

## **Magistrates Court (Civil Proceedings) Amendment Rules 2013**

Made by the Magistrates Court.

**1. Citation**

These regulations are the *Magistrates Court (Civil Proceedings) Amendment Rules 2013*.

**2. Commencement**

These regulations come into operation as follows —

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

**3. Regulations amended**

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

**4. Part 16A inserted**

After Part 15 insert:

### **Part 16A — Inactive Cases List**

**95A. Term used: Inactive Cases List**

In this Part —

***Inactive Cases List*** means the list kept by the Principal Registrar under rule 95B(4).

**95B. Case taken to be inactive**

- (1) If no procedural step is taken in a case for 12 months by a party to a case, the case is taken to be inactive unless the Court orders otherwise.
- (2) A magistrate or registrar making an order or direction in exercise of a case management power may direct that, unless the order or direction in exercise of the case management power is complied with by a specified date, the case is to be taken to be inactive.

- (3) Unless countermanded by a magistrate or registrar before it has effect, a direction made under subrule (2) has effect according to its terms.
- (4) The Principal Registrar is to keep a list of cases taken to be inactive.

**95C. Parties to be notified of case being on Inactive Cases List**

- (1) When a case is taken to be inactive under rule 95B, the Principal Registrar is to —
  - (a) put the case on the Inactive Cases List; and
  - (b) give all parties to the case written notice of —
    - (i) the fact that the case is on the Inactive Cases List and why; and
    - (ii) the effect of rule 95D.
- (2) If a lawyer representing a party receives a notice under subrule (1), the lawyer is to notify the party as soon as practicable of —
  - (a) the fact that the case is on the Inactive Cases List and why; and
  - (b) the effect of rule 95D.

**95D. Consequences of case being on Inactive Cases List**

The only documents that may be lodged in the Court in relation to a case on the Inactive Cases List are —

- (a) an application for an order under rule 95E; or
- (b) a notice of discontinuance under rule 29; or
- (c) a memorandum of consent under rule 53 to an order or judgment that would finally dispose of the case.

**95E. Removing cases from Inactive Cases List**

- (1) A party to a case on the Inactive Cases List may apply to the Court for an order that the case be taken off the Inactive Cases List.
- (2) The Court may order that a case be taken off the Inactive Cases List —
  - (a) if it is satisfied that the case will be conducted in a timely way; or
  - (b) for any other good reason.
- (3) When the Court orders that a case be taken off the Inactive Cases List, it may make further orders for the conduct of the case in a timely way.

**95F. Certain inactive cases taken to be dismissed**

- (1) A case that is on the Inactive Cases List for 6 continuous months is taken to be dismissed.
- (2) If no procedural step is taken in the 6 months after the date on which a case is ordered to be taken off the Inactive Cases List, the case is taken to be dismissed.
- (3) If a case is taken to be dismissed under subrule (1) or (2), the Principal Registrar is to —
  - (a) give all parties to the case written notice of the dismissal; and
  - (b) take the case off the Inactive Cases List.
- (4) If a case is taken to have been dismissed under subrule (1) or (2) —
  - (a) a party to the case may apply for an order for costs; and
  - (b) the Court may make an order for costs.

Dated: 6 December 2013.

Magistrates' signatures:

S. A. HEATH, Chief Magistrate.  
E. A. WOODS, Deputy Chief Magistrate.  
M. D. WHEELER, Magistrate.  
R. G. BAYLY, Magistrate.