

## **Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2013**

Made by the Magistrates Court.

**1. Citation**

These rules are the *Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2013*.

**2. Commencement**

These rules come into operation as follows —

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day after that day.

**3. Rules amended**

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

**4. Rule 21 amended**

Delete rule 21(b) and (c) and insert:

- (b) the claim, or the relevant part of the claim, is for an unliquidated amount of \$5 000 or less; or
- (c) the claim, or the relevant part of the claim, is for an unliquidated amount of more than \$5 000 but not more than the minor cases jurisdictional limit, if the registrar is able to assess the amount from any supporting material lodged in relation to the claim.

**5. Rule 24 amended**

In rule 24(2) delete “not” and insert:

not, without the approval of a Magistrate,

**6. Rule 25A inserted**

After rule 24 insert:

**25A. Default judgment one year or more after  
originating claim, referral to Magistrate**

- (1) If one year or more has passed since the originating claim was served, a registrar may, if an application for default judgment has been made, refer the matter to a Magistrate.
- (2) A matter referred to a Magistrate must be accompanied by an affidavit from the applicant for default judgment setting out the reasons for the delay in the claim being finalised.
- (3) On referral of a matter under this rule a Magistrate may give approval for the registrar to give default judgment under this Part.

**7. Rule 29C amended**

After rule 29C(2) insert:

- (3) At the pre-trial conference a registrar may —
  - (a) make any orders necessary to facilitate settlement or ensure the case is ready to be listed for a determination of the amount that should be awarded for the claim; or
  - (b) list the matter for a determination of the amount that should be awarded for the claim.

**8. Rule 30A inserted**

At the beginning of Part 7 insert:

**30A. Informal disclosure**

- (1) Subject to any order made by a registrar or the Court, each party to the action may disclose documents relating to any matter in question in the action to the other parties.
- (2) Disclosure may —
  - (a) with the consent of each other party to the action, be by way of an informal list of the documents; or
  - (b) be by way of affidavit containing a list of the documents served on the other parties.

**9. Rule 41A amended**

Delete rule 41A(5), (6) and (7).

**10. Rule 41B amended**

Delete rule 41B(5), (6) and (7).

**11. Rule 46 amended**

After rule 46(3) insert:

- (4) If a party or, if the party is not required under subrule (2) to attend in person, a party's lawyer fails to attend a listing conference, the magistrate at the listing conference may give default judgment against the party.

**12. Rule 77 amended**

Delete rule 77(2) and insert:

- (2) The Public Trustee must invest the money for the person and may, if the Court so orders, invest it other than in accordance with the *Public Trustee Act 1941* section 39C.

**13. Rule 80 amended**

- (1) In rule 80 delete "If" and insert:

- (1) If

- (2) At the end of rule 80 insert:

- (2) Nothing in this rule limits the application of the *Magistrates Court (Civil Proceedings) Act 2004* section 19(3) to the judgment of a registrar made under section 19(2) of that Act.

**14. Rule 101 amended**

In rule 101(1)(a)(ii) and delete "be;" and insert:

be, or the party's usual postal address;

**15. Rule 102 amended**

- (1) In rule 102(2) after "business address" insert:

or the postal address

(2) After rule 102(2) insert:

(3A) A party who is an individual not represented by a lawyer and who provides a postal address as an address for service must also provide the Court and each of the other parties details of the usual place of residence or principal place of business address of the individual.

**16. Rule 124 amended**

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

*Petroleum and Geothermal Energy* s. 17(4)  
*Resources Act 1967*

**17. Rule 128 amended**

In rule 128 after “otherwise,” insert:

rules 40 to 41B, rule 43,

Dated: 30th April 2013.

Magistrates’ signatures:

STEVEN ALEX HEATH, Chief Magistrate.

ELIZABETH ADELE WOODS, Deputy Chief Magistrate.

GUISEPPE MIGNACCA-RANDAZZO, Magistrate,

JANELLE SCUTT, Magistrate.

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