Western Australia

Magistrates Court (Civil Proceedings) Act 2004

Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2026

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Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2026

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Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2026

Made by the Magistrates Court.

1. Citation

These rules are the *Magistrates Court (Civil Proceedings) Amendment Rules (No. 3) 2026*.

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 3 December 2026.

3. Rules amended

These rules amend the *Magistrates Court (Civil Proceedings) Rules 2005*.

4. Rule 98 amended

After rule 98(4) insert:

(5) An application under the *Retail Barring Orders Act 2026* may be lodged at any registry of the Court.

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5. Rule 98C amended

After rule 98C(2A) insert:

(2B) Subrules (1) and (2) do not apply to an application or other document that is lodged under or for the purposes of the *Retail Barring Orders Act 2026*, other than section 67(2) of that Act.

6. Rule 124 amended

In rule 124(1) in the Table insert in alphabetical order:

Retail Barring Orders Act 2026	Any provision.

7. Rule 126 amended

In rule 126(1) delete "131B or 131H," and insert:

131B, 131H or 132ZF,

8. Rule 127 amended

In rule 127(1A) in the Table insert in alphabetical order:

Retail Barring Orders Act 2026	Any provision.

9. Rule 128 amended

After rule 128(2) insert:

(3) Despite subrule (2), the following provisions do not apply to an application made to the Court under the *Retail Barring Orders Act 2026* —

(a) rules 40 to 41B;

(b) rule 43;

(c) Part 10;

(d) Part 12 Division 1;

(e) rule 110.

10. Part 21 Division 2B inserted

After Part 21 Division 2A insert:

Division 2B — *Retail Barring Orders Act 2026*

Subdivision 1 — Preliminary

132G. Terms used

(1) In this Division —

Act means the *Retail Barring Orders Act 2026*;

section means a section of the Act.

(2) If a term used in this Division is given a meaning in the Act, it has the same meaning in this Division.

Subdivision 2 — RBOs

132H. RBO applications

(1) An RBO application must be presented for lodgment by delivering it to the Court by hand.

Note for this subrule:

See rule 98(5).

(2) The RBO application must be lodged together with —

(a) a supporting affidavit; and

(b) if section 8(5) applies in relation to the application — a copy of the written authorisation.

(3) The supporting affidavit must state —

(a) details of the matters on which the applicant relies to satisfy the Court under section 12(a)(i); and

(b) if section 18(1) or (2) applies in relation to the application — details of the matters on which the applicant relies to satisfy the Court under section 18(3)(b)(i) or (ii).

132I. Fixing first hearings

If the Court must fix a first hearing under section 10(4), the Court must fix the first hearing by —

(a) fixing a day and time (that are as soon as practicable) and place for the first hearing; and

(b) notifying the applicant of the first hearing.

132J. Fixing mention hearings

If a registrar must fix a mention hearing under section 10(5), 11(1)(b), 31(2) or 42(2)(a)(i), the registrar must fix the mention hearing by —

(a) fixing a day, time and place for the mention hearing; and

(b) notifying the applicant of the mention hearing.

132K. Fixing RBO hearings

If a registrar must fix an RBO hearing under section 32, 33(3)(c) or 42(2)(a)(ii), the registrar must fix the RBO hearing by —

(a) fixing a day, time and place for the RBO hearing; and

(b) notifying the applicant of the RBO hearing.

132L. Preparing RBOs

If a registrar must prepare an RBO under section 23(a), the registrar must prepare the following in the approved form —

(a) the RBO;

(b) the respondent's copy of the RBO;

(c) if the RBO is a first hearing RBO — the respondent's endorsement copy of the first hearing RBO;

(d) the applicant's copy of the RBO;

(e) the police copy of the RBO;

(f) the proof of service copy of the RBO;

(g) the Court copy of the RBO.

132M. Dealing with copies of RBO

After a registrar produces the copies of an RBO in accordance with rule 132L, the registrar must —

(a) deliver the applicant's copy to the applicant; and

(b) deliver the police copy to the Commissioner of Police; and

(c) place the Court copy on the Court's records for the RBO application.

132N. Serving respondent's endorsement copy of RBO

For the purposes of section 23(b), when causing the respondent's copy of an RBO that is a first hearing RBO to be served on a person, the registrar must also cause the respondent's endorsement copy of the first hearing RBO to be served on the person.

132O. Returning endorsement copy of first hearing RBO

An endorsement copy of a first hearing RBO must be returned to a registrar of the Court that made the first hearing RBO by delivering it to the Court by hand.

132P. Notifying person bound by first hearing RBO of certain matters

If a registrar receives a returned endorsement copy of a first hearing RBO in the circumstances referred to in section 30(1), the registrar must notify the person who is bound by the first hearing RBO of the following —

(a) the day on which the registrar received the returned endorsement copy;

(b) that, in accordance with section 30(3), the RBO application on which the first hearing RBO was

made is taken to have been determined on that day;

(c) that, in accordance with section 30(4), for the purposes of section 78, the decision to make the first hearing RBO is taken to have been made on that day.

Subdivision 3 — Setting aside RBOs

132Q. Set aside applications

A set aside application must be presented for lodgment by delivering it to the Court by hand.

Note for this rule:

See rule 98(5).

132R. Fixing hearings for set aside applications

(1) If a registrar must fix a hearing under section 39(4)(a), the registrar must fix the hearing by fixing a day, time and place for the hearing.

(2) If a registrar must fix a hearing under section 41(4), the registrar must fix the hearing by —

(a) fixing a day, time and place for the hearing; and

(b) notifying the person who made the set aside application of the hearing.

132S. Filing copy of Children's Court court record

If the Magistrates Court receives a copy of a court record of the Children's Court under section 40(2), a registrar of the Magistrates Court must place the court record on the Magistrates Court's records for the set aside application.

Subdivision 4 — Varying or cancelling RBOs

132T. Applications to vary or cancel RBO

An application under section 43 to vary or cancel an RBO must be presented for lodgment by delivering it to the Court by hand.

Note for this rule:

See rule 98(5).

132U. Oral applications to vary or cancel RBO

(1) This rule applies if —

(a) section 31 applies in respect of a first hearing RBO made on an RBO application; and

(b) the RBO application has not been determined.

(2) Despite rule 132T, an application to vary or cancel the first hearing RBO may, with the leave of the Court, be made orally at a mention hearing or RBO hearing of the RBO application.

132V. Fixing hearings for applications to vary or cancel RBO

(1) If a registrar must fix a hearing under section 46(1)(a), the registrar must fix the hearing by fixing a day, time and place for the hearing.

(2) If a registrar must fix a hearing under section 47(1) or 48(1)(a), the registrar must fix the hearing by —

(a) fixing a day, time and place for the hearing; and

(b) notifying the person who was the applicant for the RBO of the hearing.

(3) If a registrar must fix a hearing under section 47(2), the registrar must fix the hearing by —

(a) fixing a day, time and place for the hearing; and

(b) notifying the person who applied to vary or cancel the RBO of the hearing.

132W. Preparing order varying RBO

If a registrar must, under section 54(1)(a), prepare an order varying an RBO, the registrar must prepare the following in the approved form —

(a) the order;

(b) a copy of the order for the person who is bound by the RBO;

(c) a copy of the order for the person who was the applicant for the RBO;

(d) the police copy of the order;

(e) the proof of service copy of the order;

(f) the Court copy of the order.

132X. Dealing with copies of order varying RBO

After a registrar produces the copies of an order varying an RBO in accordance with rule 132W, the registrar must —

(a) deliver the copy of the order for the person who was the applicant for the RBO to that person; and

(b) deliver the police copy to the Commissioner of Police; and

(c) place the Court copy on the Court's records for the variation application.

Subdivision 5 — Summonses, service and notifications

132Y. Summonsing persons

If under the Act a registrar must summons a person to a hearing, the registrar must summons the person to the hearing by —

(a) preparing a summons in the approved form; and

(b) causing the summons to be served on the person.

132Z. Notifying persons and giving or delivering documents by email

(1) This rule applies if under the Act a registrar is required or permitted to —

(a) notify a person of a matter; or

(b) give a person a document; or

(c) deliver a document to a person.

(2) The registrar may notify the person or give or deliver the document to the person by email.

(3) Subrule (2) does not authorise the use of email to —

(a) serve a summons for a hearing; or

(b) serve a relevant order; or

(c) notify a person, or give or deliver a document to a person, who has not provided to the Court an email address for themselves.

132ZA. Delivering copy of relevant order

If a copy of a relevant order must be delivered under section 65(3)(a) to the person who is bound by the RBO, a registrar of the Court that made the relevant order must —

(a) deliver the copy to the person personally; or

(b) if delivery under paragraph (a) is not practicable — send the copy by prepaid registered post to the person at the person's last known place of residence or business.

132ZB. Certificate of service of summons or relevant order

(1) A certificate made under section 69(1) must be made in the approved form.

(2) The certificate must state —

(a) in the case of a summons — whether the summons was served in the way referred to in section 69(1)(a) or (b); and

(b) in the case of a relevant order — whether the relevant order was served in the way referred to in section 69(1)(a) or (c); and

(c) the full name of the person who served the summons or relevant order; and

(d) the capacity referred to in section 64(2)(c) or 66(2) in which the person who served the summons or relevant order was qualified to serve it.

132ZC. Notifying registrar of oral service of relevant order

(1) Notification under section 71(1)(a) of substituted service effected orally must be made in the approved form.

(2) The notification must state —

(a) the steps taken to serve the relevant order; and

(b) the day and the time the relevant order was served; and

(c) the full name of the person served.

132ZD. Proof of notification or giving of document

(1) A certificate made under section 77(1) must be made in the approved form.

(2) The certificate must state the way in which the person was notified or given the document.

132ZE. Lodging documents

A person who is required or permitted by the Act to lodge a document other than an application —

(a) must present the document for lodgment by delivering it to the Court by hand; and

(b) may lodge the document at any registry of the Court.

132ZF. Disapplication of r. 126

Rule 126(1) does not apply to an application under the Act.

Date: 12 November 2026

Mr Steven Heath
Chief Magistrate
Magistrates Court in Perth

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