

JU301*

Magistrates Court Act 2004

Magistrates Court (General) Amendment Rules 2008

Made by the Magistrates Court.

1. Citation

These rules are the *Magistrates Court (General) Amendment Rules 2008*.

2. Commencement

These rules come into operation as follows:

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day on which the *Acts Amendment (Justice) Act 2008* section 71 comes into operation.

3. The rules amended

The amendments in these rules are to the *Magistrates Court (General) Rules 2005*.

4. Rules 37 to 40 replaced by rules 37 to 41A

Rules 37, 38, 39 and 40 are repealed and the following rules are inserted instead —

“

37. Request to inspect or obtain a copy of a document (Act s. 33(3) or (7))

- (1) A request under the Act section 33(3) or (7) must be made by lodging a Form 1.

- (2) When the request is lodged, a registrar —
 - (a) must grant the request if the registrar is satisfied that the request is being made by a person who is entitled under the Act section 33(3) or (7) to inspect or obtain a copy of the document requested;
 - (b) otherwise, may list the request for hearing by a magistrate.
- (3) A magistrate hearing the request may —
 - (a) without hearing the person making the request, grant it; or
 - (b) after hearing the person making the request, grant or refuse it.

38. Application for leave in respect of a court record

- (1) An application for leave under the Act section 33(4) must be made by lodging a Form 2.
- (2) When the request is lodged, a registrar may grant it or list it for hearing by a magistrate.
- (3) A magistrate who is hearing the application may —
 - (a) without hearing the applicant, grant it; or
 - (b) after hearing the applicant, grant or refuse it.

39. Applications for access to information

- (1) An application under the Act section 33(8) must be made by lodging a Form 3A together with an affidavit supporting the application.
- (2) When the application is lodged, a registrar must list it for hearing by a magistrate.
- (3) Except as provided in subrule (4), a magistrate hearing an application may —
 - (a) without hearing the person making the application, grant it; or
 - (b) after hearing the person making the application, grant or refuse it.
- (4) If the application relates to information applicable to more than one registry, the Principal Registrar must prepare a report relating to the application and the magistrate must consider that report before determining the application.

40. Requests for outcome in a criminal case

- (1) Except as provided in any order under the *Criminal Procedure Act 2004* section 171, in respect of criminal proceedings in the Court, any person is entitled, on request, to the following information relating to a case —
 - (a) the name of the accused;
 - (b) each charge against the accused;
 - (c) any conviction or order made in respect of the charge;
 - (d) any penalty imposed on the accused in relation to the charge.
- (2) A request may be made at a registry —
 - (a) orally, in person or by telephone; or
 - (b) in writing, by mail, fax or email.

41A. Requests for access to searchable information

- (1) In this rule —

“approved recipient” means a person who is approved in writing by the Attorney General as a person entitled to receive searchable information;

“searchable information” means any of the following information in respect of civil proceedings in the Court —

 - (a) the names and addresses of the parties;
 - (b) the amount and nature of the claim;
 - (c) the amount of any judgment entered;
 - (d) whether the case has been discontinued.
- (2) An approved recipient is entitled, on request, to obtain searchable information in relation to a case.
- (3) A request under subrule (2) must be made in writing, by mail, fax or email.
- (4) When the request is lodged, a registrar must, on each working day in the period of 12 months after the lodgment, provide the approved recipient with such searchable information that has not already been provided to the recipient in relation to each case before the Court.
- (5) If suitable facilities exist at the Court to enable the searchable information to be provided by email to an approved recipient, then the registrar must not provide the information except by email.

5. Rule 41 amended

Rule 41(1) is amended as follows:

- (a) by inserting after “rule 37” —
“ or 40 ”;
- (b) by deleting “rule 39” and inserting instead —
“ rule 38 or 39 ”.

6. Schedule 2 amended

- (1) Schedule 2 Form 1 is deleted and the following form is inserted instead —

“

1. Request to inspect or obtain copy of document from the Court (r. 37)

<i>Magistrates Court Act 2004</i> s. 33(3), (7) Magistrates Court at No:		Request to inspect or obtain copy of document from the Court	
Person making the request	Full name		
	Address		
	Telephone		Fax
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Documents wanted			
Request by a party [Delete if not applicable.]	I am a party to the above case and I would like — <input type="checkbox"/> to inspect; <input type="checkbox"/> to obtain a copy of, the above documents.		
Request by non-party	I am not a party to the above case. I would like — <input type="checkbox"/> to inspect; <input type="checkbox"/> to obtain a copy of, the above documents because the case is a criminal case and I am a person referred to in the <i>Magistrates Court Act 2004</i> s. 33(7), namely — [give details].		
Signature of person making the request		Date	

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- (2) Schedule 2 Form 2 is amended in the heading by deleting
“(r. 39)” and inserting instead —
“ (r. 38) ”.

(3) After Schedule 2 Form 2 the following form is inserted —

“

**3A. Application for access to information held by the Court
(r. 39)**

<i>Magistrates Court Act 2004</i> s. 33(8) Magistrates Court at No:		Application for access to information held by the Court	
Applicant	Full name		
	Address		
	Telephone		Fax
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Information wanted			
Application	I would like — <input type="checkbox"/> to inspect; <input type="checkbox"/> to obtain a copy of; <input type="checkbox"/> to view or listen to, the above information. [Set out grounds for the request.]		
Signature of applicant		Date	

”

Dated: 3 April 2008.

STEVEN HEATH

Chief Magistrate

E. WOODS

Deputy Chief Magistrate

PAUL M. HEANEY

Magistrate

P. G. COCKRAM

Magistrate
