protection Act 2009* (Commonwealth) section 199(1)(b), a person who wants the small claims procedure to apply to the proceedings must so indicate in the person's application made under that Act.

[Rule 131A inserted: Gazette 20 May 2011 p. 1843.]

131B. *Prohibited Behaviour Orders Act 2010*, application under

(1) In this rule, unless the contrary intention appears —

Act means the *Prohibited Behaviour Orders Act 2010*;

section means a section of the Act.

(2) If a term used in this rule is defined in the Act, it has the same meaning in this rule as it has in the Act, unless the contrary intention appears.

(3) To make an application under section 5 for a PBO against a person (the ***respondent***), the prosecutor must —

(a) complete the approved form for the application and state in it —

(i) the constraints the prosecutor wants the Court to specify in the PBO under section 10; and

(ii) the period of the PBO the prosecutor wants the Court to specify in the PBO under section 12;

and

(b) give the application to the judicial officer presiding at the hearing at which the respondent is to be sentenced; and

(c) if the respondent is present at that hearing, give a copy of the application to the respondent personally.

(4) If the respondent is not present when an application for a PBO is made, a registrar must attach a copy of the application to the hearing notice that the registrar gives the respondent under section 7(2).

(5) Within 28 days after the date on which an application for a PBO is made, the applicant must —

(a) lodge an affidavit in support of the application; and

(b) give a copy to the respondent in accordance with section 33.

(6) Unless the Court permits otherwise, the supporting affidavit must state the following —

(a) details of the respondent's convictions of relevant offences on which the applicant relies to allege the respondent is a person described in section 8(2)(a);

(b) if any such conviction is of a relevant offence that is not a prescribed offence, the material facts of the offence;

(c) details of the matters listed in section 9(3)(a), (c), (e) and (f);

(d) any other facts on which the applicant intends to rely in support of the application.

(7) Unless the Court permits otherwise, the supporting affidavit must refer to and have attached to it each of these documents —

(a) the respondent's criminal record;

(b) any order referred to in section 9(3)(d) that is in force against the respondent;

(c) any order listed in section 10(7) that is in force against the respondent.

(8) To make an application under section 21 to vary or cancel a PBO, a person must lodge —

(a) the application; and

(b) 2 copies of an affidavit in support of the application.

(9) The respondent to an application made under section 5 or 21 may file an affidavit in response to the affidavit filed in support of the application.

(10) An affidavit referred to in subrule (9) must be —

(a) lodged within 21 days after the date on which the respondent is served with the affidavit lodged in support of the application; and

(b) served on the applicant at least 5 clear days before the hearing of the application.

(11) If a PBO is corrected under section 25, a registrar must cause a copy of the corrected PBO to be given —

(a) to each party to the PBO proceedings; and

(b) if the Commissioner of Police is not a party to the PBO proceedings — to the Commissioner of Police.

(12) A hearing notice must be in the approved form.

[Rule 131B inserted: Gazette 20 May 2011 p. 1843-5; amended: Gazette 27 Oct 2011 p. 4557.]

131C. *Weapons Act 1999* s. 17(1), application under

An application made under the *Weapons Act 1999* section 17(1) must be lodged together with a supporting affidavit.

[Rule 131C inserted: Gazette 20 May 2011 p. 1845.]

Division 1A — *Restraining Orders Act 1997*

[Heading inserted: SL 2020/141 r. 4.]

131CAA. Terms used

In this Division —

Act means the *Restraining Orders Act 1997*;

section means a section of the Act.

[Rule 131CAA inserted: SL 2020/141 r. 4.]

131CAB. Fixing conference under s. 49D

(1) In this rule —

conference means a conference under section 49D.

(2) A conference may be fixed only at a Court location approved by the Chief Magistrate.

(3) A registrar may fix a conference by —

(a) fixing a day, time and place for the conference; and

(b) notifying the parties of the conference.

(4) Subrule (3) is satisfied if the ECMS fixes the conference.

[Rule 131CAB inserted: SL 2020/141 r. 4; amended: SL 2021/45 r. 4.]

131CA. Fixing hearing under s. 9 or 26

(1) This rule applies for the purposes of sections 9 and 26(2).

(2) If under the Act the Court must fix a hearing, the Court must fix the hearing by —

(a) fixing a day, time and place for the hearing; and

(b) notifying the parties of the hearing.

(3) If under the Act the Court must summons a person to a hearing, the Court must summons the person to the hearing by —

(a) preparing a summons in the form set out in Schedule 1 Form 16; and

(b) causing the summons to be served on the person.

(4) Subrule (2) is satisfied if the ECMS fixes the hearing.

(5) Despite subrule (2), if under section 26(2) an applicant wishes to have the first hearing held in the absence of the respondent —

(a) the Court may fix the first hearing by —

(i) fixing a day, time and place for the first hearing; and

(ii) notifying the applicant of the first hearing;

or

(b) an approved user acting for the applicant may select the day, time and place (the ***hearing details***) for the first hearing by means of the ECMS.

(6) If the hearing details have been selected under subrule (5)(b), the Court must give notice to confirm the hearing details by means of the ECMS to the approved user.

[Rule 131CA inserted: SL 2021/45 r. 5.]

131CB. Preparing, serving and delivering restraining orders under s. 10(1)

(1) This rule applies for the purposes of section 10(1).

(2) A restraining order is to be prepared by means of the ECMS in the form set out in Schedule 1 Form 2, 4, 6 or 9, as appropriate.

(3) Subject to section 10(1A), the Court must cause —

(a) the respondent's copy and the respondent's endorsement copy (if one is required to be served) of the restraining order to be served on the person who is bound by the order; and

(b) the applicant's copy of the order to be delivered to —

(i) the person seeking to be protected by the order; or

(ii) the parent or guardian of that person, if the parent or guardian made the application for the order on behalf of that person;

and

(c) the police copy of the order to be delivered by means of the ECMS to the Commissioner of Police.

[(d) deleted]

(4) Delivery of a document under subrule (3)(b) may be by means of the ECMS if an approved user is acting for the person to whom the document is to be delivered.

(5) When subrule (3) has been complied with, the Court copy of the order must be placed by means of the ECMS on the Court's records.

[Rule 131CB inserted: SL 2020/37 r. 4; amended: SL 2020/54 r. 7; SL 2020/67 r. 40; SL 2020/141 r. 6.]

131CC. Application for FVRO under s. 24A

(1) This rule applies for the purposes of an application for an FVRO under section 24A.

(2) The application must be made —

(a) in person, using the form set out in Schedule 1 Form 1; or

(b) if an approved user is acting for the applicant and the application is being made by means of the ECMS — by providing the information required by the ECMS to make the application.

[Rule 131CC inserted: SL 2020/54 r. 8; amended: SL 2020/141 r. 7.]

131CD. Application for VRO under s. 25

(1) This rule applies for the purposes of an application for a VRO under section 25.

(2) The application must be made —

(a) in person, using the form set out in Schedule 1 Form 5; or

(b) if an approved user is acting for the applicant and the application is being made by means of the ECMS — by providing the information required by the ECMS to make the application.

[Rule 131CD inserted: SL 2020/54 r. 8; amended: SL 2020/141 r. 8.]

131CE. Applicant's declaration if application is to be made by ECMS

(1) If an application is to be made by means of the ECMS under rule 131CC(2)(b) or 131CD(2)(b), the approved user must —

(a) read out to the applicant the information provided by the applicant that is to form the evidence in support of the application; and

(b) ask the applicant to declare that the information is true; and

(c) if the applicant makes that declaration, record that fact in the application.

(2) If the applicant does not make the declaration referred to in subrule (1), the application cannot be made by means of the ECMS.

[Rule 131CE inserted: SL 2020/54 r. 8.]

131CF. Relationship with *Magistrates Court (General) Rules 2005* Pt. 2 Div. 3

If there is an inconsistency between rules 131CA to 131CE and the *Magistrates Court (General) Rules 2005* Part 2 Division 3 in relation to the ECMS, rules 131CA to 131CE prevail to the extent of the inconsistency.

[Rule 131CF inserted: SL 2020/54 r. 8.]

131D. Forms under Act

(1) For the purposes of the Act, the forms set out in Schedule 1 are prescribed in relation to the matters specified in those forms.

(2) Where a form is in parts, then only those parts of the form that are relevant, taking into account the part heading, need be used for a particular copy of the form, or for a particular purpose.

[Rule 131D inserted: Gazette 20 Jun 2017 p. 2991-2; amended: SL 2020/141 r. 9.]

131E. Court may notify or give documents by email

(1) Subject to subrule (2), the Court may, under this Division, notify a person of a thing, or deliver a copy of a document to them, by email.

(2) This rule does not authorise the use of email —

(a) to serve a summons relating to a restraining order; or

(b) to serve a restraining order on a person bound by it; or

(c) to make a notification or deliver a document to a person who has not provided to the Court an email address, for themselves.

[Rule 131E inserted: SL 2023/148 r. 5]

Division 1B — *Commonwealth Workplace Protection Orders Act 2025* (Cth)

[Heading inserted: SL 2026/69 r. 9.]

131F. Terms used

(1) In this Division —

Act means the *Commonwealth Workplace Protection Orders Act 2025* (Cth);

section means a section of the Act.

(2) If a term used in this Division is given a meaning in the Act, it has the same meaning in this Division.

[Rule 131F inserted: SL 2026/69 r. 9]

131G. Applications under s. 13, 19, 26 or 27

(1) This rule applies for the purposes of the following —

(a) an application for an interim order made under section 13;

(b) an application for a final order made under section 19;

(c) an application to vary or revoke a Commonwealth workplace protection order made under section 26;

(d) an application to revoke a Commonwealth workplace protection order made under section 27.

(2) The application must be presented for lodgment by delivering it to the Court by hand.

(3) The application must be lodged together with a supporting affidavit.

(4) When the application and supporting affidavit are lodged, 2 copies must also be lodged.

(5) When the application and the supporting affidavit are lodged, a registrar must —

(a) list the application for a hearing on the earliest convenient date; and

(b) insert the hearing date on the application; and

(c) return 2 copies of the application and supporting affidavit to the applicant.

(6) Rule 126(2) does not apply to the application if —

(a) it is an application referred to in subrule (1)(c); and

(b) the application is made by the respondent.

[Rule 131G inserted: SL 2026/69 r. 9]

131H. Application for urgent interim order under s. 16

(1) This rule applies for the purposes of an application for an urgent interim order made under section 16.

(2) Before making the application, the applicant must notify the registrar at the registry of the Court at which the application will be made that the application is to be made.

(3) If the application is being made by email, it must be presented for lodgment by email in accordance with rule 98D.

(4) If the application is being made by fax, it must be presented for lodgment by fax in accordance with rule 98G.

(5) If the application is being made by email or fax, it must be lodged together with a supporting affidavit.

(6) If the application is being made orally (by telephone or other electronic means), the applicant must lodge the approved form for the application and a supporting affidavit —

(a) if it is practicable to do so — before the application is heard; or

(b) otherwise — when or as soon as practicable after the application is heard.

(7) The approved form for the application and supporting affidavit referred to in subrule (6) may be presented for lodgment —

(a) by delivering it by hand; or

(b) by email in accordance with rule 98D; or

(c) by post in accordance with rule 98F; or

(d) by fax in accordance with rule 98G.

(8) Rule 126(1) does not apply to the application.

[Rule 131H inserted: SL 2026/69 r. 9]

131I. Appearance at hearing by audio link or video link

A party to an application made under Part 2 Division 2 or 4 of the Act may, with the leave of the Court, appear before the Court at a hearing of the application by audio link or video link (as those terms are defined in the *Evidence Act 1906* section 120(1)).

[Rule 131I inserted: SL 2026/69 r. 9]

131J. Service of Commonwealth workplace protection orders

(1) If the Court makes or varies a Commonwealth workplace protection order, the authorised person who applied for the order must serve a copy of the order on the respondent.

(2) The Commonwealth workplace protection order must be served personally.

[Rule 131J inserted: SL 2026/69 r. 9]

Division 2 — *Civil Judgments Enforcement Act 2004*

131. Means inquiries, registrars' powers for

A registrar may deal with a means inquiry under the *Civil Judgments Enforcement Act 2004* section 30 and may for that purpose exercise any of the Court's powers under sections 28, 29 and 31 of that Act and the *Civil Judgments Enforcement Regulations 2005* Part 4 Division 2 and regulations 86 and 96.

[Rule 131 amended: Gazette 1 Jun 2012 p. 2282.]

132. Other applications and requests dealt with by registrars

(1) For the purposes of the *Civil Judgments Enforcement Act 2004* section 9(3), an application or request that, when made to the Court under the Act, may be dealt with by a registrar, is —

(a) an application for an order under section 10, 15(5)(a), 20(3) or 22(1) of that Act; or

(b) an application for leave under section 13(1)(a) of that Act; or

(c) an application or request under a section of that Act listed in the Table to this paragraph.

Table

s. 15(1)	s. 56(1)
s. 32	s. 58(1)
s. 33	s. 59(1)
s. 35(1)	s. 95(1)

s. 41(2)	s. 101(1)
s. 42(1)	s. 102(2)
s. 49(1)	s. 103(2)
s. 55(2)	

(2) A person may apply for the review of a decision of a registrar in relation to the application or request by making an application under Part 18 of these rules.

[Rule 132 amended: Gazette 3 Jun 2008 p. 2137.]

Division 2A — *Tobacco and Other Products Control Act 2006*

[Heading inserted: SL 2026/92 r. 7.]

132A. Term used: application

In this Division —

application means an application made under the *Tobacco and Other Products Control Act 2006* section 120C(1) or (6).

[Regulation 132A inserted: SL 2026/92 r. 7.]

132B. Lodgment of applications

(1) An application must be lodged together with a supporting affidavit.

(2) When the application and supporting affidavit are lodged, 2 copies must also be lodged.

(3) When the application and supporting affidavit are lodged, a registrar must —

(a) list the application for a directions hearing on the earliest convenient date; and

(b) insert the directions hearing details on the application; and

(c) return 2 copies of the application and supporting affidavit to the applicant.

[Regulation 132B inserted: SL 2026/92 r. 7.]

132C. Application of rules including rules for serving documents

(1) Unless the conferring Act provides otherwise, rule 29 and Parts 13 to 19 (other than Part 16A) apply, with any necessary modifications, to an application.

(2) The service requirements in Part 17 and rule 126 apply in addition to the service requirements provided for in the *Tobacco and Other Products Control Act 2006* section 120C(3), (7) and (8), as the case requires.

[Regulation 132C inserted: SL 2026/92 r. 7.]

132D. Dealing with applications

(1) At a directions hearing, the magistrate may make orders as to the procedure to be followed by each party and the Court in order to ensure the application is dealt with justly.

(2) Without limiting subrule (1), the Court may, at or after the first directions hearing, list the application for hearing by a magistrate if —

(a) an application is opposed; or

(b) the Court considers that a hearing is necessary to determine the matter.

[Regulation 132D inserted: SL 2026/92 r. 7.]

132E. Leave to be heard

(1) The Court may, on the application of a party or another person having an interest in the application or on its own initiative, grant leave to be heard in an application to a person who is not a party to the application.

(2) The Court may grant the leave on conditions and may revoke the leave at any time.

[Regulation 132E inserted: SL 2026/92 r. 7.]

132F. Court to provide copies of orders

(1) This rule applies if the Court —

(a) makes a long-term closure order under the *Tobacco and Other Products Control Act 2006* section 120C(1); or

(b) varies or revokes a long-term closure order under the *Tobacco and Other Products Control Act 2006* section 120C(6).

(2) As soon as practicable after making, varying or revoking the order, the Court must give a copy of the order to the chief executive officer of the department of the Public Service principally assisting in the administration of the *Tobacco and Other Products Control Act 2006*.

[Regulation 132F inserted: SL 2026/92 r. 7.]

Division 3A — *Warehousemen's Liens Act 1952*

[Heading inserted: Gazette 23 Jan 2015 p. 411.]

133AAA. Terms used

In this Division —

Act means the *Warehousemen's Liens Act 1952*;

section means a section of the Act;

warehouseman has the meaning given in section 3.

[Rule 133AAA inserted: Gazette 23 Jan 2015 p. 411.]

133AAB. Application for order under s. 7(7A)

(1) An application for an order under section 7(7A) must be in the approved form.

(2) The application must be lodged together with a supporting affidavit.

(3) When the application and supporting affidavit are lodged, 2 copies must also be lodged.

(4) As soon as practicable after the application and supporting affidavit are lodged, a registrar must list the application before a magistrate for a directions hearing on the earliest practicable date.

(5) The application —

(a) is not required to be served on any other party; and

(b) may be dealt with at the directions hearing (in the manner provided by subrule (6)) in the absence of the parties.

(6) At the directions hearing, the Court may —

(a) make orders as to the procedure to be followed by each party and the Court in order to ensure the application is dealt with justly; and

(b) make an interim order under section 7(7A) pending the final determination of the application.

[Rule 133AAB inserted: Gazette 23 Jan 2015 p. 411-12.]

133AAC. Payments into court under s. 10(2A)

(1) This rule applies when a warehouseman pays a surplus into the Court under section 10(2A).

(2) The surplus must be accompanied by the following —

(a) the approved form;

(b) the duplicate copies of the statement of account referred to in section 10(4), verified in the manner prescribed for the purposes of that subsection;

(c) a supporting affidavit containing any other particulars that are prescribed for the purposes of that subsection.

(3) The Court must give to the warehouseman a receipt for the surplus.

(4) After the surplus is paid into the Court, a registrar must serve on each person who, to the registrar's knowledge, may have a claim to the surplus a copy of the following —

(a) the approved form referred to in subrule (2)(a);

(b) the verified statement of account referred to in subrule (2)(b);

(c) the supporting affidavit referred to in subrule (2)(c);

(d) the receipt referred to in subrule (3).

[Rule 133AAC inserted: Gazette 23 Jan 2015 p. 412.]

133AAD. Application for order under s. 10(2B)

(1) A person (the ***applicant***) who wishes to make a claim to a surplus paid into the Court under section 10(2A) may apply to the Court for an order under section 10(2B).

(2) The application must be lodged within 60 days after the day on which the surplus is paid into the Court under section 10(2A).

(3) The application must be in the approved form.

(4) The application must be lodged together with a supporting affidavit.

(5) The supporting affidavit must include (but is not limited to including) the following —

(a) a statement as to why the applicant is entitled to the surplus;

(b) unless paragraph (c) applies — details of any person (an ***other party***) who, to the applicant's knowledge, disputes the applicant's claim to the surplus;

(c) if, to the applicant's knowledge, there is no other party, a statement to that effect.

(6) When the application and supporting affidavit are lodged, 2 copies must also be lodged.

(7) As soon as practicable after the application and the supporting affidavit are lodged, a registrar must list the application before a magistrate for a directions hearing.

(8) The registrar must endorse the date of the directions hearing on the copy of the application that is to be served under subrule (9).

(9) The applicant must serve personally on any other party a copy of the application and the supporting affidavit at least 5 clear days before the date of the directions hearing.

(10) At the directions hearing, the Court may make orders as to the procedure to be followed by the applicant, any other party and the Court to ensure the application is dealt with justly.

[Rule 133AAD inserted: Gazette 23 Jan 2015 p. 412-13.]

133AAE. Court may act on its own initiative under s. 10(2B)

(1) This rule applies if —

(a) the period allowed by rule 133AAD(2) for lodging an application under rule 133AAD has expired; and

(b) no application has been lodged.

(2) A registrar must list the case before a magistrate in chambers for the making of an order by the Court under section 10(2B).

[Rule 133AAE inserted: Gazette 23 Jan 2015 p. 413.]

Division 3 — Applications under other written laws

[Heading inserted: Gazette 23 Mar 2012 p. 1367.]

133AA. Applications under other written laws, making etc.

(1) This rule applies to an application made under a written law, other than a written law referred to in another rule in this Part,

for relief other than relief within the Court's jurisdiction conferred by section 6 of the Act.

(2) The application must —

(a) be made in accordance with rule 125; and

(b) be served in accordance with rule 126.

(3) As soon as practicable after the application is made, a registrar must list it before a magistrate for a directions hearing, and advise each party in writing.

(4) At the directions hearing, the magistrate may make orders as to the procedure to be followed by each party and the Court in order to ensure the application is dealt with justly.

[Rule 133AA inserted: Gazette 23 Mar 2012 p. 1367-8.]

Part 22 — Miscellaneous

133A. Change of venue, application for (Act s. 22)

(1) When an application is made under the Act section 22 —

(a) the applicant is not required to serve the application on any other party; and

(b) the registrar must instead provide a copy of the application to every other party.

(2) Unless the Court orders otherwise, the application may be dealt with in the absence of the parties.

[Rule 133A inserted: Gazette 3 Jun 2008 p. 2137.]

133B. Typographical and other errors, correcting

(1) If a party makes an application to correct a typographical error or other defect, a registrar may order that the party may make the correction.

(2) An application for an order under subrule (1) —

(a) is not required to be served on any other party; and

(b) may be dealt with in the absence of the parties.

[Rule 133B inserted: Gazette 3 Jun 2008 p. 2137-8.]

133. Forms to be available

The Court must make approved forms available —

(a) at each Court registry; and

(b) on request, by post; and

(c) electronically, on the website maintained by the Principal Registrar under the *Magistrates Court (General) Rules 2005*.

134. Partnerships, conduct of cases by

(1) A partnership may conduct its case in its partnership name, if any.

(2) A person may make a claim, and conduct a case, against a partnership in the partnership's name, if any.

[Rule 134 amended: Gazette 3 Jun 2008 p. 2138.]

135. Who may sign or do other things for partnerships, corporations etc.

(1) In this rule —

party includes a litigation guardian conducting a case on behalf of a party who is a person under a legal disability.

(2) Except as provided in the Act section 44, when under these rules a party is required or enabled to sign a document, or do something else personally and —

(a) the party is a partnership — then a person who was a partner at the time the cause of action arose and who is authorised by each of the other partners to do the thing may do it;

(b) the party is a corporation — then a person who is authorised by the corporation to do the thing may do it;

(c) the party is a public authority — then an officer of the public authority who is authorised by the public authority to do the thing may do it;

(d) an insurer is subrogated to the rights of the party — then a person who is authorised to do the thing on behalf of the insurer may do it.

[Rule 135 amended: Gazette 24 Aug 2007 p. 4332.]

136. Cases remitted from superior court

Where a case is remitted from the Supreme Court or District Court, a registrar must list the case for a status conference and notify the parties in writing.

[Rule 136 amended: SL 2020/67 r. 41.]

137. Payments into Court

When a party makes a payment of money into Court, the Court must give to the party a written receipt for the money.

138. *Residential Tenancies Act 1987* s. 18(2)(b), notices under

For the purposes of the *Residential Tenancies Act 1987* section 18(2)(b) —

(a) if the address of the other party is known to the Court, the notice to be given by the Court under section 18(2)(b)(ii) of that Act must be given by giving the other party a copy of the application; and

(b) if the address of the other party is not known to the Court, the notice to be given by the Court under section 18(2)(b)(ii) of that Act must be given by giving the other party a summary of the relief sought by the applicant.

[Rule 138 inserted: Gazette 20 May 2011 p. 1845-6.]

Part 23 — Transitional rules for the *Magistrates Court Rules Amendment Rules 2020*

[Heading inserted: SL 2020/67 r. 42.]

139. Terms used in this Part

In this Part —

amended Rules means the *Magistrates Court (Civil Proceedings) Rules 2005* as in force from time to time on and after commencement day;

commencement day means 1 June 2020;

former Rules means the *Magistrates Court (Civil Proceedings) Rules 2005* as in force before commencement day;

transitional case means a case that, as of commencement day, has been commenced but not concluded.

[Rule 139 inserted: SL 2020/67 r. 42.]

140. Application of amended Rules in relation to transitional cases

(1) Subject to rule 141, on and from commencement day the amended Rules apply in relation to a transitional case.

(2) If the amended Rules apply in relation to a transitional case, then, unless otherwise directed under rule 143 —

(a) everything lodged or served in relation to the case under a provision of the former Rules is taken to have been lodged or served under the corresponding provision of the amended Rules; and

(b) every order made, direction given or other thing done in relation to the case by the Court or by a registrar under a provision of the former Rules is taken to have been made, given or done under the corresponding provision of the amended Rules.

[Rule 140 inserted: SL 2020/67 r. 42.]

141. Application of former Rules in relation to certain transitional cases

(1) This rule applies to a transitional case if —

(a) under the former Rules Part 2, a party to the case is required to lodge and serve any of the following documents on a day falling on or after commencement day —

(i) a statement of claim;

(ii) a counterclaim;

(iii) a third party claim;

(iv) a response to a claim;

(v) a statement of defence;

or

(b) a pre-trial conference, listing conference or trial for which the case was listed before commencement day is held on or after commencement day.

(2) On and from commencement day, the former Rules continue to apply in relation to a transitional case to which this rule applies until —

(a) the Court or a registrar directs otherwise under rule 143; or

(b) the case is concluded.

[Rule 141 inserted: SL 2020/67 r. 42.]

142. Listing transitional cases for a status conference

(1) The Court may, of its own motion, list a transitional case for a status conference.

(2) The Court must list a transitional case for a status conference if a party to a transitional case applies to the Court in the approved form to have the case listed.

(3) The court must give the parties to the case 7 days written notice of a status conference for which the case is listed under this rule.

(4) The Court must conduct a status conference for which a case is listed under this rule in open court.

[Rule 142 inserted: SL 2020/67 r. 42.]

143. Court or registrar may give directions in relation to transitional issues

At a status conference, pre-trial conference, listing conference or trial held in relation to a transitional case, the Court or a registrar may make any or all of the following directions —

(a) if the amended Rules do not apply in relation to the case, a direction that they are to apply in relation to the case on and from a specified date;

(b) a direction modifying the application of the amended Rules in relation to the case;

(c) any other direction necessary or convenient in connection with the application of the amended Rules in relation to the case.

[Rule 143 inserted: SL 2020/67 r. 42; amended: SL 2021/25 r. 13.]

Schedule 1 — Forms prescribed for *Restraining Orders Act 1997*

[r. 131D]

[Heading inserted: Gazette 20 Jun 2017 p. 2992.]

Table of forms

Forms about family violence restraining orders

Form		Provisions of Act
1	Application for family violence restraining order	Section 24A
2	Part A — Family violence restraining order Part B — Information to be on the copy of order given to the person who is bound by the order Part C — Information to be on the respondent's endorsed copy Part D — Information to be on the copy of the order given to the person protected by the order Part E — Information to be on the proof of service copy Part F — Details of family order	Sections 29, 32, 43, 49 and 63
3	Conduct agreement order Part A — Conduct agreement order Part B — Information to be on the copy of order given to the person who is bound by the order Part C — Information to be on the copy of the order given to the person protected by the order Part D — Information to be on the proof of service copy Part E — Details of family order	Sections 10H, 43
4	Section 63A family violence restraining order Part A — Section 63A family violence restraining order Part B — Information to be on the copy of the order given to the person who is bound by the order Part C — Information to be on the copy of the order given to the person protected by the order	Section 63A

Forms about violence restraining orders

Form		Provisions of Act
5	Application for violence restraining order	Section 25
6	Part A — Violence restraining order Part B — Information to be on the copy of order given to the person who is bound by the order Part C — Information to be on the respondent's endorsed copy Part D — Information to be on the copy of the order given to the person protected by the order Part E — Information to be on the proof of service copy Part F — Details of family order	Sections 29, 32, 43, 49 and 63

Form		Provisions of Act
7	Part A — Section 63A violence restraining order Part B — Information to be on the copy of the order given to the person who is bound by the order Part C — Information to be on the copy of the order given to the person protected by the order	Section 63A

Forms about misconduct restraining orders

Form		Provisions of Act
8	Application for misconduct restraining order	Section 38
9	Part A — Misconduct restraining order Part B — Information to be on the copy of the order given to the person who is bound by the order Part C — Information to be on the copy of the order given to the person protected by the order Part D — Information to be on the proof of service copy	Part 4 Divisions 1 and 2, sections 49 and 63

Forms about telephone orders

Form		Provisions of Act
10	Part A — Telephone order Part B — Court copy of telephone order Part C — Information to be on the copy of the order given to the person who is bound by the order Part D — Information to be on the respondent's endorsed copy Part E — Information to be on the copy of the order given to the person protected by the order Part F — Information to be on the proof of service copy	Section 23
11	Restraining order record of telephone application	Section 21(4)

Forms about variation and cancellation of orders

Form		Provisions of Act
12	Part A — Application to vary or cancel a restraining order Part B — Information to be on the copy of the application given to the applicant	Section 45
13	Part A — Summons to vary or cancel restraining order Part B — Information to be on the proof of service copy	Section 47

Table of forms

Other forms

Form		Provisions of Act
14	Restraining order made during other proceedings — Record of proceedings	Section 63
15	Part A — Interstate restraining order — Application to register Part B — Information to be on the copy of the application given to the applicant Part C — Information to be on the copy of the application given to the Commissioner of Police Part D — Information to be on the copy of the application given to the interstate court where the interstate order was made	Section 75(2)
16	Part A — Restraining order — Summons Part B — Information to be on the proof of service copy	Sections 26(3) and 39
17	Application to have final order under section 32(2) of the Act set aside	Section 32(5)
18	Application to have decision under section 42 of the Act set aside	Section 43A

[Table of Forms inserted: Gazette 20 Jun 2017 p. 2992-4.]

Form 1 — Application for family violence restraining order

Restraining Orders Act 1997 s. 13A, 24A **Family violence restraining order Application**	Number: Jurisdiction: Location:

Applicant [*If not the person seeking to be protected*]	Family name:			Date of birth:
	Other names:			
	Address: street: suburb:			postcode:
	Phone nos.: work:	home:	mobile:	
	Email:			

Person seeking to be protected (victim of offence if s. 13A applies)	Family name:			Date of birth:
	Other names:			
	Address: street: suburb:		postcode:	
	Phone nos.: work:	home:	mobile:	
	Email:			

Respondent [*Fill in as many details as you can*] (Offender if s. 13A applies)	Family name:			Date of birth:
	Other names:			
	Home address: street: suburb:		postcode:	
	Work address: street: suburb:		postcode:	
	Phone nos.: work:	home:	mobile:	
	Email:			

Grounds for application	Set out details of the evidence in support of your application.

Offence details (if s. 13A applies)	This is to be completed where the respondent has been convicted of an offence referred to in section 63(4AA)(a) or 63A(1A).
	Date of offence:
	Offence details:

Family orders [*If yes, see the Details of family order Annexure*]	Are there any current family orders relating to the respondent's rights in relation to children who may be affected by a restraining order?	❒ Yes ❒ No ❒ Unknown
	Are there any current Family Court proceedings in which such orders are being sought?	❒ Yes ❒ No ❒ Unknown

Information relating to children	Is the person seeking to be protected a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown
	If yes, has this application been made with the written consent of a person who, under the relevant child welfare law, has responsibility for the control or care of the child?	❒ Yes ❒ No ❒ Unknown

Form 1

	Is the respondent a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown
	Is the respondent under 16 years of age?	❒ Yes ❒ No ❒ Unknown
	If the respondent is under 16 years of age, is the person seeking to be protected any of the following: • a parent or guardian of the respondent; • a person responsible for the day to day care of the respondent; • a person with whom the respondent habitually resides?	❒ Yes ❒ No
Firearms	Does the respondent have a firearm item or firearms authorisation?	❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to a firearm item at work?	❒ Yes ❒ No ❒ Unknown
Explosives	Does the respondent have explosives or an explosives licence?	❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to explosives at work?	❒ Yes ❒ No ❒ Unknown
Police incident *[Reference number to be inserted, if applicable]*		
First hearing	Do you want the respondent to be present at the first hearing?	❒ Yes ❒ No
Conference	Do you agree to the listing of a conference?* *[*Applies only if conferences are available at your court.*]	❒ Yes ❒ No

Applicant [*Not essential if lodged by means of the ECMS or if applicant is a police officer*]	Signature:	Date:

Hearing [*To be filled in by the court*]	Court:	Date:	Time:

Approved user to certify applicant's declaration [*If applicable*]	I [*Insert name of approved user*] certify that I have read out to the applicant the information the applicant provided to me that forms the evidence in support of this application, and the applicant has declared that the information is true.

[Form 1 inserted: SL 2020/141 r. 10; amended: SL 2022/15 r. 4(1); SL 2022/188 r. 4(1).]

Form 2 — Family violence restraining order

Part A — Family violence restraining order

Restraining Orders Act 1997 s. 29, 32, 43, 49 and 63 **Family violence restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Applicant for the order [*If not the person to be protected*]	Family name:	Date of birth:
	Other names:	

Person protected	Family name:	Date of birth:
	Other names:	

Type of order	The order is ❒ for 72 hours or less ❒ an interim order ❒ a final order

Terms of this order	

Information about unlawful behaviour and activities	In addition to the terms of this order, the court informs you that the following behaviour and activities are unlawful:

Form 2

THIS IS A NATIONALLY RECOGNISED ORDER			
Order made	Date order made:	Time order made:	
Registrar			Date:

Form 2 — Family violence restraining order

Part B — Information to be on the copy of order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR PERSON BOUND BY THIS ORDER

If the order is for 72 hours or less

A family violence restraining order has been made against you for 72 hours or less on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order. You must comply with this order until the end of the period specified in the order.

Penalty: It is an offence to breach a family violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. If you breach the order in the presence of a child with whom you are in a family relationship (e.g. your child, your partner's child or a child who ordinarily resides with you) the court sentencing you may consider this an aggravating factor.

Counselling, support and/or legal services may be of assistance to you.

If the order is an interim order

An interim family violence restraining order has been made against you on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. You must comply with this order at all times while it is in force.
You have an opportunity to object to the order before it becomes a final order.

If you want to object to this order being made final you must fill in the "Objection" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. The court will then list a conference (if you agree to a conference and one is available at your court) or arrange a final order hearing. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) without the parties being together. At the final order hearing the court will consider anything you want to say before deciding whether to make a final family violence restraining order. The court will let you know where and when the final order hearing will be held.

If you do not object to this order being made final you should fill in the "Consent" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. You will then not need to attend a final order hearing and the order will automatically become a final order which remains in force for the period specified in the order, or —

(a) if no period is specified and you are not a child, for 2 years from the date this interim order was served on you; or

(b) if no period is specified and you are a child, for 6 months from the date this interim order was served on you.

If you were in prison at the time the court received your "Consent" form, the order will stay in force (while you are in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which you are released from prison.

Form 2

If you do nothing and do not fill in and return the other copy of this order within 21 days the court will assume that you do not object and the interim order **will automatically become a final order**.

Penalty: It is an offence to breach a family violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

If the order is a final order

A final family violence restraining order has been made against you on the terms set out on the front of this order.

This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. You must comply with this order at all times while it is in force.

If there is a duration specified in the order, the order expires at the end of the specified period.

If there is no duration specified in the order, the order expires —

- if it was made at a final order hearing and —
  (a) you are not a child, 2 years after this final order comes into force; or
  (b) you are a child, 6 months after this final order comes into force;
  or
- if it was a telephone order which became a final order because you did not object, 3 months, or any shorter period specified in the order, after the telephone order was served on you.

If you were in prison at the time this order was made, the order expires —

- in the case of an order made at a final order hearing or an interim order which became the final order, 2 years after the date on which you are released from prison (or longer if specified in the order);
- in the case of a telephone order which became the final order because you did not object, 3 months after the date on which you are released from prison (or shorter if specified in the order).

If, in the future, you want the order varied or cancelled you may apply to the court. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court.

Penalty: It is an offence to breach a family violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Additional information about conviction for breaching the order

Note 1: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)).

Note 2: If you are convicted of breaching this order and you have been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before your conviction for breaching this order, you will face a penalty that is or includes imprisonment (or, if you are a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Affidavit evidence may be provided on request

If you, or the person protected by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

THIS ORDER COMES INTO FORCE IMMEDIATELY IF YOU WERE PRESENT IN COURT WHEN IT WAS MADE

Form 2 — Family violence restraining order

Part C — Information to be on the respondent's endorsed copy of the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

For interim orders only

If you want to object to this order being made final you must fill in the "Objection" section below and return it to the court within 21 days from the date this order was served on you. The court will then list a conference (if you agree to a conference and one is available at your court) or arrange a final order hearing. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) without the parties being together. At the final order hearing the court will consider anything you want to say before deciding whether to make a final family violence restraining order. The court will let you know where and when the final order hearing will be held.

If you do not object to this order being made final you must fill in the "Consent" section below and return this copy of the order to the court within 21 days of the date it was served on you.

If you do nothing and do not fill in and return this copy of the order to the court within 21 days this interim order **will automatically become a final order**.

Objection			
Order	Restraining order no.:	Court of issue:	
Family name:			Date of birth:
Other names:			
Address: street: suburb:		postcode:	
Email:			
Do you agree to the listing of a conference?* ❒ Yes ❒ No *[*Applies only if conferences are available at your court.*]			
Will you be represented by a legal practitioner at a conference or the final order hearing? ❒ Yes ❒ No			
If yes: legal practitioner's name: legal practitioner's firm:			
How many witnesses (including yourself) do you intend to call? _____			

Form 2

Does this interim order prevent you from —		
• going to where you normally live?	❒ Yes	❒ No
• having contact with your children?	❒ Yes	❒ No
• going to where you work or otherwise prevent you from doing your job?	❒ Yes	❒ No
• being in possession of a firearm item which is essential for your job?	❒ Yes	❒ No
• being in possession of explosives which are essential for your job?	❒ Yes	❒ No
Signature:	Date:	

OR

Consent			
Order	Restraining order no.:	Court of issue:	
Family name:			Date of birth:
Other names:			
Address: street: suburb:		postcode:	
Email:			

I do not object to a final order being made on the same terms as this interim order.

I understand that I will then not need to attend a final order hearing and that this interim order will automatically become a final order which will stay in force for —

(a) the period specified in the order; or

(b) if no period is specified and I am not a child, for 2 years from the date on which this order was served on me; or

(c) if no period is specified and I am a child, for 6 months from the date on which this order was served on me.

If I was in prison at the time this order was served on me, the order will stay in force (while I am in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which I am released from prison.

Signature:	Date:

Form 2 — Family violence restraining order

Part D — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON PROTECTED BY THIS ORDER

If the order is for 72 hours or less

A family violence restraining order has been made to protect you for 72 hours or less on the terms set out on the front of this order. This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order. The person who is bound by this order must comply with this order until the end of the period specified in the order.

Penalty: It is an offence to breach a family violence restraining order. If the person bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

If the order is an interim order

An interim family violence restraining order has been made to protect you on the terms set out on the front of this order. This order will come into force when it is served on the person bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. The person who is bound by this order must comply with this order at all times while it is in force.

The person who is bound by this order has 21 days within which to object to the order before it becomes a final order.

If the person who is bound by this order does object you will need to attend a conference (if the person agrees to a conference and one is available at your court) or a final order hearing. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) without the parties being together. At the final order hearing the court will consider anything you and the person who is bound by this order want to say before deciding whether to make a final restraining order. The court will let you know if a final order hearing is to be held and where and when you need to attend. Even if the person who is bound by this order does object, this interim order will remain in force until the final order hearing.

If the person who is bound by this order does not object this order will automatically become a final order which remains in force for the period specified in the order or —

(a) if no period is specified and the person is not a child, for 2 years from the date on which this order was served on the person; or

(b) if no period is specified and the person is a child, for 6 months from the date on which this order was served on the person.

If the person was in prison at the time this order was served on the person, the order will stay in force (while the person is in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which the person is released from prison.

You will then not need to attend a final order hearing.

Form 2

Penalty: It is an offence to breach a violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

If the order is a final order

A final family violence restraining order has been made to protect you on the terms set out on the front of this order.

This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. The person who is bound by this order must comply with this order at all times while it is in force.

If there is a duration specified in the order, the order expires at the end of the specified period.

If there is no duration specified in the order, the order expires —

- if it was made at a final order hearing and —
  - (a) the person is not a child, 2 years after this final order comes into force; or
  - (b) the person is a child, 6 months after this final order comes into force;

  or
- if it was a telephone order which became a final order because the person did not object, 3 months, or any shorter period specified in the order, after the telephone order was served on the person.

If the person was in prison at the time this order was made, the order expires —

- in the case of an order made at a final order hearing or an interim order which became the final order, 2 years after the date on which the person is released from prison (or longer if specified in the order);
- in the case of a telephone order which became the final order because the person did not object, 3 months after the date on which the person is released from prison (or shorter if specified in the order).

If, in the future, you want the order varied or cancelled you may apply to the court. The person who is bound by this order may also apply to have the order varied or cancelled. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court.

Penalty: It is an offence to breach a family violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Additional information about breaching the order

Note 1: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).

Note 2: If the person who is bound by this order is convicted of breaching the order and the person has been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before the conviction for breaching this order, the person will face a penalty that is or includes imprisonment (or, if the person is a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Affidavit evidence may be provided on request

If you, or the person bound by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

Form 2 — Family violence restraining order

Part E — Information to be on the proof of service copy

Certificate of service

	Restraining order no.: Court of issue:

Person serving order	Name of person serving order:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
Service	Method of service: ❒ personal ❒ oral ❒ by post ❒ substituted service	
	Place where order served:	
	Date of service:	Time of service:
Person served [*Person who is bound by the order*]	Name:	
	Date of birth:	
	Signature: ……..... (If possible to obtain)	
Certificate	I certify that on the day and at the time and place set out above — ❒ I personally served this order on the person who is bound by the order ❒ I orally served this order on the person who is bound by this order ❒ I posted this order to the person who is bound by this order ❒ I took the steps directed by the court to effect substituted service of this order on the person who is bound by this order in accordance with the *Restraining Orders Act 1997* section 60(2)(a). ❒ I took the steps prescribed by regulations under the *Restraining Orders Act 1997* section 60(2)(b) to effect substituted service of this order on the person who is bound by the order. In the case of oral service, I also certify that I — • gave the person who is bound by this order the information required by the *Restraining Orders Act 1997* section 55(5) and that the person appeared to understand what was said; or • arranged for someone else over the age of 18 years to give the information to the person in accordance with the *Restraining Orders Act 1997* section 55(5A).	
	Signature:	Date:

Form 2

Form 2 — Family violence restraining order

Part F — Details of family order

Restraining Orders Act 1997 s. 66 **Details of family order** **Annexure to application**	Number:
	Jurisdiction:
	Location:

Parties to the family order or proceedings	Name:	
	Address: street: suburb:	postcode:
	Name:	
	Address: street: suburb:	postcode:
Children	Names: 1. 2. 3. 4.	
	Address: street: suburb:	postcode:
Current family order	Date order was made:	Family Court matter no.:
	Court by which order was made:	
	Terms of family order which relate to the respondent's rights in relation to children: [*If the person seeking to be protected by the restraining order is a party to the family order, attach a copy of the family order. If not, fill in the details as far as you (or the person seeking to be protected) are aware of them.*]	
Current proceedings for family order	Court:	Family Court matter no.:
	Terms of family order being sought which relate to the respondent's rights in relation to children:	
	Are these terms of the order being opposed? ❒ Yes ❒ No ❒ Unknown	
Applicant	Signature:	Date:

[Form 2 inserted: Gazette 20 Jun 2017 p. 2996-3004; amended: Gazette 24 Nov 2017 p. 5674; SL 2020/54 r. 10;

SL 2020/141 r. 11, 23 and 24; SL 2022/106 r. 4; SL 2022/188 r. 4(2); SL 2023/148 r. 6; SL 2025/23 r. 4(1).]

Form 3 — Conduct agreement order

Part A — Conduct agreement order

Restraining Orders Act 1997 s. 10H and 43 **Conduct agreement order**	Number: Jurisdiction: Location:

Person who has agreed to be bound by this order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	

Person protected	Family name:	Date of birth:
	Other names:	

Type of order	This a final order.
Terms of this order	
Information about unlawful behaviour and activities	In addition to the terms of this order, the court informs you that the following behaviour and activities are unlawful:

THIS IS A NATIONALLY RECOGNISED ORDER

Order made	Date order made:	Time order made:
Registrar		Date:

Form 3 — Conduct agreement order

Part B — Information to be on the copy of order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR PERSON BOUND BY THIS ORDER

Terms of conduct agreement order
Although you do not admit that you have committed family violence, you have agreed to be bound by a conduct agreement order on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. You must comply with this order at all times while it is in force. If there is a duration specified in the order, the order expires at the end of the specified period. If there is no duration specified in the order, the order expires — • if you are not a child, 2 years after this order comes into force; or • if you are a child, 6 months after this order comes into force. If you were in prison at the time this order was served on you, the order will stay in force (while you are in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which you are released from prison. If, in the future, you want the order varied or cancelled you may apply to the court. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court. **Penalty:** It is an offence to breach a conduct agreement order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. Counselling, support and/or legal services may be of assistance to you.

Additional information about conviction for breaching the order
Note 1: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)). **Note 2:** If you are convicted of breaching this order and you have been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before your conviction for breaching this order, you will face a penalty that is or includes imprisonment (or, if you are a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Affidavit evidence may be provided on request
If you, or the person protected by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

THIS ORDER COMES INTO FORCE IMMEDIATELY IF YOU WERE PRESENT IN COURT WHEN IT WAS MADE

Form 3 — Conduct agreement order

Part C — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON PROTECTED BY THIS ORDER

Terms of conduct agreement order
Although the respondent does not admit to having committed family violence, the respondent has agreed to be bound by a conduct agreement order on the terms set out on the front of this order. This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. The person who is bound by this order must comply with this order at all times while it is in force. If there is a duration specified in the order, the order expires at the end of the specified period. If there is no duration specified in the order, the order expires — • if the person bound by this order is not a child, 2 years after this order comes into force; or • if the person bound by this order is a child, 6 months after this order comes into force. If the person bound by this order was in prison at the time this order was made, the order will stay in force (while the person is in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which the person is released from prison. If, in the future, you want the order varied or cancelled you may apply to the court. The person who is bound by this order may also apply to have the order varied or cancelled. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court. **Penalty:** It is an offence to breach a conduct agreement order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. Counselling, support and/or legal services may be of assistance to you.
Additional information about breaching the order
Note 1: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)). **Note 2:** If the person who is bound by this order is convicted of breaching the order and the person has been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before the conviction for breaching this order, the person will face a penalty that is or includes imprisonment (or, if the person is a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.
Affidavit evidence may be provided on request
If you, or the person bound by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

Form 3 — Conduct agreement order

Part D — Information to be on the proof of service copy

Certificate of service		
	Conduct agreement order no.: Court of issue:	
Person serving order	Name of person serving order:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
Service	Method of service: ❒ personal ❒ oral ❒ by post ❒ substituted service	
	Place where order served:	
	Date of service:	Time of service:
Person served [*Person who is bound by the order*]	Name:	
	Date of birth:	
	Signature: ……..... (If possible to obtain)	
Certificate	I certify that on the day and at the time and place set out above — ❒ I personally served this order on the person who is bound by the order ❒ I orally served this order on the person who is bound by this order ❒ I posted this order to the person who is bound by this order ❒ I took the steps directed by the court to effect substituted service of this order on the person who is bound by this order in accordance with the *Restraining Orders Act 1997* Part 6 Division 2. In the case of oral service, I also certify that I — • gave the person who is bound by this order the information required by the *Restraining Orders Act 1997* section 55(5) and that the person appeared to understand what was said; or • arranged for someone else over the age of 18 years to give the information to the person in accordance with the *Restraining Orders Act 1997* section 55(5A).	
	Signature:	Date:

Form 3

Form 3 — Conduct agreement order

Part E — Details of family order

Restraining Orders Act 1997 s. 66 **Details of family order** **Annexure to application**	Number: Jurisdiction: Location:

Parties to the family order or proceedings	Name:	
	Address: street: suburb:	postcode:
	Name:	
	Address: street: suburb:	postcode:

Children	Names: 1. 2. 3. 4.	
	Address: street: suburb:	postcode:

Current family order	Date order was made:	Family Court matter no.:
	Court by which order was made:	
	Terms of family order which relate to the respondent's rights in relation to children: [*If the person seeking to be protected by the conduct agreement order is a party to the family order, attach a copy of the family order. If not, fill in the details as far as you (or the person seeking to be protected) are aware of them.*]	

Current proceedings for family order	Court:	Family Court matter no.:
	Terms of family order being sought which relate to the respondent's rights in relation to children:	
	Are these terms of the order being opposed? ❒ Yes ❒ No ❒ Unknown	

Applicant	Signature:	Date:

[Form 3 inserted: Gazette 20 Jun 2017 p. 3005-9; amended: Gazette 24 Nov 2017 p. 5674; SL 2020/141 r. 12 and 23; SL 2022/106 r. 4; SL 2023/148 r. 6; SL 2025/23 r. 4(2).]

Form 4 — Section 63A family violence restraining order

Part A — Section 63A family violence restraining order

Restraining Orders Act 1997 s. 63A **Section 63A family violence restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	

Person protected	Family name:	Date of birth:
	Other names:	

Duration of order	
Terms of this order	

THIS IS A NATIONALLY RECOGNISED ORDER

Order made	Date order made:	Time order made:
Registrar		Date:

Form 4 — Section 63A family violence restraining order

Part B — Information to be on the copy of the order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

Section 63A family violence restraining order

A family violence restraining order has been made against you under the *Restraining Orders Act 1997* section 63A. The order is in the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order. If you were in prison at the time this order was served on you, the order will stay in force (while you are in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which you are released from prison.

Penalty: It is an offence to breach a family violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. If you breach the order in the presence of a child with whom you are in a family relationship (e.g. your child, your partner's child or a child who ordinarily resides with you) the court sentencing you may consider this an aggravating factor.

Note 1: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)).

Note 2: If you are convicted of breaching this order and you have been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before your conviction for breaching this order, you will face a penalty that is or includes imprisonment (or, if you are a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Counselling, support and/or legal services may be of assistance to you.

THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

Form 4 — Section 63A family violence restraining order

Part C — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS PROTECTED BY THIS ORDER

Section 63A family violence restraining order
A family violence restraining order has been made to protect you under the *Restraining Orders Act 1997* section 63A. The order is in the terms set out on the front of this order. This order came into force when it was served on the person who is bound by the order, or at a later time if this is specified on the front of this order. If the person was in prison at the time this order was served on the person, the order will stay in force (while the person is in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which the person is released from prison.
Penalty: It is an offence to breach a family violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.
Note 1: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).
Note 2: If the person who is bound by this order is convicted of breaching this order and the person has been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before the conviction for breaching this order, the person will face a penalty that is or includes imprisonment (or, if the person is a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.
Counselling, support and/or legal services may be of assistance to you.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

[Form 4 inserted: Gazette 20 Jun 2017 p. 3010-12; amended: Gazette 24 Nov 2017 p. 5675; SL 2020/141 r. 13 and 23; SL 2023/148 r. 6.]

Form 5

Form 5 — Application for violence restraining order

Restraining Orders Act 1997 s. 13A, 25 **Violence restraining order Application**	Number: Jurisdiction: Location:

Applicant [*If not the person seeking to be protected*]	Family name:				Date of birth:
	Other names:				
	Address:	street:			
		suburb:			postcode:
	Phone nos.:	work:	home:	mobile:	
	Email:				

Person seeking to be protected (victim of offence if s. 13A applies)	Family name:				Date of birth:
	Other names:				
	Address:	street:			
		suburb:			postcode:
	Phone nos.:	work:	home:	mobile:	
	Email:				

Respondent [*Fill in as many details as you can*] (Offender if s. 13A applies)	Family name:				Date of birth:
	Other names:				
	Home address:	street:			
		suburb:			postcode:
	Work address:	street:			
		suburb:			postcode:
	Phone nos.:	work:	home:	mobile:	
	Email:				

Grounds for application	Set out details of the evidence in support of your application.

Offence details (if s. 13A applies)	This is to be completed where the respondent has been convicted of an offence referred to in section 63(4AA)(a) or 63A(1A).
	Date of offence:
	Offence details:

Family orders [*If yes, see the Details of family order Annexure*]	Are there any current family orders relating to the respondent's rights in relation to children who may be affected by a restraining order?	❒ Yes ❒ No ❒ Unknown
	Are there any current Family Court proceedings in which such orders are being sought?	❒ Yes ❒ No ❒ Unknown

Information relating to children	Is the person seeking to be protected a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown
	If yes, has this application been made with the written consent of a person who, under the relevant child welfare law, has responsibility for the control or care of the child?	❒ Yes ❒ No ❒ Unknown
	Is the respondent a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown
	Is the respondent under 16 years of age?	❒ Yes ❒ No ❒ Unknown

	If the respondent is under 16 years of age, is the person seeking to be protected any of the following: • a parent or guardian of the respondent; • a person responsible for the day to day care of the respondent; • a person with whom the respondent habitually resides?	❒ Yes ❒ No
Firearms	Does the respondent have a firearm item or firearms authorisation?	❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to a firearm item at work?	❒ Yes ❒ No ❒ Unknown
Explosives	Does the respondent have explosives or an explosives licence?	❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to explosives at work?	❒ Yes ❒ No ❒ Unknown
Police incident *[Reference number to be inserted, if applicable]*		
First hearing	Do you want the respondent to be present at the first hearing?	❒ Yes ❒ No
Applicant [*Not essential if lodged by means of the ECMS or if applicant is a police officer*]	Signature:	Date:

Hearing [*To be filled in by the court*]	Court:	Date:	Time:

Approved user to certify applicant's declaration [*If applicable*]	I [*Insert name of approved user*] certify that I have read out to the applicant the information the applicant provided to me that forms the evidence in support of this application, and the applicant has declared that the information is true.

[Form 5 inserted: SL 2020/141 r. 14; amended: SL 2022/15 r. 4(1); SL 2022/188 r. 4(3).]

Form 6

Form 6 — Violence restraining order

Part A — Violence restraining order

Restraining Orders Act 1997 s. 29, 32, 43, 49 and 63 **Violence restraining order**	Number:
	Jurisdiction:
	Location:

Person who is bound by this order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email	

Applicant for the order [*If not the person to be protected*]	Family name:	Date of birth:
	Other names:	

Person protected	Family name:	Date of birth:
	Other names:	

Type of order	The order is ❒ for 72 hours or less ❒ an interim order ❒ a final order
Terms of this order	
Information about unlawful behaviour and activities	In addition to the terms of this order, the court informs you that the following behaviour and activities are unlawful —

Order made	Date order made:	Time order made:
Registrar		Date:

Form 6 — Violence restraining order

Part B — Information to be on the copy of order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR PERSON BOUND BY THIS ORDER

If the order is for 72 hours or less

A violence restraining order has been made against you for 72 hours or less on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order. You must comply with this order until the end of the period specified in the order.

Penalty: It is an offence to breach a violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. If you breach the order in the presence of a child with whom you are in a family relationship (e.g. your child, your partner's child or a child who ordinarily resides with you) the court sentencing you may consider this an aggravating factor.

Counselling, support and/or legal services may be of assistance to you.

If the order is an interim order

An interim violence restraining order has been made against you on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. You must comply with this order at all times while it is in force.

You have an opportunity to object to the order before it becomes a final order.

If you want to object to this order being made final you must fill in the "Objection" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. The court will then arrange a final order hearing at which it will consider anything you want to say before deciding whether to make a final violence restraining order. The court will let you know where and when the final order hearing will be held.

If you do not object to this order being made final you should fill in the "Consent" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. You will then not need to attend a final order hearing and the order will automatically become a final order which remains in force for the period specified in the order or —

(a) if no period is specified and you are not a child, for 2 years from the date this interim order was served on you; or

(b) if no period is specified and you are a child, for 6 months from the date this interim order was served on you.

If you were in prison at the time the court received your "Consent" form, the order will stay in force (while you are in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which you are released from prison.

If you do nothing and do not fill in and return the other copy of this order within 21 days the court will assume that you do not object and the interim order will automatically become a final order.

Penalty: It is an offence to breach a violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Form 6

If the order is a final order

A final violence restraining order has been made against you on the terms set out on the front of this order.

This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. You must comply with this order at all times while it is in force.

If there is a duration specified in the order, the order expires at the end of the specified period.

If there is no duration specified in the order, the order expires —

- if it was made at a final order hearing and —
  - (a) you are not a child, 2 years after this final order comes into force; or
  - (b) you are a child, 6 months after this final order comes into force;

  or
- if it was a telephone order which became a final order because you did not object, 3 months, or any shorter period specified in the order, after the telephone order was served on you.

If you were in prison at the time this order was made, the order expires —

- in the case of an order made at a final order hearing or an interim order which became the final order, 2 years after the date on which you are released from prison (or longer if specified in the order); or
- in the case of a telephone order which became the final order because you did not object, 3 months after the date on which you are released from prison (or shorter if specified in the order).

If, in the future, you want the order varied or cancelled you may apply to the court. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court.

Penalty: It is an offence to breach a violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Additional information about conviction for breaching the order

Note 1: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)).

Note 2: If you are convicted of breaching this order and you have been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before your conviction for breaching this order, you will face a penalty that is or includes imprisonment (or, if you are a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Affidavit evidence may be provided on request

If you, or the person protected by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

THIS ORDER COMES INTO FORCE IMMEDIATELY IF YOU WERE PRESENT IN COURT WHEN IT WAS MADE

Form 6 — Violence restraining order

Part C — Information to be on the respondent's endorsed copy of the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

For interim orders only

If you want to object to this order being made final you must fill in the "Objection" section below and return it to the court within 21 days from the date this order was served on you. The court will then arrange a final order hearing at which it will consider anything you want to say before deciding whether to make a final violence restraining order. The court will let you know where and when the final order hearing will be held.

If you do not object to this order being made final you must fill in the "Consent" section below and return this copy of the order to the court within 21 days of the date it was served on you.

If you do nothing and do not fill in and return this copy of the order to the court within 21 days, this interim order will automatically become a final order.

Objection			
Order	Restraining order no.:	Court of issue:	
Family name:			Date of birth:
Other names:			
Address: street: suburb:		postcode:	
Email:			
Will you be represented by a legal practitioner at the final order hearing?			❒ Yes
If yes: legal practitioner's name: legal practitioner's firm:			
How many witnesses (including yourself) do you intend to call? _____			
Does this interim order prevent you from — • going to where you normally live? • going to where you work or otherwise prevent you from doing your job? • being in possession of a firearm item which is essential for your job? • being in possession of explosives which are essential for your job?			❒ Yes ❒ No ❒ Yes ❒ No ❒ Yes ❒ No ❒ Yes ❒ No
Signature:			Date:

Form 6

OR

Consent			
Order	Restraining order no.:	Court of issue:	
Family name:			Date of birth:
Other names:			
Address: street: suburb:		postcode:	
Email:			
I do not object to a final order being made on the same terms as this interim order. I understand that I will then not need to attend a final order hearing and that this interim order will automatically become a final order which will stay in force for the period specified in the order or — (a) if no period is specified and I am not a child, for 2 years from the date on which this interim order was served on me; or (b) if no period is specified and I am a child, for 6 months from the date on which this interim order was served on me. If I was in prison at the time this order was served on me, the order will stay in force (while I am in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which I am released from prison.			
Signature:			Date:

Form 6 — Violence restraining order

Part D — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON PROTECTED BY THIS ORDER

If the order is for 72 hours or less

A violence restraining order has been made to protect you for 72 hours or less on the terms set out on the front of this order. This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order. The person who is bound by this order must comply with this order until the end of the period specified in the order.

Penalty: It is an offence to breach a violence restraining order. If the person bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

If the order is an interim order

An interim violence restraining order has been made to protect you on the terms set out on the front of this order. This order will come into force when it is served on the person bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. The person who is bound by this order must comply with this order at all times while it is in force. The person who is bound by this order has 21 days within which to object to the order before it becomes a final order.

If the person who is bound by this order does object you will need to attend a final order hearing. At that hearing the court will consider anything you and the person who is bound by this order want to say before deciding whether to make a final restraining order. The court will let you know if a final order hearing is to be held and where and when you need to attend. Even if the person who is bound by this order does object, this interim order will remain in force until the final order hearing.

If the person who is bound by this order does not object this order will automatically become a final order which remains in force for the period specified in the order or —

(a) if no period is specified and the person bound by the order is not a child, for 2 years from the date this interim order was served on the person bound by this order. You will then not need to attend a final order hearing; or

(b) if no period is specified and the person bound by the order is a child, for 6 months from the date this interim order was served on the person bound by this order. You will then not need to attend a final order hearing.

Form 6

If the person was in prison at the time this order was served on the person, the order will stay in force (while the person is in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which the person is released from prison.

Penalty: It is an offence to breach a violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

If the order is a final order

A final violence restraining order has been made to protect you on the terms set out on the front of this order.

This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. The person who is bound by this order must comply with this order at all times while it is in force.

If there is a duration specified in the order, the order expires at the end of the specified period.

If there is no duration specified in the order, the order expires —

- if it was made at a final order hearing and —
  (a) you are not a child, 2 years after this final order comes into force; or
  (b) you are a child, 6 months after this final order comes into force;
  or
- if it was a telephone order which became a final order because the person who is bound by the order did not object, 3 months (or any shorter time specified in the order) after the telephone order was served on the person who is bound by the order.

If the person was in prison at the time this order was made, the order expires —

- in the case of an order made at a final order hearing or an interim order which became the final order, 2 years after the date on which the person is released from prison (or longer if specified in the order); or
- in the case of a telephone order which became the final order because the person did not object, 3 months after the date on which the person is released from prison (or shorter if specified in the order).

If, in the future, you want the order varied or cancelled you may apply to the court. The person who is bound by this order may also apply to have the order varied or cancelled. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court.

Penalty: It is an offence to breach a violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Additional information about breaching the order
Note 1: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).
Note 2: If the person who is bound by this order is convicted of breaching the order and the person has been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before the conviction for breaching this order, the person will face a penalty that is or includes imprisonment (or, if the person is a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.

Affidavit evidence may be provided on request
If you, or the person bound by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

Form 6 — Violence restraining order

Part E — Information to be on the proof of service copy

Certificate of service	
	Restraining order no.: Court of issue:

Person serving order	Name of person serving order: I am: ❒ the registrar of the court ❒ a custodial officer Detention centre:_____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____
Service	Method of service: ❒ personal ❒ oral ❒ by post ❒ substituted service Place where order served: Date of service: Time of service:
Person served [*Person who is bound by the order*]	Name: Date of birth: Signature: ……..... (If possible to obtain)
Certificate	I certify that on the day and at the time and place set out above: ❒ I personally served this order on the person who is bound by the order ❒ I orally served this order on the person who is bound by this order ❒ I posted this order to the person who is bound by this order ❒ I took the steps directed by the court to effect substituted service of this order on the person who is bound by this order in accordance with the *Restraining Orders Act 1997* Part 6 Division 2. In the case of oral service, I also certify that I — • gave the person who is bound by this order the information required by the Restraining *Orders Act 1997* section 55(5) and that the person appeared to understand what was said; or • arranged for someone else over the age of 18 years to give the information to the person in accordance with the *Restraining Orders Act 1997* section 55(5A). Signature: Date:

[Form 6 inserted: Gazette 20 Jun 2017 p. 3014-21; amended: Gazette 24 Nov 2017 p. 5675; SL 2020/141 r. 15, 23 and 24; SL 2022/106 r. 4; SL 2022/188 r. 4(4); SL 2023/148 r. 6; SL 2025/23 r. 4(3).]

Form 7 — Section 63A violence restraining order

Part A — Section 63A violence restraining order

Restraining Orders Act 1997 s. 63A **Section 63A violence restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name: Other names:	Date of birth:
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	

Person protected	Family name: Other names:	Date of birth:

Duration of order	
Terms of this order	

Order made	Date order made:	Time order made:
Registrar		Date:

Form 7 — Section 63A violence restraining order

Part B — Information to be on the copy of the order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

Section 63A violence restraining order
A violence restraining order has been made against you under the *Restraining Orders Act 1997* section 63A. The order is in the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order. If you were in prison at the time this order was served on you, the order will stay in force (while you are in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which you are released from prison.
Penalty: It is an offence to breach a violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. If you breach the order in the presence of a child with whom you are in a family relationship (e.g. your child, your partner's child or a child who ordinarily resides with you) the court sentencing you may consider this an aggravating factor.
Note 1: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)).
Note 2: If you are convicted of breaching this order and you have been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before your conviction for breaching this order, you will face a penalty that is or includes imprisonment (or, if you are a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.
Counselling, support and/or legal services may be of assistance to you.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF YOU WERE PRESENT IN COURT WHEN IT WAS MADE

Form 7 — Section 63A violence restraining order

Part C — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS PROTECTED BY THIS ORDER

Section 63A violence restraining order
A violence restraining order has been made to protect you under the *Restraining Orders Act 1997* section 63A. The order is in the terms set out on the front of this order. This order came into force when it was served on the person who is bound by the order, or at a later time, if this is specified on the front of this order. If the person was in prison at the time this order was served on the person, the order will stay in force (while the person is in prison and on release) for the period specified in the order. If the duration of the order is not specified, the order will stay in force for 2 years from the date on which the person is released from prison.
Penalty: It is an offence to breach a violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.
Note 1: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).
Note 2: If the person who is bound by this order is convicted of breaching this order and the person has been convicted of at least 2 other offences under the *Restraining Orders Act 1997* section 61(1), (1A) or (2a) within the period of 2 years before the conviction for breaching this order, the person will face a penalty that is or includes imprisonment (or, if the person is a child, detention) unless the court decides under section 61A(6) of the Act not to impose such a penalty.
Counselling, support and/or legal services may be of assistance to you.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

[Form 7 inserted: Gazette 20 Jun 2017 p. 3022-4; amended: Gazette 24 Nov 2017 p. 5675; SL 2020/141 r. 16 and 23; SL 2023/148 r. 6.]

Form 8

Form 8 — Application for misconduct restraining order

Restraining Orders Act 1997 s. 38(2) **Misconduct restraining order Application**	Number: Jurisdiction: Location:

Applicant [*If not the person seeking to be protected*]	Family name:	Date of birth:
	Other names:	
	Address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Person seeking to be protected	Family name:	Date of birth:
	Other names:	
	Address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Respondent [*Fill in as many details as you can*]	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Grounds for application	Give details of the respondent's behaviour.

Information relating to children	Is the person seeking to be protected a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown
	If yes, has this application been made with the written consent of a person who, under the relevant child welfare law, has responsibility for the control or care of the child?	❒ Yes ❒ No ❒ Unknown
	Is the respondent a child who is under the control or in the care of a person under a child welfare law?	❒ Yes ❒ No ❒ Unknown

Form 8

Restraining Orders Act 1997 s. 38(2) **Misconduct restraining order Application**	Number: Jurisdiction: Location:

Firearms	Does the respondent have a firearm item or firearms authorisation?	❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to a firearm item at work?	❒ Yes ❒ No ❒ Unknown

Explosives	Does the respondent have explosives or an explosives licence? ❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to explosives at work? ❒ Yes ❒ No ❒ Unknown

Applicant	Signature:	Date:

Hearing [*To be filled in by the court*]	Court:	Date:	Time:
	Registrar:		

Notification [*To be filled in by the court*]	I certify that on __ __/__ __/__ __ at _____ am/pm at _____ I notified the applicant of the hearing date. Registrar:

[Form 8 inserted: Gazette 20 Jun 2017 p. 3025; amended: SL 2020/141 r. 17; SL 2022/15 r. 4(2); SL 2022/188 r. 4(5).]

Form 9

Form 9 — Misconduct restraining order

Part A — Misconduct restraining order

Restraining Orders Act 1997 s. 43, 49 and 63 **Misconduct restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name: Other names:		Date of birth:
	Home address: street: suburb:		postcode:
	Work address: street: suburb:		postcode:
	Phone nos.: work:	home:	mobile:

Applicant for order [*If not the person to be protected*]	Family name: Other names:	Date of birth:

Person protected	Family name: Other names:	Date of birth:

Terms of the order	

Order made	Date order made:	Time order made:

Registrar		Date:

Form 9 — Misconduct restraining order

Part B — Information to be on the copy of the order given to the person who is bound by the order

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

Misconduct Restraining Order
A misconduct restraining order has been made against you on the terms set out on the front of this order. This order comes into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. You must comply with this order at all times while it is in force. If there is a duration specified in the order, the order expires at the end of the specified period. If there is no duration specified in the order, the order expires 12 months after it comes into force. If, in the future, you want the order varied or cancelled you may apply to the court. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court. **Penalty**: It is an offence to breach a misconduct restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $1 000. **Note**: If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)). Counselling, support and/or legal services may be of assistance to you.
Affidavit evidence may be provided on request
If you, or the person protected by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF YOU WERE PRESENT IN COURT WHEN IT WAS MADE

Form 9 — Misconduct restraining order

Part C — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR THE PERSON PROTECTED BY THE ORDER

Misconduct Restraining Order
A misconduct restraining order has been made to protect you on the terms set out on the front of this order. This order comes into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until it expires or is varied or cancelled by a court. The person who is bound by this order must comply with this order at all times while it is in force.
If there is a duration specified in the order, the order expires at the end of the specified period.
If there is no duration specified in the order, the order expires 12 months after it comes into force.
If, in the future, you want the order varied or cancelled you may apply to the court. The person who is bound by this order may also apply to have the order varied or cancelled. If you would like more information about doing this you should consult your legal practitioner or the registrar of the court.
Penalty: It is an offence to breach a misconduct restraining order. If the person bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $1 000.
Note: If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).
Counselling, support and/or legal services may be of assistance to you.
Affidavit evidence may be provided on request
If you, or the person bound by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.
THIS ORDER COMES INTO FORCE IMMEDIATELY IF THE PERSON WHO IS BOUND BY THE ORDER WAS PRESENT IN COURT WHEN IT WAS MADE

Form 9 — Misconduct restraining order

Part D — Information to be on the proof of service copy

Certificate of service

	Restraining order no.: Court of issue:

Person serving order	Name of person serving order:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
Service	Method of service: ❒ personal ❒ oral ❒ by post ❒ substituted service	
	Place where order served:	
	Date of service:	Time of service:
Person served [*Person who is bound by the order*]	Name:	
	Date of birth:	
	Signature: ……..... (If possible to obtain)	
Certificate	I certify that on the day and at the time and place set out above: ❒ I personally served this order on the person who is bound by the order ❒ I orally served this order on the person who is bound by this order ❒ I posted this order to the person who is bound by this order ❒ I took the steps directed by the court to effect substituted service of this order on the person who is bound by this order in accordance with the *Restraining Orders Act 1997* Part 6 Division 2. In the case of oral service, I also certify that I — • gave the person who is bound by this order the information required by the *Restraining Orders Act 1997* section 55(5) and that the person appeared to understand what was said; or • arranged for someone else over the age of 18 years to give the information to the person in accordance with the *Restraining Orders Act 1997* section 55(5A).	
	Signature:	Date:

[Form 9 inserted: Gazette 20 Jun 2017 p. 3026-9; amended: SL 2020/141 r. 24; SL 2022/106 r. 4; SL 2025/23 r. 4(4).]

Form 10 — Telephone order

Part A — Court copy of telephone order

Restraining Orders Act 1997 s. 23 **Telephone family violence restraining order / Violence restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name:		Date of birth:
	Other names:		
	Home address: street: suburb:		postcode:
	Work address: street: suburb:		postcode:
	Phone nos.: work:	home:	mobile:
	Email:		

Protected person	Family name:	Date of birth:
	Other names:	

Type of order	The order is ❒ a Family Violence Restraining Order ❒ a Violence Restraining Order ❒ for 72 hours or less ❒ an interim order

Terms of the order	

Order made	Date order made:	Time order made:

Authorised person	Name:	
	Rank and number/identification:	
	Signature:	Date:

Confirmation by Magistrate	This order ❒ is correct ❒ is not correct and is to be amended as shown	
	Signature:	Date:

Form 10 — Telephone order

Part B — Copy of the order given to the person who is bound by the order

Restraining Orders Act 1997 s. 23 **Telephone family violence restraining order / Violence restraining order**	Number: Jurisdiction: Location:

Person who is bound by this order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Person protected	Family name:	Date of birth:
	Other names:	

Type of order	The order is ❒ a Family Violence Restraining Order ❒ a Violence Restraining Order ❒ for 72 hours or less ❒ an interim order

Terms of the order	

Order made	Date order made:	Time order made:

Authorised person	Name:	
	Rank and number/identification:	
	Signature:	Date:

Form 10 — Telephone order

Part C — Information to be on the copy of the order to be given to the person who is bound by the order

IMPORTANT INFORMATION
FOR PERSON WHO IS BOUND BY THIS ORDER

If the order is for 72 hours or less

A family violence restraining order / violence restraining order has been made against you for 72 hours or less on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order. You must comply with this order until the end of the period specified in the order.

Penalty: It is an offence to breach a family violence restraining order / violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. If you breach the order in the presence of a child with whom you are in a family relationship (e.g. your child, your partner's child or a child who ordinarily resides with you) the court sentencing you may consider this an aggravating factor.

Counselling, support and/or legal services may be of assistance to you.

If the order is an interim order

An interim family violence restraining order / violence restraining order has been made against you on the terms set out on the front of this order. This order came into force when it was served on you, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. You must comply with this order at all times while it is in force.

If you object to this order being made final you must fill in the "Objection" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. The court will then list a conference (if available at your court) or arrange a final order hearing. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) while ensuring that the parties are not together during the conference. At the final order hearing the court will consider anything you want to say before deciding whether to make a final family violence restraining order / violence restraining order. The court will let you know where and when the final order hearing will be held.

If you do not object to this order being made final you should fill in the "Consent" section on the back of the other copy of this order and return it to the court within 21 days from the date this order was served on you. You will then not need to attend a final order hearing and the order will automatically become a final order which will stay in force for the period specified in the order or —

(a) if no period is specified and you are not a child, for 2 years from the date on which this order was served on you; or

(b) if no period is specified and you are a child, for 6 months from the date on which this order was served on you.

If the order is a family violence restraining order and you were in prison at the time the court received your "Consent" form, the order will stay in force while you are in prison and for a further 3 months from the date on which you are released from prison (or shorter if specified in the order).

If you do nothing and do not fill in and return the other copy of this order within 21 days the court will assume that you do not object and the interim order **will automatically become a final order**.

Penalty: It is an offence to breach a violence restraining order. If you breach this order you may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

Counselling, support and/or legal services may be of assistance to you.

Form 10

Additional information about conviction for breaching the order
If you are convicted of breaching this order, the fact that the person protected by the order aided you in the breach is not a mitigating factor for the purposes of your sentencing (see the *Restraining Orders Act 1997* section 61B(2)).

Affidavit evidence may be provided on request
If you, or the person protected by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

Form 10 — Telephone order

Part D — Information to be on the respondent's endorsed copy

IMPORTANT INFORMATION
FOR THE PERSON WHO IS BOUND BY THIS ORDER

For interim orders only

If you object to this interim order being made final you must fill in the "Objection" section below and return this copy of the order to the court within 21 days of the date it was served on you.

If you do not object to this order being made final you must fill in the "Consent" section below and return this copy of the order to the court within 21 days of the date it was served on you.

If you do nothing and do not fill in and return this copy of the order to the court within 21 days this interim order **will automatically become a final order**.

Objection			
Order	Restraining order no.:	Court of issue:	
Family name:			Date of birth:
Other names:			
Address: street: suburb:			postcode:
Email:			
Will you be represented by a legal practitioner at the final order hearing?			❒ Yes
If yes: legal practitioner's name: legal practitioner's firm:			
How many witnesses (including yourself) do you intend to call? _____			
Does this interim order prevent you from — • going to where you normally live? • having contact with your children? • going to where you work or otherwise prevent you from doing your job? • being in possession of a firearm item which is essential for your job? • being in possession of explosives which are essential for your job?			❒ Yes ❒ No ❒ Yes ❒ No ❒ Yes ❒ No ❒ Yes ❒ No ❒ Yes ❒ No
Signature:			Date:

OR

Form 10

<table>
<tr><th colspan="4">Consent</th></tr>
<tr><td>Order</td><td colspan="2">Restraining order no.:</td><td>Court of issue:</td></tr>
<tr><td colspan="3">Family name:</td><td rowspan="2">Date of birth:</td></tr>
<tr><td colspan="3">Other names:</td></tr>
<tr><td colspan="4">Address: street:
suburb: postcode:</td></tr>
<tr><td colspan="4">Email:</td></tr>
<tr><td colspan="4">I do not object to a final order being made on the same terms as this interim order.

I understand that I will then not need to attend a final order hearing and that this interim order will automatically become a final order which will stay in force for —
(a) the period specified in the order; or
(b) if no period is specified and I am not a child, for 2 years from the date on which this order was served on me; or
(c) if no period is specified and I am a child, for 6 months from the date on which this order was served on me.

If the order is a family violence restraining order and I am in prison when the court receives this form, the order will stay in force while I am in prison and for a further 3 months from the date on which I am released from prison (or shorter if specified in the order).</td></tr>
<tr><td colspan="3">Signature:</td><td>Date:</td></tr>
</table>

Form 10 — Telephone order

Part E — Information to be on the copy of the order given to the person protected by the order

IMPORTANT INFORMATION
FOR PERSON PROTECTED BY THIS ORDER

If the order is for 72 hours or less
A family violence restraining order / violence restraining order has been made to protect you for 72 hours or less on the terms set out on the front of this order. This order will come into force when it is served on the person who is bound by this order, or at a later time, if this is specified on the front of this order. The person who is bound by this order must comply with this order until the end of the period specified in the order. **Penalty:** It is an offence to breach a family violence restraining order / violence restraining order. If the person bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both.

If the order is an interim order
An interim family violence restraining order / violence restraining order has been made to protect you on the terms set out on the front of this order. This order will come into force when it is served on the person bound by this order, or at a later time, if this is specified on the front of this order, and it will remain in force until a final order is made or a court decides not to make a final order. The person who is bound by this order must comply with this order at all times while it is in force. The person who is bound by this order has 21 days within which to object to the order before it becomes a final order. **If the person who is bound by this order does object** you will need to attend a final order hearing. At that hearing the court will consider anything you and the person who is bound by this order want to say before deciding whether to make a final restraining order. The court will let you know if a final order hearing is to be held and where and when you need to attend. Even if the person who is bound by this order does object, this interim order will remain in force until the final order hearing. **If the person who is bound by this order does not object** this order will automatically become a final order which will stay in force for — (a) the period specified in the order; or (b) if no period is specified and the person is not a child, for 2 years from the date on which this order was served on the person; or (c) if no period is specified and the person is a child, for 6 months from the date on which this order was served on the person. If the order is a family violence restraining order and the person was in prison at the time the Court received the person's "Consent" form, the order will stay in force while the person is in prison and for a further 3 months from the date on which the person is released from prison (or shorter if specified in the order). You will then not need to attend a final order hearing. **Penalty:** It is an offence to breach a family violence restraining order / violence restraining order. If the person who is bound by this order breaches this order the person may be arrested and on conviction will face a penalty of up to $10 000 or imprisonment for 2 years, or both. Counselling, support and/or legal services may be of assistance to you.

Form 10

Additional information about breaching the order
If the person bound by this order breaches it and you aid the person in that breach, you will not commit an offence however the court might decide to vary or cancel the order (see the *Restraining Orders Act 1997* section 61B(3) and (4)).
Affidavit evidence may be provided on request
If you, or the person bound by this order, request a copy of any affidavit received in evidence in relation to this order the registrar of the court where the application for the order was made is to provide a copy of the affidavit to the person who made the request.

Form 10 — Telephone order

Part F — Information to be on the proof of service copy

Certificate of service	
	Restraining order no.: Court of issue:

Person serving order	Name of person serving order: I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____
Service	Method of service: ❒ personal ❒ oral ❒ by post ❒ substituted service Place where order served: Date of service: Time of service:
Person served [*Person who is bound by the order*]	Name: Date of birth: Signature: ……..... (If possible to obtain)
Certificate	I certify that on the day and at the time and place set out above — ❒ I personally served this order on the person who is bound by the order ❒ I orally served this order on the person who is bound by this order ❒ I posted this order to the person who is bound by this order ❒ I took the steps directed by the court to effect substituted service of this order on the person who is bound by this order in accordance with the *Restraining Orders Act 1997* Part 6 Division 2. In the case of oral service, I also certify that I — • gave the person who is bound by this order the information required by the *Restraining Orders Act 1997* section 55(5) and that the person appeared to understand what was said; or • arranged for someone else over the age of 18 years to give the information to the person in accordance with the *Restraining Orders Act 1997* section 55(5A). Signature: Date:

[Form 10 inserted: Gazette 20 Jun 2017 p. 3030-8; amended: Gazette 24 Nov 2017 p. 5675; SL 2020/141 r. 18 and 23; SL 2022/106 r. 4; SL 2022/188 r. 4(6); SL 2025/23 r. 4(5).]

Form 11 — Restraining order record of telephone application

Restraining Orders Act 1997 s. 21(4) **Restraining order Record of telephone application**	Number: Jurisdiction: Location:

Authorised person	Name: Rank and number/identification: Contact phone no.:	Date of application:
Type of order sought	❒ Family violence restraining order ❒ Violence restraining order	
Reason for applying by telephone	I ❒ am ❒ am not satisfied that the matter is sufficiently urgent to justify a telephone application.	
Applicant [*If not the person seeking to be protected*]	The applicant is: ❒ person seeking to be protected ❒ parent or guardian of a child who is seeking to be protected ❒ a child welfare officer on behalf of a child who is seeking to be protected ❒ authorised person ❒ legal guardian of the person who is seeking to be protected	
	Family name: Other names:	Date of birth:
	Address: street: suburb:	postcode:
	Phone nos.: work:	home: mobile:
	Email:	
Person seeking to be protected	Family name: Other names:	Date of birth:
	Address: street: suburb:	postcode:
	Phone nos.: work:	home: mobile:
	Email:	
Respondent	Family name: Other names:	Date of birth:
	Home address: street: suburb:	postcode:
	Work address: street: suburb:	postcode:
	Phone nos.: work:	home: mobile:
	Email:	
	The respondent ❒ is ❒ is not present ❒ is ❒ is not being detained by a police officer	

Form 11

Family orders	Are there any current family orders relating to the respondent's rights in relation to children who may be affected by a restraining order? ❒ Yes ❒ No ❒ Unknown
	Are there any current Family Court proceedings in which such orders are being sought? ❒ Yes ❒ No ❒ Unknown
	Details of family order or proceedings

Information relating to children	Is the person seeking to be protected a child who is under the control or in the care of a person under a child welfare law? ❒ Yes ❒ No ❒ Unknown
	If yes, has this application been made with the written consent of a person who, under the relevant child welfare law, has responsibility for the control or care of the child? ❒ Yes ❒ No ❒ Unknown
	Is the respondent a child who is under the control or in the care of a person under a child welfare law? ❒ Yes ❒ No ❒ Unknown
	Is the respondent under 16 years of age? ❒ Yes ❒ No ❒ Unknown
	If the respondent is under 16 years of age, is the person seeking to be protected any of the following: ❒ Yes ❒ No • a parent or guardian of the respondent; • a person responsible for the day to day care of the respondent; • a person with whom the respondent habitually resides?

Conference *[FVRO only]*	Does the applicant/respondent agree to the listing of a conference?* ❒ Yes ❒ No *[*Applies only if conferences are available at this court.*]

Firearms	Does the respondent have a firearm item or a firearms authorisation? ❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to a firearm item at work? ❒ Yes ❒ No ❒ Unknown

Explosives	Does the respondent have explosives or an explosives licence? ❒ Yes ❒ No ❒ Unknown
	Does the respondent have access to explosives at work? ❒ Yes ❒ No ❒ Unknown

Witnesses and summary of evidence	Applicant: Respondent: Authorised person: Other people:

Other notes	

Decision and order	I ❒ am ❒ am not satisfied that a telephone order should be made. The terms of the order are:

Magistrate	Name:		
	Court where Magistrate is based:		
	Magistrate's location when hearing application:		
	Signature:	Date:	Time:

[Form 11 inserted: Gazette 20 Jun 2017 p. 3039-40; amended: SL 2020/141 r. 19; SL 2022/15 r. 4(3); SL 2022/188 r. 4(7).]

Form 12 — Application to vary or cancel a restraining order

Part A — Application to vary or cancel a restraining order

Restraining Orders Act 1997 s. 45 **Restraining order** **Application to vary or cancel**	Number: Jurisdiction: Location:

Person applying to vary or cancel	Family name: Other names: Address: street: suburb: postcode: Phone nos.: work: home: mobile: Are you: ❒ the person protected by the order ❒ the parent or guardian of a child protected by the order ❒ a police officer ❒ the legal guardian of the person protected by the order ❒ the person bound by the order
Restraining order	Type of order: ❒ Family Violence Restraining Order ❒ Violence Restraining Order ❒ Misconduct Restraining Order Date order was made: Restraining order no.: Person who is bound by the order: Person who is protected by the order:
Grounds for leave to continue this application [*Only fill this in if the application is being made by the person bound by the order*]	If you are the person bound by the restraining order, on what grounds do you seek leave to continue the application?
Variation or cancellation [*Please tick <u>one</u> box only.*]	**Do you want the order to be cancelled and a replacement order to be made?** ❒ Yes Duration of order: An order made under this option will remain in force for a period of 2 years from the date of service of the replacement order if no other period is specified. **Do you want the order to be cancelled without any further order being made?** ❒ Yes Duration of order: An order cancelled under this option ceases to be in force at the conclusion of the hearing at which it is cancelled.

Form 12

Variation sought	What are the specific changes you are seeking?		
Grounds for variation or cancellation	Why do you want the restraining order varied or cancelled?		
If you are the person protected	**Do you want this application to cancel the restraining order heard in the absence of the person bound by the order?**	❒ Yes ❒ No	
Conference [*FVRO only*]	Do you agree to the listing of a conference? **[Applies only if conferences are available at your court.]*	❒ Yes ❒ No	
Signature	Signature of applicant:		
Hearing	Court:	Date:	Time:
Notification [*To be filled in by the court*]	I certify that on __ __/__ __/__ __ at _____ am/pm at _____ I notified the person applying to vary or cancel the hearing date.	Signature of Registrar:	

Form 12 — Application to vary or cancel a restraining order

Part B — Information to be on the copy of the application to be given to the applicant

IMPORTANT INFORMATION FOR THE APPLICANT

Application by the person protected by the restraining order
If you are the person protected by the restraining order (or someone acting on behalf of that person) and you have applied to vary or cancel the order, you must attend a hearing on the date set out on the front of this application. The court will summons the person who is bound by the order who should also attend. At that hearing the court will decide whether or not to vary or cancel the restraining order. If this is a family violence restraining order, the court may also list a conference (if you agree to a conference and one is available at your court). The conference may be listed either on the same day as the final hearing or on another, earlier, day. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) without the parties being together. **If you do not** attend the hearing, your application **may be dismissed**.

Application by the person who is bound by the restraining order
If you are the person who is bound by the restraining order and you have applied to vary or cancel a restraining order, you must attend a hearing on the date set out on the front of this application. The person protected by the restraining order will not attend this hearing. At this hearing you will have the opportunity to satisfy the court that you should be granted leave to continue the application. To do this you will need to satisfy the court that one of the following applies — (a) you had a reasonable cause not to attend a prior hearing where the restraining order was made (this does not apply in respect of a hearing where you were not present because the person protected by the order chose to have the matter heard in your absence under the *Restraining Orders Act 1997* section 26); (b) there is evidence to support a claim that a person protected by the order has persistently invited or encouraged you to breach the order, or by the person's actions has persistently attempted to cause you to breach the order; (c) there has been a substantial change in the relevant circumstances since the order was made; (d) if this application is made to vary or cancel an interim order, there is evidence to support a claim that the restraints imposed by the order are causing you unnecessary hardship. **If you do not** attend the hearing, your application **may be dismissed**. Your application to vary or cancel the restraining order will be dismissed if you do not satisfy the court that one of the grounds set out above applies. If the court is satisfied that one of the grounds set out above applies to you then the court will set a date for a further hearing and will summons the person protected by the order to attend. At that hearing the court will decide whether or not to vary or cancel the restraining order. If this is a family violence restraining order, the court may also list a conference (if you agree to a conference and one is available at your court). The conference may be listed either on the

same day as the final hearing or on another, earlier, day. At the conference a registrar will attempt to achieve an appropriate outcome (including the making of orders) without the parties being together. **If you do not** attend the hearing, your application **may be dismissed**.
Application to extend duration of order
If this application is to vary the restraining order by extending the duration of the order, then, despite anything else in the *Restraining Orders Act 1997*, **THE ORDER WILL NOT EXPIRE** before the application is determined if the person bound by the order has been given a copy of this application.

[Form 12 inserted: Gazette 20 Jun 2017 p. 3041-3; amended: SL 2020/141 r. 20.]

Form 13

Form 13 — Summons to vary or cancel restraining order

Part A — Summons to vary or cancel restraining order

Restraining Orders Act 1997 s. 47 **Restraining order** **Summons to vary or cancel**	Number: Jurisdiction: Location:

An application has been made to vary or cancel the restraining order to which you (or a person of whom you are a parent or guardian) are a party. The details of the application are set out below. You are required to attend a court hearing on this matter at the place and time set out below.

Person summonsed	❒ Person protected by the order ❒ Parent or guardian of a child protected by the order ❒ Person bound by the order ❒ Legal guardian of a person protected by the order ❒ Child Welfare Officer on behalf of a child protected by the order	
	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	

Restraining order	❒ Family Violence Restraining Order ❒ Violence Restraining Order ❒ Misconduct Restraining Order	Date order made: Date order served:
	Person bound by the order:	
	Person protected by the order:	

Application	An application has been made for the restraining order to be: ❒ cancelled ❒ varied The variations sought to the order are as follows:
Grounds for application	

Hearing [*To be filled in by the court*]	Court:	Date:	Time:
	Registrar:		

If you do not attend the court hearing the restraining order may be varied or cancelled in your absence.

Form 13 — Summons to vary or cancel restraining order

Part B — Information to be on the proof of service copy

Certificate of service

	Restraining order no.: Court of issue:

Person serving summons	Name of person serving summons:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
Service	Method of service: ❒ personal ❒ by post ❒ substituted service	
	Place where summons served:	
	Date of service:	Time of service:
Person served [*Person bound, or person protected by the order*]	Name:	
	Date of birth:	
	Signature: ……. (If possible to obtain)	
Certificate	I certify that on the day and at the time and place set out above: ❒ I personally served this summons on the person to be summonsed ❒ I posted this summons to the person to be summonsed ❒ I took the steps directed by the court to effect substituted service of this summons on the person to be summonsed in accordance with the *Restraining Orders Act 1997* Part 6 Division 2.	
	Signature:	Date:

OR

Form 13

Summons not served	Name of person attempting to serve summons:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
	Attempted method of service: ❒ personal ❒ by post ❒ substituted service	
	Steps taken to attempt service:	
	I was unable to serve this summons because: ❒ the person to be summonsed does not appear to live or work at the addresses given and cannot be found elsewhere ❒ the person to be summonsed appears to be deliberately avoiding being served with this summons ❒ other *[give details]*	
	Signature:	Date:

Please return this proof of service copy of the summons to the court before the hearing date, even if you have been unable to serve it.

[Form 13 inserted: Gazette 20 Jun 2017 p. 3044-6; amended: SL 2025/23 r. 4(6).]

Form 14 — Restraining order made during other proceedings — record of proceedings

Restraining Orders Act 1997 s. 63 **Restraining order made during other proceedings** **Record of proceedings**	Proceedings in which order made: Jurisdiction: Location:

Application	Type of order: ❒ Family Violence Restraining Order ❒ Violence Restraining Order Order made: ❒ by court of its own motion ❒ on an application or request by_____ Charges to which order relates: _____

Person protected by the order	Family name:	Date of birth:
	Other names:	
	Address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	
	Role in proceeding in which restraining order was made: ❒ applicant/prosecutor ❒ victim ❒ respondent/accused ❒ other witness ❒ other _____	

Person who is bound by the restraining order	Family name:	Date of birth:
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	
	Role in proceeding in which restraining order was made: ❒ respondent/accused ❒ other witness ❒ other _____	

Grounds on which order applied for or considered	For FVROs: ❒ conviction for a violent personal offence listed in section 63(4AA) ❒ family member wants to be protected by FVRO For VROs: [*specify grounds*]

Form 14

Family orders	Are there any current family orders relating to the person who is bound by the restraining order's rights in relation to children who may be affected by a restraining order? ❒ Yes ❒ No	
	Are there any current Family Court proceedings in which such orders are being sought? ❒ Yes ❒ No	
	Details of family order or proceedings:	
Firearms	Does the person who is bound by the restraining order have a firearm item or a firearms authorisation? ❒ Yes ❒ No	
	Does the person who is bound by the restraining order have access to a firearm item at work? ❒ Yes ❒ No	
Explosives	Does the person who is bound by the restraining order have explosives or an explosives licence? ❒ Yes ❒ No	
	Does the person who is bound by the restraining order have access to explosives at work? ❒ Yes ❒ No	
Witness and summary of evidence	Person protected by the restraining order: Person who is bound by the restraining order: Other people:	
Other notes		
Terms of the order		
Order made	Date order made:	Time order made:
Registrar	Signature:	Date:

[Form 14 inserted: Gazette 20 Jun 2017 p. 3047-8; amended: SL 2020/141 r. 21; SL 2022/188 r. 4(8).]

Form 15 — Application to register an interstate restraining order

Part A — Application to register an interstate restraining order

Restraining Orders Act 1997 s. 75
Interstate restraining order
Application to register

Number:	
Jurisdiction:	
Location:	

Applicant [*If not the person seeking to be protected*]	Are you: ❒ the person to be protected ❒ the parent or guardian of a child to be protected ❒ a police officer ❒ the legal guardian of a person to be protected		
	Family name:		Date of birth:
	Other names:		
	Address: street: suburb:		postcode:
	Phone nos.: work:	home:	mobile:
Person to be protected by the order	Family name:		Date of birth:
	Other names:		
	Address: street: suburb:		postcode:
	Phone nos.: work:	home:	mobile:
Person who is to be bound by this order [*Fill in as many details as you can*]	Family name:		Date of birth:
	Other names:		
	Home address: street: suburb:		postcode:
	Work address: street: suburb:		postcode:
	Phone nos.: work:	home:	mobile:

Interstate Order	State where order was made:	
	Court in which order was made:	
	Date order was made:	Order/matter no.:
	Does the order relate to family violence?	

Notice	I ❒ do ❒ do not want notice of the registration of this order to be given to the person who is bound by this order

Applicant	Signature:	Date:

Registered [*To be filled in by the court*]	Date of registration:	Time of registration:
	Registrar:	Date:

Notification [*To be filled in by the court*]	I certify that on __ __/__ __/__ __ at _____ am/pm at _____ I notified the applicant that the order had been registered. Registrar:

When you lodge this application you must also give the registrar the original interstate order or a copy certified to be a true copy by an officer of the court in which it was made. The registrar may also ask for evidence to show that the interstate order has been served on the person who is to be bound by the order.

Form 15 — Application to register an interstate restraining order

Part B — Information to be on the copy of the application given to the applicant

Notification to applicant

The interstate restraining order described in this form has been registered in Western Australia. It can now be enforced in this State as if it had been made here.

Form 15 — Application to register an interstate restraining order

Part C — Information to be on the copy of the application given to the Commissioner of Police

Notification to the Commissioner of Police

The interstate order described in this form has been registered in Western Australia. A copy of the interstate order is attached.

Form 15 — Application to register an interstate restraining order

Part D — Information to be on the copy of the application given to the interstate court where the relevant interstate order was made

Notification to the Registrar

The restraining order described above and made in your court has been registered in Western Australia. If the original order is varied or cancelled please notify the registrar of the court mentioned above.

[Form 15 inserted: Gazette 20 Jun 2017 p. 3049-50.]

Form 16 — Restraining order — summons

Part A — Restraining order — summons

Restraining Orders Act 1997 s. 26(3) and 39 **Restraining order** **Summons**	Number: Jurisdiction: Location:

An application has been made for a restraining order against you. The details of the application are set out below. You are required to attend a court hearing on this matter at the place and time set out below.

Respondent	Family name:	Date of birth
	Other names:	
	Home address: street: suburb: postcode:	
	Work address: street: suburb: postcode:	
	Phone nos.: work: home: mobile:	
	Email:	

Person seeking to be protected	Family name:	Date of birth
	Other names:	

Applicant [*If not the person seeking to be protected*]	The applicant is: ❒ person seeking to be protected ❒ parent or guardian of a child who is seeking to be protected ❒ a police officer ❒ the legal guardian of a person seeking to be protected
	Family name:
	Other names:

Type of order	The application is for: ❒ Family Violence Restraining Order ❒ Violence Restraining Order ❒ Misconduct Restraining Order

Grounds for application	

Hearing	Court:	Date:	Time:
	Registrar:		

If you do not attend the court hearing a restraining order may be made against you in your absence.

A restraining order may prohibit you from going to certain places (such as the home of the person seeking to be protected) and place other restrictions on where you may go and what you may do.

Form 16

A restraining order may also prohibit you from being in possession of a firearm item, a firearms authorisation, explosives or an explosives licence.

Form 16 — Restraining order — summons

Part B — Information to be on the proof of service copy

Certificate of service

	Restraining order no.: Court of issue:

Person serving summons	Name of person serving summons:	
	I am: ❒ the registrar of the court ❒ a custodial officer Detention centre: _____ ❒ a police officer Rank, number and station: _____ ❒ a prison officer Prison: _____ ❒ a person authorised by the registrar Date of authorisation: _____	
Service	Method of service: ❒ personal ❒ by post ❒ substituted service	
	Place where summons served:	
	Date of service:	Time of service:
Person served [*Person bound or person protected by the order*]	Name:	
	Date of birth:	
	Signature: ……. (If possible to obtain)	
Certificate	I certify that on the day and at the time and place set out above: ❒ I personally served this summons on the person to be summonsed ❒ I posted this summons to the person to be summonsed ❒ I took the steps directed by the court to effect substituted service of this summons on the person to be summonsed in accordance with the *Restraining Orders Act 1997* Part 6 Division 2.	
	Signature:	Date:

OR

Form 16

<table>
<tr><td rowspan="5">Summons not served</td><td colspan="2">Name of person attempting to serve summons:</td></tr>
<tr><td colspan="2">I am:
❒ the registrar of the court
❒ a custodial officer Detention centre: _____
❒ a police officer Rank, number and station: _____
❒ a prison officer Prison: _____
❒ a person authorised by the registrar Date of authorisation: _____</td></tr>
<tr><td colspan="2">Attempted method of service: ❒ personal ❒ by post ❒ substituted service</td></tr>
<tr><td colspan="2">Steps taken to attempt service:</td></tr>
<tr><td colspan="2">I was unable to serve this summons because:
❒ the person to be summonsed does not appear to live or work at the addresses given and cannot be found elsewhere
❒ the person to be summonsed appears to be deliberately avoiding being served with this summons
❒ other [give details]</td></tr>
<tr><td>Signature:</td><td>Date:</td></tr>
</table>

Please return this proof of service copy of the summons to the court before the hearing date, even if you have been unable to serve it.

[Form 16 inserted: Gazette 20 Jun 2017 p. 3051-3; amended: SL 2020/141 r. 22; SL 2022/188 r. 4(9); SL 2025/23 r. 4(7).]

Form 17 — Application to have final order under section 32(2) of the Act set aside

Restraining Orders Act 1997 s. 32(5) **Application to set aside final order under the *Restraining Orders Act 1997* section 32(2)**	Number: Jurisdiction: Location:

Applicant's details	Family name: Other names	Date of birth:
	Home address: street: suburb:	postcode:
	Phone nos.: work: home: mobile:	

Respondent's details	Family name: Other names	Date of birth:
	Home address: street: suburb:	postcode:
	Phone nos.: work: home: mobile:	

Details of final order	❒ Family violence restraining order ❒ Violence restraining order
Date of application	❒ This application **is made** within 21 days from the date that I was notified that the interim order had become a final order ❒ This application **is not made** within 21 days from the date that I was notified that the interim order had become a final order
Application	I apply for the following orders — ❒ Leave be granted to proceed with this application out of time ❒ The final order be set aside
Grounds for application	I rely on the following grounds in support of this application. [*Outline grounds, if insufficient space please attach further information.*]

Signature of applicant		Date

Notice of court hearing	Court: Address:
	Date and time of hearing:

[Form 17 inserted: Gazette 20 Jun 2017 p. 3054.]

Form 18 — Application to have decision under section 42 of the Act set aside

Restraining Orders Act 1997 s. 43A **Application to set aside decision under the *Restraining Orders Act 1997* section 42**	Number: Jurisdiction: Location:

Applicant's details	Family name:			Date of birth:
	Other names			
	Home address: street: suburb:			postcode:
	Phone nos.: work:	home:	mobile:	

Respondent's details	Family name:			Date of birth:
	Other names			
	Home address: street: suburb:			postcode:
	Phone nos.: work:	home:	mobile:	

Order to which this application relates	❒ Family violence restraining order ❒ Violence restraining order
Date of decision	
Date of application	❒ This application **is made** within 21 days from the date that I first became aware of/was served with a copy of the order ❒ This application **is not made** within 21 days from the date that I first became aware of/was served with a copy of the order
Application	I apply for the following orders — ❒ Leave be granted to proceed with this application out of time. ❒ The decision and orders made in this matter on the date above be set aside.
Grounds for application	I rely on the following grounds in support of this application. [*Outline grounds, if insufficient space please attach further information*.]

Signature of applicant		Date

Form 18

Notice of court hearing	Court: Address:
	Date and time of hearing:

[Form 18 inserted: Gazette 20 Jun 2017 p. 3055.]

Notes

This is a compilation of the *Magistrates Court (Civil Proceedings) Rules 2005* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, or versions that include editorial changes made under the *Legislation Act 2021* Part 3, see the compilation table. For provisions affected by editorial changes see the editorial changes table.

Compilation table

Citation	Published	Commencement
Magistrates Court (Civil Proceedings) Rules 2005	28 Apr 2005 p. 1651-709	1 May 2005 (see r. 2 and *Gazette* 31 Dec 2004 p. 7127)
Magistrates Court (Civil Proceedings) Amendment Rules 2007	24 Aug 2007 p. 4328-32	r. 1 and 2: 24 Aug 2007 (see r. 2(a)); Rules other than r. 1 and 2: 25 Aug 2007 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2008	3 Jun 2008 p. 2123-38	r. 1 and 2: 3 Jun 2008 (see r. 2(a)); Rules other than r. 1 and 2: 1 Sep 2008 (see r. 2(b))
Reprint 1: The *Magistrates Court (Civil Proceedings) Rules 2005* as at 17 Jul 2009 (includes amendments listed above)		
Magistrates Court (Civil Proceedings) Amendment Rules 2010	2 Jul 2010 p. 3191-5	r. 1 and 2: 2 Jul 2010 (see r. 2(a)); Rules other than r. 1 and 2: 3 Jul 2010 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2011	20 May 2011 p. 1841-6	r. 1 and 2: 20 May 2011 (see r. 2(a)); Rules other than r. 1 and 2: 21 May 2011 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2011	27 Oct 2011 p. 4556-7	r. 1 and 2: 27 Oct 2011 (see r. 2(a)); Rules other than r. 1 and 2: 28 Oct 2011 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2012	23 Mar 2012 p. 1366-8	r. 1 and 2: 23 Mar 2012 (see r. 2(a)); Rules other than r. 1, 2, 4(1) and (2): 24 Mar 2012 (see r. 2(c)); r. 4(1) and (2): 2 Apr 2012 (see r. 2(b) and *Gazette* 13 Mar 2012 p. 1033)

Citation	Published	Commencement
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2012	1 Jun 2012 p. 2281-2	r. 1 and 2: 1 Jun 2012 (see r. 2(a)); Rules other than r. 1 and 2: 2 Jun 2012 (see r. 2(b))
Reprint 2: The *Magistrates Court (Civil Proceedings) Rules 2005* as at 8 Jun 2012 (includes amendments listed above)		
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2013	24 May 2013 p. 2060-3	r. 1 and 2: 24 May 2013 (see r. 2(a)); Rules other than r. 1 and 2: 25 May 2013 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2013	20 Aug 2013 p. 3816-17	r. 1 and 2: 20 Aug 2013 (see r. 2(a)); Rules other than r. 1 and 2: 21 Aug 2013 (see r. 2(b) and *Gazette* 20 Aug 2013 p. 3815)
Magistrates Court (Civil Proceedings) Amendment Rules 2013	31 Dec 2013 p. 6542-4	r. 1 and 2: 31 Dec 2013 (see r. 2(a)); Rules other than r. 1 and 2: 1 Jan 2014 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 4) 2014	3 Jun 2014 p. 1743-5	r. 1 and 2: 3 Jun 2014 (see r. 2(a)); Rules other than r. 1 and 2: 4 Jun 2014 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 5) 2014	12 Dec 2014 p. 4716-17	r. 1 and 2: 12 Dec 2014 (see r. 2(a)); Rules other than r. 1 and 2: 13 Dec 2014 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2014	8 Jan 2015 p. 159-60	r. 1 and 2: 8 Jan 2015 (see r. 2(a)); Rules other than r. 1 and 2: 27 Apr 2015 (see r. 2(b) and *Gazette* 17 Apr 2015 p. 1371)
Magistrates Court (Civil Proceedings) Amendment Rules 2014	23 Jan 2015 p. 410-14	r. 1 and 2: 23 Jan 2015 (see r. 2(a)); Rules other than r. 1 and 2: 24 Jan 2015 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2015	15 May 2015 p. 1726-8	r. 1 and 2: 15 May 2015 (see r. 2(a)); Rules other than r. 1 and 2: 16 May 2015 (see r. 2(b))
Reprint 3: The *Magistrates Court (Civil Proceedings) Rules 2005* as at 17 Jul 2015 (includes amendments listed above)		

Citation	Published	Commencement
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2016	3 May 2016 p. 1360-1	r. 1 and 2: 3 May 2016 (see r. 2(a)); Rules other than r. 1 and 2: 4 May 2016 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2016	30 Sep 2016 p. 4177-82	r. 1 and 2: 30 Sep 2016 (see r. 2(a)); Rules other than r. 1 and 2: 1 Oct 2016 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2017	20 Jun 2017 p. 2991-3055	r. 1 and 2: 20 Jun 2017 (see r. 2(a)); Rules other than r. 1 and 2: 1 Jul 2017 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2017 Pt. 2	21 Jul 2017 p. 4024-7	22 Jul 2017 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2017	24 Nov 2017 p. 5674-5	r. 1 and 2: 24 Nov 2017 (see r. 2(a)); Rules other than r. 1 and 2: 25 Nov 2017 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2018 Pt. 2	18 Sep 2018 p. 3515-16	19 Sep 2018 (see r. 2(b))
Magistrates Court Rules Amendment (Inactive Cases) Rules 2019 Pt. 2	5 Apr 2019 p. 1012-16	6 Apr 2019 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2020	SL 2020/37 9 Apr 2020	r. 1 and 2: 9 Apr 2020 (see r. 2(a)); Rules other than r. 1 and 2: 10 Apr 2020 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2020	SL 2020/54 5 May 2020	r. 1 and 2: 5 May 2020 (see r. 2(a)); Rules other than r. 1, 2 and 10(b): 6 May 2020 (see r. 2(c)); r. 10(b): 23 May 2020 (see r. 2(b) and SL 2020/63)
Magistrates Court Rules Amendment Rules 2020 Pt. 2	SL 2020/67 28 May 2020	1 Jun 2020 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2020	SL 2020/141 28 Aug 2020	r. 1 and 2: 28 Aug 2020 (see r. 2(a)); Rules other than r. 1 and 2: 29 Aug 2020 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2021 Pt. 2	SL 2021/25 26 Feb 2021	27 Feb 2021 (see r. 2(b))

Citation	Published	Commencement
Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2021	SL 2021/45 23 Apr 2021	r. 1 and 2: 23 Apr 2021 (see r. 2(a)); Rules other than r. 1 and 2: 24 Apr 2021 (see r. 2(b))
Magistrates Court Rules Amendment Rules (No. 2) 2021 Pt. 2	SL 2021/133 23 Jul 2021	24 Jul 2021 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2022	SL 2022/15 25 Feb 2022	r. 1 and 2: 25 Feb 2022 (see r. 2(a)); Rules other than r. 1 and 2: 26 Feb 2022 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2022 Pt. 2	SL 2022/54 13 May 2022	14 May 2022 (see r. 2(b))
Magistrates Court Rules Amendment (Legal Profession) Rules 2022 Pt. 2	SL 2022/106 24 Jun 2022	1 Jul 2022 (see r. 2(b) and SL 2022/113 cl. 2)
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2022	SL 2022/188 18 Nov 2022	r. 1 and 2: 18 Nov 2022 (see r. 2(a)); Rules other than r. 1 and 2: 19 Nov 2022 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2023 Pt. 2	SL 2023/148 20 Sep 2023	21 Sep 2023 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2024	SL 2024/155 30 Jul 2024	r. 1 and 2: 30 Jul 2024 (see r. 2(a)); Rules other than r. 1 and 2: 1 Sep 2024 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2025	SL 2025/23 30 Jan 2025	r. 1 and 2: 30 Jan 2025 (see r. 2(a)); Rules other than r. 1 and 2: 6 Feb 2025 (see r. 2(b))
Magistrates Court Rules Amendment Rules 2025 Pt. 2	SL 2025/42 11 Mar 2025	12 Mar 2025 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules 2026	SL 2026/69 21 May 2026	r. 1 and 2: 21 May 2026 (see r. 2(a)); Rules other than r. 1 and 2: 22 May 2026 (see r. 2(b))
Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2026	SL 2026/92 27 May 2026	r. 1 and 2: 27 May 2026 (see r. 2(a)); Rules other than r. 1 and 2: 28 May 2026 (see r. 2(b))

***Magistrates Court (Civil Proceedings) Rules 2005* with editorial changes as at 2 Jul 2026**

Editorial changes table

The *Legislation Act 2021* Part 3 authorises the Parliamentary Counsel to make editorial changes to laws. This power cannot be used to change the effect of a law. If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

To see the editorial changes included in a version of a law, see the compare document for that version on the WA legislation website.

Provision/s affected	**Authorising provision of *Legislation Act 2021* Part 3**	**Effective date of change**
r. 124(1) Table	s. 25(2)	2 Jul 2026

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
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