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**All instruments appearing in this gazette are to be considered official, and obeyed as such**

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## Part 14—Review of administrative decisions or actions

### Division 1—General

#### 244.1—Application of Part

- (1) Subject to subrule (2), this Part applies to all proceedings in which the Court has jurisdiction conferred by a statute to review an administrative decision or action regardless of whether the statute calls the proceeding a “review” or an “appeal”.
- (2) This Part does not apply to actions in the Supreme Court for judicial review, which are governed instead by Chapter 20 Part 6.

#### 244.2—Institution

- (1) Unless these Rules otherwise provide, an application to review an administrative decision or action must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form.

**Prescribed forms—**

Form 4 Originating Application for Review

Form 5 Originating Application - Appeal Against Administrative Decision

**Note—**

See also Forms 4B and 5A referred to in Division 2.

- (2) Unless these Rules otherwise provide, the Originating Application must be supported by an affidavit in accordance with rule 82.1(2)—
  - (a) identifying and exhibiting evidence of the impugned decision or action;
  - (b) exhibiting any reasons given for the decision or action; and
  - (c) deposing to the facts on which the applicant relies for the review and, if applicable, for any extension of time sought.
- (3) The applicant—
  - (a) must join any person who has a direct interest in supporting the decision or action as a respondent; and
  - (b) must join the decision maker as an interested party or, if the decision maker has a direct interest in supporting the decision or action, as a respondent.

#### 244.3—Response and responding affidavit

Unless these Rules otherwise provide, a respondent or interested party—

- (a) who wishes to adduce evidence or make submissions in relation to the orders sought in an originating application must file a response in accordance with rule 83.1; and
- (b) who wishes to adduce evidence in relation to the orders sought in an originating application must file an affidavit in response in accordance with rule 83.2.

**Note—**

Rule 244.7 otherwise provides for taxation appeals.

#### 244.4—Order for pleadings

The Court may, if it thinks fit, make orders for the filing and service of a statement of facts issues and contentions and response to statement of facts issues and contentions.

**Prescribed forms—**

Form 11 Statement of Facts Issues and Contentions Standalone

Form 57 Response to Statement of Facts Issues and Contentions

#### **244.5—Decision maker’s documents and information**

- (1) The Registrar may, and when directed by the Court must, request the decision maker to transmit to the Court by physical or electronic means (as specified) documents relevant to the review.
- (2) Unless the Registrar otherwise specifies, documents relevant to the review comprise—
  - (a) all documents lodged with or considered by the decision maker for the purpose of the decision;
  - (b) any transcript of evidence or hearing;
  - (c) any other evidentiary material; and
  - (d) the decision subject to the review and any reasons given for it.
- (3) The Registrar, when directed by the Court, must request the decision maker to provide a report on the subject matter of the review or on a specified aspect of it.
- (4) The decision maker is expected to comply with a request under subrule (1) or (3) as soon as practicable.

#### **244.6—Orders**

Subject to a statute providing otherwise, the Court may on the determination of a review—

- (a) set aside the decision the subject of the review;
- (b) substitute the decision that the Court considers should have been or should now be made;
- (c) vary the decision the subject of the review;
- (d) make an order in respect of the costs of the review; or
- (e) make such other or further order as it thinks fit.

### **Division 2—Specific types of applications**

#### **244.7—Taxation appeals—Supreme Court**

- (1) An appeal under section 92 of the *Taxation Administration Act 1996* must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form.

**Prescribed form—**

Form 5 Originating Application - Appeal Against Administrative Decision

- (2) The applicant must file a statement of facts issues and contentions in the prescribed form at the same time as filing the Originating Application and may, but is not required to, file a supporting affidavit in accordance with rule 82.1(2).
- (3) The applicant must join the Commissioner of State Taxation as a respondent.
- (4) The respondent must file a response to statement of facts issues and contentions in the prescribed form instead of a response and may, but is not required to, file a responding affidavit in accordance with rule 83.2.

**Prescribed forms—**

Form 11 Statement of Facts Issues and Contentions Standalone

Form 57 Response to Statement of Facts Issues and Contentions**244.8—Relationships—Magistrates Court**

- (1) An application under section 28 of the *Relationships Register Act 2016* to review a decision of the Registrar of Births Deaths and Marriages must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form which may, but need not, be supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**Form 4B Originating Application for Review – Decision of Registrar of Births Deaths Marriages

- (2) The application must be accompanied by the original application to the Registrar of Births Deaths and Marriages, the Registrar's decision and the Registrar's reasons for decision.
- (3) The applicant—
- (a) must join any person directly affected by the Registrar's decision as a respondent; and
  - (b) must join the Registrar of Births Deaths and Marriages as an interested party.
- (4) Service of the Originating Application documents on the Registrar of Births Deaths and Marriages required by rule 82.3 must be by way of—
- (a) email service in accordance with rule 42.2 at the email address shown in Form 4B; or
  - (b) post service in accordance with rule 42.3 at the physical address shown in Form 4B.

**244.9—Drivers licence disqualification—Magistrates Court**

- (1) An appeal under section 81BB of the *Motor Vehicles Act 1959* against a licence disqualification by the Registrar of Motor Vehicles must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form which may, but need not, be supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**Form 5A Originating Application - Appeal Against Administrative Action – Probationary or Provisional Licence Disqualification

- (2) The applicant must join as an interested party the Registrar of Motor Vehicles.
- (3) The Registrar will serve the Originating Application documents on the Registrar of Motor Vehicles and the applicant is not required to do so.

**Part 15—Registration of judgments, orders and adjudications****Division 1—Interstate judgments****245.1—Application for registration**

- (1) An application under section 105 of the *Service and Execution of Process Act 1992* (Cth) for registration of a judgment of a court of another State is to be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form which may, but need not, be supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**Form 2S Originating Application – Register Interstate Judgment

- (2) The applicant's solicitor, or if self-represented, the applicant, must certify in the application that the original judgment is enforceable and not subject to a stay of execution in the original jurisdiction or, alternatively, provide details of any reason why the original judgment is not enforceable in the original jurisdiction or of any stay of execution in the original jurisdiction.
- (3) The application must be accompanied by a sealed copy of the judgment of the original Court.
- (4) The application may be made without notice.

### **Division 2—New Zealand judgments**

#### **245.2—Application for registration**

- (1) An application under section 67 of the *Trans-Tasman Proceedings Act 2010* (Cth) for registration of a New Zealand judgment must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2T Originating Application – Register New Zealand Judgment

- (2) The supporting affidavit must—
  - (a) exhibit a sealed copy of the judgment of the original Court;
  - (b) identify whether the whole or only a portion of the original judgment is registrable and, if a portion, identify the relevant portion;
  - (c) to the extent that the judgment is a money judgment within the meaning of the legislation—identify the amount due under the judgment at the date of the application for registration including any post-judgment interest and the basis on which any interest is payable under the law of New Zealand;
  - (d) identify all other proceedings that have been taken for the execution or enforcement of the judgment and the extent to which the judgment has been satisfied;
  - (e) to the extent that the judgment is a money judgment—identify the amount due under the judgment that remains unpaid at the date of the application for registration;
  - (f) to the extent that the judgment is a money judgment and the judgment is in a foreign currency—identify the amount for which registration is sought in Australian currency and the calculation of the conversion;
  - (g) identify whether a right of appeal exists, or an appeal has been instituted, against the judgment; and
  - (h) identify whether the original judgment is subject to a stay of execution in New Zealand.
- (3) The application may be made without notice.
- (4) Notice of registration in the prescribed form must be served by original service on each party against whom the judgment is entered who can be served in South Australia as soon as practicable after registration.

**Prescribed form—**

Form 134 Notice of Registration of New Zealand Judgment

**Note—**

Section 73 of the *Trans-Tasman Proceedings Act 2010* (Cth) requires the entitled person must give a notice in the manner and form prescribed by the regulations of the registration to every liable person within 15 working days or such longer period as the Court considers appropriate. Section 74 provides that, if notice has not been given to every liable person under section 73, the judgment is not enforceable for 45 working days after registration.

**Division 3—Foreign judgments—Supreme Court****245.3—Application for registration**

- (1) An application under section 7 of the *Foreign Judgments Act 1971* or section 6 of the *Foreign Judgments Act 1991* (Cth) for registration of a judgment (the **judgment**) of a court (the **foreign court**) of a foreign country or state (the **foreign country**) must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2U Originating Application – Register Foreign Judgment

- (2) The supporting affidavit must—
- (a) exhibit a copy of the judgment certified as such by the proper officer of the foreign court;
  - (b) if the judgment is not in English—exhibit a translation of the judgment into English certified by a notary public or authenticated by affidavit;
  - (c) identify the full name and address of each judgment creditor and judgment debtor as defined in rule 201.1;
  - (d) identify whether the whole or only a portion of the original judgment is registrable and, if a portion, identify the relevant portion;
  - (e) to the extent that the judgment is a money judgment within the meaning of the legislation—identify the amount due under the judgment at the date of the application for registration, including any post-judgment interest and the basis on which any interest is payable under the law of the foreign country;
  - (f) identify all other proceedings that have been taken for the execution or enforcement of the judgment and the extent to which the judgment has been satisfied;
  - (g) to the extent that the judgment is a money judgment—identify the amount due under the judgment that remains unpaid at the date of the application for registration;
  - (h) to the extent that the judgment is a money judgment and the judgment is in a foreign currency—identify the amount for which registration is sought in Australian currency and the calculation of the conversion;
  - (i) identify whether the foreign country is the subject of a reciprocity proclamation under section 6 of the *Foreign Judgments Act 1971* or reciprocity regulations under section 5 of the *Foreign Judgments Act 1991* (Cth) as applicable;
  - (j) identify whether the original judgment is enforceable in the foreign court;
  - (k) identify whether a right of appeal exists, or an appeal has been instituted, against the original judgment;

- (l) identify whether the original judgment is subject to a stay of execution in the foreign court; and
  - (m) identify whether there are any facts known to the applicant or the deponent on the basis of which the judgment debtor would be entitled to have registration of the judgment set aside.
- (3) The application may be made without notice.
  - (4) An application for re-registration of a judgment that has been set aside may be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

#### 245.4—Registration

- (1) The costs of registration of the judgment, as fixed by the Registrar or as taxed, may be added to the amount for which the judgment is registered.
- (2) An order for registration will state the period within which an application may be made to have the registration set aside.
- (3) Unless the Court otherwise orders, notice of the registration in the prescribed form must be served by original service on each party against whom the judgment is entered as soon as practicable after registration.

##### Prescribed form—

Form 135 Notice of Registration of Foreign Judgment

##### Notes—

Section 6 of the *Foreign Judgments Act 1991* (Cth) requires the court's order to state the period within which an application may be made under section 7 to have the registration of the judgment set aside and empowers the court to extend that period.

Section 7 of the *Foreign Judgments Act 1971* provides that notice of the registration must be served upon the judgment debtor in conformity with rules of the Supreme Court.

#### 245.5—Evidence

Unless the Court otherwise orders, in an action for, or relating to, registration of a foreign judgment—

- (a) evidence by affidavit may contain first hand hearsay if it complies with rule 31.7(12);
- (b) an apparently genuine imprint of the seal of a foreign court need not be proved; and
- (c) qualifications of a lawyer in the foreign court to give evidence of the law applicable in that court need not be proved.

#### Division 4—Foreign confiscation orders

##### Notes—

This Division deals with the registration of foreign forfeiture orders, foreign pecuniary penalty orders and foreign restraining orders.

Part 6 deals with applications under the *Mutual Assistance in Criminal Matters Act 1987* (Cth) insofar as it provides for an application to be made as if it were under the *Proceeds of Crime Act 2002* (Cth).

#### 245.6—Application for registration

- (1) An application under section 34A of the *Mutual Assistance in Criminal Matters Act 1987* (Cth) for registration of a foreign forfeiture order, foreign pecuniary penalty order or foreign restraining order (*foreign order*) must be instituted by filing an Originating

Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2R Originating Application – Register Judgment Generic

- (2) The applicant must join the person against whom the foreign order is sought to be enforced as a respondent.
- (3) Unless the Court otherwise orders, the Originating Application documents must be served by original service on the respondent as soon as practicable.

**Note—**

Section 34A(3) of the *Mutual Assistance in Criminal Matters Act 1987 (Cth)* empowers the Court, on request by the proceeds of crime authority, to consider the application without notice.

- (4) If the Court makes an order without notice for registration of a foreign order, the order together with the Originating Application and supporting affidavit must be served by original service on the respondent as soon as practicable after registration.

**Note—**

Sections 34B, 34D and 34E of the *Mutual Assistance in Criminal Matters Act 1987 (Cth)* provide for enforcement of foreign orders registered in a court as if they were equivalent orders made under the *Proceeds of Crime Act 2002 (Cth)*.

#### 245.7—Subsequent applications

An application under section 34C, 34G, 35, 35B or 35F of the *Mutual Assistance in Criminal Matters Act 1987 (Cth)* or otherwise in relation to a foreign order must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

#### Division 5—Interstate declarations and control orders—Supreme Court

**Notes—**

This Division deals with the registration of interstate declarations and control orders made under a corresponding law.

Chapter 20 Part 17 deals with local applications under the *Serious and Organised Crime (Control) Act 2008*.

#### 245.8—Application for registration or cancellation

- (1) An application under section 39 of the *Serious and Organised Crime (Control) Act 2008* to register a corresponding declaration made under a corresponding law must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form, which need not be supported by an affidavit.

**Prescribed form—**

Form 2R Originating Application – Register Judgment Generic

- (2) The applicant—
  - (a) if the organisation the subject of the corresponding declaration is a legal entity—must join the organisation as a respondent;
  - (b) if the organisation the subject of the corresponding declaration is not a legal entity—must join the organisation as an unincorporated association under rule 23.3(2).
- (3) An application under section 39I of the *Serious and Organised Crime (Control) Act 2008* to register a corresponding control order made under a corresponding law must



be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form, which need not be supported by an affidavit.

**Prescribed form—**

Form 2R Originating Application – Register Judgment Generic

- (4) The applicant must join the organisation the subject of the corresponding control order as a respondent.
- (5) An application under this rule may be made without notice.
- (6) An application to register a corresponding control order referred by the Registrar to the Court under sections 39J(2) and 39K of the *Serious and Organised Crime (Control) Act 2008* will be heard by the Court in the same manner as an application to vary a control order under Chapter 20 Part 17 Division 3.

**245.9—Cancellation or variation**

- (1) An application under section 39E or 39P of the *Serious and Organised Crime (Control) Act 2008* to cancel registration of a corresponding declaration or control order must be made in the action instituted under rule 245.8 for registration of the declaration or order by an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (2) An application under section 39F, 39O or 39Q of the *Serious and Organised Crime (Control) Act 2008* to cancel or vary the registration of a corresponding declaration or control order must be made in the action instituted under rule 245.8 for registration of the declaration or order by an application to the Registrar in the prescribed form.

**Prescribed form—**

Form 76 Application to Registrar

**Division 6—SACAT order—District Court and Magistrates Court**

**245.10—Claim**

A claim under section 89 of the *South Australian Civil and Administrative Tribunal Act 2013* to enforce a monetary order by the South Australian Civil and Administrative Tribunal must be instituted as a claim in accordance with rule 63.1.

**Division 7—Fine imposed under Legal Practitioners Act**

**245.11—Filing of certificate**

- (1) An application under section 77J(11) or 85(3) of the Legal Practitioners Act to file a certificate of a fine imposed by the Legal Profession Conduct Commissioner or Legal Practitioners Disciplinary Tribunal must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form, which need not be supported by an affidavit.

**Prescribed form—**

Form 2R Originating Application – Register Judgment generic

- (2) The application must be accompanied by the certificate of the fine.
- (3) The application may be made without notice.

**Division 8—Building and construction adjudications****245.12—Filing certificate**

- (1) An application under section 25 of the *Building Industry Security of Payment Act 2009* to file an adjudication certificate as a judgment must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2R Originating Application – Register Judgment generic

- (2) The supporting affidavit must—
  - (a) exhibit the adjudication certificate;
  - (b) identify the amount due under the adjudication certificate at the date of the application including any interest and the basis on which any interest is payable; and
  - (c) identify the amount due under the adjudication certificate that remains unpaid at the date of the application for registration.
- (3) The application may be made without notice.
- (4) Notice of the entry of the judgment must be served by original service on each party against whom the judgment is entered as soon as practicable after registration.

**Division 9—General****245.13—Application for stay**

An application for a stay of enforcement of a registered judgment must be made by filing, in the registration action, an interlocutory application and supporting affidavit in accordance with rule 102.1.

**245.14—Application to set aside**

An application to set aside a registered judgment, including any application for an extension of time, must be made by filing, in the registration proceeding, an interlocutory application and supporting affidavit in accordance with rule 102.1.

**Part 16—Taking evidence for foreign court****246.1—Application to take evidence**

- (1) An application under section 59F of the *Evidence Act 1929* to take evidence for the purpose of a proceeding before a foreign court must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must—
  - (a) exhibit or depose to a request by the foreign court for the taking of evidence;
  - (b) identify the parties to the proceeding in the foreign court;
  - (c) identify the witness sought to be summoned and the evidence or documents sought to be obtained from the witness;
  - (d) set out the proposed details of the examination of the witness; and
  - (e) exhibit a draft summons proposed to be issued to the witness.

- (3) The applicant must join the other parties to the proceeding in the foreign court as respondents.

#### 246.2—Order for taking evidence

- (1) The Court may—
- (a) order that the evidence be taken before a judicial officer; or
  - (b) appoint an examiner to take the evidence, in which case Chapter 13 Part 5 applies, with any necessary changes, to the appointment and examination.
- (2) If the Court makes an order for taking evidence, the Registrar will issue a summons to the witness to appear to give evidence or produce documents in the prescribed form.

**Prescribed form—**

Form 112 Summons to a Witness – Section 59 Evidence Act

- (3) If a witness fails to comply with a summons issued in accordance with subrule (2), the Court may order the issue of a warrant of apprehension in the prescribed form.

**Prescribed form—**

Form 114 Warrant of Apprehension of Witness

#### 246.3—Record of examination

On completion of the evidence, the Registrar will forward to the proper officer of the foreign court—

- (a) a certificate under the seal of the Court to the effect that the evidence was taken in accordance with the request of the foreign court;
- (b) the certified record of the examination;
- (c) any certified documents produced by the witness; and
- (d) any report made by the judicial officer or examiner who conducted the examination.

**Note—**

Section 59G of the *Evidence Act 1929* provides for certification of the record of the examination and any documents produced by the witness.

### Part 17—Transferred proceedings

#### 247.1—Remittal or transfer from external court

If a proceeding is remitted or transferred to the Court from a court other than one whose proceedings are governed by these Rules, the party who would have been the applicant if the remitted or transferred proceeding had been instituted in the Court under these Rules must within 14 days after the remittal or transfer order is made—

- (a) file a Claim or Originating Application being the appropriate form of originating process if the proceeding had been instituted in the Court under these Rules; and
- (b) apply to the Court for directions about the future conduct of the proceeding.

**Notes—**

Section 44 of the *Judiciary Act 1903* (Cth) empowers the High Court to remit the whole or part of a matter pending in the High Court to any court of a State that has jurisdiction with respect to the subject matter and the parties.

Sections 5 and 8 of the cross-vesting legislation and sections 1337H and 1337J of the corporations cross-vesting provisions empower the Federal Court, Family Courts or Supreme Court of another State to transfer a proceeding to the Supreme Court.

Section 1337K of the corporations cross-vesting provisions empowers a lower court of another State to transfer a proceeding to the District or Magistrates Court.

Section 20A(1) of the *Environment, Resources and Development Court Act 1993* empowers the Environment, Resources and Development Court to transfer a proceeding to the Supreme Court.

#### **247.2—Transfer between primary courts**

If a proceeding is transferred to the Court from a court whose proceedings are governed by these Rules, the applicant must within 14 days after the transfer order is made apply to the Court for directions about the future conduct of the proceeding.

##### **Notes—**

Section 19(2) of the *Magistrates Court Act 1991* empowers the Magistrates Court and section 19(1)(a) empowers the District Court to transfer a proceeding commenced in the Magistrates Court to the District Court.

Section 19(1)(b) of the *Magistrates Court Act 1991* empowers the District Court to transfer a proceeding commenced in the District Court to the Magistrates Court.

Section 24(2) of the *District Court Act 1991* empowers the District Court and section 24(1)(a) empowers the Supreme Court to transfer a proceeding commenced in the District Court to the Supreme Court.

Section 24(1)(b) of the *District Court Act 1991* empowers the Supreme Court to transfer a proceeding commenced in the Supreme Court to the District Court.

#### **247.3—Steps taken before remittal or transfer**

Unless the Court otherwise orders—

- (a) a step taken in a proceeding before its remittal or transfer into the Court is taken to be the equivalent step in a proceeding in the Court;
- (b) the time for taking the next steps in the proceeding runs from 14 days after the date of the remittal or transfer; and
- (c) any monetary limit that applied because of monetary limitations on the jurisdiction of the court from which the proceeding is transferred ceases to apply.

## Chapter 20—Specific kinds of proceedings—Supreme Court

### Part 1—Introduction

#### 251.1—Introduction

- (1) This Chapter contains rules relating to specific kinds of actions in the Supreme Court.
- (2) Except to the extent that a rule in this Chapter excludes, modifies or is inconsistent with the other provisions of these Rules, the other provisions of these Rules applicable to a claim or originating application (as the case may be) apply to an action the subject of this Chapter.
- (3) If a rule in this Chapter requires an action to be instituted by filing a Claim in accordance with rule 63.1, unless the rule otherwise provides, the prescribed form is Form 1 Claim.

**Prescribed form—**

Form 1 Claim

- (4) If a rule in this Chapter requires an action to be instituted by filing an Originating Application in accordance with rule 82.1, unless the rule otherwise provides, the prescribed form is Form 2 Originating Application.

**Prescribed form—**

Form 2 Originating Application

### Part 2—Admiralty

#### 252.1—Admiralty rules

An action in Admiralty is governed by the *Admiralty Rules 1988* (Cth).

### Part 3—Aged and infirm persons' property proceedings

#### 253.1—Application for protection order

- (1) An application under section 8 of the *Aged and Infirm Persons' Property Act 1940* for a protection order must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (3) The supporting affidavit filed under subrule (1) must—
  - (a) identify the age of the person proposed to be the subject of the protection order and the nature of their mental or physical infirmity (for which evidence of a medical practitioner is required);
  - (b) identify the assets and liabilities of the estate of the person proposed to be the subject of the protection order, so far as known or ascertainable on reasonable enquiry;
  - (c) either identify and exhibit any administration order under section 35 of the *Guardianship and Administration Act 1993* in existence or state that there is no such order in existence;

**Note—**

Section 30(3) and (4) of the *Aged and Infirm Persons' Property Act 1940* provide that, if an administration order is in force in respect of the whole of a person's estate, a protection order cannot be made and, if an administration order is in force in respect of a part of a person's estate, a protection order can only be made in respect of the remainder of the estate.

- (d) identify and exhibit any will or codicil in existence;
- (e) if it is possible that the person proposed to be the subject of the protection order was subject to an incapacity identified in section 7 of the *Aged and Infirm Persons' Property Act 1940* when making any such will—identify and exhibit any will or codicil made before the person arguably became subject to such incapacity; and
- (f) if the application is made by a person other than the person proposed to be the subject of the protection order, the person's spouse or near relative or Public Trustee—identify the circumstances that make it proper for the applicant to make the application.

**Note—**

Section 8(1)(e) of the *Aged and Infirm Persons' Property Act 1940* provides that an application may be made by any other person who adduces proof of circumstances which in the opinion of the court make it proper that such other person should make the application.

- (4) An affidavit or exhibit containing information as to a will or codicil may be filed on a party access basis as defined in rule 32.2.
- (5) The applicant—
  - (a) if they are the person proposed to be the subject of the protection order—must join the Public Advocate as an interested party;
  - (b) if a guardian or administrator has been appointed under the *Guardianship and Administration Act 1993* in respect of the person proposed to be the subject of the protection order—must join the guardian or administrator as an interested party; and
  - (c) in any other case—must join the person proposed to be the subject of the protection order as a respondent.
- (6) If the application is not made by the person proposed to be the subject of the protection order, the applicant may either—
  - (a) serve the person proposed to be the subject of the protection order with the Originating Application and supporting affidavit; or
  - (b) seek a determination by the Court about service on that person.
- (7) At the first hearing, the Court—
  - (a) will consider whether any additional person should be joined as a party and what orders, if any, should be made as to service; and
  - (b) may order that the Public Advocate be joined as an interested party.
- (8) If the applicant seeks a determination under subrule (6)(b), the Court may either—
  - (a) order that the person proposed to be the subject of the protection order be served in the usual manner;

- (b) order that service on that person be dispensed with; or
  - (c) order that that person be notified of the nature and significance of the proceeding and of their right to be heard in a manner that the Court considers best adapted to the circumstances.
- (9) If the Public Advocate is joined as a party, the Public Advocate is not liable to an order for costs against the Public Advocate.

#### **253.2—Application for protection order in personal injury proceeding**

- (1) An application under section 8A of the *Aged and Infirm Persons' Property Act 1940* for a protection order must be instituted by filing, in the personal injury proceeding, an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (2) Subrules (2) to (4) and (6) to (9) of rule 253.1 apply to an application under this rule.

#### **253.3—Costs**

In the usual case, the Court will fix the costs of the application on a lump sum basis.

#### **253.4—Protection order**

- (1) If the Court makes a protection order appointing a manager to take possession of and to control and manage all or part of the estate of the person the subject of the protection order, the applicant must serve a copy of the protection order as soon as practicable—
  - (a) on the person the subject of the protection order;
  - (b) on the manager;
  - (c) on the Registrar of Probate;
  - (d) on the South Australian Civil and Administrative Tribunal; and
  - (e) unless the manager is the Public Trustee—on the Public Trustee.
- (2) A protection order should include a term joining the Public Trustee (if not already a party) and the manager as interested parties.

**Note—**

Section 30(1) of the *Aged and Infirm Persons' Property Act 1940* provides that the court, on making or rescinding a protection order, must cause notice of the court's order to be forwarded to the South Australian Civil and Administrative Tribunal.

#### **253.5—Manager's statements**

- (1) Unless the Court otherwise orders, the manager must within 3 months of appointment file a statement verified by affidavit required by section 19(1) of the *Aged and Infirm Persons' Property Act 1940* which, in addition to the information required by that section, must particularise as at the date of appointment—
  - (a) the identity, condition and estimated value of each asset of the protected estate;
  - (b) the identity and amount of each liability of the protected estate (whether present, future or contingent); and
  - (c) income payable to the protected estate.
- (2) Unless the Court otherwise orders, the manager must by 30 September each year file a statement verified by affidavit required by section 19(1) of the *Aged and Infirm Persons' Property Act 1940* in respect of the previous financial year (or part year) ended on 30 June which, in addition to the information required by that section, must contain a full, true and fair—

- (a) statement of the assets and liabilities of the protected estate as at the preceding 30 June; and
  - (b) account of the income and expenditure of the protected estate during that financial year (or part year).
- (3) Unless the Court otherwise orders, the manager must—
- (a) within one month after a rescission of the protection order; or
  - (b) within 2 months after a determination of the protection order by operation of section 11(3) of the *Aged and Infirm Persons' Property Act 1940*,
- file a statement verified by affidavit required by section 19(1) of the *Aged and Infirm Persons' Property Act 1940* in respect of the period between the end of the previous financial year and the date of the rescission or determination which, in addition to information required by that section, must contain a full, true and fair—
- (c) statement of the assets and liabilities of the protected estate as at the date of the rescission or determination; and
  - (d) account of the income and expenditure of the protected estate during that period.
- (4) Unless the manager is the Public Trustee, the manager must, within 14 days after a request by the Public Trustee, deliver to the Public Trustee such documents as the Public Trustee may request in relation to a statement filed, or that should have been filed, under this rule.

#### 253.6—Rescission or variation of protection order

- (1) An application for—
- (a) rescission of a protection order under section 11(1) or 32(2); or
  - (b) variation or extension of a protection order under section 11(2), 11(3), 12, 13(2) or 32(1);

of the *Aged and Infirm Persons' Property Act 1940* must be made by filing an interlocutory application and supporting affidavit in accordance with [rule 102.1](#).

**Note—**

Section 30(4) of the *Aged and Infirm Persons' Property Act 1940* provides that, if an administration order is made in respect of a protected person's estate, the Civil and Administrative Tribunal must, on all rights of appeal being exhausted, cause a notice of the order to be filed in the court; and on the notice being filed, the protection order will be taken to have been wholly rescinded or, if the administration order relates only to a part of the person's estate, rescinded to that extent.

- (2) If—
- (a) a manager does not comply with an obligation under [rule 253.5](#); or
  - (b) a manager's statement filed under [rule 253.5](#) or a report made under section 19(4) of the *Aged and Infirm Persons' Property Act 1940* discloses matters that should be drawn to the Court's attention,

the Public Trustee or another person who applies to be and is joined as an interested party may apply to the Court by filing an interlocutory application and supporting affidavit in accordance with [rule 102.1](#) for the removal of the manager or another appropriate order.

- (3) On an application under subrule (2), the Court may—



- (a) appoint another person as manager in lieu of the manager, or
- (b) make such other or further order as it thinks fit.

### 253.7—Other orders

An application for—

- (a) authorisation, direction, approval, advice or exemption under section 6, 14, 15(3), 16, 24, 25, 27 or 29; or
- (b) an order under section 16A, 19, 22 or 31,

of the *Aged and Infirm Persons' Property Act 1940* must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

**Note—**

Section 22(1) of the *Aged and Infirm Persons' Property Act 1940* provides that a proceeding under Part 2 of that Act remains open for application to be made therein from time to time to the court by the manager, the person the subject of the protection order, their relation, the Public Trustee or a person interested in the protected estate and any person may be made a party to the proceeding generally or in any particular matter.

## Part 4—Deceased estates

### Division 1—Preliminary

#### 254.1—Definitions

In this Part, unless the contrary intention appears—

*Administration Act* means the *Administration and Probate Act 1919*;

*administrator* means the administrator within the meaning of the *Inheritance (Family Provision) Act 1972*;

**Note—**

Section 4 of the *Inheritance (Family Provision) Act 1972* defines “administrator” to mean any person to whom administration has been granted and defines “administration” to mean probate of the will of a deceased person or letters of administration of the estate of a deceased person.

*Family Provision Act* means the *Inheritance (Family Provision) Act 1972*;

*family provision action* means an action under the Family Provision Act;

*potential claimant*—see rule 254.11(2);

*probate action*—see rule 254.2;

*will* means a will within the meaning of the *Wills Act 1936* and includes a document referred to in section 12(2) of that Act.

### Division 2—Contentious probate and administration action

#### 254.2—Application of Division

This Division applies to a contentious, non-common form action (*probate action*)—

- (a) for the grant of probate of a will of a deceased person;
- (b) for the revocation of a grant of probate in common form;
- (c) for the grant of letters of administration of the estate of a deceased person (with or without the will annexed); and

- (d) for the revocation of a grant of letters of administration.

#### **254.3—Caveat**

A probate action must not be instituted unless a caveat has been entered in the Probate Registry in respect of the estate of the deceased person.

#### **254.4—Institution**

- (1) A probate action must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must—
  - (a) identify all documents purporting or contended to be wills made by the deceased person and the whereabouts of each such document;
  - (b) identify what enquiries have been made to identify and obtain copies of all such documents to satisfy the Court that all reasonable searches and enquiries have been made;
  - (c) exhibit copies of any such documents obtained by the applicant;
  - (d) set out, to the best of the applicant's knowledge and belief, the names and addresses of all persons—
    - (i) who are beneficiaries under any such document;
    - (ii) who would take on an intestacy of the deceased person; and
    - (iii) whose interests may otherwise be adversely affected by a judgment in the action; and
  - (e) identify each caveat entered in the Probate Registry in respect of the estate of the deceased person.
- (3) The applicant—
  - (a) must join any person who has entered a caveat in the Probate Registry in respect of the estate of the deceased person as a respondent; and
  - (b) must, in an action for the revocation of a grant, join every person who is entitled, or claims to be entitled, to administer the estate under that grant as a respondent.

**Note—**

There may be cost penalties for joining unnecessary parties.

#### **254.5—Response and responding affidavit**

A respondent or interested party—

- (a) who wishes to adduce evidence or make submissions in relation to the orders sought in an Originating Application must file a response in accordance with rule 83.1; and
- (b) who wishes to adduce evidence in relation to the orders sought in an Originating Application must file an affidavit in response in accordance with rule 83.2.

#### **254.6—Notice of action**

- (1) The applicant must as soon as practicable after instituting an action serve a notice of probate action in the prescribed form on any person whose interests may be adversely affected by a judgment in the action who is not a respondent or interested party.

**Prescribed form—**

**Form 46 Notice of Probate Action**

- (2) The Court may order that any other person be served with a notice of probate action.
- (3) The applicant must file an affidavit in accordance with rule 31.7 stating—
  - (a) that notices have been served in accordance with subrule (1) and any order of the Court; or
  - (b) if any notice has not been served, that the notice has not been served and explaining why it has not been served.
- (4) Unless the Court otherwise orders, a person on whom a notice of probate action has been served is bound by all judgments in the action, including judgments by consent or otherwise without a contested hearing, and is bound whether or not the person has become a party to the action.
- (5) Unless the Court otherwise orders, notice to persons in accordance with this rule will be in lieu of the issue of a citation or summons under section 27 or 28 of the Administration Act.

**254.7—Joinder and disjoinder of parties**

- (1) A person on whom a notice of probate action has been served is entitled, on providing proof of receipt of the notice and of the person's identity, to be joined (at their election) as a respondent or interested party in the proceeding.
- (2) The Registrar may join a person referred to in subrule (1) as an interested party without an order being made by the Court.
- (3) Upon a person referred to in subrule (1) being joined as a party to the proceeding, the person may file a response or responding affidavit as governed by rule 254.5.
- (4) The Court may order that a person be joined or disjoined as a respondent or interested party to a probate action.

**254.8—Safekeeping of original documents**

A party to a probate action who is in possession of a document purporting or contended to be a will made by the deceased must deposit it with the Registrar of Probates for safekeeping.

**254.9—Discontinuance and compromise**

- (1) Chapter 12 Part 1 does not apply to a probate action.
- (2) At any stage of a probate action, the applicant may file an interlocutory application and supporting affidavit in accordance with rule 102.1 for orders that—
  - (a) the action be discontinued on such terms as to costs as may be sought; and
  - (b) a grant of probate or letters of administration of the estate of the deceased person which is the subject of the probate action be made to the person entitled to a grant.
- (3) If the parties to a probate action agree to a compromise, a party may file an interlocutory application and supporting affidavit in accordance with rule 102.1 for such orders relating to a grant or revocation of probate or letters of administration of the estate of the deceased person as may be sought.

**Division 3—Inheritance family provision proceedings****254.10—Definitions**

In this Division, unless the contrary intention appears, words defined in the Family Provision Act have the same meaning as in that Act.

**254.11—Institution**

- (1) A family provision action must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must set out the names and addresses of all persons (*potential claimants*)—
  - (a) who are beneficiaries of the estate; or
  - (b) who may be entitled to make a claim under the Family Provision Act.
- (3) The applicant—
  - (a) must join the administrator of the estate as a respondent; and
  - (b) must join any person having a beneficial interest in the estate that may be adversely affected by a judgment in the action as an interested party.
- (4) To avoid doubt, if the applicant is also the administrator of the estate, that person will be an applicant in their personal capacity and a respondent in their capacity as administrator.
- (5) If a proceeding by way of claim is to be instituted against the administrator making a substantive claim in respect of the estate independently of the Family Provision Act, the applicant may join a claim under the Family Provision Act with the substantive claim but the applicant must otherwise comply with this Division.

**254.12—Notice to potential claimants**

- (1) The applicant must, within 14 days after institution of the action, serve on each potential claimant by original service a notice to potential claimant in the prescribed form accompanied by a copy of the Originating Application and supporting affidavit.

**Prescribed form—**

Form 41 Notice to Potential Claimant

- (2) Within 28 days after service of a notice under subrule (1), a potential claimant may file an interlocutory application and supporting affidavit in accordance with rule 102.1 seeking joinder as an applicant making a claim under the Family Provision Act.

**254.13—Administrators**

- (1) Within 28 days after service of the Originating Application documents on the administrator, the administrator must file a responding affidavit in accordance with rule 83.2—
  - (a) stating the date of service of the Originating Application documents upon the administrator;
  - (b) exhibiting a copy of the grant of probate or letters of administration, including any will;
  - (c) exhibiting the statement of assets and liabilities filed in support of the application for a grant of probate or letters of administration in the estate; and

- (d) setting out details of the assets and liabilities of the estate as at or about the date of the affidavit that have changed from the details stated in the statement of assets and liabilities.
- (2) Between 35 and 14 days before the trial date, the administrator must file a supplementary affidavit in accordance with rule 31.7 setting out details of the assets and liabilities of the estate as at or about that date.
- (3) Unless the Court otherwise orders, the administrator is excused from taking any other steps in the action.

#### **254.14—Responding affidavits**

- (1) If a respondent or interested party wishes to rely on any facts in addition to or contrary to those relied on by the applicant (in the supporting affidavit), they must within 28 days after service file a responding affidavit in accordance with rule 83.2.
- (2) A party who files an affidavit under this rule is not required to file a Response.

#### **254.15—Summary determination**

- (1) The Court may order that the trial of the action proceed by summary determination under this rule if—
  - (a) there are reasonable grounds to believe that the net value of the estate that will be available for distribution (after meeting all liabilities) will be less than \$750,000; or
  - (b) all parties consent to proceeding under this rule.
- (2) The primary object of a trial by summary determination is to minimise costs and achieve an expeditious but just determination of the action.
- (3) At a trial by summary determination—
  - (a) the trial is to proceed in accordance with such directions as are given by the Court; and
  - (b) the Court is not bound by the rules of evidence and may inform itself in such manner as it thinks fit.
- (4) If the trial of a claim should have been, but was not, dealt with by summary determination due to the attitude or conduct of a party, the Court may take that into account in making orders as to costs.

#### **254.16—Lodgement of order**

When the Court makes an order under section 9(4) of the Family Provision Act that a certified copy be made upon the probate of the will or letters of administration of the estate, a certified copy must be lodged as soon as practicable with the Registrar of Probates.

## **Part 5—ICAC and ACC Investigations**

### **Division 1—Preliminary**

#### **255.1—Definitions**

In this Part—

*Commonwealth ACC Act* means the *Australian Crime Commission Act 2002* (Cth);

*examiner* means—

- (a) in Divisions 3 and 4—an examiner within the meaning of clause 1 of Schedule 2 to the *Independent Commissioner against Corruption Act 2012*; or
- (b) in Division 5—an examiner within the meaning of clause 1 of Schedule 2 to the *Independent Commissioner against Corruption Act 2012* or section 46B(1) of the *Australian Crime Commission Act 2002* (Cth) as the case may be;

*ICAC Act* means the *Independent Commissioner against Corruption Act 2012*;

*State ACC Act* means the *Australian Crime Commission (South Australia) Act 2004*;

*witness* means—

- (a) in Division 3—a witness within the meaning of clause 18(1) of Schedule 2 to the *Independent Commissioner against Corruption Act 2012*; or
- (b) in Division 4—a witness within the meaning of clause 9 of Schedule 2 to the *Independent Commissioner against Corruption Act 2012*.

## **Division 2—Extension of time for retention of thing seized**

### **255.2—Application**

- (1) An application by the Commissioner under section 32 of the *ICAC Act* to extend time for retention of a thing seized or subject of a retention order under section 31 of the *ICAC Act* must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.

**Note—**

Section 32 of the *Independent Commissioner Against Corruption Act 2012* provides for retention of things for the “designated period”, being 2 years or such longer period as a Judge of the Supreme Court may, on application by the Commissioner, allow.

- (2) The supporting affidavit must—
  - (a) exhibit a copy of the warrant under which the thing was seized or the retention order was issued and a copy of the retention order when applicable;
  - (b) identify the thing seized or the subject of a retention order and the date of seizure or issue of the retention order; and
  - (c) depose to the facts relied on in support of the application.
- (3) The applicant must join as a respondent—
  - (a) the person from whom the thing was seized or to whom the retention order was issued, as the case may be; and
  - (b) the owner of the thing.
- (4) The Originating Application and affidavit must be served on the respondent by original service as soon as practicable.

## **Division 3—Delivery of passport**

### **255.3—Application for order to show cause**

- (1) An application by an examiner under clause 18(1) of Schedule 2 to the *ICAC Act* for an order that a witness appear before a Judge to show cause why they should not be ordered to deliver their passport to the examiner must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must—

- (a) exhibit the summons issued to the witness;
  - (b) if the witness has given evidence—depose to the basis on which the witness is required to attend to give further evidence or produce further documents;
  - (c) identify the subject matter of the evidence it is believed the witness could give and its relevance to the investigation; and
  - (d) depose to the basis for the requisite suspicion that the witness intends to leave Australia and has in their possession, custody or control a passport issued to them.
- (3) The applicant must join the witness against whom the order is sought as a respondent.
  - (4) The application will ordinarily be heard without notice.
  - (5) An order made under this rule must be in the prescribed form.

**Prescribed form—**Form 83 Order – show cause against delivery of passport

- (6) The applicant must serve the order, together with the Originating Application and supporting affidavit, on the respondent by original service as soon as practicable.

**255.4—Application to revoke or extend order**

An application—

- (a) under clause 18(3) of Schedule 2 to the ICAC Act to extend time for retention of a passport; or
- (b) under clause 18(4) of Schedule 2 to the ICAC Act to revoke an order for retention of a passport,

must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

**Division 4—Warrant of arrest****255.5—Application**

- (1) An application by an examiner under clause 9 of Schedule 2 to the ICAC Act for a warrant of arrest must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The application must be accompanied by two copies of the proposed warrant.
- (3) The applicant must join the person for whose arrest the warrant is sought as a respondent.
- (4) The application will ordinarily be heard without notice.

**255.6—Warrant**

- (1) On hearing an application under rule 255.5, the Judge may, if satisfied of the matters required by clause 9 of Schedule 2 to the ICAC Act, issue a warrant for the arrest of the respondent in the prescribed form.

**Prescribed form—**Form 157 Warrant of Apprehension – ICAC Act

- (2) A warrant of arrest issued under this rule must contain the following endorsements—

If a person is apprehended under this warrant, he or she must be brought, as soon as practicable, before a Judge of the Supreme Court and the Judge may—

- (a) admit the person to bail, with such security as the Judge thinks fit, on such conditions as thought necessary to ensure the appearance of the person as a witness before the examiner; or
- (b) order the continued detention of the person for the purposes of ensuring their appearance as such a witness; or
- (c) order the release of the person.

If a person is under detention under clause 9 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012*, the person must, within 14 calendar days after the person was brought, or last brought, before a Judge of the Supreme Court in accordance with that clause, or within such shorter or longer time as a Judge has fixed upon the last previous appearance of the person before a Judge under that clause, be again brought before a Judge.

## Division 5—Contempt

### 255.7—Application for contempt

- (1) An application by an examiner—
  - (a) under clause 13 of Schedule 2 to the ICAC Act; or
  - (b) under section 26B of the State ACC Act or section 34B of the Commonwealth ACC Act.
 for a person to be dealt with in relation to a contempt must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must—
  - (a) exhibit the certificate to which clause 13(3) of Schedule 2 to the ICAC Act, section 26B(3) of the State ACC Act or section 34B(3) of the Commonwealth ACC Act refers;
  - (b) verify the grounds on which the application is made as stated in the certificate; and
  - (c) depose to the facts or exhibit the documents relied on in support of the application as stated in the certificate.
- (3) If the application is in respect of a person who has been detained under clause 15 of Schedule 2 to the ICAC Act, section 26D of the State ACC Act or section 34D of the Commonwealth ACC Act, the examiner must—
  - (a) identify that fact in the supporting affidavit; and
  - (b) request, when filing the application, that it be listed before a Judge as a matter of urgency for directions under clause 15 of Schedule 2 to the ICAC Act, section 26D of the State ACC Act or section 34D of the Commonwealth ACC Act.
- (4) The applicant must join the person against whom the order is sought as a respondent.
- (5) An examiner may withdraw an application under this rule by filing a notice of discontinuance.

**Note—**

Chapter 12 Part 1 applies to discontinuances.



**255.8—Hearing and determination of charge**

- (1) Chapter 17 Part 5 governs the hearing and determination of a charge of contempt under this Part.
- (2) For the purposes of Chapter 17 Part 5, the examiner is the prosecutor.

**Part 6—Judicial review and defence of liberty proceedings****Division 1—Preliminary****256.1—Definitions**

In this Part, unless the contrary intention appears—

**authority** means a decision-maker, court, tribunal or other body or person exercising or purporting or having power to exercise administrative or judicial functions;

**certiorari** means an order setting aside a decision of an authority for absence or excess of jurisdiction, jurisdictional error, error of law on the face of the record, failure to observe the requirements of procedural fairness or fraud;

**judicial review** means an action seeking an order formerly available by prerogative writ in the nature of certiorari, mandamus, prohibition or quo warranto;

**mandamus** means an order compelling an authority to perform a public duty;

**prohibition** means an order preventing an authority from acting beyond jurisdiction or in contravention of the requirements of procedural fairness;

**quo warranto** means an order preventing a person from wrongfully exercising or purporting to exercise functions of a public character.

**Division 2—Jurisdiction of Court****256.2—Manner of exercise**

- (1) The jurisdiction of the Court to issue prerogative writs conferred by section 17 of the *Supreme Court Act 1935* is to be exercised in the following manner.
- (2) The jurisdiction of the Court to issue a writ of prohibition, certiorari, mandamus or quo warranto is to be—
  - (a) invoked by an applicant filing an Originating Application and supporting affidavit in accordance with Division 3; and
  - (b) exercised when appropriate by the Court making a final order under Division 3.
- (3) The jurisdiction of the Court to issue a writ of habeas corpus is to be—
  - (a) invoked by an applicant filing an Originating Application and supporting affidavit in accordance with Division 4;
  - (b) exercised in the first instance when appropriate by the Court ordering the production of the person subject of the application before the Court for the Court to inquire into the circumstances of the case under Division 4; and
  - (c) exercised ultimately when appropriate by the Court making a final order under Division 4.

**Division 3—Actions for judicial review****256.3—Time to commence**

- (1) An action for judicial review must be commenced—
  - (a) as soon as practicable after the decision, act or omission the subject of the action; and
  - (b) in any event within 6 months after the decision, act or omission the subject of the action.
- (2) An applicant may institute an action for judicial review more than 6 months after the decision, act or omission the subject of the action if the applicant seeks an extension of time to commence the action; however the applicant must seek an extension of time to commence the action and the action cannot proceed further without leave of the Court.

**256.4—Institution**

- (1) Subject to subrule (7), an action for judicial review must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2) and be accompanied by a statement of facts issues and contentions in the prescribed form.

**Prescribed forms—**

Form 4A Originating Application for Review – Judicial Review

Form 4S Statement of Facts Issues and Contentions uploaded with Originating Application for Review

Form 11 Statement of Facts Issues and Contentions Standalone

**Filing instructions—**

If an Originating Application for judicial review is filed physically at Registry, a Form 4A with a Form 4S is to be used.

If an Originating Application for judicial review is filed using the Electronic System, a Form 4S is to be uploaded with the Form 4A.

If a Statement of Facts Issues and Contentions is filed after the commencement of an action (due to amendment, order of the Court or otherwise), a Form 11 is to be used.

- (2) The statement of facts issues and contentions must set out, without argument or evidence—
  - (a) the relevant facts;
  - (b) the issues in neutral terms;
  - (c) the contentions;
  - (d) the grounds for an extension of time (if applicable); and
  - (e) the orders sought.
- (3) The supporting affidavit must—
  - (a) exhibit the record of the decision, act or omission the subject of the action and any reasons given for it;
  - (b) exhibit any request or other submission by the applicant to the authority on which the decision, act or omission was based (if applicable);

- (c) exhibit any other materials in the applicant's possession that were before the authority for the purpose of the decision, act or omission the subject of the action insofar as they are relevant to the grounds of review;
  - (d) exhibit, or if not documentary depose to, the evidence on which the applicant relies for judicial review;
  - (e) identify any person or class of persons who has an interest in the matter beyond that of a member of the public; and
  - (f) if an extension of time in which to institute the action is sought—depose to the facts on which the application for an extension of time is made.
- (4) The applicant—
- (a) must join the entity or person (if any) who requested the decision, act or omission the subject of the action or who whose interests may be directly and adversely affected by the orders sought as a respondent; and
  - (b) must join the authority as an interested party or, if the authority has a direct interest in supporting the decision, act or omission, as a respondent.
- (5) If the action was instituted more than 6 months after the decision, act or omission in question, the application must be accompanied by an interlocutory application and supporting affidavit in accordance with rule 102.1 seeking an extension of time to commence the action and leave of the Court to proceed with the action.
- (6) An action for judicial review may include a claim for declaratory relief in respect of the subject matter of the action for judicial review.
- (7) If a proceeding by way of claim is to be instituted by making a substantive claim in respect of the same decision, act or omission independently of judicial review, the applicant may join a claim for judicial review with the substantive claim, in which case—
- (a) the proceeding may be instituted by a Claim rather than an Originating Application;
  - (b) the matters required to be included in a statement of facts, issues and contentions must be included in the statement of claim; and
  - (c) the applicant must file an affidavit in accordance with subrule (3).

#### **256.5—Application for leave or summary judgment**

- (1) This rule applies if—
- (a) an applicant files an interlocutory application seeking an extension of time to commence the action and leave to proceed with the action under rule 256.4(5); or
  - (b) within 14 days after service of the Originating Application documents, a respondent files an interlocutory application for summary judgment under rule 144.2.
- (2) If this rule applies, no further steps are required to be taken by any party in the action (including filing responding documents) other than for the purpose of the interlocutory application in question until that application has been determined by the Court.
- (3) If this rule applies, the Court will dismiss the action (insofar as judicial review is sought)—

- (a) unless the Court is satisfied that there is a reasonable basis for the action for judicial review, and
  - (b) if subrule (1)(a) applies—the Court either grants an extension of time or orders that the application be heard and determined with the merits of the proceeding.
- (4) If the Court dismisses the action insofar as judicial review is sought but a balance of the proceeding under rule 256.4(7) remains, the Court will make orders for the future conduct of the balance of the proceeding.
- (5) If the Court does not dismiss the action insofar as judicial review is sought, the Court will make orders for the future conduct of the action.

#### **256.6—Responding documents**

Subject to rule 256.5(2), a respondent or interested party who wishes to oppose a judicial review must within 28 days after service of the Originating Application documents—

- (a) file a response to the statement of facts issues and contentions in the prescribed form setting out, without argument or evidence—
  - (i) the response to the relevant facts alleged by the applicant and any additional facts;
  - (ii) any additional, or refinement of, issues in neutral terms;
  - (iii) the contentions;
  - (iv) if applicable, the response to the grounds for an extension of time; and
  - (v) the response to the orders sought; and
- (b) file a responding affidavit in accordance with rule 83.2 exhibiting to the extent not already exhibited to an affidavit filed in the proceeding—
  - (i) any record of the decision, act or omission the subject of the action in the party's possession;
  - (ii) any materials in the party's possession that were before the authority for the purpose of the decision, act or omission in question insofar as they are relevant to the grounds of review, and
  - (iii) the evidence on which the party opposes judicial review, or if not documentary, deposing to such evidence.

##### **Prescribed form—**

Form 57 Response to Statement of Facts Issues and Contentions

#### **256.7—Further conduct**

- (1) At a directions hearing, the Court will make orders for the further conduct and hearing of the proceeding.
- (2) At the appropriate time, the Court will determine whether the proceeding is to be heard and determined exclusively by a single Judge or whether a question of law should be reserved for the consideration of the Full Court.
- (3) The Court may at any time—
  - (a) stay proceedings the subject of the action; or
  - (b) suspend the operation of a decision or act the subject of the action.

**Division 4—Actions in defence of liberty****256.8—Institution**

- (1) An action seeking the release of a person unlawfully detained (the *detainee*) must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must—
  - (a) set out the grounds for suspecting that the detainee is being held in unlawful custody or is being subjected to unlawful restraint; and
  - (b) if the applicant is not the detainee—either state that the detainee consents to the application or explain why the action should proceed without the detainee's consent.
- (3) The applicant—
  - (a) must join the entity or person by whom the detainee is allegedly being detained as a respondent; and
  - (b) if the applicant is not the detainee—must join the detainee as an interested party.
- (4) The applicant may apply without notice for an order for production of the detainee before the Court.
- (5) If the application is made without notice, the Court may make such orders as it thinks fit concerning the joinder of additional parties or service of the Originating Application and supporting affidavit.

**256.9—Order for production and inquiry**

- (1) If there are grounds to suspect that the detainee is being held in unlawful custody or is being subjected to unlawful restraint, the Court may order the issue of a warrant in the prescribed form for the production of the detainee before the Court to inquire into the circumstances of the case.  
**Prescribed form—**  
Form 115 Warrant to Produce Person in Custody
- (2) The Court may make such orders as it thinks fit relating to the conduct of the inquiry.
- (3) At the inquiry, the Court will hear the parties and may hear any other person who has a sufficient interest in the action.

**256.10—Order for release**

- If the Court finds that the detainee is being held in unlawful custody or is being subjected to unlawful restraint, the Court may—
- (a) order termination of the detention or restraint and release of the detainee;
  - (b) order that provision be made for the care and protection of the detainee; or
  - (c) make such other or further order as it thinks fit.

## Part 7—Legal admission

### Division 1—Preliminary

#### 257.1—Assignment of functions

- (1) By force of this subrule, the Court assigns to the Law Society, subject to the conditions in subrule (2) (the *confidentiality condition*), subrule (3) (the *appeal condition*) and subrule (4) (the *reservation condition*), the functions and powers of—
  - (a) public notification of applications for admission;
  - (b) referral of applications for admission and subsequent documents to the Board of Examiners under section 15(2) of the Legal Practitioners Act;
  - (c) referral of applications for admission and subsequent documents to the Attorney-General, the Legal Profession Conduct Commissioner and the Law Society in its own right under section 15(1a) and (2) of the Legal Practitioners Act; and
  - (d) preparing and arranging the execution of the Supplementary Roll of Practitioners by applicants who do not execute the Principal Roll of Practitioners in court or before the Registrar.

**Note—**

Section 52A of the *Legal Practitioners Act 1981* empowers the Court to assign any functions or powers conferred on or vested in it under Part 3 of that Act.

- (2) Unless the Legal Practitioners Act otherwise provides or the Court otherwise orders, personnel performing functions and exercising powers on behalf of the Law Society as assignee of the Court must—
  - (a) be confined to personnel approved by the Registrar who have signed an undertaking of confidentiality in terms of paragraphs (b) and (c);
  - (b) keep confidential any information acquired by the Law Society in its capacity as assignee of the Court except information available to the public under section 131 of the *Supreme Court Act 1935* or otherwise; and
  - (c) not disclose any such confidential information to Law Society personnel who have not signed such an undertaking and are not performing functions or exercising powers on behalf of the Law Society as assignee of the Court.
- (3) A person who is dissatisfied with a decision of the Law Society performing functions or exercising powers of the Court as assignee may appeal to the Court by filing a notice of appeal in accordance with rule 214.2 naming the Law Society as an interested party within 21 days after the decision and serving the notice of appeal on the Law Society.
- (4) The assignment of functions and powers under this rule is subject to the condition that the Court reserves the power to perform a function or exercise a power itself in a particular case if it thinks fit.

### Division 2—Application for admission

#### 257.2—Application by first time lawyer

An application by a person not previously admitted as a lawyer in Australia or New Zealand for admission as a solicitor and barrister of the Court must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2) in the prescribed form.

**Prescribed forms—**

Form 7A Originating Application Ex Parte - Admission

Form 12A Affidavit – in Support of Application for Admission

**Note—**

The applicant should liaise with the Law Society concerning compliance with this rule before filing the requisite documents.

**257.3—Application by lawyer who has been struck off**

- (1) An application by a person whose name has been struck off from the Roll of Practitioners for admission as a solicitor and barrister of the Court must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2) in the prescribed form.

**Prescribed form—**

Form 7A Originating Application Ex Parte – Admission

Form 12A Affidavit – in Support of Application for Admission

- (2) The supporting affidavit must—
  - (a) describe the applicant’s previous experience as an admitted lawyer;
  - (b) describe and explain why the applicant was struck off;
  - (c) describe what work the applicant has undertaken since being struck off; and
  - (d) depose to the facts on the basis of which the applicant contends that the applicant is a fit and proper person to practise the profession of the law and to act as a lawyer in all matters usually transacted by or entrusted to lawyers.

**Division 3—Notification, referral, objections and report**

**257.4—Notification of application**

- (1) Upon filing an application for admission, the Court will transmit to the Law Society a copy of the application and supporting affidavit.
- (2) The Chief Justice may set the notification fee payable by an applicant to the Law Society for publishing details of an applicant’s application on its website.
- (3) On filing an application for admission, the applicant must pay to the Law Society the notification fee.
- (4) On payment of the notification fee, the Law Society must publish the name of the applicant as an applicant for admission on its public website.
- (5) Upon the filing of any further document in the action, including any notice of objection or another affidavit, the Court will transmit to the Law Society a copy of the filed document.

**257.5—Referral of application**

- (1) Upon receipt of an application for admission, the Law Society must, on behalf of the Court—
  - (a) refer the application to the Board of Examiners for its report and recommendation on the application; and
  - (b) upon receipt, provide to the Board of Examiners any other document filed in the action.

- (2) Upon receipt of an application for admission under rule 257.3, the Law Society must, on behalf of the Court—
  - (a) refer the application to the Attorney-General, the Legal Profession Conduct Commissioner and the Law Society in its own right; and
  - (b) upon receipt, the Law Society must provide to the Attorney-General, the Legal Professional Conduct Commissioner and the Law Society in its own right any other document filed in the action.

#### **257.6—Objections**

- (1) Any person may object to the admission of an applicant on the ground that the applicant is—
  - (a) not eligible to be admitted under section 15(1)(c) of the Legal Practitioners Act; or
  - (b) not a fit and proper person to practise the profession of the law under section 15(1)(a) of the Legal Practitioners Act.
- (2) An objection must be made by filing a notice of objection in the prescribed form supported by an affidavit identifying the detailed grounds of objection and the facts on which the objector relies.

##### **Prescribed form—**

##### **Form 58A Notice of Objection - Admission**

- (3) The Registrar may, on request by a person referred to in subrule (1), join the person as an interested party without an order being made by the Court.
- (4) An objector must serve the notice of objection and supporting affidavit on the applicant and if, the application is made under rule 257.3, on the Attorney-General, Legal Profession Conduct Commissioner and Law Society, as soon as practicable.
- (5) If the applicant wishes to answer the grounds of objection or facts on which the objector relies, the applicant must file an answering affidavit in accordance with rule 31.7 within 7 days after receipt of the objection and must serve it on the objector as soon as practicable.
- (6) If the Law Society, Attorney-General or Legal Profession Conduct Commissioner wish to adduce evidence in relation to an objection or any answer by the applicant, they must file an affidavit in accordance with rule 31.7 addressing the objection or answer within 7 days after receipt of the objection or answer as the case may be and must serve the affidavit on the applicant and each other party as soon as practicable.
- (7) The Registrar may, on request by a person referred to in subrule (6), join the person as an interested party without an order being made by the Court.

#### **257.7—Report by the Board of Examiners**

- (1) The Board of Examiners is to provide its report (incorporating its recommendation) to the Law Society.
- (2) The Board of Examiners must address any objection in its report and recommendation and, if it receives an objection after providing its report and recommendation, must provide a supplementary report and recommendation addressing the objection.
- (3) The Law Society must transmit the report, and any supplementary report, to the Registrar for filing.
- (4) The Law Society must serve the report, and any supplementary report, on—



- (a) the applicant;
- (b) any objector, and
- (c) if the application is made under rule 257.3—on the Attorney-General, the Legal Profession Conduct Commissioner and the Law Society in its own right.

#### **Division 4—Hearing and Roll of Practitioners**

##### **257.8—Listing for hearing**

- (1) After receipt of the Board's report, the Court will list the application for hearing and the Registrar will give notice of the hearing in the prescribed form to the parties.

###### **Prescribed form—**

###### **Form 78E Notice of Hearing**

- (2) If an objection is filed or the Board recommends that the applicant not be admitted, the Registrar will convene a directions hearing before a Judge to give directions about the listing and preparation of the application for hearing before 3 Judges of the Court sitting en banco.

##### **257.9—Hearing**

- (1) At the hearing of the application, the Court may, if it thinks fit, act upon a report of the Board of Examiners without further evidence.
- (2) The applicant must attend the hearing, unless exempted by the Court on application by the applicant made by filing a request to the Registrar in accordance with rule 13.2(5) at least 14 days before the hearing or on the Court's own initiative.
- (3) If the Court orders that an applicant be admitted, the applicant must take the oath or affirmation of admission in the following terms—

"I [*full name*] swear on oath and promise that I will diligently and honestly perform the duties of a practitioner of this Court and will faithfully serve and uphold the administration of justice under the constitutions and laws of Australia and its States and Territories. So help me God. I swear."

"I [*full name*] do truly and solemnly affirm and promise that I will diligently and honestly perform the duties of a practitioner of this Court and will faithfully serve and uphold the administration of justice under the constitutions and laws of Australia and its States and Territories."

- (4) If the Court orders that an applicant be admitted, the applicant will be enrolled as a solicitor and barrister of the Court upon signing the Roll of Practitioners.

##### **257.10—The Roll of Practitioners**

- (1) The Registrar must maintain a Roll of Practitioners recording the name, date of admission and, when applicable, date of striking off of each person enrolled as a solicitor and barrister of the Court.
- (2) The Registrar must maintain—
  - (a) a Principal Roll of Practitioners for enrolment under subrule (3) or (4)(a); and
  - (b) a Supplementary Roll of Practitioners for enrolment under subrule (4)(b) and (c).
- (3) If the applicant is present at the hearing, the applicant must sign the Principal Roll of Practitioners at the hearing.

- (4) If an applicant does not sign the Principal Roll of Practitioners at the hearing, the applicant must either—
  - (a) attend before the Registrar and take the oath or affirmation of admission and sign the Principal Roll of Practitioners;
  - (b) attend at the Law Society and swear or affirm an affidavit containing the oath or affirmation of admission and deposing to execution of a Supplementary Roll of Practitioners sheet at the Law Society; or
  - (c) with the prior approval of the Chief Justice, attend before a lawyer admitted and practising in South Australia of at least 5 years standing who is an authorized witness within the meaning of rule 31.9 and swear or affirm an affidavit containing the oath or affirmation of admission and deposing to execution of a Supplementary Roll of Practitioners sheet before that lawyer.
- (5) The Chief Justice may grant approval under subrule (4)(c) in respect of—
  - (a) a specified applicant; or
  - (b) a class of applicants,and may grant approval subject to such conditions (if any) as the Chief Justice thinks fit.
- (6) If the applicant proceeds under subrule (4)(b), the Law Society must transmit the affidavit and duly executed Supplementary Roll of Practitioners sheet to the Registrar for filing by the Registrar as soon as practicable.
- (7) If the applicant proceeds under subrule (4)(c), the applicant must file the affidavit and duly executed Supplementary Roll of Practitioners sheet as soon as practicable.
- (8) Upon receipt of a duly executed Supplementary Roll and confirmation of filing of the requisite affidavit, the Registrar must—
  - (a) include the Supplementary Roll of Practitioners sheet in the Supplementary Roll of Practitioners; and
  - (b) enter the name of the applicant on the Principal Roll of Practitioners in the usual order with the following endorsement alongside the applicant's name—

“see Supplementary Roll of Practitioners”.
- (9) If an applicant fails to sign the Roll of Practitioners within 12 months after the order for admission, the order lapses.

#### **257.11—Application for re-admission**

- (1) A person in respect of whom an order for admission has lapsed may apply to be re-admitted in accordance with this rule.
- (2) An application under subrule (1) must be made by filing an interlocutory application in accordance with rule 102.1 seeking re-admission supported by an affidavit in accordance with rule 102.1(2) referring to the evidence and report previously filed on the application for admission and setting out the further facts, and exhibiting the further documents, on which the applicant relies.
- (3) The applicant may rely on evidence and the report filed on the application for admission to which reference is made in the affidavit filed under subrule (2).
- (4) Rules 257.1 to 257.10 apply, with any necessary changes, to an application for re-admission.

**257.12—Change of name**

- (1) A lawyer who changes their name may re-subscribe to the Roll of Practitioners under this rule.
- (2) If the lawyer holds a practising certificate, the lawyer must re-subscribe to the Roll of Practitioners within 28 days after changing their name.
- (3) An application to re-subscribe to the Roll of Practitioners must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1—
  - (a) exhibiting a certified copy of a certificate of change of name or birth certificate on which the notation of change has been made;
  - (b) exhibiting a certified copy of a marriage certificate if the change of name results from marriage; or
  - (c) deposing to the fact that the lawyer proposes to practise in the lawyer's former name and to use that name for all professional purposes.
- (4) Upon receipt of the application and affidavit, the Registrar, if satisfied that it is appropriate, must arrange for the lawyer to re-subscribe to the Roll of Practitioners.

**Part 8—Legal registration****Division 1—Preliminary****258.1—Interpretation**

- (1) In this Part, unless the contrary intention appears—

*Mutual Recognition Act* means the *Mutual Recognition Act 1992* (Cth) as adopted by the *Mutual Recognition (South Australia) Act 1993*;

*Mutual Recognition Legislation* means the *Mutual Recognition Act 1992* (Cth) as adopted by the *Mutual Recognition (South Australia) Act 1993* or the *Trans-Tasman Mutual Recognition Act 1997* (Cth);

*Trans-Tasman Mutual Recognition Act* means the *Trans-Tasman Mutual Recognition Act 1997* (Cth).
- (2) Unless the contrary intention appears, a term defined by the Mutual Recognition Legislation has the same meaning in this Part.

**258.2—Local registration authority**

- (1) The local registration authority for the purpose of the Mutual Recognition Legislation is the Court.
- (2) By force of this subrule, the Court assigns to the Board of Examiners, subject to the appeal condition in subrule (4) and reservation condition in subrule (7), the functions and powers of—
  - (a) determining applications under the Mutual Recognition Legislation for admission and enrolment as solicitors and barristers of the Court;
  - (b) determining whether to grant, or impose conditions on, a practising certificate to applicants; and
  - (c) requiring the provision of information for the purpose of performing a function or exercising a power assigned by this rule.

- (3) By force of this subrule, the Court assigns to the Law Society, subject to the confidentiality, appeal and reservation conditions referred to in rule 257.1, the functions and powers of—
- (a) referral of applications for admission under section 15(2) of the Legal Practitioners Act;
  - (b) notifying applicants of determinations made under subrule (2); and
  - (c) preparing and arranging the execution of the Supplementary Roll of Practitioners by applicants who do not execute the Principal Roll of Practitioners.
- (4) A person who is dissatisfied with a decision of the Board of Examiners exercising functions or powers of the Court as assignee may appeal to the Court by filing a notice of appeal in accordance with rule 214.2 within 21 days after the decision.
- (5) If a person files a notice of appeal under subrule (4), the person must—
- (a) name the Board of Examiners and the Law Society as interested parties; and
  - (b) serve the notice of appeal on the Law Society as soon as practicable and the Law Society must transmit the notice of appeal to the Board of Examiners on receipt.
- (6) An appeal under subrule (4) will be heard by a single Judge under Chapter 18 Part 7.
- (7) The assignment of functions and powers under this rule is subject to the condition that the Court reserves the power to perform a function or exercise a power itself in a particular case if it thinks fit.

## **Division 2—Application and determination**

### **258.3—Application**

- (1) An application by a person who is admitted as a lawyer (whether as a solicitor or barrister) elsewhere in Australia or in New Zealand seeking admission as a solicitor and barrister of the Court under the Mutual Recognition Legislation must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form, which comprises a notice for the purpose of section 19 of the Mutual Recognition Act and section 18 of the Trans-Tasman Mutual Recognition Act.

**Prescribed form—**

Form 7B Originating Application Ex Parte - Registration

- (2) The application must include full details of any condition or restriction on the applicant's right to practise or practising certificate imposed by—
- (a) the admitting authority;
  - (b) the authority charged with the responsibility for issuing practising certificates; or
  - (c) a statute,
- in the first jurisdiction or any other jurisdiction in which the applicant is admitted.

- (3) The application must be supported by a statutory declaration in the prescribed form.

**Prescribed form—**

Form 13A Statutory Declaration – in Support of Registration

- (4) The application must be accompanied by a certified copy, certified by the attesting witness to the statutory declaration, of each the following—

- (a) an instrument evidencing the applicant's existing registration in the first jurisdiction;
  - (b) a certificate of fitness or good standing in the applicant's first jurisdiction and any other jurisdiction in which the applicant is admitted or registered under the Mutual Recognition Legislation; and
  - (c) a driver's licence, passport or birth certificate as evidence of identity.
- (5) Upon receipt of an application under this rule, the Law Society must, on behalf of the Court, refer the application to the Board of Examiners for its determination under rule 258.4(1) and rule 258.4(2).

#### **258.4—Report and determination by the Board**

- (1) The Board of Examiners must determine an application filed under rule 258.3 within one month of filing of the application.

**Note—**

Under section 21(4) of the *Mutual Recognition Act 1992* (Cth) and section 20(4) of the *Trans-Tasman Mutual Recognition Act 1997* (Cth), if the Board makes no determination within 1 month of the notice being lodged, the applicant is, absent fraud, entitled to registration.

- (2) If the applicant is seeking a practising certificate as well as admission and enrolment, the Board of Examiners must at the same time determine whether a practising certificate is to be issued and on what conditions (if any).
- (3) The Board of Examiners may impose a condition of registration equating with a condition—
- (a) applying to the applicant's practice in the first jurisdiction; or
  - (b) that would be imposed upon a lawyer of similar standing and experience admitted under Part 7.
- (4) The Board of Examiners must provide a report incorporating its determination to the Law Society.
- (5) The Law Society must transmit the report to the Registrar for filing.
- (6) The Law Society must serve the report on the applicant.

**Note—**

Section 24 of the *Mutual Recognition Act 1992* (Cth) and section 23 of the *Trans-Tasman Mutual Recognition Act 1997* (Cth) require the local registration authority to give to the applicant notice of its decision.

### **Division 3—Signing Roll of Practitioners and issue of practising certificate**

#### **258.5—The Roll of Practitioners**

- (1) When the Board of Examiners has determined that an applicant be registered, the applicant will be enrolled as a solicitor and barrister of the Court upon signing the Roll of Practitioners in accordance with rule 257.10.
- (2) If an applicant fails to sign the Roll of Practitioners within 12 months after the order for admission, the order lapses.

#### **258.6—Issue of practising certificate**

- (1) When registration is granted and the applicant signs the Roll of Practitioners under this Part, the Law Society must issue a practising certificate to the person under Part 3 Division 2 of the Legal Practitioners Act—

- (a) on receipt of an application in standard form for the issue of a practising certificate;
  - (b) on payment by the person of such fees and levies for the issue of a practising certificate as would be payable by a person admitted to practise under Part 7; and
  - (c) on production of evidence of participation in a professional indemnity insurance scheme under section 52 of the Legal Practitioners Act.
- (2) The practising certificate must be endorsed to indicate what, if any, conditions have been imposed and takes effect subject to any such conditions.

#### **258.7—Application for re-registration**

- (1) A person in respect of whom an order for registration has lapsed may apply to be re-registered in accordance with this rule.
- (2) An application referred to in subrule (1) must be made by filing an interlocutory application in accordance with [rule 102.1](#) seeking re-registration supported by an affidavit in accordance with [rule 102.1\(2\)](#) referring to the evidence and report previously filed on the application for registration and setting out the further facts, and exhibiting the further documents, on which the applicant relies.
- (3) The applicant may rely on evidence and the report filed on the application for registration to which reference is made in the affidavit filed under subrule (2).
- (4) [Rules 258.1](#) to [258.6](#) apply, with any necessary changes, to an application for re-registration.

### **Part 9—Legal practising certificates and right to practise**

#### **Division 1—Preliminary**

##### **259.1—Definitions**

In Parts 9, 10 and 11, unless the contrary intention appears—

**conviction event** means a conviction of a serious offence or tax offence within the meaning of paragraph (d) of the definition of show cause event in section 5 of the Legal Practitioners Act;

**holder** means the holder of a practising certificate;

**insolvency event** means an insolvency event within the meaning of paragraph (a), (b) or (c) of the definition of show cause event in section 5 of the Legal Practitioners Act;

**show cause event** means a show cause event within the meaning of section 5 of the Legal Practitioners Act;

**show cause notice** means a notice of a show cause event within the meaning of section 20AH(2)(a) of the Legal Practitioners Act;

**show cause statement** means a statement in relation to a show cause event as referred to in section 20AG(2) or 20AH(2)(b) of the Legal Practitioners Act.

##### **259.2—Service**

In addition to other methods of service under these Rules, unless the Court otherwise orders, service of a document under this Part (including a document produced by the Court) may be effected on—

- (a) a lawyer by post service addressed to the lawyer at the physical address recorded by the Law Society, or by email service addressed to the lawyer at the email address recorded by the Law Society, for the purpose of applications for and issue and renewal of practising certificates; or
- (b) the Attorney-General, the Law Society or the Legal Profession Conduct Commissioner by post service addressed to them at their principal office or by email service addressed to them at their email address.

### 259.3—Joinder of Law Society or Commissioner

- (1) The Law Society and the Legal Profession Conduct Commissioner are each entitled to be joined as an interested party in a proceeding in which a person applying for a practising certificate or holder lodges a notice or statement under Division 3.
- (2) The Registrar may join a person referred to in subrule (1) as an interested party without an order being made by the Court.

## Division 2—Assignment of functions

### 259.4—Assignment of functions

By force of this rule, the Court assigns to the Law Society, subject to the confidentiality, appeal and reservation conditions referred to in rule 257.1, the functions and powers of—

- (a) the issue, renewal, revocation, surrender, cancellation, re-issue of, or imposition of conditions on, practising certificates under Part 3 Division 2 or Division 3A, or section 20AK, of the *Legal Practitioners Act*;
- (b) the giving or receipt of notices under Part 3 Division 3A of the *Legal Practitioners Act* or Part 2 of the *Legal Practitioners Regulations 2014*;
- (c) the maintenance of registers under Part 3 Divisions 2 or 3A of the *Legal Practitioners Act*, and
- (d) requiring the provision of information for the purpose of performing a function or exercising a power assigned by this rule.

## Division 3—Show cause notices and statements

### 259.5—Show cause notice

- (1) A show cause notice by a holder under section 20AH(2)(a) of the *Legal Practitioners Act* must be given by way of affidavit in accordance with rule 31.7 filed in the proceeding for the admission or registration of the holder.

**Note—**

Section 20AH(2)(a) of the *Legal Practitioners Act 1981* requires notice of the show cause event to be given by the holder within 7 days of the happening of the event.

- (2) The affidavit must—
  - (a) identify the nature of the show cause event;
  - (b) identify when the show cause event happened;
  - (c) provide particulars of the show cause event;
  - (d) in the case of an insolvency event—exhibit a copy of the debtor's petition, creditor's petition, declaration made under section 54A of the *Bankruptcy Act 1966* (Cth) or other document comprising or evidencing the insolvency event; and

- (e) in the case of a conviction event—exhibit a copy of the information, or its equivalent in another jurisdiction, setting out the charges the subject of the conviction.
- (3) The person giving the show cause notice must serve the affidavit on the Law Society and Legal Profession Conduct Commissioner as soon as practicable.

**Note—**

The holder is expected to serve the Law Society and Legal Profession Conduct Commissioner by email service or personal service on the same day as filing the affidavit.

- (4) Upon receipt of a show cause notice under subrule (1), the Registrar must join whichever of the Law Society or Legal Profession Conduct Commissioner is not already a party to the proceeding as an interested party.

### 259.6—Show cause statement

- (1) A show cause statement by a person applying for or holding a practising certificate under section 20AG(2) or section 20AH(2)(b) of the Legal Practitioners Act relating to a show cause event must be given by way of affidavit in accordance with rule 31.7 and filed in the proceeding for the admission or registration of the person giving the statement.

**Notes—**

Section 20AG(2) of the *Legal Practitioners Act 1981* requires provision as part of an application for a practising certificate of a statement setting out particulars of a show cause event and explaining why, despite the show cause event, the person considers that they are a fit and proper person to hold a practising certificate.

Section 20AH(2)(b) of the *Legal Practitioners Act 1981* requires a statement explaining why, despite the show cause event, the person considers that they are a fit and proper person to hold a practising certificate to be given by the holder within 28 days of the happening of the event.

- (2) The affidavit must—
  - (a) provide the information in relation to the show cause event required by rule 259.5, except any information already provided by a show cause notice (if applicable);
  - (b) in the case of an insolvency event—identify why the insolvency event happened and provide details of the assets and liabilities of the person giving the show cause statement immediately before the insolvency event and immediately after the effect of the operation of the *Bankruptcy Act 1966* (Cth);
  - (c) in the case of a conviction event—describe the acts or omissions comprising the offence the subject of the conviction, any circumstances of aggravation or mitigation and why the offence was committed; and
  - (d) explain why, despite the show cause event, the person giving the show cause statement considers that they are a fit and proper person to hold a practising certificate.
- (3) The person giving the show cause statement must serve the show cause statement on the Law Society and Legal Profession Conduct Commissioner as soon as practicable.

**Note—**

The person giving the show cause statement is expected to serve the Law Society and Legal Profession Conduct Commissioner by email service or personal service on the same day as filing the affidavit.



- (4) A holder is not required to file a show cause statement if they surrender their practising certificate before the show cause statement is required to be filed.
- (5) Upon receipt of a show cause statement under subrule (1), the Registrar must join whichever of the Law Society or Legal Profession Conduct Commissioner is not already a party to the proceeding as an interested party.
- (6) Unless the Court otherwise orders, if the Law Society or the Legal Profession Conduct Commissioner wish to make written representations in relation to the person giving the show cause statement, the representations must be made, and any facts relied on must be verified, by way of affidavit in accordance with rule 31.7.
- (7) An affidavit referred to in subrule (6) must be filed by the earlier of—
  - (a) 21 days after the filing of a show cause statement; or
  - (b) 49 days after the filing of a show cause notice.
- (8) The person giving the show cause statement, the Law Society or the Legal Profession Conduct Commissioner may, within the time for filing written representations under subrule (6), request the Registrar to convene a hearing before a Judge under rule 259.7(3)(b).

#### 259.7—Hearing and determination

- (1) After receipt of a show cause statement or upon the expiration of 28 days after receipt of a show cause notice, the Registrar must refer to a Judge the question of whether the issue, renewal or continuation of the relevant practising certificate is or may be effected by the show cause event.
- (2) A Judge to whom a question is referred under subrule (1) may either act under subrule (3) or await any written representations under rule 259.6(6).
- (3) The Court may if it thinks fit—
  - (a) determine the application and make orders on the basis of the documents filed in the proceeding; or
  - (b) convene a hearing to determine the matter, in which case the Registrar will give notice of the hearing to the parties in the prescribed form.

##### Prescribed form—

###### Form 78E Notice of Hearing

- (4) If the Court makes an order that a practising certificate not be issued or renewed or be cancelled, suspended or amended, the Registrar must—
  - (a) serve the person who gave the show cause notice or show cause statement with the order; and
  - (b) if the order is not made at a hearing in the presence of the Law Society or the Legal Profession Conduct Commissioner—serve them with the order.

##### Note—

Section 20AI(3) of the *Legal Practitioners Act 1981* requires notice of the determination to be given to the person applying for a practising certificate or holder.

**Division 4—Application to cancel, suspend or amend practising certificate****259.8—Application to cancel, suspend or amend**

- (1) An application under section 20AD of the Legal Practitioners Act to cancel, suspend or amend a practising certificate—
  - (a) in relation to a current proceeding in the Court under rule 259.10—must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1; and
  - (b) in any other case—must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The application must bear an endorsement inviting the holder to make written representations to the Court within 21 days of service of the application as to why the order should not be made.

**Note—**

Section 20AD(2)(b)(iii) of the *Legal Practitioners Act 1981* requires the application to invite the holder to make written representations to the court, within a time specified by the court of not less than 7 days and not more than 28 days, as to why the order should not be made.

- (3) If the application is made under subrule (1)(b), the person applying to cancel, suspend or amend the practising certificate must join—
  - (a) the holder as a respondent; and
  - (b) whichever of the Attorney-General, Law Society or Legal Profession Conduct Commissioner is not the person applying to cancel, suspend or amend the practising certificate as an interested party.
- (4) Subject to rule 259.10(3), the person applying to cancel, suspend or amend the practising certificate must serve the application and supporting affidavit on the respondent and each interested party as soon as practicable.
- (5) If the holder wishes to make written representations in relation to an application, the representations must be made by way of affidavit and any facts relied on must be verified in the affidavit.

**259.9—Hearing and determination of application**

- (1) The Court may if it thinks fit—
  - (a) determine an application under rule 259.8 and make orders on the basis of the documents filed in the proceeding; or
  - (b) convene a hearing to determine the application, in which case the Registrar will give notice of the hearing to the parties in the prescribed form.

**Prescribed form—**

Form 78E Notice of Hearing

- (2) If the Court makes an order that a practising certificate be cancelled, suspended or amended, the Registrar must—
  - (a) serve the holder with the order and the Court's reasons for the order; and
  - (b) if the order is not made at a hearing in the presence of the Attorney-General, Law Society or Legal Profession Conduct Commissioner—serve them with the order.

**Note—**

Section 20AD(4) of the *Legal Practitioners Act 1981* requires notice to be given to the holder of the terms of and reasons for the order.

### 259.10—Application for immediate suspension

- (1) An application under section 20AJ of the Legal Practitioners Act for immediate suspension of a practising certificate—
  - (a) in relation to a current proceeding in the Court under rule 259.8—must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1; or
  - (b) in any other case—must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) If the application is made under subrule (1)(b), the person applying for suspension of the practising certificate must join—
  - (a) the holder as a respondent; and
  - (b) whichever of the Attorney-General, Law Society or Legal Profession Conduct Commissioner is not the person applying for suspension as an interested party.
- (3) Unless the Court otherwise orders—
  - (a) an application under this rule; and
  - (b) if applicable, the Originating Application in the proceeding under rule 259.8 in which an interlocutory application under this rule is filed at the same time,

need not be served in the first instance on each other party. The Court will make orders concerning service on hearing or determining the application under this rule.
- (4) The Court may if it thinks fit—
  - (a) determine an application under this rule and make orders on the basis of the documents filed in the proceeding; or
  - (b) convene a hearing to determine the application, in which case the Registrar will give notice of the hearing to the parties in the prescribed form.

#### Prescribed form—

##### Form 78E Notice of Hearing

- (5) The Court may on its own initiative, on consideration of a show cause notice or show cause statement, make an order for immediate suspension in the proceeding for the admission or registration of the person who filed the show cause notice or show cause statement.
- (6) If the Court makes an order on its own initiative under subrule (5), the Registrar must join whichever of the Attorney-General, Law Society or Legal Profession Conduct Commissioner is not already a party to the proceeding as an interested party.
- (7) If the Court makes an order for immediate suspension, the Registrar must—
  - (a) serve the holder with the order, the Court's reasons for the order and a notice from the Court in the prescribed form of the right of the holder to make representations about the suspension; and
  - (b) if the order is not made at a hearing in the presence of the Attorney-General, Law Society or Legal Profession Conduct Commissioner—serve them with the order.

#### Prescribed form—

**Form 78 Notice from Court (generic)****Note—**

Section 20AJ(3) of the *Legal Practitioners Act 1981* requires notice to be given of the terms of and reasons for the order and of the right of the holder to make written representations about the suspension.

- (8) An application by the holder to revoke an order under this rule must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (9) Unless the Court otherwise orders, written representations by the holder must be made by way of affidavit in accordance with rule 31.7 and any facts relied on must be verified in the affidavit.
- (10) Unless the Court otherwise orders, if the Attorney-General, Law Society or Legal Profession Conduct Commissioner wish to make written representations in relation to a variation or revocation application, they must be made by way of affidavit in accordance with rule 31.7, and any facts relied on must be verified in the affidavit, to be filed within 7 days after service of the variation or revocation application.
- (11) The Court may if it thinks fit—
  - (a) determine an application to vary or revoke an order for suspension and make orders on the basis of the documents filed in the proceeding; or
  - (b) convene a hearing to determine the matter.

**259.11—Application for stay or revocation**

- (1) An application under—
  - (a) section 20AE(3) of the Legal Practitioners Act to stay the operation of an order; or
  - (b) section 20AF of the Legal Practitioners Act to revoke an order;cancelling, suspending or amending a practising certificate must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (2) Unless the Court otherwise orders, written representations by the holder are to be made by way of affidavit in accordance with rule 31.7 and any facts relied on are to be verified in the affidavit.
- (3) Unless the Court otherwise orders, if the Attorney-General, Law Society or Legal Profession Conduct Commissioner wish to make written representations in relation to an application, the representations are to be made by way of affidavit, and any facts relied on are to be verified by affidavit to be filed within 7 days after the filing of the interlocutory application.
- (4) The Court may if it thinks fit—
  - (a) determine the application and make orders on the basis of the documents filed in the proceeding; or
  - (b) convene a hearing to determine the matter.

**259.12—Application to suspend**

- (1) An application under section 20AD of the Legal Practitioners Act to suspend a practising certificate must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join—

- (a) the holder as a respondent; and
- (b) whichever of the Attorney-General, Law Society or Legal Profession Conduct Commissioner is not the applicant as an interested party.

## **Part 10—Legal practice regulation**

### **Division 1—Incorporated legal practice**

#### **260.1—Assignment of functions**

By force of this rule, the Court assigns to the Law Society, subject to the confidentiality, appeal and reservation conditions referred to in rule 257.1, the functions and powers of—

- (a) approval of forms for the purpose of giving notices under Schedule 1 to the Legal Practitioners Act;
- (b) receipt of notices under Schedule 1 to the Legal Practitioners Act; and
- (c) collection of fees payable on giving notices under Schedule 1 to the Legal Practitioners Act.

#### **260.2—Disqualification of corporation or manager**

- (1) An application under the following provisions of the Legal Practitioners Act must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1—
  - (a) under clause 21 of Schedule 1 to the Legal Practitioners Act—to disqualify a corporation from providing legal services; or
  - (b) under clause 22 of Schedule 1 to the Legal Practitioners Act—to disqualify a person from managing a corporation that is an incorporated legal practice.
- (2) The applicant must join—
  - (a) the holder of the practising certificate as a respondent; and
  - (b) whichever of the Attorney-General, Law Society or Legal Profession Conduct Commissioner is not the applicant as an interested party.

#### **260.3—Revocation of disqualification**

An application under clause 22(2) of Schedule 1 to the Legal Practitioners Act to revoke an order disqualifying a person from managing a corporation that is an incorporated legal practice must be made by filing an interlocutory affidavit and supporting affidavit in accordance with rule 102.1.

#### **260.4—Corporation ceasing to have legal practitioner director**

- (1) If an incorporated legal practice ceases to have any legal practitioner director, the incorporated legal practice must notify the Court by filing an Originating Application and supporting affidavit in accordance with rule 82.1 seeking such orders as the Court may consider appropriate.

**Note—**

Clause 10(2) of Schedule 1 to the *Legal Practitioners Act 1981* requires an incorporated legal practice that ceases to have any legal practitioner directors to notify the Court as soon as possible.

- (2) The incorporated legal practice must join each of the Law Society and Legal Profession Conduct Commissioner as an interested party.

- (3) An application under clause 10(5) of Schedule 1 to the Legal Practitioners Act to appoint a person to exercise or perform the functions or duties conferred or imposed on a legal practitioner director under Schedule 1 in the absence of a legal practitioner director must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (4) The applicant must join—
  - (a) the incorporated legal practice as a respondent if it is not the applicant; and
  - (b) whichever of the Law Society or Legal Profession Conduct Commissioner is not the applicant as an interested party.

### **Division 2—Director of corporation wound up**

#### **260.5—Authorisation to practise**

- (1) An application under section 49 the Legal Practitioners Act to authorise a person who is or has been a director of an incorporated legal practice during the winding up of the corporation to practise the profession of the law for the benefit of creditors must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join each of the Law Society and Legal Profession Conduct Commissioner as an interested party.

### **Division 3—Suspension of right to practise**

#### **260.6—Suspension when not insured**

- (1) An application under section 52AA(2) or (3) of the Legal Practitioners Act to suspend a right to practise law must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join—
  - (a) the holder of the practising certificate as a respondent; and
  - (b) whichever of the Attorney-General or Law Society is not the applicant as an interested party.

**Note—**

Section 52AA(4) of the *Legal Practitioners Act 1981* requires notice to be given of a suspension to regulatory authorities in other States in which the person is admitted as a legal practitioner.

### **Division 4—Personal representative, trustee, receiver or liquidator**

#### **260.7—Authorisation to practise**

- (1) An application under section 50 the Legal Practitioners Act to authorise—
  - (a) a personal representative of a deceased legal practitioner;
  - (b) the trustee in bankruptcy of a legal practitioner; or
  - (c) a receiver or liquidator appointed in respect of an incorporated legal practice,to carry on the practice of the legal practitioner or incorporated legal practice must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join each of the Law Society and Legal Profession Conduct Commissioner as an interested party.

**Division 5—Supervisor or manager****260.8—Application for directions**

- (1) Subject to subrule (2), an application under section 47 of the Legal Practitioners Act by a manager or supervisor for directions must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) If a proceeding has been previously instituted under this rule by the same manager or supervisor in relation to the same appointment, the application may be made in that proceeding by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (3) The applicant must join each of the Law Society and Legal Profession Conduct Commissioner as an interested party.

**Part 11—Legal disciplinary proceedings****Division 1—Disciplinary proceedings****261.1—Application**

A disciplinary proceeding under section 89 of the Legal Practitioners Act, or in the inherent jurisdiction of the Court, must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.

**261.2—Hearing and determination**

- (1) The Court may if it thinks fit—
  - (a) determine the application and make orders on the basis of the affidavit evidence and written submissions; or
  - (b) convene a hearing to determine the matter.
- (2) The Court may in chambers or at a directions hearing—
  - (a) make any orders that may be made at a directions hearing; or
  - (b) list the matter for hearing.

**261.3—Strike off order by consent**

- (1) An application under section 89(1b) of the Legal Practitioners Act for an order by consent that the name of a lawyer be struck off the Roll of Practitioners must be made by filing an Originating Application and supporting affidavit in accordance with rule 82.1—
  - (a) by the Legal Profession Conduct Commissioner and the lawyer jointly as applicants; or
  - (b) by the Legal Profession Conduct Commissioner or the lawyer as applicant, joining the other as respondent.
- (2) The supporting affidavit must—
  - (a) exhibit the recommendation by the Legal Practitioners Conduct Tribunal that a disciplinary proceeding be commenced or the advice by the Legal Profession Conduct Commissioner of intention to commence a disciplinary proceeding in the Court against the lawyer;
  - (b) identify the reason for seeking the order; and

- (c) if the application is by the Legal Conduct Profession Commissioner only—exhibit evidence of the consent by the lawyer to a striking off order.
- (3) If the application is not made jointly by the Commissioner and the lawyer and the Commissioner wishes to adduce evidence on the application, the Commissioner must file an affidavit in accordance with rule 31.7 containing the evidence within 14 days after service of the application.
- (4) The Court may, if it thinks fit, make an order that the name of the lawyer be struck off the Roll of Practitioners—
  - (a) in chambers; or
  - (b) at the next convenient sitting of the Court.

## **Division 2—Application for interim orders**

### **261.4—Application**

- (1) An application under section 89A of the Legal Practitioners Act or in the inherent jurisdiction of the Court for interim suspension of, or imposition of conditions on, a lawyer's practising certificate must be instituted—
  - (a) if there is an existing application under rule 261.1—by filing an interlocutory affidavit and supporting affidavit in accordance with rule 102.1; or
  - (b) in any other case—by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) Unless the Court otherwise orders, the application need not be served in the first instance on the respondent.

### **261.5—Hearing and determination**

- (1) The Court may, if it thinks fit, determine an application under rule 261.4, and make an order for interim suspension of or imposition of conditions on a lawyer's practising certificate, in chambers on the basis of the documents filed in the proceeding.
- (2) The Court may, if it thinks fit, convene a hearing to determine the matter, in which case the Registrar will give notice of the hearing to the parties in the prescribed form.

#### **Prescribed form—**

Form 78E Notice of Hearing

- (3) If the Court makes an order for interim suspension of, or imposition of conditions on, a lawyer's practising certificate, the Registrar must—
  - (a) serve the holder with the order; and
  - (b) if the order is not made at a hearing in the presence of the Law Society or the Legal Profession Conduct Commissioner, serve them with the order.

## **Division 3—Proceedings ancillary to Commissioner or Tribunal powers**

### **261.6—Application for order to attend**

- (1) An application under section 84(5) of the Legal Practitioners Act for an order directing a person to attend, or to be sworn or to affirm, or to answer questions must be instituted by filing an Originating Application in accordance with rule 82.1 supported by an affidavit in accordance with rule 82.1(2).
- (2) The application may be made without notice.



**261.7—Termination of suspension**

- (1) An application under section 84C(3) of the Legal Practitioners Act to terminate an automatic suspension must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join—
  - (a) the person who laid the charge in the Legal Practitioners Disciplinary Tribunal as a respondent; and
  - (b) the Legal Profession Conduct Commissioner, if not the person who laid the charge, as an interested party.

**261.8—Suspension for failure to comply with requirement**

- (1) An application under clause 5(7) of Schedule 4 to the Legal Practitioners Act to suspend a practitioner who fails to comply with a requirement under Part 2 of that Schedule must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join—
  - (a) the practitioner as a respondent; and
  - (b) whichever of the Legal Profession Conduct Commissioner or the Law Society is not the applicant as an interested party.

**Part 12—Legal proceedings between client and law firm****Division 1—Cost agreement proceedings****262.1—Application to determine if costs agreement exists or set aside costs agreement**

A proceeding under clause 30 of Schedule 3 to the Legal Practitioners Act to determine if a costs agreement exists, or to set aside a costs agreement, must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.

**Division 2—Taxation process****262.2—Application for taxation of legal costs**

- (1) An application under the following provisions of the Legal Practitioners Act must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2)—
  - (a) under clause 37, 38, 39 or 42 of Schedule 3 to the Legal Practitioners Act for the taxation of a bill for legal costs;
  - (b) under section 48 of the Legal Practitioners Act for the taxation of an account for remuneration, allowances or expenses of a supervisor or manager; or
  - (c) under section 33B of the *Commercial Arbitration Act 2011* or any other statute for the taxation of costs.

**Prescribed form—**

Form 2F Originating Application – Tax Costs

- (2) The supporting affidavit must, if the application relates to a bill of costs or account—
  - (a) exhibit the bill or account; and

- (b) if the application is not made by a person seeking taxation of the person's own costs—identify the extent, if any, to which the applicant accepts that the costs shown in the bill or account are fair and reasonable.
- (3) The Court may in chambers or at a directions hearing make such orders for the hearing and determination of the taxation as it thinks fit, which may include adopting procedures that apply under Chapter 16 Part 5 to a taxation of costs in a proceeding in the Court.

### **262.3—Right of appeal**

- (1) Upon entry of judgment following completion of a taxation, a party may appeal against the judgment, or any interim judgment or order made in the course of the taxation, by filing a notice of appeal in accordance with rule 214.2 within 21 days after the relevant judgment.
- (2) A party may only appeal against an interim judgment or order made in the course of the taxation before completion of the taxation with leave of the taxing officer as defined in rule 191.1.

### **Division 3—Account and delivery up**

#### **262.4—Application for account or delivery up**

- (1) Subject to subrule (2), an application by a current or former client against a law firm for the following must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1—
  - (a) an account of money or other property held, received or disbursed on behalf of the client;
  - (b) delivery up of property held on behalf of the client;
  - (c) payment into Court of money held on behalf of the client; or
  - (d) delivery up of documents held on behalf of the client or relating to work done or a proceeding taken for the client.
- (2) If there is an existing proceeding in the Court between the parties, the application may be made by by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (3) If the law firm claims a solicitor's lien over the property or documents the subject of the application relating to work done for the client, the Court may make such order as it thinks fit to secure payment of the law firm's fees.

## **Part 13—Legal Office: Senior Counsel**

### **263.1—Introduction**

- (1) This Part deals with persons appointed as Senior Counsel in South Australia before 1 May 2019.
- (2) In this Part, unless the contrary intention appears—  
*Senior Counsel* means a person appointed in South Australia as Senior Counsel or Queen's Counsel.

### **263.2—Undertaking**

A Senior Counsel, by retaining appointment, is taken to undertake—

- (a) to confine the nature of their practice to the type of work usually performed by Senior Counsel and to do so to the standard expected of Senior Counsel;
- (b) to use the designation only while remaining a practising barrister in sole practice or retained under statute by the Crown, or during temporary appointments in a legal capacity to a court, tribunal or statutory body, or in retirement from legal practice;
- (c) that, if they practise in future as a solicitor or in partnership or association with a solicitor, they will not permit partners or associates to attribute to them, in connection with such legal practice, the title SC, Senior Counsel, QC or Queen's Counsel or any other indicia of the office of Senior Counsel; and
- (d) to disclose in writing to the Chief Justice as soon as practicable—
  - (i) the bringing and result of any disciplinary proceeding or charge of a serious offence against them; or
  - (ii) any bankruptcy or entry into a debt agreement or personal insolvency agreement under or governed by the *Bankruptcy Act 1966* (Cth).

#### 263.3—Title

- (1) A person appointed as Senior Counsel is entitled to the designation of Senior Counsel and to the use of the abbreviation “SC” after their name.
- (2) A person holding the office of Queen's Counsel is entitled to the designation of Queen's Counsel and to the use of the abbreviation “QC” after their name.
- (3) A person holding the office of Queen's Counsel is entitled to adopt the designation of Senior Counsel and to be recognised as such upon giving notice of such adoption and resignation from the office of Queen's Counsel to the Chief Justice for transmission to His Excellency the Governor.

#### 263.4—Seniority

- (1) Senior Counsel rank in seniority according to the date of their appointment, and in the case of persons appointed on the same date, by the date of their admission and in the case of persons admitted on the same date, by alphabetical order of their surnames.
- (2) The reference in subrule (1) to date of appointment is a reference to the earlier of date of appointment as Senior Counsel or Queen's Counsel.

#### 263.5—Interstate Senior Counsel

- (1) Senior Counsel appointed elsewhere in Australia are to be accorded in the courts of this State the title under which they practise in the jurisdiction in which they were appointed and the status and privileges of Senior Counsel in this State.
- (2) Such persons rank in seniority according to their date of appointment as Senior Counsel in the first jurisdiction in which they were so appointed.

#### 263.6—Attire

Subject to the requirements of particular courts or tribunals, Senior Counsel are to wear the court dress generally worn by Senior Counsel.

#### 263.7—Resignation

A Senior Counsel may resign from their appointment by writing, signed by counsel and delivered to the Chief Justice.

**263.8—Revocation**

- (1) The Chief Justice may revoke an appointment as Senior Counsel, including that of a person previously appointed as Queen’s Counsel who has adopted the designation of Senior Counsel, if—
  - (a) in a disciplinary proceeding, the Supreme Court, the Legal Practitioners Disciplinary Tribunal or the Legal Profession Conduct Commissioner finds the person guilty of conduct that in the opinion of the Chief Justice is incompatible with the office of Senior Counsel;
  - (b) in the opinion of the Chief Justice the person has acted or practised in a manner incompatible with the office of Senior Counsel; or
  - (c) in the opinion of the Chief Justice the person is otherwise unfit to hold the office of Senior Counsel.
- (2) Before exercising the power conferred by this rule, the Chief Justice will give the person concerned an opportunity to show cause why their appointment or recognition should not be revoked.
- (3) A revocation or resignation of an appointment will be published in the *South Australian Government Gazette*.

**Part 14—Legal Office: Notaries public****264.1—Application for admission**

- (1) An application under section 5 of the *Notaries Public Act 2016* for admission as a notary public must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join each of the Law Society and the Notaries’ Society of South Australia Inc as an interested party.
- (3) The supporting affidavit must—
  - (a) provide the applicant’s date of birth;
  - (b) identify and prove that the applicant is entitled to practise the profession of the law in South Australia and has been admitted and enrolled as a legal practitioner (in South Australia or any other State) for at least 5 years;
  - (c) identify and prove that the applicant’s entitlement to practise the profession of the law is not, in South Australia or any other State, subject to any limitation, restriction or other condition inconsistent with carrying out the functions of a notary public;
  - (d) identify the applicant’s knowledge and experience of commercial and legal affairs and of the functions and duties of public notaries;
  - (e) identify and prove the extent to which the applicant has complied with the rules relating to the qualifications for admission and enrolment of a person as a notary public made by LPEAC under section 4(1) of the *Notaries Public Act 2016* (***the Notary Public Rules***);
  - (f) to the extent to which the person has not complied with the Notary Public Rules— identify and prove why the applicant should be exempted from such compliance;

- (g) identify why the applicant is a fit and proper person to discharge the office of a notary public;
- (h) identify why the applicant seeks to be admitted as a notary public and the manner in which the applicant, if admitted, proposes to practise;
- (i) address the publication of notice of the application in the public notices section of a newspaper circulating generally throughout the State; and
- (j) address any other matter relevant to the Court's consideration of the application.

#### 264.2—Hearing

- (1) An application under rule 264.1 will usually be heard by a Master, but may be heard by a Judge.
- (2) An applicant must attend personally at the hearing, even if represented by a lawyer.

#### 264.3—Signing Roll of Notaries

- (1) As soon as practicable after an order admitting an applicant as a notary public is made, the notary must—
  - (a) take the oath or affirmation of admission; and
  - (b) sign the Roll of Notaries,
 at a time arranged with the Registrar.

- (2) The oath or affirmation of admission to be made by newly admitted public notaries is as follows—

"I [*full name*] swear on oath and promise that I will not make or attest any act, contract, or instrument in respect of which I know that there is violence or fraud; and in all things I will act uprightly and justly in the business of a notary public according to the best of my skill and ability. So help me God. I swear."

"I [*full name*] do truly and solemnly affirm and promise that I will not make or attest any act, contract, or instrument in respect of which I know that there is violence or fraud; and in all things I will act uprightly and justly in the business of a notary public according to the best of my skill and ability."

### Part 15—Mining Act proceedings

#### 265.1—Objection to mining operations

- (1) An action under section 58A of the *Mining Act 1971* objecting to notified mining operations must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

##### Prescribed form—

Form 3 Originating Application – Notice of Objection

- (2) The applicant must join—
  - (a) the mining operator who gave the notice as a respondent; and
  - (b) any co-owner who is not an applicant as an interested party.
- (3) The applicant must serve the Originating Application documents as soon as practicable—

- (a) on the respondent mining operator in discharge of the Court's obligation under section 58A(4) of the *Mining Act 1971*; and
- (b) on each other party.

## Part 16—Native title

### 266.1—Preliminary

- (1) In this Part, unless the contrary intention appears—  
*Native Title Act* means the *Native Title (South Australia) Act 1994*.
- (2) In this Part, unless the contrary intention appears, words defined in the Native Title Act have the same meaning as in that Act.

### 266.2—Application for native title declaration

- (1) A claimant application under section 18 of the Native Title Act for a declaration that native title exists in land made on behalf of an Aboriginal group must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form.

Prescribed form—

Form 2P Originating Application – Native Title Declaration Claimant Application

- (2) An application under subrule (1) must be supported by a statutory declaration in the prescribed form in accordance with section 18A(2)(k) of the Native Title Act.

Prescribed form—

Form 13 Statutory Declaration

- (3) A non-claimant application under section 18 of the Native Title Act for a native title declaration must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form.

Prescribed form—

Form 2Q Originating application – Native Title Declaration Non-Claimant Application

- (4) An application under subrule (3) must be supported by a statutory declaration in the prescribed form in accordance with section 18A(4)(e) of the Native Title Act.

Prescribed form—

Form 13 Statutory Declaration

### 266.3—Application for variation or revocation of native title declaration

An application under section 25 of the Native Title Act for variation or revocation of a native title declaration must be made by filing an interlocutory application in accordance with rule 102.1 in the prescribed form supported by an affidavit in accordance with rule 102.1(2).

Prescribed form—

Form 77B Interlocutory Application – Native Title and Form 77C Schedule to Interlocutory Application – Native Title

### 266.4—Claim for compensation

A claim under section 27A of the Native Title Act for compensation for an act extinguishing or otherwise affecting native title must be instituted by filing a Claim in the prescribed form and a statement of claim in accordance with rule 63.1.

Prescribed form—

Form 1D Claim – Native Title Compensation

**266.5—Other actions**

Any other action under the Native Title Act must be instituted by filing a Claim and statement of claim in accordance with rule 63.1.

**266.6—Conferences**

- (1) The Court may select a mediator from among the Judges or Masters of the Court and the native title commissioners of the Environment Resources and Development Court in such manner as it thinks fit.
- (2) Unless the Court otherwise orders, rule 131.1 and rule 131.3 apply to a conference under this rule.
- (3) The mediator who is an officer of the Court may, for the purpose or in the course of the conference, exercise any of the following powers of the Court—
  - (a) the power (in addition to the power referred to in rule 131.3) to make orders—
    - (i) requiring a party to undertake investigations, make inquiries or ascertain facts relevant to the action;
    - (ii) requiring a party to provide to the Court or another party reports, maps, records or other documents relevant to the action; or
    - (iii) requiring a party to provide particulars of the party's case, including a written summary of the evidence that the party intends to adduce; or
  - (b) with the consent of all parties, the power to take evidence for the purpose of the action before the Court.
- (4) If a resolution is reached at a conference, the mediator must, as soon as practicable, report the terms of the settlement to the Court (including agreed terms of orders to be made by the Court to give effect to the resolution).
- (5) The Court may make orders to give effect to the terms of a resolution.

**Part 17—Serious and organised crime control**

**Notes—**

This Part deals with local applications under the *Serious and Organised Crime (Control) Act 2008*.

Chapter 19 Part 15 Division 5 deals with the registration of interstate declarations and control orders made under a corresponding law.

**Division 1—Preliminary**

**267.1—Definitions**

In this Part, unless the contrary intention appears—

*Control Act* means the *Serious and Organised Crime (Control) Act 2008*.

**Division 2—Declarations**

**267.2—Application for declaration**

- (1) An application under section 9(1) of the Control Act for a declaration that an organisation is a declared organisation must be instituted by filing an Originating

Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 20 Originating Application – Declared Organisation

- (2) The affidavit must—
  - (a) be by a police officer;
  - (b) identify, describe and set out the matters required by section 9(2)(b) to (f) of the Control Act to be identified, described and set out in the application (which for the purpose of the Control Act comprises the Originating Application and affidavit); and
  - (c) verify the matters set out in section 9(2)(b) to (f) of the Control Act.
- (3) The applicant—
  - (a) if the organisation the subject of the application is a legal entity—must join the organisation as a respondent;
  - (b) if the organisation the subject of the application is not a legal entity—must join the organisation as an unincorporated association under rule 23.3(2); and
  - (c) may join any other person as an interested party.
- (4) Unless the Court otherwise orders, the return date will be not less than 8 weeks after institution of the action.
- (5) The applicant may serve the Originating Application documents on the respondent organisation—
  - (a) by original service;
  - (b) by affixing them to any premises regularly used by the organisation as a club house or club rooms;
  - (c) by post service addressed to the organisation at any premises regularly used by the organisation as a club house or club rooms;
  - (d) if the applicant cannot reasonably identify the existence or location of premises regularly used by the organisation as a club house or club rooms—by original service on an office holder of the organisation; or
  - (e) if the applicant cannot reasonably identify the existence or location of premises regularly used by the organisation as a club house or club rooms or an office holder of the organisation—by original service on a member of the organisation.
- (6) The Court may make an order joining a person as a party to the action or for the giving of notice of the action to a person or class of persons.
- (7) An application under section 9(6)(d) of the Control Act for inspection of the Originating Application or affidavit must be made—
  - (a) by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
  - (b) by oral application at the hearing on the return date.

**Notes—**



Section 10(1) of the *Serious and Organised Crime (Control) Act 2008* requires the Commissioner of Police to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State.

Section 9(6) of the *Serious and Organised Crime (Control) Act 2008* requires the Commissioner of Police, subject to preserving confidentiality in criminal intelligence, to make a copy of an application and supporting affidavit available for inspection by a representative, member or former member of the organisation, person who may be directly affected by the outcome of the application and any other person whom the Court considers should be provided with an opportunity to inspect them.

### 267.3—Response and responding affidavit

- (1) A respondent or interested party—
  - (a) who wishes to adduce evidence or make submissions in relation to the orders sought in an originating application must file a response in accordance with rule 83.1; and
  - (b) who wishes to adduce evidence in relation to the orders sought in an originating application must file an affidavit in response in accordance with rule 83.2.
- (2) A person referred to in section 15(1)(c), (d) or (e) of the Control Act who seeks to make submissions must apply—
  - (a) by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
  - (b) by oral application at the hearing on the return date.

### 267.4—Hearing

An application under section 15(1) of the Control Act to make written submissions or under section 15(4) of the Control Act to adduce evidence or cross-examine the deponent of an affidavit at the hearing of the application must be made—

- (a) by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
- (b) by oral application at the hearing on the return date.

#### Notes—

Section 12(1) of the *Serious and Organised Crime (Control) Act 2008* requires the Commissioner of Police to publish notice of any declaration made by the Court in the Gazette and a newspaper circulating generally throughout the State.

Section 18 of the *Serious and Organised Crime (Control) Act 2008* provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

### 267.5—Application to revoke declaration

- (1) An application under section 14(1) of the Control Act to revoke a declaration that an organisation is a declared organisation must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

#### Note—

Section 14(1) of the *Serious and Organised Crime (Control) Act 2008* specifies who has standing to make an application.

- (2) An application under section 14(1)(b)(iii) or section 14(2) of the Control Act for leave to make the application must be made in the same interlocutory application seeking the revocation under subrule (1).

**Notes—**

Section 14(1)(b)(iii) of the *Serious and Organised Crime (Control) Act 2008* specifies who has standing to apply for permission to make the application.

Section 14(2) of the *Serious and Organised Crime (Control) Act 2008* provides that permission of the Court is required if a revocation application has been made within the preceding 12 months and either been refused or not finally determined.

- (4) The interlocutory application must set out—
- (a) the nature of the application;
  - (b) the order sought; and
  - (c) the grounds of the application by reference to the affidavit.
- (5) The affidavit must—
- (a) set out and verify the grounds of the application;
  - (b) set out and verify the information supporting the grounds of the application; and
  - (c) in the case of an application for leave under section 14(1)(b)(iii) or 14(2) of the Control Act— verify the grounds on which leave is sought.

**Notes—**

Section 14(3) of the *Serious and Organised Crime (Control) Act 2008* requires the grounds and information supporting the grounds to be set out and verified by affidavit.

Section 14(6) of the *Serious and Organised Crime (Control) Act 2008* requires the application and supporting affidavit, if not made by the Commissioner of Police, to be served on the Commissioner of Police.

Section 14(7) of the *Serious and Organised Crime (Control) Act 2008* requires the Commissioner of Police to publish notice of the application in the *Gazette* and a newspaper circulating generally throughout the State.

Section 14(10) of the *Serious and Organised Crime (Control) Act 2008* requires the Commissioner of Police to publish notice of any revocation of a declaration made by the Court in the *Gazette* and a newspaper circulating generally throughout the State.

### Division 3—Control orders

#### 267.6—Application for control order

- (1) An application under section 22(1) of the Control Act for a control order must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1 accompanied by a draft control order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (2) If the applicant applies for an interim control order without notice under section 22A of the Control Act, the Originating Application and affidavit need not be served on the respondent in the first instance.
- (3) If the Court makes a control order, the applicant must serve the order on the respondent as soon as practicable.

**267.7—Application for interim control order**

- (1) An application under section 22A of the Control Act for an interim control order must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 accompanied by a draft control order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (2) The supporting affidavit must—
  - (a) set out the grounds for seeking an interim order; and
  - (b) set out whether the interim order is sought without notice and if so the grounds and whether it is sought to defer service of the principal application until the hearing and determination of the application for an interim order.
- (3) If the Court makes an interim order without notice, the applicant must serve the order on the respondent as soon as practicable.

**267.8—Objection when interim control order made without notice**

- (1) A notice of objection under section 22D of the Control Act to an interim control order made without notice must be made by filing a notice of objection in the prescribed form.

**Prescribed form—**

Form 58 Notice of Objection

**Note—**

Section 22D(3) of the *Serious and Organised Crime (Control) Act 2008* requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time in which to lodge a notice of objection must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

**Note—**

Section 22D(2) of the *Serious and Organised Crime (Control) Act 2008* requires a notice of objection to be lodged within 14 calendar days of service of the interim control order or such longer period as the Court may allow.

**267.9—Application to revoke or vary control order**

- (1) An application under section 22C(1) of the Control Act to revoke or vary a control order must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 accompanied, if a variation is sought, by a draft interim variation order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (2) An application under section 22C(2) of the Control Act for permission to apply to revoke or vary a control order must be made in the same interlocutory application seeking the revocation or variation under subrule (1).
- (3) If the applicant applies for an interim variation order without notice under section 22C(6) of the Control Act, the interlocutory application and supporting affidavit need not be served on the respondent in the first instance.

- (4) If the Court makes a revocation or variation order other than on the application of the respondent, the applicant must serve the order on the respondent as soon as practicable.

**Note—**

Section 22C(10) of the *Serious and Organised Crime (Control) Act 2008* requires service by personal service.

**267.10—Application for interim variation order**

- (1) An application under section 22C(5) of the Control Act for an interim variation order must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 accompanied by a draft interim variation order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (2) The supporting affidavit must—
- set out the grounds for seeking an interim variation order; and
  - set out whether the interim variation order is sought without notice and if so the grounds and whether it is sought to defer service of the principal application until the hearing and determination of the application for an interim order.
- (3) If the Court makes an interim variation order without notice, the applicant must serve the order on the respondent as soon as practicable.

**267.11—Objection when interim variation order made without notice**

- (1) A notice of objection under section 22D of the Control Act to an interim variation order made without notice must be made by filing a notice of objection in the prescribed form.

**Prescribed form—**

Form 58 Notice of Objection

**Note—**

Section 22D(3) of the *Serious and Organised Crime (Control) Act 2008* requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time in which to lodge a notice of objection must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.

**Note—**

Section 22D(2) of the *Serious and Organised Crime (Control) Act 2008* requires a notice of objection to be lodged within 14 calendar days of service of the interim variation order or such longer period as the Court may allow.

**Part 18—Terrorism preventative detention reviews**

**268.1—Filing or delivery of application**

- (1) An applicant who wishes to make an originating application under this Part may either—
- file the Originating Application and supporting documents; or
  - request that the Originating Application and supporting documents be delivered without being filed.

- (2) If an applicant seeks to proceed under subrule (1)(b)—
- (a) the applicant must notify the Registrar orally that an application is sought to be made without filing the documents and of the general nature of the application;
  - (b) the Registrar will appoint a time for hearing of the application by a Judge;
  - (c) the Registrar will determine whether some or all of the documents to be produced are to be filed or merely delivered to the Judge who is to hear the application;
  - (d) if the Registrar determines that documents are to be delivered to the Judge who is to hear the application—
    - (i) the Registrar will make arrangements with the applicant for delivery to the Registrar in advance of the hearing of those documents in an envelope marked “Strictly Confidential. Documents relating to application under section 17 of the *Terrorism (Preventative Detention) Act 2005*. Not to be opened other than by or at the direction of [name of Judge]”; and
    - (ii) the Registrar will deliver the sealed envelope personally to the Judge without its contents being filed.

#### **268.2—Application**

- (1) A review of a preventative detention order under section 17 of the *Terrorism (Preventative Detention) Act 2005* must be instituted by filing or delivering an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The proceeding may be instituted by—
  - (a) the State of South Australia;
  - (b) the Commissioner of Police; or
  - (c) the police officer detaining the subject.
- (3) The supporting affidavit must—
  - (a) identify the circumstances in which the preventative detention order was made; and
  - (b) identify the circumstances giving rise to the making of the order; and
  - (c) exhibit a copy of the order and all other materials before the issuing authority.
- (4) The applicant must join—
  - (a) the subject as a respondent;
  - (b) the State of South Australia if it is not the applicant as an interested party; and
  - (c) the Commissioner of Police if the Commissioner is not the applicant as an interested party.

#### **268.3—Hearing and determination**

- (1) Unless the Court otherwise orders, the hearing of the application will be in chambers in the presence of the applicant, the subject, their lawyers and such other persons as the Court may permit.
- (2) The Court may order that the hearing be conducted as an audio visual hearing.

**Note—**

Section 17(2) of the *Terrorism (Preventative Detention) Act 2005* authorises the making of such an order.

- (3) An order under section 17(3) of the *Terrorism (Preventative Detention) Act 2005* may include such consequential orders as the Court thinks fit.
- (4) The order will be drawn up and sealed in such manner as the Court orders and provided to the applicant and to such persons and in such manner as the Court orders.

**Note—**

Section 17(3) of the *Terrorism (Preventative Detention) Act 2005* sets out the powers that the Court may exercise on a review.

## Part 19—Trustees

### 269.1—Definitions

In this Part, unless the contrary intention appears—

*Trustee Act* means the *Trustee Act 1936*.

### 269.2—Directions, authorisations, variations or exonerations

- (1) This rule applies to applications—
  - (a) for authorisation of alterations or repairs to trust property under section 25B of the Trustee Act;
  - (b) for removal or appointment of a trustee under section 36 of the Trustee Act;
  - (c) for vesting, conveying or releasing property under sections 37 to 45 of the Trustee Act;
  - (d) for payment into court under section 47 of the Trustee Act;
  - (e) for authorisation of a sale of, or dealing with, property under section 48, 50 or 55 of the Trustee Act;
  - (f) for authorisation of a purchase by a trustee of trust property under section 49 of the Trustee Act;
  - (g) for relieving a trustee from liability for breach of trust under section 56 of the Trustee Act;
  - (h) for additional power to be conferred on a trustee under section 59B of the Trustee Act;
  - (i) for revocation or variation of a trust under section 59C of the Trustee Act;
  - (j) for approval of a trust variation scheme under section 69B of the Trustee Act;
  - (k) for advice or directions under section 90 of the Trustee Act; or
  - (l) for the allowance of commission or remuneration under section 90 of the Trustee Act.
- (2) An application to which this Part applies must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 7 Originating Application Ex Parte

- (3) The supporting affidavit must identify the persons whose interests might be adversely affected by any order made by the Court in the proceeding.
- (4) The Court may order that any person be joined as a respondent or interested party to the action and make orders relating to service by the applicant on any person.

#### **269.3—Indemnification by a beneficiary**

- (1) An application for an order that a beneficiary indemnify a trustee for a breach of trust under section 57 of the Trustee Act must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must join the person against whom the order is sought as a respondent.

#### **269.4—Orders concerning charitable trusts**

- (1) An application for an order relating to a charitable trust under section 60 of the Trustee Act must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must—
  - (a) if the Attorney-General is not an applicant—join the Attorney-General as an interested party;
  - (b) if the trustee is not an applicant—join the trustee of the trust as an interested party; and
  - (c) if the application seeks orders against any other person for breach of trust—join the person against whom the order is sought as a respondent.
- (3) The Court may order that any person be joined as a respondent or interested party to the action and make orders relating to service by the applicant on any person.
- (4) If the Court determines under section 67 of the Trustee Act that the right to the relief sought should be determined in a claim brought for that purpose, the Court may make orders for the filing of a claim under Chapter 7 or make orders under rule 51.4.

## Chapter 21—Specific kinds of proceedings—District Court

### Part 1—Introduction

#### 281.1—Introduction

- (1) This Chapter contains rules relating to specific kinds of actions in the District Court.
- (2) Except to the extent that a rule in this Chapter excludes, modifies or is inconsistent with the other provisions of these Rules, the other provisions of these Rules applicable to a claim or originating application (as the case may be) apply to an action the subject of this Chapter.
- (3) If a rule in this Chapter requires an action to be instituted by filing a Claim in accordance with rule 63.1, unless the rule otherwise provides, the prescribed form is Form 1 Claim.

**Prescribed form—**

Form 1 Claim

- (4) If a rule in this Chapter requires an action to be instituted by filing an Originating Application in accordance with rule 82.1, unless the rule otherwise provides, the prescribed form is Form 2 Originating Application.

**Prescribed form—**

Form 2 Originating Application

### Part 2—Aged and infirm persons' property proceedings

#### 282.1—Application

- (1) An application under section 8A of the *Aged and Infirm Persons' Property Act 1940* for a protection order must be instituted by filing, in the personal injury proceeding, an interlocutory application and supporting affidavit in accordance with rule 102.1 accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 79 Draft Order

- (2) Subrules (2) to (4) and (6) to (9) of rule 253.1 apply to an application under this rule.

#### 282.2—Protection order and subsequent steps

Rules 253.3 to 235.6 apply in respect of a protection order made under this Part.

### Part 3—Criminal injuries compensation

#### 283.1—Definitions

In this Part, unless the contrary intention appears—

**claimant** means a person who makes an application for compensation under—

- (a) section 18(5) of the *Victims of Crime Act 2001*;
- (b) section 7 of the (repealed) *Criminal Injuries Compensation Act 1978*; or
- (b) section 4 or 7 of the (repealed) *Criminal Injuries Compensation Act 1969*;

**criminal injuries compensation action** means an action instituted under—



- (a) section 18(5) or 28(2)(b) of the *Victims of Crime Act 2001*;
- (b) section 7 of the (repealed) *Criminal Injuries Compensation Act 1978*; or
- (c) section 4 or 7 of the (repealed) *Criminal Injuries Compensation Act 1969*;

**offender** means—

- (a) a person alleged to be the offender within the meaning of the *Victims of Crime Act 2001* or the (repealed) *Criminal Injuries Compensation Act 1978*; or
- (b) the person alleged to have committed the offence referred to in the (repealed) *Criminal Injuries Compensation Act 1969*;

**section 28(3) certificate** means a certificate by the Attorney-General under section 28(3) of the *Victims of Crime Act 2001*;

**section 28(5) certificate** means a certificate by the Attorney-General under section 28(5) of the *Victims of Crime Act 2001*;

**Victims of Crime Act** means the *Victims of Crime Act 2001*.

### 283.2—Institution of proceeding

- (1) A criminal injuries compensation action by a claimant must be instituted by filing a Claim and statement of claim in accordance with rule 63.1.
- (2) The applicant must join—
  - (a) the State of South Australia as a respondent; and
  - (b) the offender as a respondent unless—
    - (i) the identity of the offender is not known and the applicant is not required to serve the alleged offender under section 19(3)(a) of the Victims of Crime Act or section 7(5) of the (repealed) *Criminal Injuries Compensation Act 1978*;
    - (ii) on the action being instituted, the applicant files an interlocutory application and supporting affidavit in accordance with rule 102.1 seeking exemption from the obligation to serve the offender under section 19(3)(b) of the Victims of Crime Act or section 7(6) of the (repealed) *Criminal Injuries Compensation Act 1978*;
    - (iii) section 18(4a) of the Victims of Crime Act precludes the joinder; or
    - (iv) the proceeding is brought under the (repealed) *Criminal Injuries Compensation Act 1969*.
- (3) A criminal injuries compensation action by the Attorney-General must be instituted by—
  - (a) filing a Claim and statement of claim in accordance with rule 63.1; or
  - (b) if there is an extant criminal injuries compensation action by a claimant— filing a Cross Claim against the person against whom the Attorney-General is exercising subrogated rights and a statement of cross claim in accordance with rule 65.3.

### 283.3—Service of documents

In addition to the methods of original service identified in rule 42.9, a document in a criminal injuries compensation action is served by original service on a person who is in a prison or a training centre in South Australia if it is sent by express post addressed to the prisoner, care

of the Chief Executive of the Department for Correctional Services or the Department of Human Services, Youth Justice respectively.

**283.4—Entry of judgment against offender in claimant's proceeding**

- (1) If the Attorney-General files an application to the Registrar in accordance with rule 13.2(5) together with a section 28(3) certificate, the Registrar may administratively enter judgment for the amount specified in the certificate in favour of the State against the offender.
- (2) On judgment being entered under subrule (1), the State must serve the judgment on the offender together with, if the judgment is entered under the Victims of Crime Act, notice of the rights of the offender under section 28(4) of the Victims of Crime Act to apply to have the judgment set aside or varied.
- (3) An application under section 28(4) of the Victims of Crime Act by the offender to have the judgment set aside or varied must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (4) Unless the Court otherwise orders, the claimant is not required to be served with an application under subrule (1) or (3).

**283.5—Application for judgment against offender in other proceeding**

- (1) If the Attorney-General wishes to file a section 28(5) certificate in an existing action and the offender is not already a party, the offender must first be joined as a respondent before the certificate is lodged.
- (2) If the Attorney-General wishes to file a section 28(5) certificate and there is no existing action, an action must first be instituted by the State against the offender before the certificate is lodged.
- (3) If the Attorney-General files a section 28(5) certificate, the application for summary judgment must be made by filing an interlocutory application in accordance with rule 102.1 and need not be supported by an affidavit.
- (4) An application under section 28(6) of the Victims of Crime Act by the offender opposing the entry of judgment must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1.
- (5) Unless the Court otherwise orders, the claimant is not required to be served with an application under subrule (3) or (4).
- (6) On judgment being entered under subrule (3), the State must serve the certificate and interlocutory application, and the Originating Application if not already served, on the offender by original service.

## Chapter 22—Specific kinds of proceedings—Magistrates Court

### Part 1—Introduction

#### 291.1—Introduction

- (1) This Chapter contains rules relating to specific kinds of actions in the Magistrates Court.
- (2) Except to the extent that a rule in this Chapter excludes, modifies or is inconsistent with the other provisions of these Rules, the other provisions of these Rules applicable to a claim or originating application (as the case may be) apply to an action the subject of this Chapter.
- (3) If a rule in this Chapter requires an action to be instituted by filing a Claim in accordance with rule 63.1, unless the rule otherwise provides, the prescribed form is Form 1 Claim.

**Prescribed form—**

Form 1 Claim

- (4) If a rule in this Chapter requires an action to be instituted by filing an Originating Application in accordance with rule 82.1, unless the rule otherwise provides, the prescribed form is Form 2 Originating Application.

**Prescribed form—**

Form 2 Originating Application

### Part 2—Building Work Contractors Act

#### 292.1—Institution of proceeding

An action under Part 5 of the *Building Work Contractors Act 1995* must be instituted by filing a Claim in the prescribed form and statement of claim in the prescribed form in accordance with rule 63.1.

**Prescribed forms—**

Form 1A Claim – Building Work Contractors Act

Form 1AS Statement of Claim uploaded with Claim - Building Work Contractors Act

Form 8A Statement of Claim - Building Work Contractors Act - Standalone

**Filing instructions—**

If a Claim is filed physically at Registry, a Form 1A is to be used.

If a Claim is filed using the Electronic System, a Form 1AS is to be uploaded (not required if electing to rely on a short form statement of claim in accordance with rule 63.1(5)).

If a Statement of Claim is filed after the commencement of an action (due to amendment, order of the Court or otherwise), a Form 8A is to be used.

**Note—**

Unless the action involves a monetary claim for more than \$12,000 or a claim for relief in the nature of an order to carry out work where the value of the work is more than \$12,000 and a party elects to exclude the action from the rules governing minor civil actions, the action is a minor civil action under section 3(1) of the *Magistrates Court Act 1991* and is governed by Chapter 24 of these Rules. That Chapter applies this Part to a minor civil action.

### Part 3—Fences Act

#### 293.1—Institution of proceeding

- (1) An application under the *Fences Act 1975* must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form.

**Prescribed form—**

Form 2A Originating Application – Fences Act

- (2) The application may but need not be supported by an affidavit in accordance with rule 82.1(2).

**Note—**

Unless the action involves a monetary claim for more than \$12,000 or a claim for relief in the nature of an order to carry out work where the value of the work is more than \$12,000 and a party elects to exclude the action from the rules governing minor civil actions, the action is a minor civil action under section 3(1) of the *Magistrates Court Act 1991* and is governed by Chapter 24 of these Rules. That Chapter applies this Part to a minor civil action.

### Part 4—Fines Enforcement and Debt Recovery

#### 294.1—Institution of proceeding

- (1) An application under section 50 of the *Fines Enforcement and Debt Recovery Act 2017* for revocation or variation of a civil debt determination must be instituted by filing an Originating Application and supporting affidavit in accordance with rule 82.1.
- (2) The supporting affidavit must exhibit the civil debt determination sought to be revoked.
- (3) The applicant must join—
  - (a) the State of South Australia or other legal entity comprising the public authority to which the debt is owed under the civil debt determination as a respondent; and
  - (b) the Chief Recovery Officer as an interested party.
- (4) The respondent's response must provide the particulars of the underlying debt and its calculation that would be required in a pleading if the respondent were suing the applicant for the underlying debt.

**Note—**

If the amount claimed to be owed by the applicant is \$12,000 or less, the action is a minor civil action under section 50(5) of the *Fines Enforcement and Debt Recovery Act 2017* and is governed by Chapter 24 of these Rules. That Chapter applies this Part to a minor civil action.

### Part 5—Marriage authorisation or consent

#### 295.1—Institution of proceeding

- (1) An application under section 12 or 16 of the *Marriage Act 1961* (Cth) for authorisation of or consent to a marriage of a person who is under 18 years old must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2B Originating Application – Authorisation of or Consent to Proposed Marriage

- (2) An application must attach the documents and contain the details required by regulation 7 or 14 (as the case requires) of the *Marriage Regulations 2017* (Cth).
- (3) The applicant must join any parent or guardian as a respondent, unless the applicant seeks an order that the parent or guardian not be served with the action.
- (4) An order authorising or granting consent to a marriage of a person who is under 18 years old must be in the prescribed form.

**Prescribed form—**

Form 133 Authorisation of or Consent to Proposed Marriage

## Part 6—Register of births

### 296.1—Application

- (1) An application under section 19 of the *Births, Deaths and Marriages Registration Act 1996* for an order for the registration of a birth or the inclusion or correction of registrable information about a birth or a child's parents in the Register must be instituted by filing an Originating Application in accordance with rule 82.1 in the prescribed form supported by an affidavit in accordance with rule 82.1(2).

**Prescribed form—**

Form 2C Originating Application – Register birth or change registrable information

- (2) The applicant must—
  - (a) if the child is at least 18 years old—join the child as a respondent if the child is not an applicant;
  - (b) join each living parent of the child (who is not an applicant) named in the registration of the child's birth under the *Births Deaths and Marriages Registration Act 1996* as a respondent;
  - (c) join each living parent of the child (who is not an applicant) to the extent known to the applicant as a respondent; and
  - (d) join the Registrar of Births, Deaths and Marriages as an interested party.
- (3) The supporting affidavit must—
  - (a) if the application relates to an existing registration—exhibit the existing registration;
  - (b) identify each parent of the child to the extent known to the applicant;
  - (c) identify the age of the child; and
  - (d) if the child is under 18 years old—state whether the child has a legal guardian and if so identify that person.
- (4) If the Court makes an order under this rule, the applicant must serve the order on each other party (including the Registrar of Births, Deaths and Marriages) as soon as practicable.
- (5) In this rule—
 

**parent** means—

  - (a) the mother of the child;
  - (b) the father of the child; or

- (c) a parent or co-parent of the child within the meaning of the *Family Relationships Act 1975* or the *Surrogacy Act 2019*.

## Part 7—Retail and Commercial Leases Act

### 297.1—Institution of proceeding

An application under the *Retail and Commercial Leases Act 1995* must be instituted by filing a Claim in the prescribed form and a statement of claim in the prescribed form in accordance with rule 61.3.

#### Prescribed forms—

Form 1B Claim - Retail and Commercial Leases Act

Form 1BS Statement of Claim uploaded with Claim – Retail and Commercial Leases Act

Form 8B Statement of Claim - Retail and Commercial Leases Act – Standalone

#### Filing instructions—

If a Claim is filed physically at Registry, a Form 1B is to be used.

If a Claim is filed using the Electronic System, a Form 1BS is to be uploaded (not required if electing to rely on a short form statement of claim in accordance with rule 63.1(5)).

If a Statement of Claim is filed after the commencement of an action (due to amendment, order of the Court or otherwise), a Form 8B is to be used.

#### Note—

If the action involves a monetary claim for \$12,000 or less, the action is a minor civil action under section 3(1) of the *Magistrates Court Act 1991* and is governed by Chapter 24 of these Rules. That Chapter applies this Part to a minor civil action.

## Part 8—Second Hand Vehicle Dealers Act

### 298.1—Institution of proceeding

An application under the *Second Hand Vehicle Dealers Act 1995* must be instituted by filing a Claim in the prescribed form and a statement of claim in the prescribed form in accordance with rule 61.3.

#### Prescribed Forms—

Form 1C Claim - Second Hand Vehicle Dealers Act

Form 1CS Statement of Claim uploaded with Claim - Second Hand Vehicle Dealers Act

Form 8C Statement of Claim - Second Hand Vehicle Dealers Act – Standalone

#### Filing instructions—

If a Claim is filed physically at Registry, a Form 1C is to be used.

If a Claim is filed using the Electronic System, a Form 1CS is to be uploaded (not required if electing to rely on a short form statement of claim in accordance with rule 63.1(5)).

If a Statement of Claim is filed after the commencement of an action (due to amendment, order of the Court or otherwise), a Form 8C is to be used.

#### Note—

Unless the action involves a monetary claim for more than \$12,000 or a claim for relief in the nature of an order to carry out work where the value of the work is more than \$12,000 and a party elects to exclude the action from the rules governing minor civil actions, the action is a minor civil action under section 3(1) of the *Magistrates Court Act 1991* and is governed by Chapter 24 of these Rules. That Chapter applies this Part to a minor civil action.

## Part 9—Serious and organised crime public safety order

### 299.1—Definitions

In this Part, unless the contrary intention appears—

*Control Act* means the *Serious and Organised Crime (Control) Act 2008*.

### 299.2—Authorisation of public safety order or variation

- (1) An application under section 25(2) of the *Control Act* to authorise the making or variation of a public safety order must be instituted by filing an *Originating Application* and supporting affidavit in accordance with rule 82.1.
- (2) The applicant must—
  - (a) if the application is to authorise the making of a public safety order or variation to a public safety order in respect of a person—join as a respondent the person the subject of the proposed order or the order as is proposed to be varied;
  - (b) if the application is to authorise the making of a public safety order or variation to a public safety order in respect of a class of persons—
    - (i) if the class comprises members of an unincorporated or incorporated association—join as a respondent that association; or
    - (ii) in any other case—join as a respondent each person who is or is believed to be a member of the class.
- (3) The supporting affidavit must—
  - (a) if the application is to authorise the making of a public safety order—exhibit the proposed public safety order; or
  - (b) if the application is to authorise the making of a variation to a public safety order—exhibit the public safety order and the proposed variation; and
  - (c) verify the grounds of the application.
- (4) The applicant is not required to serve the *Originating Application documents* on the respondent.

**Note—**

Section 25(3) of the *Serious and Organised Crime (Control) Act 2008* provides that an authorisation order may be made by the Court on an application made without notice to any person.

- (5) If the Court makes an authorisation order authorising the making of a public safety order or the variation of a public safety order, the applicant must serve the authorisation order by personal service at the same time as the public safety order or the variation of the public safety order is served under section 30 of the *Control Act*.

### 299.3—Telephone application

- (1) This rule applies to a telephone application under section 25(5) of the *Control Act*.
- (2) Before making the application, the applicant must prepare the form of the proposed authorisation order and the proposed public safety order or variation to a public safety order.
- (3) At the hearing, the applicant must inform the Magistrate of—
  - (a) the circumstances giving rise to the urgency of the application;

- (b) the proposed terms of the public safety order or variation to a public safety order, and
  - (c) the grounds on which the applicant proposes to make the public safety order or variation to a public safety order.
- (4) The applicant must undertake to provide an affidavit verifying the facts and exhibiting the documents referred to in subrule (3).
  - (5) If the Magistrate makes an authorisation order, the applicant must as soon as practicable after the making of the order forward to the Magistrate an affidavit verifying the facts and exhibiting the documents referred to in subrule (3).

#### **299.4—Objection to public safety order**

- (1) A notice of objection under section 26(1) of the Control Act in relation to a public safety order must be made by filing a notice of objection in the prescribed form supported by an affidavit in accordance with rule 31.7 in the action in which an authorisation order was made under rule 299.2.

##### **Prescribed form—**

##### Form 58 Notice of Objection

- (2) The supporting affidavit must exhibit the public safety order the subject of the objection.
- (3) The objector must serve the notice of objection and supporting affidavit on the applicant senior police officer as soon as practicable.
- (4) The objector must serve the notice of objection and supporting affidavit on the Commissioner of Police by registered post at least two days before the date appointed for hearing of the objection.

##### **Note—**

Section 26(3) of the *Serious and Organised Crime (Control) Act 2008* provides that a copy of the notice of objection must be served by the objector on the Commissioner by registered post at least 2 days before the day appointed for hearing of the notice.



## Chapter 23—Lists

### Part 1—General

#### 311.1—Definitions

In this Chapter, unless the contrary intention appears—

*managing Judge* means a judicial officer with overall responsibility for the management and administration of a list.

#### 311.2—Establishment of lists

- (1) This Chapter creates or continues certain lists, being defined categories of proceedings that are convenient to manage in distinct lists.
- (2) The Chief Judicial Officer may establish other lists for the management and hearing of defined categories of proceedings.

#### 311.3—Management of proceedings

- (1) The Chief Judicial Officer may appoint a judicial officer of the Court as a managing Judge of a list.
- (2) The Chief Judicial Officer or the managing Judge may give directions about—
  - (a) assignment of proceedings to a list (including whether proceedings can be commenced in a list or only assigned to a list after commencement), removal or administration of proceedings in a list;
  - (b) assignment of judicial officers to manage or hear proceedings in a list; or
  - (c) proceedings in a list; or
  - (d) an individual proceeding in a list.
- (3) The Court may, in its discretion, order at any stage that a proceeding be managed, or cease to be managed, in a list.
- (4) The Court may, in its discretion, directly list for trial a proceeding in a list instead of its being entered for trial.

#### 311.4—Election of applicant

- (1) Subject to rule 316.3 and to any directions by the Chief Judicial Officer or managing Judge of the Court under rule 311.3, if an applicant reasonably believes that a proceeding is eligible for assignment to a List other than the Fast Track List, the applicant may elect at the same time as instituting the proceeding that it be assigned to that List by filing an application to the Registrar in accordance with rule 13.2(5).
- (2) The Registrar may, on receipt of an application to the Registrar under subrule (1), assign the proceeding to the List in question.
- (3) An applicant who files an election under subrule (1) must serve a copy of the election with the Claim documents or Originating Application documents (as the case may be).

#### 311.5—Application by party

- (1) Subject to any directions by the Chief Judicial Officer or managing Judge under rule 311.3, if after the institution of a proceeding a party believes that a proceeding is eligible for assignment to a List other than the Fast Track List, the party may apply to

the Registrar for assignment of the proceeding to that List by filing an application to the Registrar in accordance with rule 13.2(5).

- (2) Upon receipt of an application to the Registrar under subrule (1), the Registrar will refer the application to the Chief Judicial Officer or managing Judge in respect of that List to determine the application.

## **Part 2—Construction List—District Court**

### **312.1—Establishment of Construction List**

- (1) The Construction List is established.
- (2) A proceeding is eligible for assignment to the Construction List if it is, or includes, a construction claim.

### **312.2—Management of proceedings**

A proceeding in the Construction List may be case managed by a Master or Judge as directed by the Chief Judge or managing Judge.

## **Part 3—Commercial List—District Court**

### **313.1—Establishment of Commercial List**

- (1) The Commercial List is established.
- (2) A proceeding is eligible for assignment to the Commercial List if it is, or includes, a claim—
  - (a) by a business against another business relating to commercial dealings or competition between them;
  - (b) by a business against a customer or client for payment of money for goods, land or services;
  - (c) by a customer or client against a business about the supply of goods, land or services; or
  - (d) the Court orders that it is eligible for assignment to the Commercial List.

### **313.2—Management of proceedings**

A proceeding in the Commercial List may be case managed by a Master or Judge as directed by the Chief Judge or managing Judge.

## **Part 4—Corporations List—Supreme Court**

### **314.1—Establishment of Corporations List**

- (1) The Corporations List is established.
- (2) A proceeding must be assigned to the Corporations List if it is governed by the *Corporations Rules 2003*.
- (3) A proceeding that was, on the commencement date, being managed under the *Corporations Rules 2003* is assigned to the Corporations List.
- (4) On the institution of a proceeding governed by the *Corporations Rules 2003*, the Registrar must assign it to the Corporations List.

**314.2—Management of proceedings**

- (1) Unless the Court otherwise orders, a proceeding in the Corporations List will be managed, heard and determined by a Master.
- (2) A Master may refer the management or hearing and determination of a proceeding in the Corporations List to a Judge.

**Part 5—Dust Diseases List—District Court****315.1—Establishment of Dust Diseases List**

- (1) The Dust Diseases List is established.
- (2) A proceeding is eligible for assignment to the Dust Diseases List if it is, or includes, a dust disease action within the meaning of the *Dust Diseases Act 2005*.
- (3) A proceeding that was, on the commencement date, being managed as a dust disease action under the *District Court Civil Rules 2006* is assigned to the Dust Diseases List.

**315.2—Categories of actions**

- (1) At the first directions hearing, a category will be assigned to the action based on the state of health of the applicant and any other relevant consideration, being an—
  - (a) **ordinary case**—if the case is not urgent because the applicant is suffering from a non-life-threatening dust disease or a claim is made for compensation to relatives or for other reasons; or
  - (b) **urgent case**—if the applicant is seriously ill and an expedited hearing is needed or there are other circumstances giving rise to urgency.

**Note—**

Rule 61.8(1)(h) exempts dust disease actions that meet the criteria for an urgent case under this subrule from the requirements of rule 61.7.

- (2) If a party seeks to have an action categorised as an urgent case, whether on institution or later, an interlocutory application in accordance with rule 102.1 seeking an urgent directions hearing must be filed supported by an affidavit in accordance with rule 102.1(2) setting out as fully as circumstances permit—
  - (a) the nature of the disease alleged;
  - (b) the condition of the applicant's health and the degree of urgency;
  - (c) notification given to other parties;
  - (d) readiness for hearing;
  - (e) whether expert reports have been obtained and served;
  - (f) whether further medical examinations are required;
  - (g) a proposed expedited interlocutory timetable;
  - (h) if a hearing date is to be sought immediately—details and availability of witnesses and where it is proposed that the evidence be taken; and
  - (i) when possible, a medical report.

## Part 6—Fast Track List—Supreme Court and District Court

### Division 1—General

#### 316.1—Definitions

In this Part, unless the contrary intention appears—

*directions hearing* means the directions hearing referred to in [subrule 316.8\(1\)](#);

*Fast Track elevated scale* means the scale of costs as defined in Part 5 of Schedule 6;

*Fast Track ordinary scale* means the scale of costs as defined in Part 5 of Schedule 6.

#### 316.2—Establishment of Fast Track List

- (1) The Fast Track List is established in each Court.
- (2) A proceeding is eligible for assignment to the Fast Track List if—
  - (a) it is reasonably anticipated that—
    - (i) the combined quantum of the claim and of any counter claim will not exceed \$350,000; and
    - (ii) the [trial](#) of the proceeding will take no more than 3 days; or
  - (b) it is sufficiently straight forward to be suitable to proceed in the Fast Track List.
- (3) A proceeding that was, on the [commencement date](#), assigned to the Fast Track Stream under the [Previous Rules](#) is assigned to the Fast Track List.

### Division 2—Transfer into or out of list

#### 316.3—Election of party

Any party may, by the [close of pleadings](#), elect that a proceeding be transferred into the Fast Track List by filing a notice of election into the Fast Track List in the prescribed form.

**Prescribed form—**

Form 15A [Election – Fast Track](#)

#### 316.4—Transfer by Court into list

- (1) The Court may order that a proceeding be transferred into the Fast Track List even if it does not meet the criteria in [rule 316.2](#).
- (2) Unless the Court otherwise orders, an application by a party for an order for transfer must be made at or before the [directions hearing](#).

#### 316.5—Transfer by Court out of list

- (1) The Court may order that a proceeding be transferred out of the Fast Track List.
- (2) Unless the Court otherwise orders, an application by a party for an order for transfer of a proceeding that was transferred into the Fast Track List—
  - (a) by the election of a party—must be made at or before the [directions hearing](#); or
  - (b) by order of the Court—must be made as soon as practicable after the grounds for transfer arise or become known to the party applying for transfer.

#### 316.6—Pleadings

- (1) [Pleadings](#) must be expressed simply and concisely and identify the issues in dispute.

- (2) A statement of claim must quantify all claims whether liquidated or unliquidated.
- (3) If a pleading filed before transfer into the Fast Track List does not comply with subrule (2), the filing party must, within 7 days after the transfer, file an amended pleading that complies with subrule (2).

**316.7—Lists of issues**

- (1) The parties must cooperate in preparing a list of issues.
- (2) The applicant must file the list of issues within 14 days after the defence is filed.

**Division 3—Directions hearing****316.8—Directions hearing**

- (1) Ordinarily, there will only be one directions hearing.
- (2) A party may, at any stage, request a further directions hearing to be convened before the date on which the proceeding is listed for trial.
- (3) Ordinarily a Judge will preside over the directions hearing and this may be the trial Judge.
- (4) Counsel who are to appear at trial are expected to attend at the directions hearing.
- (5) The principal matters to be considered at the directions hearing are—
  - (a) settlement;
  - (b) identification of the issues in dispute;
  - (c) determination of whether there should be split trials;
  - (d) any application for a different scale of costs to apply to the proceeding instead of the otherwise applicable Fast Track costs scale;
  - (e) directions for interlocutory steps and evidence at trial;
  - (f) hearing or fixing a date for hearing of any interlocutory application or other pre-trial matter;
  - (g) estimated trial length; and
  - (h) listing the matter for trial.
- (6) If a party seeks referral of the proceeding to mediation, ordinarily, an order will be made requiring the parties to mediate.
- (7) At the directions hearing, the parties must produce to the Court—
  - (a) tender documents;
  - (b) lists of witnesses;
  - (c) written evidence (if written evidence is to be adduced); and
  - (d) any expert reports not previously filed.

**Division 4—Trial****316.9—Conduct of trial**

- (1) The parties to a proceeding, and their lawyers, have a duty to the Court to take all reasonable steps to ensure that the trial proceeds as expeditiously and efficiently as possible.

- (2) The trial Judge may control the conduct of the trial to identify the issues in dispute and the parties' respective contentions and hear the evidence relevant to those issues.
- (3) The trial Judge may give directions—
  - (a) about the issues on which the Court requires evidence;
  - (b) about the nature of the evidence the Court requires to decide those issues;
  - (c) about the way in which the evidence is to be placed before the Court; or
  - (d) limiting the number of witnesses or the amount of evidence that a party may call or adduce on a particular issue.
- (4) For example, the trial Judge may—
  - (a) inquire into and determine the issues in dispute at trial;
  - (b) give directions as to the order in which witnesses give evidence, regardless of the party by whom they are called;
  - (c) direct that witnesses give evidence on different topics at different times during the trial;
  - (d) direct the concurrent hearing of evidence by experts in the same or related fields of expertise;
  - (e) direct the concurrent hearing of evidence by lay witnesses concerning similar or overlapping topics;
  - (f) direct that addresses be made on different topics at different times during the trial or otherwise depart from the usual order in which addresses are made;
  - (g) direct that evidence or addresses or both be heard on one issue before they are heard on another issue; or
  - (h) limit the time spent on the whole or any part of the evidence or addresses.
- (5) The trial Judge will exercise powers under the *Evidence Act 1929* to dispense with technicalities and control the trial to ensure that it proceeds expeditiously and efficiently.
- (6) The trial Judge may use the power under this rule to exclude evidence that would otherwise be admissible.

#### **316.10—Reasons for judgment**

Reasons for judgment will be concise and will ordinarily be confined to—

- (a) brief reference to significant background or uncontested matters;
- (b) credibility findings in respect of significant witnesses whose credit is challenged, with brief reasons;
- (c) findings on contested issues of fact, with brief reasons;
- (d) conclusions on contested issues of law; and
- (e) when relief is granted, the relief granted, with brief reasons.

**Division 5—Costs****316.11—Application of Fast Track costs scale**

- (1) Unless the Court otherwise orders, the Fast Track costs scale in Part 5 of Schedule 6 applies to a proceeding in the Fast Track List to the exclusion of the other costs scales referred to in Chapter 16 Part 2.
- (2) Unless the Court otherwise orders and subject to rule 316.13, when costs are awarded in favour of a party in a proceeding in the Fast Track List, the costs are to be determined in accordance with the Fast Track ordinary scale in Part 5 of Schedule 6.

**316.12—Scale levels**

- (1) At any time before or at the directions hearing, a party may elect that the Fast Track high scale of Part 5 of Schedule 6 apply to the proceeding by filing and serving a notice of election in the prescribed form. Otherwise the Fast Track low scale is applicable.

**Prescribed form—****Form 15 Election**

- (2) If a party so elects, the Fast Track high scale will apply in lieu of the Fast Track low scale (for the purposes of rule 316.11 or 316.13 as applicable), unless the Court otherwise orders at the directions hearing.
- (3) The criterion for determining whether the low or high scale is to apply is whether the work required before and at trial is likely to be in the low or high range for a fast track proceeding.

**316.13—Fast Track elevated scale**

Subrules (2) and (3) of rule 132.10 are modified in their operation to a proceeding in the Fast Track List by substituting a reference to “the Fast Track elevated scale in Part 5 of Schedule 6” for a reference to “an indemnity basis”.

**316.14—Relevant stages**

The relevant stages of a proceeding for the purpose of costs are as follows:

- (a) *stage 1*—from institution of action to and including the directions hearing;
- (b) *stage 2*—from completion of the directions hearing to commencement of trial;
- (c) *stage 3*—trial and judgment incorporating—
  - (i) *stage 3A*—first day of trial;
  - (ii) *stage 3B*—second day of trial;
  - (iii) *stage 3C*—third day of trial.

**Part 7—Land and Valuation List—Supreme Court****317.1—Establishment of Land and Valuation List**

- (1) The Land and Valuation List is established.
- (2) A proceeding is eligible for assignment to the Land and Valuation List if it involves—
  - (a) the determination of value or compensation for the purposes of a statutory acquisition; or
  - (b) the imposition of a statutory tax, levy or charge.

**317.2—Management of proceedings**

A proceeding in the Land and Valuation List may be case managed by a Master or Judge as directed by the Chief Judge or managing Judge.

**Part 8—Personal Injury List—District Court****318.1—Establishment of Personal Injury List**

- (1) The Personal Injury List is established.
- (2) A proceeding is eligible for assignment to the Personal Injury List if it is, or includes—
  - (a) a personal injury claim; or
  - (b) an application for criminal injuries compensation governed by Chapter 21 Part 3.

**318.2—Management of proceedings**

- (1) A proceeding in the Personal Injury List may be case managed by a Master or Judge as directed by the Chief Judge or managing Judge.
- (2) Without limiting the generality of subrule (1), the Chief Judge or managing Judge may direct that a proceeding or class of proceedings assigned to the Personal Injuries List be listed initially for a settlement conference instead of a directions hearing or special directions hearing.
- (3) If a proceeding is listed for a settlement conference under subrule (2), a judicial officer presiding over the settlement conference or another judicial officer may make any order or exercise any power that could be made or exercised at a directions hearing or special directions hearing.

**Part 9—Possession List—Supreme Court****319.1—Establishment of Possession List**

- (1) The Possession List is established.
- (2) A proceeding must be assigned to the Corporations List if it is governed by Chapter 19 Part 11.
- (3) A proceeding that was, on the commencement date, being managed under Chapter 8 Part 5 of the *Supreme Court Civil Rules 2006* is assigned to the Possession List.
- (4) On institution of a proceeding governed by Chapter 19 Part 11, the Registrar may assign it to the Possession List.

**319.2—Management of proceedings**

- (1) Unless the Court otherwise orders, a proceeding in the Possession List will be managed, heard and determined by a Master.
- (2) A Master may refer the management or hearing and determination of a proceeding in the Possession List to a Judge

**Part 10—Special Classification List—Supreme Court****320.1—Establishment of Special Classification List**

- (1) The Special Classification List is established.



- (2) A proceeding is eligible for assignment to the Special Classification List if its complexity or other circumstances warrant case management and trial listing by a special classification Judge.
- (3) A proceeding that was, on the commencement date, assigned to special classification under the *Supreme Court Civil Rules 2006* is assigned to the Special Classification List.

### **320.2—Appointment of Judges to manage list**

The Chief Justice may appoint—

- (a) a Judge to manage or hear proceedings in the Special Classification List on a continuing or ad hoc basis (*special classification Judge*); and
- (b) a Judge as managing Judge of the Special Classification List.

### **320.3—Management of proceedings**

- (1) The managing Judge, or otherwise the Chief Justice, will assign the management of a case assigned to the Special Classification List to a special classification Judge.
- (2) Unless the Court otherwise orders, a proceeding in the Special Classification List will be case managed by a special classification Judge.
- (3) A special classification Judge may refer aspects of the management of a proceeding to a Master or another Judge of the Court.
- (4) A special classification Judge to whom management of a proceeding is assigned will, at an appropriate time, list the proceeding for trial, which may be before that Judge or another Judge of the Court.

## Chapter 24—Minor Civil Actions—Magistrates Court

### Part 1—Introduction

#### 331.1—Subject matter

This Chapter applies to minor civil actions in the Magistrates Court, which comprise—

- (a) small claims as defined in section 3 of the Act;
- (b) claims for relief in a neighbourhood dispute as defined in section 3 of the Act; and
- (c) minor statutory proceedings as defined in section 3 of the Act.

#### 331.2—Objects of rules in Chapter

The objects of the rules in this Chapter are to—

- (a) encourage parties to resolve a dispute before commencing an action;
- (b) facilitate the just, efficient, timely and cost-effective resolution or determination of the issues in the proceeding; and
- (c) ensure that all appropriate parties have been joined in the proceeding.

#### 331.3—Other rules that apply to minor civil actions

The following rules in other Chapters of these Rules apply in minor civil actions—

- (a) Chapter 1 (general rules);
- (b) Chapter 2 (rules about the Court);
- (c) Chapter 3 except Part 4 (rules as to parties);
- (d) Chapter 4 except Part 3 (rules as to documents);
- (e) Chapter 5 (rules as to service);
- (f) Chapter 6 (rules as to constitution of proceedings);
- (g) Rule 61.3, 63.3, 63.4, 65.5, 65.6, 82.3 and 82.4 (rules as to documents to be served and manner of service);
- (h) Rule 61.4 in Chapter 7 (rule as to confidentiality of pre-action communications);
- (i) Rule 62.2 in Chapter 7 (rule as to Enforceable Payment Agreements);
- (j) Chapter 7 Part 4 (rules as to time to serve a claim);
- (k) Chapter 7 Part 14 Divisions 1, 3 and 4 (rules as to experts);
- (l) Chapter 9 Part 3 (rules as to interlocutory orders);
- (m) Chapter 10 Part 1 and Part 2 Divisions 4 and 5 (rules as to injunctions and preservation of property and assets);
- (n) Chapter 11 Part 1, 3 and 4 (rules as to alternative dispute resolution);
- (o) Chapter 12 Part 2 (rules as to judgment in default of defence);
- (p) Chapter 12 Parts 3, 4, 5 and 6 (rules as to summary or default judgment or judgment for failure to disclose a basis for claim or defence);
- (q) Chapter 13 Part 6 (rules as to subpoenas);
- (r) Chapter 15 (rules as to judgment);

- (s) Chapter 17 (rules as to enforcement of judgments);
- (t) Chapter 18 Part 2 Division 3 and Part 6 (rules as to reviews of Registrar's decisions);
- (u) Chapter 22 Parts 2, 3, 4, 7 and 8 (rules as to building work contractor disputes, fence disputes, fines enforcement and debt recovery, retail and commercial lease disputes and second-hand vehicle dealer disputes);
- (v) any rule that specifically applies to the Magistrates Court; and
- (w) any other rule, as may be modified to fit the circumstance, that a Magistrate or Judicial Registrar determines appropriate to apply.

### 331.4—Interpretation

- (1) In this Chapter, unless the contrary intention appears—
- the Act* means the *Magistrates Court Act 1991*;
- action* means an originating application or claim filed in or transferred to the Civil (Minor Claims) Division of the Court;
- applicant* means the party seeking final relief from the Court in an action;
- Claim* means a Claim as described in [rule 333.1](#);
- Court* means the Magistrates Court of South Australia;
- Cross Claim* includes—
- (a) a counter claim against an existing party to the proceeding;
  - (b) a contribution claim against an existing party to the proceeding;
  - (c) a third party claim against a new party to the proceeding; and
  - (d) a combined counter claim and third party claim;
- discovery* means the provision of a list to each other party of documents that are relevant to the issues in the proceeding;
- interlocutory application* means—
- (a) an application to the Court that is ancillary to an action;
  - (b) an application for an order regarding the course of conduct of a proceeding; or
  - (c) an application related to the enforcement of a judgment;
- minor civil action* has the same meaning as in section 3 of the Act;
- minor statutory proceeding* has the same meaning as in section 3 of the Act;
- neighbourhood dispute* has the same meaning as in section 3 of the Act;
- order* includes the granting of leave or the giving of a direction;
- Originating Application* means an Originating Application as described in [rule 333.2](#) and includes a minor statutory proceeding as defined in section 3 of the Act except an action under the *Building Work Contractors Act 1995*, *Retail and Commercial Leases Act 1995* or *Second-hand Vehicle Dealers Act 1995*;
- respondent* means the party against whom final relief is sought from the Court in an action or cross claim;

*set-off* means a monetary sum that is claimed by a respondent in reduction of an applicant's monetary claim.

*small claim* has the same meaning as in section 3 of the Act.

- (2) In this Chapter, unless the contrary intention appears, a term defined by or referred to in rule 2.1 that is not defined in subrule (1) has the meaning given by rule 2.1.

## Part 2—Pre-action steps

### 332.1—Notice required in minor civil action for damages for personal injuries

- (1) A person who intends to make a personal injury claim in a minor civil action must, within 6 months after the date of the incident for which the intended claim will be made, give to the person potentially liable or the person's insurer a written notice as required by rule 61.6 of these Rules.
- (2) An applicant who makes a personal injury claim in a minor civil action must, in the statement of claim, confirm that the required notice of injury has been given under subrule (1), section 126A of the *Motor Vehicles Act 1959* or section 30 of the *Return to Work Act 2014* as applicable.

### 332.2—Pre-action notice of intention to commence action

- (1) Not less than 21 days before the institution of a minor civil action, the proposed applicant must have served on the proposed respondent a written notice of intention to commence the action including—
- the full name and address for service of the applicant;
  - identification of the proposed claim or application and the relief to be sought in sufficient detail to enable the respondent to decide whether to admit it and to respond to and to make an offer of settlement of it;
  - provision of a copy of any expert report relevant to the proposed action; and
  - if the proposed action is a personal injury claim—details that comply with rule 61.7(2) of these Rules.
- (2) In the alternative to subrule (1), for any matter other than a personal injury claim—
- notice of an intended action may be given in accordance with the prescribed form of a final notice which must be filed and served on the proposed respondent;
  - an applicant who intends to rely on an expert report in the action must serve with the final notice a copy of any expert report relevant to the proposed action; and
  - an applicant who is successful in an action is entitled to recover from the respondent the filing fee for the final notice.

#### Prescribed form—

##### Form P1 Final Notice

- (3) An applicant is not required to serve a notice of intention to commence an action if—
- the action is an application under—
    - section 8A of the *Fair Trading Act 1987*;
    - section 50 of the *Fines Enforcement and Debt Recovery Act 2017*; or
    - the *Fences Act 1975*;

- (b) at the commencement of the action, the applicant applies for an injunction or restraining order under section 25 or 26 of the Act;
  - (c) the applicant genuinely fears that giving notice of the intended action will preclude or frustrate the grant of an injunction or any other order intended to be sought;
  - (d) the proceeding is to enforce a binding determination enforceable between the parties as such, including (without limitation) a monetary order by the South Australian Civil and Administrative Tribunal enforceable under section 89 of the *South Australian Civil and Administrative Tribunal Act 2013*;
  - (e) the proceeding is for payment of a claimed amount under section 15 or 16 of the *Building and Construction Industry Security of Payment Act 2009*; or
  - (f) there is a statutory time limit for instituting the proceeding of not more than 3 months.
- (4) Failure to serve a notice of intention to commence an action may affect an applicant's entitlement to costs including recovering a filing fee.

### 332.3—Pre-action response

- (1) A respondent who receives a notice of intention to commence an action under rule 332.2(1) must, within 21 days, serve a response in writing on the applicant that must include—
- (a) the full name and address for service of the respondent;
  - (b) as far as reasonably practical, a response to each of the applicant's proposed claims or applications indicating, if there is a dispute, the nature of the dispute;
  - (c) if the respondent intends to bring a counter claim or claim a set-off—information as to the nature of the counter claim or set-off;
  - (d) a copy of any expert report relevant to the proposed action or any counter claim;
  - (e) an offer to settle the action and any counter claim in terms capable of giving rise to a legally binding agreement if accepted; and
  - (f) whether the respondent will agree to a meeting or mediation for negotiating settlement of the dispute.
- (2) Failure to comply with subrule (1) may be taken into account in determining any costs awarded in the action.
- (3) A respondent who receives a final notice of an intended action under rule 332.2(2) is not required to serve a response in writing on the applicant.

## Part 3—Institution of minor civil actions

### 333.1—Claims

- (1) A minor civil action by way of, or that includes, a monetary claim must be instituted by filing a Claim in the prescribed form.

**Prescribed form—**

Form 1 Claim

- (2) A claim pursuant to—
- (a) Part 5 of the *Building Work Contractors Act 1995*;

- (b) the *Retail and Commercial Leases Act 1995*; or
  - (c) Part 4 or section 33 of the *Second-hand Vehicle Dealers Act 1995*,
- must be instituted by filing a Claim in the prescribed form.

**Prescribed forms—**

- Form 1A Claim – Building Work Contractors Act
- Form 1B Claim – Retail and Commercial Leases Act
- Form 1C Claim – Second Hand Vehicle Dealers Act

**Note—**

A claim under the *Retail and Commercial Leases Act 1995* which involves a monetary claim for more than \$12,000 is not a minor statutory proceeding under the Act.

- (3) A Claim must be accompanied by a statement of claim in the prescribed form. An applicant may either—
  - (a) complete a short form statement of claim; or
  - (b) file a longer form statement of claim that complies with Chapter 7 Part 7.

**Prescribed forms—**

- Form 1 Claim
- Form 1S Statement of Claim uploaded with Claim
- Form 1AS Statement of Claim uploaded with Claim – Building Work Contractors Act
- Form 1BS Statement of Claim uploaded with Claim – Retail and Commercial Leases Act
- Form 1CS Statement of Claim uploaded with Claim – Second Hand Vehicle Dealers Act

**Filing instructions—**

If a Claim is filed physically at Registry, a Form 1 is to be used.

If a Claim is filed using the Electronic System, a Form 1S is to be uploaded (not required if electing to rely on a short form statement of claim).

- (4) The Claim must identify the total claim value as defined in rule 67.5.
- (5) A claim under section 588FF of the *Corporations Act 2001* (Cth) must not attach an affidavit or a liquidator's report.

**333.2—Minor statutory proceedings and neighbourhood disputes**

- (1) An action founded on a minor statutory proceeding other than one referred to in rule 333.1 must be instituted by filing an Originating Application in the prescribed form supported by an affidavit in the prescribed form.

**Prescribed forms—**

- Form 2 Originating Application
- Form 7 Originating Application Ex Parte
- Form 12 Affidavit

- (2) An application under the *Fences Act 1975* must be instituted by filing an Originating Application in the prescribed form.

**Prescribed form—**

- Form 2A Originating Application – Fences Act

- (3) An application for relief in a neighbourhood dispute must be instituted by filing an Originating Application in the prescribed form, identifying what relief is claimed other than, or in addition to, a monetary claim, supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 2 Originating Application

Form 12 Affidavit

- (4) If the application is a minor statutory proceeding for which no specific form is prescribed, the applicant must use a Form 2 Originating Application.

**Prescribed form—**

Form 2 Originating Application

## Part 4—Defences, cross claims and amendments of pleadings

### 334.1—Defence

- (1) A defence in the prescribed form must be filed and served within 28 days after the service of a Claim.

**Prescribed forms—**

Form 51 Defence Shell

Form 51S Defence Details lodged or uploaded with Defence Shell

Form 52 Defence Standalone

**Filing instructions—**

If a Defence is filed physically at Registry, a Form 51 with a Form 51S is to be used.

If a Defence is filed using the Electronic System, a Form 51S is to be uploaded.

If a revised (amended) Defence is filed, a Form 52 is to be used.

- (2) A defence must identify if any part of the Claim is agreed.
- (3) A defence to a longer form statement of claim must comply with Chapter 7 Part 7.
- (4) If a defence includes a set-off, the defence must identify the facts on which the set-off is based and the amount of the set-off claimed by the respondent.

### 334.2—Cross claims and defences to cross claims

- (1) A cross claim by way of counter claim may be brought against another party to a minor civil action that is a claim.
- (2) A respondent to a minor civil action that is a claim may claim indemnity by filing a Cross Claim by way of third party claim against any other person.

**Note—**

A cross application cannot be brought in a minor civil action that is an originating application. See rule 335.3.

- (3) A Cross Claim must be in the prescribed form.

**Prescribed form—**

Form 61 Cross Claim

- (4) A Cross Claim must be accompanied by a statement of cross claim in the prescribed form. An applicant may either—

- (a) complete a short form statement of cross claim; or
- (b) file a longer form statement of cross claim that complies with Chapter 7 Part 7.

**Prescribed forms—**

Form 61 Cross Claim

Form 61S Statement of Cross Claim uploaded with Cross Claim

Form 62 Statement of Cross Claim Standalone

**Filing instructions—**

If a Cross Claim is filed physically at Registry, a Form 61 is to be used.

If a Cross Claim is filed using the Electronic System, a Form 61S is to be uploaded.

If a revised (amended) Statement of Cross Claim is filed, a Form 62 is to be used.

- (5) A Cross Claim must be filed and served within the time fixed for filing a defence, unless the Court extends the time for filing a Cross Claim.
- (6) If, at the time of service of a third party claim, the Court has already fixed a date for a directions hearing, the party filing the third party claim must inform the third party in writing of the date and time of the directions hearing.
- (7) A respondent to a cross claim will be taken to have filed a defence denying the allegations in the Cross Claim unless the Court orders a party to file such a defence.
- (8) A respondent or third party may file and serve on all parties to the action a defence to a Cross Claim in the prescribed form within 28 days after service of the Cross Claim.

**Prescribed forms—**

Form 51 Defence Shell

Form 51S Defence Details lodged or uploaded with Defence Shell

Form 52 Defence Standalone

**Filing instructions—**

If a Defence is filed physically at Registry, a Form 51 with a Form 51S is to be used.

If a Defence is filed using the Electronic System, a Form 51S is to be uploaded.

If a revised (amended) Defence is filed, a Form 52 is to be used.

**334.3—Contribution claims not required to be filed**

- (1) When there is more than one respondent to a claim or cross claim, each respondent will be taken to claim contribution from each other respondent.
- (2) In giving final judgment, the Court will fix contribution to be paid by each such respondent.

**334.4—Amendment of pleadings**

- (1) Subject to subrule (2), a pleading may be amended on one occasion only without leave of the Court.
- (2) An amended pleading filed in accordance with subrule (1) must be filed in accordance with rule 33.2 and served not less than 7 days before the first directions hearing.
- (3) A party may seek leave of the Court to amend a pleading at any time up to judgment.
- (4) A party cannot, without leave of the Court, join a new party.



- (5) A party cannot, without leave of the Court, amend the total claim value (as defined in rule 67.5) of a claim or cross claim to an amount that exceeds the minor civil action jurisdiction. If the Court grants leave, the proceeding will be transferred to the general jurisdiction of the Court unless all parties consent under section 10AB of the Act.

**Note—**

Section 3(4a) of the Act provides that the Court may deal with a transferred proceeding within the meaning of Part 3A of the *South Australian Civil and Administrative Tribunal Act 2013* as a minor statutory proceeding despite the fact that the proceeding involves a claim that exceeds the monetary limit of \$12,000.

### 334.5—Limitation on pleadings

Unless the Court otherwise orders, no pleading beyond a defence (to a claim or cross claim) may be filed.

## Part 5—Responses to originating applications

### 335.1—Response

- (1) If a respondent or interested party in an originating application wishes to oppose or make submissions about the application, they must within 14 days after service of the Originating Application file a Response in the prescribed form.

**Prescribed form—**

Form 56 Response

- (2) A respondent or interested party who files a Response must serve it as soon as practicable on each other party to the proceeding.

### 335.2—Affidavit

- (1) If a respondent or interested party wishes to rely on any facts in addition to or contrary to those relied on by the applicant (whether in the Originating Application or any supporting affidavit), they must within 14 days after service of the Originating Application file a responding affidavit in the prescribed form.

**Prescribed form—**

Form 12 Affidavit

- (2) A responding affidavit must—
- comprise evidence admissible at trial; and
  - set out the facts on which the respondent or interested party relies to oppose or otherwise in relation to the orders sought.
- (3) A respondent or interested party who files an affidavit must serve it as soon as practicable on each other party to the proceeding.

### 335.3—Cross applications

If a respondent to an originating application wishes to bring a cross application, the respondent must initiate a new proceeding by filing an Originating Application in the prescribed form supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 2 Originating Application

Form 12 Affidavit

## Part 6—Pre-trial obligations

### 336.1—Discovery

- (1) A party to a minor civil action must file and serve on each other party a list of all relevant documents—
  - (a) in the case of a proceeding by way of claim—within 14 days of the filing of a defence or, if a Cross Claim is filed, the expiration of the time for filing a defence to the Cross Claim; or
  - (b) in the case of a proceeding by way of originating application—within 14 days of the filing of a response or expiry of the time for filing a response.
- (2) The Court may, at a hearing or directions hearing, require a party to file a list of documents in the prescribed form.

**Prescribed form—**

Form 73A List of Documents – Physical Protocol

- (3) The party providing discovery must, at the request of another party, provide a copy of the discovered documents.
- (4) A request for a copy of discovered documents must be in writing and must be complied with before the first directions hearing, unless otherwise ordered by the Court.
- (5) A party who comes into possession of a discoverable document after the first directions hearing, and before judgment, must notify each other party of the existence and location of the document.

### 336.2—Expert reports

- (1) A party who intends to rely on an expert report obtained at any time before the first directions hearing must file in the Court and serve on each other party not less than 2 business days before the date fixed for the first directions hearing an affidavit in the prescribed form exhibiting a copy of that expert report.

**Prescribed form—**

Form 12 Affidavit

- (2) A party must obtain leave of the Court to obtain an expert report after the first directions hearing and, if leave is granted, a copy of the report must be provided to all parties and an affidavit exhibiting the report must be filed and served on each other party to the proceeding.
- (3) If a party obtains an opinion of an expert but has failed to obtain a report, or to provide a copy of the report to each other party, evidence of that expert opinion cannot be led at trial without leave of the Court.
- (4) If a step in the proceeding, including a trial, is delayed because of the failure to obtain or provide an expert report or file an affidavit exhibiting a copy of an expert report, the Court may take the delay into account in any order for costs made at the completion of the proceeding.

### 336.3—Interrogatories

A party cannot administer interrogatories.

## Part 7—Hearings

### 337.1—Determinations made in chambers

When a defence is filed to a Claim or on the filing of an Originating Application, the Registrar will refer the file to a Magistrate or Judicial Registrar to determine in chambers whether—

- (a) to list the matter for a directions hearing before a Magistrate, Judicial Registrar or a Registrar or in the case of an originating application for a hearing before a Magistrate or Judicial Registrar;
- (b) to list the matter for mediation or expert appraisal; or
- (c) to make orders in relation to any other matter.

### 337.2—Directions hearings: claims

- (1) A directions hearing conducted following a determination under rule 337.1 will be listed by the Registrar using the prescribed form.

**Prescribed form—**

Form 78A Notice of Directions Hearing

- (2) The Registrar will serve the notice on all existing parties unless a Magistrate or Judicial Registrar directs that the notice should not be served on a particular party.
- (3) A directions hearing conducted before a Magistrate, Judicial Registrar or a Registrar will be a pre-trial directions hearing.
- (4) The purpose of a pre-trial directions hearing is to—
  - (a) identify steps that may progress the matter to resolution, including mediation or reference to expert appraisal;
  - (b) ensure that all procedural and evidentiary issues have been addressed;
  - (c) identify and determine any other relevant matters required to expedite the resolution or determination of the proceeding;
  - (d) ensure the pleadings are adequate to identify matters of fact or law in issue;
  - (e) ensure all relevant parties are joined in the proceeding;
  - (f) identify and make orders as to discovery and filing of all relevant documents;
  - (g) identify and record any agreed facts;
  - (h) identify any specific matters relevant to conduct of the trial; for example, the need for interpreters or requirements for audio-visual equipment or other technology;
  - (i) fix the location and date of trial; and
  - (j) identify whether an on-site inspection by a Magistrate, Judicial Registrar, mediator or court expert would assist the resolution or determination of the dispute.
- (5) A pre-trial directions hearing may be adjourned from time to time.

### 337.3—Hearings: originating applications

- (1) On the return date, the Court may exercise its discretion—
  - (a) to hear and determine the originating application if the applicant appears and no other party appears or opposes the application; or

- (b) to hear the application if all parties who appear are ready to proceed with the hearing.
- (2) If the Court determines that the proceeding is not to be heard on the return date, the Court will determine whether—
  - (a) it should be heard on an adjourned hearing date;
  - (b) it should be listed for trial; or
  - (c) listing for hearing or trial should be deferred.
- (3) If the Court determines that the proceeding should be heard on an adjourned hearing date, the Court—
  - (a) will adjourn the hearing to a subsequent date;
  - (b) may make orders for the taking of any interlocutory step that may be ordered at a directions hearing under rule 337.2; and
  - (c) will proceed to hear the application on the adjourned date.
- (4) If the Court determines that the proceeding should be listed for trial, the Court—
  - (a) will list the proceeding for trial; and
  - (b) may—
    - (i) give directions for the taking of interlocutory steps; or
    - (ii) adjourn the matter to a subsequent date for a directions hearing.
- (5) If the Court determines that listing for hearing or trial should be deferred, the Court—
  - (a) may make orders for the taking of any interlocutory step that may be ordered at a directions hearing under rule 337.2; and
  - (b) will adjourn the hearing to a subsequent date for a directions hearing.

### 337.4—Election

Before or at the first directions hearing or hearing of a proceeding, if the proceeding—

- (a) is a neighbourhood dispute or a minor statutory proceeding (other than a transferred proceeding within the meaning of Part 3A of the *South Australian Civil and Administrative Tribunal Act 2013*); and
- (b) involves a monetary claim for more than \$12,000 or a claim for relief in the nature of an order to carry out work where the value of the work is more than \$12,000,

a party may file a notice of election in the prescribed form to exclude the dispute from the Minor (Civil Claims) Division of the Court.

**Prescribed form—**

Form 15 Election

## Part 8—Other applications

### 338.1—Interlocutory applications

- (1) An interlocutory application must be filed in the prescribed form and the party filing the application must file an affidavit in the prescribed form in support of the application.

**Prescribed forms—**

Form 77 Interlocutory Application

Form 12 Affidavit

- (2) The Registrar will list the application for hearing before a Magistrate or Judicial Registrar.
- (3) Unless the Court otherwise orders, an interlocutory application and supporting affidavit must be filed and served at least 7 days before the scheduled hearing date.
- (4) Unless the Court otherwise orders, an affidavit to be tendered at the hearing of an interlocutory application must be served at least 2 business days before the scheduled hearing date.
- (5) The Court may adjourn an interlocutory application and make orders as to the further conduct of an application.
- (6) If a party fails to attend within 15 minutes of the time fixed for an interlocutory application, the Court may make any order appropriate against the absent party including dismissal of the application.

### 338.2—Oral applications

A Magistrate or Judicial Registrar may make an order on an oral application made without filing an interlocutory application if it is just or expedient.

## Part 9—Appearances at hearings

### 339.1—Appearance by parties at hearings

- (1) Unless the Court otherwise orders, each party to the proceeding, or a representative of the party as permitted under section 38 of the Act, must attend in person at all hearings or directions hearings.
- (2) A Magistrate or Judicial Registrar may permit attendance at a hearing or directions hearing by telephone, audio visual or other electronic means.
- (3) If a party fails to attend within 15 minutes of the time fixed for a directions hearing or hearing, the Court may make such order as it thinks fit and may give judgment against an absent party who fails to attend the hearing.

## Part 10—Trial

### 340.1—Trial procedure

- (1) The Registrar must give notice of trial in the prescribed form to each party to the proceeding.

**Prescribed form—**

Form 78D Notice of Trial

- (2) Unless the Court otherwise orders, each party must attend in person at the trial.
- (3) The parties must make arrangements for all witnesses to attend at the trial.
- (4) The Court may permit attendance by a party or a witness by telephone, audio visual or other electronic means.
- (5) If a party fails to attend within 15 minutes of the time fixed for the trial, the Court may enter judgment against that party.
- (6) A trial may be adjourned but only to a fixed date.

**Part 11—Costs****341.1—Costs**

A successful party in a minor civil action is entitled to costs on the Minor Civil costs scale in Schedule 6 Part 4 unless the Court finds proper cause exists to make no order as to costs for failure to comply with Part 2 of this Chapter.

## Schedule 1—Service

### Part 1—Service overseas

**Note—**

This Part contains harmonised rules.

#### Division 1—Introduction

##### 1—Part does not apply to certain service in New Zealand

This Part (which contains rules on service out of Australia) does not apply to service in New Zealand of an originating process for, or of any other document to be served in or for, a proceeding for which an originating process may be served in New Zealand under Division 2 of Part 2 of the *Trans-Tasman Proceedings Act 2010* (Cth).

#### Division 2—When process may be served

##### Subdivision 1—Originating process

##### 2—When allowed without leave

An originating process may be served out of Australia without leave in the following cases—

- (a) when the claim is founded on a tortious act or omission—
  - (i) which was done or which occurred wholly or partly in Australia; or
  - (ii) in respect of which the damage was sustained wholly or partly in Australia;
- (b) when the claim is for the enforcement, rescission, dissolution, annulment, cancellation, rectification, interpretation or other treatment of, or for damages or other relief in respect of a breach of, a contract which—
  - (i) was made or entered into in Australia;
  - (ii) was made by or through an agent trading or residing within Australia;
  - (iii) was to be wholly or in part performed in Australia; or
  - (iv) was by its terms or by implication to be governed by Australian law or to be enforceable or cognisable in an Australian court;
- (c) when the claim is in respect of a breach in Australia of any contract, wherever made, whether or not that breach was preceded or accompanied by a breach out of Australia that rendered impossible the performance of that part of the contract that ought to have been performed in Australia;
- (d) when the claim—
  - (i) is for an injunction to compel or restrain the performance of any act in Australia;
  - (ii) is for interim or ancillary relief in respect of any matter or thing in or connected with Australia, where such relief is sought in relation to judicial or arbitral proceedings commenced or to be commenced, or an arbitration agreement made, in or outside Australia (including without limitation interim or ancillary relief in relation to any proceedings under the *International Arbitration Act 1974* (Cth) or the *Commercial Arbitration Act 2011*); or
  - (iii) is for a freezing order or ancillary order under Chapter 10 Part 2 Division 5 or Chapter 19 Part 13 of the Rules in respect of any matter or thing in or connected with Australia;

- (e) when the subject matter of the claim is land or other property situated in Australia, or any act, deed, will, instrument or thing affecting such land or property, or the proceeding is for the perpetuation of testimony relating to such land or property;
- (f) when the claim relates to the carrying out or discharge of the trusts of any written instrument of which the person to be served is a trustee and which ought to be carried out or discharged according to Australian law;
- (g) when any relief is sought against any person domiciled or ordinarily or habitually resident in Australia (whether present in Australia or not);
- (h) when any person out of Australia is—
  - (i) a necessary or proper party to a proceeding properly brought against another person served or to be served (whether within Australia or outside Australia) under any other provision of the Rules; or
  - (ii) a respondent to a claim for contribution or indemnity in respect of a liability enforceable by a proceeding in the Court;
- (i) when the claim is for the administration of the estate of any deceased person who at the time of their death was domiciled in Australia or is for any relief or remedy which might be obtained in any such proceeding;
- (j) when the claim arises under an Australian statute and—
  - (i) any act or omission to which the claim relates was done or occurred in Australia;
  - (ii) any loss or damage to which the claim relates was sustained in Australia;
  - (iii) the statute applies expressly or by implication to an act or omission that was done or occurred outside Australia in the circumstances alleged; or
  - (iv) the statute expressly or by implication confers jurisdiction on the Court over persons outside Australia (in which case any requirements of the statute relating to service must be complied with);
- (k) when the person to be served has submitted to the jurisdiction of the Court;
- (l) when a claim is made for restitution or for the remedy of constructive trust and the person to be served's alleged liability arises out of an act or omission that was done or occurred wholly or partly in Australia;
- (m) when it is sought to recognise or enforce any judgment;
- (n) when the claim is founded on a cause of action arising in Australia;
- (o) when the claim affects the person to be served in respect of their membership of a corporation incorporated in Australia, or of an association formed or carrying on any part of its affairs in Australia;
- (p) when the claim concerns the construction, effect or enforcement of an Australian statute;
- (q) when the claim—
  - (i) relates to an arbitration held in Australia or governed by Australian law;
  - (ii) is to enforce in Australia an arbitral award wherever made; or
  - (iii) is for orders necessary or convenient for carrying into effect in Australia the whole or any part of an arbitral award wherever made;



- (r) when the claim is for relief relating to the custody, guardianship, protection or welfare of a minor present in Australia or who is domiciled or ordinarily or habitually resident in Australia (whether present in Australia or not);
- (s) when the claim, so far as concerns the person to be served, falls partly within one or more of the above paragraphs and, as to the residue, within one or more of the others of the above paragraphs.

**Notes—**

Originating process includes a document that initiates a civil proceeding as well as a cross claim.

If a proceeding is instituted in the Court and an originating process is served out of Australia under this rule but the Court later decides that it is more appropriate that the proceeding be determined by a court of another Australian jurisdiction, the Court may transfer the proceeding to that other court under the applicable *Jurisdiction of Courts (Cross Vesting) Act* and may make an order for costs against the party who instituted the proceeding in the Court rather than in the transferee court.

**3—When allowed with leave**

- (1) In any proceeding when service is not allowed under rule 2, an originating process may be served out of Australia with the leave of the Court.
- (2) An application for leave under this rule must be made on notice to every party other than the person intended to be served.
- (3) A sealed copy of every order made under this rule must be served with the document to which it relates.
- (4) An application for leave under this rule must be supported by an affidavit stating any facts or matters related to the desirability of the Court assuming jurisdiction, including the place or country in which the person to be served is or possibly may be found, and whether or not the person to be served is an Australian citizen.
- (5) The Court may grant an application for leave if satisfied that—
  - (a) the claim has a real and substantial connection with Australia;
  - (b) Australia is an appropriate forum for the trial; and
  - (c) in all the circumstances the Court should assume jurisdiction.

**4—Court’s discretion whether to assume jurisdiction**

- (1) On application by a person on whom an originating process has been served out of Australia, the Court may dismiss or stay the proceeding or set aside service of the originating process.
- (2) Without limiting subrule (1), the Court may make an order under this rule if satisfied—
  - (a) that service of the originating process is not authorised by the Rules,
  - (b) that the Court is an inappropriate forum for the trial of the proceeding; or
  - (c) that the claim has insufficient prospects of success to warrant putting the person served outside Australia to the time, expense and trouble of defending the claim.

**5—Notice to person served outside Australia**

If a person is to be served out of Australia with an originating process, the person must also be served with a notice in the prescribed form informing the person of—

- (a) the scope of the jurisdiction of the Court in respect of claims against persons who are served outside Australia;

- (b) the grounds alleged by the applicant to found jurisdiction; and
- (c) the person's right to challenge service of the originating process or the jurisdiction of the Court and to file a defence challenging the Court's jurisdiction.

**Prescribed form—**

Form 36 Notice to Party Served – Outside Australia

**6—Time for filing defence**

Except when the Court otherwise orders, a person who has been served out of Australia must file a defence within 30 business days from the date of service.

**7—Leave to proceed when no defence by person**

- (1) If an originating process is served on a person outside Australia and the person does not file a defence, the party serving the document may not proceed against the person served except by leave of the Court.
- (2) An application for leave under subrule (1) may be made without serving notice of the application on the person served with the originating process.

**Subdivision 2—Other documents**

**8—Service of other documents outside Australia**

- (1) Any document other than an originating process may be served outside Australia with the leave of the Court, which may be given with any directions that the Court thinks fit.

**Notes—**

The law of a foreign country may permit service through the diplomatic channel or service by a private agent—see Division 3 Subdivision 2.

Division 3 Subdivision 3 deals with service of local judicial documents in a country, other than Australia, that is a party to the Hague Convention.

- (2) An application under subrule (1) must be accompanied by an affidavit stating—
  - (a) the name of the foreign country where the person to be served is or is likely to be; and
  - (b) the proposed method of service; and
  - (c) that the proposed method of service is permitted by—
    - (i) if a convention applies—the convention; or
    - (ii) in any other case—the law of the foreign country.
- (3) If a document, other than originating process, was served on a person in a foreign country without the leave of the Court, a party may apply to the Court for an order confirming the service.
- (4) For subrule (3), the party must satisfy the Court that—
  - (a) the service was permitted by—
    - (i) if a convention applies—the convention;
    - (ii) if the Hague Convention applies—the Hague Convention; or
    - (iii) in any other case—the law of the foreign country; and
  - (b) there is a sufficient explanation for the failure to apply for leave.

**Division 3—Mode of service****Subdivision 1—General****9—Mode of service**

A document to be served outside Australia need not be personally served on a person so long as it is served on the person in accordance with the law of the country in which service is effected.

**10—Application of other rules**

The other provisions of the Rules apply to service of a document on a person in a foreign country in the same way as they apply to service on a person in Australia, to the extent that they are—

- (a) relevant and consistent with this Division; and
- (b) consistent with—
  - (i) if a convention applies—the convention; or
  - (ii) if the Hague Convention applies—the Hague Convention; or
  - (iii) in any other case—the law of the foreign country.

**11—Proof of service**

- (1) This rule does not apply to a document served in accordance with the Hague Convention.

**Note—**

Subdivision 3 deals with service of local judicial documents in a country, other than Australia, that is a party to the Hague Convention.

- (2) An official certificate or declaration (whether made on oath or otherwise) stating that a document has been personally served on a person in a foreign country, or served on the person in another way in accordance with the law of the foreign country, is sufficient proof of the service of the document.
- (3) If filed, a certificate or declaration mentioned in subrule (2)—
  - (a) is taken to be a record of the service of the document; and
  - (b) has effect as if it were an affidavit of proof of service.

**12—Deemed service**

A party may apply to the Court without notice for an order that a document is taken to have been served on a person on the date mentioned in the order if—

- (a) it is not practicable to serve the document on the person in a foreign country in accordance with a convention, the Hague Convention or the law of a foreign country; and
- (b) the party provides evidence that the document has been brought to the attention of the person to be served.

**Note—**

without notice is defined in rule 2.1 of the Rules.

**13—Substituted service**

If service was not successful on a person in a foreign country, in accordance with a convention, the Hague Convention or the law of a foreign country, a party may apply to the Court without notice for an order—

- (a) substituting another method of service;
- (b) specifying that, instead of being served, certain steps be taken to bring the document to the attention of the person; or
- (c) specifying that the document is taken to have been served—
  - (i) on the happening of a specified event; or
  - (ii) at the end of a specified time.

**Note—**

*without notice* is defined in rule 2.1 of the Rules.

**Subdivision 2—Service through diplomatic channel or by transmission to foreign government****14—Documents to be lodged with the Court**

If a party has been given leave to serve a document on a person in a foreign country—

- (a) through the diplomatic channel; or
- (b) by transmission to a foreign government in accordance with a convention (*the relevant convention*),

the party must lodge in the Registry—

- (c) a request for service in the prescribed form;
- (d) a request for transmission in the prescribed form (when applicable);
- (e) the party's or the party's lawyer's written undertaking to pay to the Registrar the amount of the expenses incurred by the Court in giving effect to the party's request;
- (f) the number of copies of each document that are required by the relevant convention to be served; and
- (g) if necessary, a translation into the foreign country's official language (including a statement by the translator attesting to the accuracy of the translation) of the following—
  - (i) the request for transmission mentioned in paragraph (d); and
  - (ii) each document to be served.

**Prescribed forms—**

Form 39 Request for Service in a Foreign Country

Form 40 Request for Transmission of Documents to a Foreign Government

**Note—**

This rule does not apply if a person has been given leave to serve a document on a person in a foreign country that is a party to the Hague Convention. Service in a foreign country that is a party to the Hague Convention is dealt with in Subdivision 3.

**15—Order for payment of expenses**

If a party, or a party's lawyer, gives an undertaking under [rule 14\(e\)](#) and does not, within 14 days after being sent an account for expenses incurred in relation to the request, pay to [the Registrar](#) the amount of the expenses, the Court may [without notice](#) make an order that—

- (a) the amount of the expenses be paid to [the Registrar](#) within a specified period of time; and
- (b) the proceeding be stayed, to the extent that it concerns the whole or any part of a claim for relief by the party, until the amount of the expenses is paid.

**Note—**

[without notice](#) is defined in [rule 2.1](#) of the Rules.

**Subdivision 3—Service under the Hague Convention**

**Notes—**

This Subdivision forms part of a scheme to implement Australia's obligations under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Under the Convention, the Attorney-General's Department of the Commonwealth is designated as the Central Authority (under Article 2 of the Convention) and certain courts, including the Supreme Court of South Australia, and government departments are, for certain purposes, designated as "other" or "additional" authorities (under Article 18 of the Convention).

This Division provides (in Subdivision 3) for service in overseas Convention countries of local judicial documents (documents that relate to proceedings in the Court) and (in Subdivision 4) for default judgment in proceedings in the Court after service overseas of such a document. Part 2, on the other hand, deals with service by the Court or arranged by the Court in its role as another or additional authority, of judicial documents emanating from overseas Convention countries.

Information about the Hague Convention, including a copy of the Hague Convention, a list of all Contracting States, details of declarations and reservations made under the Hague Convention by each of those States and the names and addresses of the central and other authorities of each of those States, can be found at the website of the Hague Conference on Private International Law.

**16—Definitions**

In this Division and in Parts 2 and 3—

**additional authority**, for a Convention country, means an authority that is—

- (a) for the time being designated by that country, under Article 18 of the Hague Convention, to be an authority (other than the Central Authority) for that country; and
- (b) competent to receive requests for service abroad emanating from Australia;

**applicant**, for a request for service abroad or a request for service in this jurisdiction, means the person on whose behalf service is requested;

**Note—**

The term **applicant** has a different meaning in other provisions of the Rules.

**Central Authority**, for a Convention country, means an authority that is for the time being designated by that country, under Article 2 of the Hague Convention, to be the Central Authority for that country;

**certificate of service** means a certificate of service that has been completed for the purposes of Article 6 of the Hague Convention;

**certifying authority**, for a Convention country, means the Central Authority for the country or some other authority that is for the time being designated by the country, under Article 6 of the Hague Convention, to complete certificates of service in the form annexed to the Hague Convention;

**civil proceeding** means any judicial proceeding in relation to civil or commercial matters;

**Convention country** means a country, other than Australia, that is a party to the Hague Convention;

**defendant**, for a request for service abroad of an initiating process, means the person on whom the initiating process is requested to be served (being a respondent);

**foreign judicial document** means a judicial document that originates in a Convention country and that relates to a civil proceeding in a court of that country;

**forwarding authority**, for a Convention country, means an authority that, or judicial officer who, under the law of the country, is competent to forward a request for service under Article 3 of the Hague Convention;

**initiating process** means any document by which a proceeding (including a proceeding on any cross claim) is commenced;

**local judicial document** means a judicial document that relates to a civil proceeding in the Court;

**request for service abroad** means a request for service in a Convention country of a local judicial document, as referred to in [rule 19\(1\)](#);

**request for service in this jurisdiction** means a request for service in this jurisdiction of a foreign judicial document, as referred to in [rule 29\(1\)](#);

**this jurisdiction** means South Australia.

#### **17—Provisions of this Subdivision to prevail**

The provisions of this Subdivision prevail to the extent of any inconsistency between those provisions and any other provisions of the Rules.

#### **18—Application of Subdivision**

- (1) Subject to subrule (2), this Subdivision applies to service in a Convention country of a local judicial document.
- (2) This Subdivision does not apply if service of the document is effected, without application of any compulsion, by an Australian diplomatic or consular agent, as referred to in Article 8 of the Hague Convention.

#### **19—Application for request for service abroad**

- (1) A person may apply to the Registrar for a request for service in a Convention country of a local judicial document.
- (2) The application must be accompanied by 3 copies of each of the following documents—
  - (a) a draft request for service abroad, which must be in the prescribed form;
  - (b) the document to be served;
  - (c) a summary of the document to be served, which must be in the prescribed form;
  - (d) if, under Article 5 of the Hague Convention, the Central Authority or any additional authority of the country to which the request is addressed requires the

document to be served to be written in, or translated into, the official language or one of the official languages of that country, a translation into that language of both the document to be served and the summary of the document to be served.

**Prescribed forms—**

Form 38 Request and Certificate of Service Hague Convention

Form 37 Summary of the Document to be Served

- (3) The application must contain a written undertaking to the Court, signed by the lawyer on the record for the applicant in the proceeding to which the local judicial document relates or, if there is no lawyer on the record for the applicant in that proceeding, by the applicant—
- (a) to be personally liable for all costs that are incurred—
    - (i) by the employment of a person to serve the documents to be served, being a person who is qualified to do so under the law of the Convention country in which the documents are to be served; or
    - (ii) by the use of any particular method of service that has been requested by the applicant for the service of the documents to be served;
  - (b) to pay the amount of those costs to the Registrar within 28 days after receipt from the Registrar of a notice specifying the amount of those costs under rule 21(3); and
  - (c) to give such security for those costs as the Registrar may require.
- (4) The draft request for service abroad—
- (a) must be completed (except for signature) by the applicant;
  - (b) must state whether (if the time fixed for entering a defence in the proceeding to which the local judicial document relates expires before service is effected) the applicant requests service to be attempted after the expiry of that time;
  - (c) must be addressed to the Central Authority, or to an additional authority, for the Convention country in which the person is to be served; and
  - (d) may state that the applicant requires a certificate of service that is completed by an additional authority to be countersigned by the Central Authority.
- (5) Any translation required under subrule (2)(d) must bear a certificate (in both English and the language used in the translation) signed by the translator stating—
- (a) that the translation is an accurate translation of the documents to be served; and
  - (b) the translator's full name and address and their qualifications for making the translation.

**20—How application to be dealt with**

- (1) If satisfied that the application and its accompanying documents comply with rule 19, the Registrar—
- (a) must sign the request for service abroad; and
  - (b) must forward 2 copies of the relevant documents—

- (i) if the applicant has asked for the request to be forwarded to a nominated additional authority for the Convention country in which service of the document is to be effected—to the nominated additional authority, or
  - (ii) in any other case—to the Central Authority for the Convention country in which service of the document is to be effected.
- (2) The **relevant documents** referred to in subrule (1)(b) are the following—
  - (a) the request for service abroad (duly signed);
  - (b) the document to be served;
  - (c) the summary of the document to be served;
  - (d) if required under rule 19(2)(d), a translation into the relevant language of each of the documents referred to above.
- (3) If not satisfied that the application or any of its accompanying documents complies with rule 19, the Registrar must inform the applicant of the respects in which the application or document fails to comply.

#### **21—Procedure on receipt of certificate of service**

- (1) Subject to subrule (5), on receipt of a certificate of service in due form in relation to a local judicial document to which a request for service abroad relates, the Registrar—
  - (a) must arrange for the original certificate to be filed in the proceeding to which the document relates; and
  - (b) must send a copy of the certificate to—
    - (i) the lawyer on the record for the applicant in that proceeding; or
    - (ii) if there is no lawyer on the record for the applicant in that proceeding—the applicant.
- (2) For the purposes of subrule (1), a certificate of service is in due form if—
  - (a) it is in the prescribed form;
  - (b) it has been completed by a certifying authority for the Convention country in which service was requested; and
  - (c) if the applicant requires a certificate of service that is completed by an additional authority to be countersigned by the Central Authority, it has been so countersigned.
- (3) On receipt of a statement of costs in due form in respect of the service of a local judicial document referred to in subrule (1), the Registrar must send to the lawyer or applicant who gave the undertaking referred to in rule 19(3) a notice specifying the amount of those costs.
- (4) For the purposes of subrule (3), a statement of costs is in due form if—
  - (a) it relates only to costs of a kind referred to in rule 19(3)(a); and
  - (b) it has been completed by a certifying authority for the Convention country in which service was requested.
- (5) Subrule (1) does not apply unless—
  - (a) adequate security to cover the costs mentioned in subrule (3) has been given under rule 19(3)(c); or



- (b) to the extent to which the security so given is inadequate to cover those costs, an amount equal to the amount by which those costs exceed the security so given has been paid to the Registrar.

#### **22—Payment of costs**

- (1) On receipt of a notice under rule 21(3) in relation to the costs of service, the lawyer or applicant, as the case may be, must pay to the Registrar the amount specified in the notice as the amount of those costs.
- (2) If the lawyer or applicant fails to pay that amount within 28 days after receiving the notice—
  - (a) except by leave of the Court, the applicant may not take any further step in the proceeding to which the local judicial document relates until those costs are paid to the Registrar, and
  - (b) the Registrar may take such steps as are appropriate to enforce the undertaking for payment of those costs.

#### **23—Evidence of service**

A certificate of service in relation to a local judicial document (being a certificate in due form within the meaning of rule 21(2)) that certifies that service of the document was effected on a specified date is, in the absence of any evidence to the contrary, sufficient proof that—

- (1) service of the document was effected by the method specified in the certificate on that date; and
- (2) if that method of service was requested by the applicant, that method is compatible with the law in force in the Convention country in which service was effected.

#### **Subdivision 4—Default judgment following service abroad of initiating process**

##### **24—Application of Subdivision**

This Subdivision applies to civil proceedings in respect of which an initiating process has been forwarded following a request for service abroad to the Central Authority (or to an additional authority) for a Convention country.

##### **25—Restriction on power to enter default judgment if certificate of service filed**

- (1) This rule applies if—
  - (a) a certificate of service of initiating process has been filed in the proceeding (being a certificate in due form within the meaning of rule 21(2)) that states that service has been duly effected; and
  - (b) the defendant has not filed a defence.
- (2) In circumstances to which this rule applies, default judgment may not be given against the defendant unless the Court is satisfied that—
  - (a) the initiating process was served on the defendant—
    - (i) by a method of service prescribed by the internal law of the Convention country for the service of documents in domestic proceedings on persons who are within its territory;
    - (ii) if the applicant requested a particular method of service (being a method under which the document was actually delivered to the defendant or to

their residence) and that method is compatible with the law in force in that country, by that method; or

- (iii) if the applicant did not request a particular method of service, in circumstances in which the defendant accepted the document voluntarily, and
- (b) the initiating process was served in sufficient time to enable the defendant to file a defence in the proceeding.
- (3) In subrule (2)(b), *sufficient time* means—
  - (a) 30 business days from the date specified in the certificate of service in relation to the initiating process as the date on which service of the process was effected; or
  - (b) such lesser time as the Court considers, in the circumstances, to be a sufficient time to enable the defendant to file a defence in the proceeding.

**26—Restriction on power to enter default judgment if certificate of service not filed**

- (1) This rule applies if—
  - (a) a certificate of service of initiating process has not been filed in the proceeding; or
  - (b) a certificate of service of initiating process has been filed in the proceeding (being a certificate in due form within the meaning of rule 21(2)) that states that service has not been effected, and the defendant has not filed a notice of acting or defence.
- (2) If this rule applies, default judgment may not be given against the defendant unless the Court is satisfied that—
  - (a) the initiating process was forwarded to the Central Authority, or to an additional authority, for the Convention country in which service of the initiating process was requested;
  - (b) a period that is adequate in the circumstances (being a period of not less than 6 months) has elapsed since the date on which initiating process was so forwarded; and
  - (c) every reasonable effort has been made—
    - (i) to obtain a certificate of service from the relevant certifying authority; or
    - (ii) to effect service of the initiating process, as the case requires.

**27—Setting aside judgment in default of defence**

- (1) This rule applies if default judgment has been entered against the defendant in a proceeding to which this Division applies.
- (2) If this rule applies the Court may set aside the judgment on the application of the defendant if it is satisfied that the defendant—
  - (a) without any fault on the defendant's part, did not have knowledge of the initiating process in sufficient time to defend the proceeding; and
  - (b) has a prima facie defence to the proceeding on the merits.
- (3) An application to have a judgment set aside under this rule may be filed—

- (a) at any time within 12 months after the date on which the judgment was given; or
  - (b) after the expiry of that 12 month period, within such time after the defendant acquires knowledge of the judgment as the Court considers reasonable in the circumstances.
- (4) Nothing in this rule affects any other power of the Court to set aside or vary a judgment.

**Note—**

Rule 142.11 and rule 142.12 of the Rules provide other bases on which a default judgment may be set aside.

## Part 2—Service in New Zealand

### 28—Application for stay

- (1) An application under section 17 of the *Trans-Tasman Proceedings Act 2010* (Cth) for a stay of the proceeding on the ground that a New Zealand court is the more appropriate court to determine the matters in issue must be made by filing an interlocutory application and supporting affidavit in accordance with rule 102.1 of the Rules.
- (2) A request under section 18(2) of the *Trans-Tasman Proceedings Act 2010* (Cth) for a hearing of an application for a stay must be made by an Application to Registrar in the prescribed form.

**Prescribed form—**

Form 76C Application to Registrar – Request Hearing

- (3) A request under section 18(4) of the *Trans-Tasman Proceedings Act 2010* (Cth) to appear remotely on the hearing of an application for a stay must be made by an Application to Registrar in the prescribed form.

**Prescribed form—**

Form 76D Application to Registrar – Request Remote Appearance

## Part 3—Local service of foreign judicial documents

### Division 1—Service under the Hague Convention

**Note—**

This Division contains harmonised rules.

### 29—Application of Division

- (1) This Division applies to service in this jurisdiction of a foreign judicial document in relation to which a due form of request for service in this jurisdiction has been forwarded to the Court—
  - (a) by the Attorney-General's Department of the Commonwealth, whether in the first instance or following a referral under rule 30; or
  - (b) by a forwarding authority.
- (2) Subject to subrule (3), a request for service in this jurisdiction is in due form if it is in the prescribed form and is accompanied by the following documents—
  - (a) the document to be served;
  - (b) a summary of the document to be served, which must be in the prescribed form;

- (c) a copy of the request and of each of the documents referred to in paragraphs (a) and (b);
- (d) if either of the documents mentioned in paragraphs (a) or (b) is not in the English language, an English translation of the document.

**Prescribed forms—**

Form 38 Request and Certificate of Service Hague Convention

Form 37 Summary of the Document to be Served

- (3) Any translation required under subrule (2)(d) must bear a certificate (in English) signed by the translator stating—
  - (a) that the translation is an accurate translation of the document; and
  - (b) the translator's full name and address and their qualifications for making the translation.

**30—Certain documents to be referred back to the Attorney-General's Department of the Commonwealth**

If, after receiving a request for service in this jurisdiction, the Registrar is of the opinion—

- (a) that the request does not comply with rule 29;
- (b) that the document to which the request relates is not a foreign judicial document;
- (c) that compliance with the request may infringe Australia's sovereignty or security; or
- (d) that the request seeks service of a document in some other State or Territory of the Commonwealth,

the Registrar must refer the request to the Attorney-General's Department of the Commonwealth together with a statement of that opinion.

**Note—**

The Attorney General's Department of the Commonwealth will deal with misdirected and non-compliant requests, make arrangements for the service of extrajudicial documents and assess and decide questions concerning Australia's sovereignty and security.

**31—Service**

- (1) Subject to rule 30, on receipt of a request for service in this jurisdiction, the Court must arrange for the service of the relevant documents in accordance with the request.
- (2) The relevant documents referred to in subrule (1) are the following—
  - (a) the document to be served;
  - (b) a summary of the document to be served;
  - (c) a copy of the request for service in this jurisdiction;
  - (d) if either of the documents mentioned in paragraphs (a) or (b) is not in the English language, an English translation of the document.
- (3) Service of the relevant documents may be effected by any of the following methods of service—
  - (a) by a method of service prescribed by the law in force in this jurisdiction—
    - (i) for the service of a document of a kind corresponding to the document to be served; or

- (ii) if there is no such corresponding kind of document, for the service of initiating process in proceedings in the Court;
- (b) if the applicant has requested a particular method of service and that method is compatible with the law in force in this jurisdiction, by that method; or
- (c) if the applicant has not requested a particular method of service and the person requested to be served accepts the document voluntarily, by delivery of the document to the person requested to be served.

### 32—Affidavit as to service

- (1) If service of a document has been effected pursuant to a request for service in this jurisdiction, the person by whom service has been effected must lodge with the Court an affidavit specifying—
  - (a) the time, day of the week and date on which the document was served;
  - (b) the place where the document was served;
  - (c) the method of service;
  - (d) the person on whom the document was served; and
  - (e) the way in which that person was identified.
- (2) If attempts to serve a document under a request for service in this jurisdiction have failed, the person by whom service has been attempted must lodge with the Court an affidavit specifying—
  - (a) details of the attempts made to serve the document; and
  - (b) the reasons that have prevented service.
- (3) When an affidavit as to service of a document has been lodged in accordance with this rule, the Registrar—
  - (a) must complete a certificate of service, sealed with the seal of the Court, on the reverse side of, or attached to, the request for service in this jurisdiction; and
  - (b) must forward the certificate of service, together with a statement as to the costs incurred in relation to the service or attempted service of the document, directly to the forwarding authority from which the request was received.
- (4) A certificate of service must be—
  - (a) in the prescribed form;
  - (b) if a form of certificate of service that substantially corresponds to the prescribed form accompanies the request for service, in that accompanying form.

#### Prescribed form—

Form 38 Request and Certificate of Service Hague Convention

### Division 2—Service other than under the Hague Convention

#### 33—Order for service

- (1) The Court may, on application in the prescribed form by a party to a proceeding in a foreign court or foreign tribunal, the Attorney-General or the Crown Solicitor, make orders for the service in South Australia of—
  - (a) civil process of the foreign court or foreign tribunal; or

- (b) any other document that is to be served for the purposes of a civil proceeding in the foreign court or foreign tribunal.
- (2) The application must be supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 7 Originating Application Ex Parte

Form 12 Affidavit

**34—Certificate as to service**

- (1) If service is proved to the satisfaction of the Court, the Registrar will issue a certificate in the prescribed form certifying service of the document and when and how service was effected.
- (2) If attempts to serve the document prove to be unsuccessful, the Registrar will issue a certificate in the prescribed form to that effect.

**Prescribed form—**

Form 87 Certificate (generic)

## Schedule 2—Search order protocol

### Part 1—Introduction

#### 1—Introduction

- (1) This Schedule addresses (among other things) the Court's usual practice relating to the making of a search order under Chapter 10 Part 2 Division 1 or Chapter 19 Part 13 of the Rules and the usual terms of such an order.
- (2) While a standard practice has benefits, this Part and Form 82A do not, and cannot, limit the judicial discretion to make such orders as appropriate in the circumstances of the particular case.
- (3) A search order compels the respondent to permit persons specified in the order (the *search party*) to enter premises and to search for, inspect, copy and remove the things described in the order.
- (4) The purpose of a search order is to preserve important evidence pending the hearing and determination of the applicant's claim in an action brought or to be brought by the applicant against the respondent or against another person.
- (5) A search order is an extraordinary remedy in that it is intrusive, potentially disruptive, made before judgment and ordinarily made without notice.

### Part 2—Application

#### 2—Application

An application for a search order must be made—

- (a) under Chapter 10 Part 2 Division 1 of the Rules by filing an interlocutory application in accordance with rule 102.1 of the Rules in the prescribed form supported by an affidavit in accordance with rule 102.1(2) of the Rules in the proceeding in which the search order is being sought; or
- (b) under Chapter 19 Part 13 of the Rules by filing an Originating Application in accordance with rule 82.1 of the Rules in the prescribed form and supported by an affidavit in accordance with rule 82.1(2) of the Rules in a new proceeding.

#### Prescribed forms—

Form 77 Interlocutory Application or Form 7 Originating Application Ex Parte

Form 12 Affidavit

Form 79 Draft Order

#### Note—

Chapter 19 Part 13 of the Rules does not apply to the Magistrates Court.

#### 3—Supporting affidavit

The supporting affidavit must include the following information—

- (a) a description of the things or categories of things in relation to which the order is sought;
- (b) the address or location of the premises in relation to which the order is sought and whether they are private or business premises;

- (c) why the order is sought, including why there is a real possibility that the things to be searched for will be destroyed or otherwise made unavailable for use in evidence before the Court unless the order is made;
- (d) the prejudice, loss or damage likely to be suffered by the applicant if the order is not made;
- (e) the name, address, firm, and commercial litigation experience of an independent lawyer who consents to being appointed to serve the order, supervise its execution and do such other things as the Court considers appropriate; and
- (f) if the premises to be searched are or include residential premises—whether to the best of the applicant’s belief it is reasonably likely that the only occupants of the premises will be children under the age of 18 or other persons in a position of vulnerability because of age, mental capacity, infirmity, English language ability or otherwise (*vulnerable persons*).

#### 4—Undertakings

- (1) Appropriate undertakings to the Court will be required of the applicant, the applicant’s lawyer and the independent lawyer as conditions of making a search order.
- (2) The undertakings required of the applicant will normally include the usual undertaking as to damages.
- (3) If the applicant has or may have insufficient assets within the jurisdiction to provide substance for the usual undertaking as to damages, the applicant may be required to support the undertaking by providing security.

**Note—**

There is provision for such security in Form 82A.

- (4) Security may take the form of a bank’s irrevocable undertaking to pay or a payment into Court, which is to be in wording contained within Form 82A subject to such modifications as are necessary.
- (5) The applicant’s lawyer must undertake to the Court to pay the reasonable costs and disbursements of the independent lawyer and of any independent computer expert.
- (6) The applicant’s lawyer must undertake not to disclose to the applicant any information that the lawyer has acquired during or as a result of execution of the search order without leave of the Court.

**Note—**

Release from this undertaking in whole or in part may be sought on the return date.

### Part 3—Search party and independent lawyer

#### 5—Search party

- (1) The search party must include an independent lawyer who will supervise the search and a lawyer representing the applicant.
- (2) If it is envisaged that specialised computer expertise may be required to search the respondent’s computers for documents, or if the respondent’s computers are to be imaged, an independent computer specialist will need to be appointed who will be required to give undertakings to the Court.

**Example—**



If storage devices are to be copied wholesale, thereby reproducing documents referred to in the order and other documents indiscriminately, an independent computer specialist will ordinarily need to be appointed.

- (3) It may be necessary that the search party include other persons, such as a person able to identify things being searched for if identification difficulties arise.
- (4) Ordinarily, the search party should not include the applicant or the applicant's directors, officers, employees or partners or any other person associated with the applicant (other than the applicant's lawyer).

#### 6—Identity of independent lawyer

- (1) The independent lawyer is an important safeguard against abuse of the order.
- (2) The independent lawyer must not be a member or employee of the law firm engaged by the applicant.
- (3) The independent lawyer should be a lawyer experienced in commercial litigation, preferably in the execution of search orders.

**Note—**

The Law Society maintains a list of lawyers willing to be appointed as an independent lawyer for the execution of search orders, but it is not only persons on that list who may be appointed.

#### 7—Responsibilities of independent lawyer

- (1) The responsibilities of the independent lawyer ordinarily include the following—
  - (a) serve the order, the application, the affidavits relied on in support of the application and the originating process on the respondent;
  - (b) explain to the respondent the terms of the order;
  - (c) explain to the respondent that the respondent has the right to obtain legal advice;
  - (d) supervise the carrying out of the order;
  - (e) before removing things from the premises, make a list of them, allow the respondent a reasonable opportunity to check the correctness of the list, sign the list, and provide the parties with a copy of the list;
  - (f) take custody of all things removed from the premises until further order of the Court;
  - (g) if the independent lawyer considers it necessary to remove a computer from the premises for safekeeping or for copying its contents electronically or printing out information in physical form—remove the computer from the premises for that purpose and return the computer to the premises within the time prescribed by the order together with a list of any documents that have been copied or printed out;
  - (h) submit a written report to the Court within the time prescribed by the order as to the execution of the order; and
  - (i) attend the hearing on the return date of the application, and have available to be brought to the Court all things removed from the premises.
- (2) On the return date, the independent lawyer may—
  - (a) be required to release material in their custody that has been removed from the respondent's premises or to provide information to the Court; and
  - (b) may raise any issue before the Court as to execution of the order.

## Part 4—Hearing, order and execution

### 8—Hearing of application

- (1) An applicant for a search order made without notice to the respondent is under a duty to the Court to make full and frank disclosure of all material facts to the Court.
- (2) Without affecting the generality of subrule (1), possible defences known to the applicant and any financial information that may indicate that the applicant is unable to meet the usual undertaking as to damages from assets within Australia must be disclosed.

### 9—Terms of order

- (1) A search order must be modelled on Form 82A, adapted to meet the circumstances of the particular case.

**Note—**

Form 82A contains provisions aimed at achieving the permissible objectives of the order while minimising the potential for disruption or damage to the respondent and for abuse of the Court's process.

- (2) The order must be clear about the identity of persons in the search party (see rule 5) and the maximum number of persons permitted to be in the search party.
- (3) The number of persons in the search party must be as small as is reasonably practicable.
- (4) Subject to subrule (5), the persons in the search party must be named in the order.
- (5) If it is not possible to name all of the persons in the search party, the order must describe the class of persons who will be in the search party.

**Example—**

“one lawyer employed by AB Solicitors”.

- (6) If it is reasonably likely that the only occupants of the premises when service of the order is effected will be vulnerable persons, the applicant must give consideration to whether the search party should include a person capable of addressing the relevant vulnerability.
- (7) Any period during which the respondent is to be restrained from informing any other person (other than for the purpose of obtaining legal advice) of the existence of the search order should be as short as possible and not extend beyond 4.30 pm on the return date.
- (8) The order to be served must be endorsed with a warning that meets the requirements of rule 103.5 of the Rules.

### 10—Execution of search order

- (1) Ordinarily, a search order should be served between 9.00 am and 2.00 pm on a business day to permit the respondent more readily to obtain and act on legal advice.

**Note—**

There may be circumstances in which such a restriction is not appropriate.

- (2) A search order should not be executed at the same time as the execution of a search or other warrant by the police or another regulatory authority.

- (3) Unless the Court otherwise orders, the applicant must not, without leave of the Court, inspect things removed from the premises or copies of them, or be given any information about them by members of the search party.

#### **11—Subsequent hearing**

- (1) At the hearing of the application on the return date, the Court will consider the following issues—
- (a) what is to happen to any things removed from the premises or to any copies that may be made;
  - (b) how any commercial confidentiality of the respondent is to be maintained;
  - (c) any claim of privilege;
  - (d) any application by a party; and
  - (e) any issue raised by the independent lawyer or any independent computer expert.
- (2) A search order is subject to the Court's adjudication of any claim of privilege against self-incrimination.

#### **Notes—**

The privilege against self-incrimination is available to individuals but not to corporations.

The Court will not make an order reducing or limiting the privilege against self-incrimination in circumstances in which the legislature has not indicated that it may do so.

## Schedule 3—Freezing order protocol

### Part 1—Introduction

#### 1—Introduction

- (1) This Schedule addresses the Court's usual practice relating to the making of a freezing order under Chapter 10 Part 2 Division 5 or Chapter 19 Part 13 of the Rules and the usual terms of such an order.
- (2) While a standard practice has benefits, this Schedule and Form 82B do not, and cannot, limit the judicial discretion to make such order as is appropriate in the circumstances of the particular case.
- (3) A freezing order restrains a respondent from removing assets located in or outside Australia or from disposing of, dealing with, or diminishing the value of those assets.
- (4) A freezing order is designed to prevent the frustration or abuse of the process of the Court, not to provide security in respect of a judgment.
- (5) A freezing order is an extraordinary interim remedy in that it can restrict the right to deal with assets even before judgment and is commonly granted without notice.
- (6) A freezing order or ancillary order may be sought against a person other than the person said to be liable on a substantive cause of action of the applicant who has possession, custody, control or ownership of assets that the person may be obliged ultimately to disgorge to help satisfy a judgment against the person said to be liable, in which case the person against whom the order is sought must be joined as a respondent to the application for the freezing or ancillary order.
- (7) When a freezing order against a person seeks only to freeze the assets of the person said to be liable on a substantive cause of action in the person's possession, custody or control (but not ownership), Form 82B will require adaptation.

**Note—**

In particular, the references to "your assets" and "in your name" should be changed to refer to the other person's assets or name (eg "John Smith's assets", "in John Smith's name").

- (8) A freezing order or ancillary order may—
  - (a) be limited to assets in Australia or in a defined part of Australia or may extend to assets anywhere in the world;
  - (b) cover all assets without limitation, assets of a particular class or specific assets (such as the amount standing to the credit of an identified bank account).
- (9) Rule 112.14 of the Rules has the effect that certain restrictions expressed in *The Siskina* [1979] AC 210 do not apply in this jurisdiction, namely—
  - (a) the Court may make a freezing order before a cause of action has accrued (a "prospective" cause of action);
  - (b) the Court may make a free-standing freezing order in aid of a foreign proceeding in prescribed circumstances; and
  - (c) when there are assets in Australia, service outside Australia is permitted under Schedule 1 Part 1.

**Note—**

By reason of Chapter 19 Part 13 of the Rules, paragraphs (a) and (b) do not apply to the Magistrates Court.

## Part 2—Application

### 2—Application

An application for a freezing order must be made by either—

- (a) under Chapter 10 Part 2 Division 5 of the Rules by filing an interlocutory application in accordance with rule 102.1 of the Rules in the prescribed form supported by an affidavit in accordance with rule 102.1(2) of the Rules in the proceeding in which the freezing order is being sought; or
- (b) under Chapter 19 Part 13 of the Rules by filing an Originating Application in accordance with rule 82.1 of the Rules in the prescribed form and supported by an affidavit in accordance with rule 82.1(2) of the Rules in a new proceeding.

#### Prescribed forms—

Form 77 Interlocutory Application or Form 7 Originating Application Ex Parte

Form 12 Affidavit

Form 79 Draft Order

#### Note—

Chapter 19 Part 13 of the Rules does not apply to the Magistrates Court.

### 3—Affidavit in support

The supporting affidavit must address the following information—

- (a) any judgment that has been obtained;
- (b) if no judgment has been obtained, the following information about the cause of action—
  - (i) the basis of the claim for substantive relief;
  - (ii) the amount of the claim; and
  - (iii) if the application is made without notice—the applicant's knowledge of any possible defence;
- (c) the nature and value of the respondent's assets, so far as known to the applicant, within and outside Australia;
- (d) the matters referred to in rule 112.17 of the Rules; and
- (e) the identity of any person, other than the respondent, who, to the best of the applicant's belief, may be affected by the order and how that person may be affected by it.

### 4—Undertakings

- (1) Appropriate undertakings will normally be required of the applicant as a condition of making a freezing order.
- (2) The undertakings required of the applicant will normally include the usual undertaking as to damages.

- (3) If the applicant has or may have insufficient assets within the jurisdiction of the Court to provide substance for the undertaking as to damages, the applicant may be required to support the undertaking by providing security.

**Note—**

There is provision for such security in Form 82B.

## Part 3—Hearing and order

### 5—Hearing of application

An applicant for a freezing order or ancillary order made without notice to the respondent is under a duty to the Court to make full and frank disclosure of all material facts to the Court.

**Example—**

Possible defences known to the applicant and any financial information that may cast doubt on the applicant's ability to meet the usual undertaking as to damages from assets within Australia must be disclosed.

### 6—Terms of order

- (1) A freezing order must be modelled on Form 82B, adapted to meet the circumstances of the particular case.

**Note—**

Form 82B contains provisions aimed at achieving the permissible objectives of the order while minimising the potential for disruption or damage to the respondent and third parties. It may be adapted for a freezing order made on notice to the respondent as indicated in the footnotes to the form.

- (2) The duration of a freezing order made without notice must be limited to a period terminating on the return date of the application, which should be as early as practicable (usually no more than 1 or 2 days) after the order is made, when the respondent will have the opportunity to be heard.
- (3) On the return date, the applicant will bear the onus of satisfying the Court that the order should be continued or renewed.
- (4) A freezing order should reserve liberty for the respondent to apply on short notice.

**Note—**

An application by the respondent to discharge or vary a freezing order will normally be treated by the Court as urgent.

- (5) The value of the assets covered by a freezing order should not exceed the likely maximum amount of the applicant's claim, including interest and costs.

**Note—**

Sometimes it may not be possible to satisfy this principle (for example, an employer may know that an employee has been making fraudulent misappropriations but not know how much has been misappropriated at the time of the application to the Court).

- (6) The order should exclude dealings by the respondent with assets for legitimate purposes, in particular—
- (a) payment of ordinary living expenses;
  - (b) payment of reasonable legal expenses incurred in the action in which the freezing order is made;

- (c) dealings and dispositions in the ordinary and proper course of the respondent's business, including paying business expenses bona fide and properly incurred; and
  - (d) dealings and dispositions in the discharge of bona fide obligations properly incurred under a contract entered into before the order was made.
- (7) When a freezing order extends to assets outside Australia, the order should provide for the protection of persons outside Australia and non-parties.

**Note—**

Such provisions are included in Form 82B.

- (8) The Court may make ancillary orders.

**Example—**

The most common example of an ancillary order is an order for disclosure of assets. Form 82B provides for such an order and for the privilege against self-incrimination.

- (9) The order to be served must be endorsed with a warning in compliance with rule 103.5 of the Rules.

## **Schedule 4—Discovery electronic protocols**

### **Part 1—General**

#### **1—Introduction**

- (1) Electronic discovery, being the use of imaged documents, has the advantage of increased functionality available with electronic images compared to paper copies and the relatively high cost of copying documents multiple times compared to the cost of converting them to images once.
- (2) The primary purpose of electronic discovery is to minimise document management and technology costs and ensure that each party and the Court can use the same software to view all parties' documents.
- (3) The Court expects the parties and their lawyers to consider and discuss, as early as possible in the preparation or conduct of a proceeding, how the use of technology may lead to increased efficiency and cost effectiveness.
- (4) The Court recognises that each case will differ in its technological requirements and, as such, parties are encouraged, whenever it is appropriate and proportionate to do so, to develop a proposed customised protocol varying the simple or complex protocol to ensure the most effective and efficient use of technology in the proceeding.

#### **2—Data security and virus responsibility**

- (1) A party producing data to another party must take reasonable steps to ensure that the data is useable and is not infected by malicious software.
- (2) It is the responsibility of the recipient of electronic data to test for viruses.
- (3) If data is found to be corrupted, infected or otherwise unusable, the producing party must, within 2 business days after receipt of a written request from a receiving party, provide to the receiving party a copy of the data that is not corrupted, infected or otherwise unusable (as the case may be).

#### **3—Inspection of original documents**

Despite the requirements of this Schedule, each party to an action retains the right to view and copy physical documents in their original physical state discovered by another party to the proceeding.

#### **4—Format of discovered documents**

- (1) Each discovered hard copy document must be scanned into an electronic form as follows:
  - (a) subject to paragraph (c), the image format must be Portable Document Format (PDF) and text searchable (using Optical Character Recognition (*OCR*));
  - (b) when a document contains colour, the document is required to be imaged as a colour document only if it will be of evidential significance to see colour in the document or if colour is required to make the document legible;
  - (c) when a document is not amenable to being saved as a PDF file, alternative appropriate files are JPEG or Tagged Image File Format (TIFF) files.
- (2) Each discovered electronic file (including an email) must be saved in electronic form as follows:



- (a) subject to paragraph (b), the image format must be PDF and (if practicable) text searchable by being rendered directly to PDF from its native format;
- (b) when the file type is Microsoft Excel, Microsoft Access, Microsoft PowerPoint, JPEG, TIFF or a file type not amenable to conversion to PDF, the file must remain in its native format.

#### **5—Structure and quality of discovered documents**

- (1) The entirety of each document must be contained within a single PDF file.
- (2) An individual PDF file must not be excessive in size, and if it is greater than 10 MB, all attempts must be made to reduce the file size of the PDF file without consequential loss of image quality.
- (3) A PDF document must be scanned at a minimum of 300 dots per inch (*dpi*).
- (4) All documents must be rotated to the most practical reading view.
- (5) Portrait documents must be stamped with the Document ID in the bottom right hand side of the page.
- (6) Landscape documents must be stamped with the Document ID in the bottom right hand side of the page to ensure that, if the image is rotated 90 degrees anti-clockwise, the stamp will appear along the leading edge of the top right hand side of the page.

#### **6—Technical format of documents to be provided to other parties**

- (1) Discovered documents must be provided to each other party by encrypted portable media or secure file sharing.
- (2) The portable media or secure file sharing must include the name and number of the proceeding, party name, production number, date, description of data and whether it is additional or replacement data.

#### **7—Updating or adding additional documents or pages**

- (1) If a page of a document needs to be inserted, deleted or replaced due to mistake, error or otherwise, the responsible party must reissue an updated copy of the discovered documents (including the inserted, deleted or replaced page).
- (2) If errors are found in more than 25% of the exchanged documents, the producing party must, if requested by the receiving party, provide to the receiving party a corrected updated copy of all documents.
- (3) An updated copy provided under this clause must be accompanied by a covering letter outlining the Document IDs and identifying the information and data that has changed.
- (4) Updated copies of documents must be provided in the same applicable format as set out in Part 2 or Part 3.

### **Part 2—Simple electronic protocol**

#### **Division 1—Introduction**

##### **8—Introduction**

This Part provides rules for a simple form of electronic discovery (the simple electronic protocol) when—

- (a) it is desirable for each party to have an electronic database identifying each discovered document; and

- (b) use of the complex electronic protocol is not needed or justified.

## **Division 2—Discovered documents**

### **9—Document numbering and description**

- (1) Each discovered document must be identified and numbered by a unique document identification number (*Document ID*) which, unless the parties agree or the Court otherwise orders, must be in the format ABC.DDDD, where—
- (a) ABC is the party code (*Party Code*) comprising 3 alphabetical characters identifying either a party to the proceeding or a non-party where the non-party has produced documents to the Court; the parties must notify each other of the Party Code proposed to be used before commencing the discovery process to ensure that each code is unique;

#### **Examples—**

Where Abra Ca Dabra Pty Ltd (a third party) produces documents to the Court pursuant to a subpoena, those documents would be discovered using the party code “ACD”;

Where John Fred Smith (a third party) produces documents to the Court pursuant to an order for non-party discovery, those documents would be discovered using the party code “JFS”;

- (b) DDDD is the document number comprising a unique numeric sequence assigned to each document (not each page within each document) (*Document Number*), the digits of which must be consecutive, and leading zeroes must be used to result in a 4-digit structure from 0001 to 9999.

#### **Notes—**

The parties may choose to adopt some or all aspects of the document numbering identification from the complex protocol set out in [rule 13](#).

A Document ID must be unique because it is the sole means by which each document will be referenced.

- (2) Each document must be characterised as one of the following document types (*Document Types*)—
- (a) email;
- (b) letter;
- (c) invoice; or
- (d) other.
- (3) Each document must have a document title (*Document Title*), determined as follows:
- (a) for emails—the subject line of the email must be used unless the subject line is not descriptive, in which case the title must be objectively coded from the face of the document;
- (b) for native electronic documents (such as MS Word or MS Excel documents)—the name of the electronic file must be used unless the file name is not descriptive, in which case the title must be objectively coded from the face of the document;
- (c) for all other documents—the title must be objectively coded from the face of the document (the title or subject line and/or description).

- (4) Attachments or enclosures to other documents (such as letters or emails) should be separately listed as individual documents (rather than included as part of, and included in, the description of the primary document in the Document Title).

#### **10—Image directory and file structure**

The following provisions apply in relation to image files:

- (a) each image file must be in the format of the Document ID, that is ABC.DDDD.pdf, and must use leading zeroes (where appropriate);
- (b) if the image file is not in PDF format, the same file structure must be used but the file extension “.pdf” will be different (for example “.jpeg”);
- (c) all image files for each party must be saved in an electronic folder with the name “ABC” where ABC is the Party Code.

### **Division 3—List of documents**

#### **11—List of documents**

- (1) A list of documents—
- (a) under rule 73.3(6) of the Rules must be in Form 73B; or
- (b) under rule 73.11(2) of the Rules must be in Form 74B.
- (2) The documents must be listed in order of Document ID.
- (3) The list of documents must include the following fields for each document—
- (a) Document ID (in accordance with subrule 9(1));
- (b) Document Date in the format DD-MMM-YYYY where DD=day, MMM=month and YYYY=year,

**Example—**

11 January 2000 is rendered as “11-Jan-2000”.

- (c) Document Type (in accordance with subrule 9(2));
- (d) Document Title (in accordance with subrule 9(3));
- (e) Author when applicable (includes people and organisations);
- (f) Recipient when applicable (includes people and organisations); and
- (g) Host/Attachment(s) Document ID.
- (4) The list of documents must be filed in hard copy form and served on each other party in electronic PDF format and text searchable format (using OCR).
- (5) A revised list of documents must be provided in the same format as set out in this rule.

### **Part 3—Complex electronic protocol**

#### **Division 1—Introduction**

##### **12—Introduction**

This Part provides for an advanced form of electronic discovery when it is desirable for each party to have an electronic database identifying each discovered document and—

- (a) there will be a relatively large number of discovered documents, or
- (b) it is anticipated that there will be an electronic trial.

**Division 2—Discovered documents****13—Document numbering**

- (1) Each page of each document must be identified by a unique document identification number (*Document ID*), which unless the parties agree or the Court otherwise orders, must be in the format ABC.BBB.FFF.PPPP.

**Note—**

A Document ID must be unique because it is the sole means by which each document will be referenced.

- (2) The following provisions apply in relation to image files:
- (a) A Document ID must be placed on each page of each document.
  - (b) The page number assigned to the first page of the document must also be assigned as the Document ID for that document.
  - (c) Native electronic documents must be assigned a single Document ID and individual page number labels are not required.
- (3) Each page of each document must be numbered in the format ABC.BBB.FFF.PPPP (or ABC.BBB.FFF.PPPP\_NNN as required) where—
- (a) ABC is the party code (*Party Code*) comprising 3 alphabetical characters identifying either a party to the proceeding or a non-party where the non-party has produced documents to the Court; the parties must notify each other of the Party Code proposed to be used before commencing the discovery process to ensure that each code is unique;
  - (c) BBB is a 3-digit sequential box number (*Box Number*) which identifies a specific physical archive box or email mailbox or any other container or physical or virtual classification that is appropriate for the party to use where—
    - (i) leading zeros must be used to result in a 3-digit structure from 001 to 999;
    - (ii) if the documents are not physically stored in boxes, a virtual box number must be used;
  - (e) FFF is a 3-digit sequential folder number (*Folder Number*) which identifies a unique folder number allocated by each party in its own document collection where—
    - (i) leading zeros must be used to result in a 3-digit structure from 001 to 999;
    - (ii) for each box, the Folder Number must start from 001;
    - (iii) loose or unsorted documents, either hard copy or electronic, may be allocated to one or more folders, provided that the originals of such documents are able to be promptly sourced for inspection if required;
    - (iv) a Folder Number may identify an electronic folder (as part of a directory structure) or a folder within an email mailbox;
    - (v) a Folder Number may, when appropriate, correspond to the Box Number of any container in which the document is contained;
  - (d) PPPP is a 4-digit sequential page number (*Page Number*) which refers to each individual page within each folder where—
    - (i) leading zeroes must be used to result in a 4-digit structure from 0001 to 9999;

- (ii) for native electronic documents, the Page Number applies to the whole document irrespective of the number of pages within it, in which case it operates as a Document Number rather than a Page Number because individual pages are not numbered.
- (e) NNN is a 3-digit sequential number for inserted pages (*Inserted Pages*) to be used if a page is missed in the numbering process and needs to be inserted where—
  - (i) leading zeroes must be used to result in a 3-digit structure from 001 to 999;
  - (ii) a 3-digit sequential number must be used.

**Example—**

If a page has to be inserted between pages 10 and 11 in folder 1 in box 1 for party PPP, the Inserted Page will be “PPP.001.001.0010.001”.

**Notes—**

This scheme assumes a minimal number of insertions will be made with a maximum of 999 pages being inserted between 2 pages.

Inserting pages between inserted pages is not accommodated in this scheme to keep the document number to a reasonable length.

If a page is not inserted, this field will not be used, so most page numbers will only be 16 characters in length; for example “PPP.001.001.0010”.

- (4) Depending on the volume, format and structure of the material to be discovered, the parties may agree to use a different Document ID format.

**Examples—**

For small document collections, parties may wish to omit the Box Number level.

For larger collections, the Folder Number may be increased in length to 4 digits (FFFF). The Page Number may be increased to 5 (PPPPP) or 6 (PPPPPP) digits.

Parties may agree to use different Party Codes for specific material that has been prepared for the proceeding; for example statements, expert reports, subpoenaed documents and submissions.

**14—Document delimiting and host/attachment determinations**

- (1) Documents must be delimited; that is, hosts and attachments must be identified so that documents are a host, attachment or unattached.
- (2) A document that has attachments or documents embedded within it is called a *Host Document*.
- (3) A document that is attached to or embedded within another document is called an *Attached Document*.
- (4) Host Documents and Attached Documents are jointly referred to as a *Document Group*.
- (5) In a Document Group, the Host Document must be immediately followed by each Attached Document in the order in which the Attached Documents are numbered in their Document ID.
- (6) For Attached Documents, the Document ID of the Host Document is called the *Host Reference*.
- (7) A document that is not a Host or Attached Document is considered an *Unattached Document*. If there is doubt whether 2 documents form a host and attachment, they must be delimited as Unattached.

- (8) If a Document is located within a container (for example, a single ZIP file) attached to an email, the email must be treated as the Host Document and the document in the container must be treated as an Attached Document to that Host Document (that is, the Host Document will be the email and not the container within which the document is contained).
- (9) If the Document Group consists of several paper documents fastened together, the first document must be treated as the Host Document and the remaining documents must be treated as the Attached Documents within the Document Group unless those documents are not related, in which case each Document must be treated as a separate document without a Host Document.
- (10) If the Document Group includes a document subject to a claim for privilege—
  - (a) in whole—the document need not be wholly redacted and produced, but must be included in Schedule 2 of the list of documents;
  - (b) in part—the privileged part must be redacted and the document included in Schedule 1 of the list of documents and exchanged accordingly.
- (11) Subject to subrule (12), all hard copy documents must be delimited as Host, Attached or Unattached as determined and, if there is doubt whether a group of consecutive pages forms one document or several individual documents, the pages must be coded as individual documents.
- (12) Annexures, attachments and schedules that form part of—
  - (a) an agreement—may be delimited and coded as separate host and attachment documents but will be treated as part of the agreement;
  - (b) a report, financial report or annual report—must not be coded as separate documents but must be treated as part of the report; and
  - (c) annexures or exhibits to affidavits—may be delimited and coded as separate documents but will be treated as part of the affidavit.
- (13) There must be only be one level of attachments.
- (14) All attachments to a Host (including attachments or embedded objects within other attachments) must be listed as being attached to the Host Document.

**Example—**

A host email (the parent) is sent attaching several emails (the children). One of these attached emails contains an attachment (a grandchild)—an MS Word document. All children and grandchildren would have the parent listed as the Host Document.

**15—De-duplication**

- (1) Subject to subrule (2), each party must take reasonable steps to remove duplicated documents from the served material unless and to the extent that the parties agree otherwise.
- (2) If duplicates need to be identified, retained and served for evidential purposes, they should not be removed.
- (3) De-duplication will be considered at a Document Group level—
  - (a) Host Documents and their Attached Documents must be treated as duplicates if the entire Document Group to which they belong is duplicated elsewhere within the set of documents being discovered;

- (b) an Attached Document in a Document Group must not be treated as a duplicate merely because it is duplicated elsewhere as an individual standalone document that is not associated with another document group.
- (4) The parties may agree to conduct de-duplication by an alternative method such as custodian level where all electronic data referable to a particular entity is compared with each other document in the data set referable to that entity or individual.
- (5) The parties must ensure that any associated data regarding the original file path and file name of any duplicates identified and removed before discovery are kept and available for inspection on request.

#### **16—Format of indexed data to be served**

- (1) The indexed data must contain the information set out in rules 17 to 20.
- (2) Each party must produce indices of the discovered documents in the described export format.
- (3) The indexed data must be served in an Access mdb file named export.mdb that contains the 4 tables that make up the export format—
  - (a) export table (main document information);
  - (b) export extras table (additional data fields for each document);
  - (c) parties table (people and organisation information for each document); and
  - (d) pages table (listing of electronic image file names for each document).

#### **17—Export table**

- (1) The export table contains the core field information for each document (*Export Table*).
- (2) All other tables must be linked to the Export Table by the Document ID field.
- (3) The Export Table must contain—
  - (a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP;
  - (b) Host Reference—if the document is an Attached Document, the Document ID ABC.BBB.FFF.PPPP of the Host Document must be entered here;
  - (c) Document Date—the date of the document as it appears on the document in the format DD-MMM-YYYY where DD=day, MMM=month and YYYY=year where—
    - (i) for electronic material—
      - (A) the Document Date must be the last date from the document's metadata;
      - (B) for electronic emails, the Document Date must be the local time zone of the server from which the document is extracted;
      - (C) for electronic attachments, the Document Date must be either the last modified date or last saved date obtained from the metadata;
    - (ii) for hard copy material—
      - (A) the Document Date must be the date appearing on the face of the document;

- (B) if the document has no date, does not have a year and cannot be estimated, this field must be left blank;
- (C) if the date can be estimated, the date must be entered in the Document Date field and the Estimated Date field must be marked “Yes”;
- (iii) date ranges must not be used; if a document covers a period of time, the earliest date must be entered in the Document Date field and the Estimated Date field must be marked “Yes”;
- (iv) if the date is a partial date without a day or month, for example “1995” or “September 1997”, the missing day or month must be assumed to be the first day of the month or year in question and the Estimated Date field must be marked “Yes”; and

**Examples—**

If a page has to be inserted between pages 10 and 11 in folder 1 in box 1 for party PPP, the Inserted Page will be “PPP.001.001.0010.001”.

If the date is 1995, the Document Date must be shown as “01-Jan-1995”.

If the date is September 1997, the Document Date must be shown as “01-Sep-1997”.

- (v) if a document contains what may be an original date as well as a subsequent date (possibly as a result of edits being made to the document), the later date must be taken as the document date and the Estimated Date field must be marked “Yes”;
- (d) Document Type—documents must be categorised into one of the document types defined by the parties (*Document Type*), agreed in accordance with the particular needs of the case;

**Examples—**

Agenda, Agreement, Annual Report, ASX Document, Board Papers, Court Document, Diary, Drawing, E-File, E-File Attachment, Email, Email Attachment, Fax, File Note, Financial Papers, Form, Graph, Invoice, Letter, Memorandum, Minutes, Newspaper Clipping, Receipt, Report, Transcript, Other.

- (e) Document Title (*Document Title*) where—
  - (i) for all emails, the subject line must be used except when the document is a court exhibit or MFI, in which case the court reference and title must be used;
  - (ii) for all email attachments, e-files and e-file attachments, the original file name must be used; and
  - (iii) for all hard copy documents, the title must be objectively coded from the face of the document (the title or subject line and/or description); and
- (f) Levels—the level structure of the Document ID.

**18—Export extras table**

- (1) The export extras table contains additional fields to the core fields for each document (*Export Extras Table*).
- (2) The Export Extras Table must be linked to the Export Table via the Document ID field.
- (3) The Export Extras Table must contain—



- (a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP, which must match the Document ID entry in the Export Table;
  - (b) Category—the permissible options identifying the data type being—text, memo, bool, numb, date, pick, utext or umemo;
  - (c) Label—the name of the field;
  - (d) Value—the actual data as a text string; and
  - (e) memoValue—if data contained within the field is longer than 255 characters.
- (4) The Export Extras Table must contain—
- (a) Privileged—whether a claim of privilege is made over the document, the permissible values being Blank, Yes, No or Part;
  - (b) Privileged Basis— if a document is marked as privileged or part privileged (Privileged = Yes or Part), showing the basis of privilege for each Privileged Document, the permissible values being LPP (legal professional privilege); WPP (without prejudice (or settlement) privilege); or OP (other privilege);

**Notes—**

This is a pick category.

This field may contain multiple entries for a single document.

- (c) Redacted—denotes that a document contains redaction of text or other material;
- (d) Reason for Redaction—denotes the general reason for redaction, the permissible values being Irrelevant and Privilege, and the specific reason for redacting a particular section of a document on the image;

**Note—**

This field may contain multiple entries for a single document.

**Example—**

Stamping the redacted section “redacted for legal professional privilege”.

- (e) IsPlaceholder—where a native file is included in addition to a placeholder document, this field must be marked “Yes”;
- (f) MD5—records the MD5 Hash Algorithm for an electronic file (for electronic files only, including emails);
- (g) Source Path—records the original file path of the native electronic document (without the file name) (for electronic files only, including emails);
- (h) File Name—records the file name of the native electronic document including the file extension (for electronic files only, including emails);
- (i) Sent Date—records the sent date/time of emails as extracted from the application metadata (for electronic emails only);
- (j) Created Date—records the created date/time of all native electronic documents as extracted from the metadata of those files if available (for electronic files only, including emails);
- (k) Last Saved Date—records the last either saved or modified date/time from the application metadata if available (for electronic files only, including emails); and

- (l) Last Modified Date—records the last modified date/time of all native electronic documents as extracted from the metadata of those files if available (for electronic files only, including emails).

#### 19—Parties table

- (1) The parties table contains people and organisation information for each document, including “to” (addressees), “from” (authors), “cc” (copied to), “bcc” (blind copied to), “between” (parties) and “attendees” (present at meetings) (*Parties Table*).
- (2) The Parties Table must be linked to the Export Table via the Document ID field.
- (3) The Parties Table must contain—
  - (a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP, which must match the Document ID entry in the Export Table;
  - (b) Correspondence Type—one of the following 6 options identifying the type of person to be used, where each option must be used to the extent available from the metadata of electronic documents—
    - (i) “Author”—for authors;
    - (ii) “Recipient”—for addressees;
    - (iii) “CC”—for addressees to whom the document was copied;
    - (iv) “BCC”—for addressees to whom the document was blind copied;
    - (v) “Between”—for parties to an agreement or other legal document (not correspondence); and
    - (vi) “Attendees”—for persons or organisations who attended the meeting;
  - (c) People—the person to whom the document relates in the format Last name and First initial only (for example “Jones L”), where—
    - (i) if the person is identified by title and not by name, the title must be entered in this field (for example “General Manager”); and
    - (ii) if there is an organisation but no person, this field must be left blank; and
  - (d) Organisations—the organisation to which the document relates, where—
    - (i) the abbreviation for proprietary limited companies must be “Pty Ltd”;
    - (ii) the abbreviation for limited companies must be “Ltd”; and
    - (iii) if the organisation is unknown, this field must be left blank.
- (4) For electronic material, this information must be sourced solely from the metadata of the file.
- (5) For hard copy material, this information must be objectively coded from the face of the document.
- (6) If there are multiple parties for a single document, there must be multiple entries in this table for that document.

#### 20—Pages table

- (1) The pages table is used to describe the location of the PDFs (including placeholders) and native files (*Pages Table*). It is linked to the Export Table via the Document ID field. Where native electronic documents only are exchanged (no TIFF, PDF files or

placeholder pages), there will only be one entry in the pages table corresponding to each native electronic document. The Pages Table must contain the following—

- (a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP. This is to match the Document ID entry in the Export Table.
  - (b) Image File Name—all documents must have a multi-page PDF file named ABC.BBB.FFF.PPPP.pdf. If a page is inserted, the file name will be ABC.BBB.FFF.PPPP\_NNN.pdf. If a native file has been included, there will be 2 files—a placeholder PDF document (for example, ABC.BBB.FFF.PPPP.pdf) and the native document (for example, ABC.BBB.FFF.PPPP.xls).
  - (c) Page Label—this is the file name minus the file extension (ABC.BBB.FFF.PPPP). If a page is inserted, the page label must have a 3-digit suffix (ABC.BBB.FFF.PPPP\_NNN). For native files, the page label is to be “Native”.
  - (d) Page Num—this is used to sequence pages. For an entry when a placeholder document has been included, this must be set as 1, and for the accompanying native file this must be set as 2. For all other multi-page text searchable PDF documents, this must be set as 1.
  - (e) Num Pages—total number of pages of a multi-page text searchable PDF document. For native files, the Num Pages must be set as 1.
- (2) Each image, native file or PDF must have an entry in the Pages Table. If there is insufficient space for a page number label on an image, the electronic image of the page must, if possible, be reduced in size to make room for the Page Number Label. Page Number Labels may also include machine readable barcodes.
  - (3) The parties may apply Page Number Labels to paper documents when they contain relevant content, for example, folder covers, spines, separator sheets and dividers.
  - (4) Adhesive notes are not normally to be labelled but must be scanned in place on the page to which they were attached. If this cannot be done without obscuring text, the adhesive note must be numbered as the page after the page to which it was attached and the page must be scanned twice—first with and then without the adhesive note.

#### **21—Image directory and file structure**

- (1) The following media must be in the described format—
  - (a) Data File Type and Format—MS Access mdb file;
  - (b) File Composition—if a native file has been included, in addition a placeholder image must be inserted stating that the user is to refer to the native file provided, where—
    - (i) the placeholder document must be in the form of a multi-page text searchable PDF document;
    - (ii) both the placeholder and the native file must be allocated the same Document ID; and
    - (iii) the placeholder and the native file will be referenced in the Pages Table;
  - (c) Image Type and Resolution—hard copy and electronic material converted to PDF documents must be a minimum of 300 dpi;

- (d) Directory Structure and Naming Conventions—the directory structure and filename for each image file must be in the format *ABC\BBB\FFF\PPPP\_NNN.pdf*, where—
- (i) ABC is the directory which is the 3-digit Party Code;
  - (ii) BBB is a sub-directory which is the Box Number and leading zeroes must be used to result in a 3-digit structure;
  - (iii) FFF is a sub-directory which is the Folder Number and leading zeroes must be used to result in a 3-digit structure;
  - (iv) ABC.BBB.FFF.PPPP.pdf is the filename, where—
    - (A) leading zeroes must be used;
    - (B) if a page is inserted, the filename will be ABC.BBB.FFF.PPPP\_NNN.pdf; and
    - (C) if a native file (for example an excel file) is inserted, the filename will be, for example, ABC.BBB.FFF.PPPP.xls.

### Division 3—List of documents

#### 22—List of documents

- (1) A list of documents—
  - (a) under rule 73.3(6) of the Rules must be in Form 73C; or
  - (b) under rule 73.11(2) of the Rules must be in Form 74C.
- (2) The indexed data must be converted into the Schedule to the list of documents.
- (3) The documents must be listed in order of Document ID.
- (4) The list of documents must include the following fields for each document—
  - (a) Document ID (in accordance with [rule 13](#));
  - (b) Document Date in the format DD-MMM-YYYY where DD=Day, MMM=month, YYYY=Year;

#### Example—

11 January 2000 is rendered as “11-Jan-2000”.

- (c) Host Reference (in accordance with [rule 14](#));
  - (d) Document Type (in accordance with [rule 17\(1\)\(d\)](#));
  - (e) Document Title (in accordance with [rule 17\(1\)\(e\)](#));
  - (f) Author (when applicable, includes people and organisations);
  - (g) Recipient (when applicable, includes people and organisations);
  - (h) Host Document ID; and
  - (i) Attachment(s) Document ID.
- (4) The list of documents must be filed in hard copy form and served on each other party in an electronic, text searchable, PDF format.
  - (5) A revised list of documents must be provided in the same format as set out in this rule.
  - (6) In addition to the mandatory information outlined above, the parties may agree to include further descriptive information in the list of documents.

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**Examples—**

Redacted, privileged, privilege reason, discovery category.

## Schedule 5—Arbitration-related proceedings

### Notes—

This Schedule contains harmonised rules.

Section 3(1) of the *International Arbitration Act 1974* (Cth) defines “court” to include a court of a State.

Sections 2(1) and 6(2) of the *Commercial Arbitration Act 2011* define “court” prima facie to mean the Supreme Court but, if the arbitration agreement provides to that effect, to mean the District Court or Magistrates Court.

## Part 1—General

### 1—Interpretation

- (1) In this Schedule, unless a contrary intention appears—
- arbitration** means an arbitration to which the *International Arbitration Act 1974* (Cth) or the *Commercial Arbitration Act 2011* applies as the case requires;
- Commercial Arbitration Act** means the *Commercial Arbitration Act 2011* (SA);
- International Arbitration Act** means the *International Arbitration Act 1974* (Cth);
- Model Law** means the UNCITRAL Model Law on International Commercial Arbitration, adopted by the United Nations Commission on International Trade Law on 21 June 1985, as amended by the United Nations Commission on International Trade Law on 7 July 2006, the English text of which is set out in Schedule 2 to the *International Arbitration Act 1974* (Cth).
- (2) Unless the contrary intention appears—
- (a) expressions used in this Schedule have the same meaning as in the International Arbitration Act or the Commercial Arbitration Act, as the case requires;
- (b) expressions used in Part 2 have the same meaning as in the International Arbitration Act; and
- (c) expressions used in Part 3 have the same meaning as in the Commercial Arbitration Act.

### 2—Documents not in English language

A party to a proceeding to which this Part applies who seeks to rely on a document that is not in the English language must provide a certified English translation of the document—

- (a) to the Court; and
- (b) to any other party to the proceeding.

#### Note 1—

Section 9 of the International Arbitration Act also deals with the translation of awards and arbitration agreements in proceedings to which Part II of the International Arbitration Act applies.

#### Note 2—

Section 35 of the Commercial Arbitration Act also deals with the translation of awards and arbitration agreements in proceedings to which the Commercial Arbitration Act applies.

## Part 2—International commercial arbitration

### 3—Application for stay and referral to arbitration—foreign arbitration agreements

- (1) An application under section 7 of the International Arbitration Act to stay the whole or part of a proceeding and refer the parties to arbitration must be in the prescribed form.

**Prescribed form—**

Form 77A Interlocutory Application – Referral to Arbitration

- (2) The application must be accompanied by—
  - (a) a copy of the arbitration agreement; and
  - (b) an affidavit stating the material facts on which the application for relief is based.

### 4—Application to enforce foreign award

- (1) An application under section 8(2) of the International Arbitration Act to enforce a foreign award must be in the prescribed form.

**Prescribed form—**

Form 2H Originating Application – Arbitration Enforce Award

- (2) The application must be accompanied by—
  - (a) the documents referred to in section 9 of the International Arbitration Act; and
  - (b) an affidavit stating—
    - (i) the extent to which the foreign award has not been complied with at the date the application is made; and
    - (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the foreign award or, if the person is a company, the last known registered office of the company.

### 5—Application for referral to arbitration—Model Law

- (1) An application under article 8 of the Model Law to refer parties to arbitration must be in the prescribed form.

**Prescribed form—**

Form 77A Interlocutory Application – Referral to Arbitration

- (2) The application must be accompanied by—
  - (a) a copy of the arbitration agreement; and
  - (b) an affidavit stating the material facts on which the application for relief is based.

### 6—Subpoenas

- (1) An application under section 23(3) of the International Arbitration Act for the issue of a subpoena must be in the prescribed form.

**Prescribed form—**

Form 2L Originating Application – Arbitration Issue of a Subpoena

- (2) The application must be accompanied by—
  - (a) a draft subpoena in accordance with subrule (3); and

- (b) an affidavit stating the following—
  - (i) the names of the parties to the arbitration;
  - (ii) the name of the arbitrator or the names of the arbitrators constituting the arbitral tribunal conducting the arbitration;
  - (iii) the place where the arbitration is being conducted;
  - (iv) the nature of the arbitration;
  - (v) the terms of the permission given by the arbitral tribunal for the application;
  - (vi) the conduct money (if appropriate) to be paid to the addressee; and
  - (vii) the witness expenses payable to the addressee.
- (3) For the purposes of subrule (2)(a), the draft subpoena must be—
  - (a) for a subpoena to attend for examination before an arbitral tribunal—in the prescribed form;
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena—in the prescribed form; or
  - (c) for a subpoena to attend for examination and produce documents—in the prescribed form.

**Prescribed forms—**

Form 105C Subpoena to Attend to Give Evidence (Arb)

Form 106C Subpoena to Produce Documents (Arb)

Form 107C Subpoena to Attend and Produce (Arb)

- (4) The Court may—
  - (a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and
  - (b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.
- (5) An amount fixed under subrule (4) may be in addition to any conduct money or witness expenses referred to in subrule (2)(b)(vi) or (vii).
- (6) A person served with a subpoena must comply with the subpoena in accordance with its terms.
- (7) Chapter 13 Part 6 of the Rules applies so far as is practicable to a subpoena referred to in this rule.

**8—Application relating to evidence for arbitration**

- (1) An application for an order under section 23A(3) of the International Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal for an arbitration must be in the prescribed form.

**Prescribed form—**

Form 2J Originating Application – Arbitration Order to Give Evidence or Produce

- (2) An application under subrule (1) must be accompanied by an affidavit stating—
  - (a) the name of the person against whom the order is sought;



- (b) the order sought;
- (c) the ground under section 23A(1) of the International Arbitration Act relied on;
- (d) the terms of the permission given by the arbitral tribunal for the application; and
- (e) the material facts relied on.

#### **9—Application relating to disclosure of confidential information**

- (1) An application under section 23F or 23G of the International Arbitration Act for an order prohibiting or allowing the disclosure of confidential information must be in the prescribed form.

**Prescribed form—**

Form 2K Originating Application – Arbitration Prohibit or Allow Disclosure

- (2) An application under subrule (1) must be accompanied by an affidavit stating—
  - (a) the name of the person against whom the order is sought;
  - (b) the order sought;
  - (c) the material facts relied on;
  - (d) if the application is made under section 23F of the International Arbitration Act—the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made; and
  - (e) if the application is made under section 23G of the International Arbitration Act, either—
    - (i) the date the arbitral tribunal’s mandate was terminated; or
    - (ii) the date and terms of—
      - (A) the request made to the arbitral tribunal for disclosure of the confidential information; and
      - (B) the arbitral tribunal’s refusal to make the order.

#### **10—Application for relief under miscellaneous provisions of the Model Law**

- (1) An application for relief under article 11(3), 11(4), 13(3), 14, 16(3), 17H(3), 17I, 17J or 27 of the Model Law must be in the prescribed form.

**Prescribed form—**

Form 2G Originating Application – Arbitration Generic

- (2) The application must be accompanied by an affidavit stating the material facts on which the application for relief is based.

#### **11—Application to set aside award—Model Law**

- (1) An application under article 34 of the Model Law to set aside an award must be in the prescribed form.

**Prescribed form—**

Form 2I Originating Application – Arbitration Set Aside Award

- (2) The application must identify—
  - (a) if the applicant relies on article 34(2)(a) of the Model Law—which subparagraph of article 34(2)(a) is relied upon;

- (b) if the applicant relies on article 34(2)(b) of the Model Law—which subparagraph of article 34(2)(b) is relied upon; and
  - (c) brief grounds for seeking the order.
- (3) The application must be accompanied by an affidavit—
- (a) exhibiting—
    - (i) a copy of the arbitration agreement; and
    - (ii) a copy of the award including the reasons of the arbitral tribunal for the award; and
  - (b) identifying—
    - (i) the detailed grounds for seeking the order;
    - (ii) the material facts relied on; and
    - (iii) the date on which the applicant received the award or, if a request was made under article 33 of the Model Law to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.
- (4) The application and supporting affidavit must be served on any person whose interest might be affected by the setting aside of the award.
- (5) An application by a party to the arbitration under article 34(4) of the Model Law must be made by interlocutory application in the proceeding commenced under subrule (1).

#### **12—Enforcement of award—Model Law**

- (1) An application under article 35 of the Model Law to enforce an award must be in the prescribed form.

**Prescribed form—**

Form 2H Originating Application – Arbitration Enforce Award

- (2) The application must be accompanied by an affidavit—
- (a) exhibiting the documents referred to in article 35(2) of the Model Law; and
  - (b) stating—
    - (i) the extent to which the award has not been complied with at the date the application is made; and
    - (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

#### **13—Enforcement of Investment Convention award**

- (1) An application under section 35(2) of the International Arbitration Act for leave to enforce an award must be in the prescribed form.

**Prescribed form—**

Form 2H Originating Application – Arbitration Enforce Award

**Note—**

**award** is defined in section 31(1) of the International Arbitration Act.

- (2) The application must be accompanied by an affidavit stating—

- (a) the extent to which the award has not been complied with at the date the application is made; and
- (b) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

### Part 3—Domestic commercial arbitration

#### 14—Application for referral to arbitration

- (1) An application under section 8 of the Commercial Arbitration Act to refer the parties to arbitration must be in the prescribed form.

**Prescribed form—**

Form 77A Interlocutory Application – Referral to Arbitration

- (2) The application must be accompanied by—
  - (a) a copy of the arbitration agreement; and
  - (b) an affidavit stating the material facts on which the application for relief is based.

#### 15—Subpoenas

- (1) An application under section 27A of the Commercial Arbitration Act for the issue of a subpoena must be in the prescribed form.

**Prescribed form—**

Form 2L Originating Application – Arbitration Issue of a Subpoena

- (2) The application must be accompanied by—
  - (a) a draft subpoena in accordance with subrule (3); and
  - (b) an affidavit stating the following—
    - (i) the names of parties to the arbitration;
    - (ii) the name of the arbitrator or the names of the arbitrators constituting the arbitral tribunal conducting the arbitration;
    - (iii) the place where the arbitration is being conducted;
    - (iv) the nature of the arbitration;
    - (v) the terms of the permission given by the arbitral tribunal for the application;
    - (vi) the conduct money (if appropriate) to be paid to the addressee; and
    - (vii) the witness expenses payable to the addressee.
- (3) For the purposes of subrule (2)(a), the draft subpoena must be—
  - (a) for a subpoena to attend for examination before an arbitral tribunal—in the prescribed form;
  - (b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena—in the prescribed form; or
  - (c) for a subpoena to attend for examination and produce documents—in the prescribed form.

**Prescribed forms—**

Form 105 C Subpoena to Attend to Give Evidence (Arb)

Form 106 C Subpoena to Produce Documents (Arb)

Form 107 C Subpoena to Attend and Produce (Arb)

- (4) The Court may—
- (a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and
  - (b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.
- (5) An amount fixed under subrule (4) may be in addition to any conduct money or witness expenses referred to in subrule (2)(b)(vi) or (vii).
- (6) A person served with a subpoena must comply with the subpoena in accordance with its terms.
- (7) Chapter 13 Part 6 of the Rules applies so far as is practicable to a subpoena referred to in this rule.

#### **16—Application relating to evidence for arbitration**

- (1) An application for an order under section 27B of the Commercial Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal for an arbitration must be in the prescribed form.

**Prescribed form—**

Form 2J Originating Application – Arbitration Order to Give Evidence or Produce

- (2) An application under subrule (1) must be accompanied by an affidavit stating—
- (a) the name of the person against whom the order is sought;
  - (b) the order sought;
  - (c) the ground under section 27B of the Commercial Arbitration Act relied on;
  - (d) the terms of the permission given by the arbitral tribunal for the application; and
  - (e) the material facts relied on.

#### **17—Application relating to disclosure of confidential information**

- (1) An application under section 27H or 27I of the Commercial Arbitration Act for an order prohibiting or allowing the disclosure of confidential information must be in the prescribed form.

**Prescribed form—**

Form 2K Originating Application – Arbitration Prohibit or Allow Disclosure

- (2) An application under subrule (1) must be accompanied by an affidavit stating—
- (a) the name of the person against whom the order is sought;
  - (b) the order sought;
  - (c) the material facts relied on;
  - (d) if the application is made under section 27H of the Commercial Arbitration Act—the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made; and

- (e) if the application is made under section 27I of the Commercial Arbitration Act, either—
  - (i) the date the arbitral tribunal's mandate was terminated; or
  - (ii) the date and terms of—
    - (A) the request made to the arbitral tribunal for disclosure of the confidential information; and
    - (B) the arbitral tribunal's refusal to make the order.

**18—Application for relief under miscellaneous provisions of Commercial Arbitration Act**

- (1) An application for relief under section 11(2), 11(3), 13(4), 14, 16(9), 17H, 17I, 17J, 19(6) or 27 of the Commercial Arbitration Act must be in the prescribed form.

**Prescribed form—**

Form 2G Originating Application – Arbitration Generic

- (2) The application must be accompanied by an affidavit stating the material facts on which the application for relief is based.

**19—Preliminary point of law**

- (1) An application under section 27J of the Commercial Arbitration Act for leave to apply for determination of a question of law arising in the course of an arbitration and, if leave is granted, for the determination of the question of law, must be in the prescribed form.

**Prescribed form—**

Form 2M Originating Application – Arbitration Determine Question of Law

- (2) The application must be accompanied by an affidavit exhibiting—
  - (a) a copy of the arbitration agreement; and
  - (b) evidence of the consent of the arbitrator or the consent of all the other parties as required by section 27J(2) of the Commercial Arbitration Act.
- (3) The application must be accompanied by an affidavit identifying—
  - (a) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company;
  - (b) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
  - (c) the facts on the basis of which the question of law is to be determined and the basis on which those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise; and
  - (d) the detailed grounds on which it is contended that leave should be granted.
- (4) The application and supporting affidavit must be served on any person whose interest might be affected by determination of the question of law.
- (5) The Court may if it thinks fit hear and determine the question of law at the same time as the application for leave to apply for the determination of the question.

- (6) If the Court first hears and grants the application for leave, it may make such orders as it thinks fit for the hearing and determination of the question of law.

## 20—Application to set aside award

- (1) An application under section 34 of the Commercial Arbitration Act to set aside an award must be in the prescribed form.

### Prescribed form—

Form 2I Originating Application – Arbitration Set Aside Award

- (2) The application must identify—
- (a) if the applicant relies on section 34(2)(a) of the Commercial Arbitration Act—which subparagraph of section 34(2)(a) is relied upon;
  - (b) if the applicant relies on section 34(2)(b) of the Commercial Arbitration Act—which subparagraph of section 34(2)(b) is relied upon; and
  - (c) brief grounds for seeking the order.
- (3) The application must be accompanied by an affidavit—
- (a) exhibiting—
    - (i) a copy of the arbitration agreement; and
    - (ii) a copy of the award including the reasons of the arbitral tribunal for the award; and
  - (b) identifying—
    - (i) the detailed grounds for seeking the order;
    - (ii) the material facts relied on; and
    - (iii) the date on which the applicant received the award or, if a request was made under section 33 of the Commercial Arbitration Act to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.
- (4) The application and supporting affidavit must be served on any person whose interest might be affected by the setting aside of the award.
- (5) Any application by a party to the arbitration under section 34(4) of the Commercial Arbitration Act must be made by interlocutory application in the proceeding commenced under subrule (1).

## 21—Appeal

- (1) An application under section 34A of the Commercial Arbitration Act for leave to appeal on a question of law arising out of an award must be in the prescribed form.

### Prescribed form—

Form 2N Originating Application – Arbitration Leave to Appeal Against Award

- (2) The application must state—
- (a) the question of law to be determined; and
  - (b) the grounds on which it is alleged that leave to appeal should be granted.
- (3) The application must be accompanied by an affidavit showing that, before the end of the appeal period referred to in section 34A(1) and (6) of the Commercial Arbitration Act, the parties agreed that an appeal may be made under section 34A of that Act.

- (4) The affidavit must exhibit—
  - (a) a copy of the arbitration agreement; and
  - (b) a copy of the award, including the reasons of the arbitral tribunal for the award.
- (5) The application must be accompanied by a submission setting out—
  - (a) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed appeal or, if the person is a company, the last known registered office of the company;
  - (b) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
  - (c) when and how the arbitral tribunal was asked to determine the question of law and where in the award or the reasons, and in what way, the arbitral tribunal determined it;
  - (d) the relevant facts found by the arbitral tribunal on the basis of which the question of law is to be determined by the Court;
  - (e) the basis on which it is contended that the determination of the question of law will substantially affect the rights of one or more parties;
  - (f) the basis on which it is contended that—
    - (i) the decision of the arbitral tribunal on the question of law is obviously wrong; or
    - (ii) the question of law is of general public importance and the decision of the arbitral tribunal is open to serious doubt;
  - (g) the basis on which it is contended that, despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in the circumstances for the Court to determine the question; and
  - (h) a succinct statement of the argument in support of the application for leave and the appeal if leave is granted.
- (6) The application and the supporting material must be served on any person whose interest might be affected by the proposed appeal.
- (7) Within 14 days after service upon it, a party may file and serve any answering material, including a succinct written outline of the argument in opposition to the application for leave and the appeal if leave is granted.
- (8) If it appears to the Court that an oral hearing is required, the Court may if it thinks fit hear the appeal on the question of law at the same time as it hears the application for leave to appeal.
- (9) If the Court first grants the application for leave before hearing the appeal on the merits, it may make such orders as it thinks fit for the hearing and determination of the appeal.
- (10) When an application for leave to appeal is brought or leave to appeal is granted, the Court may suspend or discharge any enforcement order made in respect of the award the subject of the proposed appeal.

## **22—Application to enforce award**

- (1) An application under section 35 of the Commercial Arbitration Act to enforce an award must be in the prescribed form.

**Prescribed form—****Form 2H Originating Application – Arbitration Enforce Award**

- (2) The application must be accompanied by an affidavit—
- (a) exhibiting the documents referred to in section 35 of the Commercial Arbitration Act; and
  - (b) stating—
    - (i) the extent to which the award has not been complied with at the date the application is made; and
    - (ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the domestic award or, if the person is a company, the last known registered office of the company.



## Schedule 6—Costs scales

### Part 1—General

#### 1—Meaning of quantum

- (1) Subject to the following subrules and rule 2, for the purposes of the costs scales in Parts 3, 4 and 5 of this Schedule (the *variable costs scales*)—

*quantum* in respect of a proceeding means—

- (a) in a context in which costs are awarded or payable in favour of a successful applicant against a respondent in an action—
- (i) if the action is a claim—the total claim value as defined in rule 67.5(4) of the Rules applied to the principal relief (excluding interest or costs) granted in favour of the applicant against that respondent (regardless of whether a total claim value is shown or required to be shown in the Claim or Cross Claim or whether the proceeding is in the Magistrates, District or Supreme Court); or
- (ii) if the action is an originating application—the total application value as defined in rule 82.1(7) of the Rules applied to the principal relief (excluding interest or costs) granted in favour of the applicant against that respondent (regardless of whether a total application value is shown or required to be shown in the Originating Application or whether the proceeding is in the Magistrates, District or Supreme Court); or

**Note—**

Paragraph (a) applies whenever costs are payable in favour of a successful applicant. This includes when the Court awards judgment after a trial or hearing, when the Court awards summary judgment or default judgment or otherwise the action is terminated early under Chapter 12 of the Rules, provided that costs are either awarded in favour of the applicant or are payable to the applicant by force of a provision of the Rules.

- (b) in a context in which costs are awarded or payable in favour of a successful respondent against an applicant in an action—
- (i) if the action is a claim—the total claim value as defined in rule 67.5(4) of the Rules applied to the principal relief (excluding interest or costs) sought by the applicant against that respondent (regardless of whether a total claim value is shown or required to be shown in the Claim or Cross Claim or whether the proceeding is in the Magistrates, District or Supreme Court); or
- (ii) if the action is an originating application—the total application value as defined in rule 82.1(7) of the Rules applied to the principal relief (excluding interest or costs) sought by the applicant against that respondent (regardless of whether a total application value is shown or required to be shown in the Originating Application or whether the proceeding is in the Magistrates, District or Supreme Court); or

**Note—**

Paragraph (b) applies whenever costs are payable in favour of a successful respondent. This includes when the Court awards judgment after a trial or hearing, when the Court awards summary judgment or default judgment or otherwise the action is terminated early under Chapter 12 of the Rules or when an applicant abandons an action, provided that costs are either

awarded in favour of the respondent or are payable to the respondent by force of a provision of the Rules.

- (c) in a context in which costs are awarded in favour of a successful party on both a claim and cross claim against an unsuccessful opposite party on the claim and cross claim (for example judgment for X against Y for \$50,000 on a claim and dismissal of a cross claim for \$30,000 by Y against X), the total of—
- (i) the quantum worked out by applying paragraph (a)(i) to the claim or cross claim (as applicable) prosecuted by the successful party; and
  - (ii) the quantum worked out by applying paragraph (b)(i) to the cross claim or claim (as applicable) defended by the successful party.
- (2) The Court when making an order for costs, or the taxing officer when taxing costs, may determine the figure for quantum that is to be used for the purpose of the applicable variable costs scale.

**Note—**

This power might be used if the Court considers that subrule (1) would operate in a manner that is unjust or if a party is entitled to costs of action but subrule (1) does not apply. For example, if the parties resolved an action without resolving costs and the Court considered that one party should pay the costs of action of another party, the Court might specify the quantum for the purpose of the applicable variable costs scale.

- (3) If the relief sought or granted (as the case may be) is incapable of being assessed or valued in monetary terms, the amount of quantum in respect of an action is to be regarded as—

*Supreme Court*

- (a) the amount referred to in rule 194.5(8) or rule 194.5(9) of the Rules, below which costs are not ordinarily recoverable;

*District Court*

- (b) the amount referred to in rule 194.5(10) or rule 194.5(11) of the Rules, below which costs are not ordinarily recoverable;

*Magistrates Court—non-minor civil*

- (c) \$12,001;

*Magistrates Court—minor civil*

- (d) \$1,000.

*Magistrates Court—non-minor civil*

- (4) If the quantum in respect of a proceeding worked out by applying the preceding subrules would be more than \$100,000, the quantum is to be \$100,000.

**Example—**

If the parties in an action agree to waive the Court's \$100,000 jurisdictional limit and the successful party is awarded \$200,000, the quantum will be worked out as if the successful party was awarded \$100,000.

*Magistrates Court—minor civil*

- (5) If the quantum in respect of a proceeding worked out by applying the preceding subrules would be more than \$12,000, the quantum is to be \$12,000.

**Example—**

If a matter proceeds in the minor civil jurisdiction and the successful party is awarded \$25,000, the quantum will be worked out as if the successful party was awarded \$12,000.

**2—Power of the Court and rounding**

- (1) The Court when making an order for costs may for the purpose of a variable costs scale fix a figure for quantum that is different to that obtained by applying rule 1 or make some other order that varies the application of the preceding subrules.
- (2) If application of a percentage to quantum in a variable costs scale would result in other than a whole dollar amount, the amount must be rounded to the nearest whole dollar.

**Part 2—Higher Courts costs scale****Note—**

The amounts allowable under this Scale may be increased under rule 192.5 of the Rules.

**3—Higher Courts costs scale**

(1) Subject to subrule (2), the Higher Courts costs scale is set out in the following table.

<b>Higher Courts costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
<b>Documents</b>		
1	Drawing any document of importance, other than documents mentioned under item 2, 10 or 11 (including original and the lawyer's file copy).	\$36.76—for each ¼ page.
2	Drawing proofs, indices, formal lists, extracts from other documents, lists of authorities, or other formal documents (including original and the lawyer's file copy).	\$18.38—for each ¼ page.
3	Engrossing documents, when copying or scanning is not appropriate (including original and the lawyer's file copy).	\$5.25—for each ¼ page.
4	Perusing documents (including electronic documents).	a range between \$2.63 and \$10.50—for each ¼ page.
5	Examining documents (including electronic documents), when a perusal is not justified.	\$0.66—for each ¼ page.
6	Documents produced by copying or scanning, or receiving emails, faxes or any other electronic transmissions.	\$0.39—for each sheet.
<b>Attendances and Communications</b>		
7	Attendances and oral communications, whether personal or by electronic communication, including attendances to swear or take affidavits.	Either: (a) for each 6 minute unit by a lawyer involving skill—\$39.38; (b) for each 6 minute unit by a lawyer not involving skill—\$23.63; (c) for each 6 minute unit by a non-lawyer employed or engaged by a lawyer—\$18.38; or (d) for arranging appointments, including all work involved—\$26.25 per person.
8	Attending hearings, including preparation, and when not attending as instructing lawyer for counsel.	Either: (a) for an ordinary hearing—\$196.90; or (b) if protracted (beyond 5 units), for each 6 minute unit of hearing time—\$39.38.
9	Filing or delivery of documents other than <u>personal service</u> , when no other attendance is properly allowable.	\$26.25.

<b>Higher Courts costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
<b>Correspondence</b>		
10	Correspondence, including original to send and the lawyer's file copy, and the ordinary postal or transmission expenses—whether sent by letter, email, SMS or fax.	\$26.25—for each ¼ page.
11	Circular correspondence, including original to send and the lawyer's file copy, and the ordinary postal or transmission, expenses—after the first.	\$13.13—for each letter, including copying for subsequent pages (regardless of the number of pages).
<b>Miscellaneous</b>		
12	Paying disbursements by whatever means and including all work and associated expenses.	\$26.25.
13	Preparation of Pleadings Books, Tender Books, Application Books, Appeal Books and Briefs, including indices, pagination and binding.	\$1.97—for each page.
14	Lump sum on a default judgment.	\$2,677.91.

- (2) The table in subrule (1) is subject to the notes in rule 4.

#### **4—Notes**

##### *General*

- (1) The amount allowed for each of the items in the table in rule 3(1) is to be at the discretion of the taxing officer, who is at liberty, in the particular circumstances of the matter, to disallow an item entirely or allow a greater or lesser amount for an item.

##### **Example—**

The taxing officer may allow a greater amount where the matter is of importance or difficulty.

- (2) The costs allowed in the scale do not include Goods and Services Tax (GST), which is to be added except in the following circumstances—
- GST must not be included in a claim for costs if the receiving party is able to recover GST as an input tax credit;
  - if the receiving party is able to obtain an input tax credit for only a proportion of the GST, only the portion which is not eligible for credit can be claimed;
  - if there is a dispute as to whether GST is properly claimed, the receiving party must provide a certificate signed by the lawyers or auditors of the receiving party as to the extent of any input tax credit available to the receiving party.

##### *Attendances*

- (3) A 6 minute unit comprises 6 minutes or part thereof, but no part will be allowed as a full unit if it is unreasonable to do so.
- (4) When a lawyer is instructing counsel, the lower attendance rate should be allowed if the lawyer is merely assisting by being present, but the higher rate should be allowed if the lawyer is more actively involved, for example, by proofing witnesses, preparing indices, etc.

*Documents and perusals*

- (5) Unless the taxing officer considers that there is good reason to depart from it, pages for items in the table in rule 3(1) must be measured by compliance with the prescribed formats under rule 31.2 of the Rules and on the basis that a full page contains 44 lines and a quarter page contains 11 lines, where—
- (a) a part of a quarter page is to be treated as a full quarter page; and
  - (b) each page of a claim for costs may be allowed as a standard page.
- (6) If a document is prepared in a size other than A4, the amounts to be allowed may be increased or decreased in the discretion of the taxing officer.
- (7) In relation to perusals—
- (a) a rate towards the maximum rate for perusal is appropriate for documents such as pleadings, particulars, advices and opinions and for more complicated medical and expert reports;
  - (b) a middle range figure is appropriate for standard expert reports, lists of documents and medical reports;
  - (c) a rate towards the lower rate is appropriate for notices of acting, notices of change of address for service, ordinary correspondence, special damages vouchers and the like; and
  - (d) in cases in which a large volume of documents must be perused, an hourly rate may be allowed by the taxing officer instead of a perusal fee.

*Copying, scanning and emailing*

- (8) When a substantial number of sheets are, or should be, photocopied or scanned at the same time, regard may be had to commercial photocopying rates in respect of multiple copies of the same document, for each sheet after the first.
- (9) When multiple emails or SMSs are claimed, those dealing with the same issues over a period of 48 hours extending over not more than 3 consecutive business days will be treated as one.

*Disbursements*

- (10) Allowable disbursements must whenever possible be included in the same item as the corresponding claim for lawyer's costs, but within the disbursements column.
- (11) Only the amount of a disbursement actually paid or payable must be shown in the claim for costs as a disbursement; and, if a disbursement is yet to be paid, this must be specially stated.
- (12) Such allowance for kilometrage by motor vehicle or other conveyance will be made as the taxing officer considers reasonable.

*Schedule of Costs*

- (13) A claim for costs must show—
- (a) the time spent on attendance (when applicable);
  - (b) the number of A4 pages (or the equivalent) contained in any document for which a charge is made;
  - (c) the name of a lawyer and the status of a clerk in respect of whom an attendance is charged;

- (d) a separate identifying number for each item and the date of the item;
- (e) the items of work and disbursements in chronological order with a total of disbursements and counsel fees after the total of the solicitor's charges; and
- (f) succinctly the nature of the work done and, where possible, use recognised abbreviations;

**Examples—**

att of sol X on cl, tel call by sol Y on cnsl, ltr to witnss, att of sol Z at dir hrng

where 'sol' denotes solicitor, 'cl' denotes client, 'cnsl' denotes counsel, 'ltr' denotes letter and 'att' denotes attendance.

- (14) Copies of accounts for counsel fees and other external disbursements must be attached to the claim for costs.
- (15) When the Court is required to tax costs both as between party and party and lawyer and client, the appropriate form must be modified by the applicant so as to provide for the inclusion of both party and party and lawyer and client costs and the respondents' respective responses.

**Part 3—Magistrates Court costs scale****5—Magistrates Court costs scale**

- (1) Subject to subrule (2), the Magistrates Court costs scale is set out in the following table.

<b>Magistrates Court costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
1	Pre-litigation notice of action (solicitor and counsel).	Either: (a) in an action other than for personal injury—1% of <u>quantum</u> ; or (b) in an action for personal injury—2% of <u>quantum</u> .
2	Filing a claim, originating application, defence or response (solicitor and counsel), including: (a) a supporting affidavit or opposing affidavit; and (b) attending the first <u>directions hearing</u> or hearing (as applicable).	5% of <u>quantum</u> .
3	Any and all activity after the first <u>directions hearing</u> or hearing (solicitor and counsel) until: (a) if the action is to proceed to <u>trial</u> —the last hearing before <u>trial</u> , whether a <u>directions hearing</u> , hearing or pre-trial conference; or (b) the final determination of an originating application: (i) when determined at a hearing; and (ii) when the action is not listed for <u>trial</u> .	14% of <u>quantum</u> .
4	All aspects not otherwise specified of, and incidental to, preparing for trial (solicitor and counsel), including: (a) proofing witnesses; (b) advice on evidence and law; and (c) delivering brief to counsel.	8% of <u>quantum</u> .
5	Preparing and filing a trial plan (solicitor and counsel).	2.5% of <u>quantum</u> .
6	Advice on compromise or settlement when Court approval is required (solicitor and counsel).	Either: (a) when only the amount is in dispute—the greater of the following: (i) \$1,200; or (ii) 2% of <u>quantum</u> ; or (b) when liability and amount are in dispute—the greater of the following: (i) \$1,800; or (ii) 3% of <u>quantum</u> .



<b>Magistrates Court costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
7	Attendance as counsel at trial, including fee on brief.	The following applies: (a) the first day—the greater of the following: (i) \$1,333; or (ii) 4% of <u>quantum</u> ; or (b) subsequent days—the greater of the following: (i) \$1,000; or (ii) 3% of <u>quantum</u> .
8	Arranging attendance of a witness at trial, including issuing a subpoena, if applicable.	\$100.
9	Any other attendance when the costs are not within any other item (solicitor and counsel).	\$150.
10	Notice of demand and registration of a lien under the <i>Worker's Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$250; or (b) for claims above \$10,000—\$450.
11	Notice of withdrawal, or satisfaction, of a lien, and registration under the <i>Worker's Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$95; or (b) for claims above \$10,000—\$140.
12	Filing a request for judgment.	\$100.
13	Preparing a bill for taxation, including attendance.	\$350.
<b>Enforcement</b>		
14	Attendance on an application to set aside a warrant.	\$150.
15	Request for an <u>enforcement process</u> .	Either: (a) for a warrant of sale or warrant of possession—\$50; or (b) for any other process (including attending at the hearing)—\$110.
16	Preparing and registering a warrant of sale against real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$140; or (b) for claims above \$10,000—\$175.
17	Discharging a warrant of sale.	Either: (a) for claims of \$1 up to and including \$10,000—\$95; or (b) for claims above \$10,000—\$140.

Magistrates Court costs scale		
Item	Description	Amount
18	Applying for and obtaining a charging order over real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$220; or (b) for claims above \$10,000—\$450.
19	Discharging a charging order at the Lands Titles Office.	Either: (a) For claims of \$1 up to and including \$10,000—\$95; or (b) for claims above \$10,000—\$140.
Disbursements		
20	Service of <u>originating process</u> .	Either: (a) <u>personal service</u> on an individual when required—\$100; or (b) other—\$50.
21	Professional or other expert witness fee per day (includes waiting).	\$1,000 or such other amount ordered by the Court.
22	Other adult witness per day (includes waiting).	\$250 or such other amount ordered by the Court.
23	Juvenile witness (includes waiting).	\$100 or such other amount ordered by the Court.
24	Travel expenses for witness when witness normally resident more than 50 km from the <u>trial</u> court.	85 cents per km or the least expensive return air fare, whichever is the lesser, or the cheapest combination of both.
25	Accommodation for witness when witness required to be absent from normal place of residence overnight.	\$250 per night for accommodation and sustenance.
26	<u>Expert reports</u> .	\$1,000 or such other amount ordered by the Court.
27	Other.	All Court fees, search fees, and other fees and payments to the extent to which they have been properly and reasonably incurred and paid; but excluding the usual and incidental expenses and overheads of a legal practice and in particular excluding postage, photocopying, telephone charges and courier expenses.

(2) The table in subrule (1) is subject to the notes in rule 6.

#### 6—Notes

- (1) All the items in the table in rule 5(1) are inclusive of all costs (including solicitor and counsel) for all incidental and necessary activity and advice for each item to the intent that no costs will be allowed in addition to the costs set for each item nor for anything not itemised.

- (2) Counsel fees, when shown, include juniors and all other assistants.
- (3) For the definition of quantum, see rule 1.
- (4) For the purpose of determining the sum to which the scale is applicable, any cents must be rounded to the nearest dollar.
- (5) The costs in the scale do not include GST and, if that is applicable, the amount of GST may be added.
- (6) Subject to any order of the Court, costs for only one of a workers lien (items 10 and 11), a warrant of sale against real property (items 16 and 17) and charging order (items 18 and 19) will be allowed in any action and no costs for a charging order will be allowed if the judgment creditor has a mortgage over the subject property.

**Part 4—Minor Civil costs scale****7—Minor civil costs scale**

(1) Subject to subrule (2), the Minor Civil costs scale is set out in the following table.

<b>Minor Civil costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
1	Filing an action if prepared and filed by a lawyer.	\$20 plus 5% of <u>quantum</u> (up to a maximum of \$500).
2	Having a lawyer prepare and file personal injury particulars.	2% of <u>quantum</u> .
3	Where a matter is defended and a Magistrate orders that the complexity of the action justifies legal advice in the pre-trial processes.	5% of <u>quantum</u> .
4	Any attendance at Court by party or lawyer (when lawyer is entitled to attend).	0.5% of <u>quantum</u> .
5	Filing and serving a subpoena.	\$50.
6	Preparation of a <u>trial plan</u> when the Court permits it due to special circumstances ( <i>Magistrates Court Act 1991</i> section 38(5)).	3% of <u>quantum</u> .
7	To advise on compromise or settlement when court approval required.	Either: (a) when only the amount is in dispute—\$1,000; or (b) when liability and amount are in dispute—\$1,500.
8	Notice of Demand and registration of Lien under the <i>Worker's Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$250; or (b) for claims above \$10,000—\$450.
9	Notice of withdrawal or satisfaction of Lien and registration.	Either: (a) for claims of \$1 up to and including \$10,000—\$95; or (b) for claims above \$10,000—\$140.
<b>Enforcement</b>		
10	Request for Investigation or Examination summons including attendance at the hearing.	\$50.
11	Any other request for enforcement of judgment.	\$50.
12	Preparing and registering a warrant of sale against real property.	Either: (a) for claims of \$1 up to and including \$10,000—\$140; or (b) for claims above \$10,000—\$175.
13	Discharging a warrant of sale.	Either: (a) for claims of \$1 up to and including \$10,000—\$95; or

Minor Civil costs scale		
Item	Description	Amount
		(b) for claims above \$10,000—\$140.
14	Applying for and obtaining a charging order over real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$220; or (b) for claims above \$10,000—\$450.
15	Discharging a charging order at the Lands Titles Office.	Either: (a) for claims of \$1 up to and including \$10,000—\$95; or (b) for claims above \$10,000—\$140.
Disbursements		
16	Service of <u>originating process</u> .	Either: (a) <u>personal service</u> on an individual where required—\$100; or (b) <u>other</u> —\$50.
17	Witness fees generally.	\$80—per day.
18	Professional witness.	\$500—per day.
19	All other Court fees.	As allowed by the Court.
20	Other disbursements.	As allowed by the Court.

- (2) The table in subrule (1) is subject to the notes in rule 8.

### 8—Notes

- (1) For the definition of quantum, see rule 1.
- (2) Debt collecting fees in addition to the above amounts are not allowed.
- (3) Where a party intends to serve a claim by personal service, a disbursement equal to the amount a Sheriff is entitled to receive for serving originating process by personal service is allowed, but if the process is returned to the Court unserved, or is served by non-personal service, the disbursement must be disallowed unless the Registrar is satisfied that the party made reasonable efforts to serve the claim by personal service.
- (4) The costs in the scale do not include GST and, if that is applicable, the amount of GST may be added.
- (5) Each of items 8, 9, 12, 13, 14 and 15 is inclusive of all costs for all incidental and necessary activity and advice for each item to the intent that no costs will be allowed in addition to the costs set forth for each item nor for anything not itemised, save for disbursements for registration fees incurred at the Lands Titles Office which are allowed in addition to these items.
- (6) Subject to any order of the Court, costs for only one of a workers lien (items 8 and 9), a warrant of sale against real property (items 12 and 13) and charging order (items

14 and 15) will be allowed in any action and no costs for a charging order will be allowed if the judgment creditor has a mortgage over the subject property.

## Part 5—Fast Track costs scale

### 9—Definitions

In this Part, unless the contrary intention appears—

*Fast Track elevated scale* means the costs scales in tables 2A and 2B in [rule 11](#) below.

*Fast Track ordinary scale* means the costs scales in tables 1A and 1B in [rule 11](#) below.

*professional costs* encompass costs on account of all professional fees charged by solicitors and counsel for work performed in connection with the proceeding together with all photocopying, communications and like charges.

### 10—Application of scales

- (1) When costs are payable in accordance with the [Fast Track ordinary scale](#)—
  - (a) if the [quantum](#) is \$63,000 or more—the amount recoverable for [professional costs](#) is the amount set out in Table 1A in [rule 11\(1\)](#) below;
  - (b) if the [quantum](#) is less than \$63,000—the amount recoverable for [professional costs](#) is the amount calculated at the percentage of the [quantum](#) shown in Table 1B in [rule 11\(2\)](#) below.
- (2) When costs are payable in accordance with the [Fast Track elevated scale](#)—
  - (a) if the [quantum](#) is \$63,000 or more—the amount recoverable for [professional costs](#) is the amount set out in Table 2A in [rule 11\(3\)](#) below;
  - (b) if the [quantum](#) is less than \$63,000—the amount recoverable for [professional costs](#) is the amount calculated at the percentage of the [quantum](#) shown in Table 2B in [rule 11\(4\)](#) below.
- (3) When [professional costs](#) are recoverable in accordance with the Fast Track costs scale, the successful party is also entitled to recover disbursements reasonably incurred in the proceeding, including court fees, witness fees and other external disbursements. However, unless the Court otherwise orders, a party cannot recover disbursements for more than one expert witness and cannot recover more than \$3,000 for disbursements paid to an expert witness.
- (4) For the definition of [quantum](#), see rule 1.

### 11—Fast Track costs scale

Table 1A—

- (1) Fast Track ordinary scale, [quantum](#) \$63,000 or more—

Item	Stage	Low	High
1	Institution to <a href="#">Directions Hearing</a>	\$4,500	\$6,750
2	Up to commencement of <a href="#">trial</a>	\$4,500	\$6,750
3A	First day of <a href="#">trial</a>	\$3,000	\$4,500
3B	Second day of <a href="#">trial</a>	\$3,000	\$4,500
3C	Third day of <a href="#">trial</a>	\$3,000	\$4,500

Table 1B—

- (2) Fast Track ordinary scale, [quantum](#) less than \$63,000—

Item	Stage	Low	High
1	Institution to <u>Directions Hearing</u>	7.2% of <u>quantum</u>	10.8% of <u>quantum</u>
2	Up to commencement of <u>trial</u>	7.2% of <u>quantum</u>	10.8% of <u>quantum</u>
3A	First day of <u>trial</u>	4.8% of <u>quantum</u>	7.2% of <u>quantum</u>
3B	Second day of <u>trial</u>	4.8% of <u>quantum</u>	7.2% of <u>quantum</u>
3C	Third day of <u>trial</u>	4.8% of <u>quantum</u>	7.2% of <u>quantum</u>

Table 2A—

- (3) Fast Track elevated scale,
- quantum
- \$63,000 or more—

Item	Stage	Low	High
1	Institution to <u>Directions Hearing</u>	\$6,000	\$9,000
2	Up to commencement of <u>trial</u>	\$6,000	\$9,000
3A	First day of <u>trial</u>	\$4,000	\$6,000
3B	Second day of <u>trial</u>	\$4,000	\$6,000
3C	Third day of <u>trial</u>	\$4,000	\$6,000

Table 2B—

- (4) Fast Track elevated scale,
- quantum
- less than \$63,000—

Item	Stage	Low	High
1	Institution to <u>Directions Hearing</u>	9.6% of <u>quantum</u>	14.4% of <u>quantum</u>
2	Up to commencement of <u>trial</u>	9.6% of <u>quantum</u>	14.4% of <u>quantum</u>
3A	First day of <u>trial</u>	6.4% of <u>quantum</u>	9.6% of <u>quantum</u>
3B	Second day of <u>trial</u>	6.4% of <u>quantum</u>	9.6% of <u>quantum</u>
3C	Third day of <u>trial</u>	6.4% of <u>quantum</u>	9.6% of <u>quantum</u>



## UNIFORM CIVIL RULES 2020

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Form P1

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
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**FINAL NOTICE**

[SUPREME/DISTRICT/MAGISTRATES] COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant (Sender)

First Respondent (Recipient)

Applicant (Sender)	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor if any	Law Firm		Solicitor	
	Address for service			
Street Address (including unit or level number and name of property if required)				
City/town/suburb		State	Postcode	Country
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent (Recipient)	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb		State	Postcode
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Respondents



Form P1

**Notice to the Recipient**

The Sender intends to file an action against you in one of the above named Courts for \$[amount] plus the cost of this Final Notice \$[amount]; a total of \$[amount].

A brief basis of the action is below:

Number each paragraph separately if there is more than one paragraph

The sender seeks a response from you within 21 days. Details of your options, what they mean and how they work are set out below.

**Information about this Notice**

This notice is not a formal court action. However, it provides an opportunity for you to voluntarily negotiate a resolution with the Sender without further involvement by the Court. This may save you costs, time and court appearances.

**Possible Consequences of Ignoring this Notice**

You may wish to seek independent legal or financial counselling advice before deciding what to do.

If you ignore this notice or if you are not able to reach a resolution within 21 days of receipt of this notice, the Sender may file an action against you in one of the above named Courts. If you lose the case you will have to pay or provide what is claimed and in addition you may have to pay extra costs if you ignore this notice. A court judgment against you may affect your credit rating.

**Options for Payment/Settlement of the Action**

- If you accept that you owe the full amount claimed, you can avoid the risk of the Sender filing an action against you if you pay the amount claimed to the Sender within 21 days. **Do not send money to Court.**
- If you accept that you owe the full amount claimed but cannot afford to pay the amount in full, you can try to arrange instalment payments with the Sender. You can use an Enforceable Payment Agreement (EPA) where in return for you acknowledging the debt and making payments, the Sender agrees not to commence a formal action, nor to report the debt to credit referencing agencies. You can obtain these from the CAA website (<http://www.courts.sa.gov.au/ForLawyers/Pages/Rules-Forms-and-Fees.aspx>) or any Court Registry. Keep a record of payments made.
- If you agree there is an amount owed but disagree with the amount claimed, try to negotiate with the Sender. If the Sender agrees, you may be able to use the free mediation service to do this (see below).
- If you owe some of the amount claimed, you could pay that to reduce the amount in dispute.
- The Sender is not entitled to debt collecting costs unless you agreed to pay them in your credit or other agreement for goods or services supplied.

**Mediation and Expert Services**

Mediation is an alternative way of resolving a dispute other than by court processes leading to trial.

- Court mediation is available in the Magistrates Court, depending on the type of matter this may be at no cost or there may be a charge.
- Uniting Communities, a not for profit organisation, provides a free mediation service for eligible parties. For further information, ring 1800 615 677 or (08) 8342 1800.

## Form P1

- A number of independent court experts are available via the Magistrates Court to provide an opinion on technical issues.

**Contacts**

For further information about Court services that may be available to you, call CourtSA Registry Services on 8204 2444.

The Interpreting and Translating Centre may be able to assist you if English is your second language. This is not a free service.

91-97 Grenfell Street  
ADELAIDE SA 5000  
Telephone: 1800 280 203  
Website: [www.translate.sa.gov.au](http://www.translate.sa.gov.au)

Form P2

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
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### ENFORCEABLE PAYMENT AGREEMENT

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm		Solicitor	
	Address for service			
Street Address (including unit or level number and name of property if required)				
City/town/suburb		State	Postcode	Country
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	City/town/suburb		State	Postcode
	Street Address (including unit or level number and name of property if required)			
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Form P2

**Agreement**  
 Mark appropriate sections below with an 'x'

1. It is agreed between the parties that the Respondent owes the following sums of money to the Applicant:

Original sum owed	\$	
Interest (if any)	\$	
Filing fee (if Final Notice filed)	\$	
Other Costs (if any)	\$	
<b>TOTAL AMOUNT</b>	<b>\$</b>	which is the 'Agreed Sum'

Note: The Applicant is not entitled to any interest nor collection costs unless the Applicant has a prior agreement that the Respondent will pay them.

2. It is agreed that the Agreed Sum will be paid by instalments of \$[amount] per [ ] week [ ] fortnight [ ] month with the first payment due on day of 20 and thereafter on the [eg first, second, last] day of each [ ] week [ ] fortnight [ ] month.

Payments are to be made by/to:  
Specify method and place of payments

3. It is agreed that (not having already made an adverse report to a credit referencing agency) the Applicant will not make an adverse report to any credit referencing agency, nor take any steps to collect the Agreed Sum, for as long as the Respondent does not at any time fall into arrears by at least two instalments.

4. It is agreed that if the Respondent at any time falls into arrears by at least two instalments, then without further notice the Applicant is entitled to file a Claim in the Court. In that event, the Claim shall be for any part of the Agreed Sum that has not been paid at the time the Claim is filed plus the court filing fee and, if a solicitor is used, the lawyers' fee allowed on the court scale (in total called 'the Judgment Sum'). Upon service of that claim and proof of this agreement and of the failure to make two instalment payments, the Respondent IRREVOCABLY CONSENTS to the applicant obtaining SUMMARY JUDGMENT which is a final judgment against the Respondent for the Judgment Sum and will not raise any counter claim nor set off against it.

**To the Respondent: WARNING**

Do not sign this if you do not agree that you owe all of the Agreed Sum and that you have no counterclaim nor set off against it.

**Executed by the Applicant**

.....  
 Signature/common seal of Applicant

Form P2

.....  
Signature of witness

.....  
Printed name and address of witness

.....  
Date  
Duplicate signing panel if multiple Applicants

**Executed by the Respondent**

.....  
Signature/common seal of Applicant

.....  
Signature of witness

.....  
Printed name and address of witness

.....  
Date  
Duplicate signing panel if multiple Respondents

Form P3

### COST ESTIMATE

[~~SUPREME/DISTRICT/MAGISTRATES~~] Delete all but one COURT OF SOUTH AUSTRALIA CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Party Title	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm		Solicitor
	Street Address (including unit or level number and name of property if required)		
Address for service	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Parties

Form P3

<b>QUESTIONNAIRE</b>	
1. What is the appropriate value of the claim?	[\$ <i>amount</i> ]
2. Is the party represented by counsel?	[ <i>Yes/No</i> ]
3. How many witnesses of fact are likely to be called? 3.1 in respect of breach and causation? <small>Specify number of witnesses</small>  3.2 in respect of quantum? <small>Specify number of witnesses</small>	
4. What are the disciplines of the experts you propose to rely upon? 4.1 Joint experts:  4.2 Experts in respect of breach and causation:  4.3 Experts in respect of quantum:	
5. What is your time estimate for the length of trial?	[ <i>time</i> ]
6. What is your estimate of future costs up to and including trial?	[\$ <i>amount</i> ]

<b>Notes</b>	
1. To be provided by each party with the pre-action claim and the pre-action response.	
2. The purpose of preparing and providing the cost estimate includes directing attention to costs and proportionality by setting the estimated costs out.	
3. The proportionality for the future can be gauged by dividing the answer to Question 1 by the answer to Question 6.	
4. The estimate of future costs in Question 6 flows from the 3 preceding questions.	
5. The information is provided in a format so that it may be collected and analysed.	

Form P4

To be inserted by Court
Case Number:
Date Filed:
FDN:

## PRE-ACTION MEETING REPORT

[~~SUPREME/DISTRICT/MAGISTRATES~~] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [~~MINOR CIVIL~~] If applicable  
 [~~NAME OF LIST~~] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor If any	Law Firm	Solicitor

<b>Pre-Action Meeting Report</b> <i>Note: Only to be completed if the matter does not resolve</i>	
Date:	
Form of meeting: [ <i>Physical/phone/audio visual</i> ]	
Location (if physical meeting):	
Attendees (including role)	
1. Applicant:	
2. Respondent:	
3. Other Party:	



Form P4

**Pre-action Notification Compliance**

Action	Date served	Any issue taken with compliance
Pre-action notice		
Response to Pre-action notice		
Have the parties made genuine efforts to resolve the matter?		

**Agreed Outcome**

Further Actions	Applicant	Respondent	Other Party
1. Identify the main issues in dispute			
2. Identify which, if any issues, have been agreed eg Liability.			
3. What, if any, further expert evidence is to be obtained and if any agreement has been reached such as joint experts.			
4. What if any further disclosure and/or information is required and the time expected for provision.			
5. Whether any other party/parties are to be joined.			
6. Estimated legal costs if the matter were to proceed to Trial			
7. Likely length of Trial			
8. Whether an alternative form of dispute resolution, including a further Pre-action meeting, is to be undertaken			
9. Parties' final offer <small>Note: not compulsory</small>			

<p><b>Certification by Applicant/Applicant's solicitor [names]</b></p> <p>..... Signature of</p> <p>..... Name printed</p>
--

Form P4

.....  
Date

**Certification by Respondent/Respondent's solicitor [names]**

.....  
Signature of

.....  
Name printed

.....  
Date

**Certification by Other Party/Other Party's solicitor [names]**

.....  
Signature of

.....  
Name printed

.....  
Date

Form 1

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
--

### CLAIM

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**

If applicable

Amount Claimed	\$
Court Fee on Filing	\$
Service Fee (Sheriff service only)	\$
Solicitor's Fee (Magistrates Court only)	\$
<b>TOTAL CLAIMED</b>	<b>\$</b>

**Any other relief Claimed:**

If any

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 1

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

**Claim Details**  
Mark appropriate sections below with an 'x'

Matter Type:  
The Applicant makes this Claim against you as set out in the Statement of Claim below.  
[.....] I certify that in my reasonable opinion the Claim will be uncontested or is not genuinely contestable.  
[.....] The Applicant would consider mediation to assist in resolving this Claim.

**Extension of time**  
If applicable  
The Applicant seeks an extension of time to institute this action pursuant to:  
[.....] section 48 of the Limitation of Actions Act 1936  
[.....] other:  
State section and Act

The grounds for seeking an extension are:  
Grounds in separately numbered paragraphs  
1.

I request the matter be heard at [location].  
Request only applicable if Magistrates Court

**To the Respondent: WARNING**

If you wish to defend the claim, you:

- may file and serve on all parties a Notice of Acting (which will give you access to the file)
- **must within**
  - 28 calendar days if you are served **within Australia**; OR
  - 30 business days if you are served **outside Australia****from service of this claim file and serve on all parties a defence.**

If you do not do so, after that time **judgment may be entered against you** including orders as to costs. Judgment will allow the person who has obtained judgment to take **enforcement steps**. This may include orders to sell your property.

If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.

For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/473>.

## Form 1

**Pre-Action Steps**

Mark with an 'x' the pre-action steps that have been taken

- [.....] Has the Applicant served a notice of claim under the Rules of Court?  
 [.....] Have all Respondents served a response under the Rules of Court?  
 [.....] Have all parties conferred to attempt to resolve the dispute under the Rules of Court?

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Claim is a:

- [.....] Multilingual Notice (mandatory)  
 [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)  
 [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  
 [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)  
 [.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

**STATEMENT OF CLAIM**

Complete either Option A or Option B below

**Option A – Option only available:**

- (a) for a minor civil action or  
 (b) where the uncontested/not genuinely contestable certification has been completed under the Claim Details section above

Summarise your Claim in 100 words or less:

- What happened
- The date(s)
- Why you say the Respondent is legally responsible for the claim

## Form 1

**Option B – For all other Claim types**

(If Claim lodged via the Portal, complete and upload a Form 1S Statement of Claim).

(If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).

**Part 1****Introduction by Applicant**

Summary of claim – Summarise the claim in one or two sentences

Legal basis of claim – List causes of action/statutory claims

**Part 2****Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3****Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.

1.

**Part 4****Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 1A

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**CLAIM**

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 MINOR CIVIL

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**

If applicable  
 Amount Claimed \$  
 Court Fee on Filing \$  
 Service Fee (Sheriff service only) \$  
 Solicitor's Fee \$  
 TOTAL CLAIMED \$

**Any other relief Claimed:**

If any

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm	Solicitor		
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants



Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent			
	If requested mark with an 'x'			

Duplicate panel if multiple Respondents

<p><b>Claim Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>The Applicant makes this Claim against you as set out in the Statement of Claim below.</p> <p>This Claim is made under section [number] of the Building Work Contractors Act 1995.</p> <p>[.....] The Applicant would consider mediation to assist in resolving this Claim.</p> <p><b>Extension of time</b> If applicable</p> <p>The Applicant seeks an extension of time to institute this action pursuant to: [.....] section 48 of the Limitation of Actions Act 1936 [.....] other: State section and Act</p> <p>The grounds for seeking an extension are: Grounds in separately numbered paragraphs</p> <p>1.</p> <p>I request the matter be heard at [location].</p>
---

<p><b>To the Respondent: WARNING</b></p> <p>If you wish to defend the claim, you:</p> <ul style="list-style-type: none"> <li>• may file and serve on all parties a Notice of Acting (which will give you access to the file)</li> <li>• <b>must within</b> <ul style="list-style-type: none"> <li>○ 28 calendar days if you are served within Australia; OR</li> <li>○ 30 business days if you are served outside Australia</li> </ul> </li> </ul> <p>from service of this claim file and serve on all parties a defence.</p> <p>If you do not do so, after that time judgment may be entered against you including orders as to costs. Judgment will allow the person who has obtained judgment to take enforcement steps. This may include orders to sell your property.</p> <p>If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.</p> <p>For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <a href="https://courtsa.courts.sa.gov.au/?g=node/473">https://courtsa.courts.sa.gov.au/?g=node/473</a>.</p>
--

Form 1A

**Pre-Action Steps**

Mark with an 'x' the pre-action steps that have been taken

- [.....] Has the Applicant served a notice of claim under the Rules of Court?  
 [.....] Have all Respondents served a response under the Rules of Court?  
 [.....] Have all parties conferred to attempt to resolve the dispute under the Rules of Court?

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Claim is a:

- [.....] Multilingual Notice (mandatory)  
 [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)  
 [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  
 [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.

Because this claim is a 'minor statutory proceeding' within the meaning of section 3(1) of the Magistrates Court Act 1991, if an amount of more than \$12,000 or an order for work of the value of more than \$12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, or if no election is made, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

**STATEMENT OF CLAIM**

This claim is for *[nature of claim]* under the Building Work Contractors Act 1995 in respect of a domestic building contract dated *[date]* between the building owner *[name]* and builder *[name]*.

Legal basis of claim – This claim is for an order under

Mark appropriate sections below with an 'x'

- [.....] section 36(4)(a) – return of money when contract cancelled.  
 [.....] section 36(4)(b) – payment for materials or services when contract cancelled.  
 [.....] section 37(2) – determination of a warranty claim.  
 [.....] section 38(2) – relief from a harsh or unconscionable term or condition.

**Complete either Option A or Option B below**

**Option A –**

Summarise your Claim in 100 words or less:

- What happened
- The date(s)
- Why you say the Respondent is legally responsible for the claim

**Option B –**

(If Claim lodged via the Portal, complete and upload a Form 1AS Statement of Claim).

(If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).

**Part 1****Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2****Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3****Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.

1.

Form 1A

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 1AS

### STATEMENT OF CLAIM [part of Claim]

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1AS

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---

Form 1B

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**CLAIM**

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [MINOR CIVIL] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**

If applicable

Amount Claimed                   \$  
 Court Fee on Filing               \$  
 Service Fee (Sheriff service only) \$  
 Solicitor's Fee                     \$  
 TOTAL CLAIMED                   \$

**Any other relief Claimed:**

If any

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode                   Country
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

## Form 1B

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

<p><b>Claim Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>The Applicant makes this Claim against you as set out in the Statement of Claim below.</p> <p>This Claim is made under section [number] of the Retail and Commercial Leases Act 1995.</p> <p>The Applicant makes this Claim against you as set out in the Statement of Claim below.</p> <p>[.....] The Applicant would consider mediation to assist in resolving this Claim</p> <p><b>Extension of time</b> If applicable The Applicant seeks an extension of time to institute this action pursuant to: [.....] section 48 of the Limitation of Actions Act 1936 [.....] other: State section and Act</p> <p>The grounds for seeking an extension are: Grounds in separately numbered paragraphs</p> <p>1.</p> <p>I request the matter be heard at [location].</p>
--

<p><b>To the Respondent: WARNING</b></p> <p>If you wish to defend the claim, you:</p> <ul style="list-style-type: none"> <li>• may file and serve on all parties a Notice of Acting (which will give you access to the file)</li> <li>• <b>must within</b> <ul style="list-style-type: none"> <li>○ 28 calendar days if you are served <b>within Australia</b>; OR</li> <li>○ 30 business days if you are served <b>outside Australia</b></li> </ul> <b>from service of this claim file and serve on all parties a defence.</b> </li> </ul> <p>If you do not do so, after that time <b>judgment may be entered against you</b> including orders as to costs. Judgment will allow the person who has obtained judgment to take <b>enforcement steps</b>. This may include orders to sell your property.</p> <p>If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.</p> <p>For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <a href="https://courtsa.courts.sa.gov.au/?g=node/473">https://courtsa.courts.sa.gov.au/?g=node/473</a>.</p>
--



## Form 1B

**Pre-Action Steps**

Mark appropriate sections below with an 'x'

- [.....] Has the Applicant served a notice of claim under the Rules of Court?  
 [.....] Have all Respondents served a response under the Rules of Court?  
 [.....] Have all parties conferred to attempt to resolve the dispute under the Rules of Court?

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Claim is a:

- [.....] Multilingual Notice (mandatory)  
 [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)  
 [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  
 [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

**STATEMENT OF CLAIM**

This is a claim by the [*lessor/lessee*] under the Retail and Commercial Leases Act 1995 in respect of a retail shop at [*address*], the subject of a retail shop lease dated [*date*].

Legal basis of claim – This claim is for an order under

Mark appropriate sections below with an 'x'

- [.....] section 12 – false or misleading disclosure statement.  
 [.....] section 12 – disclosure statement not given.  
 [.....] section 15 – recovery of premium paid in connection with the granting of a retail shop lease.  
 [.....] section 68 – general jurisdiction.  
 [.....] section 76(8) – dispute about abandoned goods.  
 [.....] section 77(2) – exemption from provisions of the Act.

Complete either Option A or Option B below

**Option A – Option only available for 'minor statutory proceeding'**

Summarise your Claim in 100 words or less:

- What happened
- The date(s)

Form 1B

- Why you say the Respondent is legally responsible for the claim

**Option B – Option available for all Claim types**

(If Claim lodged via the Portal, complete and upload a Form 1BS Statement of Claim).

(If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1B

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 1BS

### STATEMENT OF CLAIM [part of Claim]

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 1 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1BS

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---

Form 1C

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**CLAIM**

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 MINOR CIVIL

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**  
 If applicable  
 Amount Claimed \$  
 Court Fee on Filing \$  
 Service Fee (Sheriff service only) \$  
 Solicitor's Fee \$  
 TOTAL CLAIMED \$

**Any other relief Claimed:**  
 If any

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm	Solicitor		
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

## Form 1C

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

<p><b>Claim Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>The Applicant makes this Claim against you as set out in the Statement of Claim below.</p> <p>This Claim is made under section [number] of the Second-hand Vehicle Dealers Act 1995.</p> <p>The Applicant makes this Claim against you as set out in the Statement of Claim below.</p> <p>[.....] The Applicant would consider mediation to assist in resolving this Claim</p> <p><b>Extension of time</b> If applicable The Applicant seeks an extension of time to institute this action pursuant to: [.....] section 48 of the Limitation of Actions Act 1936 [.....] other: State section and Act</p> <p>The grounds for seeking an extension are: Grounds in separately numbered paragraphs</p> <p>1.</p> <p>I request the matter be heard at [location].</p>
---

<p><b>To the Respondent: WARNING</b></p> <p>If you wish to defend the claim, you:</p> <ul style="list-style-type: none"> <li>• may file and serve on all parties a Notice of Acting (which will give you access to the file)</li> <li>• <b>must within</b> <ul style="list-style-type: none"> <li>○ 28 calendar if you are served <b>within Australia</b>; OR</li> <li>○ 30 business days if you are served <b>outside Australia</b></li> </ul> <b>from service of this claim file and serve on all parties a defence.</b> </li> </ul> <p>If you do not do so, after that time <b>judgment may be entered against you</b> including orders as to costs. Judgment will allow the person who has obtained judgment to take <b>enforcement steps</b>. This may include orders to sell your property.</p> <p>If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.</p> <p>For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <a href="https://courtsa.courts.sa.gov.au/?g=node/473">https://courtsa.courts.sa.gov.au/?g=node/473</a>.</p>
---

Form 1C

**Pre-Action Steps**  
 Mark with an 'x' the pre-action steps that have been taken

[.....] Has the Applicant served a notice of claim under the Rules of Court?  
 [.....] Have all Respondents served a response under the Rules of Court?  
 [.....] Have all parties conferred to attempt to resolve the dispute under the Rules of Court?

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**  
 Mark appropriate sections below with an 'x'

Accompanying service of this Claim is a:

[.....] Multilingual Notice (mandatory)  
 [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)  
 [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  
 [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)  
 [.....] Copy of agreement recorded by Commissioner of Consumer Affairs (mandatory if applicable) (must be filed and served)  
 [.....] Copy of repair quotes (mandatory if applicable) (must be filed and served)  
 [.....] List of defects (mandatory if applicable) (must be filed and served)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.

Because this claim is a 'minor statutory proceeding' within the meaning of section 3(1) of the Magistrates Court Act 1991, if an amount of more than \$12,000 or an order for work of the value of more than \$12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

**STATEMENT OF CLAIM**

This is a claim for  
 Mark appropriate sections below with an 'x'

[.....] repair by the dealer of a defect.  
 [.....] payment or reimbursement of the reasonable costs of repairing or completing repairs of a defect.  
 [.....] compensation for loss or damage suffered as a result of the dealer's conduct.  
 [.....] enforcing the terms of a written agreement reached before the Commissioner.  
 [.....] loss or damage as a result of being induced to waive a right to rescind a purchase contract under the Second-hand Vehicle Dealers Act 1995 in respect of a second-hand motor vehicle purchase contract on the      day of      20      between the purchaser *[full name]*      and dealer *[full name]*

Legal basis of claim



## Form 1C

This claim is made under section [24/33] of the Second-hand Vehicle Dealers Act 1995.

Complete either Option A or Option B below

**Option A –**

Summarise your Claim in 100 words or less:

- What happened
- The date(s)
- Why you say the Respondent is legally responsible for the claim

**Option B –**

(If Claim lodged via the Portal, complete and upload a Form 1CS Statement of Claim).

(If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs. Specify the vehicle type; model and registration number; from whom vehicle purchased and purchase date; whether the Commissioner of Consumer Affairs recorded an agreement

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred. If it is alleged that the vehicle is defective, list the defects in detail. If compensation is sought for other loss and damage, specify the loss and damage in detail and how it was caused

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs. For a defects claim, specify whether you seek that the dealer repair defects in the vehicle or claim compensation for the cost of someone else fixing the defects in the vehicle

1.

Form 1C

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 1CS

### STATEMENT OF CLAIM [part of Claim]

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter - e.g. when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1CS

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---

Form 1D

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**CLAIM**

SUPREME COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**  
 If applicable  
 Amount Claimed \$  
 Court Fee on Filing \$  
 Service Fee (Sheriff service only) \$  
 Solicitor's Fee \$  
 TOTAL CLAIMED \$

**Any other relief Claimed:**  
 If any

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

Form 1D

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
Phone Details	Email address		
	Type - Number		

Duplicate panel if multiple Respondents

**Claim Details**

Matter Type:

The Applicant, as representative of the Aboriginal group described in Schedule A, makes this Claim for compensation for an act extinguishing or otherwise affecting native title as set out in the Statement of Claim below.

The Applicant is entitled to make the application for compensation as a person authorised by the Aboriginal group to make the application and to deal with matters arising in relation to it on behalf of the group.

The factual basis on which this is asserted is as follows:  
Set out the relevant facts below.

The Schedules to this Statement of Claim contain the following information:  
Schedules A-N must be included.

**Schedule A** – A description of the persons comprising the Aboriginal group claiming compensation.

The description must set out the names of the persons comprising the group or otherwise define the group sufficiently clearly so that it can be ascertained whether any particular person is a member of the group.

**Schedule B** – A definition of the land to which the native title in respect of which the application for compensation is made relates or related.

**Schedule C** – A map showing the boundaries of the area covered by the application.

**Schedule D** – Details and results of all searches carried out to determine the existence of any current or former non-native title rights and interests in relation to the land, including copies of –

- all searches of official title registers (such as the Register Book and Register of Crown Leases); and
- all searches conducted with public bodies and authorities,

that identify current or former non-native title rights and interests in relation to the land.

**Schedule E** – A statement of the nature of the rights conferred by the native title in respect of which the application for compensation is made and the nature of activities that may be, or may have been, carried out pursuant to those rights.

**Schedule F** – The name of each representative Aboriginal body for the area covered by the application.

**Schedule G** – A statement of the factual basis on which native title is asserted and, in particular, the factual basis on which it is asserted that –

- the Aboriginal group has or had, and its predecessors had, an association with the area; and
- there exists or existed traditional laws acknowledged by, and traditional customs observed by, the Aboriginal group that give or gave rise to the native title; and
- the Aboriginal group has or had continued to hold the native title in accordance with those traditional laws and customs.

## Form 1D

**Schedule H** - Details of any activities that are or were carried on in relation to the land by the Aboriginal group.

**Schedule I** - Details of the act which it is claimed extinguished or affected the native title, including—

- the name of the person or body who carried out or was responsible for the act;
- whether the act has been validated and, if so, the details of how it has been validated.

**Schedule J** - Details of the basis for the compensation claim, including reference to any Act which it is claimed provides an entitlement to compensation.

**Schedule K** - Details of any other application, of which the applicant is aware, for a judicial determination of native title in the land or a determination of compensation in relation to native title in the land.

**Schedule L** - Details of notices, of which the applicant is aware, about matters that may be the subject of negotiation with registered claimants of native title in the land.

Examples -

- A notice under section 29 of the Commonwealth Act.
- A notice of the initiation of negotiations under Part 9B of the *Mining Act 1971* or Part 7 of the *Opal Mining Act 1995*.
- A notice of the intention to acquire land under the *Land Acquisition Act 1969* in a case to which Part 4 Division 1 of that Act applies.

**Schedule M** - Details of any compensation received by the Aboriginal group or to which the Aboriginal group may be entitled under any agreement or award because of the act or a related act.

**Schedule N** - Whether non-monetary compensation is claimed, and, if so, the nature of the non-monetary compensation claimed.

The following Schedules are not mandatory

**Schedule O** - Details of any traditional physical connection with any of the land covered by the application by any members of the Aboriginal group.

**Schedule P** - Details of circumstances in which access to the area by a member or a parent of a member of the Aboriginal group has been prevented.

**Schedule Q** - Any other relevant information that the representative wants to provide.

Section 27A(2) of the Native Title (South Australia) Act 1994 requires the statement of claim to be accompanied by an affidavit sworn by the person bringing the claim (the representative) -

- stating that the representative believes that native title exists or existed in relation to the area to which the claim relates;
- stating that the representative believes that all of the statements made in the statement of claim are true; and
- stating that the representative is authorised by the Aboriginal group to make the application and to deal with matters arising in relation to it and stating the basis of the authorisation.

**To the Respondent: WARNING**

If you wish to defend the claim, you:

- may file and serve on all parties a Notice of Acting (which will give you access to the file)
  - **must within**
    - **28 calendar days** if you are served **within Australia**; OR
    - **30 business days** if you are served **outside Australia**
- from service of this claim file and serve on all parties a defence.**

If you do not do so, after that time **judgment may be entered against you** including orders as to costs. Judgment will allow the person obtaining the judgment to take **enforcement steps**. This may include orders to sell your property.

## Form 1D

If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.

For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/473>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Accompanying service of this Claim is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- [.....] Schedule A (mandatory)
- [.....] Schedule B (mandatory)
- [.....] Schedule C (mandatory)
- [.....] Schedule D (mandatory)
- [.....] Schedule E (mandatory)
- [.....] Schedule F (mandatory)
- [.....] Schedule G (mandatory)
- [.....] Schedule H (mandatory)
- [.....] Schedule I (mandatory)
- [.....] Schedule J (mandatory)
- [.....] Schedule K (mandatory)
- [.....] Schedule L (mandatory)
- [.....] Schedule M (mandatory)
- [.....] Schedule N (mandatory)
- [.....] Schedule O
- [.....] Schedule P
- [.....] Schedule Q

[.....] If other additional document(s) please list them below:

**STATEMENT OF CLAIM****Part 1****Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

Legal basis of claim - List causes of action/statutory claims

**Part 2****Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.



Form 1D

**Part 3**  
**Other facts forming the basis of the claim**  
Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.  
1.

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 1S

### STATEMENT OF CLAIM [part of Claim]

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

Legal basis of claim - List causes of action/statutory claims

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 1S

**Certification**  
Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 2

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Magistrates Court only

**Application Value:**

If applicable  
 Amount/value of relief sought \$  
 Court Fee on Filing \$  
 Service Fee \$  
 Solicitor's Fee \$  
 TOTAL AMOUNT/VALUE \$

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		

Form 2

Phone Details	
	Type - Number

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'		

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'		

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is for Nature of application in one sentence</p> <p>This Application is made under Act and section or other particular provision</p> <p>The Applicant seeks the following orders: Orders sought in separately numbered paragraphs. If there is a monetary sum state the amount being claimed. 1.</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the day of 20 .</p> <p><b>Extension of time</b> If applicable The Applicant seeks an extension of time to institute this action pursuant to: [.....] section 48 of the Limitation of Actions Act 1936 [.....] other: State section and Act</p>
--

## Form 2

The grounds for seeking an extension are set out in the accompanying affidavit.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document. If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Only displayed if Magistrates Court and Minor Civil

If this application is a 'minor statutory proceeding' within the meaning of section 3(1) of the Magistrates Court Act 1991 (except a proceeding transferred from the South Australian Civil and Administrative Tribunal under section 38B of the South Australian Civil and Administrative Tribunal Act 2013), if an amount of more than \$12,000 or an order for work of the value of more than \$12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, or if no election is made, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

Form 2A

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 MINOR CIVIL

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

**Application Value:**

If applicable  
 Amount/value of relief sought     \$  
 Court Fee on Filing                     \$  
 Service Fee                                 \$  
 Solicitor's Fee                             \$  
 TOTAL AMOUNT/VALUE                 \$

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor <small>If any</small>	Law Firm	Solicitor		
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country

Form 2A

	Email address
Phone Details	Type - Number

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[ ] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<b>Application Details</b>	
This Application is made under the following section of the Fences Act 1975: Mark appropriate section below with an 'x'	
[.....] section 12(1) – I am having a dispute with the owner of the adjoining land about a fence dividing our properties.	
[.....] section 10(1) or 9(1)(b) – I want to perform fencing work but I cannot identify or find the owner of the adjoining land.	
[.....] section 11(1) - I have erected a fence to divide my land from a public road which the owner of the land abutting the road benefits from and I want them to contribute to its cost or other fencing work.	
Applicant(s) land address(es): Street Address; City/Town/Suburb; State; Postcode	
If applicable Respondent(s) land address(es): Street Address; City/Town/Suburb; State; Postcode	



## Form 2A

**The Applicant seeks the following orders:**

List the exact orders you would like the Court to make in separate numbered paragraphs. Include the details of any proposed fencing work and any monetary amount you want the Respondent to pay.

1.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an Affidavit within 14 days after service of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- Multilingual Notice (mandatory)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- A copy of the notice of intention to perform fencing work (mandatory if any) (must be filed and served)
- A copy of the cross-notice to the notice of intention to perform fencing work (mandatory if any) (must be filed and served)
- A copy of any notice of objection to the notice of intention to perform fencing work (mandatory if any) (must be filed and served)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Because this application is a 'minor statutory proceeding' within the meaning of section 3(1) of the Magistrates Court Act 1991, if an amount of more than \$12,000 or an order for work of the value of more than \$12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.

Form 2A

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, or if no election is made, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

Form 2B

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

[~~SUPREME/DISTRICT/MAGISTRATES~~] Delete all but one COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
<b>Phone Details</b>	<small>Email address</small>		
	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

<b>Respondent</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Address</b>	<small>Street Address (including unit or level number and name of property if required)</small>		

Form 2B

	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This is an Application by a minor for [authorisation for] [and] [consent to] a proposed marriage to [name of person whom the Applicant proposes to marry].</p> <p>This Application is made under section [12] [and] [16] of the Marriage Act 1961 (Cth).</p> <p>The Applicant seeks the following orders:                  [.....] Authorisation of the proposed marriage                  [.....] Consent to the proposed marriage</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the day of 20 .</p> <p>The Applicant is more than 16 and less than 18 years old, having been born on [date].</p> <p>If impracticable to obtain the Applicant's Birth Certificate, please specify the reasons:</p> <p><b>Consent</b></p> <p>The consent of [name and address], who is [relationship to applicant], and [name and address], who is [relationship to applicant], are required by the Marriage Act 1961 (Cth) to the proposed marriage.</p> <p>[.....] Consent to the proposed marriage has been [given/refused] by [name].                  [.....] Consent to the proposed marriage has been [given/refused] by [name].                  [.....] On [date] the prescribed authority [Name] dispensed with the need for consent of [name] and [name] to the proposed marriage.                  [.....] On the [date] the prescribed authority [Name] refused to dispense with the need for the consent of [name] and [name] to the proposed marriage.</p>
---

## Form 2B

I [*have/have not*] received counselling from a family counsellor in relation to my proposed marriage.

**Previous applications**

[.....] An application for authorisation or consent to marry [*name*] has not previously been made.

[.....] On [*date*] an application for authorisation [*and consent*] to marry [*name*] was [*granted/refused*] by [*name of Judicial Officer*].

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an Affidavit within 14 days after service of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- [.....] Applicant's Birth Certificate (mandatory unless impracticable to obtain) (must be filed and served)
- [.....] Consent to proposed marriage from person whose consent to the proposed marriage is required under the Marriage Act 1961 (Cth), including any substituted consent from a Judicial Officer (mandatory for each consent given) (must be filed and served)
- [.....] Translation of consent to proposed marriage (mandatory for consent written in a language other than English) (must be filed and served)
- [.....] Notice of dispensation given in relation to proposed marriage by a prescribed authority (mandatory if previously given) (must be filed and served)
- [.....] Decision of prescribed authority refusing dispensation (mandatory if previously given) (must be filed and served)
- [.....] Certificate signed by a family counsellor (mandatory unless family counsellor not reasonably available)

[.....] If other additional document(s) please list them below:

Form 2C

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

MAGISTRATES COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Registrar of Births, Deaths and Marriages**  
First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

<b>Respondent</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Address</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		

## Form 2C

Phone Details	Type - Number
Service	[.....] Shenff service requested for this Respondent If requested mark with an 'x'

Duplicate panel if multiple Respondents

Interested Party	The Registrar of Births, Deaths and Marriages Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Consumer and Business Services Births, Deaths and Marriages Level 2, 95 Grenfell Street Street Address (including unit or level number and name of property if required)		
	Adelaide	SA	5000
	City/town/suburb	State	Postcode
	Australia Country		
	registrations.bdm@agd.sa.gov.au Email address		
Service	Automatic email service by the Court		

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is for:</p> <p>[.....] registering a Birth.</p> <p>[.....] adding registrable information of [.....] the Birth. [.....] the Parents.</p> <p>[.....] correcting registrable information about [.....] the Birth. [.....] the Parents.</p> <p>Details of the Application</p> <p>This Application is made under section 19 of the Births, Deaths and Marriages Registration Act 1996.</p> <p><b>The Child's Details</b></p> <p>The Child's Name is <i>[name]</i>.</p> <p>The Child's Date of Birth is <i>[date]</i>.</p> <p>The Child's Place of Birth is <i>[place]</i>.</p> <p>The Child's Previous Name (if any) is <i>[name]</i>.</p> <p>If the Child's birth certificate was impracticable to obtain, state reasons why:</p> <p><b>The Applicant's Details</b></p> <p>The Applicant's Relationship to the Child: [.....] Mother [.....] Father [.....] Co-Parent</p>
--

## Form 2C

[.....] Other  
if other

Relationship to the Child:

**The Respondent's Details**

The Respondent's Relationship to the Child:

[.....] Mother  
[.....] Father  
[.....] Co-Parent  
[.....] Other

If other  
Relationship to the Child:

**Parents' Details**

If the identity of a parent is unknown, this must be addressed in the supporting affidavit.  
If the Address for Service of a Respondent is unknown, you must state what steps you have taken to try to locate the Respondent in the supporting affidavit.

This Application is made on the grounds set out in the accompanying affidavit sworn  
by [full name] on the day of 20 .

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response at least 14 days before the hearing date** and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit at least 14 days before the hearing date**.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

The Court will serve a copy of this application on the Registrar of Births Deaths and Marriages and the Applicant is not required to do so.

**Accompanying Documents**  
Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

[.....] Multilingual Notice (mandatory)  
[.....] Supporting Affidavit (mandatory) (must be filed and served)  
[.....] Child's Birth Certificate (mandatory if available) (must be filed and served)  
[.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)  
[.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)



Form 2C

[.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

Form 2D

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

**Chief Recovery Officer**  
 Applicant

Respondent

Applicant	Chief Recovery Officer		
Name of law firm / solicitor <small>If any</small>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
Address	<small>Law Firm</small>	<small>Solicitor</small>	
	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
Phone Details	<small>Email address</small>		
	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Debtor	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
Address	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		

Form 2D

Phone Details	Type - Number
---------------	---------------

Duplicate panel if multiple Debtors

**Application Details**

Matter Type:

This Application is for issue of an Examination Summons for \$[*amount owing*] in respect of an enforcement notice calculated as shown below.

This Application is made under section 61(7) of the Fines Enforcement Debt Recovery Act 2017.

The Applicant seeks the following orders:  
Orders sought in separately numbered paragraphs. If there is a monetary sum state the amount being claimed.

1.

Date of civil debt determination:

Date of relevant enforcement notice:

Amount of Debt	\$
Amount paid since civil debt determination	\$
Costs incurred by the Chief Recovery Officer	\$
Interest since civil debt determination	\$
<b>TOTAL OWING</b>	<b>\$</b>

This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the      day of      20      .

**Service**

The Applicant is not required to serve a copy of this application on the Respondent. If the Court issues an examination summons, the examination summons will be required to be served on the Respondent.

Form 2E

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [MINOR CIVIL] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

**Chief Recovery Officer**  
 Applicant

Respondent

Applicant	Chief Recovery Officer		
Name of law firm / solicitor If any	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Law Firm	Solicitor	
	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
Phone Details	Email address		
	Type - Number		

Duplicate panel if multiple Applicants

Debtor	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		

## Form 2E

	Email address
Phone Details	Type - Number

Duplicate panel if multiple Debtors

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is for the appointment of a receiver to</p> <p>[.....] take charge of</p> <p>[.....] real property, namely Certificate of Title Register Book Volume [number] Folio [number] situated at [address]</p> <p>[.....] personal property, namely [property] situated at [address]</p> <p>[.....] to dispose of:</p> <p>[.....] personal property, namely [property] situated at [address]</p> <p>[.....] real property, namely Certificate of Title Register Book Volume [number] Folio [number] situated at [address]</p> <p>[.....] to divert income (other than income from employment or a pension) towards the satisfaction of the debt</p> <p>[.....] take charge and carry on the business of the debtor, namely [registered company/ firm/ business name/ etc] [ACN/ABN/other]</p> <p>[.....] [other]</p> <p>This Application is made under section 66 of the Fines Enforcement Debt Recovery Act 2017.</p> <p>The Applicant seeks the following orders: Orders sought in separately numbered paragraphs. If there is a monetary sum state the amount being claimed.</p> <p>1.</p> <p>Date of civil debt determination:</p> <table> <tr> <td>Amount of Debt</td> <td>\$</td> </tr> <tr> <td>Amount paid since civil debt determination</td> <td>\$</td> </tr> <tr> <td>Costs incurred by the Chief Recovery Officer</td> <td>\$</td> </tr> <tr> <td>Interest since civil debt determination</td> <td>\$</td> </tr> <tr> <td><b>TOTAL OWING</b></td> <td><b>\$</b></td> </tr> </table> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the day of 20 .</p>	Amount of Debt	\$	Amount paid since civil debt determination	\$	Costs incurred by the Chief Recovery Officer	\$	Interest since civil debt determination	\$	<b>TOTAL OWING</b>	<b>\$</b>
Amount of Debt	\$									
Amount paid since civil debt determination	\$									
Costs incurred by the Chief Recovery Officer	\$									
Interest since civil debt determination	\$									
<b>TOTAL OWING</b>	<b>\$</b>									

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an Affidavit within 14 days after service of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

Form 2E

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

Multilingual Notice (mandatory)

Supporting Affidavit (mandatory)

Draft minute of orders in relation to the receiver sought to be appointed (mandatory)

Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)

Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)

Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

Form 2F

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor if any	Law Firm	Solicitor	
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

<b>Respondent</b>	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		

Form 2F

	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee, and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b>                  Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is for:</p> <p><input type="checkbox"/> taxation of costs as between solicitor and client on application by a person <i>[claiming/liable for/who paid]</i> costs.</p> <p><input type="checkbox"/> taxation of remuneration, allowances and expenses of a <i>[manager/supervisor]</i> on application by the <i>[Attorney-General/Law Society]</i>.</p> <p>This Application is made under:</p> <p><input type="checkbox"/> clause 41 of Schedule 3 of the Legal Practitioners Act 1981.</p> <p><input type="checkbox"/> clause 37 of Schedule 3 of the Legal Practitioners Act 1981.</p> <p><input type="checkbox"/> section 48 of the Legal Practitioners Act 1981.</p> <p>The applicant claims that the costs are to be taxed</p> <p><input type="checkbox"/> on the applicable <i>[court]</i> scale.</p> <p><input type="checkbox"/> at the rates in the retainer agreement dated <i>[date]</i>.</p> <p><input type="checkbox"/> <i>[other basis]</i>.</p> <p>The applicant seeks the following orders:                  Orders sought in separately numbered paragraphs</p> <p>1.</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[full name]</i> on the <input type="text"/> day of <input type="text"/> 20 <input type="text"/>.</p> <p><small>The affidavit must exhibit copies of the bill or bills for the costs to which the application relates and if the costs are to be taxed pursuant to a retainer agreement a copy of that agreement</small></p> <p><b>Extension of time</b>                  If applicable</p> <p>The Applicant seeks an extension of time to institute this action pursuant to:</p> <p><input type="checkbox"/> section 48 of the Limitation of Actions Act 1936</p> <p><input type="checkbox"/> other <input type="text"/></p> <p><small>State section and Act:</small></p>
---



## Form 2F

The grounds for seeking the extension are set out in the accompanying affidavit.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Supporting Affidavit (mandatory)
- [.....] Multilingual Notice (mandatory)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2G

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
<b>Phone Details</b>	<small>Email address</small>		
	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2G

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<b>Application Details</b>	
Matter Type:	
This Application is for <small>Nature of application in one sentence</small>	
This Application is made under <small>Act and section or other particular provision</small>	
The Applicant seeks the following orders: <small>Orders sought in separate numbered paragraphs</small>	
1.	
This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the      day of                      20      .	

Form 2G

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document. If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an Affidavit within 14 days after service of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- Multilingual Notice (mandatory)
- Supporting Affidavit (mandatory) (must be filed and served)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2H

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

**ORIGINATING APPLICATION**

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *If applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2H

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for enforcement of an award made by [name] dated [date].</p> <p>This Application is made under:                  [.....] section 8(2) of the International Arbitration Act 1974 (Cth) to enforce a foreign award.                  [.....] article 35 of the Model Law under the International Arbitration Act 1974 (Cth) to enforce an award.                  [.....] section 35(2) of the International Arbitration Act 1974 (Cth) to enforce an investment convention award.                  [.....] section 35 of the Commercial Arbitration Act 2011 (SA) to enforce an award.</p> <p>The Applicant seeks the following orders:</p> <ol style="list-style-type: none"> <li>1. An order enforcing the award by: Detail how award is sought to be enforced</li> <li>2. {Any other orders sought}</li> </ol> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [name] on [date].                  The Affidavit must state the extent to which the arbitral award has not been complied with at the date this application is made and the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.</p>
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Form 2H

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

If applicable

The Court ordered that the time for serving this application be abridged to *[date]*.

Mark appropriate section below with an 'x'

It is intended to serve this Application on all parties.

It is not intended to serve this Application on the following parties:  
*[provide names]*

It is not intended to serve this Application on any party.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

Multilingual Notice (mandatory)

The documents referred to in:

section 9 of the International Arbitration Act 1974 (Cth) (if application to enforce a foreign award) (must be filed and served)

article 35(2) of the Model Law under the International Arbitration Act 1974 (Cth) to enforce an award (if application to enforce a model award) (must be filed and served)

section 35 of the Commercial Arbitration Act 2011 (SA) (if application to enforce a domestic award) (must be filed and served)

Supporting Affidavit (mandatory) (must be filed and served)

Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)

Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)

Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 21

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants



Form 21

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for an order to set aside an award [<i>identify the award</i>].</p> <p>This Application is made under:                  [.....] article 34(2)(a) of the Model Law under the International Arbitration Act 1974 (Cth).                  [.....] article 34(2)(b) of the Model Law under the International Arbitration Act 1974 (Cth).                  [.....] section 34(2)(a) of the Commercial Arbitration Act 2011.                  [.....] section 34(2)(b) of the Commercial Arbitration Act 2011.</p> <p>The Applicant seeks the following orders:</p> <ol style="list-style-type: none"> <li>an order setting aside the award.</li> <li>[<i>any other orders sought</i>]</li> </ol> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [<i>name</i>] on [<i>date</i>].</p> <p>The Affidavit must:</p> <ol style="list-style-type: none"> <li>exhibit a copy of the arbitration agreement and award including the reasons of the arbitral tribunal for the award; and</li> <li>identify the detailed grounds for seeking the order; the material facts relied on for making the order; and the date on which the applicant received the award or (if applicable) if a request was made under section 33 of the Commercial Arbitration Act 2011 to the arbitral tribunal to correct the award, the date on which that request was disposed of by the tribunal.</li> </ol>
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Form 21

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- Multilingual Notice (mandatory)
- Supporting Affidavit (mandatory) (must be filed and served)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2J

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2J

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for an order that the respondent [.....] attend before the Court for examination [.....] produce documents [.....] do certain things required by the arbitral tribunal.</p> <p>This Application is made under [.....] section 23A(3) of the International Arbitration Act 1974 (Cth). [.....] section 27B of the Commercial Arbitration Act 2011.</p> <p>The Applicant seeks the following orders:</p> <p>1. that the respondent: [.....] attend before the Court for examination [.....] produce the following documents: <i>Provide details of documents sought</i></p> <p>[.....] do the following things required by the arbitral tribunal: <i>Provide further details</i></p> <p>2. <i>[any other orders sought]</i></p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[name]</i> on <i>[date]</i>.</p> <p><small>The Affidavit must identify the person against whom the order is sought; the order sought; the grounds relied on under the applicable section of the Act; the terms of the permission given by the arbitral tribunal for the application; and the material facts relied on for the making of the order.</small></p>
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Form 2J

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

*Mark appropriate sections below with an 'x'*

Accompanying service of this Application is a:

- Multilingual Notice (mandatory)
- Supporting Affidavit (mandatory) (must be filed and served)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2K

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2K

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for an order to <i>[prohibit / allow]</i> the disclosure of confidential information.</p> <p>This Application is made under                  [.....] section 23F of the International Arbitration Act 1974 (Cth).                  [.....] section 23G of the International Arbitration Act 1974 (Cth).                  [.....] section 27H of the Commercial Arbitration Act 2011.                  [.....] section 27H of the Commercial Arbitration Act 2011.</p> <p>The Applicant seeks the following orders:</p> <ol style="list-style-type: none"> <li>1. An order that access to the following confidential information, namely <i>[details]</i>, be <i>[prevented / allowed]</i> in respect of <i>[name and relevant details]</i>.</li> <li>2. <i>[any other orders sought]</i>.</li> </ol> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[name]</i> on <i>[date]</i>.</p> <p><small>The Affidavit must identify the person against whom the order is sought; the order sought; the material facts relied on for the making of the order; (if applicable) the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made or (if applicable) either the date the arbitral tribunal's mandate was terminated or the date and the terms of the request made to the tribunal for disclosure of the confidential information and the tribunal's refusal to make the order.</small></p>	
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Form 2K

**To the Other Parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory) (must be filed and served)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.



Form 2L

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2L

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for an order for issue of a subpoena.</p> <p>This Application is made under [.....] section 23(3) of the International Arbitration Act 1974 (Cth). [.....] section 27A of the Commercial Arbitration Act 2011 for issue of a Subpoena.</p> <p>The Applicant seeks the following orders:</p> <ol style="list-style-type: none"> <li>1. An order that a subpoena [<i>type of subpoena</i>] be issued to [<i>name</i>].</li> <li>2. [<i>any other orders sought</i>]</li> </ol> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by [<i>name</i>] on [<i>date</i>].</p> <p><small>The Affidavit must state the parties to the arbitration; the name of the arbitral tribunal conducting the arbitration; the place where the arbitration is being conducted; the nature of the arbitration; the terms of the permission given by the arbitral tribunal for the application; the conduct money (if appropriate) to be paid to the addressee; and the witness expenses payable to the addressee.</small></p>	
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## Form 2L

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory) (must be filed and served)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2M

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
<b>Phone Details</b>	<small>Email address</small>		
	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 2M

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b></p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for an order granting leave to determine a question of law.</p> <p>This Application is made under section 27J of the Commercial Arbitration Act 2011.</p> <p>The Applicant seeks the following orders:</p> <ol style="list-style-type: none"> <li>1. an order under section 27J of the Commercial Arbitration Act 2011 granting leave to apply for the determination of a question of law;</li> <li>2. if leave is granted, for determination of that question of law;</li> <li>3. <i>[any other orders sought]</i></li> </ol> <p>The arbitration that the question of law relates to is <small>Identify the arbitration.</small></p> <p>The question of law is <small>Succinct question of law.</small></p> <p>The grounds for leave to determine the question of law are: <small>Grounds in separate numbered paragraphs.</small></p> <ol style="list-style-type: none"> <li>1.</li> </ol> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[name]</i> on <i>[date]</i>.</p> <p>The Affidavit must:</p> <ol style="list-style-type: none"> <li>(a) exhibit a copy of the arbitration agreement and evidence of the consent of all other parties to the determination of the question of law; and</li> <li>(b) identify the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company; the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises; the facts on the basis of which the question of law is to be determined and the basis on which</li> </ol>
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## Form 2M

those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise; and the detailed grounds on which it is contended that leave should be granted).

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory) (must be filed and served)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2N

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p>Hearing Date and Time:</p> <p>Hearing Location:</p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *If applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm		Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Form 2N

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b> Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is by a party to an arbitration agreement for leave to appeal on a question of law arising out of an award.</p> <p>This Application is made under section 34A of the Commercial Arbitration Act 2011.</p> <p>The relevant part of the award that the question of law relates to is: <i>[text of relevant part]</i></p> <p>The appeal is against the <i>[whole/the following part]</i> of the award: <i>[text of relevant part]</i></p> <p>The question of law is <i>[succinct question of law]</i></p> <p>The grounds for leave to determine the question of law are: Grounds in separate numbered paragraphs.</p> <p>1.</p> <p>The grounds of appeal are: Grounds in separate numbered paragraphs.</p> <p>1.</p> <p>The Applicant seeks the following orders:</p> <p>1. An order granting leave to appeal on a question of law.</p> <p>2. An order that the appeal be allowed and <i>[orders sought on the appeal if leave is granted]</i></p> <p>3. <i>[any other orders sought]</i></p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[name]</i> on <i>[date]</i>.</p>
--



## Form 2N

**The Affidavit must:**

- (a) exhibit a copy of the arbitration agreement, a copy of the award, including the reasons of the arbitral tribunal for the award, and evidence of the consent of all other parties that an appeal may be made; and
- (b) identify the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company; the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises; where in the award and how the arbitral tribunal determined the question of law or when and how the arbitral tribunal was asked to determine the question of law; the relevant facts found by the arbitral tribunal on the basis of which the question of law is to be determined; why determination of the question of law will substantially affect the rights of one or more parties; why it is contended that the decision of the arbitral tribunal on the question of law is obviously wrong or that the question of law is of general public importance and the decision of the arbitral tribunal is open to serious doubt; and why it is just and proper in the circumstances for the question to be determined by the Court.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing and**
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Supporting Affidavit (mandatory) (must be filed and served)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 20

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

**ORIGINATING APPLICATION**

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>			
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>		
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>			
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>	<small>Country</small>
	<small>Email address</small>			
<b>Phone Details</b>	<small>Type - Number</small>			

Duplicate panel if multiple Applicants

<b>Respondent</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>
-------------------	---

## Form 20

Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Respondent			
	If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	[.....] Sheriff service requested for this Interested Party			
	If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b></p> <p>Matter Type:</p> <p>This Application is for a declaration that <i>[set out name or identity of organisation]</i>, which has</p> <p>(a) the following nature, namely <i>[set out nature]</i> and</p> <p>(b) the following distinguishing characteristics, namely <i>[set out characteristics]</i></p> <p>is a declared organisation.</p> <p>This Application is made under section 9 of the Serious and Organised Crime (Control) Act 2008.</p> <p>The Applicant seeks the following orders: Orders sought in separately numbered paragraphs.</p> <p>1.</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[Full Name]</i> on the day of 20 .</p> <p><small>The Affidavit must set out and verify the grounds and information supporting the grounds on which the declaration is sought and other matters set out in section 9(2)(b) to (f) of the Serious and Organised Crime (Control) Act 2008.</small></p>
--

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and

## Form 20

- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

Multilingual Notice (mandatory)

Supporting Affidavit (mandatory) (must be filed and served)

Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)

Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)

Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)

If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 2P

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>			
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>		
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>			
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>	<small>Country</small>
	<small>Email address</small>			
<b>Phone Details</b>	<small>Type - Number</small>			

Duplicate panel if multiple Applicants

Form 2P

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b></p> <p>Matter Type:</p> <p>This Application is for a native title declaration.</p> <p>This Application is made under section 18 of the Native Title (South Australia) Act 1994.</p> <p>The Applicant is entitled to make this application as a member of an Aboriginal group claiming native title in the land who is authorised by the Aboriginal group to make the application and to deal with matters arising in relation to the application on behalf of the group.</p> <p>The factual basis on which this is asserted is as follows:  <small>Set out the relevant facts below</small></p> <p>The Applicant seeks the following orders:                  See Schedule J.</p> <p>This Application is made on the grounds set out in the accompanying statutory declaration made by [Full Name] on the      day of      20      .</p> <p><small>Mark with an 'x' if applicable</small>  <input type="checkbox"/> The Aboriginal Group for which the native title declaration is sought does not seek registration of the claim made in the application.</p> <p>The Schedules to this application contain the following information:</p>
--

## Form 2P

**Schedule A** – A description of the persons comprising the Aboriginal group claiming native title.

The description must set out the names of the persons comprising the group or otherwise define the group sufficiently clearly so that it can be ascertained whether any particular person is a member of the group.

**Schedule B** – A definition of the land to which the application relates.

The land must be defined with sufficient particularity to enable the boundaries of the area covered by the application and any areas within those boundaries that are not covered by the application to be readily identified.

**Schedule C** – A map showing the boundaries of the area covered by the application.

**Schedule D** – Details and results of all searches carried out to determine the existence of any non-native title rights and interests in relation to the land.

**Schedule E** – A statement of the nature of the rights conferred by the native title claimed and the nature of activities that may be carried out pursuant to those rights.

**Schedule F** – A statement of the factual basis on which native title is asserted and, in particular, the factual basis on which it is asserted that –

- the Aboriginal group has, and its predecessors had, an association with the area; and
- there exist traditional laws acknowledged by, and traditional customs observed by, the Aboriginal group that give rise to the native title; and
- the Aboriginal group has continued to hold the native title in accordance with those traditional laws and customs.

**Schedule G** – Details of any activities currently carried on in relation to the land by the Aboriginal group.

**Schedule H** – Details of any other application, of which the applicant is aware, for a judicial determination of native title in the land or a determination of compensation in relation to native title in the land.

**Schedule I** – Details of notices, of which the applicant is aware, about matters that may be the subject of negotiation with the applicant if the claim is registered.

Examples –

- A notice under section 29 of the Commonwealth Act.
- A notice of the initiation of negotiations under Part 9B of the *Mining Act 1971* or Part 7 of the *Opal Mining Act 1995*.
- A notice of the intention to acquire land under the *Land Acquisition Act 1969* in a case to which Part 4 Division 1 of that Act applies.

**Schedule J** – A draft of the order sought if the application is unopposed.

**Schedule K** – The name of each representative Aboriginal body for the area covered by the application.

**Schedule L** – For the area covered by the application – details of –

- any area for which a pastoral lease is held by or on behalf of the members of the Aboriginal group;
- any area leased, held or reserved for the benefit of Aboriginal peoples that is occupied by or on behalf of the members of the Aboriginal group;
- any vacant Crown land occupied by the members of the Aboriginal group;
- any area mentioned in this Schedule over which the extinguishment of native title is required to be disregarded by section 47, 47A or 47B of the *Native Title Act 1993* (Cth).

The following Schedules are not required, but will be relevant when the Registrar considers the claim for registration:

**Schedule M** – Details of any traditional physical connection with any of the land covered by the application by any member of the Aboriginal group.

## Form 2P

**Schedule N** – Details of circumstances in which access to the area by a member or a parent of a member of the Aboriginal group has been prevented.

**Schedule O** – Details of the membership of the applicant or any other member of the Aboriginal group in another Aboriginal group –

- registered as claimants to native title in the whole or part of the area covered by this application; or
- on whose behalf an application for a native title declaration has been made in relation to native title in the whole or part of the area covered by this application.

**Schedule P** – Details of any claim by the Aboriginal group of exclusive possession of all or part of an offshore place (within the meaning of the Native Title Act 1993 (Cth)).

**Schedule Q** – Details of any claim by the Aboriginal group of ownership of minerals, petroleum or gas wholly owned by the Crown.

**Schedule R** – If the application is accompanied by a certificate of the representative Aboriginal body for the area covered by the application (or, if the body is not the representative body for the whole of the area, certificates of representative Aboriginal bodies that together are representative bodies for the whole of the area) certifying that the applicant is a member of the Aboriginal group and is authorised by the group to make the application and to deal with matters arising in relation to the application on behalf of the group, the certificate or certificates should be included in this Schedule.

**Schedule S** – If the application is an amended application, details of the difference between this application and the original application.

**Schedule T** – Any other relevant information that the applicant wants to provide.

Section 18A(2)(k) of the Act requires the application to be accompanied by a statutory declaration verifying –

- (i) the information contained in the application; and
- (ii) that the applicant is authorised by the Aboriginal group to make the application and to deal with matters arising in relation to the application on behalf of the group; and
- (iii) that the applicant believes that the native title claimed has not been extinguished and that none of the area covered by the application is the subject of a native title declaration.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

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**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.



Form 2P

**Accompanying Documents**  
 Mark appropriate sections below with an 'x'

Accompanying this Application is a:

- Multilingual Notice (mandatory) (not filed)
- Statutory declaration (mandatory)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate) (not filed)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand) (not filed)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand) (not filed)
- Schedule A (mandatory)
- Schedule B (mandatory)
- Schedule C (mandatory)
- Schedule D (mandatory)
- Schedule E (mandatory)
- Schedule F (mandatory)
- Schedule G (mandatory)
- Schedule H (mandatory)
- Schedule I (mandatory)
- Schedule J (mandatory)
- Schedule K (mandatory)
- Schedule L (mandatory)
- Schedule M
- Schedule N
- Schedule O
- Schedule P
- Schedule Q
- Schedule R
- Schedule S
- Schedule T

If other additional document(s) please list them below:

**Certification by Applicant/Applicant's solicitor [names]**

.....  
 Signature of

.....  
 Name printed

.....  
 Date

Form 2Q

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

## Form 2Q

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b></p> <p>Matter Type:</p> <p>This Application is for a native title declaration.</p> <p>This Application is made under section 18 of the Native Title (South Australia) Act 1994.</p> <p>The Applicant seeks the following orders: See Schedule F.</p> <p>This Application is made on the grounds set out in the accompanying statutory declaration made by [Full Name] on the      day of      20      .</p> <p>The Schedules to this application contain the following information:</p> <p><b>Schedule A</b> – A definition of the land to which the application relates.</p> <p>The land must be defined with sufficient particularity to enable the boundaries of the area covered by the application and any areas within those boundaries that are not covered by the application to be readily identified.</p> <p><b>Schedule B</b> – A map showing the boundaries of the area covered by the application.</p> <p><b>Schedule C</b> – A statement of the grounds on which the declaration is sought.</p> <p><b>Schedule D</b> – All information known to the applicant about the title to, and tenure of, the land and the history of the title to, and tenure of the land, including information about present and former association by Aboriginal peoples with the land.</p>
--

Form 2Q

**Schedule E** – Details of any interest held by the applicant in the area covered by the application and any document (including a document of title) or other material that is evidence of that interest.

**Schedule F** – A draft of the order sought if the application is unopposed.

**Schedule G** – Any other relevant information that the applicant wants to provide.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

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**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying this Application is a:

- Multilingual Notice (mandatory) (not filed)
- Statutory declaration (mandatory)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate) (not filed)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand) (not filed)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand) (not filed)
- Schedule A (mandatory)
- Schedule B (mandatory)
- Schedule C (mandatory)
- Schedule D (mandatory)
- Schedule E (mandatory)
- Schedule F (mandatory)
- Schedule G (mandatory)
- If other additional document(s) please list them below:

**Certification by Applicant/Applicant's solicitor [names]**

.....  
Signature of

Form 2Q

..... Name printed
..... Date

Form 2R

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

### ORIGINATING APPLICATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each Applicant. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor <small>If any</small>	Law Firm		Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Form 2R

**Application Details**

Matter type:

This Application is for registration of a judgment

Describe

This Application is made under

Specify section and Act**Original Judgment/Order/etc**

Original judgment/order etc made by:

Name of tribunal/body/etc

External reference number of original judgment/order etc:

Reference number

Date of original judgment/order etc:

If applicable

Current amount outstanding under original judgment/order etc:

Judgment amount outstanding as at the date of application**Service**

The Applicant is not required to serve a copy of this application on the Respondent.

**Accompanying Documents**Mark appropriate section below with an 'x'

Accompanying this Application is a:

[  ] sealed copy of the judgment/order etc sought to be registered (mandatory)

Form 2S

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

### ORIGINATING APPLICATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each Applicant. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor <small>If any</small>	Law Firm		Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents



Form 2S

**Application Details**

Mark appropriate sections below with an 'x'

Matter Type:

This Application is for registration of an interstate judgment.

This Application is made under section 105 of the Service and Execution of Process 1991 (Cth).

**Original Judgment**

Original judgment made by:

Name of court or tribunal

External reference number of original judgment:

Reference number of court or tribunal

Date of original judgment:

If applicable

Current amount outstanding under original judgment:

Judgment amount outstanding as at date of application

Enforceability of original judgment in original jurisdiction:

The applicant's solicitor, or if self-represented the Applicant, by filing this Application certifies that the original judgment is enforceable in the original jurisdiction and is not subject to a stay of execution in the original court.

OR

The original judgment is not enforceable in the original jurisdiction *[provide details of any reason why the original judgment is not enforceable in the original jurisdiction]*.

If applicable The original judgment is subject to a stay of execution in the original court *[provide details of any stay of execution in the original jurisdiction]*.

**Service**

The Applicant is not required to serve a copy of this application on the Respondent.

**Accompanying Documents**

Mark appropriate section below with an 'x'

Accompanying this Application is a:

sealed copy of the judgment sought to be registered (mandatory)

Form 2T

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

### ORIGINATING APPLICATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each Applicant. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor <small>If any</small>	Law Firm		Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Form 2T

**Application Details**

Matter type:

This Application is for registration of a New Zealand judgment.

This Application is made under the Trans-Tasman Proceedings Act 2010 (Cth).

**Original Judgment**The original judgment was made by: [*New Zealand Court or Tribunal*] at [*location where judgment made*] by [*name of Judge*].

External reference number of original judgment:

Reference number of court / decision makerDate of original judgment: [*Date*]Current amount outstanding under original judgment: [*Amount*]

The judgment is, or is to be treated as, a registrable New Zealand judgment for the purposes of s 66 of the Trans-Tasman Proceedings Act 2010 (Cth) for the following reasons:

Set out reasons in separate numbered paragraphs.

1.

If the judgment is a monetary judgment:

- The amount of the judgment is: \$[*currency and amount*]
- The applicant [*wants/does not want*] the judgment registered in the foreign currency in which it was given.
- The applicant wants the judgment to be registered in [*currency in which judgment is to be registered*].
- The balance remaining payable is \$ [*amount expressed in the currency in which the judgment was given*].
- The rate of interest carried by the judgment by [*New Zealand law under which it was given*] is [*rate*] %. The amount of interest which, by that law, has become due up to the time of this application is [*amount expressed in the currency in which the judgment was given*].

If the judgment is for something other than the payment of money the terms of the judgment are:

Terms of judgmentCosts of registration of the judgment are: \$[*amount and the currency*]Costs of enforcing the judgment in the original court or tribunal are [*amount calculated in accordance with s 77 of the Trans-Tasman Proceedings Act 2010 (Cth)*]. Attach all relevant documents showing costs incurred.**Service**

The Applicant is not required to serve a copy of this application on the Respondent.

**Accompanying Documents**Mark appropriate sections below with an 'x'

Accompanying this Application is:

- [  ] Relevant documentation of costs incurred (mandatory)
- [  ] Supporting Affidavit (mandatory):
- stating whether a right of appeal exists, or an appeal has been instituted, against the original judgment;
  - stating whether the original judgment is subject to a stay of execution in the original court;

## Form 2T

- stating whether the judgment is, in terms of s 75 of the Trans-Tasman Proceedings Act 2010 (Cth), capable of being enforced in the original court or tribunal or in another New Zealand court or tribunal;
- setting forth all other proceedings that have been taken for the execution or enforcement of the judgment and the extent to which the judgment has been satisfied; and
- exhibiting a sealed copy of the original judgment.

**Note to Applicant**

If not all provisions of the judgment are registrable, only provide details of the provisions for which registration is sought.

Form 2U

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**ORIGINATING APPLICATION**

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each Applicant. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm		Solicitor	
	Address for service			
Street Address (including unit or level number and name of property if required)				
City/town/suburb		State	Postcode	Country
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb		State	Postcode
Email address				
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

## Form 2U

**Application Details**

Mark appropriate sections below with an 'x'

Matter type:

This Application is for registration of a foreign judgment.

This Application is made under

- section 7 of the Foreign Judgments Act 1971 (SA).  
 section 6 of the Foreign Judgments Act 1991 (Cth).

**Original Judgment**

Original judgment made by [Court/decision maker name]

External reference number of original judgment: [reference number of court/decision maker]

Date of original judgment: [date]

Current amount outstanding under original judgment:

Judgment amount outstanding as at the date of application

**Service**

The Applicant is not required to serve a copy of this application on the Respondent.

**Accompanying documents**

Mark appropriate section below with an 'x'

Accompanying this Application is:

- Supporting Affidavit (mandatory):
- exhibiting a sealed copy of the original judgment;
  - stating whether a right of appeal exists, or an appeal has been instituted, against the original judgment;
  - stating whether the original judgment is subject to a stay of execution in the original court;
  - setting forth all other proceedings that have been taken for the execution or enforcement of the original judgment and the extent to which it has been satisfied;
  - stating whether the original judgment could be enforced in the country of the original court;
  - stating whether the original judgment is final and conclusive.

**If an application under Foreign Judgments Act 1971 (SA)**

- stating whether the jurisdiction of the original court in the cause of action is recognised under the rules of private international law;
- stating whether the circumstances in which jurisdiction was assumed by the original court justify recognition of the original judgment on the basis of comity;
- identifying why it is just and equitable that the original judgment be enforced pursuant to the provisions of the Foreign Judgments Act 1971 (SA);
- stating whether the original judgment is for the enforcement of any penal law or for the recovery of a non-recoverable tax.

**If an application under Foreign Judgments Act 1991 (Cth)**

- stating whether the original judgment is a monetary judgment or non-monetary judgment within the meaning of the Foreign Judgments Act 1991 (Cth);
- stating whether the original court is a specified court under regulations made under section 5 of the Foreign Judgments Act 1991 (Cth);
- if the original judgment is a non-monetary judgment, identifying the kind of proceedings in which the judgment was given and the kind of judgment that was given by reference to the kinds of proceedings and judgments prescribed by regulations made under section 5 of the Foreign Judgments Act 1991 (Cth);

Form 2U

- stating whether the original judgment was given by a superior court on appeal from a judgment given by an inferior court.

Form 3

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION NOTICE OF OBJECTION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
<b>Name of law firm / solicitor If any</b>	Law Firm	Solicitor	
<b>Address for service</b>	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
<b>Phone Details</b>	Type - Number		

Duplicate panel if multiple Applicants



Form 3

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Respondent If requested mark with an 'x'			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			
Service	<input type="checkbox"/> Sheriff service requested for this Interested Party If requested mark with an 'x'			

Duplicate panel if multiple Interested Parties

<p><b>Objection</b></p> <p>This Objection is made in relation to <i>[identify order or other subject of objection and Act and section or other provision under which the order or other subject of objection was made]</i> dated <i>[date]</i>.</p> <p>The Objector objects to the  <i>Identify order or particular parts of the order or other subject to which objection is taken.</i></p> <p>This Objection is made under  <i>Act and section or other particular provision</i></p> <p>The grounds of objection are:  <i>Grounds in detail in separate numbered paragraphs</i></p> <p>1.</p> <p><i>If applicable</i>                  The Objector seeks an extension of time to lodge this Objection because:  <i>Grounds in separate numbered paragraphs</i></p> <p>1.</p> <p><i>If applicable</i>                  The Objector requests that the hearing be by written submissions only because:  <i>Grounds in separate numbered paragraphs</i></p> <p>1.</p>
---

## Form 3

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [ ] Multilingual Notice (mandatory)
- [ ] Supporting Affidavit (mandatory) (must be filed and served)
- [ ] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [ ] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [ ] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
  
- [ ] If other additional document(s) please list them below:

**Note to Parties**

There can be cost penalties for making an unsuccessful application or resisting a successful application.

Form 4

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

**ORIGINATING APPLICATION FOR REVIEW**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

Form 4

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Interested Parties

<b>Application Details</b>	
Matter type:	
This Application is for review of the decision identified below that <small>Summary of decision in one sentence</small>	
This Application is made under: <small>Act and section or other source of jurisdiction</small>	
<b>Decision subject of application</b>	
Date of decision:	
Date notice of decision received:	
Tribunal/agency/decision maker being reviewed:	
Name of individual decision maker: <small>if known/applicable</small>	
Reference number of tribunal/agency/decision maker: <small>if known</small>	
Orders challenged: <small>Only the orders sought to be reviewed in separate numbered paragraphs</small>	
1.	
<b>Orders sought</b> <small>Orders sought in addition to or in place of the orders made in separate numbered paragraphs</small>	
1.	
This Application is made on the grounds set out in the accompanying affidavit sworn by [full name] on the day of 20 .	

## Form 4

If applicable

**Extension of time**

The Applicant seeks an extension of time to bring this review pursuant to  
Act and section or other particular provision

on the grounds that:

Grounds in separate numbered paragraphs

1.

If applicable

**Hearing**

The Applicant requests that the hearing be by written submissions only because

Reasons in separate numbered paragraphs

1.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit  
<https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [ ] Multilingual Notice (mandatory)
- [ ] Supporting Affidavit (mandatory) (must be filed and served)
- [ ] A copy of the original decision that is the subject of this Review (mandatory – may be exhibited to the supporting affidavit) (must be filed and served)
- [ ] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [ ] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [ ] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- [ ] If other additional document(s) please list them below:

**Note to Parties**

There can be usually cost penalties for making an unsuccessful application or resisting a successful application.

Form 4A

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION FOR REVIEW

SUPREME COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [NAME OF LIST] LIST *if applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

Form 4A

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Interested Parties

<p><b>Application Details</b></p> <p>Matter type:</p> <p>This Application is for review of the decision identified below that  <small>Summary of decision in one sentence</small></p> <p>This Application is made under the Court's common law jurisdiction.</p> <p><b>Decision subject of application</b></p> <p>Date of decision:</p> <p>Date notice of decision received:</p> <p>Tribunal/agency/decision maker being reviewed:</p> <p>Name of individual decision maker: <small>if known/applicable:</small></p> <p>Reference number of tribunal/agency/decision maker: <small>if known</small></p> <p>Orders challenged:  <small>Only the orders sought to be reviewed in separate numbered paragraphs</small></p> <p>1.</p> <p><b>Orders sought</b>  <small>Orders sought in addition to or in place of the orders made in separate numbered paragraphs</small></p> <p>1.</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[full name]</i> on the            day of            20            .</p>
--

Form 4A

If applicable

**Extension of time**

The Applicant seeks an extension of time to bring this review

on the grounds that:

Grounds in separate numbered paragraphs

1.

**To the Respondent/Interested Party: WARNING**

Directions will be given at the hearing at the date and time set out at the top of this document for the progress of this proceeding.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a **Response to Statement of Facts Issues and Contentions within 28 days after service** of this Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an **Affidavit within 28 days after service** of this Application.

If you do not do so, the Court may proceed in your absence and orders may be made for the progress of this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- Multilingual Notice (mandatory)
- Supporting Affidavit (must be filed and served)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful application or resisting a successful application.



Form 4A

**STATEMENT OF FACTS ISSUES AND CONTENTIONS**

(If Claim lodged via the Portal, complete and upload a Form 4S Statement of Facts Issues and Contentions).  
(If Claim lodged over the counter at the Registry, complete the Statement of Facts Issues and Contentions and Certification below).

**Part 1**

**Facts**

Set out succinctly the essential facts, if any, relied on that were not accepted by the decision maker in separate numbered paragraphs. Identify the decision subject to review and the relevant subject matter.

1.

**Part 2**

**Issues**

Identify succinctly the controversial issues in neutral terms in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.

1.

**Part 3**

**Contentions**

Identify succinctly the applicant's contention on each issue in separate numbered paragraphs

1.

**Part 4**

**Orders sought**

Orders sought in separate numbered paragraphs

1.

**Certification**

Mark appropriate section below with an 'x'

[ ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[ ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 4B

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### ORIGINATING APPLICATION FOR REVIEW

MAGISTRATES COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Registrar of Births, Deaths and Marriages**  
First Interested Party

Second Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants

## Form 4B

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Interested Party – Decision Maker	The Registrar of Births, Deaths and Marriages			
Address	Consumer and Business Services Births, Deaths and Marriages Level 2, 95 Grenfell Street			
	Street Address including unit or level number and name of property if required			
	Adelaide	SA	5000	Australia
	City/town/suburb	State	Postcode	Country
	<a href="mailto:registrations.bdm@agd.sa.gov.au">registrations.bdm@agd.sa.gov.au</a>			
	Email address			

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Interested Parties

<b>Application Details</b>
Matter type:
This Application is for review of the decision identified below that <small>Summary of decision in one sentence</small>
This Application is made under section 28 of the Relationships Register Act 2016.
<b>Decision subject of application</b>
Date of decision:
Date notice of decision received:
Tribunal/agency/decision maker being reviewed:
Name of individual decision maker: <small>if known/applicable</small>

## Form 4B

Reference number of tribunal/agency/decision maker: If known

**Orders challenged:**  
Only the orders sought to be reviewed in separate numbered paragraphs  
 1.

**Orders sought**  
Orders sought in addition to or in place of the orders made in separate numbered paragraphs  
 1.

This Application is made on the grounds set out in the accompanying affidavit sworn by *[full name]* on the      day of      20      .

If applicable  
**Extension of time**  
 The Applicant seeks an extension of time to bring this review

on the grounds that:  
Grounds in separate numbered paragraphs  
 1.

If applicable  
**Hearing**  
 The Applicant requests that the hearing be by written submissions only because:  
Reasons in separate numbered paragraphs  
 1.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of this Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of this Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court (including the Registrar of Births, Deaths and Marriages).

**Accompanying Documents**  
Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

Multilingual Notice (mandatory if any respondent or interested party other than the Registrar)  
 Supporting Affidavit

## Form 4B

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | A copy of the original application to the Registrar of Births, Deaths and Marriages (must be filed and served unless exhibited to affidavit)                     |
| <input type="checkbox"/> | A copy of the original decision and written reasons for the decision that is the subject of this Review (must be filed and served unless exhibited to affidavit) |
| <input type="checkbox"/> | Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)                                   |
| <input type="checkbox"/> | Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)  |
| <input type="checkbox"/> | Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)                       |
| <input type="checkbox"/> | If other additional document(s) please list them below:  |

Form 4S

## STATEMENT OF FACTS, ISSUES AND CONTENTIONS

### Part 1

#### Facts

Set out succinctly the essential facts, if any, relied on that were not accepted by the decision maker in separate numbered paragraphs. Identify the decision subject to review and the relevant subject matter.

1.

### Part 2

#### Issues

Identify succinctly the controversial issues in neutral terms in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.

1.

### Part 3

#### Contentions

Identify succinctly the applicant's contention on each issue in separate numbered paragraphs

1.

### Part 4

#### Orders sought

Orders sought in separate numbered paragraphs

1.

Form 4S

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[    ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[    ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---

Form 5

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### APPEAL AGAINST ADMINISTRATIVE DECISION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Applicant</b>	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>		
<b>Name of law firm / solicitor</b> <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>	
<b>Address for service</b>	<small>Street Address (including unit or level number and name of property if required)</small>		
	<small>City/town/suburb</small>	<small>State</small>	<small>Postcode</small>
	<small>Country</small>		
	<small>Email address</small>		
<b>Phone Details</b>	<small>Type - Number</small>		

Duplicate panel if multiple Applicants



Form 5

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Interested Parties

<p><b>Appeal details</b></p> <p>Matter type:</p> <p>The Applicant appeals to the Court against the decision identified below that  <small>Summary of decision in one sentence</small></p> <p>This Appeal is brought under  <small>Act and section or other particular provision</small></p> <p><b>Decision subject of appeal</b></p> <p>Date of decision:</p> <p>Date notice of decision received:</p> <p>Tribunal/agency/decision maker being reviewed:</p> <p>Name of individual decision maker: <small>If known/applicable</small></p> <p>Reference number of tribunal/agency/decision maker: <small>If known</small></p> <p>Orders challenged:  <small>Only the orders sought to be reviewed in separate numbered paragraphs</small></p> <p>1.</p> <p><b>Orders sought</b>  <small>Orders sought in addition to or in place of the orders made in separate numbered paragraphs</small></p> <p>1.</p> <p>This Application is made on the grounds set out in the accompanying affidavit sworn                      by [full name] on the day of 20 .</p>
--

## Form 5

If applicable

**Extension of time**

The Applicant seeks an extension of time to bring this Appeal pursuant to  
Act and section or other particular provision

on the grounds that:

Grounds in separate numbered paragraphs

1.

If applicable

**Hearing**

The Applicant requests that the hearing be by written submissions only because:

Reasons in separate numbered paragraphs

1.

**To the other parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you must attend the hearing and
- you must file and serve on all parties a Response within 14 days after service of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you must file and serve on all parties an Affidavit within 14 days after service of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- [ ] Multilingual Notice (mandatory)
- [ ] Supporting Affidavit (mandatory) (must be filed and served)
- [ ] A copy of the original decision the subject of this Appeal (mandatory – may be exhibited to the supporting affidavit) (must be filed and served)
- [ ] Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- [ ] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [ ] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- [ ] If other additional document(s) please list them below:

**Note to Parties**

There can be cost penalties for making an unsuccessful Appeal or resisting a successful Appeal.

Form 5A

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

### APPEAL AGAINST ADMINISTRATIVE DECISION

MAGISTRATES COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

Applicant

**Registrar of Motor Vehicles**  
Interested Party

<b>Applicant</b>	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
<b>Name of law firm / solicitor</b> If any	Law Firm	Solicitor	
<b>Address</b>	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
<b>Phone Details</b>	Type - Number		

<b>Interested Party – Decision Maker</b>	<b>Registrar of Motor Vehicles</b>		
	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
<b>Address</b>	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		

Form 5A

Phone Details	
	<small>Type - Number</small>

<p><b>Appeal Details</b>  <small>Mark appropriate sections below with an 'x'</small></p> <p>The Applicant appeals to the Court against the action identified below disqualifying the Applicant from holding or obtaining a</p> <p><input type="checkbox"/> probationary  <input type="checkbox"/> provisional</p> <p>licence under section 81B of the Motor Vehicles Act 1959.</p> <p><b>Administrative action subject of appeal</b></p> <p>Applicant's licence number: [<i>licence number</i>]</p> <p>Tribunal/agency/decision maker being reviewed: Registrar of Motor Vehicles.</p> <p>Orders challenged: whole.</p> <p><b>Eligibility to appeal</b></p> <p>Is, or was, the Applicant entitled to elect to enter into a Safer Driver Agreement in lieu of suffering the disqualification?  <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>Has the Applicant been disqualified from holding or obtaining a permit or licence within the last 5 years?  <input type="checkbox"/> yes <input type="checkbox"/> no.</p> <p>Has an appeal by the Applicant against a disqualification of licence under section 81B of the Motor Vehicles Act 1959 been allowed within the last 5 years?  <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p><b>Grounds of appeal</b>  <small>Describe why the disqualification would result in severe and unusual hardship to you or your dependant(s):</small></p> <p>1.</p> <p><b>Orders sought</b></p> <p>1. Removal of the disqualification.</p>
--

<p><b>To the Applicant: WARNING</b></p> <p>This Appeal will be considered at the hearing at the date and time set out at the top of this document.</p> <p><b>You must attend the hearing.</b> If you do not attend the hearing, your Appeal may be dismissed. Any remaining period of licence cancellation and disqualification will operate from the time of the dismissal.</p> <p><b>You must be prepared to give evidence</b> as to the forms of transport available if you are disqualified and why this transport does not meet your needs or the needs of a dependant.</p> <p>The penalty for driving while disqualified is imprisonment for up to 6 months for a first offence or up to 2 years for a second offence.</p>
--

Form 5A

**To the Registrar of Motor Vehicles: WARNING**

This Appeal will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Appeal or make submissions about it:

- you **must** attend the hearing and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit** or provide other evidence as to previous offences relating to the applicant's use of the vehicle **within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

**Service**

The Registrar will serve a copy of this application on the Registrar of Motor Vehicles and the Applicant is not required to do so.

**Accompanying Documents**

Mark appropriate sections below with an 'x':

Accompanying this Application is a:

- [  ] copy of the cancellation/disqualification notice (mandatory unless exhibited to affidavit)
- [  ] If other additional document(s) please list them below:

Form 6

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

### INTERPLEADER

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Interested Party

Filed by the Applicant			
Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

## Form 6

Service	<input type="checkbox"/> Sheriff service requested for this Interested Party <small>If requested mark with an 'x'</small>
---------	--

Duplicate panel if multiple Interested Parties

<p><b>Proceeding Details</b> Mark appropriate sections below with an 'x'</p> <p>This proceeding relates to:</p> <p><input type="checkbox"/> property/money (if Applicant holds or controls property or money in which the party claims no beneficial interest) under <small>State Act/Rule and particular provision</small></p> <p><input type="checkbox"/> money paid into Court under  <input type="checkbox"/> section 23A(3) of the Land Acquisition Act 1969.  <input type="checkbox"/> section 47 of the Trustee Act 1936.  <input type="checkbox"/> other  <small>Detail Act and particular provision</small></p> <p><input type="checkbox"/> document lodged in Court under  <input type="checkbox"/> section 23B of the Land Acquisition Act 1969.  <input type="checkbox"/> other  <small>Detail Act and particular provision</small></p>
---

<p><small>If applicable</small></p> <p><b>Property Details</b></p> <p>Property/money subject of interpleader:</p> <p>Property held/controlled by Applicant because: <small>Reasons in separately numbered paragraphs</small></p> <p>1.</p> <p>Reason for interpleader: <small>Reasons in separately numbered paragraphs</small></p> <p>1.</p>
---

<p><small>If applicable</small></p> <p><b>Payment Details</b> Mark appropriate sections below with an 'x'</p> <p>Type of payment:  <input type="checkbox"/> cash  <input type="checkbox"/> bank  <input type="checkbox"/> other  <small>Nature and details</small></p> <p>Amount of payment:</p> <p>The monies are paid into Court in respect of  <input type="checkbox"/> land at:  <input type="checkbox"/> a trust being:  <input type="checkbox"/> other  <small>Identify</small></p> <p>The payment is pursuant to:  <input type="checkbox"/> Court order made on [date] by [Judicial Officer].  <input type="checkbox"/> Act or Rule  <small>Specific Act and section/Rule number</small></p> <p>Reason for payment: z</p>
--

## Form 6

If applicable

**Lodgement Details**

Subject matter of lodgement:

Reason for lodgement:

The document has been lodged in Court in respect of

 land at: [*location*] other

Identify

**To the Interested Parties: WARNING**

If you wish to seek orders in relation to the subject matter of this proceeding, you should file an Interlocutory Application with supporting Affidavit.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying this Application is a:

 Supporting Affidavit (mandatory) If other additional document(s) please list them below:



Form 6A

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**INTERPLEADER**

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [MINOR CIVIL] if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

**Small Business Commissioner**  
 Applicant

First Interested Party

Applicant	Small Business Commissioner		
	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor If any	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode Country
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

<b>Interested Party: Lessee</b>			
Lessee	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode Country
	Email address		
Phone Details	Type - Number		

Form 6A

Service	[ <input type="checkbox"/> ] Sheriff service requested for this Interested Party <small>If requested mark with an 'x'</small>
---------	--

Duplicate panel if multiple Lessees

<b>Interested Party: Lessor</b>			
Lessor	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	[ <input type="checkbox"/> ] Sheriff service requested for this Interested Party <small>If requested mark with an 'x'</small>		

Duplicate panel if multiple Lessors

<b>Proceeding Details</b>
Matter Type:
This proceeding relates to money being a bond held by the Small Business Commissioner and is referred to the Magistrates Court of South Australia under section 20(6) of the Retail and Commercial Leases Act 1995.

<b>Property Details</b>
Money subject of interpleader: security bond of \$[amount] paid on [date] in respect of a retail shop [name and address].
Property [held/controlled] by Applicant because the security bond was paid pursuant to section 19 of the Retail and Commercial Leases Act 1995.
Reason for interpleader: security bond is in dispute.

<b>To the Interested Parties: WARNING</b>
The Small Business Commissioner has referred this matter to the Court for determination regarding a dispute over a security bond. The referral will be considered at the hearing at the date and time set out at the top of this document.
If you wish to make submissions about the repayment of the security bond, you must attend the hearing. If you do not attend the Court hearing orders may be made without further warning.

<b>Service</b>
The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

Form 6A

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Application is a:

- Supporting Affidavit (optional)
- Multilingual Notice (mandatory)
- Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate)
- Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- If other additional document(s) please list them below:

Form 7

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>

**ORIGINATING APPLICATION EX PARTE**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

<b>Applicant</b>	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
<b>Name of law firm / solicitor</b> If any	Law Firm	Solicitor	
<b>Address for service</b>	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
<b>Phone Details</b>	Type - Number		

Duplicate panel if multiple Applicants

<p><b>Application Details</b>                  Mark appropriate sections below with an 'x'</p> <p>Matter Type:</p> <p>This Application is for                  Nature of application in one sentence</p> <p>This Application is made under                  Act and section or other particular provision</p> <p>The Applicant seeks the following orders:                  Orders sought in separately numbered paragraphs</p> <p>1.</p>
---

## Form 7

<p>This Application is made on the grounds set out in the accompanying affidavit sworn by <i>[full name]</i> on the _____ day of _____ 20____.</p> <p>If applicable <b>Extension of time</b> The Applicant seeks an extension of time to institute this action pursuant to: <input type="checkbox"/> section 48 of the Limitation of Actions Act 1936 <input type="checkbox"/> other State section and Act</p> <p>The grounds for seeking an extension are set out in the accompanying affidavit.</p>
---

<p><b>Accompanying Documents</b> Mark appropriate sections below with an 'x'</p> <p>Accompanying this Application is a:</p> <p><input type="checkbox"/> Supporting Affidavit (mandatory) <input type="checkbox"/> If other additional document(s) please list them below:</p>
---

Form 7A

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**ORIGINATING APPLICATION EX PARTE**

SUPREME COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name of the Applicant.

Applicant

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

**Application Details**

This Application is for admission as a barrister and solicitor of the Supreme Court of South Australia.

This Application is made under section 15 of the Legal Practitioners Act 1981.

This Application is made on the grounds set out in the accompanying affidavit sworn by the applicant on the    day  
of                    20    .

**Accompanying Documents**

Mark appropriate section below with an 'x'

Accompanying this Application is a:

[    ] Supporting Affidavit (mandatory)







Form 7C

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p>Hearing Date and Time:</p> <p>Hearing Location:</p>

### ORIGINATING APPLICATION EX PARTE

SUPREME COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name of the Applicant.

First Applicant

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

<p><b>Part A: Formal Particulars</b></p> <p>Date of birth: <i>[date]</i></p> <p>Academic qualifications: <i>[name] [university/institution] [date of conferral]</i></p> <p>Date and place of first admission as legal practitioner: <i>[date] [jurisdiction]</i></p> <p>Date and admission as legal practitioner in South Australia: <i>[date]</i></p> <p>Date of joining independent bar: <i>[date/not applicable]</i></p> <p>Year of first application for Senior Counsel: <i>[year/not applicable]</i></p> <p>Year of last application for Senior Counsel: <i>[year/not applicable]</i></p>
--

## Form 7C

**Part B: Areas of practice**

Narrative description of Applicant's practice including main areas of practice and the courts or tribunals in which she or he predominantly practices.

**Part C: Details of recent cases** — Detail multiple if applicable**(1) Substantial cases in last 18 months**

Parties: *[name]*

Citation: *[citation/not applicable]*

Court: *[name]*

Judicial officer/arbitrator/mediator: *[name]*

Instructing solicitor: *[name]*

Counsel by whom led: *[name/not applicable]*

Counsel led by Applicant: *[name/not applicable]*

Opposing counsel: *[name]*

**(2) Selected cases in the last 2 years**

Brief précis of cases which evidence attainment of the standard of Senior Counsel (up to 10 cases).

Identification of case: *[identification]*

Precis: *[precis]*

**Part D: Supporting submission**

Reasons why Applicant is suitable for appointment as Senior Counsel addressing all the criteria set out in rule 332(2) including why cases referred to in Part C (2) evidence attainment of the standard of Senior Counsel.

**Part E: Complaint history**

Provide multiple entries where applicable.

**(1) Complaints**

Applicable: *[yes/no]*

Date of complaint: *[date]*

Name of complainant: *[name]*

Subject of complaint: *[summary of complaint]*

Complaint finalised: *[yes/no]*

Date of finalisation of complaint: *[date/not applicable]*

## Form 7C

Body/person determining complaint: <i>[name/not applicable]</i>
Outcome of complaint: <i>[date/not applicable]</i>
<b>(2) Offences</b>
Applicable: <i>[yes/no]</i>
Date of conviction/finding of guilt: <i>[date]</i>
Court: <i>[name]</i>
Offence: <i>[name/section]</i>
Offence details: <i>[offence details]</i>
Outcome/penalty: <i>[date/not applicable]</i>
<b>(3) Professional negligence findings</b>
Applicable: <i>[yes/no]</i>
Date of finding: <i>[date]</i>
Court: <i>[name]</i>
Order: <i>[order]</i>
Type of negligence: <i>[type]</i>
Finding details: <i>[details]</i>
<b>(4) Notifications to insurer</b>
Applicable: <i>[yes/no]</i>
Date of notification: <i>[date]</i>
Name of claimant/potential claimant: <i>[name]</i>
Subject of claim/potential claim: <i>[summary of claim/potential claim]</i>
<b>(5) Personal costs orders</b>
Applicable: <i>[yes/no]</i>
Date of order: <i>[date]</i>
Court: <i>[name]</i>
Order: <i>[order]</i>
Ground for order: <i>[ground]</i>
Finding details: <i>[details]</i>
<b>(6) Insolvency</b>
Applicable: <i>[yes/no]</i>
Date of bankruptcy/personal insolvency agreement: <i>[date]</i>
Type: <i>[bankruptcy/personal insolvency agreement]</i>

## Form 7C

Court making order: *[name/not applicable]*

Circumstances giving rise to insolvency order: *[circumstances]*

Discharged: *[yes/no]*

Date of discharge: *[date]*

Return to creditors: *[details]*

**(7) Any other relevant matters**

Applicable: *[yes/no]*

Subject matter: *[subject]*

Details: *[details]*

**Part F: Referees****(1) Judicial**

First referee: *[name] [name of court/tribunal/other]*

Second referee: *[name] [name of court/tribunal/other]*

Third referee: *[name] [name of court/tribunal/other]*

**(2) Non-judicial**

First referee: *[name] [description of role/position]*

Second referee: *[name] [description of role/position]*

**(3) Any additional referees Optional**

Referee: *[name] [description of role/position]*

**(4) Any references Optional**

References are attached to this application: *[yes/no]*

**Part G: Certification and acknowledgement**

I certify that the information provided in this application is correct to the best of my knowledge and belief and that there are no other matters of which I am aware that may provide a reason why I should not be appointed Senior Counsel.

I acknowledge that the Chief Justice, the Court, the advisory committee and persons the advisory committee may consult may make enquiries of the persons referred to in the application and such other persons as it or they think fit in relation to my application. I authorise such enquiries to be made and acknowledge that it will be done on a confidential basis and that the information received from such enquiries and provided by such third parties is confidential as against me and I cannot require disclosure of it.

I agree to confidential enquiries being made of the Legal Profession Conduct Commissioner or any other regulatory body about any matter or circumstances, either past or anticipated that may adversely affect my fitness or propriety to hold an appointment as Senior Counsel. I agree that the Legal Profession Conduct Commissioner and any such other regulatory body as may be consulted may provide to the advisory committee and the Chief Justice, on a confidential basis, all information necessary to answer such enquiries.

Form 7C

I undertake to notify the Chief Justice in the event that any new matter arises that would be required to be disclosed in this application.

**Accompanying Documents**

Mark appropriate section below with an 'x'

Accompanying this Application is a:

Reference or references (optional)



Form 8

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs

1.

Form 8

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[    ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[    ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---





Form 8A

**Part 3**  
**Other facts forming the basis of the claim**  
Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.  
1.

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'x'

[ ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[ ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date



Form 8B

**Part 3**  
**Other facts forming the basis of the claim**  
Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.  
1.

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'X'

[ ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[ ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date



Form 8C

**Part 3**  
**Other facts forming the basis of the claim**  
Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – e.g. when did it occur, where did it occur, what occurred.  
1.

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'x'

[ ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[ ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 9

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**CONSOLIDATED PLEADING UPDATED BY [PARTY TITLE] ON [DATE]  
[CROSS] CLAIM BY [PARTY TITLE] AGAINST [PARTY TITLE]**

[SUPREME/DISTRICT/MAGISTRATES] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [FULL COURT/MINOR CIVIL] If applicable  
 [NAME OF LIST] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Third party

First Interested Party

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor <small>If any</small>	Law Firm	Solicitor

Form 9

**CONSOLIDATED PLEADING**

<i>[party title]</i> Pleadings	<i>[party title]</i> Responses
<p><b>Part 1</b>  <b>Introduction</b>                      Summary of claim  <small>Summarise the claim in one or two sentences.</small></p> <p>Legal basis of claim  <small>List causes of action/statutory claims.</small></p>	
<p><b>Part 2</b>  <b>Background/uncontroversial matters</b>  <small>Set out facts expected to be agreed in separate numbered paragraphs.</small></p> <p>1.                      Reply:</p>	
<p><b>Part 3</b>  <b>Other facts forming the basis of claim</b>  <small>Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.</small></p> <p>1.                      Reply:</p>	
<p><b>Part 4</b>  <b>Orders sought</b>  <small>Orders sought in separate numbered paragraphs.</small></p> <p>1.                      Reply:</p>	



Form 9

<p><b>Certification</b> Mark appropriate section below with an 'x'</p> <p>[ ] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.</p> <p>[ ] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.</p> <p>..... Signature</p> <p>..... Name printed</p> <p>..... Date</p>
---

Form 10

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**AFFIDAVIT OF PERSONAL INJURY PARTICULARS**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*MINOR CIVIL*] if applicable  
 [*NAME OF LIST*] LIST if applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor <small>If any</small>	Law Firm	Solicitor

Duplicate panel if multiple Applicants

Applicant Details	
Date of Birth	
Marital Status	
Dependant children	
Occupation at the time of the injury	
Occupational/employment history for the 3 years prior to the injury	<small>Set out dates for each occupation where relevant</small>
All educational, trade or other occupational qualifications achieved and dates of achievement	

Duplicate panel if multiple Applicants

## Form 10

<b>General Damages</b>	
Parts of body injured	
Nature of the injuries: Describe injuries, e.g. broken bone, sprain, bruising, ligamentous	
Scars: if any Describe scars	
Parts of the body lost: if any Describe parts, e.g. tooth, eye, finger, leg	
Periods spent in hospital: if any If more than one period, please provide particulars e.g. dates	
Periods off work: if any Please give dates, name and address of employer	
Work after the injury: Please give details of any employment and dates of employment since the injury	
Attempts to obtain work after the injury: Please provide details of each attempt to obtain employment including the outcome of the attempt	

Form 10

<p>Loss of ability to perform:</p> <p>(a) Domestic tasks, types of tasks and for how long:</p> <p>(b) Recreational activity – types of activities and how long:  <small>e.g. sport, social life, gardening</small></p>
<p>Symptoms still being experienced: <i>if any</i></p>
<p>Permanent disabilities/impairments stated by your medical advisors:</p>
<p>Do your medical advisors state that you have any psychiatric problems caused by the accident?  <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, provide details:</p>
<p><b>Any unrelated injuries</b>  <small>If you have suffered any other injuries before or after the accident/incident, complete the following detail</small></p>
<p>Dates of unrelated injuries, where and how they occurred:</p>
<p>Nature of unrelated injuries:</p>
<p>Ongoing effects or disabilities from unrelated injuries: <i>if any</i></p>

Form 10

**Compensation received for or in relation to other injuries: if any**  
 If Court proceedings were started with respect to unrelated injuries, identify the Court, the Court action number and the result. You may get this information from the Court that you used

**Worker's compensation payments received for or in relation to other injuries and periods for which the payments were made: if any**  
 Payments received and periods for which they were made

**Medical Treatment & Expenses**  
 Give details of the names and addresses of all medical practitioners, dentists, physiotherapists, chiropractors, psychologists and any other health professionals whom the applicant has consulted in relation to the injury caused by the accident/ incident with the dates of each consultation. If a claim is being made for the cost of any consultation fill in the last two columns and be prepared to produce receipts for each amount claimed

Name	Address	Dates Consulted	Fee	Mark if paid
			\$	[ ]
			\$	[ ]
			\$	[ ]
			\$	[ ]
			\$	[ ]

**IMPORTANT NOTICE**  
 If you intend to call any medical or other expert witnesses at the trial, you must obtain a written report from the proposed witness and supply a copy of that report to the Court and the respondent within the time fixed by the Rules of Court.

**Loss of Income**

Name and address of employer on the date of the accident/incident: if any

Date of commencement of the employment held at the date of the accident/incident: if any

## Form 10

Periods off work as a result of the injury: <i>if any</i> <i>If more than one period give the details</i>
Change of duties or hours resulting in a loss of income as a result of the injury, the loss of income after tax and the period during which the loss occurred: <i>if any</i>
Money received for worker's compensation, insurance, Centrelink or other compensation received with respect to loss of income and give details of the periods to which they related: <i>if any</i>
Gross annual taxable income and the total income tax paid with respect to that income for the 3 financial years immediately prior to the accident/incident: <i>if any</i>
Gross annual taxable income and the total income tax paid with respect to that income in relation to the financial years after the injuries were suffered in respect of which any loss of income is claimed: <i>if any</i>
Attempts to obtain alternative employment since the accident/incident: <i>if any</i>
<b>Future Loss of Income</b>
Disability arising from the accident/incident which will in the future affect your ability to earn income and the expected effect: <i>if any</i>
<b>Claim for Domestic Help</b>
Help given to you since the accident/incident by your parent, spouse or child and the periods during which the services were given by each: <i>if any</i>

## Form 10

Help given to you by people other than your parent, spouse or child, the periods during which you received the help, the person supplying the help and any money paid to them: <i>if any</i>	
<b>Summary of Monetary Claims</b> For each of the following heads, state the amount claimed and how you worked it out	
Special damages, medical and other treatment expenses:	\$
Loss of past income:	\$

Deponent Details			
Deponent	Full Name		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
Occupation	Email address		
	Occupation		

Form 10

**Affidavit**

Mark appropriate section below with an 'x'

I [ ] swear on oath / [ ] do truly and solemnly affirm that the information contained in this form is true and correct to the best of my knowledge and belief.

Deposed by the deponent

At

On

.....  
Signature of deponent

.....  
Name printed

before me .....  
Signature of attesting witness

.....  
Printed name and title of witness  
Stamp here if applicable

.....  
Date

.....  
ID number of witness  
If applicable

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.



Form 11

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
--

**STATEMENT OF FACTS ISSUES AND CONTENTIONS**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*FULL COURT/MINOR CIVIL*] If applicable  
 [*NAME OF LIST*] LIST (if applicable)

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Lodging Party	<small>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</small>	
Name of law firm / solicitor <small>If any</small>	<small>Law Firm</small>	<small>Solicitor</small>

<p><b>Revision Number:</b></p> <p><b>Part 1</b>  <b>Facts</b>  <small>Set out succinctly the essential facts, if any, relied on that were not accepted by the decision maker in separate numbered paragraphs. Identify the decision subject to review and the relevant subject matter.</small>                      1.</p> <p><b>Part 2</b>  <b>Issues</b>  <small>Identify succinctly the controversial issues in neutral terms in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred.</small>                      1.</p>
---

Form 11

**Part 3**  
**Contentions**  
Identify succinctly the applicant's contention on each issue in separate numbered paragraphs  
1.

**Part 4**  
**Orders sought**  
Outline orders sought in separate numbered paragraphs  
1.

**Certification**  
Mark appropriate section below with an 'x'

] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date

Form 12

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**AFFIDAVIT**

[SUPREME/DISTRICT/MAGISTRATES] Delete all but one COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [FULL COURT/MINOR CIVIL] If applicable  
 [NAME OF LIST] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First [Applicant/Appellant]

First Respondent

First Interested Party

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor If any	Law Firm	Solicitor

<b>Deponent Details</b>			
Deponent	Full Name		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Occupation	Occupation		

Form 12

**Affidavit**  
 Mark appropriate section below with an 'x'

I [ ] swear on oath / [ ] do truly and solemnly affirm that:  
Set out text in separate numbered paragraphs  
 If the affidavit relates to an application, identify the application and state the material facts relevant to the application

1.

Deposed by the deponent (person who is swearing/affirming the affidavit)

At

On

.....  
 Signature of deponent

.....  
 Name printed

before me .....  
 Signature of attesting witness

.....  
 Printed name and title of witness  
Stamp here if applicable

.....  
 Date

.....  
 ID number of witness  
If applicable

**Instructions**

- Each page of the affidavit, including any exhibit(s), must be consecutively numbered starting with page 2.
- The affidavit should be confined to facts and should not include submissions.
- The affidavit should not reproduce material already contained in affidavits or other material already filed in the matter. It should not exhibit documents already exhibited to affidavits filed in the matter. In both cases it is sufficient to simply refer to such material or documents and the place where they may be found.
- An exhibit to an affidavit must be clearly marked to identify it as the exhibit referred to in the affidavit.

## Form 12

- A single 'front page' must be inserted in front of the exhibits in form 14.
- Each page of the affidavit (but not any exhibit) must be signed by both the deponent and the witness.
- An affidavit is to be sworn if it is made in this State in accordance with section 6 of the Evidence Act 1929 or, if made elsewhere, in accordance with the law for the taking of oaths or the making of affirmations in that place.
- The deponent must swear or affirm the affidavit before a person authorised by law to witness the swearing or affirming of affidavits ('the witness'). Persons authorised to witness an affidavit are:
  - (a) a Registrar or Deputy Registrar
  - (b) any other officer of the Court whom the Registrar has assigned for this purpose;
  - (c) a public notary;
  - (d) a commissioner for taking affidavits;
  - (e) a justice of the peace for South Australia;
  - (f) any other person authorised by law to take affidavits.
- The contents of an affidavit cannot be altered after the affidavit has been sworn or affirmed.
- The party serving an affidavit must serve copies of all exhibits with the affidavit.

If the deponent is illiterate or blind, see rule 31.7(6). If the deponent does not appear to understand English sufficiently, see rule 31.7(7).

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

Form 12A

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

**AFFIDAVIT**

SUPREME COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION

Please specify the Full Name of the Applicant.

Applicant

Filed by the Applicant	
Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))

Deponent Details	Full Name		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Occupation	Occupation		

<p><b>Affidavit</b> Mark appropriate sections below with an 'x'</p> <p>I [    ] swear on oath / [    ] do truly and solemnly affirm that:</p> <p>1. My date of birth is</p> <p>2. I have complied with the academic requirements for admission by completing [    ] an academic qualification pursuant to LPEAC Rule 7(2); or [    ] academic requirements specified by the Board of Examiners pursuant to LPEAC rule [16/17]</p> <p>3. [    ] A true copy, certified by the attesting witness to this affidavit, of the official academic transcript dated [date] evidencing that I have completed the academic qualification or requirements referred to in paragraph 2 above is now shown to me marked 'A'. I am the person therein named.</p> <p>OR</p>
---

## Form 12A

[ ]	A digital copy of the official academic transcript dated [date] evidencing that I have completed the academic qualification or requirements referred to in paragraph 2 above is available to be viewed at [link].
[ ]	If applicable The name which appears on the above document is different to my current name shown above. The reason for the difference is [explain why name is different eg maiden name shown in document but now have married name]. Now shown to me marked 'B' is a copy, certified by the attesting witness to this affidavit, of proof that I am the person named in the above document. For example a marriage certificate or certificate of legal change of name
4.	I have complied with the practical requirements for admission by completing <input type="checkbox"/> a course of study pursuant to LPEAC Rule 8(1)(b); or <input type="checkbox"/> practical requirements specified by the Board of Examiners pursuant to LPEAC rule [16/17]
5.	<input type="checkbox"/> A true copy, certified by the attesting witness to this affidavit, of the original certificate dated [date] evidencing that I have completed the practical requirements for admission referred to in paragraph 4 above is now shown to me marked 'C'. I am the person therein named.  <input type="checkbox"/> A digital copy of the original certificate dated [date] evidencing that I have completed the practical requirements for admission referred to in paragraph 4 above is available to be viewed at [link].  <input type="checkbox"/> If applicable The name which appears on the above document is different to my current name shown above. The reason for the difference is [explain why name is different eg maiden name shown in document but now have married name]. Now shown to me marked 'D' is a copy, certified by the attesting witness to this affidavit, of proof that I am the person named in the above document. For example a marriage certificate or certificate of legal change of name
6.	A certified true copy of my [driver's licence/passport/birth certificate] is now shown to me marked 'E'. I am the person therein named.
7.	I have read the Disclosure Guidelines for Applicants for Admission to the Legal Profession issued by the Law Admissions Consultative Committee contained in Appendix D of the LPEAC Rules.
8.	I have not been convicted or found guilty by a Court of any offences, nor, as far as I am aware, are there any charges or proceedings outstanding against me in relation to any offence or offences alleged to have been committed by me [except [that/those] referred to in Exhibit "F"]. <small>Full details must be given in relation to each offence or alleged offence in a separate statement, which is to be exhibited to the affidavit in a sealed envelope, of the date and nature of the charge, the Court in which it was or will be heard, the sentence (if any) imposed, and the circumstances in which the offence was or is alleged to have been committed.</small>
9.	I have not otherwise done or suffered anything likely to affect adversely my good fame and character, nor am I aware of any circumstances that might affect my fitness to be admitted as a practitioner [except - set out any facts or circumstances that the applicant is required to bring to the notice of the Board of Examiners]. <small>Matters that must be disclosed include that the applicant is or has been bankrupt and the circumstances of bankruptcy or has been found to have engaged in academic dishonesty such as plagiarism.</small>
10.	I authorise the Board of Examiners to obtain from any institution at which I have pursued any course of study as part of the academic or practical requirements for admission, such information as the Board may think fit and in such form as the Board may request as to any matter relevant to the course of study, including information as to whether during the course of study I engaged in any dishonest conduct including plagiarism or other conduct relevant to the determination of whether I am a fit and proper person to be admitted as a practitioner.
11.	I do not suffer from any illness or condition, either permanently or intermittently, that might be considered to affect my ability to perform all the duties and responsibilities reasonably required of a legal practitioner adequately or safely [except - set out the facts and circumstances relating to any relevant illness or condition].
12.	<input type="checkbox"/> English is my native language. <input type="checkbox"/> English is not my native language. I am sufficiently fluent in written and spoken English to enable me to practise as a practitioner.
13.	<input type="checkbox"/> I have not previously been admitted to practise law in Australia. <input type="checkbox"/> I was admitted to practise in [State or Territory] on [date of first admission] and I remain enrolled as a practitioner of that jurisdiction. I have not at any time been struck off the Roll of Practitioners or otherwise been suspended from practise and I am not presently subject to any disciplinary inquiry or proceeding.
14.	I have in all other respects complied with Chapter 20 Part 7 of the Uniform Civil Rules and the LPEAC Rules 2018.

Form 12A

Deposed by the deponent	
At	
On	
.....	
Signature of	
.....	
Name printed	
.....	
before me .....	
Signature of attesting witness	and I certify that I have sighted the original certified documents referred to by the deponent in this affidavit and certify that the documents are true and correct copies
.....	
Printed name and title of witness	
<small>Stamp here if applicable</small>	
.....	
Date	
.....	
ID number of witness	
<small>If applicable</small>	



Form 13

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
---

## STATUTORY DECLARATION

[*SUPREME/DISTRICT/MAGISTRATES*] ~~Delete all but one~~ COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 [*FULL COURT/MINOR CIVIL*] *If applicable*  
 [*NAME OF LIST*] LIST *If applicable*

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor If any	Law Firm	Solicitor

Form 13

<b>Declarant Details</b> Person making the Declaration	<b>Full Name</b>		
<b>Address</b>	<b>Street Address (including unit or level number and name of property if required)</b>		
	<b>City/town/suburb</b>	<b>State</b>	<b>Postcode</b>
	<b>Country</b>		
<b>Occupation</b>	<b>Email address</b>		
	<b>Occupation</b>		

**Statutory declaration**

I do solemnly and sincerely declare that:  
 Set out text in separate numbered paragraphs. If the declaration relates to an application, identify the application and state the material facts relevant to the application.

1.

Declared by the declarant

at

on

.....  
 Signature of declarant

.....  
 Name printed

before me .....  
 Signature of attesting witness

.....  
 Printed name and title of witness  
 Stamp here if applicable

.....  
 Date

.....  
 ID number of witness  
 If applicable

## Form 13

**Notes**

- Each page of the statutory declaration, including any exhibit(s), must be consecutively numbered starting with page 2. The declaration should be confined to facts and should not include submissions.
- The declaration should not reproduce material already contained in affidavits or other material already filed in the matter. It should not exhibit documents already exhibited to affidavits filed in the matter. In both cases it is sufficient to simply refer to such material or documents and the place where they may be found.
- An exhibit to a statutory declaration must be clearly marked to identify it as the exhibit referred to in the declaration.
- A single 'front page' must be inserted in front of the exhibits in form 14. The front page must include the declarant's initials followed by a number, starting with 1. For example, the first exhibit of a statutory declaration of John Doe would be identified as "JD1". The second exhibit would be "JD2". An exhibit in a later statutory declaration made by the same declarant should not use the same number of a previous exhibit in a previous statutory declaration.
- Each page of the statutory declaration (but not any exhibit) must be signed by both the declarant and the witness.
- A statutory declaration is to be made if it is made in this State in accordance with the Oaths Act 1936 (SA) and the Statutory Declarations Act 1835 (UK) or, if made elsewhere, in accordance with the law for the making of statutory declarations in that place.
- The declarant must make a statutory declaration before a person authorised by law to witness statutory declarations ('the witness'). Persons authorised to witness a statutory declaration are:
  - (a) a Registrar or Deputy Registrar
  - (b) any other officer of the Court whom the Registrar has assigned for the purpose)
  - (c) a public notary;
  - (d) a commissioner for taking affidavits;
  - (e) a justice of the peace for South Australia;
  - (f) any other person authorised by law to take affidavits.
- The contents of the statutory declaration cannot be altered after the statutory declaration has been declared.
- The party serving a statutory declaration must serve copies of all exhibits with the declaration.

If the deponent is illiterate or blind, see rule 31.7(6). If the deponent does not appear to understand English sufficiently, see rule 31.7(7).

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

Form 13A

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
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### STATUTORY DECLARATION

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA CIVIL JURISDICTION

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor If any	Law Firm	Solicitor

Declarant Details Person making the Declaration	Full Name		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
Occupation	Email address		
	Occupation		

<p><b>Statutory declaration</b></p> <p>I do solemnly and sincerely declare that: Set out text in separate numbered paragraphs. If the declaration relates to an application, identify the application and state the material facts relevant to the application.</p> <ol style="list-style-type: none"> <li>I am the Applicant.</li> <li>All of the information set out in my Application for Registration is to the best of my knowledge and belief true and correct in every particular and that the accompanying documents are what they purport to be.</li> </ol>
--

Form 13A

Declared by the declarant

at

on

.....  
Signature of declarant

.....  
Name printed

before me .....  
Signature of attesting witness

.....  
Printed name and title of witness  
Stamp here if applicable

.....  
Date

.....  
ID number of witness  
If applicable

Form 14

**EXHIBIT**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION  
[*FULL COURT/MINOR CIVIL*] If applicable  
[*NAME OF LIST*] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

This is the exhibit/these are the exhibits [*exhibit number(s)*] to the [*affidavit/declaration*] of [*name*] made on the day of 20 .

.....  
Signature  
  
.....  
Signature of attesting witness  
  
.....  
Date

**All instruments appearing in this gazette are to be considered official, and obeyed as such**