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Supreme Court Act 1935

## Supreme Court Rules Amendment Rules 2017

Made by the judges of the Supreme Court.

### Part 1 — Preliminary matters

#### 1. Citation

These rules are the *Supreme Court Rules Amendment Rules 2017*.

#### 2. Commencement

These rules come into operation as follows —

- (a) Part 1 — on the day on which these rules are published in the *Gazette* (*gazettal day*);
- (b) rule 30 — on 4 September 2017;
- (c) the rest of the rules — on the 14<sup>th</sup> day after gazettal day.

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**Part 2 — Rules of the Supreme Court 1971 amended****3. Rules amended**

This Part amends the *Rules of the Supreme Court 1971*.

**4. Order 1 amended**

- (1) In Order 1 rule 4(1) delete the definitions of:

*case*

*case management registrar*

*to file*

- (2) In Order 1 rule 4(1) insert in alphabetical order:

*file*, in relation to a document, means to comply with  
Order 67 rule 18A(2) in relation to the document;

**5. Order 4A Division 1 amended**

- (1) In Order 4A rule 1 delete the definitions of:

*case*

*case manager*

*CMC List judge*

- (2) In Order 4A rule 1 insert in alphabetical order:

*case* means any action, cause or matter in the General  
Division of the Court;

*case manager* means a judge, master or registrar to  
whom the case is assigned;

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- (3) After Order 4A rule 2(2)(i) insert:
- (ia) give directions for the purposes of Order 36A rule 1 as to expert evidence including directions as to any of the following —
    - (i) the provision to a party or the Court of a copy of a report, or part of a report, of an expert witness, before the trial;
    - (ii) the disclosure to a party or the Court, in writing, of the substance of all or any part of expert evidence, before the trial;
    - (iii) the number of expert witnesses who may be called at the trial;
    - (iv) the provision to the case manager for inspection under subrule (6) of any report or document containing expert evidence or the substance of the expert evidence;
- (4) In Order 4A rule 2(2)(k) delete “exchanged under Order 36A,” and insert:
- provided or whose evidence the substance of which has been disclosed, under a direction under paragraph (ia),
- (5) Delete Order 4A rule 2(2)(m).
- (6) In Order 4A rule 2(2)(w) delete “case management”.
- (7) After Order 4A rule 2(5) insert:
- (6) For the purpose of deciding whether to make a direction for the purposes of Order 36A rule 1, the case manager may inspect any report or document

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containing expert evidence or the substance of the expert evidence, with or without disclosing the contents of that report or document to any other party.

**6. Order 4A Division 2 amended**

- (1) Delete Order 4A rules 5 to 7 and insert:

**4A. Case management conferences**

An interlocutory application or matter, a review under rule 5 and a request by a party (including a request by a party under rule 5A) must be dealt with by way of a case management conference unless —

- (a) the case manager directs otherwise; or
- (b) a decision is made in relation to the application, matter, review or request on the basis of documents filed without requiring the parties or their practitioners to attend a hearing.

**5. Case manager may review case at any time**

- (1) The case manager for a case may review the progress of the case —
  - (a) at any time in the case, on the case manager's own initiative after notifying the parties; or
  - (b) when hearing a request by a party (including a request by a party under rule 5A); or
  - (c) when hearing any other application in the case.
- (2) On the review, the case manager may do all or any of the following —
  - (a) make any interlocutory order the case manager considers just;

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- (b) make any case management direction the case manager considers just;
  - (c) make any enforcement order the case manager considers just.
- (3) For the purposes of subrule (1)(a), the case manager may at any time direct all or any of the parties to a case to attend before the case manager.
- (4) If the case manager is a master, subrules (1) and (2) are subject to Order 60 rule 1(3) and (4).
- (5) If the case manager is a registrar, subrules (1) and (2) are subject to Order 60A rule 2(2), (3) and (4).

**5A. Requesting interlocutory orders and case management directions**

- (1) A party to a case may at any time request the case manager to do any of the following —
  - (a) make an interlocutory order that the case manager has jurisdiction to make;
  - (b) make, cancel or amend a case management direction.
- (2) The party must make the request by way of a letter to the case manager in accordance with rule 5B(1) and (2) unless —
  - (a) the request is made orally either during a case management conference or during a hearing; or
  - (b) a motion or summons is justified by the circumstances of the particular case or the nature of the request, in which case the request may be made by way of motion or summons; or
  - (c) the *Supreme Court (Corporations) (WA) Rules 2004* apply to the case, in which case the request must be made under those rules; or

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- (d) a form, prescribed under a written law, is specific to the nature of the request, in which case the request must be made in that form.
- (3) The case manager may by notice, direct the parties to attend a case management conference or a hearing to consider the request.

**5B. Request under r. 5A by letter**

- (1) A party making a request under rule 5A by way of a letter must —
  - (a) file the letter and any attachments; and
  - (b) set out in the letter details of any order or direction sought or attach to the letter a minute in Form 78 of any order sought; and
  - (c) attach to the letter any other relevant document; and
  - (d) email a copy of the letter and the attachments to the associate to the case manager, or if the case manager is not known, to the associate to the Principal Registrar; and
  - (e) give a copy of the letter and the attachments to the other parties.
- (2) A party must comply with subrule (1) not less than 2 clear days before the case manager is requested to act upon the request.
- (3) A party who fails to comply with subrule (1) or (2) in relation to a letter, attachment or other document cannot, without the case manager's leave, refer to or rely on the document —
  - (a) in any hearing; or
  - (b) in any other filed document.

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- (4) If a party is given leave to refer to or rely on a document referred to in subrule (3), the party must file the document as soon as practicable after the leave is given.
- (5) Order 67 rule 18A(5) and (6) do not apply to a party who fails to comply with subrule (1)(a).
- (6) The case manager may direct a party who has made a request by way of a letter to make the request in some other manner.

**5C. Request under r. 5A at case management conference or hearing**

A party who seeks to refer to or rely on a document while making an oral request during a case management conference or a hearing referred to in rule 5A(2)(a) must —

- (a) if the document contains a proposed order or a direction, file the document as soon as practicable after the conference or hearing; and
- (b) if the document is required to be filed under these rules, comply with Order 67 rule 18A in relation to the document.

**6. Timetables**

- (1) This rule applies if the case manager for a case directs the parties to the case to comply with a timetable for procedural steps that are needed in the case.
- (2) The case manager making the direction must set the timetable.

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- (3) The case manager may do all or any of the following —
  - (a) amend the timetable, whether on the case manager's own initiative or on a party's request;
  - (b) at any time direct the parties to explain in writing why the timetable has not been complied with;
  - (c) at any time, by notice, direct the parties to attend a hearing and explain why the timetable has not been complied with;
  - (d) for the purposes of a hearing under paragraph (c), direct the parties to file an affidavit in response to the direction at any time that the case manager considers just;
  - (e) after a hearing under paragraph (c) —
    - (i) amend the timetable;
    - (ii) make any case management direction the case manager considers just;
    - (iii) make any enforcement order the case manager considers just;
  - (f) if a party does not comply with the timetable, obey a direction under paragraph (c) or file an affidavit as directed, make any case management direction or enforcement order the case manager considers just.
- (4) If the case manager is a master, subrule (3)(e) and (f) are subject to Order 60 rule 1(3) and (4).
- (5) If the case manager is a registrar, subrule (3)(e) and (f) are subject to Order 60A rule 2(2), (3) and (4).



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- (6) If a direction is made under subrule (3)(b), the parties and their practitioners must —
  - (a) give the Court the explanation within the time specified in the direction; and
  - (b) serve the explanation on each other party.

**7. Attendance at proceedings under this Order**

- (1) A party who is represented by a practitioner need not attend a proceeding under this Order unless subpoenaed or directed to do so by the case manager.
  - (2) Unless the case manager directs otherwise, subrule (1) does not apply to —
    - (a) a conference conducted by a mediator under rule 8; or
    - (b) a strategic conference held under rule 14A; or
    - (c) the first case management conference for the case referred to in rule 18(1).
  - (3) If there is no practitioner on the record for a party that is a body corporate, the case manager presiding at a proceeding under this Order may permit a person who is not a practitioner to represent the party.
- (2) Delete Order 4A rule 8(1) and insert:
- (1) The case manager for a case may, by notice, direct that a conference conducted by a mediator be held for the case.
- (3) In Order 4A rule 8(2) and (3) delete “Court” and insert:
- case manager

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(4) After Order 4A rule 8(3) insert:

(3A) The following persons must attend the conference unless the mediator or the case manager directs otherwise —

- (a) each party to the case;
- (b) if a party is represented by a practitioner, the practitioner;
- (c) if a party is not an individual, a representative of the party with authority to conduct settlement negotiations and to settle the case;
- (d) if settlement negotiations are to be conducted on behalf of a party by its insurer, a representative of the insurer with authority to conduct settlement negotiations and to settle the case.

(5) In Order 4A rule 8(4):

- (a) delete “order made by the Court —” and insert:

direction made by the case manager —

- (b) in paragraph (b) delete “Court” and insert:

case manager

- (c) in paragraphs (c) and (d) delete “it is ordered otherwise or”.

(6) In Order 4A rule 9(1) delete “if the Court” and insert:

if the case manager for a case

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- (7) In Order 4A rule 9(2) and (3) delete “judge, master or registrar making the direction or the case manager for the case” and insert:

case manager

**7. Order 4A Division 3 amended**

- (1) In Order 4A rule 10 delete “ordered otherwise by a CMC List judge.” and insert:

directed otherwise by a CMC List case manager.

- (2) In Order 4A rule 11:

- (a) in paragraph (b) delete “ordered” and insert:

directed

- (b) in paragraph (ca) delete “Order 81D applies;” and insert:

the *Supreme Court (Arbitration) Rules 2016* apply;

- (3) Delete Order 4A rules 13 and 14 and insert:

**13. CMC List case manager may direct case to be on or taken off CMC List**

- (1) Only a CMC List case manager can direct that a case be admitted to or taken off the CMC List.
- (2) A CMC List case manager, on the case manager’s own initiative or on a request made under rule 14, may direct a case to be admitted to the CMC List.

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- (3) A CMC List case manager, on the case manager's own initiative or on a request by a party, may direct a CMC List case to be taken off the CMC List.

**14. Requesting case be put on CMC List**

- (1) A party to a case may request a direction that the case be admitted to the CMC List.
- (2) The request must not be made until after the first of the following events occurs —
  - (a) an appearance has been entered by each party who is required to do so;
  - (b) the time limited for appearing expires.
- (3) The request is a request under rule 5A and must —
  - (a) be made by letter in accordance with rule 5B(1) and (2); and
  - (b) contain the email address (if any) —
    - (i) of each party to the case, other than a party who is required to enter an appearance and has not; and
    - (ii) that was provided by a party in accordance with Order 71A rule 3.
- (4) A request made under this rule must be decided by a CMC List case manager.
- (5) At the hearing of the request, the CMC List case manager, if satisfied the case should be subject to this Division, may direct the case be admitted to the CMC List unless a party shows cause why it should not be admitted.

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**14A. Strategic conferences**

- (1) In this rule —  
*strategic conference* means a conference at which it is to be demonstrated how a party to a case proposes to attain the objects referred to in Order 1 rule 4B(1).
- (2) The CMC List case manager may, by notice, direct that a strategic conference be held for the case.
- (3) The following persons must attend the conference unless the case manager directs otherwise —
  - (a) each party to the case;
  - (b) if a party is represented by a practitioner, the practitioner.
- (4) In Order 4A rule 15(1) delete “case manager of a CMC List case may hear any interlocutory matter relating to the case, or may refer the matter to another” and insert:

CMC List case manager may hear any interlocutory matter relating to the case, or may refer the matter to a
- (5) After Order 4A rule 15(1) insert:
  - (2) If the CMC List case manager is a master, subrule (1) is subject to Order 60 rule 1(3) and (4).

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**8. Order 4A Division 4 amended**

Delete Order 4A rules 17 to 19 and insert:

**18. Case management conferences for cases not on CMC List**

- (1) The case manager for a case may, by notice, direct that the first case management conference be held for the case.
- (2) The following persons must attend the first case management conference for a case unless the case manager directs otherwise —
  - (a) each party to the case;
  - (b) if a party is represented by a practitioner, the practitioner.
- (3) At any case management conference the case manager may inquire into the following —
  - (a) whether pleadings or any specified pleadings are necessary;
  - (b) the state of the pleadings and whether the times prescribed by these rules for pleadings are being complied with and if not, the reasons for the non-compliance;
  - (c) whether any party intends to commence third party or similar proceedings under Order 19;
  - (d) whether any party intends to require discovery and inspection under Order 26;
  - (e) whether any party intends to interrogate under Order 27;

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- (f) whether any party intends to adduce expert evidence at the trial;
  - (g) whether a conference of the parties with a mediator is needed and if so, when;
  - (h) the likely length of the trial;
  - (i) any other matter relevant to ensuring the case is managed in accordance with Order 1 rule 4B.
- (4) A case is not to be entered for trial unless the case manager has conducted a full case evaluation at one or more case management conferences for the case.
- (5) The case manager may, at the request of a party, or on the case manager's own initiative, make a direction that subrule (4) does not apply to the case.
- (6) The case manager may conduct a full case evaluation referred to in subrule (4) by inquiring into the following —
  - (a) the state of the pleadings and if they are not closed, the reasons for that;
  - (b) whether a conference of the parties with a mediator is needed and if so, when;
  - (c) the content of any report or document containing expert evidence or the substance of expert evidence and whether a conference between experts is needed;
  - (d) whether the case, at the time of the listing conference, will be ready for trial and if not, the reasons for not being ready;
  - (e) whether the estimated length of the trial is still accurate;
  - (f) the number of witnesses to be called at the trial, whether there are any known difficulties as to the availability of any witness and the estimated

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time it will take for each witness to give evidence;

- (g) the administrative resources likely to be needed for the trial.

- (7) The first and any other case management conference may be held even if, at the time of the case management conference, not all parties to the case have been served with the originating process or have entered appearances.

**19. Powers of case manager at case management conferences for cases not on CMC List**

- (1) At any case management conference the case manager may at the request of a party or on the case manager's own initiative do one or more of the following —
- (a) make any interlocutory order the case manager considers just;
  - (b) make any case management direction the case manager considers just;
  - (c) make any enforcement order the case manager considers just.
- (2) If the case manager is a master, subrule (1) is subject to Order 60 rule 1(3) and (4).
- (3) If the case manager is a registrar, subrule (1) is subject to Order 60A rule 2(2), (3) and (4).
- (4) The case manager may at the request of a party or on the case manager's own initiative, arrange for one or more further case management conferences to be held but any further case management conference must not be held on or after the date of the listing conference.
- (5) The case manager may at the request of a party or on the case manager's own initiative, adjourn any case



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management conference from time to time but not to a date on or after the date of the listing conference.

**9. Order 4A Division 5 amended**

- (1) In Order 4A rule 21 in the definition of *Inactive Cases List* delete “under rule 25.” and insert:

for the purposes of this Division.

- (2) Delete Order 4A rule 22 and insert:

**22. Case manager may direct party to show cause**

- (1) The case manager for a case may at any time, by notice, direct the parties to attend a hearing before a case manager to show cause why the case should not be put on the Inactive Cases List.
- (2) The date of the hearing must be at least 7 days after the date on which the direction is made.
- (3) The direction does not prevent any party to the case from taking any procedural step in the case.
- (4) At the hearing the case manager may order that the case be put on the Inactive Cases List if not satisfied that the case is being conducted in a timely way, having regard to the requirements of these rules and the circumstances of the case.
- (5) An order may be made under subrule (4) in the absence of any party.

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- (3) Delete Order 4A rule 25 and insert:

**25. Parties to be notified of case being on Inactive Cases List**

- (1) When an order is made under rule 22(4), or an order made under rule 23(1) takes effect, or a case is taken to be inactive under rule 24, the Principal Registrar must —
- (a) put the case on the Inactive Cases List; and
  - (b) give all parties to the case written notice of —
    - (i) the fact that the case is on the Inactive Cases List and why; and
    - (ii) the effect of rule 28.
- (2) If under subrule (1)(b) written notice is given to a party to the case by giving the notice to a practitioner for the party, the practitioner must, as soon as practicable after receiving the notice, notify the party of —
- (a) the fact that the case is on the Inactive Cases List and why; and
  - (b) the effect of rule 28.
- (4) Delete Order 4A rule 26(1) and (2) and insert:
- (1) If a case is on the Inactive Cases List, only these documents may be filed in the Court in relation to the case —
- (a) a request for an order under rule 27(1);
  - (b) a notice of discontinuance by the plaintiff under Order 23 rule 2;
  - (c) a request made by the plaintiff or the defendant for leave under Order 23 rule 2;

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- (d) a written consent under Order 43 rule 16 to the making of an order that would finally dispose of the case.
- (2) If the plaintiff or defendant in a case on the Inactive Cases List files a request for leave under Order 23 rule 2, the Court may grant leave under that rule even though the case has not been removed from that list.
- (5) In Order 4A rule 27(1) delete “apply” and insert:

make a request
- (6) Delete Order 4A rule 28(1) and insert:
  - (1) If a case is on the Inactive Cases List for 6 continuous months after the date on which notice is given under rule 25(1)(b) to the parties to the case, the case is taken to have been dismissed for want of prosecution.
  - (1A) If notice is given under rule 25(1)(b) to different parties to the case on different dates, then, for the purposes of subrule (1), notice is taken to have been given on the last of those dates.

Note: The heading to amended Order 4A rule 28 is to read:

**Certain cases taken to have been dismissed**

**10. Order 6 amended**

- (1) In Order 6 rule 2 delete “libel” and insert:

defamation by publication

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- (2) In Order 6 rule 3(b) delete “libel, slander,” and insert:

defamation,

Note: The heading to amended Order 6 rule 2 is to read:

**Action for defamation by publication**

**11. Order 7 amended**

In Order 7 rule 4(1) delete “may issue a summons (to a hearing at least 7 days after it is issued) to the plaintiff to show cause why the writ should not be struck out.” and insert:

may, by notice, direct that a hearing be held, at least 7 days after the direction is made, where the plaintiff must show cause why the writ should not be struck out.

**12. Order 14 amended**

In Order 14 rule 7 delete “all such directions as to the further conduct of the action as might be given on a summons for directions under Order 29,” and insert:

directions as to the further conduct of the action

**13. Order 16 amended**

In Order 16 rule 3 delete “all such directions as to the further conduct of the action as might be given on a summons for directions under Order 29” and insert:

directions as to the further conduct of the action

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**14. Order 20 amended**

- (1) In Order 20 rule 13A(1), (2), (3) and (4) delete “libel or slander” and insert:

defamation

- (2) In Order 20 rule 21(4)(a) delete “libel, slander,” and insert:

defamation,

**15. Order 29 deleted**

Delete Order 29.

**16. Order 33 amended**

- (1) Delete Order 33 rule 1 and insert:

**1. Entry for trial**

A party cannot enter a cause, matter or issue for trial unless —

- (a) the party is satisfied —
- (i) that all of the interlocutory steps in relation to the cause, matter or issue are complete; and
  - (ii) that the cause, matter or issue is ready for entry;

or

- (b) the party is directed by the Court to do so.

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(2) Delete Order 33 rule 2(1) and insert:

(1) In this rule —

*entry period*, in relation to a direction under rule 1(b), means the period starting on the day the direction is given and ending —

- (a) at the time specified in the direction as the time by which the cause, matter or issue must be entered for trial; or
- (b) if a time by which the cause, matter or issue must be entered is not specified in the direction, 4 weeks after the day on which the direction is given.

(1A) A party may enter a cause, matter or issue for trial if another party has been directed under rule 1(b) to enter the cause, matter or issue for trial and has not done so before the end of the entry period.

(1B) A party may apply to the Court for an order dismissing, for want of prosecution, a cause or matter in respect of a plaintiff's claim or an issue raised by a plaintiff against the party, if the plaintiff has been directed under rule 1(b) to enter the cause, matter or issue for trial and has not done so before the end of the entry period.

(3) In Order 33 rule 2(2) after “application” insert:

under subrule (1B)

(4) Delete Order 33 rule 2(3).

(5) Delete Order 33 rules 5 to 13.

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(6) Before Order 33 rule 14(1) insert:

(1A) This rule applies unless otherwise directed by the Court.

(7) In Order 33 rule 14(2) delete “trial then, subject to any order of the Court” and insert:

the trial,

(8) In Order 33 rule 14(3) delete “shall, if so ordered,” and insert:

must

Note: The heading to amended Order 33 rule 2 is to read:

**Consequences of failing to enter for trial as directed**

**17. Order 34 amended**

(1) Before Order 34 rule 1 insert:

**1A. Outlines for trial**

(1) Unless the Court orders otherwise, each party who is directed to provide an outline must file and serve it on each other party —

(a) if the outline is on paper, at least 4 clear days before the trial; or

(b) if the outline is in a digital form, at least 2 clear days before the trial.

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- (2) A party's outline must contain —
  - (a) a summary of the submissions the party intends to make at the trial; and
  - (b) if the party considers it would be useful at the trial, a chronology of relevant events; and
  - (c) a list of the cases and legislation referred to in the submissions.
  
- (2) In Order 34 rule 6:
  - (a) delete “libel or slander,” and insert:  
  
defamation
  
  - (b) delete “libel or slander” and insert:  
  
defamation

Note: The heading to amended Order 34 rule 6 is to read:

**Evidence in mitigation of damages for defamation**

**18. Order 36A amended**

Delete Order 36A rules 1 to 9 and insert:

**1. Expert evidence**

- (1) A party may not adduce expert evidence at a trial of a cause or matter unless —
  - (a) the case manager for the case has directed that the party may do so; and
  - (b) the party has complied with all directions given in relation to that expert evidence.



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- (2) A party who is required to disclose expert evidence by a time set out in a direction may not, after that time, object to the disclosure on the ground of privilege as defined in the *Evidence Act 1906* section 32A.

**19. Order 36B amended**

- (1) In Order 36B rule 6(3) delete “rule 5(1),” and insert:
- rule 4(1),
- (2) Delete Order 36B rule 10(5) and (6) and insert:
- (5) Unless the Court orders otherwise, a registrar may, at the registrar’s discretion, cause to be destroyed a document produced in compliance with a subpoena if —
- (a) the document is declared by the addressee to be a copy; and
- (b) the registrar has given the issuing party at least 14 days’ notice of the intention to destroy the document and that period has expired.
- (6) Unless the Court orders otherwise, a registrar must not destroy a document under subrule (5) if the document has become an exhibit in a proceeding and is required in connection with the proceeding, including on any appeal.
- (3) In Order 36B rule 12(2) delete “rule 5(1),” and insert:
- rule 4(1),

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**20. Order 43 amended**

In Order 43 rule 16(1) delete “proceedings, other than an order that amends, cancels or is inconsistent with an interlocutory order made by a case manager under Order 4A.” and insert:

proceedings.

**21. Order 51 amended**

- (1) Delete Order 51 rule 3(3).
- (2) In Order 51 rule 3(4) delete “recognisance or undertaking” and insert:

security referred to in subrule (2)

**22. Order 52 amended**

Delete Order 52 rule 7(2).

**23. Order 58 amended**

- (1) Delete Order 58 rule 19(2) to (6) and insert:
  - (2) The plaintiff must not apply for an appointment under subrule (1) unless —
    - (a) the plaintiff is ready to proceed; and
    - (b) as far as is known to the plaintiff, the matter is ready for hearing.

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- (3) Unless the Court orders otherwise, at least 14 days before the time fixed for the hearing of the originating summons, the plaintiff must serve upon each defendant who has entered an appearance a copy of —
  - (a) the notice in Form 76; and
  - (b) each affidavit in support, not being an affidavit in reply to an affidavit filed by a defendant.
- (4) If a plaintiff has not applied for an appointment under subrule (1) —
  - (a) a defendant who has entered an appearance may, with the leave of the Court, and on any terms that the Court may order, obtain an appointment for the hearing of the originating summons fixed by a notice in Form 76 which must be sealed in the Central Office; and
  - (b) a defendant who obtains an appointment under paragraph (a) must, unless the Court orders otherwise, at least 14 days before the time fixed for the hearing, serve a copy of the notice in Form 76 on the plaintiff and every other party who has entered an appearance.
- (2) Delete Order 58 rule 20.

**24. Order 59 amended**

Delete Order 59 rule 3(1) and (2) and insert:

- (1) If these rules do not require or authorise an application in chambers to be made in some other manner —
  - (a) an application to commence proceedings in chambers must be made by originating summons; and

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- (b) any other application in chambers must be made —
  - (i) if it is ex parte, by motion; or
  - (ii) in any other case, by summons.

Note: The heading to amended Order 59 rule 3 is to read:

**Applications in chambers****25. Order 60A amended**

- (1) Delete Order 60A rule 1(1)(aa).
- (2) In Order 60A rule 2(1), (2), (3) and (4) delete “case management”.
- (3) In Order 60A rule 2(5) delete “made by a case management” and insert:

or case management direction made by a

**26. Order 67 amended**

- (1) After Order 67 rule 18 insert:

**18A. Filing documents**

- (1) In this rule —  
***complying document*** means a document the form and content of which comply with these rules and any Court order or direction.
- (2) A person who is required by these rules or the Court to file a document, or who wants to do so, must, in accordance with subrule (3), present a complying document to the Central Office for filing.

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- (3) The complying document must be presented for filing to the Central Office, together with any fee required to be paid when filing it or with the information the Court needs to enable the Court to be paid the fee, in one of the following ways —
  - (a) by delivering it;
  - (b) subject to rule 18B, by posting it;
  - (c) subject to rule 19, by faxing it;
  - (d) subject to rule 20, by using the Court's website;
  - (e) in the case of an outline required by Order 34 rule 1A to be filed, subject to rule 21, by emailing it.
- (4) A person must not present more than one copy of a document to the Central Office for filing unless these rules or the Court require more than one copy to be filed.
- (5) If a party is required by these rules or the Court to file a document, the party cannot, without the Court's leave, refer to or rely on the document in any hearing or in any other filed document unless it has been filed.
- (6) If under subrule (5) a party is given leave, the party must file the document as soon as practicable after the leave is given.
- (7) A registrar may refuse to file a document that is presented for filing if it is not a complying document or has been presented in contravention of subrule (4).

**18B. Filing documents by post**

- (1) Subject to this rule a document may be filed by post.
- (2) A document, sent by post to the Central Office must have a cover page stating the following —
  - (a) the name of the person sending the document;

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- (b) the title and number of the proceeding to which the document relates;
  - (c) a description of the document.
- (3) The document must be posted —
  - (a) in an A4 or larger envelope; and
  - (b) to the postal address of the Central Office specified in the practice directions published by the Court from time to time.
- (2) After Order 67 rule 20 insert:

**21. Outlines may be filed by email**

A party required by Order 34 rule 1A to file an outline may do so by emailing it in accordance with the practice directions published by the Court from time to time.

**27. Order 75 amended**

In Order 75 rule 5 delete “the status conference” and insert:

a case management conference

**28. Order 75A amended**

In Order 75A rule 2(1) delete “to be admitted” and insert:

for admission

Note: The heading to amended Order 75A rule 2 is to read:

**Application for admission**

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Note: The heading to Order 75A rule 3 is to read:

**Attendance at hearing of application for admission**

**29. Schedule 2 amended**

(1) Delete Schedule 2 Forms 19 and 20.

(2) In Schedule 2 Form 22A:

- (a) delete the passage that begins with “If you declare” and ends with “on any appeal.” and insert:

If you declare that all of the materials you produce are copies the registrar may destroy the copies when they are no longer required by the Court.

- (b) delete the passage that begins with “If the material” and ends with “Declaration below.” and insert:

If you declare that the material you produce includes any original document the registrar may, when the material is no longer required by the Court, return all of the material to you at the address specified by you in the Declaration below.

- (c) delete “the Court will destroy” and insert:

the Court may destroy

- (d) delete “the material should be” and insert:

the material may be

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- (3) Delete Schedule 2 Forms 39 and 40 and insert:

**39. Judgment after trial without jury (O. 42 r. 1)**

|  |  |  |
|--|--|--|
| Supreme Court of Western Australia<br>General Division |  | No.:                                     |
|  |  | <b>Judgment after trial without jury</b> |
| Parties  | Plaintiff<br>Defendant   |  |
| Trial details  | This case was tried in the Supreme Court without a jury on [date(s)].                      |  |
| Judgment   | On [date] the Court ordered that judgment as described below be entered for the [party].   |  |
| Judgment details                                       | [Set out the Court's orders.]<br>[Set out details of any taxation of costs as in Form 32.] |  |
| Date judgment entered                                  | Judgment dated and entered on [date].  |  |

**40. Judgment after trial with jury (O. 42 r. 1)**

|  |  |                                       |
|--|--|---------------------------------------|
| Supreme Court of Western Australia<br>General Division |  | No.:                                  |
|  |  | <b>Judgment after trial with jury</b> |
| Parties  | Plaintiff<br>Defendant   |                                       |
| Trial details  | This case was tried in the Supreme Court with a jury on [date(s)].                         |                                       |
| Jury's findings  | The jury found [state finding as in officer's certificate].                                |                                       |
| Judgment   | On [date] the Court ordered that judgment as described below be entered for the [party].   |                                       |
| Judgment details                                       | [Set out the Court's orders.]<br>[Set out details of any taxation of costs as in Form 32.] |                                       |
| Date judgment entered                                  | Judgment dated and entered on [date].  |                                       |

- (4) In Schedule 2 Form 60:

- (a) delete "[the master in chambers," and insert:

the



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- (b) delete “Perth]” and insert:

Perth

- (5) In Schedule 2 Form 61:

- (a) delete “[the master in chambers,” and insert:

the

- (b) delete “Perth]” and insert:

Perth

- (6) Delete Schedule 2 Form 63.

- (7) In Schedule 2 Form 65 delete “[or Mr. Justice ]”.

- (8) In Schedule 2 Form 73 delete “[or before Justice ]”.

- (9) In Schedule 2 Form 76:

- (a) delete “*defendant*]” and insert:

*defendant or plaintiff*]

- (b) delete “the judge [*or master*] in chambers at”;

- (c) delete “judge [*or master*] may think” and insert:

Court thinks

- (d) delete “Solicitor for the plaintiff.” and insert:

Solicitor for

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- (10) In Schedule 2 Form 77 delete “judge [*or* master] in chambers” and insert:

Supreme Court

- (11) In Schedule 2 Form 82 delete “master in his chambers,”.

- (12) In Schedule 2 Form 100:

- (a) delete “Before His Honour  
in chambers.”;
- (b) delete “it is ordered” and insert:

the Court orders

**30. Schedule 2 amended**

- (1) Delete Schedule 2 Form 64 and insert:

**64. Notice of originating motion (O. 54 r. 5)**

In the Supreme Court of Western Australia

\*General Division/Court of Appeal

No.

**Notice of originating motion**

Parties

Plaintiff

Defendant

Notice

At the hearing below in the \*Supreme Court/Court of Appeal, the [*name of party*] will apply for [*state concisely the nature of the claim or the relief or remedy sought*].

Grounds of application

The grounds of the application are:

[*State grounds in numbered paragraphs*]

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Hearing details

The court will hear this application —

on *[date]* at *[time]*,

at the \*Supreme Court, David Malcolm Justice Centre, 28 Barrack Street,  
Perth.

\*Supreme Court of Western Australia, Court of Appeal, Stirling Gardens,  
Barrack Street, Perth.

\*Short notice

On *[date]*, under the *Rules of the Supreme Court 1971* Order 54 rule 4, the  
Court abridged the time for serving this notice.

Applicant's service details<sup>1</sup>

\*Name of lawyer:

\*Address where lawyer conducts business:

Postal address for service of documents:

\*Email address:

\*Fax no.: ..... \*Telephone no.: .....

Applicant's signature

..... Date: .....  
Applicant/Applicant's lawyer

Footnotes to Form 64 —

\* Delete the inapplicable.

1. Must be provided unless otherwise ordered by the Court. See Order 71A  
r. 2 and 3A.

(2) In Schedule 2 Form 74:

- (a) delete “judge *[or master]* sitting to hear such summons” (each  
occurrence) and insert:

Court

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- (b) delete “judge [*or* master] may think” and insert:

Court thinks

- (3) In Schedule 2 Form 75:

- (a) delete “the judge [*or* master] in chambers at”;  
(b) delete “judge [*or* master] may think” and insert:

Court thinks

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**Part 3 — *Supreme Court (Court of Appeal)*  
*Rules 2005* amended**

**31. Rules amended**

This Part amends the *Supreme Court (Court of Appeal) Rules 2005*.

**32. Rule 47 amended**

Delete rule 47(1) and insert:

(1) In this rule —

***approved mediator*** means —

- (a) the Court of Appeal Registrar; or
- (b) an approved mediator as defined in the RSC Order 4A rule 1.

The Hon. Chief Justice WAYNE MARTIN AC,  
Chief Justice of Western Australia,  
Supreme Court of Western Australia.

Date 14 August 2017.

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