

Supreme Court Act 1935

Supreme Court (Arbitration) Rules 2016

Western Australia

Supreme Court (Arbitration) Rules 2016

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Supreme Court (Arbitration) Rules 2016

Part 1 — Preliminary matters

1. Citation

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

2. Commencement

These rules come into operation as follows —

- Part 1 on the day on which these rules are published in the Gazette;
- the rest of the rules on the 14th day after that day.

3. Terms used

In these rules — (1)

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

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

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

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

RSC means Rules of the Supreme Court 1971;

WA Act means the *Commercial Arbitration Act 2012*.

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

4. Application of Rules of the Supreme Court 1971

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

5. Documents not in English

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

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

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Notes for this rule —

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

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Part 2 — International commercial arbitration

- Application for stay and referral to arbitration (Cwlth Act 6. s.7)
 - An application under the Commonwealth Act section 7 to stay (1) the whole or part of a proceeding and refer the parties to arbitration must be made by way of a summons in the form of Form 1.
 - The summons must be accompanied by (2)
 - a copy of the arbitration agreement; and
 - (b) an affidavit stating the material facts on which the summons is based.

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

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

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

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

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

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

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

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

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

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

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

Version 00-b0-00 As at 03 Jan 2017 page 7 the date and the terms of the request made to the arbitral tribunal for disclosure of the confidential information and of the arbitral tribunal's refusal to make the order.

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

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

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

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

and

- stating the following (b)
 - the material facts relied on; and

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

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

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

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

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

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

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

Part 3 — Domestic commercial arbitration

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

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

17. Subpoenas (WA Act s. 27A)

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

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

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

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

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

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

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

20. Application for relief under miscellaneous provisions of WA Act

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

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

- (1) An application under the WA Act section 27J for leave to apply for determination of a question of law arising in the course of an arbitration and, if leave is granted, for the determination of the question of law, must be made by way of an originating summons in the form of Form 22.
- The summons must be accompanied by an affidavit (2)
 - exhibiting the following
 - a copy of the arbitration agreement; (i)
 - evidence of the consent of the arbitrator or the (ii) consent of all the other parties as required by the WA Act section 27J(2);

and

- stating the following (b)
 - the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company;

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

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

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

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a copy of the award including the reasons of the arbitral tribunal for the award;

and

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

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

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

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

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

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

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

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

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Part 4 — Miscellaneous matters

25. Taxing costs of arbitration

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

26. Rules of the Supreme Court 1971 amended

- (1) This rule amends the *Rules of the Supreme Court 1971*.
- (2) Delete Order 60A rule 2(2)(a)(x) and insert:
 - (x) the Supreme Court (Arbitration) Rules 2016;
- (3) Delete Order 81D.

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Schedule 1 — Forms

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

In the Supreme C	ourt of Western Australia	No.:	
*Commercial and	Managed Cases List	Summons for stay and referral to	
*Court of Appeal		arbitration: foreign arbitration	
		agreement	
*Subject of case			
Parties to case	[Name]	Plaintiff	
	[Name]	Defendant	
Parties to this	Applicant: [Name]	[*Plaintiff/Defendant]	
summons	Respondent: [Name]	[*Plaintiff/Defendant]	
Reason for this	The applicant is a party to a	an arbitration agreement and, by this	
summons	summons, applies for —		
	(a) an order under the Inte	ernational Arbitration Act 1974	
	(Commonwealth) s. 7	that stays *the whole/part of this	
	proceeding and refers	[identify parties and dispute to be	
	referred] to arbitration	; and	
	(b) [state briefly but speci	fically any other orders sought].	
Accompanying	This summons is accompar		
documents	1. A copy of the arbitration agreement.		
	2. An affidavit stating the based.	e material facts on which this summons is	
Notice to	The Court will hear this summons, or make orders for the hearing of		
respondent	it —		
1	on [date] at [time], or as so	on after then as possible,	
		Court or of Court of Appeal].	
	If you or your lawyer do	not attend, the Court may make orders	
	in your absence and with	out further notice.	
Serving this	*The time for serving this s	summons has been abridged to [date and	
summons	time] by an order made by the Court on [date].		
	[Select one of these 3 optio	ns and delete the others.]	
	*It is intended to serve this	summons on all other parties.	
	*It is intended to serve this	summons on the following other parties:	
	[insert name of each party	on whom summons is to be served].	
	*It is not intended to serve	this summons on any party.	

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Form 2

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

Footnotes to Form 1 —

- Delete the inapplicable.
- The service details must comply with the RSC Order 71A rule 3.

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

In the Supreme C	Court of Western Australia	No.:
Commercial and	Managed Cases List	Originating summons to enforce
		foreign award
Subject of case		ct 1974 (Commonwealth) s. 8(2).
	Arbitration agreement betw	
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Reason for this		ating summons, applies for —
summons	× /	ernational Arbitration Act 1974
		2) to enforce [state details of foreign
		ought to be enforced]; and
		fically any other orders sought].
Accompanying		nied by these documents —
documents		ed to in the International Arbitration
	Act 1974 (Commonwe	,
	2. An affidavit stating —	
		ch the foreign award has not been
		the date of this summons; and
		known place of residence or business of
		t whom it is sought to enforce the foreign
		erson is a company, the last known
	registered office	
Notice to		mmons, or make orders for the conduct
defendant ¹	of this case —	
	on [date] at [time], or as soon after then as possible,	
	at the [address of Supreme Court or of Court of Appeal].	
		not attend, the Court may make orders
	in your absence and with	
		um of appearance before attending Court
	or taking any other steps in	this case.

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

Footnotes to Form 2 —

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

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

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

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Extract from www.slp.wa.gov.au, see that website for further information

Form 4

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

Footnotes to Form 3 —

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

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

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

cuments — Form 5/Form 6/Form 7.		
oitration;		
ames of the arbitrators		
onducting the arbitration;		
(c) the place where the arbitration is being conducted;(d) the nature of the arbitration;		
(e) the terms of the permission given by the arbitral tribunal		
for the application; (f) the conduct money (if appropriate) to be paid to the		
e) to be paid to the		
he addressee.		
The Court will hear this summons, or make orders for the conduct of this case —		
on [date] at [time], or as soon after then as possible,		
at the Supreme Court, David Malcolm Justice Centre, 28 Barrack		
Street, Perth.		
If you or your lawyer do not attend, the Court may make orders		
in your absence and without further notice.		
You must file a memorandum of appearance before attending Court		
or taking any other steps in this case.		
*The time for serving this summons has been abridged to [date and		
time] by an order made by the Court on [date].		
[Select one of these 3 options and delete the others.]		
*It is intended to serve this summons on all other parties.		
*It is intended to serve this summons on the following other parties:		
[insert name of each party on whom summons is to be served].		
*It is not intended to serve this summons on any party.		
*Name of lawyer: *Address where lawyer conducts business:		
Postal address for service of documents:		
Email address:		
Date:		
2 444		
\mathcal{G}		

Footnotes to Form 4 —

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

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

In the Supreme Court of Western Australia		No.:	
General Division		Subpoena to give oral evidence to arbitral tribunal	
Subject of case	International Arbitration Act 1974 (Commonwealth) s. 23.		
	Arbitration agreement between [parties] dated [date].		
Parties to case	[Name] Plaintiff		
	[Name]	Defendant	
То	[Name of witness] of [addre	ess]	
Order	You are ordered to attend and give oral evidence to an arbitra		
	tribunal. See below for details.		
	Failure to comply with the	is subpoena without lawful excuse is a	
	contempt of court and ma		
	Please read Notes 1 to 8 at the end of this subpoena.		
Last date for service	The last date for service of this subpoena is [date]. (See Note 1).		
Issuing details	Issued at the request of: [Name of party], [role of party]		
	Address for service: [See R	SC Order 71A rule 3]	
	Email:		
	Date of issue:	[Seal or stamp of Court]	
Details of	Date, time and place at whi	ch you must attend and give oral	
subpoena	evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address].		
	You must continue to attend from day to day unless excused by the		
	arbitral tribunal or the Court or until the hearing of the matter is		
	completed.		
	Notes		
Last day for		with the subpoena unless it is served on	
service	you on or before the date specified in the subpoena as the last		
	date for service of the subpoena.		
Informal	2. Even if this subpoena has not been served personally on you,		
service	you must, nevertheless, comply with its requirements, if you		
		or service of the subpoena, actual	
	knowledge of the subp	oena and of its requirements.	

3.	If the subpoena is addressed to a company, the company must	
	comply with the subpoena by its appropriate or proper officer.	
4.	You need not comply with the subpoena unless conduct money	
	sufficient to meet your reasonable expenses of attending as	
	required by the subpoena is handed or tendered to you a	
	reasonable time before the date your attendance is required.	
5.	You have the right to apply to the Court —	
	(a) for an order setting aside the subpoena (or a part of it) or	
	for relief in respect of the subpoena; and	
	(b) for an order with respect to any claim you may have for	
	privilege, public interest immunity or confidentiality.	
6.	You may apply to the Court for an order that the issuing party	
	pay an amount (in addition to conduct money and any witness's	
	expenses) in respect of the loss or expense, including legal	
	costs, reasonably incurred in complying with the subpoena.	
7.	Failure to comply with a subpoena without lawful excuse is a	
	contempt of court and may be dealt with accordingly.	
8.	Note 7 is without prejudice to any power of the Court under any	
	rules of the Court (including any rules of the Court providing	
	for the arrest of an addressee who defaults in attendance in	
	accordance with a subpoena) or otherwise, to enforce	
	compliance with a subpoena.	
	4.5.6.7.	

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

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

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Extract from www.slp.wa.gov.au, see that website for further information

Form 6

Issuing details	Issued at the request of: [Name of party], [role of party] Address for service: [See RSC Order 71A rule 3]		
	Email:		
	Date of issue:	[Seal or stamp of Court]	
Details of	You must comply with this subpo	ena —	
subpoena	(a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or		
	(b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5-12). Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address]. Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted —		
	[Name] at [address]. Schedule of docume	ente	
The documents v	ou must produce are as follows:	, ito	
List the documen	nts and state whether the original o	f any document is required. If	
insufficient space		,	
Notes			
Last day for		e subpoena unless it is served on	
service		cified in the subpoena as the last	
	date for service of the subpoena.		
Informal	2. Even if this subpoena has not	been served personally on you,	
service	you must, nevertheless, comply with its requirements, if you		
	have, by the last date for service of the subpoena, actual		
	knowledge of the subpoena and of its requirements.		
Addressee a	3. If the subpoena is addressed t	to a company, the company must	
company	comply with the subpoena by its appropriate or proper officer.		

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		XY 1 . 1 *.1 .1 1 1 1 1	
Conduct money		You need not comply with the subpoena unless conduct money	
		sufficient to meet your reasonable expenses of attending to	
		produce the subpoena (or a copy of it) and the document(s) or	
		thing(s) as required by the subpoena is handed or tendered to	
		you a reasonable time before the date your attendance is	
		required.	
Production of	5.	Instead of attending to produce the subpoena (or a copy of it)	
subpoena or		and the document(s) or thing(s), you may comply with the	
copy of it and		subpoena by delivering or sending the subpoena (or a copy of	
documents by		it) and the documents to the arbitral tribunal —	
delivery or post		(a) at the address specified in the subpoena for the purpose; or	
J I		(b) if more than one address is specified — at any of those addresses,	
		so that they are received not less than 2 clear business days	
		before the date specified in the subpoena for attendance and	
		production, or if you receive notice of a later date or time from	
		the issuing party, before the later date or time.	
Objection to		If you object to a document or thing produced in response to	
the inspection		this subpoena being inspected by a party to the proceeding or	
of document or		any other person, you must, at the time of production, notify the	
thing produced		arbitral tribunal in writing of your objection and of the grounds	
thing produced		of your objection.	
		Unless the Court otherwise orders, if you do not object to a	
		document or thing produced by you in response to the subpoena	
		being inspected by any party to the proceeding, the arbitral	
		tribunal may permit the parties to the proceeding to inspect the document or thing.	
Production of a			
		If you produce more than one document, you must, if requested	
number of		by the arbitral tribunal, produce a list of the documents	
documents		produced.	
Production of		You may, with the consent of the issuing party, produce a copy, instead of the original of any document that the submorns	
copy instead of		instead of the original, of any document that the subpoena	
original		requires you to produce.	
		The copy of a document may be —	
		(a) a photocopy; or	
		(b) in an electronic form on a CD-ROM, DVD or USB device	
		in any of the following electronic formats:	
		.doc and .docx – Microsoft Word documents	
		.pdf – Adobe Acrobat documents	
		.xls and .xlsx – Microsoft Excel spreadsheets	
		.jpg – image files	
		.rtf – rich text format	
		.gif – graphics interchange format	
		.tif – tagged image format.	

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Form 7

Return or	11. You may, at the time of production, inform the arbitral tribunal	
destruction of	that any document or copy of a document produced need not be	
documents or	returned and may be destroyed.	
copies	12. If you have so informed the arbitral tribunal, the arbitral	
o P	tribunal may destroy the document or copy instead of returning	
	it to you.	
Applications in	13. You have the right to apply to the Court —	
relation to	(a) for an order setting aside the subpoena (or a part of it) or	
subpoena	for relief in respect of the subpoena; and	
•	(b) for an order with respect to any claim you may have for	
	privilege, public interest immunity or confidentiality.	
Loss or expense	14. You may apply to the Court for an order that the issuing party	
of compliance	pay an amount (in addition to conduct money and any witness's	
	expenses) in respect of the loss or expense, including legal	
	costs, reasonably incurred in complying with the subpoena.	
Contempt of	15. Failure to comply with a subpoena without lawful excuse is a	
court — arrest	contempt of court and may be dealt with accordingly.	
	16. Note 15 is without prejudice to any power of the Court under	
	any rules of the Court (including any rules of the Court	
	providing for the arrest of an addressee who defaults in	
	attendance in accordance with a subpoena) or otherwise, to	
	enforce compliance with a subpoena.	

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

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

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Issuing details	Issued at the request of: [Name of party], [role of party]		
	Address for service: [See RSC Order 71A rule 3]		
	Email: Date of issue:	[Saal or stamp of Court]	
	Date of issue.	[Seal of Stamp of Court]	
Details of subpoena	In so far as you are required by this subpoena to attend and give oral evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address]. You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed. In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents, you must comply with this subpoena — (a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or (b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date		
specified for attendance and production. (Se Date, time and place at which you must produce copy of it and documents, unless you receive not time from the issuing party, in which case the lat		must produce the subpoena or a you receive notice of a later date or	
	substituted —		
	Date:		
	Time: Place: [Name(s) of arbitrator(s) [address].	constituting arbitral tribunal] at	
	Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted — [Name] at [address].		

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	Schedule of documents		
The documents as	nd things you must produce are as follows —		
[List the documents and state whether the original of any document is required. If			
insufficient space			
33 1	Notes		
Last day for	1. You need not comply with the subpoena unless it is served on		
service	you on or before the date specified in the subpoena as the last		
	date for service of the subpoena.		
Informal	2. Even if this subpoena has not been served personally on you,		
service	you must, nevertheless, comply with its requirements, if you		
	have, by the last date for service of the subpoena, actual		
	knowledge of the subpoena and of its requirements.		
Addressee a	3. If the subpoena is addressed to a company, the company must		
company	comply with the subpoena by its appropriate or proper officer.		
Conduct money	4. You need not comply with the subpoena unless conduct money		
Conduct money	sufficient to meet your reasonable expenses of attending to give		
	oral evidence and attending to produce the subpoena (or a copy		
	of it) and the document(s) or thing(s) as required by the		
	subpoena is handed or tendered to you a reasonable time before		
	the date your attendance is required.		
Production of	5. In so far as this subpoena requires production of the subpoena		
subpoena or	(or a copy of it) and a document or thing, instead of attending to		
copy of it and	produce the subpoena (or a copy of it) and the document(s) or		
documents by	thing(s), you may comply with the subpoena by delivering or		
delivery or post	sending the subpoena (or a copy of it) and the documents to the		
denvery or post	arbitral tribunal,		
	(a) at the address specified in the subpoena for the purpose; or		
	(b) if more than one address is specified — at any of those		
	addresses,		
	so that they are received not less than 2 clear business days		
	before the date specified in the subpoena for attendance and		
	production, or if you receive notice of a later date or time from		
	the issuing party, before the later date or time.		
Objection to	6. If you object to a document or thing produced in response to		
the inspection	this subpoena being inspected by a party to the proceeding or		
of document or	any other person, you must, at the time of production, notify the		
thing produced	arbitral tribunal in writing of your objection and of the grounds		
0.	of your objection.		
	7. Unless the Court otherwise orders, if you do not object to a		
	document or thing produced by you in response to the subpoena		
	being inspected by any party to the proceeding, the arbitral		
	tribunal may permit the parties to the proceeding to inspect the		
	document or thing.		

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Production of a	8.	If you produce more than one document, you must, if requested	
number of		by the arbitral tribunal, produce a list of the documents	
documents		produced.	
Production of	9.	You may, with the consent of the issuing party, produce a copy,	
copy instead of		instead of the original, of any document that the subpoena	
original		requires you to produce.	
	10.	The copy of a document may be —	
		(a) a photocopy; or	
		(b) in an electronic form on a CD-ROM, DVD or USB device	
		in any of the following electronic formats:	
		.doc and .docx – Microsoft Word documents	
		.pdf – Adobe Acrobat documents	
		.xls and .xlsx – Microsoft Excel spreadsheets	
		.jpg – image files	
		.rtf – rich text format	
		.gif – graphics interchange format	
		.tif – tagged image format.	
Return or	11.	You may, at the time of production, inform the arbitral tribunal	
destruction of	111	that any document or copy of a document produced need not be	
documents or		returned and may be destroyed.	
copies	12	If you have so informed the arbitral tribunal, the arbitral	
copies	12,	tribunal may destroy the document or copy instead of returning	
		it to you.	
Applications in	13	You have the right to apply to the Court —	
relation to	15.	(a) for an order setting aside the subpoena (or a part of it) or	
subpoena		for relief in respect of the subpoena; and	
завросна		(b) for an order with respect to any claim you may have for	
		privilege, public interest immunity or confidentiality.	
Loss or expense	14	You may apply to the Court for an order that the issuing party	
of compliance	17.	pay an amount (in addition to conduct money and any witness's	
or compilance		expenses) in respect of the loss or expense, including legal	
		costs, reasonably incurred in complying with the subpoena.	
Contempt of	15	Failure to comply with a subpoena without lawful excuse is a	
court — arrest	15.	contempt of court and may be dealt with accordingly.	
court — arrest	16	Note 15 is without prejudice to any power of the Court under	
	10.	any rules of the Court (including any rules of the Court	
		providing for the arrest of an addressee who defaults in	
		attendance in accordance with a subpoena) or otherwise, to	
		enforce compliance with a subpoena.	
	<u> </u>	emoree comphance with a suppoena.	

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

In the Supreme Court of Western Australia		No.:
Commercial and Managed Cases List		Originating summons for order to
		give evidence, produce documents or
		do relevant thing
Subject of case	International Arbitration Act 1974 (Commonwealth) s. 23A.	
3	Arbitration agreement betw	` ,
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Reason for this	The plaintiff is a party to th	e above arbitration agreement and, by
summons	this originating summons, a	
	1. an order under the <i>Inte</i>	rnational Arbitration Act 1974
	(Commonwealth) s. 23	A(3) that [identify person against whom
	order is sought] do the	following —
	*(a) attend before the	Court for examination;
	*(b) produce the follo	wing documents to the Court: [specify];
	*(c) do the following	things: [specify];
	and	
	2. [state briefly but specified]	fically any other orders sought].
	This application relies on the	ne International Arbitration Act 1974
	(Commonwealth) s. 23A(1)	[insert relevant paragraph number].
Accompanying	This summons is accompar	nied by an affidavit stating the
document	following —	
	(a) if the permission of the arbitral tribunal is required for this	
	application, the terms of the permission;	
	(b) the material facts relied on.	
Notice to	The Court will hear this summons, or make orders for the conduct	
defendant ¹	of this case —	
	on [date] at [time], or as so	
		d Malcolm Justice Centre, 28 Barrack
	Street, Perth.	
		not attend, the Court may make orders
	in your absence and without	
		um of appearance before attending Court
G1.	or taking any other steps in this case.	
Serving this	*The time for serving this summons has been abridged to [date and	
summons	time] by an order made by t	
	[Select one of these 3 option	
		summons on all other parties.
	*It is intended to serve this summons on the following other parties:	
	[insert name of each party on whom summons is to be served].	
	*It is not intended to serve this summons on any party.	

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

Footnotes to Form 8 —

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

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

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

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Accompanying	This summons is accompanied by an affidavit stating the		
document	following —		
	(a) the material facts relied on;		
	(b) *[For an application made under s. 23F] the terms of the order		
	of the arbitral tribunal allowing disclosure of the information		
	and the date the order was made.		
	(b) *[For an application made under s. 23G] —		
	*the date the arbitral tribunal's mandate was terminated.		
	*the date and terms —		
	(i) of the request made to the arbitral tribunal	for disclosure	
	of the confidential information; and		
	(ii) of the arbitral tribunal's refusal to make the	ie order.	
Notice to	The Court will hear this summons, or make orders f	or the conduct	
defendant ¹	of this case —		
	on [date] at [time], or as soon after then as possible,		
	at the Supreme Court, David Malcolm Justice Centr	e, 28 Barrack	
	Street, Perth.		
	If you or your lawyer do not attend, the Court may make orders		
	in your absence and without further notice.		
	You must file a memorandum of appearance before attending Court or taking any other steps in this case.		
G : 41:	*The time for serving this summons has been abridged to [date and		
Serving this	time] by an order made by the Court on [date].		
summons			
	[Select one of these 3 options and delete the others.]		
	*It is intended to serve this summons on all other parties.		
	*It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served].		
	*It is not intended to serve this summons on any party.		
Plaintiff's	*Name of lawyer:		
service details ²	*Address where lawyer conducts business:		
Service details	Postal address for service of documents:		
	Email address:		
	Fax no.: Telephone no.:		
Plaintiff's	•	Date:	
signature			
	[Name]		
	[Capacity, e.g. Plaintiff, Lawyer for plaintiff]		

Footnotes to Form 9 —

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

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

In the Supreme C	Court of Western Australia	No.:
Commercial and Managed Cases List		Originating summons for relief under
		certain miscellaneous provisions of
		Model Law
Subject of case	International Arbitration Act 1974 (Commonwealth).	
	Arbitration agreement betw	ween [parties] dated [date].
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Reason for this	The plaintiff is *a party to/	the arbitral tribunal for the above
summons	arbitration agreement and,	by this originating summons, applies
	for —	
	(a) an order under the Mo	del Law article *11(3), 11(4), 13(3), 14,
	16(3), 17H, 17J or 27	that [insert details of the specific order
	sought]; and	
		fically any other orders sought].
Accompanying		nied by an affidavit stating the material
document	facts relied on.	
Notice to	The Court will hear this su	mmons, or make orders for the conduct
defendant ¹	of this case —	
	on [date] at [time], or as soon after then as possible,	
	at the Supreme Court, David Malcolm Justice Centre, 28 Barrack	
	Street, Perth.	
	If you or your lawyer do not attend, the Court may make orders	
	in your absence and without further notice.	
	You must file a memorandum of appearance before attending Court	
	or taking any other steps in	
Serving this		summons has been abridged to [date and
summons	time] by an order made by	
	[Select one of these 3 optio	
		summons on all other parties.
		summons on the following other parties:
	[insert name of each party on whom summons is to be served].	
D1 1 100	*It is not intended to serve this summons on any party.	
Plaintiff's	*Name of lawyer:	
service details ²	*Address where lawyer conducts business:	
	Postal address for service of documents:	
	Email address:	m 1 1
	Fax no.:	Telephone no.:

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Plaintiff's		Date:
signature		
	[Name]	
	[Capacity, e.g. Plaintiff, Lawyer for plaintiff]	

Footnotes to Form 10 —

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

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

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

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

Footnotes to Form 11 —

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

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

In the Supreme Court of Western Australia		No.:
Commercial and Managed Cases List		Originating summons to enforce award under Model Law art. 35
Subject of case	International Arbitration Act 1974 (Commonwealth).	
	Arbitration agreement betw	een [parties] dated [date].
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Reason for this	The plaintiff is a party to th	e above arbitration agreement and, by
summons	this originating summons, a	
	` '	del Law article 35 to enforce the award ate how it is to be enforced; and
	2 00	fically any other orders sought].
Accompanying	This summons is accompan	
document		nent referred to in the Model Law
document	article 35(2); and	lent referred to in the Woder Law
	(b) that states the followin	σ
		ch the award has not been complied with
	at the date of this	
	(ii) the usual or last known place of residence or business of	
	the person against whom it is sought to enforce the award	
	or, if the person is a company, the last known registered	
	office of the company.	
Notice to	The Court will hear this summons, or make orders for the conduct	
defendant ¹	of this case —	
	on [date] at [time], or as soon after then as possible,	
		d Malcolm Justice Centre, 28 Barrack
	Street, Perth.	
	If you or your lawyer do not attend, the Court may make orders	
	in your absence and without	
		um of appearance before attending Court
	or taking any other steps in	
Serving this	*The time for serving this summons has been abridged to [date and	
summons	time] by an order made by t	
	[Select one of these 3 option	
		summons on all other parties.
	*It is intended to serve this summons on the following other parties:	
	[insert name of each party on whom summons is to be served].	
	*It is not intended to serve this summons on any party.	

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

Footnotes to Form 12 —

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

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

In the Supreme C	Court of Western Australia	No.:
Commercial and Managed Cases List		Originating summons for leave to enforce award to which <i>International Arbitration Act 1974</i> (Commonwealth) Part IV applies
Subject of case		Act 1974 (Commonwealth) s. 35(2). ween [parties] dated [date].
Parties to case	[Name] [Name]	Plaintiff Defendant
Reason for this summons	(a) an order under the <i>Inta</i> (Commonwealth) s. 3: which Part IV of that <i>it is to be enforced</i>]; a	nating summons, applies for — ernational Arbitration Act 1974 5(2) granting leave to enforce an award to Act applies [identify award and state how nd ifically any other orders sought].
Accompanying document	This summons is accompated following— (a) the extent to which the date of this summons; (b) the usual or last known person against whom	nied by an affidavit stating the e award has not been complied with at the

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

Footnotes to Form 13 —

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

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

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

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

Footnotes to Form 14 —

- Delete the inapplicable.
- The service details must comply with the RSC Order 71A rule 3.

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

In the Supreme Court of Western Australia		No.:
Commercial and	Managed Cases List	Originating summons for issue of
		subpoena
Subject of case	Commercial Arbitration Act 2012 s. 27A.	
	Arbitration agreement betw	een [parties] dated [date].
Parties to case	[Name]	Plaintiff
	[Name]	Defendant
Reason for this		e above arbitration agreement and, by
summons	this originating summons, a	
		a under the Commercial Arbitration
		entify person to whom subpoena will be
	addressed and type of	:
		fically any other orders sought].
Accompanying	This summons is accompar	
documents	-	cordance with *Form 16/Form 17/
	Form 18.	
	2. An affidavit stating the	
		parties to the arbitration;
	(b) the name of the arbitrator or the names of the arbitrators	
	constituting the arbitral tribunal conducting the arbitration; (c) the place where the arbitration is being conducted;	
	` '	permission given by the arbitral tribunal
	for the application	
		ey (if appropriate) to be paid to the
	addressee:	y (if appropriate) to be paid to the
	,	ses payable to the addressee.
Notice to	The Court will hear this summons, or make orders for the conduct	
defendant ¹	of this case —	inners, or many cruers for the conduct
on [date] at [time], or as soon after then as p		on after then as possible.
	at the Supreme Court, David Malcolm Justice Centre, 28 Barrack	
	Street, Perth.	
	If you or your lawyer do not attend, the Court may make orders	
	in your absence and with	
	You must file a memorando	um of appearance before attending Court
	or taking any other steps in this case.	

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

Footnotes to Form 15 —

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

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

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

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Issuing details	Issued at the request of: [Name of party], [role of party] Address for service: [See RSC Order 71A rule 3] Email:	
	Date of issue:	[Seal or stamp of Court]
Details of subpoena	Date, time and place at which you must attend and give oral evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted — Date: Time: Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address]. You must continue to attend from day to day unless excused by the	
	arbitral tribunal or the Court or u completed.	ntil the hearing of the matter is
	Notes	
Last day for service	1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.	
Informal service	2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.	
Addressee a company	3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.	
Conduct money		
Applications in relation to subpoena	5. You have the right to apply to the Court — (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and (b) for an order with respect to any claim you may have for privilege, public interest immunity or confidentiality.	
Loss or expense of compliance		

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Contempt of	7.	Failure to comply with a subpoena without lawful excuse is a
court — arrest		contempt of court and may be dealt with accordingly.
	8.	Note 7 is without prejudice to any power of the Court under any
		rules of the Court (including any rules of the Court providing
		for the arrest of an addressee who defaults in attendance in
		accordance with a subpoena) or otherwise, to enforce
		compliance with a subpoena.

Subpoena to produce documents to arbitral tribunal (WA Act **17.** s. 27A) (r. 17)

In the Supreme Court of Western Australia		No.:	
General Division		Subpoena to produce documents to	
		arbitral tribunal	
Subject of case	Commercial Arbitration Ac	t 2012 s. 27A.	
	Arbitration agreement betw	een [parties] dated [date].	
Parties to case	[Name]	Plaintiff	
	[Name]	Defendant	
То	[Name of witness] of [addre	ess]	
Order	You are ordered to produ	ce this subpoena or a copy of it and	
	the documents specified in	the schedule of documents.	
	See below for details.		
	Failure to comply with the	is subpoena without lawful excuse is a	
	contempt of court and ma		
	Please read Notes 1 to 16 at		
Last date for	The last date for service of this subpoena is [date]. (See Note 1).		
service			
Issuing details	Issued at the request of: [Name of party], [role of party]		
	Address for service: [See RSC Order 71A rule 3]		
	Email:		
	Date of issue:	[Seal or stamp of Court]	
Details of	You must comply with this	subpoena —	
subpoena		e this subpoena or a copy of it and the	
	· / • • · ·	the schedule of documents below at the	
		ecified for attendance and production; or	
	, I	g this subpoena or a copy of it and the	
	documents specified in the schedule of documents below to the		
		address below, or if there is more than	
	one address below, at a	any one of those addresses, so that they	
	are received not less than 2 clear business days before the date		
	specified for attendance and production. (See Notes 5 to 12).		
	Date, time and place at which you must produce the subpoena or a		
	copy of it and documents, u	inless you receive notice of a later date or	

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

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Objection to	6.	If you object to a document or thing produced in response to		
the inspection		this subpoena being inspected by a party to the proceeding or		
of document or		any other person, you must, at the time of production, notify the		
thing produced		arbitral tribunal in writing of your objection and of the grounds		
		of your objection.		
	7.	Unless the Court otherwise orders, if you do not object to a		
		document or thing produced by you in response to the subpoena		
		being inspected by any party to the proceeding, the arbitral		
		tribunal may permit the parties to the proceeding to inspect the		
		document or thing.		
Production of a	8.	If you produce more than one document, you must, if requested		
number of		by the arbitral tribunal, produce a list of the documents		
documents		produced.		
Production of	9.	You may, with the consent of the issuing party, produce a copy,		
copy instead of		instead of the original, of any document that the subpoena		
original		requires you to produce.		
8	10.	The copy of a document may be —		
		(a) a photocopy; or		
		(b) in an electronic form on a CD-ROM, DVD or USB device		
		in any of the following electronic formats:		
		.doc and .docx – Microsoft Word documents		
		.pdf – Adobe Acrobat documents		
		.xls and .xlsx – Microsoft Excel spreadsheets		
		.jpg – image files		
		.rtf – rich text format		
		.gif – graphics interchange format		
		.tif – tagged image format.		
Return or	11	You may, at the time of production, inform the arbitral tribunal		
destruction of	11.	that any document or copy of a document produced need not be		
documents or		returned and may be destroyed.		
copies	12	If you have so informed the arbitral tribunal, the arbitral		
copies	12.	tribunal may destroy the document or copy instead of returning		
		it to you.		
Applications in	13	You have the right to apply to the Court —		
relation to	13.	(a) for an order setting aside the subpoena (or a part of it) or		
subpoena		for relief in respect of the subpoena; and		
завросна		(b) for an order with respect to any claim you may have for		
		privilege, public interest immunity or confidentiality.		
Loss or expense	14.			
of compliance	17.	pay an amount (in addition to conduct money and any witness's		
or compliance		expenses) in respect of the loss or expense, including legal		
		costs, reasonably incurred in complying with the subpoena.		
Contempt of	15	Failure to comply with a subpoena without lawful excuse is a		
court — arrest	13.	contempt of court and may be dealt with accordingly.		
court — arrest		contempt of court and may be dealt with accordingly.		

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1	6. Note 15 is without prejudice to any power of the Court under
	any rules of the Court (including any rules of the Court
	providing for the arrest of an addressee who defaults in
	attendance in accordance with a subpoena) or otherwise, to
	enforce compliance with a subpoena.

18. Subpoena to give oral evidence and produce documents to arbitral tribunal (WA Act s. 27A) (r. 17)

In the Supreme Court of Western Australia		
General Division		oena to give oral evidence and
	produ	ice documents to arbitral
	tribuı	nal
Commercial Arbitration Ac	t 2012	s. 27A.
Arbitration agreement betw	een [pa	
[Name]		Plaintiff
		Defendant
	f docu	ments to an arbitral tribunal.
The last date for service of this subpoena is [date]. (See Note 1).		
	sc <i>Ori</i>	ter / 1A rute 5]
		[Seal or stamp of Court]
Date of issue:		[Seat or stamp of Court]
In so far as you are required	l by thi	s subpoens to attend and give oral
	5541115	party, in which case the later date
Date:		
Time:		
Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at [address].		
You must continue to attend from day to day unless excused by the		
arbitral tribunal or the Court or until the hearing of the matter is		
completed.		
	Commercial Arbitration Ac Arbitration agreement betw [Name] [Name] [Name] [Name] [Name of witness] of [addre You are ordered to attend produce this subpoena or specified in the schedule o See below for details. Failure to comply with thi contempt of court and ma Please read Notes 1 to 16 at The last date for service of the Issued at the request of: [Na Address for service: [See Ri Email: Date of issue: In so far as you are required evidence, you must attend a later date or time from the is or time is substituted — Date: Time: Place: [Name(s) of arbitrat [address]. You must continue to attend arbitral tribunal or the Cour	Commercial Arbitration Act 2012 Arbitration agreement between [pace [Name] [Name] [Name] [Name] [Name of witness] of [address] You are ordered to attend and generated in the schedule of docuse below for details. Failure to comply with this subpecontempt of court and may resuent please read Notes 1 to 16 at the entrangement. The last date for service of this subsection of the service of this subsection of the service of this subsection. Issued at the request of: [Name of Address for service: [See RSC Order Email: Date of issue: In so far as you are required by the evidence, you must attend as followed later date or time from the issuing or time is substituted— Date: Time: Place: [Name(s) of arbitrator(s) of [address]. You must continue to attend from arbitral tribunal or the Court or under the court

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In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents, you must comply with this subpoena —

- (a) by attending to produce this subpoena or a copy of it and the documents specified in the schedule of documents below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents specified in the schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5-12).

Date, time and place at which you must produce the subpoena or a copy of it and documents, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted —

Date: Time:

Place: [Name(s) of arbitrator(s) constituting arbitral tribunal] at

[address].

Address, or any address, to which the subpoena (or copy) and documents may be delivered or posted —

[Name] at [address].

Schedule of documents

The documents and things you must produce are as follows:

[List the documents and state whether the original of any document is required. If insufficient space, attach list.]

Notes			
Last day for	1.	You need not comply with the subpoena unless it is served on	
service		you on or before the date specified in the subpoena as the last	
		date for service of the subpoena.	
Informal	2.	Even if this subpoena has not been served personally on you,	
service		you must, nevertheless, comply with its requirements, if you	
		have, by the last date for service of the subpoena, actual	
		knowledge of the subpoena and of its requirements.	
Addressee a	3.	If the subpoena is addressed to a company, the company must	
company		comply with the subpoena by its appropriate or proper officer.	
Conduct money	4.	You need not comply with the subpoena unless conduct money	
		sufficient to meet your reasonable expenses of attending to give	
		oral evidence and attending to produce the subpoena (or a copy	
		of it) and the document(s) or thing(s) as required by the	
		subpoena is handed or tendered to you a reasonable time before	
		the date your attendance is required.	

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Production of	. Instead of attending to produce the subpoena (or a copy of it)	
subpoena or	and the document(s) or thing(s), you may comply with the	
copy of it and	subpoena by delivering or sending the subpoena (or a copy of	
documents by	it) and the documents to the arbitral tribunal —	
delivery or post	(a) at the address specified in the subpoena for the purpose; or	
	(b) if more than one address is specified — at any of those	
	addresses,	
	so that they are received not less than 2 clear business days	
	before the date specified in the subpoena for attendance and	
	production, or if you receive notice of a later date or time from	
	the issuing party, before the later date or time.	
Objection to	6. If you object to a document or thing produced in response to	
the inspection	this subpoena being inspected by a party to the proceeding or	
of document or	any other person, you must, at the time of production, notify the	
thing produced	arbitral tribunal in writing of your objection and of the grounds	
oning produced	of your objection.	
	. Unless the Court otherwise orders, if you do not object to a	
	document or thing produced by you in response to the subpoena	
	being inspected by any party to the proceeding, the arbitral	
	tribunal may permit the parties to the proceeding to inspect the	
	document or thing.	
Production of a	s. If you produce more than one document, you must, if requested	
number of	by the arbitral tribunal, produce a list of the documents	
documents	produced.	
Production of	You may, with the consent of the issuing party, produce a copy,	
copy instead of	instead of the original, of any document that the subpoena	
original	requires you to produce.	
, g	0. The copy of a document may be —	
	(a) a photocopy; or	
	(b) in an electronic form on a CD-ROM, DVD or USB device	
	in any of the following electronic formats:	
	.doc and .docx – Microsoft Word documents	
	.pdf – Adobe Acrobat documents	
	.xls and .xlsx – Microsoft Excel spreadsheets	
	.jpg – image files	
	.rtf – rich text format	
	.gif – graphics interchange format	
	.tif – tagged image format.	
Return or	1. You may, at the time of production, inform the arbitral tribunal	
destruction of	that any document or copy of a document produced need not be	
documents or	returned and may be destroyed.	
copies	2. If you have so informed the arbitral tribunal, the arbitral	
_	tribunal may destroy the document or copy instead of returning	
	it to you.	
	n to jour	

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Applications in	3. You have the right to apply to the Court —		
relation to	(a) for an order setting aside the subpoena (or a part of it) or		
subpoena	for relief in respect of the subpoena; and		
	(b) for an order with respect to any claim you may have for		
	privilege, public interest immunity or confidentiality.		
Loss or expense	14. You may apply to the Court for an order that the issuing party		
of compliance	pay an amount (in addition to conduct money and any witness's		
	expenses) in respect of the loss or expense, including legal		
	costs, reasonably incurred in complying with the subpoena.		
Contempt of	Failure to comply with a subpoena without lawful excuse is a		
court — arrest	contempt of court and may be dealt with accordingly.		
	Note 15 is without prejudice to any power of the Court under		
	any rules of the Court (including any rules of the Court		
	providing for the arrest of an addressee who defaults in		
	attendance in accordance with a subpoena) or otherwise, to		
	enforce compliance with a subpoena.		

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

In the Supreme Court of Western Australia		No.:	
Commercial and Managed Cases List		Originating summons for order to	
		give evidence, produce documents or	
		do relevant thing	
Subject of case	Commercial Arbitration Ac	ct 2012 s. 27B.	
	Arbitration agreement betw	veen [parties] dated [date].	
Parties to case	[Name]	Plaintiff	
	[Name]	Defendant	
Reason for this	1 1 7	the arbitral tribunal for the above	
summons		by this originating summons, applies	
	for —		
	1. an order under the Commercial Arbitration Act 2012 s. 27B that		
	[identify person against whom order is sought] do the		
	following —		
	*(a) attend before the Court for examination;		
	*(b) produce the following documents to the Court: [specify];		
	*(c) do the following things: [specify];		
	and		
	2. [state briefly but specifically any other orders sought].		
	This application relies on the Commercial Arbitration Act 2012		
	s. 27B(1) [insert relevant paragraph number].		

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

Footnotes to Form 19 —

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

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

Commercial and M	Janagad Casas List			
	rianageu Cases List	Originating summons to *prohibit/		
		allow disclosure of confidential		
		information in relation to arbitral		
		proceedings		
J	Commercial Arbitration Ac			
	Arbitration agreement betw	een [parties] dated [date].		
	[Name]	Plaintiff		
	[Name]	Defendant		
		e above arbitration agreement and, by		
	this originating summons, a			
	. ,	nmercial Arbitration Act 2012 s. *27H/		
		by [name of party] of confidential		
		ails of the confidential information] be		
		absolutely/on the following terms [insert		
	any terms sought]; and			
		fically any other orders sought].		
		nied by an affidavit stating the		
	following —			
	(a) the material facts relied on;			
1	(b) *[For an application made under s. 27H] the terms of the order			
	of the arbitral tribunal allowing disclosure of the information and the date the order was made.			
	(b) *[For an application made under s. 27I]—			
	*the date the arbitral tribunal's mandate was terminated. *the date and terms —			
		de to the arbitral tribunal for disclosure		
	of the confidential information; and (ii) of the arbitral tribunal's refusal to make the order.			
Notice to	. ,	nmons, or make orders for the conduct		
1	of this case —	innois, of make orders for the conduct		
	on [date] at [time], or as soon after then as possible, at the Supreme Court, David Malcolm Justice Centre, 28 Barrack			
	Street, Perth.			
	If you or your lawyer do not attend, the Court may make orders			
	in your absence and without			
		um of appearance before attending Court		
	or taking any other steps in			

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

Footnotes to Form 20 —

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

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

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

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

Footnotes to Form 21 —

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

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

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

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

Footnotes to Form 22 —

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

23. Originating summons to set aside award (WA Act s. 34) (r. 22(1))

In the Supreme Court of Western Australia		No.:	
Commercial and Managed Cases List		Originating summons to set aside	
		award	
Subject of case	Commercial Arbitration Act 2012 s. 34.		
	Arbitration agreement between [parties] dated [date].		
Parties to case	[Name]	Plaintiff	
	[Name] Defendant		
Reason for this	The plaintiff is a party to the above arbitration agreement and, by		
summons	this originating summons, applies for —		
	(a) an order under the Commercial Arbitration Act 2012 s. 34		
	setting aside the award [identify award]; and		
	(b) [state briefly but specifically any other orders sought].		
	This application relies on the <i>Commercial Arbitration Act 2012</i> s. 34(2) [<i>identify the subparagraphs of s. 34(2)(a) or (b) relied on</i>]. The grounds for this application are: [<i>Set out the grounds, if necessary on an attached list</i>].		

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Accompanying	This summons is accompanied by an affidavit —		
document	(a) that exhibits the following —		
	(i) a copy of the arbitration agreement;		
	(ii) a copy of the award, including the reasons	of the arbitral	
	tribunal for the award;		
	and		
	(b) that states the following —		
	(i) the material facts relied on;		
	(ii) the date on which the applicant received the	ne award or, if a	
	request was made under the Commercial A		
	Act 2012 s. 33 to the arbitral tribunal to co	rrect the award,	
	the date on which that request was dispose	d of by the	
	arbitral tribunal.	-	
Notice to	The Court will hear this summons, or make orders for the conduct		
defendant ¹	of this case —		
	on [date] at [time], or as soon after then as possible,		
	at the Supreme Court, David Malcolm Justice Centre	e, 28 Barrack	
	Street, Perth. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.		
	You must file a memorandum of appearance before	attending Court	
	or taking any other steps in this case.		
Serving this	*The time for serving this summons has been abridged to [date and		
summons	[Select one of these 3 options and delete the others.] *It is intended to serve this summons on all other parties. *It is intended to serve this summons on the following other parties: [insert name of each party on whom summons is to be served].		
D1 : .: CC	*It is not intended to serve this summons on any party.		
Plaintiff's service details ²	*Name of lawyer:		
service details	*Address where lawyer conducts business: Postal address for service of documents: Email address:		
Plaintiff's	Fax no.: Telephone no.:	Date:	
signature		Date.	
Signature	[Name]		
	[Capacity, e.g. Plaintiff, Lawyer for plaintiff]		

Footnotes to Form 23 —

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

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

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

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

Footnotes to Form 24 —

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

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

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

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

Footnotes to Form 25 —

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

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Notes

This is a compilation of the *Supreme Court (Arbitration) Rules 2016*. The following table contains information about those rules.

Compilation table

Citation	Gazettal	Commencement
Supreme Court (Arbitration) Rules 2016	20 Dec 2016 p. 5819-85	Pt. 1: 20 Dec 2016 (see r. 2(a)); Pt. 2-4 and Sch. 1: 3 Jan 2017 (see r. 2(b))

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)
arbitration	3(1)
Commonwealth Act	3(1)
Form	3(1)
Model Law	3(1)
RSC	
WA Act	