



Western Australia

District Court of Western Australia Act 1969

## **District Court Amendment Rules 2023**



## District Court Amendment Rules 2023

### Contents

1.	Citation	1
2.	Commencement	1
3.	Rules amended	1
4.	Rule 3 amended	1
5.	Rule 15 amended	1
6.	Part 3 Division 2 heading amended	2
7.	Rule 19 deleted	2
8.	Rule 24 amended	2
9.	Rule 35 amended	2
10.	Rule 35AA amended	2
11.	Rule 40 amended	3
12.	Rule 41 amended	3
13.	Rule 43 amended	5
14.	Rule 48AD replaced	6
	48AD. RSC Order 36B rule 6 modified: compliance with subpoena	6
15.	Rule 48AF amended	7
16.	Rule 48AI inserted	7
	48AI. Documents produced not to be disclosed	7
17.	Rule 48A amended	8
18.	Schedule 1 Form 4D amended	8
19.	Schedule 1 Form 4E amended	8
20.	Schedule 1 Form 6A inserted	8
	6A. Appeal notice (Registrar's decision) (r. 15(3))	8
21.	Schedule 1 Form 8A amended	9



## District Court Amendment Rules 2023

Made by the judges of the District Court.

**1. Citation**

These rules are the *District Court Amendment Rules 2023*.

**2. Commencement**

These rules come into operation as follows —

- (a) rules 1 and 2 — on the day on which these rules are published on the WA legislation website;
- (b) the rest of the rules — on 15 January 2024.

**3. Rules amended**

These rules amend the *District Court Rules 2005*.

**4. Rule 3 amended**

In rule 3 insert in alphabetical order:

*health information* has the meaning given in the *Health Services Act 2016* section 213;

**5. Rule 15 amended**

Delete rule 15(3) and insert:

- (3) The appeal must be commenced by filing and serving a notice in the form of Form 6A, stating the following —
  - (a) the order or direction appealed against;

(b) the order or directions sought on the appeal.

**6. Part 3 Division 2 heading amended**

In the heading to Part 3 Division 2 delete “**by fax or by**”.

**7. Rule 19 deleted**

Delete rule 19.

**8. Rule 24 amended**

In rule 24(2)(g) delete “fax or”.

Note: The heading to amended rule 24 is to read:

**Meaning of case management direction**

**9. Rule 35 amended**

In rule 35(4) delete “A party” and insert:

Unless a registrar or a judge orders or directs otherwise, a party

**10. Rule 35AA amended**

(1) Before rule 35AA(1) insert:

(1A) For the purposes of this rule, the RSC Order 42 rule 8 does not apply.

(2) After rule 35AA(3) insert:

(4) Subrules (5) and (6) apply if the mediator presiding at the conference is a legally qualified registrar.

- (5) If the parties at the conference agree to settle the case, then unless otherwise ordered —
  - (a) each party or the party’s legal practitioner on the record must sign and file and serve a written consent to the making of an order giving effect to the settlement; and
  - (b) the registrar must enter judgment, or make final orders, unless a judge’s approval of the judgment or orders is required.
- (6) If the parties at the conference do not agree to settle the case but agree to otherwise resolve some of the issues between them, then the registrar may make orders giving effect to that mediated outcome.
- (7) The registrar must not make orders under subrule (6) unless satisfied that each party consents to the making of the orders.

**11. Rule 40 amended**

In rule 40(1) delete “otherwise ordered,” and insert:

a registrar or a judge orders or directs otherwise,

**12. Rule 41 amended**

(1) Before rule 41(1) insert:

(1A) For the purposes of this rule, the RSC Order 42 rule 8 does not apply.

- (2) In rule 41(3):
  - (a) in paragraph (a) delete “and” (first occurrence) and insert:  
  
or
  - (b) delete paragraph (b) and insert:
    - (b) the presiding officer must enter judgment, or make final orders, unless a judge’s approval of the judgment or orders is required.
  
- (3) After rule 41(3) insert:
  - (3A) Subrules (3B) and (3C) apply if the presiding officer —
    - (a) is a legally qualified registrar; and
    - (b) mediates between the parties as described in rule 40(4)(a).
  - (3B) If the parties at the pre-trial conference agree to settle the case, then unless otherwise ordered —
    - (a) each party or the party’s legal practitioner on the record must sign and file and serve a written consent to the making of an order giving effect to the settlement; and
    - (b) the presiding officer must enter judgment, or make final orders, unless a judge’s approval of the judgment or orders is required.
  - (3C) If the parties at the pre-trial conference do not agree to settle the case but agree to otherwise resolve some of the issues between them, then the presiding officer may make orders giving effect to that mediated outcome.



- (3D) The presiding officer must not make orders under subrule (3C) unless satisfied that each party consents to the making of the orders.

Note: The heading to amended rule 41 is to read:

**Ancillary matters for pre-trial conferences**

**13. Rule 43 amended**

- (1) In rule 43(2):

- (a) delete “practitioners” and insert:

practitioner

- (b) delete “the parties unless subrule (3) applies.” and insert:

a party or that person’s instructing legal practitioner.

- (2) In rule 43(3):

- (a) delete “The legal practitioner” and insert:

Unless otherwise ordered, at least 2 clear days before a listing conference the legal practitioner

- (b) delete “need not attend a listing conference if his or her instructing legal practitioner attends and tenders the other’s” and insert:

must file a

(3) Delete rule 43(3a) and insert:

- (3A) Unless otherwise ordered, at least 2 clear days before a listing conference the legal practitioner who will appear at trial for a party must file a certificate —
- (a) certifying that the legal practitioner has reviewed the pleadings and is satisfied that they adequately define all the issues of fact or law that the party contends will need to be determined at trial; or
  - (b) if the legal practitioner is not satisfied as to the matter referred to in paragraph (a) — setting out the pleadings issues in respect of which the legal practitioner is not satisfied.

**14. Rule 48AD replaced**

Delete rule 48AD and insert:

**48AD. RSC Order 36B rule 6 modified: compliance with subpoena**

- (1) The RSC Order 36B rule 6(5A) and (7)(b) do not apply to a case.
- (2) A person may comply with RSC Order 36B rule 6(4)(b) by delivering or sending an electronic version of a document to the Registry using the ECMS.
- (3) The document must be in an electronic format that the subpoena indicates will be acceptable unless the Court, on an application made by a party or the addressee, has directed otherwise.

**15. Rule 48AF amended**

In rule 48AF(1):

- (a) in paragraph (b) delete “professional.” and insert:  
  
professional; and
- (b) after paragraph (b) insert:
- (c) in response to which a document produced comprises the health information of the plaintiff.

**16. Rule 48AI inserted**

At the end of Part 5BA insert:

**48AI. Documents produced not to be disclosed**

- (1) This rule applies to a document produced —
  - (a) in response to a subpoena; or
  - (b) by a registrar under the RSC Order 36B rule 13.
- (2) Except with the leave of the Court, a party must not disclose or use the document, or any information contained in the document, otherwise than for the purposes of the conduct of the proceedings in respect of which the subpoena was issued or the document was required under the RSC Order 36B rule 13(1), as the case may be.
- (3) Subrule (2) does not apply to a document that has been received into evidence.

r. 17

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**17. Rule 48A amended**

Delete rule 48A(2A).

**18. Schedule 1 Form 4D amended**

In Schedule 1 Form 4D delete item 12.

**19. Schedule 1 Form 4E amended**

In Schedule 1 Form 4E delete item 12.

**20. Schedule 1 Form 6A inserted**

After Schedule 1 Form 6 insert:

**6A. Appeal notice (Registrar's decision) (r. 15(3))**

District Court of Western Australia		No:
Held at Perth <sup>1</sup>		<b>Notice of appeal from decision of Registrar</b>
Parties	Plaintiff Defendant	
Name of party appealing		
Name of Registrar		
Date of decision		
Last date for appealing <sup>2</sup>	Last date: Is an extension of time needed? Yes/No	
Orders or directions appealed against	1. 2. 3.	

Orders sought on appeal	1.			2.			3.			
Date of notice				Date of filing						
Signature of party appealing or lawyer	Party appealing/Lawyer						Date:			
Contact details of party appealing or lawyer	Name									
	Firm									
	Address									
	Phone			Fax						
	Email									
	Reference									

Notes to Form No. 6A —

1. If not held at Perth, state the location of the relevant registry.
2. The date being the 10<sup>th</sup> day after the date of the decision appealed against. See r. 15(2).

**21. Schedule 1 Form 8A amended**

In Schedule 1 Form 8A delete “WorkCover WA Arbitration Service” and insert:

Workers’ Compensation Arbitration Service

Date: 20 December 2023

Her Honour Judge JULIE ANNE WAGER  
Chief Judge of the District Court  
District Court of Western Australia

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