

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
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RULES OF COURT

Magistrates Court Rules 1992—(Amendment 66)—
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All public Acts appearing in this gazette are to be considered official, and obeyed as such

In *South Australian Government Gazette* No. 28, dated 26 April 2018, there were two errors published in the Rules of Court, *Amendment 66 to the Magistrates Court Rules 1992*.

On page 1433, in clause 2, the commencement date should read '30 April 2018'. On page 1435, the date before the signatures should read 'Signed on the 19th day of April 2018'.

The attached forms were correct. The Rules of Court should have read as follows:

RULES OF COURT
MAGISTRATES COURT OF SOUTH AUSTRALIA
Amendment 66 to the Magistrates Court Rules 1992
CORRIGENDUM

PURSUANT to section 49 of the *Magistrates Court Act 1991* and all other enabling powers, we, the undersigned, do hereby make the following amendments to the *Magistrates Court Rules 1992* as amended.

1. These Rules may be cited as the 'Magistrates Court Rules 1992 (Amendment 66)'.
2. The *Magistrates Court Rules 1992* ('the Rules') as amended by these amendments apply to and govern all actions commenced in the criminal division of the Court on and after 30 April 2018.
3. The title of Rule 14.00 is amended to delete '*ENFORCEMENT OF PECUNIARY SUMS*' and replace it with '*ENFORCEMENT OF MONETARY AMOUNTS*'.
4. The title of Rules 14.24 – 14.31 are amended to delete 'Community Service Order' and replace it with 'Orders for Community Service and/or Completion of an Approved Treatment Program'.
5. The title of Rules 14.32 -14.39 are amended to delete 'Order Revoking Community Service' and replace it with 'Order Revoking Community Service and/or an Approved Treatment Program'.
6. Rules 14.05, 14.06, 14.15(a), 14.25, 14.27, 14.33 and 14.35 are amended to insert 'or alleged offender' after 'debtor' wherever occurring.
7. Rules 14.03, 14.04, 14.08, 14.09, 14.13, 14.14, 14.16, 14.19, 14.20, 14.21, 14.22, 14.27, 14.29 and 14.35 are amended to delete 'Fines Enforcement and Recovery Officer' and replace it with 'Chief Recovery Officer' wherever occurring.
8. Rule 14.01 is amended to delete 70K(11) and replace it with '36(15)', and to delete '*Criminal Law (Sentencing) Act 1988*' and replace it with '*Fines Enforcement and Debt Recovery Act 2017*'.
9. Rule 14.05 is further amended to delete the words 'the debtor is' and replace them with 'they are'.
10. Rule 14.10 is amended to delete '70K(11) and replace it with 36(15).
11. Rule 14.11 is amended to delete '70P(6)' and replace it with '42(6)', and to delete '*Criminal Law (Sentencing) Act 1988*' and replace it with '*Fines Enforcement and Debt Recovery Act 2017*'.
12. Sub-Rule 14.15(c) is amended to insert ', alleged offender' after debtor.
13. Rule 14.24 is deleted and replaced with the following:
An application for a community service order and/or an order for the completion of an approved treatment program pursuant to section 46(1) of the *Fines Enforcement and Recovery Act 2017* must comply with Form 56.
14. Rule 14.26 is deleted and replaced with the following:
It is sufficient for the Chief Recovery Officer to file Form 56 and an outline of the debtor or alleged offender's financial circumstances by electronic filing.
15. Rule 14.30 is deleted and replaced with the following:
An order for community service and/or the completion of an approved treatment program must not be made in the absence of a debtor or alleged offender.
16. Rule 14.31 is deleted and replaced with the following:
An order for community service and/or the completion of an approved treatment program must comply with Form 62.
17. Rule 14.32 is deleted and replaced with the following:
An application to revoke a community service and/or an order for the completion of an approved treatment program pursuant to section 46(11) of the *Fines Enforcement and Debt Recovery Act 2017* must comply with Form 57.
18. Rule 14.34 is deleted and replaced with the following:
It is sufficient for the Chief Recovery Officer to file Form 57 and an outline of the debtor or alleged offender's financial circumstances by electronic filing.
19. Rule 14.37 is deleted and replaced with the following:
The Chief Recovery Officer must be present at the hearing and provide the following details:
 - (a) the amount of the original monetary amount;
 - (b) the amount of the monetary amount paid;
 - (c) the number of hours of community service performed;
 - (d) the amount of time spend in an approved treatment program and the reduction of the monetary amount thereby; and
 - (e) the amount of the monetary amount outstanding.
20. Rule 14.38 is deleted and replaced with the following:
So long as the debtor or alleged offender has been served, the Court can revoke a community service order and/or an order for the completion of an approved treatment program in the absence of the debtor or alleged offender.
21. Rule 14.39 is deleted and replaced with the following:
Where a community service order and/or an order for the completion of an approved treatment program is revoked, an order to restore the monetary amount must comply with Form 63.
22. Rule 18AAA.00 is amended to delete '*CRIMINAL LAW (SENTENCING) ACT 1988*' and replace it with '*SENTENCING ACT 2017*'.

23. Rules 18AAA.01 and 18AAA.02 are deleted and replaced with the following:
18AAA.01 An intervention order made under s 28 of the *Sentencing Act 2017* must comply with Form 30 and must be served on the defendant in accordance with s 23(5a) of the *Intervention Orders (Prevention of Abuse) Act 2009*.
24. The following is inserted after rule 19A.02:
19A.03 SA Police may file the preliminary brief in duplicate, but only if SA Police have provided a copy of the preliminary brief to the Office of the Director of Public Prosecutions prior to filing under this rule.
25. The following is inserted after rule 20.03:
20.04 SA Police may file the committal brief and the accompanying document in duplicate, but only if SA Police have provided a copy of the committal brief and accompanying document to the Office of the Director of Public Prosecutions prior to filing under this rule.
26. Rule 25.02 is amended to insert after 'superior Court' the words 'under s 113 of the Act or s 9(7) of the *Magistrates Court Act 1991*'.
27. Rule 29C is deleted.
28. Rule 41 is deleted and replaced as follows:
41.00 *SENTENCING ACT 2017*
41.01 In this rule 'the Act' means the *Sentencing Act 2017*.
41.02 The powers of the Court must be exercised by a magistrate in:
(a) proceedings under section 115(3) of the Act where failure to comply with a community service order is disputed.
(b) applications under section 116 of the Act.
41.03 Where a court
(a) orders that a defendant enter into a bond, extends or varies a bond in any way, pursuant to the provisions of the Act; or
(b) orders that a defendant enters into a recognisance or undertaking of any kind, or extends or varies a recognisance or undertaking of any kind;
the bond, recognisance, or undertaking may be entered into, varied or extended before a Registrar or Justice of the Peace.
41.04 (a) A person wishing to furnish the Court with a victim impact statement pursuant to s 14 of the Act shall provide such statement in writing either to the Director of Public Prosecutions (the DPP), or to the Officer in Charge of Prosecution Services of South Australia Police (SAPOL) whoever shall have the conduct of the prosecution.
(b) A copy of the statement shall be provided to the presiding magistrate upon the defendant pleading guilty to, or being found guilty of, the offence or offences to which the statement relates.
(c) The presiding magistrate after consideration may appoint the time at which the statement will be read to the Court and may refuse to postpone the reading of the statement if the resulting delay would be unreasonable in the circumstances
(d) If the person providing the statement is not in the Court when the presiding magistrate gives directions pursuant to sub-rule 41.04(c), the DPP or SAPOL shall advise the person of the time fixed by the Court for the reading of the statement.
(e) Subject to sub-rule 41.04(f), the person making the statement may amend it at any time prior to the time at which it is read to the Court.
(f) The presiding magistrate may direct that irrelevant material in the statement not be read out to the Court.
(g) A person who has furnished a statement in accordance with s 14(1) of the Act may at any time withdraw the statement as a victim impact statement provided pursuant to that section in which event the statement will not be read out to the Court.
(h) A statement which is withdrawn pursuant to sub-rule 41.04(g) may be furnished to the court by the prosecutor pursuant to s 13 of the Act.
41.05 A warrant for commitment made under this Act shall comply with Form S1, except for a warrant for commitment for non-compliance with a non-pecuniary order, which shall instead comply with Form S2.
41.06 Forms under the following sections of the Act shall comply with the corresponding Forms set out hereunder:

Section 25	Notice of Community Service Order	Form S3
Sections 32(1), 35(1)	List of Additional Charges	Form S4
Section 71(1)	Home Detention Order	Form S5
Section 73(5)(a)	Summons	Form S6
Section 73(5)(b), (7)	Warrant of Apprehension	Form S7
Section 81(1)	Intensive Correction Order	Form S8
Section 83(5)(a)	Summons	Form S9
Section 85(5)(b), (7)	Warrant of Apprehension	Form S10
Section 96	Suspended Sentence Bond	Form S11
Section 97	Good Behaviour Bond	Form S12
Section 97, 100	Guarantee of Good Behaviour Bond	Form S13
Section 103	Application to Vary or Revoke a Condition of Bond or to Discharge Bond	Form S14
Section 110(2)	Application to Vary a Community Service Order	Form S15
Section 113(1)(a)(i)	Summons	Form S16
Section 113(1)(a)(ii)	Warrant of Apprehension	Form S17
Section 115(3)(a)	Notice to Show Cause	Form S18
Section 115(3)(b)	Warrant of Arrest	Form S19
Section 113(2), 115(4)	Warrant of Arrest	Form S20
Section 125	Certificate for Victim of Identity Theft	Form S21

41.07 In accordance with s 32(3) of the Act a copy of a List of Additional Charges, as filed in the Court, must be given to the defendant by the prosecutor.
41.08 The Registrar must serve a copy of an Application to Vary a Community Service Order on the Minister for Correctional Services and the person subject to the Community Service Order.

29. Rule 47.00 is deleted and replaced as follows:
- 47.00 REFUSAL TO REVOKE ENFORCEMENT DETERMINATION: Section 23 *Fines Enforcement and Debt Recovery Act 2017*
 - 47.01 An application to review a decision of the Chief Recovery Officer to refuse to revoke an enforcement determination pursuant to section 22 of the *Fines Enforcement and Debt Recovery Act 2017* must comply with Form 55.
 - 47.02 An affidavit complying with Form 115 must be filed with the application.
 - 47.03 If available, a copy of the application to the Chief Recovery Officer for revocation of the Enforcement Determination, the decision of the Chief Recovery Officer refusing the application and the expiation notice must accompany the application.
 - 47.04 The Registrar must serve a copy of the application and all accompanying documentation on the Chief Recovery Officer.
 - 47.05 If the application does not include the documents referred to in Rule 47.03, upon service of the application the Chief Recovery Officer should file the documents no later than 7 days before the hearing.
 - 47.06 Unless an application is made for the suspension of an enforcement action, the Registrar must list the application for hearing as soon as practicable.
 - 47.07 Where the issuing authority or the Chief Recovery Officer wishes to oppose the application, they must file and serve a Notice of Intention no later than 7 days before the hearing, and appear at the hearing.
 - 47.08 It will be sufficient service for the purpose of this rule if the Chief Recovery Officer and the issuing authority are notified in writing, electronically, by telephone, email or facsimile.
30. Form 7 is deleted and replaced with Form 7.
31. Form 22 is deleted and replaced with Form S15.
32. Form 30 is deleted and replaced with Form 30.
33. Form 55 is deleted and replaced with Form 55.
34. Form 56 is deleted and replaced with Form 56.
35. Form 57 is deleted and replaced with Form 57.
36. Form 58 is deleted and replaced with Form 58.
37. Form 59 is deleted and replaced with Form 59.
38. Form 60 is deleted and replaced with Form 60.
39. Form 61 is deleted and replaced with Form 61.
40. Form 62 is deleted and replaced with Form 62.
41. Form 63 is deleted and replaced with Form 63.
42. Form 78 is deleted and replaced with Form S20.
43. Form 82 is deleted and replaced with Form S19.
44. Form 136 is deleted and replaced with Form S6.
45. Form 137 is deleted and replaced with Form S7.
46. Form 138 is deleted and replaced with Form S14.
47. Form 139 is deleted and replaced with Form S5.
48. Form S1 is inserted.
49. Form S2 is inserted.
50. Form S3 is inserted.
51. Form S4 is inserted.
52. Form S8 is inserted.
53. Form S9 is inserted.
54. Form S10 is inserted.
55. Form S11 is inserted.
56. Form S12 is inserted.
57. Form S13 is inserted.
58. Form S16 is inserted.
59. Form S17 is inserted.
60. Form S18 is inserted.
61. Form S21 is inserted.

Signed on the 19th day of April 2018

MARY-LOUISE HRIBAL
Chief Magistrate

KYM ANDREW MILLARD
Magistrate

BRETT JONATHON DIXON
Magistrate

BRIONY KENNEWELL
Magistrate