

## **Magistrates Court (Civil Proceedings) Amendment Rules (No. 4) 2014**

Made by the Magistrates Court.

### **1. Citation**

These rules are the *Magistrates Court (Civil Proceedings) Amendment Rules (No. 4) 2014*.

### **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 126 amended**

In rule 126(1) delete “129C” and insert:

129C, 131AA

### **5. Rule 127 amended**

In rule 127(1A) in the Table after the item for the *Criminal Investigation Act 2006* insert:

<i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>	s. 94.
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### **6. Rule 130 amended**

Delete rule 130(5).

Note: The heading to amended rule 130 is to read:

***Fines, Penalties and Infringement Notices Enforcement Act 1994***  
**s. 69(1), application under**

**7. Rules 131AA, 131AB, 131AC and 131AD inserted**

After rule 130 insert:

**131AA. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94(2), application under**

- (1) An application under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94(2) must be lodged by the Sheriff together with copy of the written notice of claim.
- (2) As soon as practicable after an application made by the Sheriff under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94(2) is lodged, a registrar must —
  - (a) list the application for hearing on the earliest convenient date; and
  - (b) endorse the hearing date on the application; and
  - (c) return one copy of the application to the Sheriff and serve one copy of the application on the claimant by service by ordinary post.
- (3) If the claimant files notice of withdrawal and gives notice in writing of the withdrawal to the court before the time of the hearing, the property seized by the Sheriff or the proceeds of the sale of the property must be dealt with and disposed of as if the claim had not been made.

**131AB. *Fines, Penalties and Infringement Notices Enforcement Act 1994* s. 94, location of interpleader proceedings**

- (1) The proceedings under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 94 are to be held at the place where the court has a registry that is nearest to the place where the property the subject of the proceedings is located.
- (2) If the court is satisfied that it would be more convenient or fair to the parties if the whole or a part of the interpleader proceedings were conducted at another place in the State (whether or not a registry of the court is there), the court may order accordingly.
- (3) An order may be made under subrule (2) only on the application of a party of which any other party has had notice.
- (4) If the court makes an order under subrule (2) it may make any necessary ancillary or consequential order.

**131AC. *Fines, Penalties and Infringement Notices Enforcement Act 1994 s. 94, interpleader proceedings***

- (1) The claimant must, at least 10 clear days before the time of the hearing, file with the court 2 copies of the particulars of any property alleged to be the property of the claimant and of the claimant's grounds for the claim.
- (2) The following details and information must be fully set out in, or accompany, those particulars —
  - (a) the name, address and description of the claimant;
  - (b) information as to possession of the property;
  - (c) information as to the claimant's interest in the property;
  - (d) details of, and a copy of, any document that supports the claimant's claim to possession of or interest in the property.
- (3) The court must immediately give the Sheriff a copy of the particulars by service by ordinary post.
- (4) A hearing in relation to a claim is to proceed as if the claimant were the plaintiff, and the Sheriff the defendant.

**131AD. *Fines, Penalties and Infringement Notices Enforcement Act 1994 s. 94, power to delay sale***

- (1) The Sheriff may, in his or her discretion, delay selling any property in respect of which a claim has been made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 93 until a court has adjudicated on the claim.
- (2) The Sheriff is to be allowed such costs out of pocket only as the court may order for the keeping of continued possession of the property under subrule (1).

Magistrates' signatures:

STEVEN HEATH, Chief Magistrate.

ELIZABETH WOODS, Deputy Chief Magistrate.

KEVIN TAVENER, Magistrate.

LEANNE ATKINS, Magistrate.

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