



Western Australia

**Magistrates Court (Minor Cases Procedure)  
Rules 2005**

Compare between:

[01 Jun 2020, 02-e0-00] and [27 Feb 2021, 02-f0-02]



## Magistrates Court (Minor Cases Procedure) Rules 2005

### Part 1 — Preliminary

**1. Citation**

These rules are the *Magistrates Court (Minor Cases Procedure) Rules 2005*<sup>+</sup>.

**2. Commencement**

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

**3. These rules to be read with the *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*;

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

*agent* means a lawyer or any other person who is representing you with the leave of the Court;

*application* means an application made under Part 12;

*approved form* means the form approved by the Chief Magistrate;

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

**default judgment** means a judgment without trial given against a party for a failure by the party to comply with the Act, these rules or an order made by the Court, 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;

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

**ECMS** means the [electronic case management system for the management of proceedings in Western Australian courts and tribunals](#);

**ECMS exempt**, in relation to a document, has the meaning given in the [Magistrates Court \(Civil Proceedings\) Rules 2005 rule 96](#);

**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 47;

**order** includes a direction;

**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*;

**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 50;

**serve personally** in relation to a document, means to serve the document in accordance with Part 11 Division 3;

**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;

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

[Rule 4 amended: Gazette 24 Aug 2007 p. 4333; 3 Jun 2008 p. 2139; 3 May 2016 p. 1362; [SL 2021/25 r. 28.](#)]

**5. When these rules apply**

Unless the Court in a particular case orders otherwise, these rules apply in every minor case.

**6A. Exercise of Court's powers in Part 3 of the Act**

The Court's powers in Part 3 of the Act, except sections 14, 18 and 25, may be exercised by the Court in every circumstance.

[Rule 6A inserted as rule 5A: Gazette 10 Jun 2005 p. 2566; renumbered as rule 6A: Gazette 3 Jun 2008 p. 2139.]

## **Part 2 — How to make and defend a claim generally**

### **6. When this Part applies**

This Part applies if —

- (a) you want to make any claim other than a consumer/trader claim; or
- (b) if a claim other than a consumer/trader claim is made against you.

### **7. How to make a claim that starts a case**

- (1) If you want to make a claim that starts a case you must lodge the approved form.

*[(2) deleted]*

- (3) You must serve your claim as soon as practicable, and in any event within one year, after the day on which you lodge it.
- (4) Unless these rules or an Act says otherwise, your claim must be served personally on the party you are claiming against.

*[Rule 7 inserted: Gazette 3 Jun 2008 p. 2139;  
amended: Gazette 30 Sep 2016 p. 4175; SL 2020/67 r. 44.]*

*[7A. Deleted: SL 2020/67 r. 45.]*

### **8. How to make a third party claim**

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

*[(2)-(3) deleted]*

- (4) Unless these rules or an Act says otherwise, your third party claim must be served personally on the party you are claiming against.

*[Rule 8 inserted: Gazette 3 Jun 2008 p. 2139-40;  
amended: Gazette 30 Sep 2016 p. 4175; SL 2020/67 r. 46.]*

**9. How to respond to a claim**

- (1) If a claim has been made against you, you must lodge a response to the claim in the approved form with the Court within 14 days after the claim was served.

*[(2) deleted]*

- (3) After you lodge your response, the Court will give a copy of it to the party which made the claim against you and to every other party to your case.

*[Rule 9 amended: Gazette 3 Jun 2008 p. 2140; 30 Sep 2016 p. 4175; SL 2020/67 r. 47.]*

*[9A. Deleted: SL 2020/67 r. 48.]*

**10A. If you admit a claim**

If in a response you admit liability for the whole of the claim and agree to pay the amount claimed, a registrar may give judgment against you in accordance with that admission.

*[Rule 10A inserted: Gazette 3 Jun 2008 p. 2140.]*

**10B. If you admit part of a claim**

- (1) If in a response you admit liability for part of a claim made against you but indicate that you want to defend the rest of the claim, in your response you —
- (a) must outline the basis upon which you admit part of the claim; and
  - (b) may offer an amount as full satisfaction for the claim.
- (2) The other party may accept your offer by lodging and serving a notice of acceptance in an approved form within 14 days after receiving your response.

**r. 10C**

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- (3) If your offer is accepted, the registrar may give judgment against you in accordance with your admission and offer.

*[Rule 10B inserted: Gazette 3 Jun 2008 p. 2140; amended: SL 2020/67 r. 49.]*

**10C. You may admit liability but dispute the amount claimed**

- (1) If in a response —
- (a) you admit liability for the whole of an unliquidated claim; but
  - (b) you do not agree to the amount sought by the other party,

you may, in your response, apply to the Court to determine the amount that should be awarded for the claim.

- (2) The Court must then list the case for a status conference and notify you and the other parties in writing.
- (3) At a status conference a magistrate may —
- (a) make any orders necessary to facilitate settlement or ensure the case is ready to be listed for a hearing at which the Court will assess the amount that should be awarded for the claim; or
  - (b) list the case for a hearing at which the Court will assess the amount that should be awarded for the claim.

*[Rule 10C inserted: Gazette 3 Jun 2008 p. 2140-1; amended: Gazette 24 May 2013 p. 2057; SL 2020/67 r. 50.]*

**10. How to accept an offer of settlement**

- (1) If you have made a claim against a party and that party has, in its response, offered to settle the whole or part of your claim, you may accept that offer, or any part of the offer, by lodging and serving a notice of acceptance on the party at any time before the case is listed for a status conference or such other time as is ordered by the Court.



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

*[Rule 10 inserted: Gazette 3 Jun 2008 p. 2141; amended:  
SL 2020/67 r. 51.]*

## **Part 3 — How to make a consumer/trader claim**

### **11. How to make a consumer/trader claim**

If you want to make a consumer/trader claim you must lodge the approved form.

### **12. Service of the claim**

After you lodge a consumer/trader claim, the Court will give a copy of it to the party against which you are claiming and to every other party to your case.

### **13A. If someone has made a consumer/trader claim against you**

If someone has made a consumer/trader claim against you and you want to make a third party claim against another person, you must lodge it in the approved form within 14 days after you have received a copy of the claim made against you.

*[Rule 13A inserted: SL 2020/67 r. 52.]*

### **13. Registrar to list case for status conference**

- (1) A registrar must, as soon as possible after a consumer/trader claim is made and the time for making any related third party claim has passed, list the case for a status conference.
- (2) The registrar must notify you and the other parties in writing of the status conference.

*[Rule 13 inserted: Gazette 3 Jun 2008 p. 2141; amended: SL 2020/67 r. 53.]*

### **14. Status conference**

- (1) A status conference must be conducted before a magistrate, in private and at any time or place the Court thinks fit.
- (2) Unless the Court at a status conference orders the parties to attend before a mediator, or to attend a pre-trial conference or a further status conference, the Court will list the case for trial.

- (3) The registrar must notify you and the other parties in writing of the listing.

*[Rule 14 amended: SL 2020/67 r. 54.]*

**15. Attendance of parties at status conference**

- (1) You must attend a status conference in person.
- (2) If you do not attend a status conference the magistrate at the status conference may give default judgment against you.

*[Rule 15 amended: Gazette 24 May 2013 p. 2058; SL 2020/67 r. 55.]*

## **Part 4 — If you or another party does not defend a claim**

### **16. When this Part applies**

This Part applies if an application for default judgment is made against you or another party for a failure to lodge and serve a response in accordance with rule 9(1).

*[Rule 16 inserted: SL 2020/67 r. 56.]*

### **17. If the claim is for a liquidated amount**

Unless rule 21 applies, if the claim is for a liquidated amount a registrar is to give default judgment for that amount.

*[Rule 17 inserted: SL 2020/67 r. 56.]*

### **18. If the claim is for an unliquidated amount**

- (1) Unless rule 21 applies, if the claim is for an unliquidated amount a registrar is to give default judgment for an unliquidated amount.
- (2) When the registrar gives default judgment for an unliquidated amount, the registrar may do any or all of the following —
  - (a) request that you or another party lodge additional supporting material in relation to the claim;
  - (b) give default judgment against the defendant for a specified amount, if the registrar is able to assess the amount from any additional supporting material lodged;
  - (c) list the application for a hearing at which the Court will assess the amount.
- (3) If the registrar lists the application for a hearing under subrule (2)(c) —
  - (a) the registrar must notify you and the other parties in writing at least 28 days before the hearing; and

(b) you must lodge and serve a supporting affidavit at least 14 days before the hearing.

- (4) An application for default judgment under this Part does not need to be supported by an affidavit unless a hearing is listed under subrule (2)(c).

*[Rule 18 inserted: SL 2020/67 r. 56.]*

**19. If the claim against you is to recover possession of personal property**

Unless rule 21 applies, or the claim is a consumer/trader claim, a registrar may give default judgment for a claim to recover possession of personal property.

**20. Registrar may give default judgment in absence of parties**

A registrar may give default judgment under this Part in the absence of the parties.

**21. Registrar not to give judgment in certain cases**

*[(1) deleted]*

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

*[Rule 21 inserted: Gazette 3 Jun 2008 p. 2142;  
amended: Gazette 24 May 2013 p. 2058; SL 2020/67 r. 57.]*

**22A. Default judgment one year or more after originating claim, referral to Magistrate**

- (1) If one year or more has passed since the claim that started the case was served, a registrar may, if an application for default judgment has been made, refer the matter to a Magistrate.
- (2) If a matter is referred to a Magistrate the person who applied for default judgment must provide an affidavit setting out the reasons for the delay in the matter being finalised.

- (3) If a matter is referred to a Magistrate, the Magistrate may give approval for the registrar to give default judgment under this Part.

*[Rule 22A inserted: Gazette 24 May 2013 p. 2058.]*

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

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

*[Rule 22 inserted: Gazette 21 Jul 2017 p. 4026.]*

**23A. Registrar may order costs after giving judgment**

When the registrar gives default judgment under this Part the registrar may also make an order for costs under the Act section 31(2).

*[Rule 23A inserted as rule 22A: Gazette 10 Jun 2005 p. 2566; renumbered as rule 23A: Gazette 3 Jun 2008 p. 2143.]*

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## **Part 5 — Status conferences and pre-trial conferences**

*[Heading inserted: SL 2020/67 r. 58.]*

### **23. Listing case for a status conference**

- (1) If a defendant lodges a response, a registrar must, within 14 days, list the case for a status conference.
- (2) The registrar must notify you and the other parties in writing of the status conference.

*[Rule 23 inserted: Gazette 3 Jun 2008 p. 2143;  
amended: Gazette 30 Sep 2016 p. 4176; SL 2020/67 r. 59.]*

### **23AA. What happens at a status conference**

- (1) The purpose of a status conference is to allow for the management of a case.
- (2) Specifically, at a status conference the Court may do any or all of the following —
  - (a) refer the case to a pre-trial conference to be conducted by a registrar immediately;
  - (b) determine what facts, if any, are agreed by the parties;
  - (c) order the parties to —
    - (i) lodge and serve lists of documents the parties might tender in evidence at the trial in support of their claims or defences; or
    - (ii) exchange any other documents or information;
  - (d) extend the time for making counterclaims or third party claims (even if the time for making those claims has passed);
  - (e) list the case for a further status conference;
  - (f) make any other orders necessary to facilitate settlement or ensure the case is ready for trial.

**r. 24**

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- (3) If the case involves a counterclaim that is not a minor case, then, at the status conference —
  - (a) the Court will consider whether or not you and the other parties consent to the counterclaim being dealt with under these rules; and
  - (b) if the parties do not consent to the counterclaim being dealt with under these rules, the court must —
    - (i) list the case for a hearing before the Court for it to determine what part of the case, if any, is to be dealt with under these rules; and
    - (ii) notify you and the other parties in writing of the hearing date.
- (4) If the Court determines at the hearing referred to in subrule (3) that part of the case is to be dealt with under these rules, it will list the case for a further status conference.
- (5) The court must notify you and the other parties in writing of the listing under subrule (4).

*[Rule 23AA inserted: SL 2020/67 r. 60.]*

**24. What happens at a pre-trial conference**

- (1) At a pre-trial conference the registrar may do any or all of the things that the Court may do at a status conference under rule 23AA(2)(b) to (f).

*[(2)-(3) deleted]*

- (4) The registrar must notify you and the other parties in writing of any further status conference or pre-trial conference.

*[(5) deleted]*

*[Rule 24 amended: Gazette 3 Jun 2008 p. 2143-4; 30 Sep 2016 p. 4176; SL 2020/67 r. 61.]*

*[25A, 25B. Deleted: Gazette 30 Sep 2016 p. 4176.]*



**25C. List of documents you might tender at trial**

- (1) If the registrar at the pre-trial conference orders you to lodge and serve a list of any documents that you might tender in evidence at the trial in support of your claim or defence, you must do so in the approved form.
- (2) You may, at any stage of your case, lodge and serve an amended list of those documents to correct any errors.
- (3) You must lodge and serve an amended list of those documents as soon as practicable after you come into possession, or become aware that you are in possession, of any further documents that you might tender in evidence at the trial in support of your claim or defence.
- (4) You must have all the documents specified on your list available at the trial.
- (5) At the trial you cannot, without the leave of the Court, tender into evidence a document that was not on your list before the trial commenced.

*[Rule 25C inserted: Gazette 3 Jun 2008 p. 2145.]*

*[25. Deleted: SL 2020/67 r. 62.]*

**26. Your attendance at a status conference, pre-trial conference or hearing**

- (1) You must attend a status conference, pre-trial conference, or any hearing referred to in rule 23AA(3), in person.
- (1A) A subrogated insurer who is authorised in writing by you may, upon presentation of the written authorisation to the Court, represent or assist you at a status conference, a pre-trial conference or a hearing referred to in rule 23AA(3), but not at the trial of your case.
- (2) If you do not attend a pre-trial conference, the registrar at the pre-trial conference may give default judgment against you. In

that case Part 4, except rule 21, applies with any necessary modifications in relation to the default judgment.

*[Rule 26 amended: SL 2020/67 r. 63.]*

**27. Listing the case for trial**

Unless the registrar at a pre-trial conference lists the case for a further pre-trial conference, the registrar must list the case for trial and notify you and the other parties in writing.

**28. Status of things said or done at a status conference or a pre-trial conference**

(1A) A status conference must be conducted before a magistrate.

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

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

*[Rule 28 amended: SL 2020/67 r. 64.]*

## **Part 6 — Mediation**

### **29. Mediation conference**

- (1) If the Court orders you and the other parties to attend before a mediator, you must ensure that a mediation conference before the mediator is arranged.
- (2) A mediation conference must be conducted in private.

### **30. Attendance of parties at mediation conferences**

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

### **31. Outcome of mediation**

If you are the claimant you must, within 14 days after the mediation conference, lodge a notice of the outcome of the mediation in the approved form.

### **32. Further pre-trial conference if case not settled**

If the case is not settled at the mediation conference a registrar must list the case for a further pre-trial conference and notify you and the other parties in writing.

## **Part 7 — Consent orders and settlement**

### **33. Memorandum of consent**

If you want to settle a case or consent to any other order you may lodge a memorandum to that effect in the approved form, signed by you and every other party.

### **34. Registrar may make consent orders or give judgment**

- (1) When a memorandum of consent is lodged, a registrar may, unless subrule (2) applies, 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.

### **35. When the rules require your consent**

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

### **36. Settling claims involving a person under a legal disability**

- (1) If you make 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, that application —
  - (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 65, your application must be supported by an affidavit of an independent lawyer 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 36 amended: Gazette 3 Jun 2008 p. 2145.]*

## **Part 8 — Trial**

### **37. How the trial of your case is to be conducted**

The trial of your case must be conducted in accordance with orders given by the Court.

*[Rule 37 amended: Gazette 3 Jun 2008 p. 2145.]*

### **38. Your attendance at trial**

You must attend the trial of your case in person.

### **39. How to call witnesses**

- (1) If you want to require someone to give evidence or to produce something at the trial of your case, you must lodge a request for the Court to issue a witness summons.
- (2) Your 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.
- (3) If the Court issues the requested witness summons, you must lodge and serve the witness summons on the witness at least 14 days before the trial date.
- (4) The witness summons must be served personally.

- (5) You must ensure that at the time the witness summons is served on a witness, 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 is tendered to the witness; or
  - (b) arrangements to enable the witness to attend the Court are made with the witness; or
  - (c) the means to enable the witness to attend the Court are provided to the witness.
- (6) The person who serves a witness with the witness summons for you must record how subsection (3) was complied with on a copy of the witness summons.
- (7) If a copy of a witness summons contains information recorded in accordance with subsection (4) it is to be presumed that the information is true, unless the contrary is proved.

*[Rule 39 amended: Gazette 21 Jul 2017 p. 4027.]*

**39A. Compliance with witness summons**

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

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

*[Rule 39A inserted: Gazette 21 Jul 2017 p. 4027.]*

**40. Return of things after trial**

- (1) If, during your trial, you tender to the Court something that you are entitled to possess you will not be entitled to have that thing returned to you —
  - (a) if no appeal against the judgment is lodged, until 21 days after the day on which the judgment was given; or
  - (b) if an appeal against the judgment is lodged, until the appeal has been dealt with.
- (2) The registrar must give you written notice of your entitlement to the return of something under subrule (1) as soon as practicable after the exhibit is tendered at your trial.
- (3) If you do not take possession of the thing within 60 days after your entitlement to the return of something under subrule (1) arises, the registrar may dispose of the thing as the registrar thinks fit.

*[Rule 40 amended: Gazette 18 Sep 2018 p. 3516.]*



## Part 9 — Orders and judgments

### 41. Money paid to you if you are a person under a legal disability

- (1) If you are a person under a legal disability and under a judgment money is to be paid to you, the money is to be paid to the Public Trustee to hold on trust for you.
- (2) The Public Trustee must invest the money for you and may, if the Court so orders, invest it other than in accordance with the *Public Trustee Act 1941* section 39C.

*[Rule 41 amended: Gazette 24 May 2013 p. 2059.]*

### 42. Setting aside default judgment

If the Court gives default judgment against you and you want to apply for the judgment to be set aside you must apply within 21 days after the judgment was given or by such other date as the Court allows.

*[Rule 42 amended: SL 2020/67 r. 65.]*

### 43. Decisions of registrars

- (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 43 amended: Gazette 24 May 2013 p. 2059.]*

### 44. Requests for certificate of judgment

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

## **Part 10A — Inactive cases**

*[Heading inserted: Gazette 5 Apr 2019 p. 1014.]*

### **45A. Term used: inactive case**

In this Part —

*inactive case* means a case that has become inactive under rule 45B.

*[Rule 45A inserted: Gazette 5 Apr 2019 p. 1015.]*

### **45B. When your case becomes inactive**

- (1) If neither you nor any other party to your case has taken any procedural step for 12 months your case becomes an inactive case, unless the Court orders otherwise.
- (2) A magistrate or registrar who makes an order or direction in relation to your case may direct that, unless the order or direction is complied with by a stated date, your case becomes an inactive case on that date.
- (3) Unless it is cancelled by a magistrate or registrar before it takes effect, a direction made under subrule (2) takes effect according to its terms.

*[(4) deleted]*

*[Rule 45B inserted: Gazette 31 Dec 2013 p. 6545-6; amended: Gazette 5 Apr 2019 p. 1015.]*

### **45C. Notification of inactive cases**

- (1) If your case becomes an inactive case, the Court is to give you and all the other 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 45D.

- (2) If an agent representing a party to a case receives a notice under subrule (1), the agent 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 45D.

*[Rule 45C inserted: Gazette 5 Apr 2019 p. 1015.]*

**45D. Consequences of case becoming an inactive case**

So long as your case is an inactive case, the only documents that you may lodge with the Court in relation to the case are —

- (a) an application for an order under rule 45E; or
- (b) a notice of discontinuance under rule 76; or
- (c) a memorandum of consent under rule 33 to an order or judgment that would settle or conclude the case.

*[Rule 45D inserted: Gazette 31 Dec 2013 p. 6546; amended: Gazette 5 Apr 2019 p. 1015.]*

**45E. Cases no longer taken to be inactive**

- (1) If your case is an inactive case, you 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 your case is no longer taken to be inactive, it may make further orders for the conduct of the case in a timely way.

*[Rule 45E inserted: Gazette 5 Apr 2019 p. 1016.]*

**r. 45F**

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**45F. Dismissal of inactive cases**

- (1) If your case remains an inactive case for 6 continuous months, it is taken to be dismissed.
- (2) If the Court orders that your case is no longer taken to be inactive and neither you nor any other party to the case takes any procedural step in the case in the 6 months after the date of the order, your case is taken to be dismissed.
- (3) If your case is taken to be dismissed under subrule (1) or (2) —
  - (a) you or any other 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 your case under this rule.
- (5) For the purposes of subrule (4), it does not matter that your case was taken to be dismissed before the commencement of that subrule.

*[Rule 45F inserted: Gazette 5 Apr 2019 p. 1016.]*

## Part 10 — How to lodge documents

*[Heading inserted: SL 2021/25 r. 29.]*

### 45. How to lodge a document

~~In order to~~ To lodge a document ~~with the Court~~ you must lodge ~~present~~ it to the Court following the rules in accordance ~~with this Part at a Court registry~~ together with ~~any~~ —

- (a) the fee (if any) 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.

*[Rule 45 inserted: SL 2021/25 r. 29.]*

### 46. Where you may lodge a claim that starts a case

You may lodge a claim that starts a case at any registry of the Court except a registry of the Court where the only registrar is a member of the Police Force who ~~has been appointed~~ is a deputy registrar under the *Magistrates Court Act 2004* section 26(5).

*[Rule 46 amended: Gazette 24 Aug 2007 p. 4333 inserted: SL 2021/25 r. 29.]*

### 47. ~~If a registrar refuses to accept your document for lodgment~~

~~You may make an application under the *Magistrates Court Act 2004* section 17(3) for the Court to give you leave to~~ must lodge a document ~~that has been refused by a registrar. If you make the application in relation to a claim that would have started a case, you are to be taken to be a party to an existing case for the purposes of making the application.~~ using the ECMS unless these rules permit you not to

### 48. ~~You may lodge documents by hand delivery or pre-paid post~~

- (1) You ~~may~~ must lodge a document by ~~delivering~~ using the ECMS ~~unless~~ —

r. 49

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(a) you are ECMS exempt in relation to the document; or

(b) the ECMS —

(i) has been declared unavailable for use under the  
Magistrates Court (Civil Proceedings)  
Rules 2005 rule 99; or

(ii) is otherwise unavailable for use; or

(iii) does not permit the document to ~~the registry by~~  
hand delivery or by pre-paid postbe lodged.

(2) ~~When~~If you are not required to lodge a document by using the  
ECMS, you ~~are lodging a document you must also~~ may lodge it  
by —

(a) ~~a copy for yourself; and~~ delivering it by hand; or

~~(b) a copy for any other party which must be served under~~  
~~these rules.~~

~~49~~ (b) emailing it (see rule 48); or

(c) posting it (see rule 49C); or

(d) faxing it (see rule 49C).

[Rule 47 inserted: SL 2021/25 r. 29.]

**48. Lodging documents ~~electronically or by fax~~ email**

~~You may~~If you want to lodge a document ~~electronically~~ by email  
and you are permitted to do so by these rules, you must comply  
with the lodgment requirements set out in the Magistrates Court  
(Civil Proceedings) Rules 2005 rule 98D.

[Rule 48 inserted: SL 2021/25 r. 29.]

**49. Form of documents lodged using ECMS or by ~~fax~~ email**

(1) You must comply with this rule if you want to lodge a document  
by using the ECMS or by email.

(2) If the document is an affidavit, a consent to the Court doing  
anything, or a document signed by someone who is not a party  
to your case, you must —

(a) ensure that the document is signed; and

(b) convert it to .pdf format; and

(c) lodge the document; and

(d) keep the signed copy and produce it if required to do so by the Court.

(3) For any other document that must be signed under the *Magistrates Court (General) Rules 2005* ~~enable you to do so or~~ the *Magistrates Court (Civil Proceedings) Rules 2005*, you must —

(a) ensure that the document is signed; and

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

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

(d) retain the signed copy and produce it if required to do so by the Court.

[Rule 49 inserted: SL 2021/25 r. 29.]

**49A. Time documents are lodged**

Documents lodged by using the ECMS or by email or fax are taken to have been lodged —

(a) in the case of lodging by using the ECMS — on the day and at the time when the ECMS records the lodgment; and

(b) in the case of lodging by email — on the day and at the time when the Court receives the email; and

(c) in the case of lodging by fax — on the day and at the time when the Court receives the fax.

[Rule 49A inserted: SL 2021/25 r. 29.]

**49B. General provisions as to lodgment**

(1) You do not need to comply with a requirement by the Court to lodge 2 or more copies of a document if you lodge the document by using the ECMS or by email.

(2) The Court or a registrar may reject a document that you present 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 following the rules in this Part.

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

(4) If you present a document for lodgment by using the ECMS or by email, the Court or a registrar may order you to —

(a) bring the original document to any conference or hearing in the case; or

(b) lodge the original document.

[Rule 49B inserted: SL 2021/25 r. 29.]

**49C. Lodging documents by post or fax**

If you want to lodge a document by post or fax and you are permitted to do so by these rules, you must comply with the lodgment requirements set out in the *Magistrates Court (Civil Proceedings) Rules 2005* rule 98F or 98G.

[Rule 49C inserted: SL 2021/25 r. 29.]

**49D. The Court may convert paper documents to electronic form**

The Court may convert the lodged paper copy of a document to an electronic format and record it in the ECMS as if it had been lodged by using the ECMS.

[Rule 49D inserted: SL 2021/25 r. 29.]



## **Part 11 — How to serve documents**

### **Division 1 — General**

#### **50. Meaning of serve**

If these rules require you to serve a document —

- (a) you must serve a copy of the document returned after lodgment bearing the seal of the Court; and
- (b) unless the rules provide otherwise, you must serve it on each other party.

#### **51. How to serve a document**

- (1) Unless personal service is required under these rules, if you want to serve a document on a person you must —
  - (a) deliver the document to the person; or
  - (b) send the document by pre-paid post to the person; or
  - (c) if the *Magistrates Court (General) Rules 2005* enable it, send the document to the person by email or fax.
- (2) If you want to serve a document by delivery or pre-paid post and an address for service has been provided under Division 2, you must serve it at that address.
- (3) If you want to serve a document by delivery or pre-paid post and the party you want to serve has not provided an address for service under Division 2, you must serve it at the party's usual or last known place of residence or principal or last known place of business or the party's usual postal address.
- (4) In order to serve a document on someone personally, you must serve it in accordance with Division 3.
- (5) Nothing in this rule prevents you from serving a person in a manner other than in accordance with this rule if the person consents to being served in that manner.

*[Rule 51 amended: Gazette 24 May 2013 p. 2059.]*

**52. An enforcement officer may serve documents for you**

- (1) You may ask an enforcement officer, an administrative staff member or a departmental officer to serve a document for you.
- (1A) If an enforcement officer, administrative staff member or departmental officer serves a document for you, that person must, as soon as practicable after the service, give you a certificate of the service.
- (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 52 amended: Gazette 24 Aug 2007 p. 4334; 3 May 2016 p. 1362.]*

**53. You must lodge an affidavit after serving a document**

- (1) If you serve a document personally, or someone other than an enforcement officer, administrative staff member or departmental officer serves the document for you, you must lodge an affidavit of service completed by whoever served the document.
- (2) The affidavit of service must state when, where, how and by whom service was effected.

*[Rule 53 amended: Gazette 24 Aug 2007 p. 4334; 3 May 2016 p. 1362.]*

**Division 2 — Service at a residential or business address**

*[Heading inserted: Gazette 20 May 2011 p. 1840.]*

**54. Your address must be on each document**

- (1) If you lodge a document in relation to a case, the document must contain your residential or business address for service.

- (2) The address for service specified on the document is to be taken to be your address for service under this Division until —
- (a) if your document specifies the address of an agent under rule 56 — your agent lodges a notice in the approved form stating that he or she no longer acts for you; or
  - (b) you lodge a notice of change of address under rule 57.

*[Rule 54 amended: Gazette 3 Jun 2008 p. 2145-6.]*

**55. If you are not represented**

- (1) If you are an individual who is not represented by an agent, the address for service is to be your usual place of residence, your principal place of business or your postal address.
- (2A) If you are an individual who is not represented by an agent and you provide a postal address as your address for service you must also provide the Court and each of the other parties details of your usual place of residence or principal place of business.
- (2) If you are a partnership that is not represented by an agent, your address for service is to be your principal place of business.
- (3) If you are a corporation that is not represented by an agent, your address for service is to be your registered office or principal place of business.

*[Rule 55 amended: Gazette 3 Jun 2008 p. 2146; 24 May 2013 p. 2059.]*

**56. If you are represented**

- (1) If you are represented by a lawyer, your address for service is to be your lawyer's principal place of business or your lawyer's number (if any) at a document exchange approved by the Chief Magistrate.
- (2) If you are represented by an agent who is not a lawyer, your address for service is to be your agent's usual place of residence or principal place of business.

*[Rule 56 amended: Gazette 3 Jun 2008 p. 2146.]*

**57. If your address changes**

- (1) If your address for service under this rule changes after documents have been lodged in relation to your case, you must lodge and serve a notice of change of address as soon as practicable after the address has changed.
- (2) Your notice of change of address must be in the approved form.

**Division 3 — Personal service**

**58. Service on an individual personally**

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

- (a) hand the document to the individual or, if he or she is a person under a legal disability, to his or her 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 someone who is authorised in writing to receive documents on behalf of the individual; or
- (d) hand the document to someone at the individual'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 an agent who is acting for the individual.

*[Rule 58 amended: Gazette 2 Jul 2010 p. 3196; 31 Dec 2013 p. 6547.]*

**59. Service on a partnership personally**

In order to serve a document on a partnership personally you 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 lawyer who is acting for the partnership.

**60. Service on a corporation personally**

- (1) In order to serve a document on a corporation personally you 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 lawyer who is acting for the corporation.
- (2) This rule applies in addition to the *Corporations Act 2001* of the Commonwealth.

*[Rule 60 inserted: Gazette 3 Jun 2008 p. 2146.]*

**61. Service on a public authority personally**

In order to serve a document on a public authority personally you 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 lawyer who is acting for the public authority.

**Division 4 — Miscellaneous**

*[Heading inserted: Gazette 3 Jun 2008 p. 2147.]*

**62A. Applications for substituted service**

- (1) If you cannot serve a document on another party in accordance with Divisions 1 to 3, you may apply to the Court to make an order under the Act section 16(1)(t) that —
  - (a) you may serve the party by a substituted form of service; or
  - (b) if it is appropriate in the circumstances, you do not have to serve the party.
- (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 62A inserted: Gazette 3 Jun 2008 p. 2147.]*

## **Part 12 — How to make an application**

### **62. How to make a written application**

- (1) If you want to make an application for a Court order other than —
  - (a) a judgment after trial; or
  - (b) 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),you must lodge the approved form unless the Court gives you leave to make an oral application under subrule (2).
- (2) You may, with the leave of the Court, make an oral application at any hearing before the Court.

### **63. Your supporting affidavit**

Unless rule 18(3) applies, if you are making a written application it must be lodged together with a supporting affidavit.

### **64. Application must be served**

- (1) Unless subrule (2) applies, if you have made a written application you must serve a copy of the application and any supporting affidavit on every other party after it has been lodged and at least 10 days before the hearing of the application.
- (2) Subrule (1) does not apply to your application if —
  - (a) your application is for default judgment against another party —
    - (i) for a failure by the other party to lodge a response in accordance with rule 9(1); or
    - (ii) for a failure by the other party to lodge a statement of defence in accordance with rule 9A;or

- (iii) for a failure by the other party to do something else, and these rules state that the default judgment may be given in the absence of the parties;
- (b) your application is for something else and —
  - (i) these rules provide that your application does not need to be served; or
  - (ii) the Court dealing with your application orders otherwise.

*[Rule 64 amended: Gazette 3 Jun 2008 p. 2147; 20 May 2011 p. 1840-1; 30 Sep 2016 p. 4176.]*

**65. Response to an application**

- (1) If you have been served with an application you must, at least 3 working days before the hearing of the application, lodge and serve —
  - (a) a response to the application stating whether you consent or object to each order sought in the application; and
  - (b) unless you consent to every order sought in the application, an affidavit supporting your response; and
  - (c) any related application you might want to make.
- (2) Your response must be in the approved form.

**66. How the Court will deal with your application**

Your application will be dealt with in your presence and in the presence of every other party to the application unless —

- (a) these rules provide otherwise; or
- (b) the Court dealing with your application orders otherwise.

*[Rule 66 amended: Gazette 3 Jun 2008 p. 2148.]*



## **Part 13 — Affidavits**

### **67. Form of an affidavit**

An affidavit lodged by you must be in the approved form.

### **68. Content of an affidavit**

- (1) Unless subrule (2) applies, an affidavit must be confined to facts to which the person making the affidavit is able to say 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 68 amended: Gazette 3 Jun 2008 p. 2148.]*

## **Part 14 — If you need a litigation guardian**

### **69. 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).

### **70. When this Part applies**

This Part applies if you are a person under a legal disability and you are, or intend to be, a party to a case.

### **71. If you are a represented person**

- (1) If you are a represented person you must have a litigation guardian to conduct the case on your behalf unless the Court orders otherwise.
- (2) Except as provided in subrule (3), your guardian or administrator is to be your litigation guardian if the guardianship or administration order that applies to you —
  - (a) is plenary; or
  - (b) otherwise confers on your guardian or administrator the function of conducting or settling legal proceedings on your behalf.
- (3) If the Public Trustee is a joint administrator of your estate, the Public Trustee is to be your sole litigation guardian.
- (4) If you are a represented person who is not referred to in subrule (2) you may have as your 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 your interests.

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

**72. Affidavit your litigation guardian must lodge and serve if you are a represented person**

- (1) If you are a represented person your litigation guardian 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 your behalf have begun, as soon as practicable after he or she becomes the litigation guardian.
- (2) If you are a represented person referred to in rule 73(2), your litigation guardian's affidavit must verify that —
- (a) you are a represented person; and
  - (b) your litigation guardian has been appointed the guardian or administrator of the person under the *Guardianship and Administration Act 1990*; and
  - (c) the guardianship or administration order that applies to you —
    - (i) is plenary; or
    - (ii) otherwise confers on your guardian or administrator the function of conducting or settling legal proceedings on your behalf.
- (3) If you are a represented person not referred to in rule 73(2), your litigation guardian's affidavit must —
- (a) verify that you are a represented person; and
  - (b) state the nature of your litigation guardian's relationship with you; and
  - (c) verify that your litigation guardian consents to acting in that capacity for you; 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 your interests; and
- (e) set out the grounds for any knowledge or belief expressed in the affidavit.

**73. If you are a child**

- (1) If you are a child you may have as your 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 your interests.
- (2) A person may act as your litigation guardian without being appointed by the Court to act in that capacity.

**74. Affidavits your litigation guardian must lodge and serve if you are a child**

- (1) If you are a child your litigation guardian 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 your behalf have already begun, as soon as practicable after the litigation guardian assumes that capacity.
- (2) Your litigation guardian's affidavit must —
  - (a) verify that you are a child; and
  - (b) state the nature of your litigation guardian's relationship with you; and
  - (c) verify that your litigation guardian consents to acting in that capacity for you; and
  - (d) verify that your litigation guardian is not under a legal disability and does not have an interest in the case that is adverse to your interests; and

- (e) set out the grounds for any knowledge or belief expressed in the affidavit.
- (3) If you have reached 14 years of age, your litigation guardian's affidavit must be accompanied by an affidavit sworn by you, verifying that you want the litigation guardian to act in that capacity.
- (4) If —
  - (a) you have not reached 14 years of age; and
  - (b) your litigation guardian is not your parent or guardian,your litigation guardian's affidavit must be accompanied by an affidavit sworn by one of your parents or guardians, verifying that your parent or guardian consents to the litigation guardian acting in that capacity.

**75. Person may apply to be appointed your litigation guardian**

- (1) A person may make an application to be appointed as your litigation guardian, or to replace your litigation guardian.
- (2) Except as provided in subrules (3) and (4), the application must be made in accordance with Part 12.
- (3) If you are a represented person, the application must be supported by an affidavit in accordance with rule 74(3).
- (4) If you are a child, the application must be supported by affidavits in accordance with rule 74.

## **Part 15 — Miscellaneous**

**76A. If you are making an application under the *Residential Tenancies Act 1987***

- (1) If you are making an application under the *Residential Tenancies Act 1987* you do not have to serve it.
- (2) Instead, the Court must give a copy of your application to every other party after you have lodged it.

*[Rule 76A inserted: Gazette 3 Jun 2008 p. 2148.]*

**76B. If you want to change venues**

- (1) If you make an application for the proceedings in your case to be conducted at another place in the State —
  - (a) you are not required to serve the application on any other party; and
  - (b) the registrar must instead provide a copy of your application to every other party.
- (2) Unless the Court orders otherwise, your application may be dealt with in the absence of the parties.

*[Rule 76B inserted: Gazette 3 Jun 2008 p. 2148.]*

**76C. If you want to correct typographical and other errors**

- (1) If you make an application to correct a typographical error or other defect, a registrar may make an order allowing you may make that correction.
- (2) Your application —
  - (a) does not have to be served on any other party; and
  - (b) may be dealt with in the absence of the parties.

*[Rule 76C inserted: Gazette 3 Jun 2008 p. 2148.]*

**76. You may discontinue claim**

- (1) If you want to discontinue the whole or part of a claim that you have made, you must lodge a notice of discontinuance in the approved form.
- (2) You must serve a copy of the notice of discontinuance on the other parties.

*[Rule 76 amended: Gazette 21 Jul 2017 p. 4027.]*

**77. Availability of forms**

The Court will make forms approved by the Chief Magistrate available —

- (a) at each Court registry; and
- (b) on request, by post; and
- (c) on the website maintained by the Principal Registrar under the *Magistrates Court (General) Rules 2005*.

**78. Partnership name may be used**

- (1) If you are a partnership you may conduct your case in your partnership name, if any.
- (2) You may make a claim, and conduct a case, against a partnership in the partnership's name, if any.

*[Rule 78 amended: Gazette 3 Jun 2008 p. 2149.]*

**79. When you are required to do things personally and you are not an individual**

- (1) Except as provided in the Act section 30, when under these rules you are required or enabled to sign a document, or do something else personally and —
  - (a) you are 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;

**r. 80**

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- (b) you are a corporation — then a person who is authorised by the corporation to do the thing may do it;
  - (c) you are 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 your rights — then a person who is authorised to do the thing on behalf of the insurer may do it.
- (2) If you are a person under a legal disability and a litigation guardian is conducting a case on your behalf, subrule (1) applies to your litigation guardian with any necessary changes.

*[Rule 79 amended: Gazette 24 Aug 2007 p. 4334.]*

**80. Payments into Court**

- (1) If you make a payment of money into Court, the Court will give you a written receipt for the money.
- (2) When judgment is given in the case and the Court does not order that the money be paid out, the money must be returned to you or paid out in accordance with any authorisation prepared by you in the approved form.

**81. Registrar's powers under the *Civil Judgments Enforcement Act 2004***

- (1) A registrar may deal with a means enquiry 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.
- (2) For the purposes of the *Civil Judgments Enforcement Act 2004* section 9(3), an application or request that, when made to the Court under that Act, may be dealt with by a registrar, is —
  - (a) an application for an order under section 10, 15(5)(a) or 20(3) 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)	

- (3) You may apply for the review of a decision of a registrar in relation to the application or request by making an application under Part 12 of these rules.

**Part 16 — Transitional rules for the *Magistrates Court Rules Amendment Rules 2020***

*[Heading inserted: SL 2020/67 r. 66.]*

**82. Terms used in this Part**

In this Part —

**amended Rules** means the *Magistrates Court (Minor Cases Procedure) 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 (Minor Cases Procedure) 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 82 inserted: SL 2020/67 r. 66.]*

**83. Application of amended Rules in relation to transitional cases**

- (1) Subject to rule 84, 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 86 —
  - (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 83 inserted: SL 2020/67 r. 66.]*

**84. Application of former Rules in relation to certain transitional cases**

- (1) This rule applies to a transitional case if —
- (a) under the former Rules Parts 2 and 3, 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 86;  
or
  - (b) the case is concluded.

*[Rule 84 inserted: SL 2020/67 r. 66.]*

**85. 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.

**r. 86**

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- (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 85 inserted: SL 2020/67 r. 66.]*

**86. 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 86 inserted: SL 2020/67 r. ~~66~~66; amended: [SL 2021/25 r. 30.](#)]*



## Notes

This is a compilation of the *Magistrates Court (Minor Cases Procedure) Rules 2005* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Magistrates Court (Minor Cases Procedure) Rules 2005</i>	28 Apr 2005 p. 1711-48	1 May 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7127)
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2005</i>	10 Jun 2005 p. 2565-6	10 Jun 2005
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2007</i>	24 Aug 2007 p. 4333-4	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2008</i>	3 Jun 2008 p. 2138-49	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))
<b>Reprint 1: The <i>Magistrates Court (Minor Cases Procedure) Rules 2005</i> as at 14 Nov 2008</b> (includes amendments listed above)		
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2010</i>	2 Jul 2010 p. 3196	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2011</i>	20 May 2011 p. 1840-1	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2013</i>	24 May 2013 p. 2057-60	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2013</i>	31 Dec 2013 p. 6545-7	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2014</i>	12 Dec 2014 p. 4717-18	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 (Minor Cases Procedure) Rules 2005**

Notes

Compilation table

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<b>Citation</b>	<b>Published</b>	<b>Commencement</b>
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2016</i>	3 May 2016 p. 1361-2	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))
<i>Magistrates Court (Minor Cases Procedure) Amendment Rules 2016</i>	30 Sep 2016 p. 4174-6	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))
<b>Reprint 2: The Magistrates Court (Minor Cases Procedure) Rules 2005 as at 12 May 2017</b> (includes amendments listed above)		
<i>Magistrates Court Rules Amendment Rules 2017 Pt. 3</i>	21 Jul 2017 p. 4024-7	22 Jul 2017 (see r. 2(b))
<i>Magistrates Court Rules Amendment Rules 2018 Pt. 3</i>	18 Sep 2018 p. 3515-16	19 Sep 2018 (see r. 2(b))
<i>Magistrates Court Rules Amendment (Inactive Cases) Rules 2019 Pt. 3</i>	5 Apr 2019 p. 1012-16	6 Apr 2019 (see r. 2(b))
<i>Magistrates Court Rules Amendment Rules 2020 Pt. 3</i>	SL 2020/67 28 May 2020	1 Jun 2020 (see r. 2(b))
<a href="#"><u><i>Magistrates Court Rules Amendment Rules 2021 Pt. 4</i></u></a>	<a href="#"><u>SL 2021/25</u></a> <a href="#"><u>26 Feb 2021</u></a>	<a href="#"><u>27 Feb 2021 (see r. 2(b))</u></a>

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