

## **Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2013**

Made by the Magistrates Court.

### **1. Citation**

These rules are the *Magistrates Court (Minor Cases Procedure) 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 (Minor Cases Procedure) Rules 2005*.

### **4. Rule 10C amended**

After rule 10C(2) insert:

- (3) At a 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 hearing at which the Court will assess the amount that should be awarded for the claim; or
  - (b) list the case for a hearing at which the Court will assess the amount that should be awarded for the claim.

### **5. Rule 15 amended**

- (1) In rule 15 delete “You” and insert:

- (1) You

- (2) At the end of rule 15 insert:

- (2) If you do not attend a listing conference the magistrate at the listing conference may give default judgment against you.

**6. Rule 17 amended**

Delete rule 17(b) and (c) and insert:

- (b) an unliquidated amount of \$5 000 or less; or
- (c) an unliquidated amount of more than \$5 000, if the registrar is able to assess the amount from any supporting material lodged in relation to the claim.

**7. Rule 21 amended**

In rule 21(2) delete “not” and insert:

not, without the approval of a Magistrate,

**8. Rule 22A inserted**

After rule 21 insert:

**22A. Default judgment one year or more after originating claim, referral to Magistrate**

- (1) If one year or more has passed since the claim that started the case was served, a registrar may, if an application for default judgment has been made, refer the matter to a Magistrate.
- (2) If a matter is referred to a Magistrate the person who applied for default judgment must provide an affidavit setting out the reasons for the delay in the matter being finalised.
- (3) If a matter is referred to a Magistrate, the Magistrate may give approval for the registrar to give default judgment under this Part.

**9. Rule 41 amended**

Delete rule 41(2) and insert:

- (2) The Public Trustee must invest the money for you and may, if the Court so orders, invest it other than in

accordance with the *Public Trustee Act 1941*  
section 39C.

**10. Rule 43 amended**

(1) In rule 43 delete “If” and insert:

(1) If

(2) At the end of rule 43 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.

**11. Rule 51 amended**

In rule 51(3) delete “business.” and insert:

business or the party’s usual postal address.

**12. Rule 55 amended**

Delete rule 55(1) and insert:

(1) If you are an individual who is not represented by an  
agent, the address for service is to be your usual place  
of residence, your principal place of business or your  
postal address.

(2A) If you are an individual who is not represented by an  
agent and you provide a postal address as your address  
for service you must also provide the Court and each of  
the other parties details of your usual place of residence  
or principal place of business.

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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