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South Australia

District Court Criminal Rules 2014 (Amendment No 1)

BY virtue and in pursuance of section 51 of the *District Court Act 1991*, and all other enabling powers, we, Geoffrey Louis Muecke, Chief Judge, and Rauf Soulio and Paul Vincent Slattery, Judges of the District Court of South Australia, make the following *District Court Criminal Rules 2014 (Amendment No 1)*.

1. These Rules may be cited as the *District Court Criminal Rules 2014 (Amendment No 1)*.
2. The *District Court Criminal Rules 2014* are amended as set out below.
3. The amendments made by these Rules come into effect on 1 April 2015 or the date of their gazettal, whichever is later.
4. Rule 51 is amended:
 - (a) by deleting subrules (2) and (3) and substituting the following:
 - "(2) An application to exclude the admission of evidence of an interview, admission or search is to be filed within 28 calendar days after the date on which the proceeding is listed for trial.
 - (3) An application for an order or permission under section 285BA or 285BB of the Act is to be filed no less than 28 days before the listed trial date."
 - (b) by substituting "14" for "28" in subrule (5);
 - (c) by inserting a new subrule (6) as follows:
 - "(6) An application to determine any issue before the commencement of the trial not governed by the preceding subrules is to be filed no less than 14 calendar days before the listed trial date."

Dated 24 March 2015

G L Muecke
Chief Judge

R Soulio
Judge

P V Slattery
Judge

South Australia

District Court Civil Rules 2006 (Amendment No 29)

By virtue and in pursuance of Section 51 of the *District Court Act 1991* and all other enabling powers, we, Geoffrey Louis Muecke, Chief Judge, and Rauf Soulio and Paul Vincent Slattery, Judges of the District Court of South Australia, make the following Rules of Court.

1. These Rules may be cited as the *District Court Civil Rules 2006 (Amendment No 29)*.
2. The amendments made by these Rules come into effect on 1 April 2015 or the date of their gazettal, whichever is later.
3. The *District Court Civil Rules 2006* and the *District Court Civil Rules 2006 (Amendment No 28)* are amended as set out below with effect from 1 October 2014, except that the amendment made by paragraph 15 below is made with effect from 1 April 2015.
4. Rules 5(1), 5(2) and 5(3) are amended by substituting “a judgment” for “an order” in the body of those subrules.
5. Rule 5(3) is amended by substituting “5” for “7” before the word “days” in the body of that subrule.
6. Rules 21(3), 160(7), 188(2)(a), 356(3) and 357(4) are amended by substituting “5” for “7” before the words “business days”.
7. The heading “Division 2—Service of originating process” immediately before rule 39 is deleted.
8. Rule 136(4)(c) is amended by substituting “litigation” for “settlement”.
9. Rule 160 is amended by substituting “copies of written communications and details of any oral” for “details of any” at the commencement of paragraph (c) of subrule (5). Paragraph 68(d) of the *District Court Civil Rules 2006 (Amendment No 29)* is revoked.
10. Rule 173(8)(a) is amended by deleting “clear” before “business days”.
11. Rule 188(2)(a) is amended by deleting “clear” before “business days”.

12. A heading is inserted before the contents of rule 183A as follows:

“183A—Service of subpoena in New Zealand”

13. Rule 259B is amended by substituting as the title “judgment against defendant” for “Compromise or settlement of matter in proceeding”.

14. A new rule 259C is inserted after rule 259B as follows:

“259C—Judgment against defendant

- (1) A judgment given in a representative action against a representative party is, subject to an order of the Court under subrule (2), binding on all persons represented by the representative party.
 - (2) A person apparently represented, or alleged to have been represented, in a representative action may apply to the Court for a declaration that the person is not bound by the judgment.
 - (3) The Court may make such a declaration if satisfied that the person was not in fact represented by the representative party.
 - (4) A judgment given in a representative action may only be enforced against a person represented by the representative party by permission of the Court and, before the Court gives its permission, it must allow the person a reasonable opportunity to make an application under subrule (2).”
15. Rule 263(2) is amended by:
- (a) deleting paragraph (f) and renumbering the subsequent paragraphs accordingly;
 - (b) substituting “\$25,000” for “\$20,000” in renumbered paragraph (f);
 - (c) deleting “a motor accident claim or” and substituting “\$60,000” for “\$40,000” in renumbered paragraph (g).
16. The following new divisions and rules are inserted immediately after rule 318:

Division 6—Criminal Injuries Compensation

318A—Criminal Injuries Compensation

- (1) This rule applies to actions commenced in the Criminal Injuries Division of the Court pursuant to jurisdiction conferred on the Court by the *Victims of Crime Act 2001* and the repealed *Criminal Injuries Compensation Act 1978*.
- (2) In this rule, plaintiff means the person who is the claimant within the meaning of the relevant legislation.
- (3) Rules 33, 106 and 261 and Parts 6, 7, and 8 of Chapter 7 of these Rules do not apply to actions in the Criminal Injuries Division of the Court.
- (4) An extension of a limitation period may be sought under section 18(7) of the *Victims of Crime Act 2001* or under section 7(4) of the *Criminal Injuries Compensation Act 1978*—
 - (a) in the summons commencing the action or
 - (b) by an interlocutory application.

- (5) Third party actions under section 28(2)(a) of the *Victims of Crime Act 2001* or section 11A(1)(b) of the *Criminal Injuries Compensation Act 1978* are governed by rule 36 but the time limit imposed by rule 36(4) for bringing such actions does not apply to the Attorney-General.
- (6) Any document required to be served personally in proceedings in the Criminal Injuries Division of the Court shall be deemed to have been personally served—
 - (a) when service is to be made on the State of South Australia—if the document is sent to the Crown Solicitor by ordinary pre-paid post in an envelope addressed to the Crown Solicitor’s office or by delivering the document in an envelope to the Crown Solicitor’s DX address;
 - (b) when service is to be made on a person who is in a prison or a training centre in the State of South Australia—if the document is served upon or sent by pre-paid post addressed to the prisoner, care of the Chief Executive of the Department for Correctional Services.
- (7) When the Attorney-General lodges a certificate under section 28(3)(a) of the *Victims of Crime Act 2001* or files a certificate under section 11A(5) of the *Criminal Injuries Compensation Act 1978*, the Registrar may administratively enter judgment for the amount specified in the certificate.
- (8) When section 28(4) of the *Victims of Crime Act 2001* applies to a judgment obtained under section 28(3) of that Act—
 - (a) the Crown Solicitor is to serve a sealed copy of the judgment on the offender together with notice of the offender’s rights under section 28(4) of that Act to apply to have the judgment set aside or varied;
 - (b) whether the offender is then a party to the proceedings or not, the offender may make an interlocutory application in the action seeking to set aside or vary the judgment;
 - (c) unless the Court otherwise directs, the plaintiff is not to be given notice of, or to be heard on, an application under paragraph (b).
- (9)
 - (a) An application under section 28(5) of the *Victims of Crime Act 2001* may be made in the action in which the statutory compensation was claimed, but the plaintiff is not to be served with, or to be heard on, such an application;
 - (b) If no action has been brought in the Court for statutory compensation, an application under section 28(5)(b) of the *Victims of Crime Act 2001* is to be made by summons filed by the State of South Australia.
- (10) An application by the offender under section 28(6) of the *Victims of Crime Act 2001* is to be made by filing an affidavit in answer to the application under section 28(5) of that Act setting out the matters relied on.

Division 7—Dust Diseases Act 2005**318B—Dust Diseases List**

- (1) In this rule—

Act means the Dust Diseases Act 2005.

- (2) All documents filed in an action to which the Act applies must have immediately underneath the action number the words “Dust Diseases Act 2005”. The proceedings will be put into the Dust Diseases List and managed in accordance with this Rule.
- (3) At the first interlocutory hearing, a category will be assigned to the action based on the state of health of the plaintiff or such other matter as the Court considers relevant. These categories are—

Ordinary cases: when the case is not urgent because the plaintiff is suffering from a non life-threatening dust disease or a claim is made for compensation to relatives or for other reasons.

Urgent cases: when the plaintiff is seriously ill and an expedited hearing is needed or there are other circumstances giving rise to urgency.

Note—

Rule 33(1)(a) and (c) exempt urgent cases, and cases where the Court so directs, from the requirements of the 90 day rule.

- (4) If a party seeks to have proceedings categorised as urgent, whether on commencement or at a later time, an interlocutory application seeking a special hearing date for directions is to be filed pursuant to rule 131 together with an affidavit setting out as fully as circumstances permit—
- (a) the nature of the disease alleged;
 - (b) the condition of the plaintiff's health and the degree of urgency;
 - (c) particulars of notification given to other parties to the proceedings and practitioners by whom they are represented;
 - (d) readiness for hearing;
 - (e) whether experts' reports have been obtained and served;
 - (f) whether further medical examinations are required;
 - (g) a proposed expedited interlocutory timetable;
 - (h) if a hearing date is to be sought forthwith, the details and availability of witnesses and where it is requested that evidence be taken; and
 - (i) where possible, exhibiting a medical report.
- (5) An application under subrule (4) will be listed as soon as possible.

Note—

Rule 131(4) empowers the Court to dispense with the requirements of rule 131 if the urgency of the case so requires.

Dated 24 March 2015

G L Muecke
Chief Judge

R Soulio
Judge

P V Slattery
Judge

South Australia

Supreme Court Civil Rules 2006 (Amendment No 28)

By virtue and in pursuance of section 72 of the *Supreme Court Act 1935* and all other enabling powers. We, Judges of the Supreme Court of South Australia, make the following *Supreme Court Civil Rules 2006 (Amendment No 28)*.

1. These Rules may be cited as the *Supreme Court Civil Rules 2006 (Amendment No 28)*.
2. The amendments made by these Rules come into effect on 1 April 2015 or the date of their gazettal, whichever is later.
3. The *Supreme Court Civil Rules 2006* and the *Supreme Court Civil Rules 2006 (Amendment No 26)* are amended as set out below with effect from 1 October 2014, except that the amendment made by paragraph 12 below is made with effect from 1 April 2015.
4. Rules 5(1), 5(2) and 5(3) are amended by substituting “an order” for “order” in the body of those subrules.
5. Rule 5(3) is amended by substituting “5” for “7” before the word “days” in the body of that subrule.
6. Rules 21(3), 160(7), 188(2)(a), 356(3) and 357(4) are amended by substituting “5” for “7” before “business days”.
7. Rule 136(4)(c) is amended by substituting “litigation” for “settlement”.
8. Paragraph 52(c) of the *Supreme Court Civil Rules 2006 (Amendment No 26)* is revoked.
9. Rule 173(8)(a) is amended by deleting “clear” before “business days”.
10. Rule 188(2)(a) is amended by deleting “clear” before “business days”.
11. Rule 259B is amended by substituting as the title “Judgment against defendant” for “Compromise or settlement of matter in proceeding”.
12. Rule 263(2) is amended by:
 - (a) deleting paragraph (f) and renumbering the subsequent paragraphs accordingly;
 - (b) substituting “\$50,000” for “\$25,000” in renumbered paragraph (f);
 - (c) deleting “a motor accident claim or” and substituting “\$120,000” for “\$75,000” in renumbered paragraph (g).
13. Rule 379(3)(b) is amended by inserting at the beginning “unless the applicant is not practising and does not intend upon admission to practise the profession of the law in South Australia or elsewhere within the meaning of the Act,” before “the fee payable”.

GIVEN under our hands and the Seal of the Supreme Court of South Australia
this 26th day of February 2015.

_____	KOURAKIS CJ	_____	GRAY J
_____	SULAN J	_____	VANSTONE J
_____	KELLY J	_____	PEEK J
_____	BLUE J	_____	STANLEY J
_____	NICHOLSON J	_____	BAMPTON J
_____	PARKER J	_____	LOVELL J