

Supreme Court Amendment Rules 2023

SL 2023/16

Made by the judges of the Supreme Court.

1. Citation

These rules are the *Supreme Court Amendment Rules 2023*.

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 on which the *Civil Procedure (Representative Proceedings) Act 2022* section 35 comes into operation.

3. Rules amended

These rules amend the *Rules of the Supreme Court 1971*.

4. Order 4 rule 3 amended

In Order 4 rule 3(1):

- (a) before “Order 70 rule 2,” insert:

Order 18 rule 12, Order 18A rule 2 and

- (b) delete “he” and insert:

the person

5. Order 9A rule 1 amended

In Order 9A rule 1 insert in alphabetical order:

case has the meaning given in Order 4A rule 1;

Note: The heading to amended Order 9A rule 1 is to read:

Terms used

6. Order 9A rule 4 inserted

At the end of Order 9A insert:

4. Disclosure of agreements relating to litigation funding

- (1) This rule applies if a party to a case represents 1 or more persons who are not parties to the case, or the interests of those persons, in the case.
- (2) The case manager for the case may, at any time, order the party to give the case manager a copy of any agreement relating to funding or other financial assistance an interested non-party provides to the party for the purposes of conducting the case.

7. Order 18 rule 12 amended

- (1) In Order 18 rule 12(1) delete “rule 13,” and insert:

rule 13 or Order 18A,

- (2) In Order 18 rule 12(5):

- (a) delete “that” (2nd occurrence) and insert:

the

- (b) delete “him” and insert:

them

- (c) delete “his case he” and insert:

their case the person

- (3) After Order 18 rule 12(6) insert:

- (7) A person cannot begin or carry on a proceeding under this rule except by a legal practitioner.

Note: The heading to amended Order 18 rule 12 is to read:

Representation of persons with same interest in proceedings

8. Order 18A inserted

After Order 18 rule 17 insert:

**Order 18A — Representative proceedings under
the *Civil Procedure (Representative Proceedings)*
Act 2022**

1. Terms used

In this Order each of the following terms has the meaning given in the *Civil Procedure (Representative Proceedings) Act 2022* section 3 —

group member

representative party

representative proceeding

2. Person must act by legal practitioner

A person cannot commence or carry on a representative proceeding except by a legal practitioner.

3. Representative Proceedings List; headings to documents

- (1) This rule applies if the Court administratively establishes a list (the ***Representative Proceedings List***) of proceedings for the purposes of this Order.
- (2) All representative proceedings are on the Representative Proceedings List.
- (3) The heading of every document filed or issued in a representative proceeding must include “Representative Proceedings List” under “In the Supreme Court of Western Australia”.

4. Form of consent to be group member

A person referred to in the *Civil Procedure (Representative Proceedings) Act 2022* section 8(2) may give consent to be a group member in a representative proceeding by —

- (a) filing a Form 10A; and
- (b) serving a copy on the representative party for the proceeding.

5. Form of opt-out notice

For the purposes of the *Civil Procedure (Representative Proceedings) Act 2022* section 12(2), a group member may opt out of a representative proceeding by filing a Form 10B.

9. Order 75A rule 3 amended

In Order 75A rule 3(2) delete the passage that begins with “may” and ends with “represented,”.

10. Schedule 2 Forms 10A and 10B inserted

After Schedule 2 Form 10 insert:

10A. Consent to be group member in representative proceeding (O. 18A r. 4)

(Heading as in application commencing the representative proceeding)

CONSENT TO BE GROUP MEMBER

Date of document:

Date of filing:

Filed on behalf of:

Prepared by:

Telephone:

Email:

[*Name of person*], of [*address*], a person referred to in the *Civil Procedure (Representative Proceedings) Act 2022* section 8(2), consents to being a group member in this proceeding.

*[Signature of person
or person's legal practitioner]*

10B. Notice for opting out of representative proceeding (O. 18A r. 5)

(Heading as in application commencing the representative proceeding)

NOTICE OF GROUP MEMBER OPTING OUT

Date of document:

Date of filing:

Filed on behalf of:

Prepared by:

Telephone:

Email:

[*Name of group member*], of [*address*], by this notice opts out of this proceeding under the *Civil Procedure (Representative Proceedings) Act 2022* section 12(2).

*[Signature of group member
or group member's legal practitioner]*

Date 3 March 2023.

The Hon. Chief Justice Peter Quinlan
Chief Justice of Western Australia
Supreme Court of Western Australia.