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South Australia

Juries Rules 1996 (Amendment No 2)

BY virtue and in pursuance of section 89 of the *Juries Act 1927*, and all other enabling powers, we, the Chief Justice of the Supreme Court of South Australia and the Chief Judge of the District Court of South Australia, make the following *Juries Rules 1996 (Amendment No 2)*.

1. These Rules may be cited as the *Juries Rules 1996 (Amendment No 2).*

2. The *Juries Rules 1996* are amended as set out below.

3. Rules 2 to 18 inclusive of the *Juries Rules 1996* are deleted.

4. Schedule 1 to these Rules forms part of the Rules made pursuant to section 89 of the *Juries Act 1927*.

Note—

The Rules made by this clause duplicate Chapters 5 and 9 of rules made separately by the Supreme Court pursuant to section 72 of the *Supreme Court Act 1935* being the *Supreme Court Criminal Rules 2014* and by the District Court pursuant to section 51 of the *District Court Act 1991* being the *District Court Criminal Rules 2014*.

5. Schedule 2 to these Rules forms part of the Rules made pursuant to section 89 of the *Juries Act 1927*.

Note—

The Rules made by this clause duplicate Chapter 5 of supplementary rules made separately by the Supreme Court pursuant to section 72 of the *Supreme Court Act 1935* being the *Supreme Court Criminal Supplementary Rules 2014* and by the District Court pursuant to section 51 of the *District Court Act 1991* being the *District Court Criminal Supplementary Rules 2014*.

6. A reference in Schedule 1 or Schedule 2 to—

   (a) "the Rules" is a reference to the rules contained in Schedule 1;

   (b) "the Supplementary Rules" is a reference to the rules contained in Schedule 2.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this ……25th …… day of ……August……..2014.

_____ **C. J. KOURAKIS CJ**

_____ **G. L. MUECKE Chief Judge**

Schedule 1

Chapter 5—Election for trial by Judge alone

38—Election

(1) An accused may make an election under section 7(1)(a) of the *Juries Act 1927* (the ***election***) in the manner and at the time stipulated in this Chapter and not otherwise.

(2) Subject to subrule (3), the election applies to the trial of all charges in the information in respect of which a trial is to be held. An election that purports to be limited to certain charges contained in the information is not valid or effectual.

(3) When an accused is charged in an information in respect of more than one count and proposes to apply for a separate trial in respect of one or more counts, a separate election may be made as to the counts sought to be severed or as to the counts remaining in anticipation of an order for severance. The election is to be made in the manner and at the time stipulated in this Chapter and will be valid and effectual only if the application for severance is granted.

39—Election by joint accused

(1) Subject to subrule (2), when two or more accused are jointly charged with an offence, they must concur, as required by section 7(3) of the *Juries Act 1927*, in making the election by jointly signifying their concurrence in the election or by each of them separately notifying his or her election in accordance with this Chapter.

(2) When two or more accused are jointly charged in an information and an accused proposes to apply for a separate trial from the trial of others jointly charged, a separate election may be made by that accused in anticipation of an order for separate trials. The election is to be made in the manner and at the time stipulated in this Chapter and will be valid and effectual only if the application for separate trials is granted or all co-accused make a valid election in accordance with subrule (1).

40—Manner of making election

(1) An election made by the defendant is to be made by filing a notice of election in an approved form signed by the accused making the election and a practitioner's certificate.

(2) An election made by counsel on behalf of the defendant under section 269W(2) of the Act is to be made by filing a notice of election in an approved form signed by counsel and no practitioner's certificate is required.

(3) When an accused or counsel files a notice of election, the accused or counsel, as the case may be, is as soon as practicable to serve a copy of the notice on the Director and on any person jointly charged with the accused on a charge contained in an information the subject of the election.

(4) Unless the election was made under subrule (2), a notice of election complying with this rule is admissible at any stage of the proceeding as evidence that the accused before making the election sought and received advice in relation to the election from a lawyer.

41—Practitioner's certificate

(1) A ***practitioner's certificate*** is a certificate signed by a lawyer stating that the signatory holds a current practising certificate and has advised the accused on all matters relevant to the election. The certificate is to identify clearly the charge in respect of which the advice has been given.

(2) A practitioner's certificate is to be in an approved form.

(3) A practitioner's certificate complying with this rule is admissible at any stage of the proceeding as evidence that the accused before making the election sought and received advice in relation to the election from a lawyer.

42—Time for making election

(1) If an accused is committed for trial to sittings at Adelaide, the election is to be made no later than the day of the accused's first arraignment on the information in respect of which the trial is intended to be held or within such time and in such manner as the Judge on the first arraignment directs.

(2) If an accused is committed for trial to a circuit sittings, the election is to be made within 28 calendar days after the accused is committed for trial.

(3) Subject to subrules (4) and (5) and to rule 44, if the election is not made in accordance with the preceding subrules, the accused is precluded from making the election subsequently notwithstanding that the information is amended or that the trial proceeds upon an information filed in substitution for an earlier information or informations on which the accused has been arraigned.

(4) If an amended or new information referred to in subrule (3) materially alters the substance of the charge or charges upon which the accused is to be tried, the accused may make an election at or before the first arraignment on the amended or new information.

(5) The Court may extend the time prescribed by or under this rule if satisfied that there are special reasons for so doing or that it would be unjust not to do so notwithstanding that such period has expired.

43—Election irrevocable

(1) Subject to rule 44, an accused who has made an election in accordance with the preceding rules is not permitted to revoke the election without the permission of the Court.

(2) Permission to revoke the election may be granted only if the Court is satisfied that, because of events occurring after the election, there are special reasons for so doing or that it would be unjust to refuse such permission.

44—Election after direction for new trial

(1) Despite rule 42, when there has been a mistrial or a jury has been unable to reach a verdict or an appeal against conviction has been allowed and the accused has been remanded for a new trial, the accused may make the election in the manner set out in the preceding rules within 28 calendar days after being remanded for a new trial.

(2) Despite rule 43, when an appeal against conviction by a Judge alone has been allowed and the accused has been remanded for a new trial, the accused may revoke an election for trial by Judge alone by filing a notice of revocation in an

approved form signed by the accused and a practitioner's certificate within 28 calendar days after being remanded for a new trial.

(3) A notice of revocation and practitioner's certificate complying with subrule (2) are admissible at any stage of the proceeding as evidence that the accused before making the revocation sought and received advice in relation to revoking the election from a lawyer.

45—Application by Director

An application by the Director for a determination under section 7(3a) of the *Juries Act 1927* that the trial of an information that includes a charge of a serious and organised crime offence be heard by Judge alone is to be made by written application under rule 49 no later than 28 calendar days after the first arraignment.

Chapter 9—Juries

84—Interpretation

In this Chapter—

jury card means the jury card referred to in section 42 of the *Juries Act 1927*;

jury pool room means the place appointed from time to time by the Sheriff for the attendance of the jury pool for a jury district;

Sheriff includes the Deputy Sheriff and any other person for the time being performing the functions of the Sheriff under the *Juries Act 1927*;

sheriff's officer means an officer appointed by the Sheriff.

85—Juror's oath or affirmation

(1) Before first directing a juror to attend for a criminal trial, the Sheriff is to cause the juror to take an oath or affirmation in the form of Schedule 6 to the *Juries Act 1927*.

(2) The Sheriff is to cause a record to be made of the taking by each juror of the oath or affirmation. The record is not to be shown or communicated to any person other than a Judge except by leave of a Judge.

86—Jury panel

(1) When a trial of an accused is to commence, the Sheriff is to ensure that a jury panel of not less than 20 jurors attend for the trial.

(2) When a trial of more than one accused is to commence, the Sheriff is to ensure that a jury panel of not less than 20 jurors plus not less than 3 extra jurors in respect of each additional accused attend for the trial.

(3) Subject to subrule (4), a copy of the jury panel list giving the number, name, suburb and occupation of the jurors selected by the Sheriff under subrule (1) or (2) will be made available to counsel for the parties or an unrepresented accused by the Sheriff's Officer in court sufficiently early before the jury is empanelled to enable decisions to be made on challenge.

(4) The Presiding Judge may direct the Sheriff to have information included or removed from the jury panel list for a particular trial.

87—Selection of jurors by ballot

(1) The Associate will conduct the juror ballot by drawing a jury card from the ballot box and reading aloud to the Court the jury number only of the juror selected as shown on the jury card.

(2) This procedure will continue, allowing for challenges, until 12 jurors, or 12 jurors and any additional jurors, are seated in the jury box.

(3) After the selection of the jury, the Sheriff's Officer will collect the jury panel list from counsel and from any unrepresented accused.

(4) The jury panel list is not a public document and is supplied to the parties for the purpose of jury selection only. Subject to any direction of the trial Judge, it ceases to be available to counsel or the accused after the jury has been selected.

(5) The cards of the jurors empanelled for a criminal trial are to be kept apart from the cards of all other jurors until a verdict has been given or until such jurors have been discharged.

(6) A ballot required to be held in accordance with section 6A(2) of the *Juries Act 1927* is to be conducted by drawing at random the number of cards necessary to reduce the number of jurors to 12 from those cards kept apart in accordance with subrule (5).

88—Jurors in charge of Sheriff or Sheriff's officer

The Sheriff is to ensure that jurors while in a jury pool room, jury retiring room, courtroom, building in which a courtroom is situated, at a view or proceeding between any of those places are in the charge of the Sheriff or a sheriff's officer.

89—Non attendance

If a juror does not attend in obedience to a summons or in compliance with a direction by the Sheriff, the Sheriff is to report the fact to a Judge.

Schedule 2

Chapter 5—Election for trial by Judge alone

31—Manner of making election

(1) An election for trial by Judge alone made by a defendant under rule 40(1) of the Rules is to be in form 8A.

(2) An election for trial by Judge alone made by counsel under rule 40(2) of the Rules is to be in form 8B.

32—Practitioner's certificate

A practitioner's certificate under rule 41(2) or 44(2) of the Rules is to be in form 9.

33—Revocation of election

A revocation of election for trial by Judge alone made by a defendant under rule 44(2) of the Rules is to be in form 10.

Rule 40(1)

Form 8A Election by defendant

(*insert front sheet*)

ELECTION BY DEFENDANT FOR TRIAL BY JUDGE ALONE

Juries Act 1927 s 7(3)

I, (*full name of defendant*) .....

of (*address*) .....

.....

ELECT under section 7(1)(a) of the *Juries Act 1927* to be tried by Judge alone in respect of all charges in the following information(s), namely: (*set out details of the charges*)

.....

.....

.....

I ACKNOWLEDGE that I have received legal advice about making the election before making the election.

Date: 20

(*signed*) .....

Defendant

Rule 40(2)

Form 8B Election by counsel

(*insert front sheet*)

ELECTION BY COUNSEL FOR TRIAL BY JUDGE ALONE

Criminal Law Consolidation Act 1935 s 269W

I, (*full name of practitioner*) .....

of (*address of practice*) .....

barrister/barrister and solicitor (*delete whichever is inapplicable*)

CERTIFY that as follows:

1. I am a legal practitioner holding a current practising certificate under the *Legal Practitioners Act 1981*.
2. I am the counsel for the defendant…….in this proceeding.
3. I believe that the defendant is unfit to instruct counsel or give rational instructions in respect of all charges in the information, namely: (*set out details of the charges*)
   .....
   .....
4. I have considered all matters relevant to the making of an election.
5. I consider that a trial by Judge alone would be in the best interest of the defendant.
6. I exercise my independent discretion under section 269W of the *Criminal Law Consolidation Act 1935* and hereby make an election under section 7(1)(a) of the *Juries Act 1927* that the defendant be tried by Judge alone on the above charge/s and in relation to any other charges relating to facts that may be laid by the Director of Public Prosecutions.

Date: 20

(*signed*) .....……

Counsel for the defendant

Rules 41(2), 44(2)

Form 9 Practitioner's certificate

(*insert front sheet*)

PRACTITIONER'S CERTIFICATE

I, (*full name of practitioner*) .....

of (*address of practice*) .....

barrister/solicitor/barrister and solicitor (*delete whichever is inapplicable*)

CERTIFY that:

1. I am a lawyer holding a current practising certificate under the *Legal Practitioners Act 1981*; and
2. I am the solicitor/counsel (*delete whichever is inapplicable*) for the defendant……in this proceeding.
3. I have advised the defendant on all matters relevant to the defendant making/revoking (*delete whichever is inapplicable*) an election for trial by Judge alone under section 7(1)(a) of the *Juries Act 1927* in respect of all charges in the information, namely: (*set out details of the charge(s)*)

   .....

   .....

Date: 20

(*signed*) .....……

Solicitor/Counsel for the defendant (*delete whichever is inapplicable*)

Rule 44(2)

Form 10 Revocation of election by defendant

(*insert front sheet*)

REVOCATION OF ELECTION BY DEFENDANT

I, (*full name of defendant*) .....

of (*address*) .....

.....

REVOKE the election that I previously made on …… under section 7(1)(a) of the *Juries Act 1927* to be tried by a Judge alone in respect of all charges in the following information(s), namely: (*set out details of the charges*)

.....

.....

.....

I ACKNOWLEDGE that I have received legal advice about making the revocation of my previous election before making the revocation.

Date: 20

(*signed*) .....……

Defendant

South Australia

Land and Valuation Division Rules 2014

By virtue and in pursuance of Section 62H of the Supreme Court Act 1935 and all other enabling powers, we, the Judges of the Land and Valuation Court being a division of the Supreme Court of South Australia, make the following Land and Valuation Division Rules 2014.

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Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

These Rules may be cited as the *Land and Valuation Division Rules 2014*.

2—Commencement

These Rules commence on 1 October 2014.

Part 2—Objects

3—Objects

The objects of these Rules are—

(a) to establish orderly procedures for the just, efficient and timely resolution of land and valuation disputes;

(b) to facilitate and encourage the resolution of land and valuation disputes by agreement between the parties; and

(c) to minimise the cost of land and valuation litigation to the litigants and to the State.

Part 3—Interpretation

4—Interpretation

(1) In these Rules, unless the contrary intention appears, a term defined in the Supreme Court Civil Rules 2006 has the meaning defined by those Rules.

(2) In these Rules, unless the contrary intention appears—

acquisition action means—

(a) an application for an order for the compulsory acquisition of an interest in land or any other thing under—

(i) section 24(3) of the *Coast Protection Act 1972*;

(ii) section 28(3) of the *Land Acquisition Act 1969*;

(iii) section 62A(1) of the *Mining Act 1971*; or

(iv) any other statutory provision in respect of which jurisdiction is vested in the Court;

(b) an application for determination whether a claimant is entitled to compensation or of the amount of compensation in respect of an acquisition or proposed acquisition under—

(i) section 15(4) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;

(ii) section 25(2) of the *Coast Protection Act 1972*;

(iii) section 38(6) of the *Crown Land Management Act 2009*;

(iv) section 41(3) of the *Crown Land Management Act 2009*;

(v) section 30B(2) of the *Highways Act 1926*;

(vi) section 20(4) of the *Historic Shipwrecks Act 1981*;

(vii) section 15(6) of the *Land Acquisition Act 1969*;

(viii) section 29(2) of the *Land Acquisition Act 1969*;

(ix) section 210(3) of the *Local Government Act 1999*;

(x) section 62A(2) of the *Mining Act 1971*;

(xi) clause 6(4)(c) of the Schedule to the *Pastoral Land Management and Conservation Act 1989*;

(xii) section 39(2) of the *Pastoral Land Management and Conservation Act 1989*;

(xiii) section 31(1)(b) or section 32(3) of the *Roads (Opening and Closing) Act 1991*;

(xiv) any other statutory provision in respect of which jurisdiction is vested in the Court;

(c) a reference of a question into Court under section 23C of the *Land Acquisition Act 1969*;

(d) an application for valuation of an object or record and an order vesting title in the Minister under section 31 of the *Aboriginal Heritage Act 1988*;

(e) an application for an order of ejectment or payment of rent under section 24(2) of the *Land Acquisition Act 1969*; or

(f) an application for an extension of the period for acquisition of land under section 15(4a)(b) of the *Land Acquisition Act 1969*;

boundary action means—

(a) an application in respect of an encroachment under section 4 of the *Encroachments Act 1944*;

(b) an application for determination of the true boundary of an allotment under section 10 of the *Encroachments Act 1944*;

(c) an appeal against an administrative decision of the Surveyor-General approving a plan under section 51(8) of the *Survey Act 1992*; or

(d) any other action involving the boundary of an allotment of land in respect of which jurisdiction is vested in the Court;

Court means the Land and Valuation Court constituted under Part 3A of the *Supreme Court Act 1935* being the Land and Valuation Division of the Supreme Court;

expert report notice to admit— see rule 32(1);

expert report notice of response— see rule 33(1);

General Civil Rules means the *Supreme Court Civil Rules 2006*;

lodgment action means—

(a) the payment of monies into Court under section 23A(3) of the *Land Acquisition Act 1969*; or

(b) the filing of an agreement for compensation in the Court under section 23B(1) of the *Land Acquisition Act 1969*;

valuation action means a statutory appeal against an administrative decision by—

(a) the Minister, Valuer-General or Ministerial review panel under section 67(1) of the *Crown Land Management Act 2009*;

(b) the Minister on the attribution of use of land under section 9(4) of the *Emergencies Services Funding Act 1998*;

(c) a Council on the attribution of use of land under section 156(12) of the *Local Government Act 1999*;

(d) a valuer on a valuation of land under section 169(15) of the *Local Government Act 1999*;

(e) the Valuer-General or a land valuer under section 56 of the *Pastoral Land Management and Conservation Act 1989*;

(f) the Minister on assessment of value under section 43(10) of the *Petroleum and Geothermal Energy Act 2000*;

(g) the Valuer-General or a land valuer under section 25C of the *Valuation of Land Act 1971*; or

(h) any other person in respect of which jurisdiction is vested in the Court.

Part 4—Application of Rules

5—Application of Rules

(1) These Rules apply to proceedings in the Court.

(2) Subject to subrule (3), the General Civil Rules apply to proceedings in the Court.

(3) To the extent of any inconsistency between these Rules and the General Civil Rules, these Rules prevail.

(4) These Rules follow the Chapter, Part and Division headings of the General Civil Rules.

Part 5—Repeal and transitional provisions

6—Repeal

The *Land and Valuation Division Rules 1978* are repealed.

7—Transitional provision

(1) Unless the Court otherwise directs, these Rules apply to—

(a) proceedings commenced on or after the commencement date; and

(b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.

(2) The Court may direct that these Rules, or the Rules in force before these Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.

Chapter 2—General procedural rules and allocation of Court business

Part 1—Public access to hearings

[*no specific rules*]

Part 2—Court's control of procedure

8—Power of Court to control procedure

(1) The Court may, on its own initiative or on application by a party, give directions about the procedure to be followed in a particular proceeding.

(2) A direction may be given under this rule—

(a) when these Rules do not address or address fully a procedural matter that arises in a proceeding;

(b) to resolve uncertainty about the correct procedure to be adopted;

(c) to achieve procedural fairness in the circumstances of a particular case; or

(d) to expedite the hearing or determination of a particular case or to avoid unnecessary delay or expense.

(3) A direction may be given under this rule irrespective of whether it involves some departure from these Rules or the established procedures of the Court.

(4) A direction may be given under this rule superseding an earlier direction but a step taken in a proceeding in accordance with a direction that has been superseded is to be regarded as validly taken.

9—Supplementary Rules

(1) It is intended that the Court make supplementary rules necessary or convenient for the regulation of proceedings in the Court (the ***Supplementary Rules***).

(2) In particular, it is intended that the Supplementary Rules —

(a) supplement these Rules;

(b) modify these Rules in respect of a particular category of proceedings;

(c) give directions as to practices to be followed;

(d) prescribe approved forms.

Part 3—Enforcement of procedural obligations

[*no specific rules*]

Part 4—Distribution of Court's business

Division 1—General

[*no specific rules*]

Division 2—Jurisdiction of Masters

10—Jurisdiction of Masters

(1) Subject to this rule, a Master may exercise the same jurisdiction as a Judge of the Court.

(2) An interlocutory proceeding may be heard and determined by a Master.

(3) An application for payment out of monies paid into Court may be heard and determined by a Master.

(4) The trial of an action can only be heard and determined by a Master if—

(a) a Judge of the Court directs that it is to be heard and determined by a Master; or

(b) all parties consent to trial by a Master.

Part 5—Representation

[*no specific rules*]

Chapter 3—Elements of action at first instance

Part 1—Nature of action

[*no specific rules*]

Part 2—Proceedings in anticipation of action

Division 1—Investigation

[*no specific rules*]

Division 2—Offers of settlement before action

11—Offers of settlement before action

(1) Subject to subrule (2), rule 33 of the General Civil Rules does not apply to a proceeding in the Court.

(2) Rule 33 of the General Civil Rules applies to a boundary action (whether or not based on a monetary claim) other than—

(a) an action in which urgent relief is sought; or

(b) an action brought in circumstances where the plaintiff—

(i) reasonably believes there is a risk that the defendant will take action to remove assets from the jurisdiction; and

(ii) intends to seek an injunction to prevent the defendant from removing assets from the jurisdiction; or

(c) an action excluded from the application of this subrule by direction of the Court.

Part 3—Commencement of action

Division 1—How action is commenced

Subdivision 1—Acquisition and boundary actions

12—Application of this Subdivision

This Subdivision applies to acquisition and boundary actions in the Court.

13—Acquisition action

The summons in an acquisition action is to identify—

(a) the nature of the action;

(b) the land or other subject matter of the action;

(c) the statutory provision under which the claimed entitlement to the order sought arises;

(d) the statutory provision giving to the Court jurisdiction to hear and determine the action;

(e) the name, address and interest of persons known to have or to claim an interest in the land or other subject matter of the action; and

(f) the principal relief sought.

14—Boundary action

The summons in a boundary action is to identify—

(a) the nature of the action;

(b) the land the subject of the action;

(c) the statutory provision under which the action is brought;

(d) in the case of an appeal against an administrative decision, the administrative decision the subject of the appeal;

(e) the statutory provision giving to the Court jurisdiction to hear and determine the action; and

(f) the principal relief sought.

15—Pleading

(1) The summons in an action is to be accompanied by a statement of claim and not an affidavit in lieu of a pleading.

(2) Unless the Court otherwise directs, actions will proceed on pleadings and not affidavits in lieu of pleadings.

Subdivision 2—Lodgment actions

16—Payment in proceeding

(1) The summons accompanying a payment of monies into Court under section 23A(3) of the Land Acquisition Act 1969 is to identify—

(a) the nature of the proceeding as being a payment of monies into Court under section 23A(3) of the *Land Acquisition Act 1969*;

(b) the land in respect of which the monies are paid into Court;

(c) the amount of monies paid into Court; and

(d) the name, address and interest of persons known to have or to claim an interest in the land.

(2) The summons is to annex a copy of the notice of acquisition published in the Gazette under section 16 of the Land Acquisition Act 1969.

(3) The summons is not required to be accompanied by a pleading or affidavit.

(4) If agreement about compensation is reached by the negotiating parties in respect of the land before payment out, the agreement or the documents evidencing the agreement are to be exhibited to an affidavit filed in the proceeding.

(5) An application for payment out of the monies paid into Court under section 26 of the Land Acquisition Act 1969 is to be made by interlocutory application supported by an affidavit deposing to and exhibiting such consents as may be required and a search copy of the Certificate of Title immediately before the acquisition.

17—Compensation agreement proceeding

(1) The summons in respect of an agreement for compensation filed under section 23B(1) of the Land Acquisition Act 1969 is to identify—

(a) the nature of the proceeding as being the lodgment of an agreement for compensation under section 23B(1) of the *Land Acquisition Act 1969*;

(b) the land in respect of which the compensation agreement was made; and

(c) the name, address and interest of persons known to have or to claim a proprietary interest in the land.

(2) The summons is to annex a copy of the agreement or the documents evidencing the agreement for compensation.

(3) The summons is not required to be accompanied by a pleading or affidavit.

(4) An application for orders to give effect to the agreement under section 23B(2) of the Land Acquisition Act 1969 is to be made by interlocutory application.

Subdivision 3—Valuation appeals

18—Valuation appeal

(1) A valuation appeal is to be instituted by a notice of appeal in an approved form.

(2) The notice of appeal is to identify—

(a) the valuation decision the subject of the appeal;

(b) the land or other subject matter of the disputed valuation;

(c) the statutory provision under which the appeal is brought;

(d) the orders sought;

(e) the grounds of appeal; and

(f) if an extension of time in which to appeal is sought—the grounds for the extension of time.

Part 4—Service of originating process

Division 1—General

19—Service of originating process

(1) A summons governed by Subdivision 1 of Division 1 of Part 3 of Chapter 3 is to be served upon the defendant and such other persons as are directed by the Court.

(2) A summons governed by Subdivision 2 of Division 1 of Part 3 of Chapter 3 is to be served upon each person who, to the knowledge of the plaintiff, has or claims an interest in the land but is not required to be served personally.

Chapter 4—Documents and service

Part 1—Documents

Division 1—Approved forms

20—Approved forms

(1) It is intended that approved forms be promulgated in the form of a schedule to the Supplementary Rules.

(2) On promulgation of a form, it is to be published on the Supreme Court's website.

Division 2—Filing of documents in Court

21—Form of documents for filing in Court

(1) A document to be filed in the Court is to be in an approved form.

(2) The Court may, in a particular action, give directions—

(a) about the form in which documents are to be filed in the Court; and

(b) imposing additional requirements about the filing or form of documents.

Part 2—Service

[*no specific rules*]

Chapter 5—Parties and pleadings

Part 1—Parties and non-party participation

Division 1—Parties generally

22—Actions generally

(1) The plaintiff in an acquisition action—

(a) if not the registered proprietor of the land or legal owner of the thing which is the subject matter of the action—is to name that owner as defendant;

(b) may name as additional defendants other persons known to have or to claim an interest in the land or other things the subject of the action but, unless the Court otherwise directs, is not obliged to do so.

(3) The plaintiff in a boundary action is to name as defendant the person against whom the principal relief is sought.

23—Lodgment action

(1) A plaintiff paying monies into Court under rule 16 is to name as defendants all persons known to have or to claim an interest in the land.

(2) A plaintiff filing an agreement for compensation under rule 17—

(a) is to name as defendants any other party to the agreement; and

(b) may name as additional defendants other persons known to have or to claim an interest in the land but, unless the Court otherwise directs, is not obliged to do so.

24—Valuation appeal

The plaintiff in a valuation appeal is to name as respondent the body that has the interest in defending the administrative decision the subject of the appeal.

Part 2—Defining issues

Division 1—Formal definition of basis of parties' respective cases

25—Acquisition action

(1) This rule applies to the extent that an action comprises or includes an acquisition action.

(2) When the plaintiff seeks an order for acquisition, the pleadings are to address separately and distinctly the question whether there should be an acquisition from any question of the entitlement to or amount of compensation.

(3) If there is an issue whether the plaintiff or defendant has any entitlement to compensation, the pleadings are to address separately and distinctly the question of entitlement to compensation from any question of the amount of compensation.

(4) If the question whether there is to be an acquisition, whether a party has an entitlement to compensation or the amount of compensation has been decided

in whole or part by agreement between the parties, a party relying on the agreement is to –

(a) refer in the party's pleading to the agreement and its effect; and

(b) not refer in the pleading to the facts giving rise to the question to the extent it has been resolved by the agreement except as necessary to describe the effect of the agreement.

(5) When the amount of compensation or rent is in dispute, a party's pleading is to identify each head of claim for compensation and the amount alleged to be appropriate under each head.

(6) When the amount of compensation or rent is in dispute, the plaintiff is to file with the summons and statement of claim a report by a valuer or other appropriate expert identifying the expert's opinion as to amounts relevant to compensation.

26—Boundary action

(1) This rule applies to the extent that an action comprises or includes a boundary action.

(2) The statement of claim is to annex a plan showing the relevant land and any relevant boundaries.

(3) When the action comprises or includes a claim under section 4 or section 10 of the Encroachments Act 1944 or an appeal under section 51(8) of the Survey Act 1992, the plaintiff is to file with the summons and statement of claim a report by a surveyor or other appropriate expert identifying the expert's opinion concerning the location of the relevant legal boundaries, physical boundaries and any alleged encroachment.

27—Lodgment action

Unless the Court otherwise orders, no pleadings are to be filed in a lodgment action.

28—Valuation appeal

(1) This rule applies to a valuation appeal.

(2) The notice of appeal is to identify the administrative decision the subject of the appeal.

(3) The notice of appeal is to identify the grounds upon which it is contended that the administrative decision the subject of the appeal is erroneous.

(2) The appellant is to file with the notice of appeal a statement of facts, issues and contentions in an approved form.

(4) The statement of facts, issues and contentions is to set out briefly—

(a) the decision and the subject matter of the decision;

(b) the essential facts, if any, relied on that were not accepted by the decision maker;

(c) the essential issues raised on the appeal;

(d) the appellant's contention on each issue;

(e) what is contended to be the proper value of the land or thing the subject of the valuation; and

(f) the grounds for any application for an extension of time.

(5) The statement of facts, issues and contentions is to annex a copy of—

(a) the decision and any reasons given by the decision maker;

(b) any formal submission by the appellant to the decision maker the subject of the decision; and

(c) an expert report by a valuer addressing the valuation of the land or thing the subject of the decision.

(6) The appellant is, within two business days after filing a notice of appeal, to serve a copy of the notice of appeal and statement of facts, issues and contentions on all parties to the appeal.

29—Response

(1) The respondent is to file and serve a notice of address for service in accordance with Chapter 4 of the General Civil Rules.

(2) Within 28 calendar days of service of the notice of appeal, the respondent is to file and serve a response to the statement of facts, issues and contentions in an approved form.

(3) The response to statement of facts, issues and contentions is to set out briefly—

(a) a response to any contested essential facts on which the appellant relies;

(b) the essential issues raised by the appellant on the appeal and any additional essential issues raised by the respondent on the appeal;

(c) the respondent's contention on each issue identified by the appellant and respondent;

(d) if an extension of time in which to appeal is sought, the ground of opposition if any.

(4) The response to the statement of facts, issues and contention is to annex a copy of any expert report by a valuer addressing the value of the land or thing obtained by the respondent.

Chapter 6—Case management

Part 1—Duty of parties

[*no specific rules*]

Part 2—Assignment of special classification to action

[*no specific rules*]

Part 3—Court's powers to manage and control litigation

[*no specific rules*]

Part 4—Listing of actions for trial

30—Proceeding to trial

(1) The Court may at any time fix the trial date or the date at which a trial date will be fixed.

(2) The Court may fix a trial date or trial listing date under subrule (1) even though, when the Court makes that order, the action is not ready for trial.

(3) When the Court makes an order under subrule (1), it is the responsibility of the parties to ensure that the action is ready for trial at the fixed trial date or the trial listing date, as the case may be.

(4) If an action will not be ready for trial at the fixed trial date or trial listing date, as the case may be, a party becoming aware of that fact is, as soon as practicable, to file and serve an application under rule 131 of the General Civil Rules seeking appropriate orders from the Court.

Chapter 7—Pre-trial procedures

Part 1—Initial steps

31—Application of General Civil Rules

(1) Subject to subrules (2) and (3), Part 1 of Chapter 7 of the General Civil Rules is excluded.

(2) Rules 128 and 129 of the General Civil Rules apply to all actions in the Court except lodgment actions.

(3) The Court may direct that all or part of Part 1 of Chapter 7 of the General Civil Rules apply to a specific action in the Court.

Part 2—Interlocutory steps generally

Division 1—Litigation plan

32—Application of General Civil Rules

(1) Subject to subrule (2), Division 1 of Part 2 of Chapter 7 of the General Civil Rules is excluded.

(2) The Court may direct that all or part of Division 1 of Part 2 of Chapter 7 of the General Civil Rules apply to a specific action in the Court.

Part 3—Disclosure and production of documents

[*no specific rules*]

Part 4—Non-party disclosure

[*no specific rules*]

Part 5—Gathering of evidentiary material

[*no specific rules*]

Part 6—Pre-trial examination by written questions

[*no specific rules*]

Part 7—Medical examinations

[*no specific rules*]

Part 8—Admissions

33—Notice to admit matters in expert reports

(1) A party may, with the permission of the Court, give notice to another party (an expert report notice to admit) asking the other party to admit—

(a) all facts identified in an expert report by the expert as being true or as being assumptions of fact assumed by the expert to be true;

(b) the authenticity, relevance and admissibility of all documents annexed to an expert report; and/or

(c) the truth of statements contained in all documents annexed to an expert report.

(2) An expert report notice to admit is given by—

(a) filing the notice in the Court; and

(b) serving the notice on the party asked to make the admission.

34—Response to notice to admit

(1) A party to whom an expert report notice to admit is addressed (the ***respondent***) is, within 14 calendar days after the notice is given or a longer time agreed by the parties or allowed by the Court, to give a notice (an ***expert report notice of response***) responding to the notice to admit—

(a) by admitting the assertion; or

(b) by—

(i) denying the assertion and stating the grounds of the denial; or

(ii) stating that the respondent is not in a position to admit or deny the assertion and explaining why the respondent is not in a position to do so; or

(iii) claiming privilege or some other proper ground for refusing to respond to the assertion.

(2) If the respondent fails to respond to an assertion in an expert report notice to admit as required by subrule (1), the respondent is taken to have admitted the assertion.

(3) An expert report notice of response is given by—

(a) filing the notice in the Court; and

(b) serving the notice on the party who gave the expert report notice to admit.

35—Applications and orders

(1) The Court may, on application made within 21 calendar days after an expert report notice of response is given—

(a) order the respondent to give a further and better expert report notice of response within the time allowed by the Court; or

(b) if satisfied that the respondent has denied or failed to admit an assertion without adequate reason for doing so—determine the issue raised by the assertion in advance of the trial.

(2) If a party unreasonably denies or fails to admit an assertion, the Court will, unless there is good reason for not doing so, order the party to pay costs arising from the denial or failure.

(3) If a party unreasonably asks another party for an admission, the Court will, unless there is good reason for not doing so, order that party to pay the costs arising from the request.

Part 9—Notice of evidence to be introduced at trial

Division 1—Notice generally

[*no specific rules*]

Division 2—Expert reports

36—Application of this Division

This Division applies to every action in the Court other than a lodgment action.

37—Disclosure of instructions to expert

(1) Upon providing assumptions and questions to an expert for the purpose of obtaining an expert report upon which a party intends to rely at trial, a party is, at the same time as providing the assumptions and questions to the expert, to serve upon each other party to the action a copy of the assumptions and questions.

(2) For the purpose of this rule, a party intends to rely upon an expert report at trial despite the intention being conditional upon the opinions to be expressed by the expert.

Part 10—Evidence

[*no specific rules*]

Part 11—Offers of settlement

[*no specific rules*]

Part 12—Suitors fund

[*no specific rules*]

Part 13—Power to stay or dismiss proceedings

[*no specific rules*]

Part 14—Security for costs

[*no specific rules*]

Chapter 8—Special kinds of action

Part 1—Application of general rules

[*no specific rules*]

Part 2—Actions in defence of liberty

[*no specific rules*]

Part 3—Actions for judicial review

[*no specific rules*]

Part 4—Interpleader actions

38—Lodgment action

A payment of monies into Court under section 23A(3) of the *Land Acquisition Act 1969* is to be dealt with, so far as practicable, under rule 202 of the General Civil Rules.

Chapter 9—Trial

[*no specific rules*]

Chapter 10—Alternative dispute resolution

[*no specific rules*]

Chapter 11—Judgment

[*no specific rules*]

Chapter 12—Costs

[*no specific rules*]

Chapter 13—Appellate proceedings

[*no specific rules*]

Chapter 14—Contempt of Court

[*no specific rules*]

Chapter 15—Statutory proceedings

[*no specific rules*]

Chapter 16—Sheriff's duties

[*no specific rules*]

Chapter 17—Legal practitioners

[*no specific rules*]

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this ……25th …… day of ……August……..2014.

M. F. BLUE, J

G. J. PARKER, J

South Australia

Land and Valuation Division Supplementary Rules 2014

By virtue and in pursuance of Section 62H of the Supreme Court Act 1935 and all other enabling powers, We, The Judges of the Land and Valuation Court being a division of the Supreme Court of South Australia, make the following Land and Valuation Division Supplementary Rules 2014.

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Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

(1) These Supplementary Rules may be cited as the *Land and Valuation Division Supplementary Rules 2014*.

(2) These Supplementary Rules supplement the *Land and Valuation Division Rules 2014*.

(3) These Supplementary Rules follow the Chapter, Part and Division headings of the *Land and Valuation Division Rules 2014*.

2—Commencement

These Supplementary Rules commence on 1 October 2014.

Part 2—Objects

3—Objects

The objects of these Supplementary Rules are to—

(a) regulate civil proceedings in the Court;

(b) supplement the Rules;

(c) prescribe approved forms.

Part 3—Interpretation

4—Interpretation

(1) Unless the contrary intention appears, a term defined in the *Land and Valuation Division Rules 2014* has the meaning defined by those Rules.

(2) In these Supplementary Rules, unless the contrary intention appears—

Land and Valuation Division Rules or ***the Rules*** means the *Land and Valuation Division Rules 2014*.

Part 4—Application of Supplementary Rules

5—Application of Supplementary Rules

(1) These Supplementary Rules apply to proceedings in the Court.

(2) Subject to paragraph (3), the *Supreme Court Civil Supplementary Rules 2014* apply to actions in the Court.

(3) To the extent of any inconsistency between these Supplementary Rules and the *Supreme Court Civil Supplementary Rules 2014*, these Supplementary Rules prevail.

Part 5—Repeal and transitional provisions

6—Repeal and transition

(1) Unless the Court otherwise directs, these Supplementary Rules apply to—

(a) proceedings commenced on or after the commencement date; and

(b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.

(2) All practice directions and practice notes issued under the *Land and Valuation Division Rules 1978* are superseded by these Supplementary Rules.

(3) The Court may give directions about which rule applies to a transitional proceeding or a particular step in a transitional proceeding.

Chapter 2—General procedural rules and allocation of Court business

[*no supplementary rules*]

Chapter 3—Elements of action at first instance

Part 1—Nature of action

[*no supplementary rules*]

Part 2—Proceedings in anticipation of action

[*no supplementary rules*]

Part 3—Commencement of action

Division 1—How action is commenced

Subdivision 1—Acquisition and division actions

7—Form of summons

(1) A summons in an acquisition action under rule 13 of the Rules is to be in form LVD1.

(2) A summons in a division action under rule 14 of the Rules is to be in form LVD2.

Subdivision 2—Lodgment actions

8—Form of summons

(1) A summons in a lodgment action being a payment into Court under rule 16 of the Rules is to be in form LVD3.

(2) A summons in a lodgment action being filing of a compensation agreement under rule 17 of the Rules is to be in form LVD4.

9—Examples of orders of payment out

(1) An example of payment to claimant—

The Court orders that:

Out of the moneys standing in Court to the credit of this matter in an account entitled "LVD No [*no*] of [*year*] — Commissioner of Highways v [*name*]" Account *[A/C no*], the sum of [*sum*] together with all interest accrued thereon to the date of payment out be paid out of Court to the claimant, [*name*] without prejudice to the right of the claimant to claim such further compensation to which the claimant may be entitled to under the Land Acquisition Act 1969.

(2) An example of payment to the Authority—

The Court orders that—

Out of the moneys standing in Court to the credit of this matter in an account entitled "LVD No [*no*] of [*year*] —Commissioner of Highways v [*name*]" Account [*A/C no*], the sum of [*sum*] together with all interest accrued thereon to the date of payment out, be paid out of Court to the Authority c/- the Crown Solicitor.

Subdivision 3—Valuation appeals

10—Notice of appeal

A notice of appeal in a valuation appeal under rule 18 of the Rules is to be in form LVD5.

Chapter 4—Documents and service

Part 1—Documents

Division 1—Approved forms

11—Approved forms

The forms contained in the Schedule to these Supplementary Rules are to be used for the relevant purpose and, when applicable, under the stated rule or supplementary rule.

Division 2—Filing of documents in Court

12—Form of documents for filing in Court

(1) All documents filed in the Court are to contain—

(a) as part of the action heading immediately above the action number the words "Land and Valuation Division"; and

(b) an action number in the form "LVD No of 20 ."

(2)

(3)

Part 2—Service

13—Obligation to give address for service

A defendant or person served with a summons in a lodgment action is not required to file an address for service or defence under rule 59(3) of the General Civil Rules unless and until that defendant or person applies for an order in the action.

Chapter 5—Parties and pleadings

14—Statement of facts, issues and contentions

A Statement of facts, issues and contentions in a valuation appeal under rule 28 of the Rules is to be in form LVD6.

15—Response to statement of facts, issues and contentions

A Response to statement of facts, issues and contentions in a valuation appeal under rule 29 of the Rules is to be in form LVD7.

Chapter 6—Case management

[*no supplementary rules*]

Chapter 7—Pre-trial procedures

Part 1—Initial steps

[*no supplementary rules*]

Part 2—Interlocutory steps generally

Division 1—Litigation plan

[*no supplementary rules*]

Division 2—Directions hearings

16—Directions hearing

(1) Directions hearings will generally be presided over by a Judge of the Court.

(2) The purpose of directions hearings is to—

(a) ascertain whether the matter can be resolved by settlement;

(b) crystallise the issues in dispute; and

(c) ensure that the matter proceeds as expeditiously and efficiently as possible to trial.

Chapter 8—Special kinds of action

[*no supplementary rules*]

Chapter 9—Trial

[*no supplementary rules*]

Chapter 10—Alternative dispute resolution

[*no supplementary rules*]

Chapter 11—Judgment

[*no supplementary rules*]

Chapter 12—Costs

[*no supplementary rules*]

Chapter 13—Appellate proceedings

[*no supplementary rules*]

Chapter 14—Contempt of Court

[*no supplementary rules*]

Chapter 15—Statutory proceedings

[*no supplementary rules*]

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this ……1st…… day of ……September……..2014.

M. F. BLUE, J

G. J. PARKER, J

South Australia

Land and Valuation Division Supplementary Rules 2014

SCHEDULE—APPROVED FORMS

Schedule—Approved Forms

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Rule 13

Form LVD 1 Summons - acquisition

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff (*name of plaintiff*) makes a claim relating to a compulsory acquisition or possible acquisition against you or that may affect you. Details of the claim and orders sought are contained in the accompanying Statement of Claim.

Action required

If you wish to defend the claim, you must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Summons on you; and

(b) file a Defence within 28 calendar days after service of the Statement of Claim on you.

If a Notice of Address for Service and a Defence is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Notice of Address for Service and Defence must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

1. The general nature of the application is (*insert nature*).

2. The land or other subject matter of the action is (*identify land or other subject matter*).

3. The statutory provision under which the claimed entitlement to the order sought arises is (*insert provision*).

4. The statutory provision giving to the Court jurisdiction to hear and determine the action is (*insert provision*).

5. The name, address and interest of person(s) known or claiming to have a proprietary interest in the land are (*insert name, address and nature of interest*).

Orders sought

The plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*).

Accompanying documents

This summons must be accompanied by a Statement of Claim.

Plaintiff's address

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is (*principal place of business*).

Date:

(*signed*) .....
Plaintiff/Solicitor for the plaintiff (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:
"Any better full name of the (role of the party) is not known, and not reasonably ascertainable by, the plaintiff"

2 If the plaintiff intends to apply for an authorisation under rule 81 the summons is to bear the following endorsement under rule 81(2):

> "The plaintiff brings this action as representative of a group of which each member has a common interest being (set out question of law or fact in which there is a common interest) and intends to apply for the necessary authorisation under rule 81."

3 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 14

Form LVD 2 Summons - boundary action

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff (name of plaintiff) makes a claim relating to the boundary of land against you or that may affect you. Details of the claim and orders sought are contained in the accompanying Statement of Claim.

Action required

If you wish to defend the claim, you must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Summons on you; and

(b) file a Defence within 28 calendar days after service of the Statement of Claim on you.

If a Notice of Address for Service and a Defence is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Notice of Address for Service and Defence must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

1. The general nature of the application is (*insert nature*).

2. The land the subject of the action is (*identify land*).

3. The statutory provision under which the action is brought is (*insert provision*).

4. (*if applicable*) The plaintiff appeals against the decision of (*insert decision maker*) that (*insert decision*) dated (*insert date*).

5. The statutory provision giving to the Court jurisdiction to hear and determine the action is (*insert provision*).

Orders sought

Plaintiff claims:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by a Statement of Claim.

Plaintiff's address

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is (*principal place of business*).

Date:

(*signed*) .....
Plaintiff/Solicitor for the plaintiff (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:
"Any better full name of the (role of the party) is not known, and not reasonably ascertainable by, the plaintiff"

2 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 16

Form LVD 3 Summons - payment in

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff (*name of plaintiff*) pays monies into Court under section 23A(3) of the *Land Acquisition Act 1969*.

Action required

If you wish to seek orders in relation to the monies paid into Court, you or your solicitor must:

(a) file a Notice of Address for Service; and

(b) file an Interlocutory Application in accordance with the *Supreme Court Civil Rules 2006*.

The Notice of Address for Service must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

1. This Summons relates to a payment of monies into Court under section 23A(3) of the *Land Acquisition Act 1969*.

2. The land in respect of which the monies have been paid into Court is (*identify land*).

3. The amount of monies paid into Court is (*insert amount*).

4. The name, address and interest of person(s) known to have or claim a proprietary interest in the land are (*insert name, address and nature of interest*).

Accompanying documents

The notice of acquisition under section 16 of the *Land Acquisition Action 1969* and a search copy of the Certificate of Title immediately before the application is annexed to this Summons.

Plaintiff's address

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is (*principal place of business*).

Date:

(*signed*) .....
Plaintiff/Solicitor for the plaintiff (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:
"Any better full name of the (role of the party) is not known, and not reasonably ascertainable by, the plaintiff"

2 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 17

Form LVD 4 Summons - compensation agreement

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*).

The Plaintiff lodges an agreement for compensation under section 23B(1) of the *Land Acquisition Act 1969*.

Action required

If you wish to seek orders to implement the agreement, you or your solicitor must file:

(a) a Notice of Address for Service; and

(b) an Interlocutory Application in accordance with the *Supreme Court Civil Rules 2006*.

The Notice of Address for Service and Defence must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

1. This Summons relates to the lodgment of an agreement for compensation under section 23B(1) of the *Land Acquisition Act 1969*.

2. The land in respect of which the compensation agreement was made is (*identify land*).

3. The name, address and interest of person(s) known or claiming to have a proprietary interest in the land are (*insert name, address and nature of interest*).

Accompanying documents

A copy of the agreement for compensation and a search copy of the Certificate of Title immediately before the acquisition is annexed to this Summons.

Plaintiff's address

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is (*principal place of business*).

Date:

(*signed*) .....
Plaintiff/Solicitor for the plaintiff (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:
"Any better full name of the (role of the party) is not known, and not reasonably ascertainable by, the plaintiff"

2 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 18

Form LVD 5 Notice of appeal against valuation decision

NOTICE OF APPEAL AGAINST VALUATION DECISION

TO THE RESPONDENT: (*name*) of (*address*)

(*name*) APPEALS to the Supreme Court of South Australia against the decision of (*name*) dated (*date*)(*month*)(*year*).

Respondent's name and address:

1. **Decision appealed against**
   (*set out relevant decision*)

2. **Subject matter of valuation**
   (*identify land or other subject matter*)

3. **Statutory provision conferring right of appeal**
   (*insert provision*)

4. **Orders sought**
   (*state briefly but specifically the orders sought*)

5. **Grounds of appeal**
   (*set out grounds of appeal in successively numbered paragraphs*)

6. **Extension of time** (*if applicable*)
   (*set out grounds for extension of time*)

Date:

(*signed*) .....
Appellant/Solicitor for the appellant (*delete whichever is inapplicable*)

Notes

1 This notice is to be accompanied by Form 1 in the *Supreme Court Civil Supplementary Rules 2014*, duly completed

2 The party or parties appealing must serve a copy of the notice of appeal on the respondent forthwith

Rule 28

Form LVD 6 Statement of facts, issues and contentions

STATEMENT OF FACTS, ISSUES AND CONTENTIONS

1. Facts

(*identify the decision subject to appeal*)

(*identify the subject matter of the decision subject to appeal*)

(*set out succinctly the essential facts, if any, relied on not accepted by the decision maker*)

2. Issues

(*identify succinctly the controversial issues in neutral terms*)

3. Contentions (*identify succinctly the appellant's contention on each issue*)

4. Proper value (*identify the appellant's contention of the proper value of the land or thing in question*)

5. Extension of time (*if applicable*)

(*set out grounds for extension of time*)

6. Annexures

(*annex decision and any reasons given by the decision maker*)

(*annex any formal submission by the appellant to the decision maker the subject of the decision*)

(*annex copy of an expert report by a valuer addressing value*)

Date:

(*signed*).....

Appellant/Solicitor for the appellant (*delete whichever is inapplicable*)

Rule 29

Form LVD 7 Response to statement of facts, issues and contentions

RESPONSE TO STATEMENT OF FACTS, ISSUES AND CONTENTIONS

1. Facts

(*set out the response to any contested facts in the appellant's part 1*)

2. Issues

(*replicate the issues in the appellant's part 2*)

(*identify succinctly any additional issues in neutral terms*)

3. Contentions

(*identify succinctly the respondent's contention on each issue*)

4. Proper value (*identify the respondent's contention of the proper value of the land or thing in question*)

5. Extension of time (*if applicable*)

(*set out the response to the application for extension of time*)

6. Annexures

(*annex copy of any expert report by a valuer addressing value*)

Date:

(*signed*).....
Respondent/Solicitor for the respondent (*delete whichever is inapplicable*)

South Australia

Supreme Court Civil Rules 2006 (Amendment No 26)

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 26)*.

1. These Rules may be cited as the *Supreme Court Civil Rules 2006 (Amendment No 26)*.

2. The *Supreme Court Civil Rules 2006* are amended as set out below.

3. (a) Subject to this clause, the amendments made by these Rules come into effect on 1 October 2014.

   (b) The amendments made by clauses 56 to 60, 79(b), 81 and 115 apply only to proceedings commenced on or after 1 October 2014.

   (c) The amendments made by clauses 103, 105, 107, 108, 110(b) and 113 apply only to appellate proceedings commenced on or after 1 October 2014.

   (d) The Court may, if it thinks fit, direct that the Rules as amended, or the Rules in force before these Amended Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.

4. Rule 4 is amended by:

   (a) adding to the examples to the definition of "defendant" the following:

      "3 A person against whom a third party action is brought is a defendant to the third party claim";

   (b) substituting "freezing" for "Mareva" in the second example to the definition of "interlocutory proceeding";

   (c) substituting "within the meaning of the *Legal Practitioners Act 1981*" for "entitled to practise as a barrister or solicitor in South Australia" in the definition of "lawyer";

   (d) substituting "rule 130G" for "subrules 116(2) and 117(2)(g)" in the definition of "litigation plan";

   (e) substituting "(see rules 28, 29 and 37)" for "(see rules 29 and 37)" in the definition of "secondary action";

   (f) deleting the definition of "teleconference"; and

(g) inserting the following definitions in their alphabetical place:

"***audiovisual hearing*** means a hearing at which the Court and a party or a party's representative or a witness communicate by video, telephone or other electronic means;"

"***interlocutory steps***—see rule 125;"

"***Supplementary Rules***—see rule 11;"

"***without notice*** means without serving or advising another party or other person of an application or appeal to be made to the Court."

5. Rule 5 is amended by:

(a) substituting "order" for "judgment"; and

(b) substituting "an" for "a" before "order" in subrule (3) and subrule (5).

6. Rule 9A(3) is amended by inserting "and subject to subrules (4) and (5)" after "subrule (1)".

7. Rule 9B(5) is amended by substituting "Any electronic" for "A" at the beginning.

8. Rule 10(2) is amended by inserting a new paragraph (a) as follows and renumbering the subsequent paragraphs accordingly:

"(a) when these Rules do not address or address fully a procedural matter that arises in a proceeding; or"

9. Rule 11 is deleted and the following rule is inserted in its place:

"11—Supplementary Rules

(1) It is intended that the Court make supplementary rules necessary or convenient for the regulation of proceedings in the Court (***Supplementary Rules***).

(2) In particular, it is intended that supplementary rules—

(a) supplement these Rules;

(b) modify these Rules in respect of a particular category of proceedings;

(c) give directions as to practices to be followed;

(d) prescribe scales of costs;

(e) prescribe the rate of interest that accrues on judgments;

(f) prescribe approved forms."

10. Rule 15 is amended by deleting subrule (4) and renumbering the subsequent subrule accordingly.

11. Rule 17(1) is amended by substituting "Exceptions" for "exceptions".

12. Rule 18 is amended by:

    (a) deleting subrule (2)(c) and inserting the following in its place:

        "(c) to take custody of documents and objects produced to the Court in response to a subpoena, and of all exhibits tendered in proceedings before the Court, and to deal with them as authorised by these Rules or as directed by the Court; and"

    (b) deleting ", with the approval of the Chief Justice," in subrule (3).

13. Rule 19(1) is amended by:

    (a) deleting "uncontested" in paragraph (b)(ii); and

    (b) adding a new paragraph (c) as follows:

        "(c) exercise the jurisdiction of the Court under sections 17, 25, 35(3), 39 or 45 of the *Service and Execution of Process Act 1992* (Cth)."

14. Rule 33(1) is amended by:

    (a) inserting "by the Supplementary Rules or" before "by direction" in paragraph (c); and

    (b) inserting a new paragraph (d) as follows:

        "(d) an action in a category for which the Supplementary Rules prescribe alternative requirements."

15. Rule 34(2) is amended by substituting "Except when a different form of process is prescribed by a rule, primary" for "Primary".

16. Rule 35 is amended by:

    (a) deleting the words contained in subrule (2) (but not the Examples) and substituting:

        "A cross action against existing parties is commenced by filing a counterclaim or contribution claim incorporating a statement of claim in an approved form."

    (b) substituting "may" for "is to" in Example 1 to subrule (2) and in subrule (4);

    (c) deleting from Example 1 to subrule (2) "when the action is proceeding on pleadings and not affidavits under rule 96"; and

    (d) deleting the words under the Note to subrule (2) and substituting:

"A cross action against both an existing party and a person not already a party to the action is governed by rule 37."

17. Rule 37(4) is amended by:

(a) substituting "is to" for "must" in subrule (1); and

(b) deleting subrule (4) and substituting:

"(4) The defendant to a cross action or a third party action is to file a defence to such an action within the relevant time limit that is appropriate for a third party action."

18. New headings are inserted immediately after rule 38 as follows:

"Part 4 – Service of Originating Process

Division 1—General"

19. A new rule 38A is inserted immediately before rule 39 as follows:

"38A—Interpretation

In this Part—

convention, for a foreign country, means a convention (other than the Hague Convention), agreement, arrangement or treaty about service abroad of judicial documents to which the Crown in right of the Commonwealth or, if appropriate, in right of a State, and a foreign country are parties;

foreign country means a country other than Australia;

originating process or ***initiating process*** means any document by which a proceeding (including a primary action or third party action or a proceeding in anticipation of action) are commenced."

20. Rule 39 is amended by:

(a) substituting as the title "Time for service";

(b) substituting "Subject to subrules (2) and (3), originating" for "Originating" in subrule (1);

(c) substituting "12" for "6" in subrule (2); and

(d) inserting at the end the following note:

"**Note**—

Rule 123(5) provides that a party may on service give notice that the action is to be entered in the list of inactive cases."

21. A new division heading "Division 2—Service outside Australia" is inserted immediately after rule 39.

22. A new rule 39A is inserted immediately before rule 40 as follows:

"39A—Service of originating process in New Zealand

(1) In this rule, ***Act*** means the *Trans-Tasman Proceedings Act 2010* (Cth).

(2) An application under—

(a) section 12(2) of the Act to set aside a proceeding or step in a proceeding;

(b) section 15(1) of the Act for security for costs; or

(c) section 48 of the Act to appear remotely from New Zealand,

is to be made by interlocutory application under rule 131.

(3) Except in a proceeding to which rule 2.9 of the *Corporations Rules 2003 (South Australia)* applies, an appearance filed under section 13 of the Act is to comply with the requirements of rule 58 and be in the approved form for notices of address for service."

23. Rule 41 is deleted and the following rules inserted in its place:

"41—Service of other documents

(1) A party may apply to the Court for permission to serve a document filed in or issued by the Court, other than originating process, on a person in a foreign country in accordance with a convention, the Hague Convention or the law of the foreign country.

Note 1—

The law of a foreign country may permit service through the diplomatic channel or service by a private agent—see Division 3.

Note 2—

Division 4 deals with service of local judicial documents in a country, other than Australia, that is a party to the Hague Convention.

Note 3—

The Court may give permission on conditions.

(2) An application under subrule (1) is to be accompanied by an affidavit stating—

(a) the name of the foreign country where the person to be served is or is likely to be; and

(b) the proposed method of service; and

(c) that the proposed method of service is permitted by—

(i) if a convention applies—the convention; or

(ii) if the Hague Convention applies—the Hague Convention; or

(iii) in any other case—the law of the foreign country.

(3) If a document, other than originating process, was served on a person in a foreign country without the permission of the Court, a party may apply to the Court for an order confirming the service.

(4) For subrule (3), the party must satisfy the Court that—

(a) the service was permitted by—

(i) if a convention applies—the convention; or

(ii) if the Hague Convention applies—the Hague Convention; or

(iii) in any other case—the law of the foreign country; and

(b) there is a sufficient explanation for the failure to apply for permission.

41AA—Application of other rules

The other provisions of this Part apply to service of a document on a person in a foreign country in the same way as they apply to service on a person in Australia, to the extent that they are—

(a) relevant and consistent with this Division; and

(b) consistent with—

(i) if a convention applies—the convention; or

(ii) if the Hague Convention applies—the Hague Convention; or

(iii) in any other case—the law of the foreign country.

41AB—Method of service

A document that is to be served on a person in a foreign country need not be served personally on the person if it is served according to the law of the foreign country.

41AC—Proof of service

(1) This rule does not apply to a document served in accordance with the Hague Convention.

Note—

Division 4 deals with service of local judicial documents in a country, other than Australia, that is a party to the Hague Convention.

(2) An official certificate or declaration (whether made on oath or otherwise) stating that a document has been personally served on a person in a foreign country, or served on the person in another way in accordance with the law of the foreign country, is sufficient proof of the service of the document.

(3) If filed, a certificate or declaration mentioned in subrule (2)—

(a) is taken to be a record of the service of the document; and

(b) has effect as if it were an affidavit of service.

41AD—Deemed service

A party may apply to the Court without notice for an order that a document is taken to have been served on a person on the date mentioned in the order if—

(a) it is not practicable to serve the document on the person in a foreign country in accordance with a convention, the Hague Convention or the law of a foreign country; and

(b) the party provides evidence that the document has been brought to the attention of the person to be served.

Note—

without notice is defined in rule 4.

41AE—Substituted service

If service was not successful on a person in a foreign country, in accordance with a convention, the Hague Convention or the law of a foreign country, a party may apply to the Court without notice for an order—

(a) substituting another method of service; or

(b) specifying that, instead of being served, certain steps be taken to bring the document to the attention of the person; or

(c) specifying that the document is taken to have been served—

(i) on the happening of a specified event; or

(ii) at the end of a specified time.

Note 1—

without notice is defined in rule 4.

Note 2—

The Court may make an order for presumptive service under rule 69 in respect of a document that may be served under this Division."

24. The division heading immediately above rule 41A is renumbered as Division 4 and a new Division 3 is inserted immediately above that division heading as follows:

"Division 3—Service through diplomatic channel or by transmission to foreign government

41AF—Documents to be lodged with the Court

If a party has been given permission to serve a document on a person in a foreign country—

(a) through the diplomatic channel; or

(b) by transmission to a foreign government in accordance with a convention (the ***relevant convention***),

the party is to lodge in the Registry—

(c) a request for service in an approved form;

(d) a request for transmission in an approved form (when applicable);

(e) the party's or the party's lawyer's written undertaking to pay to the Registrar the amount of the expenses incurred by the Court in giving effect to the party's request;

(f) the number of copies of each document that are required by the relevant convention to be served; and

(g) if necessary, a translation into the foreign country's official language (including a statement by the translator attesting to the accuracy of the translation) of the following—

(i) the request for transmission mentioned in paragraph (d);

(ii) each document to be served.

Note—

This rule does not apply if a person has been given permission to serve a document on a person in a foreign country that is a party to the Hague Convention. Service in a foreign country that is a party to the Hague Convention is dealt with in Division 4.

41AG—Order for payment of expenses

If a party, or a party's lawyer, gives an undertaking under rule 41AF(e) and does not, within 14 calendar days after being sent an account for expenses incurred in relation to the request, pay to the Registrar the amount of the expenses, the Court may without notice make an order that—

(a) the amount of the expenses be paid to the Registrar within a specified period of time; and

(b) the proceeding be stayed, to the extent that it concerns the whole or any part of a claim for relief by the party, until the amount of the expenses is paid.

Note—

without notice is defined in rule 4."

25. The notes under Sub-Division 1—Preliminary are amended by:

(a) substituting "Part 4 Division 4" for "Division 3 of Part 3" in Note 1;

(b) inserting a new Note 4 immediately below Note 3 as follows:

"Note 4—

This Division follows the form of harmonised rules adopted in jurisdictions across Australia. The term ***initiating process*** refers to what elsewhere in these Rules is called ***originating process***."

26. Rule 41A is amended by substituting "claim" for "notice" in the definition of initiating process.

27. The heading to rule 41B is amended by substituting "Division" for "rule".

28. Rule 41D(4)(b) is amended by substituting "requests" for "wants".

29. Rule 41G(2)(a) is amended by substituting "permission" for "leave".

30. Rule 41L(3)(b) is amended by substituting "12 month" for "12-month".

31. Rule 42 is deleted and the following rule is inserted in its place:

"42—Approved forms

(1) It is intended that approved forms will be promulgated in a schedule to the Supplementary Rules.

(2) On promulgation of a form, it is to be published on the Court's website."

32. Rule 44 is amended by:

(a) deleting subrule (2);

(b) substituting "Any" for "To that end, any" at the beginning of subrule (3); and

(c) renumbering subrule (3) as (2).

33. Rule 45 is amended by:

(a) substituting in subrule (1) "may create and operate" for "is responsible for maintaining";

(b) deleting "and" at the end of paragraph (a);

(c) substituting "or" for "and" at the end of paragraph (c); and

(d) inserting "for service" after "address" in subrule (2).

34. Rule 48 is deleted.

35. Rule 49 is amended by substituting "may" for "will".

36. Rule 51 is amended by deleting subrule (2) and renumbering subrule (3) as (2).

37. Rule 59 is amended by:

(a) deleting "working" after "30" in subrule (3).

(b) renumbering the note to subrule (3) as "Note 1" and adding an additional note as follows:

"**Note 2**—

Rule 123(5) provides that a party may on service give notice that the action is to be entered in the list of inactive cases, in which event no address for service need be filed."

(c) inserting at the end of subrule (5) "or the address for service is false or misleading.

Note —

Section 18(3) of the *Service and Execution of Process Act 1992* (Cth) requires that an appearance be set aside if, on application by the party by whom the process was served, the court is satisfied that the address for service is false or misleading."

38. Rule 69(2) is amended by inserting "of" after "publication" in Example 2.

39. Rule 72 is amended by adding a new subrule (4) as follows:

"(4) The Court may dispense with the requirement to prove the matters in subrule (1) if satisfied that personal service was effected on the person."

40. Rule 81 is amended by adding new subrules (7) and (8) as follows:

"(7) For example, the Court may vary the order so as to alter the definition of the group.

(8) The definition of the group may be altered so as to include a person—

(a) whose cause of action accrued after the commencement of the representative action; and

(b) who would have been included in the group, or, with the consent of the person would have been included in the group, if the cause of action had accrued before the commencement of the action."

41. Rule 89(1) is amended by substituting "seeks" for "wants".

42. Rule 91 is amended by deleting subrule (3).

43. Rule 92 is amended by:

(a) deleting the Exception at the end of subrule (1) and inserting the following note in its place:

"**Note—**

The defendant to a secondary action commenced by contribution claim must file a defence to the statement of claim forming part of the contribution claim."

(b) adding a note at the end of subrule (3) as follows:

"**Note**—

Rule 123(5) provides that a party may on service give notice that the action is to be entered in the list of inactive cases, in which event no defence need be filed."

44. Rule 97 is amended by inserting a new subrule (3) as follows:

"(3) The Supplementary Rules may exempt a party in a particular category of action, on conditions or unconditionally, from the obligation to comply with some or all of the pleading rules contained in this Part."

45. Rules 98(2)(b) and (d), 98(4), 99(1)(c), 99(2), 99(2)(a) and (b), 100(1)(e), 100(3), 101(1)(b) and 102(2) are amended by inserting "and matters" after "facts" wherever that word appears.

46. Rules 100(1)(b), 100(5), 101(1)(a), 101(3) and 103(4)(a) and (b) are amended by deleting "of fact" wherever those words appear.

47. Rule 103(1)(b) is amended by substituting "was" for "were".

48. Rule 107(2)(a) is amended by substituting "seeks" for "wants".

49. Rule 108 is amended by deleting Exception 2 and substituting the following:

"2 The Court may, on application by the defendant made within 21 calendar days of service on the defendant of the notice of discontinuance, order that the discontinuance of an action or a claim is to have the same effect as a final judgment against the party discontinuing."

50. A new rule 112A is inserted immediately after rule 112 as follows:

"112A—Jurisdiction of Courts (Cross-vesting) Act 1987

(1) In this rule—

Act means the *Jurisdiction of Courts (Cross-vesting) Act 1987*.

(2) An application for an order for the transfer of an action under the Act can be heard and determined only by the Court constituted of a Judge or by the Full Court.

(3) An application for an order for the transfer of an action under the Act is to—

(a) be filed as soon as practicable after the filing by any party of a notice of address for service, or the service on the party of a cross action or a third party claim, as the case may be;

(b) clearly identify any special federal matter as defined in the Act; and

(c) identify any action that the applicant has begun, or intends to begin, in another court involving the same or similar issues to those involved in the action in respect of which the order for transfer is sought.

(4) Subject to subrule (5), an application under section 8(1) of the Act for an order removing a proceeding in another court or tribunal to the Court is to be made by summons under rule 34.

(5) If all interested parties are before the Court in a separate proceeding, an application under section 8(1) of the Act for removal of a proceeding to this Court may be made by interlocutory application under rule 131 in the existing proceeding in this Court.

(6) On the receipt of documents relating to a proceeding transferred to this Court under the interstate, territory or federal counterparts to section 5 of the Act, the Registrar will—

(a) give a new action number to the proceeding;

(b) subject to any order for consolidation that may have been made, treat those documents as if they were documents in a new action commenced in the Court;

(c) arrange for a directions hearing to be held as soon as practicable.

(7) If a party asserts that a matter is to be, or may be, determined by the Court in accordance with the law of another place under section 11 of the Act, the party's pleading is to state which law must, or should, according to the party's assertion, be applied.

(8) If a party seeks an order under section 11 of the Act for the application to an action of laws of evidence or procedure differing from those normally applied in the Court, an interlocutory application may be made for such an order.

(9) Unless any order is made to the contrary, a party to a proceeding which has been transferred or removed to the Court under interstate, territory or federal counterparts to the Act will, in respect of an entitlement to costs incurred while the proceeding was in the previous court or tribunal, be awarded costs on the basis on which costs are adjudicated in the previous court or tribunal for such work."

51. Rule 113(2)(c) is amended by substituting "well before trial and in any event before a certificate of readiness is completed" for "by the time the case is referred for trial".

52. Rule 116 is amended by deleting subrules (2) and (3) and renumbering subrule (4) accordingly.

53. Rule 120 is deleted and the following new rules are inserted in its place:

"120—Proceeding to trial—litigation plan

(1) In an action in which orders have been made implementing a litigation plan, the Court may, at any time, fix the trial date or the date at which a trial date will be fixed.

(2) The Court may fix a trial date or trial listing date under subrule (1) even though, when the Court makes that order, the action is not ready for trial.

(3) When the Court makes an order under subrule (1), it is the responsibility of the parties to ensure that the action is ready for trial at the fixed trial date or the trial listing date, as the case may be.

(4) When the Court makes an order under subrule (1) and the interlocutory steps the subject of the orders implementing a litigation plan have been completed, the party responsible for the carriage of the action is to procure the parties to certify to the Court in an approved form that the action is ready to proceed to trial.

Note—

interlocutory steps is defined by rule 125.

(5) If an action will not be ready for trial at the fixed trial date or trial listing date, as the case may be, a party becoming aware of that fact is, as soon as practicable, to file and serve an application under rule 131 seeking directions from the Court.

120A—Proceeding to trial—other cases

(1) Actions other than those to which rule 120 refers are not to proceed to trial unless the Court makes an order to that effect.

(2) Before the hearing of an application for an order that an action may proceed to trial, the parties are to certify to the Court in an approved form that the action is ready to proceed to trial.

(3) The certificate is to consist of a check list, in an approved form, signed by the party or the party's lawyer.

(4) A party is required to review the adequacy of its pleadings before an order is made that the action be listed for trial and thereafter a party will not be permitted to amend the pleading – particularly if the amendment would cause a postponement or adjournment of the trial – unless the Court is satisfied that special circumstances exist justifying permission in the interests of justice.

(5) If the Court is of the opinion that—

(a) one or more of the parties are not ready for trial because of their own default; but

(b) the action should nevertheless proceed to trial,

the Court may, on its own initiative or on an application by a party, order that the action proceed to trial.

120B—Change of circumstances

If, after the Court has fixed a trial date or a trial listing date or made an order that an action proceed to trial, the action is settled or discontinued in whole or part or a party becomes aware of other circumstances that may affect the length of the trial, the party must as soon as practicable—

(a) notify the Registrar in writing giving full particulars; and

(b) serve a copy of the written notification on the other parties."

54. Rule 121 is amended by:

(a) substituting "before the action is ready for trial" for "under rule 120(1)" in existing subrule (3) and "5" for "7" in existing subrule (3)(b);

(b) deleting subrules (2) and (5) and renumbering the subsequent subrules accordingly.

55. Rule 123 is amended by:

(a) substituting "Subject to subrule (5), if" for "If" at the beginning of subrule (4);

(b) inserting a new subrule (5) as follows:

"(5) If the plaintiff files and serves with the originating process a notice in an approved form stating that the plaintiff does not intend to take any further steps in the action until after the action is removed from the list of inactive cases, the action will be entered in the list of inactive cases but will not be liable to be dismissed under subrule (4) and—

(a) the defendant is not required to file and serve an address for service or defence and the time for the defendant to take any step in the action as against the plaintiff does not begin to run;

(b) the plaintiff is not entitled to seek default judgment;

(c) no party is entitled to take any steps in the action;

unless and until the Court makes an order removing the action from the list of inactive cases on the application of a party having given to all parties at least 14 calendar days written notice."

(c) renumbering subsequent subrules accordingly;

(d) substituting "A dismissal effected by subrule (4)" for "The dismissal" at the commencement of renumbered subrule (6).

56. The title of Part 1 of Chapter 7 is deleted and "Initial Steps" is inserted in its place. A new Division 1 is inserted immediately after the heading to Part 1 of Chapter 7 as follows:

"Division 1—Introduction"

57. Rule 124 is amended by:

(a) inserting "this" before "Part" in the title;

(b) deleting Exceptions 3, 4, 5, 7 and 8 and renumbering Exception 6 as "5";

(c) inserting new Exceptions 3 and 4 as follows:

"3 An action governed by Chapter 8, Chapter 15 (other than actions under *the Family Relationships Act 1975* or *Inheritance (Family Provision) Act 1972*) or Chapter 17.

4 An action governed by rules of the Court other than or as well as these Rules."

(d) deleting subrule (2) and inserting subrules (2), (3) and (4) in its place as follows:

"(2) A category of actions may be excluded from or included in the application of all or part of this Part by the Supplementary Rules.

(3) The Court may, on application by a party or on its own initiative, exclude an action from the application of all or part of this Part.

(4) The Court may direct that all or part of this Part applies to an action that would otherwise fall within the exceptions to subrule (1)."

58. Rules 125 to 130 are deleted and new rules are inserted as follows:

"125—Interpretation

In this Chapter, unless the contrary intention appears —

interlocutory steps means bilateral steps taken in preparation for trial including steps relating to pleadings, disclosure, expert reports and notices to admit when applicable but does not include pre-trial steps;

pre-action step—see rule 126(1);

pre-trial steps means the preparation of a tender book, written lay witness evidence or a list of objections to evidence;

prescribed date is 5 business days after the last to occur of—

(a) the date or due date (whichever first occurs) of or for filing the defence by the defendant or each defendant to the primary action; and

(b) the date or due date (whichever first occurs) of or for filing the defence by the defendant or each defendant to a cross action when a cross action is commenced at the same time as a defence; and

(c) the date or due date (whichever first occurs) of or for filing the defence by the third party or each third party to a third party action when a third party action is commenced at the same time as a defence;

prescribed period—see rule 136(4);

preliminary hearing means a hearing convened before the initial directions hearing and includes a hearing referred to in rule 127, 130B or 130E.

Division 2—Compliance with pre-action requirements

126—Application by party

(1) This rule applies when steps required by these Rules or the Supplementary Rules to be taken before commencement of the action (***pre-action steps***) have not been taken in breach of these Rules or the Supplementary Rules or because a party was excused from taking a pre-action step due to urgency or other grounds identified in these Rules or the Supplementary Rules.

(2) A party not in default (including a plaintiff if excused from compliance) may apply for directions as to what steps should be taken in lieu of the pre-action steps and altering the steps otherwise required by this Part to be taken.

(3) Unless the Court otherwise orders, any such application is to be made by a plaintiff within 5 business days after commencement of the action and by a defendant within 5 business days after being served with the originating process.

127—Preliminary hearing

(1) Upon application being made under rule 126, the Registrar will convene a preliminary hearing.

(2) At the preliminary hearing, the Court may—

(a) direct that a party or the parties take a pre-action step;

(b) stay the action or suspend the time for taking a step in the action until after the pre-action step is taken;

(c) direct that the parties attend or not attend a settlement conference or make any directions that can be made under Division 4;

(d) order that a party who failed to take a pre-action step in breach of these Rules or the Supplementary Rules pay the costs of the other parties caused by the failure to comply, which costs may be fixed in a lump sum on an indemnity basis and payable immediately;

(e) make any order that could be made at a directions hearing under Part 2.

Division 3— Initial documents

128—Key documents

(1) The plaintiff is to serve on the other parties to the action at the same time as the primary originating process a list of the key documents in the case.

(2) The defendant to a primary action or third party action is to serve on the other parties to the action at the same time as the defence a list of the key documents in the case.

(3) A document is a key document regardless of whether it assists or is adverse to the case of the disclosing party.

(4) A party is, within 3 business days after a request by another party, to make available for inspection and, upon an undertaking by the requesting party to pay the reasonable cost thereof, to provide a copy of, a document identified in a list of key documents.

Examples—

1 The contract, when the primary issue in the case is the construction of the contract, is a key document.

2 The calculations of an engineer to produce an engineering report, when the primary issue in the case is whether the calculations were negligent, is a key document.

3 Financial statements of a business, when the primary issue in the case is an appraisal of loss of profits, are key documents.

4 By definition, there may be expected to be a small number of key documents out of the total disclosable documents in a case.

129—Expert reports

(1) Subject to subrule (2), each party is to serve on each other party by the prescribed date a copy of any expert reports that have been obtained by the party relevant to the subject matter of the proceeding (whether or not the party intends to rely on the reports at trial).

(2) A party need not serve on another party a copy of any expert report that has been previously served on that party.

Division 4—Settlement conference

130—Settlement conference

(1) This rule does not apply to a category of action excluded by the Supplementary Rules.

(2) Subject to this rule, no later than 21 calendar days after the prescribed date, the parties are to arrange and attend a settlement conference on a date and at a place agreed.

(3) The purpose of the settlement conference is—

(a) to explore the possibility of reaching a settlement of the action; and

(b) if there is no immediate prospect of settlement—to explore the appropriateness of referring the action or certain aspects of it for alternative dispute resolution.

(4) The settlement conference is to be attended by—

(a) the parties and their counsel or solicitors; and

(b) anyone whose instructions are required for settlement of the action.

(5) Subject to a contrary agreement of the parties or order of the Court, nothing said or done at a settlement conference is to be the subject of evidence or to be referred to at the trial or any contested interlocutory hearing.

130A—Application by party

(1) If, by 5 business days after the prescribed date, the parties have been unable to agree on the date or place or any other detail necessary for the settlement conference, the plaintiff is to apply immediately to the Court to fix the date, place or other details for the settlement conference.

(2) A party may, no later than 5 business days after the prescribed date, apply to the Court for an order extending the time for holding the settlement conference if the party needs first to obtain information to be able to participate in a settlement conference with a view to reaching a settlement of the action.

(3) A party may, no later than 5 business days after the prescribed date, apply to the Court for an order for limited particulars of another party's case or limited disclosure of documents and an order deferring the settlement conference until it is provided if the party is not able to participate in a settlement conference with a view to reaching a settlement of the action without first obtaining that information.

(4) A party may, no later than 5 business days after the prescribed date, apply to the Court to dispense with the need for a settlement conference.

(5) A party may, no later than 5 business days after the prescribed date, apply to the Court for an order that a settlement conference be convened to be presided over by a judicial or administrative officer of the Court.

130B—Preliminary hearing

(1) Upon application being made under rule 130A, the Registrar will convene a preliminary hearing.

(2) At the preliminary hearing, the Court may—

(a) fix the date, place or other detail for the settlement conference;

(b) extend the time for holding the settlement conference;

(c) order that a party provide limited particulars of the party's case or limited disclosure of documents;

(d) dispense with the need for a settlement conference;

(e) direct that the parties attend a settlement conference presided over by a judicial or administrative officer of the Court;

(f) fix the date for a directions hearing;

(g) make any order that could be made at a directions hearing under Part 2.

Division 5—Deferral of other interlocutory steps

130C—Other interlocutory applications

(1) A party must not make an interlocutory application before closure of the settlement conference unless—

(a) the nature of the application requires that it be made before that time;

(b) the nature of the application requires that it be made without delay;

(c) it is necessary to make the application before closure of the settlement conference in order to avoid prejudice to the applicant; or

(d) the Court grants permission to do so.

(2) Subrule (1) does not apply to an interlocutory application—

(a) for an extension of time to serve originating process;

(b) for permission to serve originating process;

(c) to constitute or continue the action as a representative action;

(d) for a search order;

(e) for a freezing order;

(f) for an interim or interlocutory injunction;

(g) for security for costs;

(h) for default or summary judgment;

(i) for transfer of the action to another court or stream;

(j) under rule 126 for orders in consequence of pre-action steps not having been taken;

(k) for a stay of proceedings;

(l) for referral to mediation; or

(m) under rule 130A for orders relating to a settlement conference.

(3) An interlocutory application made before closure of the settlement conference under this rule will be heard at a preliminary hearing.

130D—Other interlocutory steps

Subject to rule 128 and unless the Court otherwise directs, before the closure of the settlement conference—

(a) no disclosure of documents is required to be made; and

(b) no notice to admit facts or documents is to be filed or served.

Division 6—Preliminary hearing

130E—Preliminary hearing

(1) Upon application being made under rule 130C, the Registrar will convene a preliminary hearing.

(2) At a preliminary hearing, the Court may—

(a) make an order of the type sought by the applicant;

(b) fix the date for a directions hearing;

(c) make any order that could be made at a directions hearing under Part 2.

(3) Rules 131 to 135 apply to a preliminary hearing.

Part 2—Interlocutory steps generally

Division 1—Litigation plan

130F—Application of Division

(1) Subject to subrules (2) and (3), this Division applies to the following actions—

(a) commercial disputes between two or more businesses;

(b) disputes between partners;

(c) oppression actions by shareholders under section 233 of the *Corporations Act 2001*(Cth) or actions against a director for breach of duty to the company or shareholders or between members of a company or between a member and a company;

(d) building, construction or engineering disputes;

(e) negligence or breach of duty claims against an engineer, architect, lawyer, doctor or other professional required by statute to have professional qualifications and be registered to practice a profession;

(f) actions in which there are two or more defendants or there is a third party;

(g) actions in which, at the time when a litigation plan would be due under these Rules, a party has served expert reports, except reports confined to quantum, by experts in at least two different fields of expertise;

(h) actions in which the amount or value of the claim or claims exceeds $1,000,000;

(i) actions in which all parties agree that a litigation plan should be prepared;

(j) actions to which the Court, on application by a party or on its own initiative, directs that this Division applies.

(2) Despite subrule (1), unless the Court otherwise orders, this Division does not apply to an action—

(a) for damages for personal injury; or

(b) in respect of a deceased estate.

(3) A category of action may by the Supplementary Rules be excluded from or included in the application of this Division.

(4) A party may, no later than 5 business days after the prescribed date or, if there is a settlement conference, 5 business days after closure of the settlement conference, apply to the Court for an order that this Division not apply to the action.

130G—Litigation plan

(1) The parties in an action to which this Division applies are to file and serve a litigation plan.

(2) A litigation plan is to be prepared for the following purposes—

(a) to identify the issues in the case and the interlocutory steps necessary to prepare the matter for trial;

(b) to enable the Court to make orders at the initial directions hearing which address in an integrated way all the necessary steps for preparation for trial;

(c) to enable interlocutory steps to be taken in parallel whenever practicable rather than in a mechanical or sequential way;

(d) to avoid or reduce the need for repetition of procedural steps and multiple directions hearings and adjournments;

(e) to narrow the issues in dispute at an early stage; and

(f) to facilitate an early listing of a date for trial.

(3) A litigation plan is to be prepared in an approved form with such insertions, modifications and additions as necessary to provide a complete statement of the interlocutory steps required or contemplated by the parties before the trial.

(4) The length and detail of a litigation plan is to be proportionate to the nature, extent and complexity of the issues and is not to be disproportionate to the amount in dispute.

(5) The course of action to trial is intended to be determined by reference to the litigation plan.

(6) Departures from the timetable fixed by the Court after consideration of the litigation plan will not readily be permitted.

130H—Preparation of litigation plan

The parties are to cooperate in the preparation of, and file and serve, a litigation plan before the initial directions hearing in accordance with the timetable prescribed by the Supplementary Rules.

Division 2—Directions hearing

130I—Convening initial directions hearing

(1) Subject to subrule (3), an initial directions hearing is to be held on a date fixed by the Registrar.

(2) Subject to subrule (3), as a general rule, the date fixed under subrule (1) will be approximately 8 weeks after a defence or affidavit in lieu of defence is first filed by a defendant (and in fixing the date the Registrar may consider but is not bound by wishes expressed by a party).

(3) A Judge or Master may fix the date for the initial directions hearing at a preliminary hearing or on an application by a party.

130J—Conduct of initial directions hearing

(1) The principal matters to be considered at the initial directions hearing are—

(a) when applicable, a litigation plan;

(b) when applicable, compliance with pre-action steps required to be taken;

(c) identification of the real issues in dispute;

(d) future interlocutory steps;

(e) the form in which evidence will be adduced at trial;

(f) the likely trial duration and whether there should be trials on different issues;

(g) whether, and if so when, a trial listing conference or trial should be listed;

(h) hearing or fixing a date for hearing any interlocutory application or other pre-trial matter.

(2) At the initial directions hearing, the Court may—

(a) when applicable, make orders for the implementation of a litigation plan;

(b) when applicable, make costs or other orders due to a party's failure to take any pre-action steps required;

(c) prepare or require the parties to prepare a joint statement of the issues in the action;

(d) assign a special classification to the action;

(e) give directions about the future conduct of the action including fixing a timetable for taking interlocutory or pre-trial steps;

(f) hear or fix a date for hearing any interlocutory application;

(g) if satisfied that the action is then ready for trial, order that it proceed to trial;

(h) if directions are made implementing a litigation plan, fix the date on which a trial date will be fixed or fix the trial date;

(i) make directions for evidence to be adduced at trial by affidavit or evidence in chief to be adduced at trial by affidavit or written witness statement;

(j) make directions for the preparation of a tender book;

(k) exercise any of the powers set out in rule 117;

(l) adjourn further consideration of interlocutory or pre-trial directions to a further directions hearing.

(3) At the initial directions hearing, the Court may, on application by a party or on its own initiative, direct that the parties attend mediation or some other form of alternative dispute resolution.

130K—Compliance with directions

(1) The parties have a duty to the Court to comply with directions made at a directions hearing, including a timetable for taking interlocutory or pre-trial steps.

(2) Upon its becoming apparent that a step will not be taken by a party in accordance with a timetable fixed at a directions hearing, the party must by email inform the other parties and the Court of that fact and apply for an extension of time to take the step.

(3) If all parties consent to an extension of time, the Court may if it thinks fit deal with the application under rule 132.

130L—Further directions hearing

(1) When the Court at the initial directions hearing adjourns further consideration of pre-trial directions to a further directions hearing, unless the Court otherwise orders, a further directions hearing will be held on that date.

(2) A further directions hearing may be convened on a date fixed by the Registrar under rule 133 or on the initiative of the Court.

(3) At a directions hearing, the Court may exercise any of the powers set out in rule 130J."

59. The heading Part 2 immediately before rule 131 is deleted and the following heading inserted in its place:

"Division 3–Interlocutory applications"

60. Rule 131 is amended by deleting subrules (5) and (6) and inserting the following in their place:

"(5) When the parties have signed a certificate of readiness for trial under rule 120(4) or 120A(2) or the Court has dispensed with the need for a certificate under rule 120A(5), an interlocutory application may only be made with the Court's permission.

(6) If the application should have been made before the certificate of readiness for trial was signed or dispensed with, the Court will only permit the application if satisfied that special circumstances justify the grant of permission."

61. Rule 134(3) is amended by deleting the word "relevant".

62. Rule 136 is amended by:

(a) deleting subrule (4) and inserting the following in its place:

"(4) Unless the Court otherwise directs, the ***prescribed period*** is the period of—

(a) if Part 1 applies to the action and there is a settlement conference, 21 calendar days after the end of the settlement conference;

(b) if Part 1 applies to the action but it is determined that there is to be no settlement conference, 21 calendar days after that determination;

(c) if Part 2 Division 1 applies to the action, the date fixed by the Court in implementation of a settlement plan; or

(d) if Part 1 and Part 2 Division 1 do not apply to the action, the close of pleadings."

(b) substituting "Unless the Court otherwise directs, the" for "The" at the beginning of subrule (6).

63. Rule 138 is amended by:

(a) deleting "made within 7 days after the close of pleadings" in subrule (1).

(b) deleting subrule (3) and inserting the following its place:

"(3) If an agreement is filed under this rule, for the purpose of rule 160(2) disclosure is taken to have been completed at the end of the prescribed period."

64. Rule 139 is amended by inserting a new paragraph (b) as follows:

(a) "order disclosure by reference to categories or issues;" and

(b) renumbering subsequent paragraphs accordingly.

65. Rule 140A is deleted.

66. Rule 154(2) is amended by inserting "or interest or both" after "damages".

67. Rule 159 is amended by:

(a) substituting "or after" for "ordering that" and "is listed for" for "proceed to"; and

(b) adding "and identifying the evidence" after "trial" in paragraph (a).

68. Rule 160 is amended by:

(a) inserting "not previously served on that party" at the end of paragraph 1(b);

(b) deleting "and" at the end of paragraphs (a) to (d) of subrule (3);

(c) inserting new paragraphs (e) and (f) in subrule (3), and renumbering existing paragraph (e) as (g) accordingly, as follows:

"(e) set out the reasoning of the expert leading from the facts and assumptions to the expert's opinion on the questions asked;

(f) set out the expert's opinion on the questions asked;"

(d) substituting "copies of written communications and details of any oral" for "details of any" at the commencement of paragraph (c) of subrule (4).

69. Rule 169(3) is amended by inserting "or written statement" after "affidavit" wherever it appears.

70. Rule 170(1) is deleted and the following is inserted in its place:

"(1) If evidence is to be tendered at trial in the form of an affidavit or expert report, another party to the action may, by written notice given to the party not more than 14 calendar days after the later of—

(a) the order that the evidence is to be tendered in that form; or

(b) service of the affidavit or expert report,

require the party for whom the evidence is to be given to produce the witness for cross-examination at trial."

71. Division 4 of Part 10 of Chapter 7 is amended by inserting immediately below the Division heading a note as follows:

"Note—

This Division generally follows the form of harmonised rules adopted in jurisdictions across Australia."

72. Rule 173(6)(b)(i) is amended by deleting "in an approved form".

73. Rule 174 is amended by inserting at the end a note as follows:

"Note—

Sections 33, 43 and 44 of the *Service and Execution of Process Act 1992* (Cth) contain provisions governing applications to set aside subpoenas served interstate."

74. Rule 176 is amended by:

(a) inserting notes at the end of subrule (2) as follows:

"**Note 1—**

Section 30 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if it is not less than 14 days before the person is required to comply unless the Court allows a shorter period in defined circumstances.

Note 2—

Section 31 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if prescribed notices and a copy of any order under section 30 are attached to the subpoena served.

Note 3—

Section 32 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if, a reasonable time before compliance is required, sufficient allowances and travelling expenses are paid or tendered to the person."

(b) inserting a note at the end of subrule (4) as follows:

"**Note—**

Section 34 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, a document or thing may be delivered to the Registrar not less than 24 hours before the date for compliance."

(c) substituting in subrule (7)(b) "in an electronic form that the issuing party has indicated will be acceptable" for "PDF format on a CD ROM".

75. Rule 179(10) is amended by substituting "lawyer for the party" for "solicitor or a barrister briefed by a solicitor in the proceeding".

76. Rule 181 is amended by inserting a note at the end as follows:

"**Note—**

Sections 35 and 45 of the *Service and Execution of Process Act 1992* (Cth) provide that, when a subpoena is served interstate, the person served is entitled to reasonable expenses incurred in compliance and empowers the Court to make orders for this purpose."

77. New rule 183A is inserted immediately after rule 183 as follows:

"(1) In this rule, Act means the *Trans-Tasman Proceedings Act 2010* (Cth).

(2) An application under section 31 of the Act for permission to serve a subpoena in New Zealand under the Act in relation to a current proceeding in the Court is to be made by interlocutory application in accordance with rule 131.

(3) The application is to be supported by an affidavit—

(a) exhibiting a copy of the subpoena in respect of which permission to serve is sought;

(b) identifying the name, occupation and address of the proposed addressee;

(c) identifying whether the addressee is over 18 years old;

(d) identifying the nature and significance of the evidence to be given, or the document or thing to be produced, by the addressee;

(e) identifying the steps taken (if any) to ascertain whether the evidence, document or thing could be obtained by other means without significantly greater expense, and with less inconvenience, to the addressee;

(f) identifying the date by which it is intended to serve the subpoena in New Zealand;

(g) identifying the amounts to be tendered to the addressee to meet the addressee's reasonable expenses of complying with the subpoena;

(h) identifying the way in which the amounts mentioned in paragraph (g) are to be given to the addressee;

(i) identifying if the subpoena requires a specified person to attend to give evidence, an estimate of the time during which the addressee will be required to attend; and

(j) identifying any facts or matters known to the applicant that may constitute grounds for an application by the addressee to have the subpoena set aside under subsections 36(2) or (3) of the Act.

(4) In cases to which subrule (2) does not apply, an application to serve a subpoena in New Zealand under the Act is to be made in a proceeding commenced under rule 34 and is to be supported by an affidavit addressing the matters listed in subrule (3).

(5) An application under section 35 of the Act to set aside a subpoena served in New Zealand is to be made by an interlocutory application under rule 131 using the approved form for such an application."

78. Rule 184 is amended by substituting "seeks" for "wants" in the example at the end of the rule.

79. Rule 194 is amended by:

(a) inserting a new Note 1 immediately before the existing note at the end of subrule (1), and renumbering the existing note as Note 2, as follows:

"**Note 1—**

Section 1335 of the *Corporations Act 2001* (Cth), section 19 of the *Service and Execution of Process Act 1992* (Cth) and section 15 of the *Trans-Tasman Proceedings Act 2010* (Cth) empower the Court to order security for costs in defined circumstances."

(b) inserting new subrules (6), (7) and (8) as follows:

"(6) If the action has been stayed for 6 months, the action is automatically dismissed for want of prosecution.

(7) A dismissal effected by subrule (6) takes effect at 4.30 pm on the last day of the period.

(8) Despite the dismissal of an action under this rule, the Court may, for special reasons, reinstate the action."

80. Rule 195 is amended by substituting "Chapter" for "Part".

81. Rules 199 to 201 are deleted and the following new rules are inserted in their place:

"198A—Interpretation

(1) In this Part, unless the contrary intention appears—

authority means a court, tribunal, decision maker or person or body exercising or purporting to exercise or having power to exercise administrative or judicial functions;

grounds of review—see rule 200A(3)(c).

(2) Despite rule 162, an affidavit under rule 200A(4) or 200B(4) need not be of the deponent's own knowledge and may contain statements that the witness honestly believes to be true if the witness also states the grounds of the belief. However, this subrule does not apply to the admissibility of the affidavit at trial.

199—Order for judicial review

(1) The Court may make an order for judicial review.

(2) An ***order for judicial review*** is an order in the nature of an order formerly available by prerogative writ and includes—

(a) an order preventing an authority from acting beyond its jurisdiction or in contravention of the requirements of procedural fairness (***prohibition***);

(b) an order setting aside the decision of an authority because of absence or excess of jurisdiction, jurisdictional error or error of law on the face of the record, failure to observe the requirements of procedural fairness or fraud (***certiorari***);

(c) an order compelling an authority to perform a public duty (***mandamus***);

(d) an order preventing a person from wrongfully exercising, or purporting to exercise, functions of a public character (***quo warranto***).

200—Time for commencement of action

(1) An action for judicial review must be commenced as soon as practicable after the date when the grounds for the review arose and, in any event, within 6 months after that date.

(2) If an action for judicial review is commenced more than 6 months after the grounds for the review arose, the action cannot proceed further in the Court without the Court's permission.

(3) An application under subrule (2) is to be made by interlocutory application seeking an extension of time in which to commence the action and permission to proceed filed with the originating process supported by an affidavit explaining the delay.

(4) On the hearing of an application under subrule (3), the Court may grant or refuse the application for an extension of time in which to commence the action and permission to proceed or may order that either or both be determined at trial.

200A—Manner of commencement of action

(1) The originating process for an action for judicial review is a summons in an approved form.

(2) The summons is to name as defendants to the action—

(a) the authority that made the decision, act or omission the subject of the action for judicial review;

(b) the person or body (if any) that has the interest in defending the decision, act, or omission the subject of the application for judicial review; and

(c) any other person who is a necessary party to the action.

(3) The summons is to be accompanied by a statement of grounds in an approved form—

(a) identifying the nature of the application for judicial review;

(b) identifying the decision, act or omission the subject of the action for judicial review;

(c) setting out in detail the grounds why the decision, act or omission is alleged to be invalid, wrongful or otherwise liable to an order of judicial review (the ***grounds of review***); and

(d) setting out the orders sought.

(4) The summons is to be accompanied by an affidavit—

(a) exhibiting the record of the decision, act or omission the subject of the action for judicial review;

(b) exhibiting all materials in the plaintiff's possession that were before the authority for the purpose of the decision, act or omission in question insofar as they are relevant to the grounds of review;

(c) exhibiting, or if not documentary deposing to, the evidence upon which the plaintiff relies for an order of judicial review; and

(d) identifying any person or class of persons other than a defendant who has an interest in the matter beyond that of a member of the public.

(5) If rule 200(2) applies, the summons is to be accompanied by an interlocutory application for the Court's permission to proceed with the action.

(6) An action for judicial review may include claims for other relief.

Example—

An action for judicial review might include a claim for declaratory relief.

(7) The plaintiff is to serve upon the defendants the summons, statement of grounds, affidavit and, when applicable, the interlocutory application for the Court's permission to proceed with the action.

200B—Response

(1) Subject to rule 200C, a defendant who wishes to oppose the plaintiff's claim is to file in the Court notice of address for service and a response to the statement of grounds.

(2) The notice of address for service is to be filed in accordance with rule 59(3).

(3) The response to the statement of grounds is to be in an approved form —

(a) setting out the defendant's response to the plaintiff's grounds of review; and

(b) setting out any preliminary issue or special defence by reason of which the orders sought should not be granted.

Examples—

1 An assertion that the plaintiff lacks standing to seek the orders.

2 An assertion that the action is out of time.

3 An assertion that relief should be denied for discretionary reasons.

(4) The response is to be accompanied by a responding affidavit—

(a) exhibiting the record of the decision, act or omission the subject of the action for judicial review insofar as it has not already been exhibited by the plaintiff or another party;

(b) exhibiting all materials in the defendant's possession that were before the authority for the purposes of the decision, act or omission in question insofar as they are relevant to the grounds of review and insofar as they have not already been exhibited by the plaintiff or another party;

(c) exhibiting, or if not documentary deposing to, the evidence upon which the defendant relies in opposing an order of judicial review insofar as it has not already been exhibited by the plaintiff or another party.

(5) Subject to rule 200C and unless the Court otherwise orders, the response and any responding affidavit is to be filed within 28 calendar days after service of the summons, statement of grounds and supporting affidavit.

200C—Summary dismissal

(1) If within 14 calendar days of service a defendant files an application for summary dismissal under rule 232, or to strike out the action or the statement of grounds under rule 104, 117 or 193, insofar as an order for judicial review is sought, or if the plaintiff applies for permission under rule 200(2), the defendant may but is not required to file a response or responding affidavit until determination of the application.

(2) If a defendant files an application under subrule (1) or the plaintiff applies for permission under rule 200(2), the Court must dismiss or strike out the action or statement of grounds, as the case may be, insofar as an order for judicial review is sought, unless satisfied that there is a reasonable basis for the claim for an order for judicial review.

(3) If the Court dismisses or strikes out the action or statement of grounds, the Court may give directions for the further conduct of the action insofar as other forms of relief are claimed.

(4) If the Court does not dismiss or strike out the action or statement of grounds, the Court will give directions for filing a response and responding affidavit if not already filed and for the further conduct of the action under rule 201.

201—Further conduct of the action

(1) At the first directions hearing, if the action is to proceed, the Court will give directions for the further conduct of the action.

(2) The Court will determine at an appropriate time whether the action is to be heard by a single Judge or the Full Court.

(3) The Court may at any time—

(a) order a stay of proceedings to which the action for judicial review relates; or

(b) suspend the operation of a decision or act subject of the action for judicial review,

until completion of the judicial review or some other time determined by the Court or until further order."

82. Rule 204A is amended by substituting "occurred" for "occured".

83. Rule 207(2) is amended by substituting "(Cth)" for "(Commonwealth)".

84. A new Part 9 is inserted immediately after rule 207 as follows:

"Part 9—Caveats

207A—Application for extension of time for removal of caveat

(1) An application for an extension of time for removal of a caveat under section 191 of the *Real Property Act 1886* is to be supported by an affidavit.

(2) The affidavit is to—

(a) exhibit the caveat and notice from the Registrar-General;

(b) identify the facts allegedly giving rise to the caveator's interest in the land; and

(c) explain why and for how long an extension of time is required."

85. Rule 213(2)(d) is amended by:

(a) substituting "give evidence" for "should be examined, cross-examined or re-examined";

(b) deleting "the" before "questions relevant"; and

(c) adding "or the trial Judge" at the end of the paragraph.

86. Rule 214(1) is amended by:

(a) inserting "or of the evidence of witnesses" after "witnesses" where it first appears;

(b) inserting "or lead evidence from a witness" after "witness" where it first appears;

(c) inserting "or adduce the evidence of the witness" after "witnesses" in paragraph (b).

(d) substituting "rules 159 and 169" for "rules" in the Note at the end of paragraph (b).

87. Rule 215(3)(b) is amended by inserting "if the trial is conducted as an electronic trial" after "form".

88. Rule 216 is amended by:

(a) inserting a new paragraph (b) in subrule (1), and renumbering subsequent paragraphs accordingly, as follows:

"(b) if the trial is to proceed on the basis of evidence in chief being led by the adoption of written witness statements—the party adducing the evidence is to tender it in the form of written witness statements adopted by the witness in oral evidence."

(b) substituting "in documentary form" for "by way of affidavit" in the Note at the end of subrule (1);

(c) adding "under rule 170" after "limit" in paragraph 2(a);

(d) deleting subrule (3) and renumbering the subsequent subrule accordingly.

89. Rule 222(1) is amended by substituting "*2011*" for "*1986*" in the Example.

90. Rule 226(3) is amended by deleting "an interlocutory".

91. Rule 228 is amended by inserting a Note at the end as follows:

"Note—

Rule 123(5) provides that a party may on service give notice that the action is to be entered in the list of inactive cases, in which event no defence need be filed."

92. Rule 229 is amended by:

(a) deleting "s" before "16(1)" and substituting "343(4)" for "316C(4)" in the note at the end of subrule (1);

(b) adding "or a provision of the Supplementary Rules requiring the taking of a pre-action step" after "rule 33" in subrule (2);

(c) substituting "relevant Schedule to the Supplementary Rules" for "Schedule 1 or 2 as the case may be" in subrule (5);

(d) inserting a Note at the end of subrule (5):

"**Note**—

Rule 123(5) provides that a party may on service give notice that the action is to be entered in the list of inactive cases, in which event no defence need be filed."

93. Rule 239 is deleted.

94. Rule 247(8)(b) is amended by substituting "paragraph (a)" for "subrule (1)".

95. Rule 251(3) is amended by substituting "accounts" for "account".

96. The title to Part 17 of Chapter 11 is amended to "Representative Actions".

97. Rule 259 is deleted and the following rules are inserted in its place:

"258A—Effect of judgment

A judgment given in a representative action under Chapter 5 Part 1 Division 3—

(a) is to describe or otherwise identify the persons represented who will be affected by it; and

(b) unless the Court otherwise orders, binds all such persons.

259—Settlement and discontinuance

(1) An action under Chapter 5 Part 1 Division 3 may not be settled or discontinued without the approval of the Court.

(2) A settlement of an action to which a representative agrees is binding on the persons represented if approved by the Court.

(3) However, the Court may, on application by an interested person, set aside a settlement agreed by a representative if the interests of justice require.

259A—Representative party's costs

(1) When the Court has granted relief in a representative action under Chapter 5 Part 1 Division 3 or the action has been settled subject to the approval of the Court, the representative party, or a person who has been such a party, may apply to the Court for an order under this rule.

(2) If, on an application under this rule, the Court is satisfied that the costs reasonably incurred in relation to the representative proceeding by the person making the application are likely to exceed the costs recoverable from the

respondent, the Court may order that an amount equal to the whole or a part of the excess be paid to that person out of the monies awarded under the judgment or to be paid under the settlement.

(3) On an application under this rule, the Court may also make any other order it thinks fit."

98. Rule 259 is renumbered as rule 259B and its title is amended to "Judgment against defendant".

99. Rule 261 is deleted and the following rule is inserted in its place:

"261—Interest on judgment debt

Unless some other rate is fixed by law, interest on a judgment debt accrues at the rate fixed by the Supplementary Rules."

100. Rule 264 is amended by:

(a) substituting "old" for "previous" in subrule (2);

(b) deleting subrules (3) to (3F) and substituting the following subrule in their place:

"(3) The scale of costs for work done in the period commencing on 4 September 2006 is fixed by schedules to the Supplementary Rules."

(c) substituting "the" for "either" in subrule (4).

101. Rule 272 is deleted and the following rule is inserted in its place:

272—Adjudication of costs when right to adjudication arises under some other law

Note—

Adjudication of costs between lawyer and client is addressed by rule 409.

(1) An application for an adjudication of costs under section 33B of the *Commercial Arbitration Act 2011* or some other law is to be made by filing an application for adjudication of costs in an approved form.

(2) The application is to be accompanied by details of the costs claimed.

(3) The Registrar will refer the application to the Court constituted of a Master for preliminary assessment.

(4) On a preliminary assessment, the Court may exercise one or more of the following powers—

(a) direct that the adjudication proceed in the first instance in accordance with rule 271 subject to such modifications as the Court thinks fit;

(b) determine the basis on which costs are to be awarded and give any directions that may be necessary or desirable to arrive at a proper award of costs on the relevant basis;

(c) resolve issues in dispute between the parties or give directions for resolving such issues by mediation, arbitration or reference to an expert for report;

(d) make such orders for the payment of costs as may appropriately be made without proceeding to a detailed adjudication of the costs;

(e) order that the claim for costs proceed in whole or part to detailed adjudication under this Part;

(f) make any other order as the Court thinks fit.

(5) On the conclusion of an adjudication under this rule, the Court may direct that a certificate be issued by the Court setting out the result of the adjudication and that a judgment not be entered under rule 279."

102. New rules 279A and 279B are inserted immediately before rule 280 as follows:

"279A—Application of this Chapter

This Chapter and these Rules apply to all appellate proceedings except those governed by chapter 13 of the *Supreme Court Criminal Rules 2014*.

279B—Interpretation

In this Chapter, unless the contrary intention appears—

appeal notice means—

(a) an application for permission to appeal; or

(b) a notice of appeal; or

(c) a notice of cross-appeal; or

(d) a notice of contention."

103. Rule 281 is amended by substituting "for permission to appeal is made under rule 289(1)(b) and is granted" for "summons for permission to appeal is filed before the appeal is commenced".

104. Rule 288(1) is amended by inserting at the end the following Notes:

"Note 1—

Section 50(4)(a)(ii) of the *Supreme Court Act 1935* provides that an appeal from a judgment given by a single Judge on appeal from a judgment of the Magistrates Court lies only with the permission of the Court.

Note 2—

Section 50(4)(a)(i) of the *Supreme Court Act 1935* provides that an appeal from a judgment given by consent of the parties lies only with the permission of the Court.

Note 3—

Subsections 50(5) and (6) of the *Supreme Court Act 1935* provide that the Rules cannot require the Court's permission for an appeal if the judgment under appeal—

(a) denies, or imposes conditions on, a right to defend an action; or

(b) deals with the liberty of the subject or the custody of an infant; or

(c) grants or refuses relief in the nature of an injunction or the appointment of a receiver; or

(d) is a declaration of liability or a final assessment of damages under section 30B of the *Supreme Court Act 1935*; or

(e) unless the judgment under appeal is given by a single Judge on appeal from some other court or tribunal—makes a final determination of a substantive right."

105. Rule 289 is amended by:

(a) deleting paragraph (b) of subrule (1) and renumbering the subsequent paragraph accordingly; and

(b) substituting "(1)(b)" for "(1)(c)" in subrule (2).

106. Rule 290 is amended by:

(a) substituting "to be considered by Full Court" for "contained in the notice of appeal" in the heading;

(b) substituting "to be considered by the Full Court" for "made in the notice of appeal" in subrule (1);

(c) adding a new paragraph (b) to subrule (1) as follows and renumbering the subsequent paragraph accordingly:

"(b) must, within 2 business days after filing the notice of appeal, serve a copy of the notice of appeal and any such affidavit upon all parties to the appeal."

107. Rule 291 is amended by:

(a) substituting "to be considered by Judge or Master at first instance" for "by separate Summons or Application" in the heading;

(b) deleting subrule (1) and renumbering the subsequent subrules accordingly;

(c) substituting "rule 289(1)(b)" for "Rule 289(1)(c)" in renumbered subrule (1);

(d) deleting "a summons is filed or", the "s" on the end of "subrules" and "or (2)" in renumbered subrule (3);

(e) deleting "summons or" in paragraphs (a) and (c) of renumbered subrule (3);

(f) inserting a new subrule (4) as follows:

"(4) If an application under subrule (1) is refused, the appellant may renew the application to the Full Court by commencing, within 5 business days after the refusal, an appeal in the ordinary way under rule 290 and by including in the notice of appeal a request for the necessary permission."

108. Rule 292 is deleted and the following rule is inserted in its place:

"292—Appeals to single Judges – applications for permission to appeal

(1) Except in the case of an appeal to which subrule (3) applies, when permission to appeal is required and the appeal will, if permission is granted, be heard by a single Judge, the appellant is to seek permission to appeal by commencing

the appeal in the ordinary way and including in the notice of appeal a request for the necessary permission.

(2) The appellant must, within 2 business days after filing the notice of appeal, serve a copy on all parties to the appeal.

(3) In the case of an appeal against a judgment of a Master, the appellant may, within 14 calendar days after the judgment against which the appellant wishes to appeal, make a separate application to the Master for permission to appeal.

(4) An application to a Master under subrule (3) may be made—

(a) unless the Master otherwise orders, by oral application at the time of any attendance before the Master in relation to the action; or

(b) by interlocutory application supported by an affidavit setting out the grounds of the application.

(5) If an application under subrule (3) is refused, the appellant may renew the application to a Judge by commencing, within 5 business days after the refusal, an appeal in the ordinary way under subrule (1) and by including in the notice of appeal a request for the necessary permission.

(6) The appellant is to file with the notice of appeal an affidavit setting out the grounds of the application for permission to appeal and, in the case of an application for permission to appeal against a judgment of a lower court or tribunal (but not of a Master of the Court) exhibiting any relevant orders or reasons of that lower court or tribunal.

(7) The other parties are not to file any affidavit or summary of argument unless and until a direction to that effect is given by the Court.

(8) In relation to an application for permission to appeal, the Court may, at its discretion—

(a) determine the application without hearing oral argument from any party;

(b) direct some or all parties to file and serve a summary of argument;

(c) direct that the application be listed for oral argument;

(d) grant or refuse permission to appeal;

(e) direct that the application and the appeal be heard concurrently;

(f) make any other order that it considers appropriate in the circumstances."

109. Rule 294 is amended by deleting subrule (1) and renumbering the subsequent subrules accordingly.

110. Rule 295 is amended by:

(a) substituting "appeal notice" for "application for permission to appeal, notice of appeal or cross-appeal, notice of contention" in paragraph (1)(b);

(b) deleting subrule (5).

111. Rule 296 is amended by:

(a) adding at the end of subrule (2):

"Despite the dismissal of an appellate proceeding under this rule, the Court may, for special reasons, reinstate the appellate proceeding."

(b) adding a new subrule (4) as follows:

"(4) The power to allow a longer time under subrule (2) may be exercised before or after the period of 6 months has elapsed."

112. Rule 297(3)(c) is amended by inserting "or exhibits" at the end.

113. Rule 300(1) is amended by deleting "or summons".

114. Rule 303(7) is amended by deleting "and that the relief sought by the applicant is in substance remedial or coercive and not punitive".

115. Chapter 15 is deleted and the following Chapter inserted in its place:

"Chapter 15—Statutory proceedings

Part 1—General principles

307—Proceedings under statute

(1) A statutory action is, subject to the provisions of the relevant statute, to be commenced and to proceed in the Court in the same way as an action at common law.

(2) It follows that statutory and common law claims may be brought together in the same action.

Example—

A claim for statutory solatium may be integrated with a claim for common law damages.

(3) If a statutory action is incidental to an existing action in the Court, it may be integrated with that action.

Example—

A party seeking an order to take evidence outside the State under Part 6B of the *Evidence Act 1929* would normally initiate the proceeding by interlocutory summons in the proceeding to which the evidence is relevant.

(4) If any question arises about who should be joined as parties to a statutory action, or who should be served, or how the action should proceed in the Court, a party may apply by interlocutory application for advice and directions to resolve the question.

(5) This rule is subject to the provisions relating to proceedings under specified statutes set out below.

308—Administrative proceedings and minor judicial proceedings under statute

(1) If a statute assigns a function of an administrative nature to the Court, the function is to be carried out by the Registrar.

Examples—

1 The payment of money into (or out of) the Court in cases where a statute authorises or requires the payment independently of the existence of a proceeding in the Court relevant to the payment.

2 The registration of a judgment or order of another Australian court or tribunal under a statutory right. (However, if the judgment or order requires substantive adaptation or modification for enforcement as a judgment or order of the Court, its registration would not be a function of an administrative nature.)

(2) A person who proposes to ask the Court to carry out—

(a) an administrative function; or

(b) a minor judicial function that lies within the scope of functions delegated to the Registrar under these Rules,

is to apply, in an approved form, to the Registrar.

Examples—

1 The adjudication or review of costs or charges that are by statute liable to adjudication or review by the Court but are unrelated to a proceeding in the Court.

2 The exercise of powers under the *Enforcement of Judgments Act 1991* which lie within the province of the Registrar.

(3) The Registrar may refer an application to a Master or Judge if he or she thinks fit.

(4) A person may apply to a Master or Judge for a review of the Registrar's decision on an application under this rule and the Master or Judge may set aside the decision and make any decision that should have been made in the first instance.

Part 2—Substantive proceedings under particular Acts

Division 1—Aged and Infirm Persons' Property Act 1940

309—Interpretation

In this Division—

Act means the *Aged and Infirm Persons' Property Act 1940*.

310—Applications for protection orders

(1) This rule applies to an application for, or relating to, a protection order under the Act and to protection orders made under the Act in a proceeding commenced after 4 September 2006.

Note—

Part 2 of the Act deals with the making, variation and rescission of protection orders.

(2) Before serving the summons initiating the proceeding, the applicant is to seek directions, by filing an interlocutory application, with regard to service and the Court may on such an application—

(a) direct that the defendant be notified of the nature and significance of the proceeding, and the defendant's right to be heard in the proceeding, in a way the Court considers best adapted to the circumstances of the case; or

(b) if the Court is satisfied that any attempt at rational explanation would be futile—dispense with service on the defendant.

Note—

This subrule supplements section 8(2) of the Act which requires service of originating process on the defendant except in exceptional cases.

(3) The Court may direct that the Public Advocate be joined as a party to the proceeding to represent the interests of the defendant (but no order for costs can be made against the Public Advocate).

(4) A manager must, within 21 calendar days of the date upon which the Court made the order of appointment—

(a) serve a copy of the protection order on the protected person; and

(b) if the manager is a person other than Public Trustee, serve a copy of the protection order on Public Trustee.

311—Managers' statements

(1) The statements verified by affidavit that are required by section 19(1) of the Act in relation to the affairs of the protected estate are to be filed as follows—

(a) the manager is to file a first statement (the ***initial statement***) within 3 months of the manager's appointment;

(b) thereafter the manager is, before 30 September of each year, to file a statement relating to the immediately preceding financial year (the ***annual statement***).

Exception—

If the initial statement was filed in accordance with subrule (1)(a) after 30 April, the manager need not file an annual statement in relation to the period ending on the immediately following 30 June but, in that event, the next annual statement should relate to the whole of the period from the manager's appointment to the end of the financial year to which the statement relates.

(c) in addition to the information required by section 19(1) of the Act—

(i) the initial statement is to particularise, by reference to the date of the manager's appointment, each asset of the protected estate including its condition and estimated value, the income payable to the protected estate, and the liabilities of the protected estate (whether present, future or contingent);

(ii) the annual statement is to contain a full, true and fair account of all income and expenditure of the protected estate during the period to which the statement relates, as well as a full, true and fair

statement of the assets and liabilities of the protected estate as at the immediately preceding 30 June.

Note—

Section 19(2) of the Act requires a manager who is not Public Trustee to serve forthwith upon Public Trustee a copy of each statement filed in the Court under section 19(1).

(2) The manager is—

(a) within 1 month of the rescission of the appointment of the manager under section 11(1) of the Act;

(b) within 2 months of the determination of the manager's appointment under section 11(3) of the Act;

to file a statement, verified by affidavit, containing with reference to the date of rescission or determination (as the case may be) the information required by subrule (1)(c)(ii).

Exception—

The Court or the Registrar may, on application by the manager or by the persons beneficially interested in the estate of the deceased or of the personal representative of the deceased, dispense with the obligation contained in subrule (2)(b) if satisfied that the costs of the preparation of such a statement are not warranted.

(3) A manager other than Public Trustee is, within 14 calendar days after a request by Public Trustee, to deliver to Public Trustee such documents as Public Trustee may request in relation to a statement of the manager that has been, or should have been, filed under subrules (1) or (2).

(4) If a manager other than Public Trustee does not comply with an obligation contained in subrules (1), (2) or (3), or Public Trustee or an interested person considers that a statement, or a report filed under section 19(4) of the Act, discloses matters that should be drawn to the Court's attention, Public Trustee or the interested person may, by interlocutory application made under rule 131, seek orders from the Court.

(5) On an application under subrule (4) the Court may—

(a) make orders as the circumstances of the case require;

(b) terminate the manager's appointment, and make consequential orders as necessary.

Division 2—Criminal Assets Confiscation Act 2005 and Proceeds of Crime Act 2002 (Cth)

312—Proceedings under the Acts

(1) In this rule—

Confiscation Acts means the *Proceeds of Crime Act 2002* (Cth) and the *Criminal Assets Confiscation Act 2005*.

(2) Unless the Court otherwise directs—

(a) a proceeding under the Confiscation Acts is to be based on affidavits rather than formal pleadings;

(b) evidence for the purposes of a proceeding is to be given by way of affidavit rather than orally; and

(c) the rules relating to pre-trial disclosure of documents do not apply.

(3) A party commencing a proceeding under the Confiscation Acts is, within the relevant time limit, to apply for directions as to the course of proceedings.

(4) The ***relevant time limit*** is—

(a) in the case of a proceeding brought without notice—14 calendar days; or

(b) in the case of a proceeding brought on notice to another party or other parties—14 calendar days after all parties to be served with notice of the proceeding have been served.

(5) The Court may, on an application for directions under this rule, give such directions as it considers appropriate in the circumstances.

Division 3— Family Relationships Act 1975

313—Proceedings under the Act

(1) In this rule —

Act means the *Family Relationships Act 1975*.

(2) This rule applies to all actions commenced under the Act, including actions to which section 14(1) of the Act refers.

(3) Any party seeking an order under the Act is to ensure that all persons whose interests may be directly and adversely affected by the order are parties to the action.

(4) A party seeking an order under the Act is to file an affidavit in which the party—

(a) identifies to the best of his or her knowledge, information and belief the full names, addresses and, if infants, the respective ages, of all persons whose interests would, or may, be directly and adversely affected by the order;

(b) identifies the use which the party intends to make of the order if it is made;

(c) if the paternity of the child is in issue, exhibits any birth certificate for the child.

(5) If corroborative evidence is required under section 9(4) of the Act, the affidavit or affidavits containing that evidence are to be filed with the summons, statement of claim or other process by which the application is made.

Division 4—Inheritance (Family Provision) Act 1972

314—Commencement, service and parties

(1) In this rule—

Act means the *Inheritance (Family Provision) Act 1972*.

(2) When a person (the ***initiating claimant***) begins an action for provision out of the estate of a deceased person under the Act, the initiating claimant is to file with the initiating process an affidavit stating to the best of the initiating claimant's knowledge, information and belief—

(a) the names and current addresses of all other persons who may be entitled to make a claim for provision (or further provision) out of the estate of the deceased under the Act (the ***potential claimants***); and

(b) the names and current addresses of all beneficiaries of the estate.

(3) The executor or administrator and every person with a beneficial interest in the estate of the deceased that may be adversely affected by any order sought in the action is to be named as a defendant to the summons.

Note –

A plaintiff may be ordered to pay the costs of any unnecessary defendants.

(4) By no later than 14 calendar days after the commencement of the action, the initiating claimant is to serve on each potential claimant by prepaid post sent to his or her last known address notice of the action and a statement in an approved form of his or her right to make a concurrent claim.

(5) Within 28 calendar days after service of a notice under subrule (4), a potential claimant may file an interlocutory application seeking permission under section 8(7) of the Act to be joined as a further claimant, together with a statement of claim making, and stating the basis of, a claim for provision out of the estate and any other claim for relief that could properly have been made in the statement of claim filed by the original plaintiff.

(6) When a potential claimant files a statement of claim, the defendants to the action and any other potential claimants may file a defence pursuant to rule 92 to that statement of claim.

(7) If the action is proceeding on the basis of affidavits rather than formal pleadings, a statement of claim under subrule (5), or a defence under subrule (6), is to be in the form of an affidavit.

(8) Each of the following is a plaintiff in an action for provision out of the estate of a deceased person under the Act—

(a) the initiating claimant;

(b) any other person permitted by the Court under section 8(7) of the Act to be joined as a further claimant in the action.

(9) Each of the following is a defendant to an action for provision out of the estate of a deceased person under the Act—

(a) the executor of the will, or the administrator of the estate, of the deceased person;

(b) any person who files a defence to a claim under this rule.

(10) It follows that the same person may be both plaintiff and defendant in the same action and, if a person is a party to the action both as an executor and administrator and in a personal capacity, the person may have separate addresses for service in each capacity.

315—Subsequent steps

After the filing of defences, the action is to proceed in the usual way and in accordance with the usual time limits subject to the following additional requirements and qualifications—

(a) within 21 calendar days after filing a notice of address for service, the executor or administrator is to file an affidavit—

(i) stating the assets and liabilities of the estate;

(ii) exhibiting a copy of the probate or letters of administration; and

(iii) identifying any error believed to exist in the affidavit filed under rule 314;

(b) not more than 35 calendar days and not less than 14 calendar days before the date appointed for trial, the executor or administrator is to file a further affidavit stating any changes to the financial position of the estate since the affidavit filed under paragraph (a);

(c) if a party disputes a statement made in an affidavit filed under paragraph (a) or (b), the party is to file a notice of dispute identifying the matter in dispute;

(d) an executor or administrator who has no personal interest in the outcome of the plaintiff's claim may, with the Court's permission, withdraw from the hearing of a claim.

316—Summary determination

(1) The Court may determine an action under the Act summarily when—

(a) there are reasonable grounds on which to conclude that the net estate of the deceased that will be available for distribution will be less than $500,000; and

(b) it is in the interests of justice to do so.

(2) A summary determination under subrule (1)—

(a) may be made by a Master;

(b) is to proceed in accordance with such directions as are given by the Court;

(c) may be determined on the basis of evidence that does not conform with the rules of evidence; and

(d) is to have as a primary object the minimisation of costs and an expeditious but just resolution of the action.

(3) If an action should have been, but was not, dealt with under subrule (1), the Court may order the plaintiff to bear any costs that might have been avoided if that subrule had been complied with.

317—Lodgment of order

When the Court directs under section 9(4) of the Act that a certified copy be made on the Probate or Letters of Administration, two copies of the Order certified to be true

copies by the Registrar are to be lodged as soon as possible with the Registrar of Probates.

Division 5—Native Title (South Australia) Act 1994

318—Native title conference

(1) In this rule—

Act means the *Native Title (South Australia) Act 1994*.

(2) The Court may arrange a native title conference in accordance with the Act.

(3) The mediator may, in the course of a conference, exercise any of the following delegated powers of the Court—

(a) the powers of the Court to issue directions—

(i) requiring a party to undertake investigations, make inquiries or ascertain facts that may be relevant to the proceeding;

(ii) requiring a party to provide (to the Court or another party) reports, maps, records or other documents that may be relevant to the proceeding;

(iii) requiring a party to provide particulars of his or her case, including a written summary of the evidence the party intends to introduce;

(iv) dealing with the time, place and other arrangements for the conference and regulating its procedure;

(b) with the consent of all parties, take evidence for the purposes of the proceeding before the Court.

(4) If settlement is reached at a conference, the mediator is as soon as practicable to report the terms of the settlement (which should include agreed terms of orders to be made by the Court to give effect to the settlement).

(5) The Court constituted of a Judge may make the necessary orders to give effect to the terms of settlement.

Part 3—Statutory appeals against administrative decisions

319—Interpretation

In this Part—

appeal means an appeal to the Court from an administrative decision under an enactment including an appeal under section 92 of the *Taxation Administration Act 1996*.

320—Commencement of appeal

(1) An appeal to which this Part applies is to be instituted by notice of appeal in an approved form.

(2) The notice of appeal is to identify—

(a) the decision the subject of the appeal;

(b) the orders sought;

(c) the grounds of appeal; and

(d) if an extension of time in which to appeal is sought, that fact.

(3) The appellant is to file with the notice of appeal a statement of facts, issues and contentions in an approved form.

(4) The statement of facts, issues and contentions is to set out briefly—

(a) the subject matter of the decision, the decision and the essential facts, if any, relied on that were not accepted by the decision maker;

(b) the essential issues raised on the appeal;

(c) the appellant's contention on each issue; and

(d) the ground for any application for an extension of time.

(5) The statement of facts, issues and contentions is to annex—

(a) the reasons given by the decision maker for the determination;

(b) the application, objection or other formal submission by the appellant to the decision maker the subject of the determination when applicable;

(c) the assessment or other formal act the subject of the appellant's submission to the decision maker when applicable;

(d) if the value of land or any other thing is in issue on the appeal, a copy of any expert report by a valuer addressing the value of the land or thing obtained by the appellant.

(6) The appellant is, within 2 business days after filing a notice of appeal, to serve a copy of the notice of appeal and statement of facts, issues and contentions on all parties to the appeal.

321—Response

(1) The respondent is to file and serve a notice of address for service in accordance with Chapter 4 of these Rules.

(2) Within 28 calendar days of service of the notice of appeal, the respondent is to file and serve a response to the statement of facts, issues and contentions in an approved form.

(3) The response to the statement of facts, issues and contentions is to set out briefly—

(a) a response to any contested essential facts on which the appellant relies;

(b) the essential issues raised by the appellant on the appeal and any additional essential issues raised by the respondent on the appeal;

(c) the respondent's contention on each issue identified by the appellant and respondent; and

(d) if an extension of time in which to appeal is sought, the ground of opposition if any.

(4) If the value of land or any other thing is in issue on the appeal, the response to the statement of facts, issues and contentions is to annex a copy of any expert report by a valuer addressing the value of the land or thing obtained by the respondent.

322—Subsequent steps

(1) After the filing of the response, the Registrar will convene a directions hearing.

(2) At the direction hearing, the Court will give directions for the further conduct of the proceeding.

Part 4—Arbitration proceedings

Division 1—General

323—Interpretation

(1) In this Part, unless a contrary intention appears—

arbitration means an arbitration to which the International Arbitration Act or the Commercial Arbitration Act applies as the case requires;

Commercial Arbitration Act means the *Commercial Arbitration Act 2011*;

International Arbitration Act means the *International Arbitration Act 1974* (Cth);

Model Law means the UNCITRAL Model Law on International Commercial Arbitration, adopted by the United Nations Commission on International Trade Law on 21 June 1985 as amended by the United Nations Commission on International Trade Law on 7 July 2006, the English text of which is set out in Schedule 2 to the International Arbitration Act.

(2) Unless the contrary intention appears—

(a) expressions used in this Part have the same meaning as in the International Arbitration Act or the Commercial Arbitration Act, as the case requires;

(b) expressions used in Division 2 have the same meaning as in the International Arbitration Act; and

(c) expressions used in Division 3 have the same meaning as in the Commercial Arbitration Act.

324—Commencement of proceeding

(1) Subject to subrules (2) and (3), an application must, if a proceeding has not been started in the Court in relation to the arbitration, be made by originating application.

(2) An application may, if a proceeding has been started in the Court in relation to the arbitration, be made by interlocutory application.

(3) An application under rule 326, 328 or 336 is to be made by interlocutory application in the proceeding to which the application relates.

325—Documents not in English language

A party to a proceeding to which this Part applies who seeks to rely on a document that is not in the English language is to provide a certified English translation of the document—

(a) to the Court; and

(b) to any other party to the proceeding.

Note 1—

Section 9 of the International Arbitration Act also deals with the translation of awards and arbitration agreements in proceedings to which Part II of the International Arbitration Act applies.

Note 2—

Section 35 of the Commercial Arbitration Act also deals with the translation of awards and arbitration agreements in proceedings to which the Commercial Arbitration Act applies.

Division 2—International commercial arbitration

326—Application for stay and referral to arbitration—foreign arbitration agreements

(1) An application under section 7 of the International Arbitration Act to stay the whole or part of a proceeding and refer the parties to arbitration is to be in an approved form.

(2) The application is to be accompanied by—

(a) a copy of the arbitration agreement; and

(b) an affidavit stating the material facts on which the application for relief is based.

327—Application to enforce foreign award

(1) An application under section 8(2) of the International Arbitration Act to enforce a foreign award is to be in an approved form.

(2) The application is to be accompanied by—

(a) the documents referred to in section 9 of the International Arbitration Act; and

(b) an affidavit stating—

(i) the extent to which the foreign award has not been complied with at the date the application is made; and

(ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the foreign award or, if the person is a company, the last known registered office of the company.

328—Application for referral to arbitration—Model Law

(1) An application under article 8 of the Model Law to refer parties to arbitration is to be in an approved form.

(2) The application is to be accompanied by—

(a) a copy of the arbitration agreement; and

(b) an affidavit stating the material facts on which the application for relief is based.

329—Subpoenas

(1) An application under section 23(3) of the International Arbitration Act to issue a subpoena is to be in an approved form.

(2) The application is to be accompanied by—

(a) a draft subpoena in accordance with subrule (3); and

(b) an affidavit stating—

(i) the parties to the arbitration;

(ii) the name of the arbitral tribunal conducting the arbitration;

(iii) the place where the arbitration is being conducted;

(iv) the nature of the arbitration;

(v) the terms of the permission given by the arbitral tribunal for the application;

(vi) the conduct money (if appropriate) to be paid to the addressee; and

(vii) the witness expenses payable to the addressee.

(3) For the purposes of subrule (2)(a), the draft subpoena is to be in accordance with—

(a) for a subpoena to attend for examination before an arbitral tribunal—an approved form; or

(b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena—an approved form; or

(c) for a subpoena to attend for examination and produce documents—an approved form.

(4) The Court may—

(a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and

(b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.

(5) An amount fixed under subrule (4) is in addition to any conduct money or witness expenses payable under subrule (2)(b)(vi) or (vii).

330—Application relating to evidence for arbitration

(1) An application for an order under section 23A(3) of the International Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal for an arbitration is to be in an approved form.

(2) An application under subrule (1) is to be accompanied by an affidavit stating—

(a) the person against whom the order is sought;

(b) the order sought;

(c) the ground under section 23A(1) of the International Arbitration Act relied on;

(d) the terms of the permission given by the arbitral tribunal for the application; and

(e) the material facts relied on for the making of the order.

331—Application relating to disclosure of confidential information

(1) An application under section 23F or 23G of the International Arbitration Act for an order prohibiting or allowing the disclosure of confidential information is to be in an approved form.

(2) An application under subrule (1) is to be accompanied by an affidavit stating—

(a) the person against whom the order is sought;

(b) the order sought;

(c) the material facts relied on for the making of the order;

(d) if the application is made under section 23F of the International Arbitration Act— the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made;

(e) if the application is made under section 23G of the International Arbitration Act, either—

(i) the date the arbitral tribunal's mandate was terminated; or

(ii) the date and the terms of—

(A) the request made to the arbitral tribunal for disclosure of the confidential information; and

(B) the arbitral tribunal's refusal to allow disclosure.

332—Application for other order—Model Law

(1) An application for relief under article 11(3), 11(4), 13(3), 14, 16(3), 17H(3), 17I, 17J or 27 of the Model Law is to be in an approved form.

(2) The application is to be accompanied by an affidavit stating the material facts on which the application for relief is based.

333—Application to set aside award—Model Law

(1) An application under article 34 of the Model Law to set aside an award is to be in an approved form.

(2) The application is to identify—

(a) if the plaintiff relies on article 34(2)(a) of the Model Law—which subparagraph of article 34(2)(a) is relied upon; or

(b) if the plaintiff relies on article 34(2)(b) of the Model Law—which subparagraph of article 34(2)(b) is relied upon; and

(c) brief grounds for seeking the order.

(3) The application is to be accompanied by an affidavit exhibiting a copy of—

(a) the arbitration agreement; and

(b) the award including the reasons of the arbitral tribunal for the award.

(4) The application is to be accompanied by an affidavit identifying—

(a) the detailed grounds for seeking the order;

(b) the material facts relied on for making the order; and

(c) the date on which the plaintiff received the award or, if a request was made under article 33 of the Model Law to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.

(5) The application and supporting affidavit are to be served on any person whose interest might be affected by setting aside of the award.

(6) Any application by a party to the arbitration under article 34(4) of the Model Law is to be made by interlocutory application in the proceeding instituted under subrule (1).

334—Enforcement of award—Model Law

(1) An application under article 35 of the Model Law to enforce an award is to be in an approved form.

(2) The application is to be accompanied by—

(a) the documents referred to in article 35 of the Model Law; and

(b) an affidavit stating—

(i) the extent to which the award has not been complied with at the date the application is made; and

(ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

335—Enforcement of Investment Convention award

(1) An application under section 35(2) of the International Arbitration Act to enforce an Investment Convention award is to be in an approved form.

Note—

award is defined in section 31(1) of the International Arbitration Act.

(2) The application is to be accompanied by an affidavit stating—

(a) the extent to which the award has not been complied with at the date the application is made; and

(b) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

Division 3—Domestic commercial arbitration

336—Application for referral to arbitration

(1) An application under section 8 of the Commercial Arbitration Act to refer the parties to arbitration is to be in an approved form.

(2) The application is to be accompanied by—

(a) a copy of the arbitration agreement; and

(b) an affidavit stating the material facts on which the application for relief is based.

337—Subpoenas

(1) An application under section 27A of the Commercial Arbitration Act to issue a subpoena is to be in an approved form.

(2) The application is to be accompanied by—

(a) a draft subpoena in accordance with subrule (3); and

(b) an affidavit stating—

(i) the parties to the arbitration;

(ii) the name of the arbitral tribunal conducting the arbitration;

(iii) the place where the arbitration is being conducted;

(iv) the nature of the arbitration;

(v) the terms of the permission given by the arbitral tribunal for the application;

(vi) the conduct money (if appropriate) to be paid to the addressee; and

(vii) the witness expenses payable to the addressee.

(3) For the purposes of subrule (2)(a), the draft subpoena is to be in accordance with—

(a) for a subpoena to attend for examination before an arbitral tribunal—an approved form; or

(b) for a subpoena to produce to the arbitral tribunal the documents mentioned in the subpoena—an approved form; or

(c) for a subpoena to attend for examination and produce documents—an approved form.

(4) The Court may—

(a) fix an amount that represents the reasonable loss and expense the addressee will incur in complying with the subpoena; and

(b) direct that the amount be paid by the applicant to the addressee before or after the addressee complies with the subpoena.

(5) An amount fixed under subrule (4) is in addition to any conduct money or witness expenses payable under subrule (2)(b)(vi) or (vii).

338—Application relating to evidence for arbitration

(1) An application for an order under section 27B of the Commercial Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal for an arbitration is to be in an approved form.

(2) An application under subrule (1) is to be accompanied by an affidavit stating—

(a) the person against whom the order is sought;

(b) the order sought;

(c) the ground under section 27B of the Commercial Arbitration Act relied on;

(d) the terms of the permission given by the arbitral tribunal for the application; and

(e) the material facts relied on for the making of the order.

339—Application relating to disclosure of confidential information

(1) An application under section 27H or 27I of the Commercial Arbitration Act for an order prohibiting or allowing the disclosure of confidential information is to be in an approved form.

(2) An application under subrule (1) is to be accompanied by an affidavit stating—

(a) the person against whom the order is sought;

(b) the order sought;

(c) the material facts relied on for the making of the order;

(d) if the application is made under section 27H of the Commercial Arbitration Act— the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made;

(e) if the application is made under section 27I of the Commercial Arbitration Act, either —

(i) the date the arbitral tribunal's mandate was terminated; or

(ii) the date and the terms of—

(A) the request made to the arbitral tribunal for disclosure of the confidential information; and

(B) the arbitral tribunal's refusal to allow the disclosure.

340—Application for other order

(1) An application for relief under section 11(3), 11(4), 13(4), 14, 16(9), 17H, 17I, 17J, 19(6) or 27 of the Commercial Arbitration Act is to be in an approved form.

(2) The application is to be accompanied by an affidavit stating the material facts on which the application for relief is based.

341—Preliminary point of law

(1) An application under section 27J of the Commercial Arbitration Act for leave to apply for determination of a question of law arising in the course of an arbitration and, if leave be granted, for the determination of the question of law, is to be in an approved form.

(2) The application is to be accompanied by an affidavit exhibiting—

(a) a copy of the arbitration agreement; and

(b) evidence of the consent of the arbitrator or the consent of all the other parties as required by section 27J(2) of the Commercial Arbitration Act.

(3) The application is to be accompanied by an affidavit identifying —

(a) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination

of the question of law or, if the person is a company, the last known registered office of the company;

(b) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;

(c) the facts on the basis of which the question of law is to be determined and the basis on which those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise; and

(d) the detailed grounds on which it is contended that leave should be granted.

(4) The application and supporting affidavit are to be served on any person whose interest might be affected by determination of the question of law.

(5) The Court may if it thinks fit hear the question of law at the same time as the application for leave to determine the question.

(6) If the Court first hears and grants the application for leave, it may make such orders as it thinks fit for the hearing and determination of the question of law.

342—Application to set aside award

(1) An application under section 34 of the Commercial Arbitration Act to set aside an award is to be in an approved form.

(2) The application is to identify—

(a) if the plaintiff relies on section 34(2)(a) of the Commercial Arbitration Act—which subparagraph of section 34(2)(a) is relied upon; or

(b) if the plaintiff relies on section 34(2)(b) of the Commercial Arbitration Act—which subparagraph of section 34(2)(b) is relied upon; and

(c) brief grounds for seeking the order.

(3) The application is to be accompanied by an affidavit exhibiting a copy of—

(a) the arbitration agreement; and

(b) the award including the reasons of the arbitral tribunal for the award.

(4) The application is to be accompanied by an affidavit identifying —

(a) the detailed grounds for seeking the order;

(b) the material facts relied on for making the order; and

(c) the date on which the plaintiff received the award or, if a request was made under section 33 of the Commercial Arbitration Act to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.

(5) The application and supporting affidavit are to be served on any person whose interest might be affected by setting aside of the award.

(6) Any application by a party to the arbitration under section 34(4) of the Commercial Arbitration Act is to be made by interlocutory application in the proceeding instituted under subrule (1).

343—Appeal

(1) An application under section 34A of the Commercial Arbitration Act for leave to appeal on a question of law arising out of an award is to be in an approved form.

(2) The application is to be accompanied by an affidavit exhibiting—

(a) a copy of the arbitration agreement;

(b) a copy of the award including the reasons of the arbitral tribunal for the award; and

(c) evidence of the consent of all parties that an appeal may be made under section 34A of the Commercial Arbitration Act.

(3) The application is to be accompanied by an affidavit identifying—

(a) the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed appeal or, if the person is a company, the last known registered office of the company;

(b) the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;

(c) where in the award and how the arbitral tribunal determined the question of law or when and how the arbitral tribunal was asked to determine the question of law;

(d) the relevant facts found by the arbitral tribunal on the basis of which the question of law is to be determined;

(e) why determination of the question of law will substantially affect the rights of one or more parties;

(f) why it is contended that the decision of the arbitral tribunal on the question of law is obviously wrong or that the question of law is of general public importance and the decision of the arbitral tribunal is open to serious doubt; and

(g) why it is just and proper in the circumstances for the question to be determined by the Court.

(4) The application is to be accompanied by a succinct written outline of the argument in support of the application for leave and the appeal if leave is granted.

(5) The application and the supporting material are to be served on any person whose interest might be affected by the proposed appeal.

(6) Within 14 calendar days after service upon it, a party may file and serve any answering material, including a succinct written outline of the argument in opposition to the application for leave and the appeal if leave is granted.

(7) If it appears to the Court that an oral hearing is required, the Court may if it thinks fit hear the appeal on the question of law at the same time as it hears the application for leave to appeal.

(8) If the Court first grants the application for leave before hearing the appeal on the merits, it may make such orders as it thinks fit for the hearing and determination of the appeal.

(9) When an application for leave to appeal is brought or leave to appeal is granted, the Court may suspend or discharge any enforcement order made in respect of the award the subject of the proposed appeal.

344—Application to enforce award

(1) An application under section 35 of the Commercial Arbitration Act to enforce an award is to be in an approved form.

(2) The application is to be accompanied by—

(a) the documents referred to in section 35 of the Commercial Arbitration Act; and

(b) an affidavit stating—

(i) the extent to which the award has not been complied with at the date the application is made; and

(ii) the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

Part 5—Ancillary proceedings

345—Building and Construction Industry Security of Payment Act 2009

(1) In this rule—

Act means the *Building and Construction Industry Security of Payment Act 2009*.

(2) (a) An application under section 25 of the Act for an adjudication certificate to be filed as a judgment is to be made in the form prescribed under rule 308(2);

(b) The adjudication certificate is to be attached to the application.

Note—

Section 25(2) of the Act precludes an adjudication certificate being filed under that section unless it is accompanied by an affidavit by the claimant stating that the whole or a part of the adjudicated amount has not been paid at the time the certificate is filed.

(3) As soon as practicable after receiving the sealed judgment, the claimant is to send a copy to the respondent by prepaid post addressed to the respondent's last known address.

(4) A party seeking the entry of a judgment by default in an action under section 15(4) or 16(4) of the Act may provide evidence of the circumstances referred to in section 15(1) or 16(1) of the Act, as the case may be, by affidavit.

(5) In any proceeding by a respondent to have a judgment set aside—

(a) the respondent is to annex to the summons a copy of the sealed judgment; and

(b) the money to be paid into Court under section 25(4)(b) of the Act is to be—

(i) accompanied by a notice of payment in; and

(ii) held in Court in an account in the name of the proceeding.

346—Foreign Judgments Act 1991 (Cth)

(1) In this rule—

Act means the *Foreign Judgments Act 1991* (Cth).

(2) A party may seek the registration of a judgment under the Act by filing a summons in which no defendant is named.

(3) The summons is to be accompanied by an affidavit exhibiting a copy of the judgment of the original court certified as such by the proper officer of that court and authenticated by its seal and, if it is not in the English language, a translation of the judgment certified by a Notary Public or authenticated by affidavit.

(4) The summons is to be accompanied by an affidavit deposing—

(a) that no stay is in force in respect of any part of the judgment;

(b) to the amount that is then due and payable under the judgment and to the amount that remains unpaid as at the date of the application for registration;

(c) that the plaintiff is entitled to enforce the judgment;

(d) that there are no facts known to the plaintiff and the deponent on the basis of which the judgment debtor would be entitled to have the registration of the judgment set aside;

(e) to the full name, title, trade, business or occupation and the last known place of abode or address of each judgment creditor and of each judgment debtor;

(f) if the sum payable under the judgment is expressed in a currency other than Australian currency, to the amount for which registration is sought in Australian currency and particularising the calculation of the conversion;

(g) if the judgment relates to different matters of which only some could, if contained in separate judgments, have been registered, to the matters in respect of which the plaintiff seeks the registration of the judgment; and

(h) to the amount of interest that has become due under the judgment to the date of the application and the basis upon which such interest was payable under the law of the country of the original court.

(5) The costs of and incidental to the registration of the judgment, as fixed by the Registrar or as adjudicated, may be added to the amount for which the judgment is registered.

(6) The order of the Court for the registration of the judgment will state the period within which an application to set aside the registration may be made.

(7) Notice of the registration of the judgment is to be served personally on each judgment debtor.

(8) (a) The Registrar will keep a register of judgments ordered to be registered under the Act;

(b) The Registrar may upon request issue a certified copy of the registered judgment.

(9) An application for re-registration of a judgment under section 9 of the Act is to be made by interlocutory application in the proceeding in which the judgment was registered.

(10) Unless the Court otherwise directs, in any proceeding under the Act—

(a) evidence by affidavit may be by information and belief;

(b) an apparently genuine imprint of the seal of an original court need not be proved;

(c) the qualifications of a person who is a lawyer in the original court to give evidence of the law applicable in that court need not be proved.

347—Trans-Tasman Proceedings Act 2010 (Cth)

(1) In this rule—

Act means the *Trans-Tasman Proceedings Act 2010* (Cth).

(2) An application under—

(a) section 15(1) of the Act for security for costs;

(b) section 17(1) of the Act for a stay of proceedings;

(c) section 48 of the Act to appear remotely from New Zealand;

(d) section 72 of the Act to set aside registration of a New Zealand judgment; or

(e) section 76 of the Act for a stay of enforcement of a New Zealand judgment;

is to be made by an interlocutory application under rule 131 using the approved form for such an application.

(3) A party or intended party seeking interim relief under section 25 of the Act is to file a summons in accordance with rule 34.

Note—

1 Service of process under the Act is dealt with in rule 39A.

2 Notice of address for service for process served under the Act is dealt with in rules 58(4)(b)(ii) and 59(3).

3 Subpoenas to be served under the Act are dealt with in rule 183A.

4 An application to register a judgment under section 67 of the Act is to be made in form 5 in the Schedule to the *Trans-Tasman Proceedings Regulations 2012* (Cth).

Part 6—Enforcement of judgments

348—Enforcement of Judgments Act 1991

(1) In this rule—

Act means the *Enforcement of Judgments Act 1991*;

authorised witness means any of the following—

(a) the Registrar, a Deputy Registrar, or any other officer of the Court whom the Registrar has assigned for the purpose;

(b) a public notary;

(c) a Commissioner for taking affidavits;

(d) a Justice of the Peace;

(e) any other person authorised by law to take affidavits or attest signatures;

judgment creditor and ***judgment debtor*** have the same meanings as in the Act.

(2) The Court is not bound by the rules of evidence on an investigation under section 4(1) of the Act or an examination under section 5(5) of the Act but may inform itself in such manner as it thinks fit.

(3) An order under section 6(1) of the Act, or an order under section 6(3) of the Act confirming, varying or revoking an order under section 6(1) of the Act, is to be served by the judgment creditor on the judgment debtor and the garnishee as directed by the Court.

(4) If an order is made under section 6(1) of the Act in the absence of the judgment debtor—

(a) if the order is made by the Registrar—the Registrar will fix a date and time for further consideration of the proceeding by a Master;

(b) if the order is made by a Master or Judge—the proceeding will be adjourned to a fixed date and time for further consideration.

(5) A consent for the attachment of salary or wages under section 6(2) of the Act—

(a) if the judgment debtor or his or her solicitor is before the Court—may be given orally;

(b) in any other case—must be given in writing and signed by the judgment debtor in front of an authorised witness.

(6) A warrant may not be issued under section 7 of the Act more than 6 years after the date of the judgment on which the warrant is based without the permission of the Court.

(7) A warrant may not be issued under section 12 of the Act unless an order for the issue of the warrant has been made by a Judge.

(8) Each of the following warrants remains in force for one year after being issued and may be renewed for a further period of up to 1 year—

(a) a warrant under section 7 of the Act;

(b) a warrant under section 11 of the Act;

(c) a warrant under section 12 of the Act.

(9) On application by an interested person, the Court may, subject to such conditions as the Court thinks fit, order the stay of a warrant issued under the Act.

(10) A person arrested on a warrant issued under section 4(4), 5(6) or 12 of the Act must, as soon as practicable, be brought before the Court."

116. Rules 317 to 328 inclusive are renumbered as 349 to 360 respectively.

117. A new Chapter 17 is inserted as follows:

"Chapter 17—Lawyers

Part 1—Preliminary

361—Interpretation

(1) In this Chapter, unless the contrary intention appears—

Act means the *Legal Practitioners Act 1981*;

Board or ***Board of Examiners*** means the Board of Examiners established by section 14I of the Act;

Commissioner means the Legal Profession Conduct Commissioner under section 71 of the Act;

first jurisdiction means another State or a Territory of Australia or New Zealand in which an applicant for registration under Part 5 is admitted and entitled to practise as a lawyer being the first state for the purposes of the *Mutual Recognition Act 1992* (Cth) or New Zealand for the purposes of the *Trans-Tasman Mutual Recognition Act 1997* (Cth);

lapsed applicant means an applicant for admission who has previously been admitted as a practitioner of the Court but whose order for admission has lapsed due to failure to sign the Roll of Practitioners within 12 months;

Law Society means the Law Society of South Australia;

LPEAC means the Legal Practitioners Education and Admission Council established by section 14B of the Act;

LPEAC Rules means the *Rules of the Legal Practitioners Education and Admission Council 2004*;

Mutual Recognition Acts means the *Mutual Recognition Act 1992* (Cth) as adopted by the *Mutual Recognition (South Australia) Act 1993* and the *Trans-Tasman Mutual Recognition Act 1997* (Cth);

original applicant means an applicant for admission who has not previously been admitted as a lawyer in Australia or New Zealand;

Practical Legal Training Course means a course approved by LPEAC under rule 2.4 of the *LPEAC Rules 2004*;

practising certificate means a practising certificate issued under Part 3 Division 2 of the Act;

re-applicant means an applicant for admission whose name has been struck off or removed from the Roll of Practitioners maintained under the Act;

registration applicant means an applicant for admission who has previously been admitted and is entitled to practise as a lawyer in another State or a Territory of Australia or New Zealand applying under the Mutual Recognitions Acts;

Tribunal means the Legal Practitioners Disciplinary Tribunal established under section 78 of the Act.

(2) In this Chapter, unless the contrary intention appears, a word or expression that appears in the Act bears the same meaning as in the Act.

Part 2—General procedural rules

362—Form of applications

(1) Unless these Rules otherwise provide, originating process for proceedings under this Chapter is to be in the form of an originating application.

(2) An originating application is to be in an approved form.

(3) Unless these Rules otherwise provide, an application in an existing proceeding under this Chapter is to be in the form of an interlocutory application under rule 131.

363—Lodgment of documents

(1) Unless these Rules otherwise provide, when reference is made to documents being lodged with the Law Society, such documents may be sent by prepaid post or delivered (as directed by the Board) to the Board of Examiners, c/- Law Society of South Australia, 10th Floor, Terrace Towers, 178 North Terrace, Adelaide 5000 or to such other address as may from time to time be designated in writing by the Board.

Note—

Rules 370, 371 and 377 require an application for admission by an original applicant or a re-applicant to be lodged in person.

364—Orders and directions

(1) In any proceeding governed by this Chapter, the Court may give directions relating to—

(a) joinder of any additional party;

(b) service of an application or order on a party or any other person;

(c) the matter proceeding in the absence of a party if satisfied that the party cannot be found or if the party fails to appear after being given reasonable notice of the application;

(d) the procedure to be adopted;

(e) the application or hearing or determination of the application;

(f) any other matter relating to an application or order.

(2) In any matter governed by this Chapter, the Court may exempt any person from the requirements of, or from compliance or further compliance with, any of the rules in this Chapter or the Supplementary Rules either entirely or partially or subject to conditions.

(3) In any matter governed by this Chapter, the Court may make such orders as it thinks fit.

365—Costs

In any matter governed by this Chapter, the Court may make such order as to costs, including any fees paid or payable to the Court, as it thinks fit.

Part 3—Allocation of Court business

366—Constitution and powers of the Court

(1) The jurisdiction of the Court to hear and determine—

(a) an application for or objection to admission under Part 4;

(b) a disciplinary proceeding under section 89 of the Act or in the inherent jurisdiction of the Court (but not interim orders or directions) under Part 7;

(c) an appeal against a decision, report or determination of the Board or of LPEAC under the Act, this Chapter or the *LPEAC Rules 2004* under Part 9; and

(d) an appeal against a final decision of the Tribunal under Part 9,

is to be exercised by the Full Court.

(2) The jurisdiction of the Court to hear and determine applications under Part 6 is to be exercised by a single Judge.

(3) Unless a Judge otherwise directs, the jurisdiction of the Court in relation to the adjudication of costs under Part 7 of Schedule 3 to the Act is to be exercised by the Registrar or a Master and an application under Part 5 of Schedule 3 to the Act to set aside a costs agreement is to be exercised by a Master.

(4) Subject to subrules (1) to (3), the jurisdiction of the Court governed by this Chapter may be exercised by a single Judge or, subject to rule 15, a Master.

367—Assignment of functions and powers to Law Society

(1) Pursuant to section 52A of the Act, the functions and powers of the Court relating to—

(a) the issue, renewal and cancellation of practising certificates, receipt of notices, lodgment of documents and maintenance of registers under Part 3 Divisions 2 and 3A of the Act;

(b) the surrender and cancellation of practising certificates under section 20AK of the Act;

(c) the receipt of notices under Schedule 1 of the Act,

are assigned to the Law Society.

(2) Unless the Act, these Rules or the Supplementary Rules otherwise provide, or the Court otherwise directs, the personnel performing functions and exercising powers on behalf of the Law Society as assignee of the Court under subrule (1) are—

(a) to be confined to personnel who have signed an undertaking of confidentiality in terms of paragraphs (b) and (c); and

(b) to keep confidential any information acquired by the Law Society in its capacity as assigner under subrule (1) except information available to the public under section 131 of the *Supreme Court Act 1935* or otherwise;

(c) not to disclose any such confidential information to Law Society personnel who have not signed such an undertaking and are not performing functions or exercising powers on behalf of the Law Society as assignee of the Court.

(3) Pursuant to section 52A of the Act, the functions and powers of the Court relating to—

(a) the receipt on behalf of the Court of applications for admission, including by original applicants, re-applicants, registration applicants and lapsed applicants, under section 15 of the Act and of other documents and court fees on behalf of the Court in relation to such applications;

(b) the referral on behalf of the Court of applications for admission to the Board under section 15(2) and to the Attorney-General, Commissioner and Law Society under section 15(1a) of the Act; and

(c) preparing and arranging the execution of the Supplementary Roll of Practitioners by applicants who are admitted in absentia,

are assigned to the Law Society.

Note—

The subject matter of the functions and powers assigned under subrule (3) is addressed in Parts 4 and 5 of this Chapter.

(4) Unless the Act, these Rules or the Supplementary Rules otherwise provide, or the Court otherwise directs, the personnel performing functions and exercising powers on behalf of the Law Society as assignee of the Court under subrule (3) are—

(a) to be confined to personnel who have been approved by the Registrar and have signed an undertaking of confidentiality in terms of paragraphs (b) and (c); and

(b) to keep confidential any information acquired by the Law Society in its capacity as assignee under subrule (3) except information available to the public under section 131 of the Supreme Court Act 1935 or otherwise;

(c) not to disclose any such confidential information to Law Society personnel who have not signed such an undertaking and are not performing functions or exercising powers on behalf of the Law Society as assignee of the Court under subrule (3).

(5) Any person who is dissatisfied with a decision of the Law Society exercising functions or powers of the Court under subrule (1) or (3) may appeal to the Court.

(6) The notice of appeal is to be filed within 21 calendar days after the date of the Law Society's decision.

(7) The Law Society is to be served with the notice of appeal and is entitled to be heard on the hearing of the appeal.

(8) The appeal is to be governed by Part 9.

368—Assignment of functions and powers to Board

(1) Pursuant to section 52A of the Act, the functions and powers of the Court relating to—

(a) the decision to admit and enrol an applicant for admission as a practitioner of the Court under section 15 of the Act when the applicant is a registration applicant applying under the Mutual Recognition Acts;

(b) the decision whether to grant or impose conditions on a practising certificate under Part 3 Division 2 of the Act in respect of a registration applicant applying under the Mutual Recognition Acts; and

(c) notification to applicants of the decision to grant, postpone or refuse an application,

are assigned to the Board.

Note—

The subject matter of the functions and powers assigned under subrule (2) is addressed in Part 5 of this Chapter.

(2) Any person who is dissatisfied with a decision of the Board or of LPEAC under the Act, this Chapter or the *LPEAC Rules 2004*, including any report by the Board, may appeal to the Court.

(3) The notice of appeal is to be filed within 21 calendar days after the date of the decision.

(4) The Board or LPEAC as the case requires and the Law Society are to be served with the notice of appeal and are entitled to be heard on the hearing of the appeal.

(5) The appeal is to be governed by Part 9.

Part 4—Admission of lawyers

Division 1—Application for admission

369—Criteria for admission

An applicant for admission as a lawyer must satisfy the Court in the manner set out in this Part that he or she satisfies the requirements of section 15 of the Act and is a fit and proper person to practise the profession of the law.

370—Application for admission by original applicant

(1) An original applicant for admission is to lodge in person with the Law Society on behalf of the Court—

(a) an originating application for admission in an approved form;

(b) an affidavit in support of the application for admission in an approved form demonstrating the applicant's eligibility for admission and exhibiting—

(i) a copy of a certificate or other documentation certifying that the applicant has fulfilled the necessary academic requirements;

(ii) subject to subrule (2), a copy of a certificate of satisfactory completion of a Practical Legal Training Course; and

(iii) a copy of the applicant's driver's licence, passport or birth certificate as evidence of identity;

(c) a notice in an approved form of the applicant's application for admission to be placed on the Law Society's website; and

(d) such other evidence, information or documents relating to the application as the Board may require.

(2) If the applicant has complied with the terms and conditions specified in rules 5 and 6 of the LPEAC Rules, the applicant is, in lieu of the certificate specified in subrule (1)(b)(ii), to—

(a) exhibit a copy of a certificate from the applicant's principal in an approved form setting out—

(i) details of the period of articles;

(ii) the nature of the applicant's service and absences on leave; and

(ii) a statement as to the applicant's fitness and propriety to be admitted; and

(b) depose to and exhibit evidence that the applicant has satisfactorily completed a supplementary course or tuition or training required to achieve the requisite understanding and competence;

(3) The applicant is upon lodgment to produce the originals of the documents referred to in subrule (1)(b) or subrule (2)(a) as the case may be for certification by the Law Society that the originals have been sighted and the copies verified as true copies.

(4) Upon lodgment, the applicant is to pay—

(a) to the Law Society on behalf of the Court—the fee payable to the Court on an application for admission under Schedule 1 of the *Supreme Court Regulations 2005*; and

(b) to the Law Society—the fee payable to the Law Society set by the Chief Justice for notice to be placed on the Law Society's website advising of the applicant's application for admission.

(5) The Law Society is to transmit to the Registrar the documents and court fees received on behalf of the Court and the documents are to be entered in the Court's records.

(6) Upon an application for admission being lodged, the Law Society is on behalf of the Court to serve a copy of the application on the Law Society in its own right.

371—Application for admission by re-applicant

(1) A re-applicant for admission whose name has been struck off or removed from the Roll of Practitioners is to lodge in person with the Law Society on behalf of the Court—

(a) an originating application for admission in an approved form;

(b) a notice in an approved form of the applicant's application for admission to be placed on the Law Society's website;

(c) such other evidence, information or documents relating to the application as the Board or the Chairperson or Deputy Chairperson of the Board may require.

(2) Upon lodgment, the applicant is to pay—

(a) to the Law Society on behalf of the Court—the fee payable to the Court on an application for admission under Schedule 1 to the *Supreme Court Regulations 2005*; and

(b) to the Law Society—the fee payable to the Law Society set by the Chief Justice for notice to be placed on the Law Society's website advising of the applicant's application for admission.

(3) The Law Society is to transmit to the Registrar the documents and court fees received on behalf of the Court and the documents are to be entered in the Court's records.

(4) The applicant is to comply with any directions as to the manner in which the application is to be made, including—

(a) providing information, giving notices, serving documents and attending before the Board;

(b) any other matter,

that the Chairperson or Deputy Chairperson of the Board considers appropriate.

(5) The applicant must satisfy the Full Court as to his or her fitness and capacity to act as a lawyer in all matters usually transacted by or entrusted to lawyers.

372—Referral of applications

(1) Upon an application for admission under rule 370 or 371 being lodged, the Law Society is, in accordance with section 15(2) of the Act, on behalf of the Court to refer the application to the Board for its report and recommendation on the application and provide to the Board a copy of the documents lodged by the applicant and any objector in relation to the application.

(2) Upon an application for admission under rule 371 being lodged, the Law Society is, in accordance with section 15(1a) of the Act, on behalf of the Court to refer the application to the Attorney-General, the Commissioner and the Law Society in its own right and provide to each of them a copy of the documents lodged by the applicant, any objector or any third party (including by any of the Attorney-General, the Commissioner and the Law Society in its own right) in relation to the application.

Division 2—Objection to admission

373—Objection

(1) Any person may object to the admission of an applicant on the ground that the applicant—

(a) is not eligible to be admitted; or

(b) is not a fit and proper person to be admitted.

(2) An objection is to be made by lodging with the Law Society on behalf of the Court—

(a) a notice of objection in an approved form stating that the objector objects to the admission of the applicant and identifying brief grounds of the objection; and

(b) an affidavit—

(i) identifying the detailed grounds of objection; and

(ii) setting out the facts, information or belief on which the objector relies.

(3) The Law Society is to—

(a) transmit to the Registrar any notice of objection and affidavit received on behalf of the Court and the documents received are to be entered in the Court's records; and

(b) provide on behalf of the Court a copy of the notice of objection and affidavit to the applicant, the Board and the Law Society in its own right.

374—Response to objection

(1) Within 14 calendar days after service of an objector's affidavit, the applicant, or the Law Society in its own right may lodge with the Law Society on behalf of the Court an affidavit in response to any matter raised in the affidavit of an objector.

(2) The Law Society is to—

(a) transmit to the Registrar any affidavit received on behalf of the Court for entry into the Court's records; and

(b) provide on behalf of the Court a copy of the affidavit to the applicant, the objector, the Board and the Law Society in its own right.

Division 3—Hearing of application for admission

375—Hearing

(1) Applications for admission will be listed for hearing before the Full Court at the next convenient admission sitting no less than 28 calendar days after the application is lodged with the Law Society subject to the Court receiving the report of the Board prepared under section 15(2) of the Act.

(2) The Full Court may, if it thinks fit, act upon a report of the Board without any further evidence.

Division 4—The Roll of Practitioners

376—Signing the Roll of Practitioners

(1) When an order is made by the Full Court that a person be admitted as a barrister and solicitor of the Supreme Court, the person the subject of the order upon signing the Roll of Practitioners will be enrolled as a barrister and solicitor of the Supreme Court.

(2) If the person fails to sign the Roll of Practitioners within 12 months of the order for admission, the order that the person be admitted lapses.

Division 5—Lapsed orders for admission

377—Application for re-admission

(1) A lapsed applicant in respect of whom an order for admission has lapsed due to failure to sign the Roll of Practitioners within 12 months may apply to be re-admitted in accordance with this rule.

(2) The applicant is to lodge in person with the Law Society on behalf of the Court—

(a) an interlocutory application for re-admission under rule 131 in the proceeding being the original application for admission;

(b) an affidavit—

(i) referring to the evidence and documentation previously filed on the original application for admission; and

(ii) setting out such further facts or matters, and exhibiting such further documents, as the applicant relies upon.

(3) The address for service of the applicant is to be the address for service stated on the original application for admission by the applicant unless he or she provides a different address for service with the interlocutory application filed under subrule (2).

(4) Subject to complying with subrule (2), the applicant may rely upon the evidence and documentation relied upon when he or she originally applied to be admitted.

(5) The provisions of rule 370(3) to (6) or of rule 371(2) to (5), as the case requires, apply to an application by a lapsed applicant under this rule.

(6) The provisions of rules 372 to 376 apply to an application by a lapsed applicant under this rule.

Part 5—Registration of interstate and New Zealand lawyers

378—Local registration authority

(1) The local registration authority for the purpose of the Mutual Recognition Acts is the Court.

(2) The functions and discretions exercisable by the Court in its capacity as the local registration authority are assigned to the Law Society and the Board by rules 367(1) and 368(1) respectively.

Division 1—Application for registration

379—Application for registration

(1) A registration applicant seeking registration by way of admission as a practitioner of the Court and issue of a practising certificate under section 19 of the *Mutual Recognition Act 1992* (Cth) or section 18 of the *Trans-Tasman Mutual Recognition Act 1997* (Cth) is to lodge with the Law Society on behalf of the Court—

(a) a notice in the form of an originating application for registration in an approved form;

(b) a certified copy of an instrument or instruments evidencing the applicant's existing registration in the first jurisdiction;

(c) a copy of a certificate of fitness or good standing in the applicant's first jurisdiction and any other jurisdiction in which the applicant is admitted or is registered under the Mutual Recognition Acts;

(d) a certified copy of a driver's licence, passport or birth certificate as evidence of identity; and

(e) a statutory declaration verifying the statements and other information in the originating application.

(2) The documents referred to in subrule (1)(b), (c) and (d) are to be certified by a Justice of the Peace as a true copies of the originals sighted by the Justice of the Peace.

(3) Upon lodgment, the applicant is to pay to the Law Society on behalf of the Court—

(a) the fee payable to the Court on an application for admission under Schedule 1 to the *Supreme Court Regulations 2005*; and

(b) the fee payable to the Court on an application for a practising certificate under Schedule 2 to the *Legal Practitioners Regulations 2014*.

(4) The Law Society is to transmit to the Registrar the documents and court fees received on behalf of the Court and the documents are to be entered in the Court's records.

(5) Upon an application for admission being lodged, the Law Society is on behalf of the Court to refer the application to the Board for its decision on the application.

(6) The Board is if practicable to determine the application within 1 month of the application being lodged with the Law Society on behalf of the Court by—

(a) granting the application with or without conditions under subrule (7); or

(b) postponing the application; or

(c) refusing the application.

Note –

Under section 21(4) of the *Mutual Recognition Act 1992* (Cth) or section 20(4) of the *Trans-Tasman Mutual Recognition Act 1997* (Cth), if the Board makes no such determination within 1 month of the notice being lodged, the applicant is, absent fraud, entitled to registration.

(7) The Board may impose a condition of registration—

(a) equating with a condition applying to the applicant's practice in the first jurisdiction; and/or

(b) equating with a condition or restriction that would be imposed in South Australia upon a lawyer of similar standing and experience.

(8) The Board is to give to the applicant written notice of its determination of the application.

Note –

Section 24 of the *Mutual Recognition Act 1992* (Cth) and section 23 of the *Trans-Tasman Mutual Recognition Act 1997* (Cth) require the local registration authority to give to the applicant notice of its decision.

Division 2—The Roll of Practitioners

380—Signing the Roll of Practitioners

(1) When registration has been granted to an interstate or New Zealand practitioner under the Mutual Recognition Acts, upon signing the Roll of Practitioners the person will be enrolled as a barrister and solicitor of the Supreme Court.

(2) If the person fails to sign the Roll of Practitioners within 12 months of the grant of registration, the grant of registration lapses.

381—Issue of practising certificate

(1) When registration is granted and the person signs the Roll of Practitioners under this Part, the Law Society is on—

(a) receipt of an application in standard form for the issue of a practising certificate;

(b) payment by the person of such fees and levies as would be payable by a person admitted to practise in South Australia; and

(c) production of evidence of participation in a professional indemnity insurance scheme under section 52 of the Act,

to issue a practising certificate to the person under Part 3 Division 2 of the Act.

(2) The practising certificate is to be endorsed to indicate what, if any, conditions have been imposed and takes effect subject to any such conditions.

Division 3—Lapsed grants of registration

382—Application for re-registration

(1) A lapsed applicant in respect of whom a grant of registration has lapsed due to failure to sign the Roll of Practitioners within 12 months may apply to be re-registered in accordance with this rule.

(2) The applicant is to lodge with the Law Society on behalf of the Court—

(a) an interlocutory application for registration under rule 131 in the proceeding being the original application for registration;

(b) an affidavit—

(i) referring to the evidence and documentation previously filed on the original application for registration; and

(ii) setting out such further facts or matters, and exhibiting such further documents, as the applicant relies upon.

(3) The address for service of the lapsed applicant is to be the address for service stated on the original application for registration by the applicant unless he or she provides a different address for service with the interlocutory application filed under subrule (2).

(4) Subject to complying with subrule (2), the applicant may rely upon the evidence and documentation relied upon when he or she originally applied to be admitted.

(5) The provisions of rule 379(3) to (8) apply to an application by a lapsed applicant under this rule.

Part 6—Practising certificates

Division 1—Preliminary

383—Application of this Part

This Part applies to—

(a) applications under section 20AD of the Act to cancel, suspend or amend a practising certificate;

(b) applications under section 20AE or 23AF of the Act to stay or revoke an order cancelling, suspending or amending a practising certificate;

(c) notices under section 20AH of the Act of a show cause event;

(d) statements under section 20AG or 20AH of the Act identifying a show cause event and explaining why the applicant for or holder of a practising certificate should be regarded as a fit and proper person to hold a practising certificate;

(e) applications under section 20AJ of the Act to suspend immediately a practising certificate; and

(f) applications under section 20AJ of the Act to revoke an order immediately suspending a practising certificate.

384—Interpretation

In this Part, unless the contrary intention appears—

applicant means an applicant for a practising certificate;

conviction event means a conviction of a serious offence or a tax offence within the meaning of paragraph (d) of the definition of show cause event in section 5 of the Act;

holder means the holder of a practising certificate;

insolvency event means a show cause event within the meaning of paragraph (a), (b) or (c) of the definition of show cause event in section 5 of the Act;

notice means a notice of a show cause event within the meaning of section 20AH(2)(a) of the Act;

show cause event has the meaning defined by section 5 of the Act; and

statement means a statement in relation to a show cause event within the meaning of section 20AH(2)(a) or 20AG(2) of the Act.

385—Service

(1) Unless the Court otherwise directs, service of any document, including a document prepared by the Court, may be effected on—

(a) an applicant by ordinary prepaid post addressed to the applicant's address recorded by the Law Society for the purpose of applications for and the issue and renewal of practising certificates;

(b) a holder by ordinary prepaid post addressed to the holder's address recorded by the Law Society for the purpose of issue and renewal of practising certificates; and

(c) the Attorney-General, the Law Society and the Commissioner by ordinary prepaid post addressed to their respective business addresses.

(2) Unless the Court otherwise directs, service of any document, including a document prepared by the Court, on a party who has filed an address for service for the purpose of the relevant matter may be effected by—

(a) ordinary prepaid post addressed to the party at that address for service; or

(b) email addressed to the party at the party's email address for service when applicable.

Division 2—Application to cancel, suspend or amend

386—Application to cancel, suspend or amend practicing certificate

(1) An application under section 20AD of the Act to cancel, suspend or amend a practising certificate is to be made by originating application in an approved form.

Note—

Section 20AD(2)(b)(iii) of the Act requires the application to specify the order sought and ground for seeking it and to invite the holder to make written representations to the Court, within a time specified by the Court of not less than 7 days and not more than 28 days, as to why the order should not be made.

(2) The application is to bear an endorsement inviting the holder to make written representations to the Court, within a time to be inserted by the Registrar, as to why the order sought should not be made.

(3) The application is to name as defendant the holder and whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant.

(4) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(5) The application is to be accompanied by an affidavit stating—

(a) the detailed grounds for seeking the order; and

(b) the material facts relied on for the order sought.

(6) On filing the application, the Registrar will specify the time for the purpose of section 20AD(2)(b)(iii) of the Act for the holder to make written representations to the Court as to why the order should not be made.

Note—

Section 20AD(2)(b)(iii) of the Act provides that the time specified is to be not less than 7 days and not more than 28 days.

(7) The application and affidavit are to be served by the applicant on the holder and on whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant at the same time as filing with the Court.

(8) Unless the Court otherwise directs, any written representations by the holder to the Court are to be made by way of affidavit filed in the proceeding instituted under subrule (1) and any facts relied on in the representations are to be verified by affidavit.

387—Hearing and determination

(1) The Court may, if it thinks fit, determine the application and make orders on the basis of the documents filed in the proceeding.

(2) The Court may, if it thinks fit, convene an oral hearing of the application by giving notice to the applicant, the holder and whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant.

(3) The order made on the application is to be drawn up and sealed by the Court.

(4) Notice of the order made by the Court and of the reasons for the order may be given to the holder and the other parties in accordance with rule 385(2).

Note—

Section 20AD(4) of the Act requires written notice to be given to the holder about the order setting out the terms of the order and the reasons for the order.

388—Application to stay order

(1) An application under section 20AE(3)(a) of the Act for a stay of an order cancelling, suspending or amending a practising certificate is to be made by interlocutory application under rule 131 in the proceeding instituted under rule 386.

(2) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(3) The application is to be accompanied by an affidavit stating—

(a) the terms of the stay sought;

(b) the detailed grounds for seeking the stay; and

(c) the material facts relied on for the order sought.

(4) The application and affidavit are to be served by the applicant on the Attorney-General, the Law Society and the Commissioner at the same time as filing with the Court.

389—Application to revoke order

(1) An application under section 20AF of the Act to revoke an order cancelling, suspending or amending a practising certificate is to be made by interlocutory application under rule 131 in the proceeding instituted under rule 386.

(2) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(3) The written representations by the holder to the Court are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

(4) The application and affidavit are to be served by the holder on the Attorney-General, the Law Society and the Commissioner at the same time as filing with the Court.

(5) The Attorney-General, the Law Society and the Commissioner may make written representations to the Court as to why the order should or should not be made.

(6) Unless the Court otherwise directs, any written representations by the Attorney-General, the Law Society or the Commissioner are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

(7) Unless the Court otherwise directs, any written representations by the Attorney-General, the Law Society or the Commissioner are to be filed within 14 calendar days after the filing of the notice.

(8) The Court may, if it thinks fit, determine the application on the basis of the documents filed in the proceeding.

(9) The Court may, if it thinks fit, convene an oral hearing of the application by giving notice to the holder, the Attorney-General, the Law Society and the Commissioner.

Division 3—Show cause events

390—Notice of show cause event by holder

(1) Notice under section 20AH(2)(a) of the Act by a holder of a show cause event is to be given by way of affidavit filed in the proceeding for the admission or registration of the holder.

Note—

Section 20AH(2)(a) of the Act requires notice of the show cause event to be given by the holder within 7 days of the happening of the event.

(2) The affidavit is to—

(a) identify the nature of the show cause event;

(b) identify when the show cause event happened;

(c) provide particulars of the show cause event;

(d) in the case of an insolvency event, exhibit a copy of the debtor's petition, creditor's petition, section 54A declaration or other document comprising or evidencing the insolvency event;

(e) in the case of a conviction event, exhibit a copy of the information or other document setting out the charges the subject of the conviction.

(3) The affidavit is to be served by the holder on the Law Society and the Commissioner at the same time as filing with the Court.

391—Statement relating to show cause event by holder

(1) A statement under section 20AH(2)(b) of the Act by a holder relating to a show cause event is to be given by way of affidavit filed in the proceeding for the admission or registration of the holder.

Note—

Section 20AH(2)(b) of the Act requires a statement explaining why, despite the show cause event, the person considers himself or herself to be a fit and proper person to hold a practising certificate to be given by the holder within 28 days of the happening of the event.

(2) The affidavit is to—

(a) provide such information in relation to the show cause event required by rule 390(2) as was not provided by affidavit filed in compliance with rule 390;

(b) in the case of an insolvency event, identify why the insolvency event happened;

(c) in the case of an insolvency event, provide details of the assets and liabilities of the holder immediately before the insolvency event and immediately after the effect of the operation of the *Bankruptcy Act 1966* (Cth);

(d) in the case of a conviction event, describe the acts and omissions comprising the offence the subject of the conviction, any circumstances of aggravation or mitigation and why the offence was committed;

(e) explain why, despite the show cause event, the holder considers himself or herself to be a fit and proper person to hold a practising certificate.

(3) The holder is not required to file a statement if, before the expiration of 28 calendar days after the happening of the show cause event, the holder surrenders his or her practising certificate.

(4) The affidavit is to be served by the holder on the Law Society and the Commissioner at the same time as filing with the Court.

(5) Unless the Court otherwise directs, any written representations by the Law Society or the Commissioner to the Court in response to the notice or statement are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

(6) Unless the Court otherwise directs, any written representations by the Law Society or the Commissioner in response to the notice or statement are to be filed within 35 calendar days of the filing of the notice.

392—Statement relating to show cause event by applicant

(1) A statement under section 20AG(2) of the Act by an applicant relating to a show cause event is to be given by way of affidavit filed in the proceeding for the admission or registration of the applicant.

Note—

Section 20AG(2) of the Act requires a statement to be given by an applicant for a practising certificate if not previously given setting out particulars of the show cause event and explaining why, despite the show cause event, the person considers himself or herself to be a fit and proper person to hold a practising certificate.

(2) The affidavit is to—

(a) identify the nature of the show cause event;

(b) identify when the show cause event happened;

(c) provide particulars of the show cause event;

(d) in the case of an insolvency event, exhibit a copy of the debtor's petition, creditor's petition, section 54A declaration or other document comprising or evidencing the insolvency event;

(e) in the case of a conviction event, exhibit a copy of the information or other document setting out the charges the subject of the conviction;

(f) in the case of an insolvency event, identify why the insolvency event happened;

(g) in the case of an insolvency event, provide details of the assets and liabilities of the applicant immediately before the insolvency event and immediately after the effect of the operation of the *Bankruptcy Act 1966* (Cth);

(h) in the case of a conviction event, describe the acts and omissions comprising the offence the subject of the conviction, any circumstances of aggravation or mitigation and why the offence was committed;

(i) explain why, despite the show cause event, the applicant considers himself or herself to be a fit and proper person to hold a practising certificate.

(3) The affidavit is to be served by the applicant on the Law Society and the Commissioner at the same time as filing with the Court.

(4) Unless the Court otherwise directs, any written representations by the Law Society or the Commissioner to the Court in response to the statement are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

(5) Unless the Court otherwise directs, any written representations by the Law Society or the Commissioner in response to the statement are to be filed within 14 calendar days of the filing of the statement.

393—Hearing and determination

(1) Upon receipt of a notice under rule 390 or statement under rule 391, the Registrar will refer the matter to a Judge to decide whether the holder's practising certificate should be cancelled, suspended or amended.

(2) Upon receipt of a statement under rule 392, the Registrar will refer the matter to a Judge to decide whether a practising certificate should be issued to the applicant or renewed.

(3) The Court may, if it thinks fit, determine the matter and make orders on the basis of the documents filed in the proceeding.

(4) The Court may, if it thinks fit, convene an oral hearing of the matter by giving notice to the applicant or holder, as the case requires, and to the Law Society and the Commissioner.

(5) The order made on the application is to be drawn up and sealed by the Court.

(6) Notice of the order made by the Court may be given to the holder and the other parties in accordance with rule 385(2).

Note—

Section 20AI(3) of the Act requires written notice to be given to the applicant or holder, as the case may be, of the determination.

Division 4—Application for immediate suspension

394—Application for immediate suspension of practicing certificate

(1) An application under section 20AJ of the Act for immediate suspension of a practising certificate is to be made—

(a) if there is an existing application under rule 386 or notice or statement under rule 390, 391 or 392—by interlocutory application under rule 131;

(b) otherwise—by originating application in an approved form.

(2) The application is to name as defendant the holder and whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant.

(3) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(4) The application is to be accompanied by an affidavit stating—

(a) the detailed grounds for seeking the order; and

(b) the material facts relied on for the order sought.

(5) Unless the Court otherwise directs, the application and affidavit are to be served by the applicant on the holder and on whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant at the same time as filing with the Court.

(6) Upon receipt or consideration of a notice or statement under rule 390, 391 or 392 or otherwise, the Court may on its own initiative consider whether a holder's practising certificate should be immediately suspended under section 20AJ of the Act.

(7) If the Court decides not to determine whether to suspend immediately the holder's practising certificate without notice, the Court will give notice to the holder, the Attorney-General, the Law Society and the Commissioner that it is considering whether to make such an order.

(8) If the Court gives notice under subrule (7), the Court will—

(a) invite written representations by the parties within a time fixed by the Court; or

(b) fix a time for oral hearing; or

(c) invite written representations by the parties within a time fixed by the Court and fix a time for oral hearing.

(9) Unless the Court otherwise directs, any written representations by a party to the Court are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

395—Hearing and determination

(1) The Court may, if it thinks fit, determine whether to make an order immediately suspending the holder's practising certificate and make an order—

(a) without notice;

(b) on the basis of the documents filed in the proceeding; or

(c) on an oral hearing.

Note—

Section 20AJ(2) of the Act provides that the Court may immediately suspend the practising certificate until the earlier of notice to the holder of the Court's decision under section 20AD or 56 days after notice is given to the holder under section 20AJ.

(2) Notice of the order made by the Court, the reasons for the order and the holder's right to make written representations about the suspension may be given to the holder and the other parties in accordance with rule 385

Note—

Section 20AJ(2) and (3) of the Act requires written notice to be given to the holder of a decision to suspend the practising certificate, reasons for the decision and that the holder may make written representations to the Court about the suspension.

396—Application to revoke or vary order

(1) An application under section 20AJ(4) of the Act by the holder to revoke or vary an order immediately suspending the holder's practising certificate is to be made by interlocutory application under rule 131 in the proceeding in which the application was made under rule 394 or, if there is no such proceeding, in the proceeding for the admission or registration of the holder.

(2) The written representations by the holder to the Court are to be made by way of affidavit filed in the proceeding instituted under subrule (1) and any facts relied on in the representations are to be verified by affidavit.

(3) The application and affidavit are to be served by the applicant on the Attorney-General, the Law Society and the Commissioner at the same time as filing with the Court.

(4) The Court may, if it thinks fit, determine whether to make an order revoking or varying the suspension of the holder's practising certificate and make an order—

(a) without notice;

(b) on the basis of the documents filed in the proceeding; or

(c) on an oral hearing.

(5) If the Court decides not to determine whether to revoke or vary the suspension of the holder's practising certificate without notice, the Court will give notice to the holder, the Attorney-General, the Law Society and the Commissioner that it is considering whether to make such an order.

(6) If the Court gives notice under subrule (5), the Court will—

(a) invite written representations by the parties within a time fixed by the Court; or

(b) fix a time for oral hearing; or

(c) invite written representations by the parties within a time fixed by the Court and fix a time for oral hearing.

(7) Unless the Court otherwise directs, any written representations by a party to the Court are to be made by way of affidavit and any facts relied on in the representations are to be verified by affidavit.

Part 7—Disciplinary proceedings

397—Application of this Part

This Part applies to—

(a) disciplinary proceedings under section 89 of the Act;

(b) proceedings under section 89A of the Act for interim orders; and

(c) disciplinary proceedings in the inherent jurisdiction of the Court.

398—Disciplinary proceedings

(1) A disciplinary proceeding under section 89 of the Act or in the inherent jurisdiction of the Court is to be initiated by originating application in an approved form.

(2) The application is to name as defendant the lawyer the subject of the application.

(3) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(4) The application is to be accompanied by an affidavit stating—

(a) the detailed grounds for seeking the order; and

(b) the material facts relied on for the order sought.

(5) The application and affidavit are to be served by the applicant on the defendant at the same time as filing with the Court.

399—Hearing and determination

(1) Subject to subrule (2), a disciplinary proceeding instituted under rule 398 will be listed for hearing and determination by the Full Court.

(2) The Full Court may, if it thinks fit, determine the proceeding and make orders on the basis of the documents filed in the proceeding and written submissions made by the parties.

(3) If the Full Court decides to proceed under subrule (2), it will give directions to the parties for the filing of affidavits and lodgment of written submissions.

400— Consent to order striking off name from Roll of Practitioners

(1) An application under section 89(1b) of the Act for an order striking the name of a lawyer from the Roll of Practitioners is to be made by originating application in an approved form by the Commissioner or the lawyer or jointly by the Commissioner and the lawyer.

(2) If the application is not made jointly by the Commissioner and the lawyer, the application is to name the other as the defendant.

(3) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) the consent by the lawyer, and when applicable by the Commissioner, to the order.

(4) The application is to be accompanied by an affidavit—

(a) exhibiting the recommendation by the Tribunal, or the advice by the Commissioner to the lawyer of his or her intention, that a disciplinary proceeding be commenced against the lawyer in the Court; and

(b) the reason for seeking the order.

(5) The application and affidavit are to be served by the plaintiff on the defendant, if any, at the same time as filing with the Court.

(6) If the application is not made jointly by the Commissioner and the lawyer and the Commissioner wishes to oppose the order, the Commissioner is to file an answering affidavit setting out the grounds of opposition within 14 calendar days of service of the application.

(7) If the application is made jointly by the Commissioner and the lawyer or the Commissioner does not file an answering affidavit under subrule (6) opposing the order, the Full Court may make an order striking the lawyer's name from the Roll of Practitioners on the basis of the documents or at the next convenient sitting.

(8) If the Commissioner files an answering affidavit under subrule (6) opposing the order, the Full Court will hear and determine the proceeding under rule 399.

401—Application for interim suspension or conditions

(1) An application under section 89A of the Act or in the inherent jurisdiction of the Court for interim suspension of or imposition of conditions on a lawyer's practising certificate is to be made—

(a) if there is an existing application under rule 398—by interlocutory application under rule 131;

(b) otherwise—by originating application in an approved form.

(2) The application is to name as defendant the lawyer the subject of the application.

(3) The application is to identify—

(a) the nature of the application;

(b) the order sought; and

(c) brief grounds of the application.

(4) The application is to be accompanied by an affidavit stating—

(a) the detailed grounds for seeking the order; and

(b) the material facts relied on for the order sought.

(5) Unless the Court otherwise directs, the application and affidavit are to be served by the applicant on the holder and on whichever of the Attorney-General, the Law Society and the Commissioner is not the applicant at the same time as filing with the Court.

(6) Upon receipt or consideration of an application under rule 398 or otherwise, the Court may on its own initiative consider whether there should be an interim suspension of or imposition of conditions on a lawyer's practising certificate under section 89A of the Act or in the inherent jurisdiction of the Court.

(7) If the Court decides not to determine whether to suspend the holder's practising certificate immediately without notice, the Court will give notice to the holder, the Attorney-General, the Law Society and the Commissioner that it is considering whether to make such an order.

(8) If the Court gives notice under subrule (7), the Court will—

(a) invite written submissions by the parties within a time fixed by the Court; or

(b) fix a time for oral hearing; or

(c) invite written submissions by the parties within a time fixed by the Court and fix a time for oral hearing.

402—Hearing and determination of application

(1) The Court may, if it thinks fit, determine whether to make an interim order suspending or imposing conditions on the lawyer's practising certificate and make an order—

(a) without notice;

(b) on the basis of the documents filed in the proceeding; or

(c) on an oral hearing.

(2) If the Court makes an order without notice, the applicant for the order is to serve a copy of the order on the defendant in accordance with any directions of the Court.

(3) If the Court makes an order without notice, the defendant may apply by interlocutory summons to set aside or vary the order.

Part 8—Costs

403—Application of this Part

This Part applies to—

(a) applications under clause 37, 38 or 39 of Schedule 3 to the Act for the adjudication of costs of a lawyer;

(b) applications under section 48 of the Act for the adjudication of costs of a manager or supervisor;

(c) applications under clause 30 of Schedule 3 to the Act to set aside a costs agreement; and

(d) any other proceeding under the Act or in the inherent jurisdiction of the Court in relation to costs of a lawyer as between the lawyer and a person retaining the lawyer or liable directly to the lawyer to pay the lawyer's costs.

404—Form of application and service

(1) Subject to subrule (2), an application under this Part is to be made by originating application in an approved form.

(2) An application may, if there is an existing proceeding in the Court in relation to the same matter, be made by interlocutory application under rule 131.

(3) The application is to be served on the defendant and such other persons as are required by the Act to be served or as directed by the Court.

405—Adjudication of costs

(1) An application for the adjudication of costs of a lawyer under Schedule 3 of the Act or of a manager or supervisor under section 48 of the Act is to be instituted by originating application in an approved form.

(2) The application is to—

(a) be accompanied by the bill or bills issued for the costs to which the application relates; and

(b) when the application is made by a client or person who has paid or is liable to pay the costs, a statement of the extent, if any, to which the applicant accepts that the costs are fair and reasonable.

(3) The procedure to be adopted in relation to the application is to be as directed by the Court, which may include the application of such parts of the rules applying to an adjudication between parties under Chapter 12 of these Rules as the Court thinks fit.

(4) When an adjudication is undertaken by the Registrar under clause 41(1) of Schedule 3 to the Act, the decision of the Registrar on the adjudication may be reviewed under rule 21.

406—Application to set aside costs agreement

(1) An application under clause 30 of Schedule 3 to the Act to set aside a costs agreement is to be instituted by originating application in an approved form.

(2) The procedure to be adopted in relation to the application is to be as directed by the Court.

Part 9—Appeals

407—Application of this Part

This Part applies to appeals against decisions of—

(a) the Board under the Act or this Chapter;

(b) LPEAC under the Act or this Chapter;

(c) the Law Society under the Act or this Chapter; and

(d) the Tribunal under the Act or this Chapter.

408—Appeals

(1) An appeal against a decision of the Law Society, the Board, LPEAC or the Tribunal under the Act or this Chapter is to be instituted by notice of appeal in an approved form.

(2) Subject to the Act, an appeal is to be instituted within 21 calendar days after the date of the decision the subject of the appeal.

(3) Unless the Court otherwise directs, the appeal is to be governed by Chapter 13.

Part 10—Other proceedings involving lawyers

409—Application of this Part

This Part applies to—

(a) applications under clause 10 of Schedule 1 to the Act for authorisation of an employee of an incorporated legal practice;

(b) applications under clause 21 of Schedule 1 to the Act to disqualify a corporation from providing legal services;

(c) applications under clause 22 of Schedule 1 of the Act to disqualify a person from managing a corporation that is an incorporated legal practice;

(d) applications under Part 3 Division 6 of the Act for delivery up of legal papers;

(e) applications under section 47 of the Act by a supervisor or manager for directions;

(f) applications under section 49 or 50 of the Act for authority to practise; and

(g) any other proceeding under the Act or in the inherent jurisdiction of the Court in relation to lawyers not governed by Parts 4 to 9 of this Chapter.

410—Form of application and service

(1) Subject to subrule (2), an application under this Part is to be made by originating application in an approved form.

(2) An application may, if there is an existing proceeding in the Court in relation to the same matter, be made by interlocutory application under rule 131.

(3) The application is to be served on the defendant and such other persons as are required by the Act to be served or as directed by the Court."

118. The Rules are amended by:

(a) substituting "Supplementary Rules" for "practice directions" or "a practice direction" or "relevant practice direction" wherever those phrases appear in the Rules;

(b) substituting "lawyer" for "legal practitioner" wherever that phrase appears in the Rules;

(c) substituting "audiovisual hearing" for "teleconference" wherever that word appears in the Rules;

(d) substituting the numerical form (eg "6") for the alphabetical form (eg "six") of a number wherever reference is made to a number of days designated alphabetically in the Rules;

(e) inserting "calendar" before "days" wherever there is a reference to 8 days or more in the Rules except in a Note referring to a legislative provision and except for the words in parenthesis in rule 59(3);

(f) inserting "clear business" before "days" or "day" wherever there is a reference to 7 days or less before a defined event in the Rules except in a Note referring to a legislative provision; and

(g) inserting "business" before "days" or "day" wherever there is a reference to 7 days or less after a defined event in the Rules except in a Note referring to a legislative provision.

119. The Rules are amended by:

(a) substituting "these Rules" for "these rules" wherever that phrase appears in the Rules;

(b) substituting "rule" for "Rule" wherever that word designates a specific rule in the Rules;

(c) substituting "subrule" for "sub-rule" wherever that word appears in the Rules;

(d) substituting "cross action" for "cross-action" wherever that word appears in the Rules;

(e) substituting "counter offer" for "counter-offer" wherever that word appears in the Rules;

(f) substituting "Registry" for "registry" wherever that word appears in the Rules;

(g) substituting "section" for "s" wherever the abbreviation "s" is used for a section of an Act in the Rules;

(h) amending all defined terms in the body of the Rules so that they appear in bold italics without inverted commas;

(i) substituting long dashes ("—") for any existing punctuation at the end of a line wherever the next line commences a list of subrules, paragraphs, subparagraphs, definitions or suchlike in the Rules;

(j) substituting a semicolon (";") for any existing punctuation at the end of the line wherever the next word begins with a lower case in the Rules except before commencement of a list;

(k) substituting a comma (",") for a space in dollar figures of four or more digits wherever it appears in the Rules, counting three spaces to the left of the last digit to place the first comma and continuing to place commas every three digits (eg "$1,000,000" or "$1,378");

(l) substituting "kilometre" or "kilometres" for "km" or "kms" respectively wherever those abbreviations appear in the Rules; and

(m) substituting "prepaid" for "pre-paid" wherever that word appears in the Rules.

120. The *Rules of Court (Service and Execution of Process Act) 1917-1985* are repealed.

121. (1) The *Supreme Court Admission Rules 1999* are repealed.

(2) The *Supreme Court Admission Rules 1999* continue to apply to an application made before the commencement date.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this ……25th …… day of …August……..2014.

C KOURAKIS, CJ

T. A. GRAY, J

J. R. SULAN, J

A. M. VANSTONE, J

M. DAVID, J

P. KELLY, J

D. H. PEEK, J

M. F. BLUE, J

T. L. STANLEY, J

K. G. NICHOLSON, J

A. E. BAMPTON, J

G. J. PARKER, J

South Australia
Supreme Court Civil Supplementary Rules 2014

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 Supplementary Rules 2014.

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331—Introduction
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333—Criteria for appointment

Division 2—Application for appointment

334—Form of application
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Division 3—Consideration and appointment

336—Notification
337—Consultation
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340—Undertaking
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Schedule 1—Scale of costs up to 30 June 2011
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Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

(1) These Rules may be cited as the *Supreme Court Civil Supplementary Rules 2014*.

(2) These Supplementary Rules supplement and modify the *Supreme Court Civil Rules 2006*.

(3) These Supplementary Rules follow the Chapter, Part and Division headings of the *Supreme Court Civil Rules 2006*.

2—Commencement

These Supplementary Rules commence on 1 October 2014.

Part 2—Objects

3—Objects

The objects of these Supplementary Rules are to—

(a) regulate civil proceedings in the Court;

(b) supplement the Rules;

(c) modify the Rules in respect of a particular category of proceedings;

(d) prescribe scales of costs;

(e) prescribe the rate of interest that accrues on judgments;

(f) prescribe approved forms.

Part 3—Interpretation

4—Interpretation

(1) Unless the contrary intention appears, expressions in these Supplementary Rules have the same meanings as in the Rules.

(2) In these Supplementary Rules, unless the contrary intention appears—

construction dispute – see supplementary rule 10;

FDN means the file document number allocated to a document when it is filed in the Court;

Liquidated Debt Claim means—

(a) a claim that is liquidated; or

(b) an unliquidated claim for property damage the cost of which has been paid by the plaintiff and an invoice for which is attached to the statement of claim;

medical negligence dispute – see supplementary rule 10;

Registrar means the Registrar and includes a Deputy Registrar and any other officer or employee of the Court performing functions delegated by the Registrar or under the Registrar's supervision;

the Rules means the *Supreme Court Civil Rules 2006*;

the Supplementary Rules means the *Supreme Court Civil Supplementary Rules 2014*.

(3) Unless the contrary intention appears, rule 5 of the Rules applies to the calculation of time under these Supplementary Rules.

Part 4—Application of rules

5—Application of rules

These Supplementary Rules apply to actions governed by the Rules.

Part 5—Repeal and transitional provisions

6—Repeal and transitional provision

(1) Unless the Court otherwise directs, these Supplementary Rules apply to—

(a) proceedings commenced on or after the commencement date; and

(b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.

(2) All practice directions made before 1 October 2014 are superseded by these Supplementary Rules.

(3) Unless the Court otherwise directs, Chapter 3 Part 2 applies only to actions commenced on or after 1 January 2015.

(4) The Court may give directions about which rule is to apply to a transitional proceeding or a particular step in a transitional proceeding.

Chapter 2—General procedural rules and allocation of Court business

Part 1—Public access to hearings

[*no supplementary rules*]

Part 2—Court's control of procedure

[*no supplementary rules*]

Part 3—Enforcement of procedural obligations

[*no supplementary rules*]

Part 4—Distribution of Court's business

[*no supplementary rules*]

Division 1—General

[*no supplementary rules*]

Division 2—Jurisdiction of Masters

[*no supplementary rules*]

Division 3—Administrative functions

[*no supplementary rules*]

Division 4—Minor judicial functions

[*no supplementary rules*]

Division 5—Directions and review

[*no supplementary rules*]

Part 5—Representation

Division 1—General principles of representation

[*no supplementary rules*]

Division 2—Solicitors

7—Solicitor acting for party

(1) A notice of acting and address for service under rule 23(1)(b) of the Rules is to be in form 16.

(2) A notice of acting and address for service under rule 23(2)(b) of the Rules is to be in form 16.

(3) A notice of acting in person by a party under rule 23(2)(a) of the Rules is to be in form 17.

Division 3—Representation of company

[*no supplementary rules*]

Chapter 3—Elements of action at first instance

Part 1—Nature of action

[*no supplementary rules*]

Part 2—Proceedings in anticipation of action

Division 1—Investigation

[*no supplementary rules*]

Division 2—Offers of settlement before action

Subdivision 1—Introduction

8—Application

Construction disputes and medical negligence disputes are excluded from rule 33 of the Rules and are governed instead by this Division.

9—Objectives

The objectives of this Division are to—

(a) encourage parties to resolve a claim before commencing proceedings;

(b) enable litigation, if unavoidable, to proceed on a reasonable timetable, at a proportionate cost and on narrowed issues; and

(c) involve insurers at an early stage.

10—Definitions

In this Division—

claimant means the person intended to be plaintiff if a proceeding is instituted;

cost estimate means an estimate in form 2;

construction dispute means a building, construction or engineering dispute involving a monetary claim or otherwise and includes a professional negligence claim against a construction expert and a negligence claim against a certifying authority;

construction expert means a building, construction or engineering expert and includes an architect, engineer, quantity surveyor and building consultant;

medical negligence dispute means a claim against a medical expert or hospital for negligence, whether for breach of contract or breach of duty of care;

respondent means the person intended to be defendant if a proceeding is instituted or that person's insurer.

11—Excusal from compliance

(1) A party is excused from complying with the relevant subdivision before commencing an action if—

(a) urgent relief is to be sought in an action;

(b) a freezing order is to be sought in an action; or

(c) a claim is about to become time-barred or adversely affected by passage of time,

and complying with Subdivision 2 or 3 as applicable would prejudice the claimant.

(2) If the respondent fails to send a letter of response in breach of supplementary rule 18 or 26 or fails to attend a pre-action meeting in breach of supplementary rule 20 or 27, the claimant is excused from further compliance with the relevant subdivision before commencing an action.

Note—

In these events, supplementary rule 31(3) entitles a party to file an interlocutory application for directions as to what procedure should be taken in lieu of compliance with the relevant subdivision.

12—Proportionality

(1) This Division is not to be used as a tactical device to secure advantage for one party, delay the commencement of proceedings or generate avoidable costs.

(2) The extent of the steps required to be taken under this Division that would not otherwise be undertaken is to be limited so that the time and costs incurred are proportionate to the amount or value in dispute.

(3) It is likely to be disproportionate for a party, in compliance with this Division, to incur more than 5% of the estimated cost of a fully contested litigation including trial.

(4) The Court may take into account the extent of the parties' compliance with this Division when giving directions for the management of proceedings and when making orders about who should pay costs.

(5) The Court will expect the parties to have complied with this Division. The Court may ask the parties to explain what steps were taken to comply before commencement of the action. If a party fails to comply, the Court will ask that party to explain the non-compliance.

(6) When considering compliance, the Court will—

(a) be concerned with substantial compliance and not minor departures;

(b) not regard minor departures as exempting the other party from compliance;

(c) take into account the need for proportionality; and

(d) take into account any unavoidable urgency.

13—Time periods

When a time period is prescribed by Subdivision 2 or 3, the time period may be altered by the consent of all parties.

14—Costs of compliance

The costs incurred by the parties in compliance with Subdivision 2 or 3 as applicable will be treated as costs incurred in the conduct of litigation of issues arising from the letters of claim and response, but not insofar as such costs relate to issues not subsequently litigated.

15—Use of communications and documents exchanged

The communications between the parties and documents created by the parties in compliance with this Division—

(a) are required to be disclosed to the Court when required by this Division or when an order is made by the Court for such disclosure for the purpose of making procedural directions or costs orders;

(b) are not to be disclosed to the Court at trial or at the hearing of a substantive issue.

Subdivision 2—Construction disputes

16—Application

(1) This Subdivision applies to all construction disputes in respect of which an action is subsequently commenced in the Court.

(2) A claimant is not required to comply with this Subdivision if—

(a) the proposed action is to enforce a binding determination enforceable between the parties as such, including (without limitation) a decision of an adjudicator under section 22 of the *Building and Construction Industry (Security of Payment) Act 2009* or an arbitrator under section 35 of the *Commercial Arbitration Act 2011*;

(b) the proposed action is for payment of a claimed amount under section 15(2)(a)(i) of the *Building and Construction Industry (Security of Payment) Act 2009*; or

(c) the dispute has been or will be the subject of a dispute resolution procedure to similar effect to that prescribed by this Subdivision.

17—Letter of claim

(1) Before commencing an action, the claimant or the claimant's solicitor is to send to the respondent or the respondent's insurer a letter of claim.

(2) The letter of claim is to—

(a) give the full name and address of the claimant;

(b) give the full name and address of each proposed defendant;

(c) identify the basis on which the claims are made, including the principal contractual term and/or statutory provision relied on;

(d) identify the nature of each separate claim and brief facts supporting each claim;

(e) identify the nature and extent of the relief claimed—if damages are claimed, a breakdown showing how the damages are quantified; if a liquidated sum is claimed, how it is calculated; if an extension of time is claimed, the period claimed and basis for the extension claim;

(f) attach a copy of any report obtained from an expert on whose evidence the claimant intends to rely;

(g) estimate the total costs likely to be incurred by the claimant in a contested trial;

(h) make an offer to resolve the dispute; and

(i) propose a date and venue for the pre-action meeting (referred to in supplementary rule 20) if the offer is not accepted.

18—Letter of response

(1) Within 21 calendar days after receipt of the letter of claim, if the respondent does not accept the offer, the respondent is to send a letter of response.

(2) The letter of response is to—

(a) identify the basis of any dispute concerning the contractual or statutory basis of the claims;

(b) identify which claims are accepted and which are rejected, and, if rejected, the basis of the rejection including any dispute as to the factual basis relied on by the claimant;

(c) identify any special defence to a claim, including the expiration of a relevant time limit or the making of a binding decision in relation to the claim;

(d) if a claim is accepted in whole or in part, identify whether the damages, amounts claimed or extensions of time claimed are accepted or rejected, and, if rejected, the basis of the rejection;

(e) if contributory negligence is alleged against the claimant, summarise the facts relied on;

(f) if the respondent intends to make a counterclaim, give the information required by supplementary rule 17 to be given in a letter of claim;

(g) attach a copy of any report obtained from an expert on whose evidence the proposed defendant intends to rely;

(h) estimate the total costs likely to be incurred by the proposed defendant in a contested trial;

(i) make an offer to resolve the dispute; and

(j) respond to the date and venue for the proposed pre-action meeting if the counter offer is not accepted.

(3) If a respondent intends to object to all or part of the claimant's claim on the ground that—

(a) the Court lacks jurisdiction;

(b) the matter is required to be referred to arbitration or determined otherwise than by action in the Court;

(c) a step is required to be taken before the institution of a proceeding; or

(d) the proposed defendant named in the letter of claim is the wrong defendant,

the respondent is to identify the parts of the claim to which the objection relates, set out the ground relied on, and, when applicable, identify the correct defendant (if known).

(4) A failure to make an objection will not prejudice the proposed defendant's right to do so in a subsequent action, but the Court may take such failure into account on the issue of costs at any stage of the action.

19—Claimant's response to notice of intended counterclaim

The claimant is to provide a response to any notice of intended counterclaim by the respondent within 14 calendar days after receipt of the letter of response.

20—Pre-action meeting

(1) If the dispute has not been resolved, within 30 calendar days after receipt of the letter of response or of the claimant's letter of response to an intended counterclaim (whichever is later), the parties are to meet to—

(a) identify the main issues in dispute and identify the primary cause of disagreement in respect of each issue;

(b) consider whether, and if so how, the issues might be resolved without recourse to litigation; and

(c) consider, if litigation is unavoidable, what steps should be taken to ensure that it is conducted as expeditiously and efficiently as possible in accordance with the overriding objectives prescribed in rules 10 and 113 to 116 of the Rules.

In some circumstances, it may be necessary to convene more than one meeting.

(2) During the meeting, the lawyers for the parties are to endeavour to reach a consensus in the presence of the parties as to the likely legal cost and time scale of litigation and any appropriate alternative dispute resolution procedure.

(3) If the parties or their solicitors anticipate difficulty in achieving the aims of the pre-action meeting, the parties should consider appointing at their joint cost an independent person to chair the meeting. In the interests of proportionality of cost, such independent person should not ordinarily be expected to do any extensive reading or preparation before the meeting.

(4) The meeting should be attended by—

(a) each party or a representative of the party (including an insurer) having authority to resolve the dispute;

(b) a lawyer for each party (if one has been instructed); and

(c) when a claim is made or defended on behalf of some other party (such as, for example, a claim made by a main contractor pursuant to a contractual obligation to pass on subcontractor claims), the party on whose behalf the claim is made or defended and/or that party's lawyer.

(5) In respect of each issue in dispute, or the dispute as a whole, the parties should consider whether some form of alternative dispute resolution would be more suitable than litigation, and if so, endeavour to agree which form to adopt.

(6) If the parties are unable to agree on a means of resolving the dispute other than by litigation, they are to use their best endeavours to agree—

(a) if expert evidence is likely to be required—how the relevant issues are to be defined and how expert evidence is to be dealt with including whether a joint expert might be appointed, and if so, who that should be;

(b) the extent of disclosure of documents with a view to saving costs; and

(c) the conduct of the litigation with the aim of minimising cost and delay.

21—Institution of action

If the parties do not resolve the dispute at the pre-action meeting, any party may institute an action in accordance with supplementary rule 29.

Subdivision 3—Medical negligence disputes

22—Application

This Subdivision applies to all medical negligence disputes in respect of which an action is subsequently commenced in the Court.

23—Notice of potential claim

(1) The claimant is to send to the potential defendant or the defendant's insurer written notice of potential claim as soon as reasonably practicable after the claimant becomes aware that the claimant has been adversely affected by an act or omission by the potential defendant and there is a reasonable prospect that the potential defendant acted negligently.

(2) The notice of potential claim is to—

(a) give the full name, address, date of birth and occupation of the claimant;

(b) give the full name and address of the potential defendant;

(c) identify the date and occasion of the allegedly negligent act or omission;

(d) identify the act or omission that may have been negligent and the essence of why it may have been negligent;

(e) briefly describe the adverse effects that may have been caused by the act or omission of the potential defendant and the claimant's current condition;

(f) briefly outline the causal link between the posited negligence and the adverse effects including what the outcome would have been absent negligence;

(g) identify whether the claimant has returned to work, and if not, when that is likely;

(h) identify whether the claimant is continuing to receive treatment and, if so, its nature;

(i) attach a copy of any report obtained from an expert on whose evidence the claimant intends to rely;

(j) identify any medical records required from the potential defendant; and

(k) identify any other records held by other providers that may be relevant.

24—Notice of response

(1) The respondent is to send to the claimant an interim response, so far as possible, to the notice of claim within 28 calendar days and a full response within 60 calendar days after receipt of the notice of claim.

(2) The full notice of response is to—

(a) give the respondent's contact details;

(b) provide a copy of requested medical records (with an invoice for copying);

(c) if the records are incomplete, explain why and if the records are extensive and further information is required to identify the relevant records, identify what further information is required;

(d) if liability is accepted, make suggestions for resolving the claim and/or a request for further information;

(e) if liability is denied, explain why it is denied including any alternative explanation for what happened or caused any adverse effects;

(f) attach a copy of any report obtained from an expert on whose evidence the respondent intends to rely; and

(g) make suggestions for next steps, for example further investigations, obtaining expert evidence, meeting/negotiations, alternative dispute resolution or invitation to issue proceedings.

25—Letter of claim

(1) Before commencing an action, the claimant is to send to the respondent or the respondent's insurer a letter of claim.

(2) The letter of claim is to—

(a) give the full name, address, date of birth and occupation of the claimant;

(b) give the full name and address of the proposed defendant;

(c) identify the date and occasion of the allegedly negligent act or omission;

(d) identify the allegedly negligent act or omission and why it was negligent;

(e) identify the adverse effects allegedly caused by the potential defendant's act or omission;

(f) identify any other relevant treatment undergone by the claimant under the advice of or administered by other potential defendants;

(g) identify the causal link between the alleged negligence and the adverse effects including what the outcome would have been absent negligence;

(h) identify the claimant's past and current condition and prognosis as a result of the alleged negligence;

(i) identify whether the claimant has returned to work, and if not, when or if that is likely;

(j) identify whether the claimant is continuing to receive treatment and, if so, its nature;

(k) identify whether the claimant requires assistance with personal, domestic or other care and, if so, its extent;

(l) set out the amount sought for each head of damage;

(m) identify any allowance for risks or contingencies;

(n) describe the clinical records considered and any other relevant supporting documents;

(o) attach a copy of any report obtained from an expert on whose evidence the claimant intends to rely;

(p) attach any supporting quantum documents;

(q) attach a completed cost estimate in form 2;

(r) make an offer to resolve the dispute; and

(s) propose an alternative dispute resolution process and timetable if the offer is not accepted.

26—Letter of response

(1) Within 30 calendar days after receipt of the letter of claim, if the respondent does not accept the offer, the respondent is to send a letter of response.

(2) The letter of response is to—

(a) identify the basis of any dispute about the date or occasion on which the allegedly negligent act or omission occurred;

(b) identify the basis of any dispute about the act or omission the subject of the allegation of negligence;

(c) respond to each allegation of negligence explaining when applicable why it is denied;

(d) respond to the allegation of causation explaining when applicable why it is denied including any alternative explanation for what happened;

(e) identify the factual and legal basis of any defence relied upon including informed consent;

(f) identify specific areas of dispute in relation to quantum;

(g) describe the clinical records considered and any other relevant supporting documents;

(h) attach a copy of any report obtained from an expert on whose evidence the respondent intends to rely;

(i) attach a completed cost estimate in form 2;

(j) make a counter offer to resolve the dispute; and

(k) respond to the proposed alternative dispute resolution process and timetable if the counter offer is not accepted.

27—Alternative dispute resolution

(1) If the dispute has not been resolved and the parties agree on alternative dispute resolution involving an independent third party, the parties are to attend alternative dispute resolution within 60 calendar days after the date of the letter of response.

(2) If the parties cannot agree on the form and details of alternative dispute resolution, they are to attend a pre-action meeting as set out in supplementary rule 20 within 30 calendar days after the date of the letter of response.

28—Institution of action

If the parties do not resolve the dispute at the alternative dispute resolution or pre-action meeting, the claimant may institute an action in accordance with supplementary rule 29.

Subdivision 4—Procedure on institution of action

29—Institution of action

(1) When an action to which this Division applies is commenced, the plaintiff is to file a memorandum concerning compliance in form 3 stating that—

(a) the parties have substantially complied with this Division; or

(b) the plaintiff has substantially complied with this Division to the extent able but the defendant has not; or

(c) the plaintiff has commenced the action without substantially complying with this Division due to urgency under supplementary rule 11; or

(d) the plaintiff has not substantially complied with this Division.

(2) When an action to which this Division applies is commenced, the plaintiff is to file with the memorandum a copy of the letter of claim and letter of response. These documents will be filed in a suppressed file.

30—Procedure when substantial compliance

(1) When there has been substantial compliance with this Division, rules 130 to 130B of the Rules do not apply to the action.

(2) Such an action will proceed directly to a directions hearing without the need for a settlement conference.

(3) Despite paragraph (2), the Court may if it thinks fit direct that the parties attend a settlement conference.

31—Procedure when not substantial compliance

(1) When for any reason there has not been substantial compliance with this Division (due to default by a party or because a plaintiff was excused from compliance under supplementary rule 11 or otherwise), the provisions of this rule apply.

(2) Unless the parties unanimously agree or the Court otherwise directs, rules 130 to 130B of the Rules apply to the action.

(3) A party not in default (including a plaintiff excused from compliance) may apply for directions under rule 126 of the Rules.

(4) Unless the Court otherwise directs, any such application is to be made by a plaintiff within 5 business days after commencement of the action and by a defendant within 5 business days after being served with the originating process.

(5) If a defendant files an application under paragraph (3) within 5 business days after being served with the originating process on the ground of default by the plaintiff, the defendant is not required to file a defence until directions are given on the application.

(6) Upon receipt of an application for directions under this rule, the Registrar will convene a preliminary hearing to consider what directions, if any, should be given for steps to be taken in lieu of compliance with this Division.

32—Preliminary hearing

(1) At a preliminary hearing if convened, the Court will consider the consequences of any non-compliance with this Division.

(2) The Court may have regard to the contents of the suppressed file and to information provided by the parties or required by the Court to be provided concerning non-compliance.

(3) If the plaintiff was excused under supplementary rule 11 from compliance with Subdivision 2 or 3 as applicable, the Court may give such directions as it thinks fit as to steps to be taken by the parties in lieu thereof, which may include a stay of the action pending the taking of those steps.

(4) If the plaintiff failed to comply substantially with Subdivision 2 or 3 as applicable—

(a) the Court may stay the action and/or give such directions as it thinks fit as to steps to be taken by the parties in lieu of compliance with the relevant subdivision;

(b) unless there is good reason not to do so, the Court will order that the plaintiff pay the other parties' costs incurred due to the failure by the plaintiff to comply, which will usually be fixed by the Court in a lump sum and may be determined on an indemnity basis;

(c) unless it would stultify the action, the Court will order that the costs be payable immediately.

(5) If the defendant failed to comply substantially with Subdivision 2 or 3 as applicable—

(a) the Court may stay the action and/or give such directions as it thinks fit as to steps to be taken by the parties in lieu of compliance with the relevant subdivision;

(b) unless there is good reason not to do so, the Court will order that the defendant pay the other parties' costs incurred due to the failure by the defendant to comply, which will usually be fixed by the Court in a lump sum and may be determined on an indemnity basis;

(c) unless it would stultify the defence, the Court will order that the costs be payable immediately.

33—Initial directions hearing

(1) If no preliminary hearing is convened, at the initial directions hearing, on application by a party, the Court will consider the consequences of any default in compliance with this Division.

(2) The Court may have regard to the contents of the suppressed file and to information provided by the parties or required by the Court to be provided concerning non-compliance.

(3) If a plaintiff failed to comply substantially with Subdivision 2 or 3 as applicable—

(a) unless there is good reason not to do so, the Court will order that the plaintiff pay the other parties' costs incurred due to the default by the plaintiff, which will usually be fixed by the Court in a lump sum and may be determined on an indemnity basis;

(b) unless it would stultify the action, the Court will order that the costs be payable immediately.

(4) If a defendant failed to comply substantially with Subdivision 2 or 3 as applicable—

(a) unless there is good reason not to do so, the Court will order that the defendant pay the other parties' costs incurred due to the default by the defendant, which will usually be fixed by the Court in a lump sum and may be determined on an indemnity basis;

(b) unless it would stultify the defence, the Court will order that the costs be payable immediately.

(5) The Court will take into account the steps taken by the parties before institution of the action when giving directions for the progress of the action.

(6) If a party does not allege default in compliance with this Division by another party at or before the initial directions hearing, the Court will not subsequently apply sanctions against the defaulting party unless the complying party was not aware of the default or its consequences.

34—Subsequent remedial orders and sanctions for non-compliance

(1) If non-compliance with this Division or its consequence becomes apparent after the initial directions hearing, the Court may make remedial orders and/or impose sanctions for the non-compliance if the non-compliance was substantial and has a substantial prejudicial effect upon another party.

Example—

Failure to disclose an expert report, documents or information required by this Division to be disclosed.

(2) The remedial orders or sanctions that the Court may impose include—

(a) directing a defaulting party to take steps to remedy the default;

(b) staying the action;

(c) making an order that the defaulting party pay the costs of another party incurred due to the default, which may be on an indemnity basis and payable immediately.

Part 3—Commencement of action

Division 1—How action is commenced

35—Commencement of primary action

(1) A summons under rule 34(3) of the Rules when there is a defendant is to be in form 4.

(2) A summons under rule 34(3) of the Rules when there is no defendant is to be in form 5.

(3) A summons under rule 34(3) of the Rules when there is to be a hearing date listed is to be in form 6.

36—Commencement of cross action

(1) A cross action by counterclaim under rule 35(2) of the Rules is to be in form 8 accompanied by a counterclaim in form 20.

(2) A cross action by contribution claim under rule 35(2) of the Rules is to be in form 21.

37—Commencement of third party action

A third party action under rule 36(3) of the Rules is to be in form 9 accompanied by a statement of claim in form 18.

38—Actions that are in part cross actions and in part third party actions

A cross action against existing and new parties under rule 37(1) of the Rules is to be in form 8 accompanied by a counterclaim in form 20.

Part 4—Service of originating process

Division 1—General

[*no supplementary rules*]

Division 2—Service outside Australia

39—Service of originating process outside Australia

Notice of a summons to be served outside Australia under rule 40(3) of the Rules is to be in form 10.

Division 3—Service through diplomatic channel or by transmission to foreign government

40—Documents to be lodged with the Court

(1) A request by a party for service of a document on a person in a foreign country through the diplomatic channel or by transmission to a foreign government in accordance with a convention under rule 41AF of the Rules is to be in form 11.

(2) A request by the Chief Justice for transmission of a document to a foreign government for service in accordance with a convention under rule 41AF of the Rules is to be in form 12.

Division 4—Service under the Hague Convention

[*no supplementary rules*]

Subdivision 1—Preliminary

[*no supplementary rules*]

Subdivision 2—Service abroad of local judicial documents

41—Application for request for service abroad

(1) A request for service abroad under rule 41D(2)(a) of the Rules is to be in form 13.

(2) A summary of the document to be served abroad under rule 41D(2)(c) of the Rules is to be in form 14.

42—Procedure on receipt of certificate of service

A certificate of service under rule 41F(2)(a) of the Rules is to be in form 13.

Subdivision 3—Default judgment following service abroad of initiating process

[*no supplementary rules*]

Subdivision 4—Local service of foreign judicial documents

43—Request for service

A request for service in this jurisdiction under rule 41M(2) of the Rules is to be in form 15.

44—Affidavit as to service

A certificate of service under rule 41P(4)(a) of the Rules is to be in form 15.

[*no supplementary rules*]

Chapter 4—Documents and service

Part 1—Documents

Division 1—Approved forms

45—Approved forms

(1) The forms in Schedule 3 to these Supplementary Rules are approved forms.

(2) Unless these Supplementary Rules otherwise provide, every document filed or lodged with the Court is to have a front sheet in form 1. The text of the document itself is to start on a fresh page.

(3) Unless these Supplementary Rules otherwise provide, the action heading contained in form 1, without the balance of the form below the names of the parties, is to be used on all documents in respect of which a front sheet is not required or appropriate.

(4) When there are numerous parties with the same role in the action such that it is not convenient to include all names of the parties on the front sheet, the name of the first party with that role may be included on the front sheet together with the words "and Others" and the names of the others shown in a schedule to the document.

Example

If there are 15 plaintiffs, the front sheet might show "John Smith and Others" and a separate schedule list the names of the other 14 plaintiffs.

Division 2—Filing of documents in Court

46—Form of documents for filing in Court

(1) Unless these Supplementary Rules otherwise provide or the Registrar otherwise directs, a document prepared for filing or lodgment in the Court is to—

(a) be in the English language;

(b) be on A4 size white bond paper;

(c) be paginated;

(d) be typed or printed so as to be completely legible in no less than size 12 font except for quotations and footnotes which may be in size 10 font;

(e) have margins of 4 centimetres to the left and 2 centimetres to the right;

(f) have one and a half spacing between lines (unless the document is to be settled by the Court, in which case double spacing is to be used);

(g) have double spacing between paragraphs;

(h) have figures and amounts of money expressed in numerals and not in words; and

(i) have any erasures or handwritten additions authenticated.

(2) Unless the Court otherwise directs, a document prepared for filing in Court is to be typed or printed—

(a) on a single side of the page if it is an original affidavit or statutory declaration (including the exhibits to an affidavit or annexures to a statutory declaration); and

(b) otherwise, on both sides of the page.

(3) Unless the Court otherwise directs, a document prepared for lodging in Court for use as a working copy by a Judge or Master is to be typed or printed—

(a) on a single side of the page for trial books (rule 121 of the Rules);

(b) on a single side of the page for the working copy of the tender books (although the exhibit copy may, at the option of the party preparing the tender books, be copied on both sides of the page) (supplementary rule 164);

(c) on both sides of the page for case books for appellate proceedings (rule 298 of the Rules).

(4) If the Registrar is satisfied that a self-represented litigant is unable to comply with any of the above requirements, the Registrar may accept a document for filing, provided that it is legible and able to be filed conveniently.

(5) When there is substantial non-compliance with this supplementary rule, the Registrar may refuse to accept a document for filing.

47—Consecutive numbering of filed documents

(1) When a party files more than one version of a pleading or amends a pleading in an action, each version after the first is to be consecutively numbered so as to be entitled Second, Third, Fourth, etc Statement of Claim/Defence/Reply, as the case may be. Terms such as 'Amended', 'Further', 'Revised' or the like are not to appear in the title.

Example—

If a Statement of Claim is being amended for the third time, the document should be entitled 'Fourth Statement of Claim'.

(2) When a party files more than one interlocutory application in an action, each interlocutory application after the first is to be consecutively numbered so as to be entitled Second, Third, Fourth, etc Interlocutory Application of the Plaintiff/Defendant/Third Party, as the case may be.

(3) When a party files more than one affidavit from the same deponent in an action, each affidavit after the first is to be consecutively numbered so as to be entitled the Second, Third, Fourth, etc Affidavit of that deponent, as the case may be.

(4) When a party files more than one affidavit from the same deponent in an action, the numbering of the exhibits in a later affidavit is to be consecutive to those in the previous affidavit or affidavits.

48—Original of affidavit

(1) An affidavit filed or produced in Court is to be an original bearing the original signature of the deponent and not a copy. A lawyer filing or producing an affidavit to the Court impliedly undertakes to the Court that the signatures on the documents are originals and not copies.

(2) In a case of urgency when it is impracticable for a lawyer to obtain the original of the affidavit before a hearing, the lawyer may swear an affidavit exhibiting a copy of that affidavit. A lawyer swearing such an affidavit impliedly undertakes to the Court that the lawyer will file the original of the affidavit immediately upon receipt.

49—Form of affidavit

(1) An affidavit is to state that the deponent is speaking of his or her own knowledge as required by rule 162(2) of the Rules.

(2) If it is sought to make a statement of belief under an exception to rule 162(2) of the Rules, the deponent is to depose to the source and grounds of each statement of belief. A statement to the effect, "I know the facts deposed herein from my own knowledge except where otherwise appears", without properly identifying the sources and grounds of information and belief, is unacceptable.

(3) The address of a deponent in an affidavit may be a business address provided it is a place where the deponent may usually be found during normal working hours.

(4) Each page of an affidavit is to be signed by the deponent and the witness and dated.

Note—

An affidavit filed in lieu of a pleading under rule 96 of the Rules is required by supplementary rule 72 to contain a reference to this fact in its title.

50—Exhibits to affidavit

(1) An affidavit (including an affidavit of service) that refers to a document already on the court file or part of the court record in an action or a related action is not to exhibit that document but is to describe the document by reference to its FDN and action number or another indication where it is to be found on the court file. The object of this supplementary rule is that a document should appear only once on a court file or set of related court files.

(2) Unless a lawyer forms the view that there is good reason not to, documents comprising a sequence of correspondence between the same or related persons and other documents comprising a sequence of a similar kind are to be made a single exhibit instead of being marked as separate exhibits.

51—Binding of affidavit with exhibits

(1) If an affidavit with exhibits—

(a) comprises 50 or more pages (including the body of the affidavit and its exhibits but excluding front sheets); or

(b) includes 5 or more exhibits,

the exhibits are to be bound together into a volume or volumes with or separate from the body of the affidavit.

(2) In respect of an affidavit to which paragraph (1) applies—

(a) each volume is to be paginated and contain an index showing the page at which each exhibit commences;

(b) each exhibit is to be clearly marked with its exhibit designation and tagged so that its commencement can be seen without opening the volume;

(c) the binding is to be of an appropriate size and allow the volume to lie flat when opened at any page;

(d) each volume (with any binding) is to be no more than 3 centimetres thick;

(e) the authorised person before whom the affidavit is made is to make a single certification that exhibits in the bundle are the exhibits produced by the deponent when making the affidavit;

(f) the certification is to be made on the front sheet of the volume of exhibits and, if there is more than one volume, is to be reproduced and included as a front sheet on each volume together with an index of the exhibit numbers contained in each volume.

(3) A party may file an affidavit comprising less than 50 pages or including less than 5 exhibits in the manner required by paragraphs (1) and (2), but is not obliged to do so.

52—Form of list of authorities

(1) A list of authorities is to contain—

(a) the full heading of the action;

(b) the anticipated date of hearing;

(c) the names or name of the Judges, Judge or Master who will hear the case (if known).

(2) A list of authorities is to be divided into two parts—

(a) PART I to be headed "Authorities to be Read" is to contain the authorities from which counsel will or may read passages to the Court;

(b) PART II to be headed "Authorities to be Referred To" is to contain the authorities that are relied upon but from which counsel does not expect to read.

53—Citations in list of authorities

(1) When a case is reported in an authorised series of reports such as the South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, the English authorised reports (The Law Reports) or in a series of reports containing only decisions of a State or Territory Supreme Court, the citation of the case in those reports is to be used. In addition, the medium neutral citation, when available, is to be provided for all cases, whether reported or not.

(2) Each authority in a list of authorities provided by email is to be hyperlinked to a page from which the authority in HyperText Markup Language (***HTML***), Rich Text Format (***RTF***), Portable Document Format (***PDF***) or other comparable format can be accessed.

(3) If alternatives are available, a searchable format of the authority is to be preferred over a non-searchable format. In the case of reports provided by Thomson Reuters (eg CLR, SASR or NSWLR) or LexisNexis (eg VR), the link is to be to the HTML version (and not the PDF version) of the authorised report. In the case of reports sourced from Austlii (the medium neutral version), the link is to be directly to the RTF version of the report (if available).

(4) If an online authorised series of reports is available to the party delivering the list of authorities, the hyperlink is to be to the report of the case in that series as well as to a freely available medium neutral version of the case (if available).

(5) If hyperlinking is not possible because, for example, an electronic report of the authority is not available, the authority is to be marked in the list with the words "hyperlinking unavailable".

(6) If a hyperlink comprises more than 75 characters, parties should use a hyperlink shortening service such as http//goo.gl, http//bit.ly or http//tinyurl.com to shorten the hyperlink to a manageable length.

(7) In all cases, the hyperlink provided is to be in addition to, and not in place of, a citation in conformity with paragraph (1).

54—Electronic delivery of summary of argument etc

(1) When a summary of argument, list of authorities, chronology or summary of evidence and facts is to be provided for a hearing, it is to be lodged with the Court by email in accordance with the following paragraphs of this supplementary rule.

(2) When the matter is to be heard by a single Judge or Master, the email is to be sent with the subject line required by paragraph (3)—

(a) to the chambers email address of the Judge or Master who is to hear the matter (see the link to the Supreme Court on the Courts Administration Authority website (http://www.courts.sa.gov.au);

(b) if and only if the identity of the Judge or Master is not known—to submissions@courts.sa.gov.au

(3) When the matter is to be heard by the Full Court, the email is to be sent to submissions@courts.sa.gov.au with a subject line that contains the action number and the names of the parties only.

Example—

Action no SCCIV-2014-123 *Jones v Bloggs*

(4) Authorities are not to be provided as an attachment to the email.

(5) In every case, a copy of the documents lodged by email with the Court is to be sent simultaneously by email on each other party.

(6) If an email address for another party is not known and cannot reasonably be ascertained, a hard copy of the document is to be served on the other party no later than 5.00 pm on the same day as the document is emailed to the Court.

55—Civil Registry

(1) The Registry is open for business from 9.30 am to 4.30 pm each day except on Saturdays, Sundays, Public Holidays and the Christmas vacation, which comprises the calendar days between Christmas Day and New Year's Day.

(2) If it is sought to file or lodge a document or arrange for an urgent hearing when the Registry is not open for business, the party is to phone the after hours business number of the Registry ((08) 8204 0289). The number will provide the current contact details of the rostered on call officer. If that officer is satisfied about the urgency of the request, he or she will arrange for the opening of the Registry and/or for a special hearing.

(3) Other than with the prior permission of the Judge, no lawyer or party is to contact a Judge to seek an urgent hearing.

(4) Unless the Rules or these Supplementary Rules otherwise provide or the Court otherwise directs, a party to an action may inspect or obtain copies of documents held on the Court file for that action by an informal request to the Registry.

Exception—

Rule 179 of the Rules imposes special requirements for the inspection and copying of documents produced pursuant to a subpoena.

(5) When the permission of the Court is required by a member of the public to inspect or obtain a copy of a court record, permission may be sought by letter or email to the Registrar without notice to any party or person interested.

Division 3—Amendment

[*no supplementary rules*]

Part 2—Service

Division 1—Address for service

56—Address for service

(1) A notice of address for service under rule 59(3) of the Rules is to be in form 16 or 17 as applicable.

(2) A notice of change of address for service under rule 59(4) of the Rules is to be in form 16 or 17 as applicable.

Division 2—Service of documents related to action

[*no supplementary rules*]

Division 3—Service on certain parties

[*no supplementary rules*]

Division 4—Cases where personal service required

[*no supplementary rules*]

Division 5—Non-personal service

[*no supplementary rules*]

Division 6—Presumptive service

[*no supplementary rules*]

Division 7—Miscellaneous

[*no supplementary rules*]

Part 3—Hearings generally

57—Addressing Judges and Masters

(1) In Court—

(a) the Chief Justice of the Court is to be addressed and referred to by the title Chief Justice, eg "Chief Justice Smith" and as "Your/His/Her Honour";

(b) a Judge of the Court is to be addressed and referred to by the title Justice, eg "Justice Brown" and as "Your/His/Her Honour";

(c) a Master is to be addressed as "Judge", "Your Honour" or "Master" in an interlocutory hearing;

(d) a Master is to be addressed as "Your Honour" in a trial.

(2) In documents filed or used in the Court and in correspondence—

(a) a Judge of the Court is to be referred to as "The Honourable Chief Justice…." or "The Honourable Justice…." as the case may be;

(b) a Master is to be referred to as "Judge…., Master of the Supreme Court".

58—Barrister's attire

(1) The dress of a barrister appearing in court is to be black court coat or bar jacket, white jabot and gown (silk for Queen's Counsel and Senior Counsel and stuff for junior counsel), dark trousers for men and dark skirt or trousers for women. As an

alternative to the jabot, white bands may be worn with white shirt and winged collar.

(2) Wigs will be worn only when the Court is hearing criminal proceedings (including appeals) and on ceremonial occasions. Wigs will not be worn in civil proceedings.

(3) Barrister's attire is not required for directions hearings or for any other matter not heard in open court.

(4) A barrister's attire is at all times to be in a clean and neat condition.

59—Noting of appearances of counsel and solicitors

The counsel or solicitor appearing in a case listed before the Court is to inform the Judge's associate before the hearing of his or her name, the party for whom he or she appears and, when applicable, the name of his or her instructing solicitor.

60—Interpreters in court

(1) An interpreting service to the Court is provided by the Interpreting and Translation Centre, a branch of the Office of Multicultural & Ethnic Affairs.

(2) The service provides interpreting facilities during court hearings for parties in civil proceedings and witnesses giving evidence.

(3) The service does not provide interpreters for lawyers taking instructions from clients or for parties to communicate with their lawyers.

(4) A lawyer or party if self-represented is to notify the listing section of the Court of the requirement for interpreting services at an interlocutory hearing or trial at the earliest possible time after the need arises to allow the maximum possible time for arrangements to be made.

61—Summary of argument and list of authorities

Unless the Court otherwise directs or these Supplementary Rules otherwise provide, when a summary of argument or list of authorities is to be provided for a hearing, it is to be provided—

(a) by the moving party at least 4 clear business days before the hearing; and

(b) by the responding party at least 2 clear business days before the hearing.

62—Copies of authorities

(1) The Court discourages the provision of hard copies of authorities readily available in the Supreme Court library or available electronically.

(2) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client. The cost will not be recoverable as an item of party and party costs except when, before the hearing, the Court has authorised the handing up of the copies.

(3) Notwithstanding paragraph (1), if a party proposes to rely on an authority not contained in the list of authorities, the party should provide a hard copy to the Court and to the other parties.

(4) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client. The cost will not be recoverable as an item of party and party costs.

(5) Only in exceptional cases should a hard copy of an authority in Part II of the list of authorities be provided to the Court.

63—Information for reporters

(1) A party is to give a copy of any list of authorities, or summary of argument when there is no list of authorities, to the reporters in court before commencement of the hearing to ensure the reporters have the correct details for any authority cited during the hearing.

(2) A party calling a witness is to give the name of the witness to the reporters in court before the witness is called.

64—Record of proceedings

(1) As soon as practicable after a judicial officer has pronounced an order or direction, its contents are to be entered into the Court's computer system.

(2) A hard copy as signed by the judicial officer or some person delegated by the judicial officer for that purpose is to be placed onto a hard copy court file.

Chapter 5—Parties and pleadings

Part 1—Parties and non-party participation

[*no supplementary rules*]

Division 1—Parties generally

[*no supplementary rules*]

Part 2—Defining issues

Division 1—Formal definition of basis of parties' respective cases

65—Pleadings generally

A pleading is to be divided into four parts.

(a) In the case only of a claim (including a statement of claim, counterclaim, contribution claim and third party claim), an Introduction is to summarise the claim in no more than 50 words and to list the causes of action relied on.

(b) Part 1 is to address those matters (including background and elements of a cause of action) expected to be uncontroversial.

Examples—

(1) The existence and relevant terms of a contract when the real issue is breach.

(2) The incorporation of a corporate plaintiff.

(c) Part 2 is to address the basis of each cause of action, the material facts or matters on which each cause of action is based, and when applicable any preliminary issue or special defence, insofar as each matter is not addressed in Part 1.

(d) Part 3 is to address the remedies and any ancillary remedies sought.

66—Statement of claim

A statement of claim under rules 91, 98 and 99 of the Rules is to be in form 18.

67—Counterclaim

(1) A counterclaim under rules 91, 98 and 99 of the Rules is to be in form 8 accompanied by a form 20.

(2) A counterclaim may repeat in the appropriate Part matters pleaded in the statement of claim or the defence in the primary action.

68—Contribution claim

(1) A contribution claim under rules 91, 98 and 99 of the Rules is to be in form 21.

(2) A contribution claim may repeat in the appropriate Part matters pleaded in the statement of claim in the primary action or in an earlier generation secondary action.

Examples—

(1) The contribution claim by a defendant might repeat in Part 1 facts pleaded by the plaintiff in the statement of claim in the primary action.

(2) The contribution claim by a third party might repeat in Part 1 facts pleaded by the defendant in the statement of claim in the secondary action against the third party.

(3) The contribution claim by the second defendant might repeat in Part 1 facts pleaded by the first defendant against the second defendant in the contribution claim by the first defendant against the second defendant.

69—Third party claim

(1) A third party claim under rules 91 and 98 of the Rules is to be in form 9 accompanied by a statement of claim in form 18.

(2) A third party claim may repeat in the appropriate Part matters pleaded in the statement of claim in the primary action or in an earlier generation secondary action.

70—Defence

(1) A defence under rules 92, 98 and 100 of the Rules is to be in form 19.

(2) When the defendant pleads an additional matter not directly in response to a paragraph in the statement of claim, the matter is to be included in Part 1, Part 2 or Part 3 in accordance with supplementary rule 65.

71—Reply

(1) A reply under rules 94, 98 and 101 of the Rules is to be in form 22.

(2) When the plaintiff pleads an additional matter not directly in response to a paragraph in the defence, the matter is to be included in Part 1, Part 2 or Part 3 in accordance with supplementary rule 65.

72—Affidavit in lieu of pleading

When an affidavit is filed in lieu of a pleading under rule 96 of the Rules, the title of the affidavit is to include that the affidavit is in lieu of the type of pleading for which it is a substitute.

Example—

(1) "Affidavit of John Smith in lieu of plaintiff's statement of claim".

(2) "Affidavit of Richard Roe in lieu of first defendant's defence".

73—Certificate of lawyer

(1) The signature on the certificate under rule 98(1)(b)(i) of the Rules is to be that of an individual lawyer and not that of a firm or company. It is not necessary that the name or signature of any counsel who has settled the pleading appear on the certificate.

(2) The name of the person who gives the certificate is to be clearly typed or printed alongside his or her signature.

(3) A certificate under rule 98(1)(b)(i) of the Rules is in addition to any other certificate or signature required to appear on a pleading.

(4) The Registry will not accept a pleading for filing that does not bear the necessary certificate under rule 98(1)(b)(i) of the Rules.

Division 2—General rules about pleadings

74—Liquidated Debt Claim

(1) When a plaintiff's claim is solely a Liquidated Debt Claim, the plaintiff may elect that the action proceed initially under this supplementary rule by filing in the Court a notice of election in form 23 (a ***Liquidated Debt Claim Election***) with the originating process.

(2) A Liquidated Debt Claim Election is to include a certification by the plaintiff's lawyer, or the plaintiff when self-represented, that in the reasonable opinion of the lawyer or party respectively the claim will be uncontested or is not genuinely contestable.

(3) The plaintiff's statement of claim in an action in which a Liquidated Debt Claim Election has been filed is only required to plead sufficient facts to identify the liquidated debt claimed to enable the defendant to decide whether to contest it and to define any ultimate judgment for *res judicata* purposes.

(4) If the defendant files a defence and the plaintiff does not within 21 calendar days after filing of the defence file an application for summary judgment, the plaintiff is to file and serve a pleading in compliance with the *Fast Track Rules 2014* within 49 calendar days after the filing of a notice of address for service and thereafter the action is to proceed under the *Fast Track Rules 2014* unless the Court otherwise directs.

Division 3—Cases where damages claimed for personal injury

[*no supplementary rules*]

Part 3—Discontinuance of action or part of action

[*no supplementary rules*]

Part 4—Transfer or removal of actions between courts

[*no supplementary rules*]

Chapter 6—Case management

Part 1—Duty of parties

[*no supplementary rules*]

Part 2—Assignment of special classification to action

75—Assignment of special classification to action

(1) In considering whether a special classification under rule 115 of the Rules is appropriate, the Court will consider all the circumstances of the action, including—

(a) the subject matter;

(b) the amount or value in dispute;

(c) the potential length of trial;

(d) the number of documents likely to be required to be disclosed;

(e) the complexity of the issues involved;

(f) the urgency of the matter;

(g) whether it is a class action;

(h) whether expert evidence is to be led.

(2) An action will usually be regarded as sufficiently complex to warrant a special classification if the estimated length of the hearing exceeds 15 days or if the case raises issues of particular complexity.

76—Management of special classification action

(1) There is a panel of Judges who have the responsibility for managing cases in the special classification list.

(2) Upon a special classification being assigned to an action, the action will be assigned to one of the Judges in the panel. That Judge will manage the action until it goes to trial, except when the Judge is unavailable due to leave, illness or other commitments.

(3) The Judge responsible for an action will be assisted extensively by a Master who will be involved as much as is feasible.

(4) Unless the Court otherwise directs, all interlocutory matters will proceed by way of directions hearings.

(5) In the ordinary course, directions hearings will be brought on as frequently as necessary, commonly at 9.00 am. Regular directions hearings will not be expected to occupy more than 1 hour.

77—Conduct of directions hearings

(1) Directions hearings will be conducted in accordance with rule 115 of the Rules, subject to the refinements in this supplementary rule or as directed by the Judge or Master.

(2) The need to make an interlocutory application under rule 131 of the Rules will generally only arise if an order is sought against a non-party. Otherwise, parties should exchange a notice or suggested agenda (with a copy for the Judge's associate or Master's personal assistant) at least 2 clear business days before the date scheduled for a directions hearing, indicating what applications will be made

and what orders will be sought, in each case specifying the FDN of documents to which reference will be made.

(3) No affidavit is to be used on the hearing of an application for directions without the permission of the Court or in certain other limited circumstances.

(4) On a directions hearing, the Court may inform itself on any matter without requiring formal proof.

(5) If it is considered that an affidavit will assist the Court, the affidavit should be filed ahead of the directions hearing and before permission of the Court is granted.

(6) The Court will ordinarily grant permission if—

(a) use of the affidavit would avoid unnecessary delay;

(b) it is anticipated that there will be a factual dispute; or

(c) the Court would otherwise be assisted by an affidavit.

78—Subject matter of directions hearings

At directions hearings, depending on the stage of pre-trial preparation, attention will be given to some or all of the following matters—

(a) pleadings—

(i) nature and extent;

(ii) timetable;

(iii) particulars;

(iv) third party proceedings;

(b) disclosure of documents—

(i) scope and mode;

(ii) non-party disclosure;

(iii) phases;

(iv) timetable;

(v) inspection;

(vi) arrangement and numbering system;

(c) experts—

(i) number;

(ii) timetable;

(iii) conference of experts;

(iv) order of evidence;

(v) concurrent evidence;

(d) other interlocutory steps—

(i) notices to admit;

(ii) written answers to written questions;

(iii) any other matters;

(e) alternative dispute resolution—

(i) nature;

(ii) timing;

(iii) arrangements;

(f) pre-trial steps—

(i) final review of pleadings;

(ii) agreed facts;

(iii) orders under section 59J of the *Evidence Act 1929*;

(iv) written witness statements or affidavits;

(v) tender books;

(vi) trial of successive issues;

(vii) short form written or oral openings by all parties;

(viii) witness program;

(ix) views;

(x) trial length;

(xi) computer litigation support nature and extent; and

(g) arrangement of trial dates.

79—Proceeding to trial—litigation plan

(1) Ordinarily, a litigation plan will be prepared in a special classification matter and the matter fixed for trial in accordance with rule 120 of the Rules.

(2) The Court will fix a tentative trial date when interlocutory proceedings are sufficiently advanced for a reasonable estimate to be made of the length of pre-trial processes and the length of trial.

(3) The Court is particularly concerned to obtain an accurate estimate of the likely length of trial. Parties may be requested to provide a schedule of the probable course of the trial including tender of documents, witnesses to be called and the estimated length of the witnesses' evidence and addresses.

Part 3—Court's powers to manage and control litigation

Division 1—General powers of management and control

80—Partition proceedings

An application for partition or sale of land or other property under Part 8 of the *Law of Property Act 1936* will be managed and heard by a Judge of the Land and Valuation Division.

Division 2—Urgent cases

[*no supplementary rules*]

Part 4—Listing of actions for trial

81—Certificate of readiness

(1) A certificate of readiness for trial under rule 120(4) or 120A(2) of the Rules is to be in form 24.

(2) The party responsible for the carriage of the action is to send to the other parties a copy of the proposed certificate of readiness for trial within 21 calendar days after

all interlocutory steps within the meaning of rule 125 of the Rules have been completed.

(3) Each other party is to respond to the proposed certificate of readiness for trial within 5 business days after receipt by either confirming that the certificate is accurate and complete or returning the certificate with marked up changes.

(4) The party responsible for the carriage of the action is to send to one of the other parties the final version of the certificate of readiness for trial as soon as practicable and in any event within 2 business days after receipt of the last of the responses from the other parties under paragraph (3).

(5) Each other party is to sign the final version of the certificate of readiness for trial as soon as practicable and in any event within 2 business days after receipt and on forward it to another party yet to sign or return it to the party responsible for the carriage of the action.

82—Order that action proceed to trial

(1) File principals of all parties are expected to attend at the hearing of an application under rule 120A of the Rules that the action proceed to trial.

(2) Upon an order that an action proceed to trial, a trial date will not usually be set but a listing conference will be convened to be conducted by the Registrar or his or her delegate.

83—Listing conference

(1) Before the listing conference, the parties are to formulate a realistic estimate of the length of trial and ascertain the availability of witnesses and counsel.

(2) At the listing conference, the Registrar will set a date, usually not earlier than 6 weeks ahead (except when there is an order for urgent trial), for the commencement of the trial after taking into account as far as practicable availability of witnesses and counsel.

(3) If a party fails to attend at the listing conference, the Registrar will usually fix a trial date in that party's absence.

(4) Unless the Court otherwise orders, the costs of a listing conference will be costs in the cause.

(5) Matters not ready to be listed at the listing conference will not be adjourned to a further listing conference unless there is very good reason, such as inability to ascertain availability of witnesses. If a matter is not ready to be listed at the listing conference, it will usually be returned to the Masters' list.

(6) At most, there will only be one adjournment of a listing conference. If a matter has been given an adjourned listing conference and cannot be listed at the adjourned listing conference, it will be referred back to the Masters' list.

84—Delivery of trial book

(1) All originating processes and pleadings for the primary and any secondary actions to be determined at the trial of the action are to be included in the trial book prepared under rule 121 of the Rules.

(2) When an action has proceeded on affidavits in lieu of pleadings under rule 96 of the Rules, the affidavits standing in lieu of pleadings are to be included in the trial book.

(3) Other than by direction of the Court or agreement of all parties, no affidavits, notices of address for service, superseded versions of pleadings, affidavits (subject

to paragraph (2)), notices to admit, lists of documents or offers to consent to judgment are to be included in the trial book.

(4) The trial book is to be paginated, indexed and bound.

(5) Unless the Court otherwise orders or the Registrar otherwise directs, the trial book is to be copied on a single side of the page.

Part 5—Inactive actions

[*no supplementary rules*]

Chapter 7—Pre-trial procedures

Part 1—Initial steps

Division 1—Introduction

[*no supplementary rules*]

Division 2—Compliance with pre-action requirements

[*no supplementary rules*]

Division 3—Initial documents

[*no supplementary rules*]

Division 4—Settlement conference

85—Settlement conference

(1) In actions for damages for personal injuries and actions between domestic partners relating to property, there is to be a settlement conference presided over by a judicial or administrative officer of the Court.

Note—

Rule 130B(2)(e) of the Rules empowers the Court to direct, on application by a party, that a settlement conference be presided over by an officer of the Court in any other type of action.

(2) Unless the Court otherwise directs, in matters in which there is to be a settlement conference to be presided over by a judicial or administrative officer of the Court, the Registrar will fix a date for a settlement conference after the prescribed date.

(3) As a general rule, the date fixed under paragraph (1) will be approximately 3 weeks after a defence or affidavit in lieu of defence is filed (and in fixing the date the Registrar may consider but is not bound by wishes expressed by a party).

(4) Rule 130(3) to (5) of the Rules applies to a settlement conference convened under paragraph (2).

Division 5—Deferral of other interlocutory steps

[*no supplementary rules*]

Division 6—Preliminary hearing

[*no supplementary rules*]

Part 2—Interlocutory steps generally

Division 1—Litigation plan

86—Litigation plan

(1) Unless the Court otherwise directs, a litigation plan is not required to be prepared in an action—

(a) in the Fast Track Stream governed by the *Fast Track Rules 2014*;

(b) for a Liquidated Debt Claim.

(2) A litigation plan under rule 130G(3) of the Rules is to be in form 25 with such adaptations as the circumstances of the case require.

(3) When there is no third party action in the proceeding—

(a) the plaintiff is to serve on all parties an electronic version of a draft litigation plan at least 7 clear business days before the initial directions hearing fixed under rule 130I of the Rules;

(b) the defendant or defendants to the primary action are to serve on all parties an amended electronic version of the draft litigation plan, marked up using track changes or another convenient form of marking up changes, at least 4 clear business days before the initial directions hearing, and when there is more than 1 defendant they are to serve a common draft litigation plan (which may incorporate differences between them);

(c) the plaintiff is to file and serve on all parties a final version of the litigation plan (which may incorporate differences between parties) at least 1 clear business day before the initial directions hearing.

(4) When there is a third party action in the proceeding—

(a) the plaintiff is to serve on all parties an electronic version of a draft litigation plan at least 10 clear business days before the initial directions hearing fixed under rule 130G of the Rules;

(b) the defendant or defendants to the primary action are to serve on all parties an amended electronic version of the draft litigation plan, marked up using track changes or another convenient form of marking up changes, at least 7 clear business days before the initial directions hearing, and when there is more than 1 defendant they are to serve a common draft litigation plan (which may incorporate differences between them);

(c) the defendant or defendants to the third party action are to serve on all parties an amended electronic version of the draft litigation plan, marked up using track changes or another convenient form of marking up changes, at least 4 clear business days before the initial directions hearing, and when there is more than 1 defendant they are to serve a common draft litigation plan (which may incorporate differences between them);

(d) the plaintiff is to file and serve on all parties a final version of the litigation plan (which may incorporate differences between parties) at least 1 clear business day before the initial directions hearing.

Division 2—Directions hearing

87—Location

(1) Unless the Court otherwise directs, all directions or other interlocutory hearings will be held in Adelaide.

(2) If a party seeks to have an interlocutory hearing held elsewhere, a written request should be made to the Registrar stating whether the other parties agree. If there is no agreement of all parties to a different location, a Master will determine the location at an audiovisual hearing (see supplementary rule 89).

(3) An interlocutory hearing will not be directed to be held other than in Adelaide unless an appropriate judicial officer is available to conduct a hearing in that place.

(4) When appropriate an interlocutory hearing may be conducted as an audiovisual hearing (see supplementary rule 89).

88—Attendance

(1) When a lawyer appears as counsel on an interlocutory matter, his or her description as such in the order does not imply that the matter was fit for the attendance of counsel. Entitlement to counsel fees will be determined solely on whether the Judge or Master has certified the attendance as fit for counsel, which will be so indicated at the end of the order.

(2) Subject to paragraph (3), a lawyer is to be in attendance at the listed time for an application. A telephone message or email that a lawyer is unable to attend upon a hearing is unacceptable. The commencement of a hearing before a Judge or Master will not be delayed because a lawyer is engaged before another Judge or Master. Commitments in lower Courts will not be accepted as a proper excuse for not attending at the appointed time.

(3) Subject to paragraph (5)—

(a) a Judge or Master may see fit to delay the commencement of a hearing when—

(i) the time set for the commencement of an earlier hearing before a different Judge or Master was more than half an hour earlier; and

(ii) the lawyer reasonably expected that the earlier hearing would be completed within sufficient time to allow him or her to attend on time for the later hearing;

Example—

A Judge may delay a hearing due to commence at 10.00 am if the plaintiff's counsel is still in a directions hearing that was scheduled to commence at 9.00 am and expected to finish within half an hour.

(b) when a lawyer appearing before a Master has an appointment before a Judge that the lawyer reasonably expected to be able to attend after completion of a hearing before a Master but is still before the Master when he or she is due before the Judge, the lawyer may request the Master to adjourn the application before the Master.

(4) In any other circumstances, lawyers will be expected to arrange for another lawyer to attend on one or other of the applications.

(5) When a lawyer expects not to be available for an appointment before a Judge or Master because of circumstances falling within paragraph (3), he or she is to ensure that the Judge's associate or Master's personal assistant is warned in advance of his or her difficulties.

(6) If a lawyer does not make proper arrangements for representation at a hearing, thereby necessitating an application being adjourned, costs will ordinarily be ordered against the lawyer personally.

89—Audiovisual hearings

(1) When all parties to an application are represented by lawyers, it may be set down for an audiovisual hearing at the request of a party.

(2) The lawyers for all parties are to be available to receive a telephone call or audio visual call from the Court at the time appointed for the hearing and for the next 30 minutes.

(3) The judicial officer retains a discretion to adjourn an audiovisual hearing to a hearing in court when the lawyers are to attend.

(4) When the Court cannot make contact with a lawyer at the time appointed for the hearing, the judicial officer may proceed with the hearing in the same way as if a party had not attended at a hearing in court.

(5) When an application has been set down for an audiovisual hearing, any lawyer for a party is entitled to attend in person.

(6) No person is to make a recording of an audiovisual hearing other than with the prior permission of the judicial officer conducting the hearing.

(7) Unless the Court otherwise orders, the costs incurred by the Court in conducting an audiovisual hearing are to be paid by the party requesting that the hearing proceed as an audiovisual hearing.

Division 3–Interlocutory applications

Subdivision 1—General

90—Interlocutory applications

(1) When a party needs to apply for an interlocutory order that cannot conveniently and expeditiously be dealt with at a directions hearing for which a date has already been set, an interlocutory application under rule 131 of the Rules should be made and the Court will set the application down for hearing at the earliest opportunity.

(2) An interlocutory application under rule 131(1) of the Rules is to be in form 26.

(3) Unless the Rules or these Supplementary Rules otherwise provide or the Court or the Registrar otherwise directs, a party making an interlocutory application is to file a supporting affidavit with the application.

(4) When a detailed order is sought, minutes of order are to be filed with the application.

(5) Responding affidavits are to be filed at the earliest opportunity, but in any event no later than 12.00 noon on the day before the day fixed for the hearing of the application.

(6) Failure to observe this supplementary rule may result in the application being adjourned with costs against the party at fault or his or her lawyer personally.

Subdivision 2—Determination without oral hearing

91—Introduction

The making and disposal of an application determined without hearing oral submissions under rule 132 of the Rules is the equivalent of conducting a matter in court. This means that—

(a) the system is to be used only for issues requiring consideration and determination by a Master or Judge;

(b) communications between the parties or their representatives in relation to confidential or sensitive matters are not to be released to the Court;

(c) language and modes of address are to be the same as if the matter were being dealt with on a directions hearing;

(d) undertakings given in an email communication by a party or a party's lawyer to the Court or other parties are binding as if the undertakings were given in court; and

(e) the rules of contempt apply.

92—Applications that may be dealt with electronically

(1) An electronic application can only be made when all parties involved have filed an address for service containing an email address.

(2) Whether an application is to be dealt with electronically is in the discretion of the Court and will depend on—

(a) the nature and complexity of the issues to be resolved;

(b) the number of parties;

(c) the views of the parties;

(d) the nature and extent of any evidence required; and

(e) any urgency.

(3) Examples of applications that will normally be accepted for electronic determination are—

(a) non-contentious *ex parte* applications, including applications for final relief;

(b) non-contentious party or non-party document disclosure or other interlocutory applications;

(c) non-contentious pleading amendment applications;

(d) non-contentious applications under the *Corporations Act*; for example, an extension of time to convene a second creditors' meeting, approval of a settlement or to reinstate a deregistered company;

(e) consent judgments or orders of any type;

(f) applications for approval of compromises on behalf of persons under a disability;

(g) *ex parte* applications to renew a summons;

(h) applications for presumptive service;

(i) applications for an extension of time.

(4) A consent order for the adjournment of set hearing dates is to be sought well before the hearing date. It should not be assumed that the Court will grant such an adjournment.

93—Form of electronic interlocutory application

An electronic interlocutory application under rule 132 of the Rules is to be in form 27.

94—Minutes of order

(1) When the order will need to be sealed, draft minutes of order in Microsoft Word format are to be attached to the email.

(2) When the order sought is lengthy or complicated, minutes of order should also be attached to the email.

(3) In any other case, unless the Court so requests, minutes do not need to be attached to the email.

95—Initiation and termination of electronic processing

(1) A lawyer seeking electronic processing of an application is to send the application as an attachment to an email to the Registrar directed to—

supreme.efiling@courts.sa.gov.au

(2) If a specific judicial officer is already seized of the proceeding, the email or electronic application is to identify that fact.

(3) If the matter can be processed by the relevant judicial officer within 2 clear business days after the request, all relevant parties will be advised by email of the terms of any order made.

(4) If the application cannot be dealt with within that time, the Court will advise the applicant by reply email in form 28 whether the application will be accepted and, if so, to which judicial officer it has been directed.

(5) If the applicant does not receive a response to an electronic application within 2 business days after its transmission, the applicant should contact the Court to ascertain whether it was received.

(6) The Court may terminate the use of electronic processing of a matter, or part of a matter, at any time at the request of a party or on its own initiative.

96—Notification of other parties

(1) When notice of an electronic application is to be given to another party, a copy of the electronic application is to be transmitted by email to that party simultaneously with its transmission to the Court.

(2) All subsequent documents transmitted by email to the Court are to be simultaneously transmitted by email to each other party in the action. The date and time of each transmission will be permanently recorded in the relevant file.

(3) Due service of, or notice to, a party of any proceeding or document filed in a proceeding will be deemed to be on the day on which it is transmitted to that party at the correct email address of the party if the transmission occurs before 4.30pm. Otherwise, it will be deemed to be served on the next business day.

97—Form and content of emails and attachments

(1) Related emails sent on behalf of parties to the Court are to be—

(a) relevant to the topic or discussion thread in relation to which they are sent;

(b) brief and to the point; and

(c) timely.

(2) All documents intended to be used and not already filed with the Court are to be attached to the transmitting email. Documents are to be sent and received using Simple Mail Transfer Protocol (***SMTP***).

(3) Unless these Supplementary Rules otherwise provide or the Registrar otherwise directs, any document transmitted to the Court is to utilise as a font Times New Roman or Arial, minimum size 12, and be in searchable Portable Document Format (***PDF***).

(4) Exhibits to an affidavit are to be scanned to convert them to a searchable PDF file.

(5) When an email refers to a document already filed with the Court, the email is to indicate the date of filing and, if known, the FDN and may attach to the email a copy of the filed document for ease of reference.

(6) If a document not already filed with the Court cannot be attached in electronic format, the email should indicate that and advise when such document will physically be filed in the Registry.

(7) In urgent matters, a document that is to be filed may be attached to an email with an undertaking in the email that it will be filed with the Court on the next business day.

(8) A copy document attached to an email is to have any ink signature, date or other addition to the original document typed into the document in square brackets, so that it may be read as a completed document.

98—Mode of use of email facility

(1) An email transmitted by a lawyer is to identify the name of the individual lawyer sending it and, when applicable, the separate email address of the lawyer.

(2) An email and attached documents purporting to be sent by a lawyer will be deemed to—

(a) have been sent by the lawyer;

(b) be the responsibility of the lawyer; and

(c) have been authorised for transmission by the party on whose behalf they have been sent.

(3) A lawyer transmitting a copy of a document not already filed with the Court will be deemed to accept personal responsibility for payment of any court filing or other fee attaching to the matter being dealt with electronically.

99—Directions

The Registrar may give directions how a specific matter, or part of a matter, is to be processed. For example, directions may be given as to—

(a) the topic or topics to be dealt with and in what manner;

(b) who may participate;

(c) the maximum size of emails and attachments; and

(d) the maximum time in which emails (including replies) are to be sent to the Court.

100—Consent orders

When a consent order or judgment is sought, the consent of all parties other than that of the applicant is to be furnished to the Court by—

(a) the endorsement of consents on minutes of order lodged electronically;

(b) an email to the Court from the lawyer for a party; or

(c) such other means as are acceptable to the Court.

101—Adjournment of hearing

(1) When all interested parties consent to the adjournment of an interlocutory hearing listed before a Judge or Master, a party may seek the adjournment by email to the Judge's associate or Master's personal assistant at least 1 clear business day before the date listed for the hearing.

(2) The consent to the adjournment by all interested parties may be evidenced by an email from each party stating the party's consent.

(3) As soon as practicable after receipt of the email, the Judge's associate or Master's personal assistant will by email inform the parties whether the adjournment is granted.

(4) If no reply is received, the parties are to attend at the appointed time for the hearing.

102—Submissions and information

(1) An email transmitting an electronic application may attach brief submissions or representations to the judicial officer to whom the matter is assigned without a direction inviting this to be done.

(2) If the Court desires further information or submissions, the parties will be advised by email of the nature of the further information or submissions sought and the date by which they are to be supplied.

(3) If a request under paragraph (2) is not complied with in a timely manner, the Court may, in its discretion, set the matter down for hearing in a chamber list and inform the parties that attendance is required at the Court at a stipulated time.

103—Making of order

(1) Orders as to which a fiat only is required will be created by the Court and authenticated by the relevant judicial officer. A copy of the fiat will be transmitted electronically to the party or parties concerned.

(2) Orders required to be sealed and entered will be settled "on screen" from the minutes sent to the Court, submitted electronically to the party or parties concerned for approval, and then hard copied and sealed and entered by the Registry. Any document hard copied will bear the FDN allocated to it as a means of cross-reference.

(3) An email submitting settled minutes for approval of a party or parties will normally stipulate that, if no response is received from a party within 3 business days, that party will be deemed to have approved the settled minutes.

(4) The Court may review the form of a settled and sealed order if satisfied that a party did not receive the settled minutes and that they do not properly reflect the intention of the judicial officer who made the order.

104—Conditions of use, privacy aspects and security

(1) By transmitting an electronic application to the Court in accordance with this Division, a lawyer represents to the Court that—

(a) the lawyer has made due enquiry and instructions received justify making the electronic application;

(b) if a copy of an affidavit not yet filed is attached to an email, the copy is a true copy of the original of the affidavit held by the transmitter and that the original has been duly sworn or affirmed; and

(c) the transmitter has taken all reasonable precautions to ensure that all material transmitted is virus free.

(2) The information transmitted to the Court will not be disclosed to any other person not entitled by law to it. However, an email sent to the Court may be monitored by staff of the Courts Administration Authority to facilitate consideration of possible changes to its website, maintenance, or when email abuse is suspected.

(3) A lawyer having a concern about security of information proposed to be transmitted to the Court should communicate the concern to the Registrar before the transmission and confer with the proper officer of the Court as to the concern.

(4) The Court will take reasonable precautions to ensure that its transmissions are virus free. However, it is for lawyers to adopt their own virus protection strategies.

105—Costs

(1) Adjudicating officers determining costs in a matter will exercise their discretion to ensure that allowances made are fair and reasonable for work done. The avoidance of a need to attend at court will usually result in some reduction in costs incurred.

(2) One factor taken into account in the adjudication of costs will be whether a matter that could have been processed as an electronic application was unnecessarily set down in a list requiring personal attendance at court.

Part 3—Disclosure and production of documents

Division 1—General

106—Introduction

(1) The Court has a strong preference for electronic disclosure, being the use of imaged documents, because of the increased functionality available with electronic images compared to paper copies and the relatively high cost of copying documents multiple times compared to the cost of converting them to images once.

(2) The primary purpose of electronic disclosure is to minimise document management and technology costs and ensure that each party and the Court can use the same software to view all parties' documents.

107—Form of disclosure and production

(1) Subject to paragraphs (2) to (4), disclosure and production of documents is to be made in accordance with Division 2.

(2) The parties may agree within 14 calendar days after the close of pleadings that Division 3 or Division 4 is to apply in lieu of Division 2.

(3) Subject to complying with the time limits for disclosure of documents fixed by the Rules, these Supplementary Rules or by order of the Court, the parties may agree at any time to modify (by addition, removal or alteration) the provisions contained in the applicable Division of this Part for the purpose of meeting the circumstances of the particular case and facilitating the just, quick and efficient disclosure and production of documents.

(4) The Court may at any time order that disclosure and production of documents is to be made in accordance with Division 3 or Division 4 or that the provisions of an applicable Division are to be modified in their application to a proceeding.

108—Cost

It is the responsibility of each party to an action to bear the cost of complying with this Part (including producing and viewing electronic data) subject to any costs order ultimately made in the action.

Division 2— Electronic disclosure in basic form

109—Introduction

(1) Subject to supplementary rule 107, this Division sets out the default requirements for electronic disclosure.

(2) Subject to complying with the time limits for disclosure of documents fixed by the Rules, these Supplementary Rules or by order of the Court, the parties may agree to modify this Division in accordance with supplementary rule 107(3).

110—Document numbering and description

(1) Each disclosed document is to be identified by a unique document identification number (***Document ID***) in the format **SSS.NNNN** where—

(a) **SSS** is the party code comprising three alpha digits identifying a party to the proceeding (***Party Code***); and

(b) **NNNN** is the document number comprising a unique numeric number assigned to each document (not each page within each document) (***Document Number***).

(2) The parties are to notify each other of the Party Code proposed to be used before commencing the disclosure process to ensure that each code is unique.

(3) The numbers of the Document Number are to be consecutive and leading zeroes are to be used to result in a 4 digit structure from 0001 to 9999.

(4) Each document is to be characterised as one of the following document types (***Document Types***)—

(a) Email;

(b) Letter;

(c) Other.

(5) The document title (***Document Title***) for each document is to be described as follows—

(a) for emails—the subject line of the email is to be used unless the subject line is not descriptive, in which case the title is to be objectively coded from the face of the document,

(b) for all other documents—the title is to be objectively coded from the face of the document (the title or subject line and/or description).

(6) Attachments or enclosures to other documents (such as letters or emails) are not to be separately listed as individual documents, but are to be included as part of the primary document and included in the description of that primary document (as part of the Document Title).

111—Format of disclosed documents

(1) Each disclosed hard copy document is to be scanned into an electronic form as follows—

(a) subject to paragraph (c), the image format is to be PDF and, whenever practicable, text searchable (using Optical Character Recognition (***OCR***));

(b) when a document contains colour, the document is required to be imaged as a colour document only if it will be of evidential significance to see colour in the document or if colour is required to make the document legible;

(c) when a document is not amenable to being saved as a PDF file, alternative appropriate files are JPEG or TIFF files.

(2) Each disclosed electronic file (including an email) is to be saved in electronic form as follows—

(a) subject to paragraph (b), the image format is to be PDF and, whenever practicable, text searchable by being rendered directly to PDF from its native format;

(b) when the file type is MS Excel, MS Access, MS PowerPoint, JPEG, TIFF or a file type not amenable to conversion to PDF, the file is to remain in its native format.

112—Structure and quality of disclosed documents

(1) The entirety of each document is to be contained within a single PDF file.

(2) An individual PDF file is not to be excessive in size. If greater than 10 MB, all attempts are to be made to reduce the file size of the PDF file without losing quality of the image.

(3) A PDF document is to be scanned at a minimum of 200 dots per inch (***dpi***). If a document is of poor quality, the dpi is to be increased to a minimum of 300 dpi.

(4) All documents are to be rotated to the most practical reading view.

(5) Portrait documents are to be stamped with the Document ID in the bottom right quadrant of the page. Landscape documents are to be stamped with the Document ID in the bottom right quadrant to ensure that, if the image is rotated 90 degrees anti-clockwise, the stamp will appear along the leading edge of the top right quadrant.

113—Image directory and file structure

(1) Each image file is to be in the format of the Document ID that is **SSS.NNNN.pdf**. Leading zeroes are to be used. If the image file is not in PDF format, the same file structure is to be used but the file extension ".pdf" will be different, for example ".jpeg".

(2) All image files for each party are to be saved in an electronic folder with the name "**SSS**" where **SSS** is the Party Code.

114—List of documents

(1) All documents to be disclosed are to be described in a List of Documents under rule 136(2) of the Rules in form 29A.

(2) The List of Documents is to be listed in order of Document ID.

(3) The List of Documents is to include the following fields for each document—

(a) Document ID (in accordance with supplementary rule 110(1));

(b) Document Date in the format DD-MMM-YYYY where DD=day, MMM=month and YYYY=year, eg 11-Jan-2000;

(c) Document Type (in accordance with supplementary rule 110(4));

(d) Document Title (in accordance with supplementary rule 110(5));

(e) Author when applicable (includes people and organisations); and

(f) Recipient when applicable (includes people and organisations).

(4) The List of Documents is to be filed in hard copy form and served on each other party in electronic PDF format and, whenever practicable, text searchable (using OCR).

115—Technical format of documents to be provided to other parties

(1) Lists of Documents and disclosed documents are to be provided to each other party on a CD-ROM, DVD-ROM or portable USB hard drive.

(2) The CD-ROM, DVD-ROM or USB hard drive is to include a label with the name of the proceeding, party name, disk/USB number, action number, date, description

of data (eg "The Data & Documents for Schedule 1 Part 1") and whether it is additional or replacement data.

116—Updating or adding additional documents or pages

(1) If a page of a document needs to be inserted, deleted or replaced due to mistake or otherwise, the responsible party is to reissue a new CD-ROM, DVD-ROM or portable USB hard drive containing a fresh copy of all the disclosed documents (including the inserted, deleted or replaced page).

(2) If an error is found in a disclosed document, the responsible party is to reissue a new CD-ROM, DVD-ROM or portable USB hard drive containing a fresh copy of all the disclosed documents (without the error).

(3) An update is to be accompanied by a covering letter outlining the Document IDs and the information that has changed.

(4) Amended documents or lists are to be provided in the same format as set out in this Division 2.

117—Data security and virus responsibility

(1) It is the responsibility of the recipient of electronic data to test for viruses. A party producing data to another party is to take reasonable steps to ensure that the data is useable and is not infected by malicious software.

(2) If data is found to be corrupted, infected or otherwise unusable, the producing party is, within 2 business days after receipt of a written request from a receiving party, to provide to the receiving party a copy of the data that is not corrupted, infected or otherwise unusable as the case may be.

118—Inspection of original documents

Notwithstanding the requirements of this Division 2, each party to an action retains the right to view and copy original documents disclosed by another party to the action.

Division 3—Electronic disclosure in advanced form

119—Introduction

(1) The purpose of this Division is to provide for an advanced form of electronic disclosure when—

(a) there will be a relatively large number of disclosed documents;

(b) it is desirable for each party to have an electronic database identifying each disclosed document; and/or

(c) it is anticipated that there will be an electronic trial.

(2) Subject to complying with the time limits for disclosure of documents fixed by the Rules or these Supplementary Rules or by order of the Court, the parties may agree to modify this Division in accordance with supplementary rule 107(3).

120—Document numbering

(1) Each page of each document is to be identified by a unique document identification number (***Document ID***) in the format **ABC.BBB.FFF.PPPP** unless the parties agree or the Court directs otherwise.

(2) A Document ID is to be unique because it is the sole means by which each document will be referenced. Document IDs are to be placed on each page of each document. The page number assigned to the first page of the document is also to be assigned as the Document ID for that document. Native electronic

documents are to be assigned a single Document ID and individual page number labels are not required.

(3) Each page of each document is to be numbered in the format **ABC.BBB.FFF.PPPP** (or **ABC.BBB.FFF.PPPP_NNN** as required) where—

(a) **ABC** is the party code (***Party Code***) comprising three alphabetical digits identifying a party to the proceeding. The parties are to notify each other of the Party Code proposed to be used before commencing the disclosure process to ensure that each code is unique.

(b) **BBB** is a 3 digit sequential box number (***Box Number***). Leading zeros are to be used to result in a 3 digit structure from 001 to 999. If the documents are not physically stored in boxes, a virtual box number is to be used. The Box Number identifies a specific physical archive box or email mailbox or any other container or physical or virtual classification that is appropriate for the party to use.

(c) **FFF** is a 3 digit sequential folder number (***Folder Number***). Leading zeros are to be used to result in a 3 digit structure from 001 to 999. For each box, the Folder Number is to start from 001. The Folder Number identifies a unique folder number allocated by each party in its own document collection. A party may allocate loose or unsorted documents, either hard copy or electronic, to one or more folders. This is acceptable provided that the originals of such documents are able to be promptly sourced for inspection if required. It may also identify an electronic folder (as part of a directory structure) or a folder within an email mailbox. The Folder Number may, when appropriate, correspond to the Box Number of any container in which the document is contained.

(d) **PPPP** is a 4 digit sequential page number (***Page Number***). Leading zeroes are to be used to result in a 4 digit structure from 0001 to 9999. This refers to each individual page within each folder. For native electronic documents, this number applies to the whole document irrespective of the number of pages within it. In such cases, it therefore operates as a Document Number rather than a Page Number because individual pages are not numbered.

(e) **NNN** is a 3 digit sequential number for inserted pages (***Inserted Pages***). Leading zeroes are to be used to result in a 3 digit structure from 001 to 999. If a page is missed in the numbering process and needs to be inserted, a 3 digit sequential number is to be used, eg "PPP.001.001.0010.001" is a page that has been inserted between pages 10 and 11 in folder 1 in box 1 for party PPP. This scheme assumes a minimal number of insertions will be made with a maximum of 999 pages being inserted between 2 pages. Inserting pages between inserted pages is not accommodated in this scheme in an effort to keep the document number to a reasonable length. If a page is not inserted, this field will not be used so most page numbers will only be 16 characters in length, eg "PPP.001.001.0010".

(4) Depending on the volume, format and structure of the material to be discovered, the parties may agree to use a different Document ID format. For example, for small document collections, parties may wish to omit the Box Number level; for larger collections, the Folder Number may be increased in length to 4 digits (FFFF). For larger collections, the Page Number may be increased to 5 (PPPPP) or 6 (PPPPPP) digits.

121—Format of disclosed documents

(1) Each disclosed hard copy document is to be scanned into an electronic form as follows—

(a) subject to subparagraph (c), the image format is to be PDF and, whenever practicable, text searchable (using OCR);

(b) when a document contains colour, the document is required to be imaged as a colour document only if it will be of evidential significance to see colour in the document or if colour is required to make the document legible;

(c) when a document is not amenable to being saved as a PDF file, alternative appropriate files are JPEG or TIFF files.

(2) Each disclosed electronic file (including an email) is to be saved in electronic form as follows—

(a) subject to subparagraph (b), the image format is to be PDF and, whenever practicable, text searchable by being rendered directly to PDF from its native format;

(b) when the file type is MS Excel, MS Access, MS PowerPoint, JPEG, TIFF or a file type not amenable to conversion to PDF, the file is to remain in its native form.

(3) PDF files are to be "FastWebView" (or equivalent) enabled.

122—Structure and quality of disclosed documents

(1) The entirety of each document is to be contained within a single PDF file.

(2) An individual PDF file is not to be excessive in size. If greater than 10 MB, all attempts are to be made to reduce the file size of the PDF file without losing quality of the image.

(3) A PDF document is to be scanned at a minimum of 200 dpi. If a document is of poor quality, the dpi is to be increased to a minimum of 300 dpi.

(4) All documents are to be rotated to the most practical reading view.

(5) Portrait documents are to be stamped with the Document ID in the bottom right quadrant of the page. Landscape documents are to be stamped with the Document ID in the bottom right quadrant to ensure that, if the image is rotated 90 degrees anti-clockwise, the stamp will appear along the leading edge of the top right quadrant.

123—Document delimiting and host/attachment determinations

(1) Documents are to be delimited—that is, host and attachments are to be identified so that documents are a host, attachment or unattached.

(2) Each document that has attachments or documents embedded within it will be called the ***Host Document***.

(3) Each document that is attached to or embedded within another document will be called an ***Attached Document***.

(4) Host Documents and Attached Documents are jointly referred to as a ***Document Group***.

(5) In a Document Group, the Host Document will be immediately followed by each Attached Document in the order in which the Attached Documents are numbered in their Document ID.

(6) A document that is not a Host or Attached Document will be considered an ***Unattached Document***. If there is doubt whether two documents form a host and attachment, they will be delimited as Unattached.

(7) If a Document is contained within a container (for example, a single ZIP file) attached to an email, the email is to be treated as the Host Document and the

document in the container is to be treated as an Attached Document to that Host Document (that is, the Host Document will be the email and not the container within which the document is contained).

(8) If the Document Group consists of a number of paper documents fastened together, the first document is to be treated as the Host Document and the remaining documents are to be treated as the Attached Documents within the Document Group unless those documents are not related, in which case each Document will be treated as a separate document without a Host Document.

(9) Subject to paragraph (10), all hard copy documents are to be delimited as Host, Attached or Unattached as determined. If there is doubt whether a group of consecutive pages forms one document or several individual documents, the pages will be coded as individual documents.

(10) Annexures, attachments and schedules that form part of—

(a) an agreement will not be delimited and coded as separate documents but will be considered part of the agreement;

(b) a report, financial report or annual report will not be coded as separate documents but will be considered part of the report; and

(c) annexures or exhibits to affidavits will not be coded as separate documents but will be considered part of the affidavit.

(11) There will only be one level of attachments. All attachments to a Host (including attachments or embedded objects within other attachments) will be listed as being attached to the Host Document. For example, a host email (the parent) is sent attaching several emails (the children). One of these attached emails contains an attachment (a grandchild) – an MS Word document. All children and grandchildren would have the parent listed as the Host Document.

124—De-duplication

(1) When appropriate, each party will take reasonable steps to remove duplicated documents from the served material unless and to the extent that the parties agree otherwise.

(2) It is acknowledged that there may be circumstances in which duplicates need to be identified, retained and served for evidential purposes.

(3) De-duplication will be considered at a Document Group level. That is, Host Documents and their Attached Documents will be treated as duplicates if the entire Document Group to which they belong is duplicated elsewhere within the set of documents being disclosed. An Attached Document in a Document Group will not be treated as a duplicate merely because it is duplicated elsewhere as an individual standalone document that is not associated with another document group.

(4) The parties may agree to conduct de-duplication through an alternative method such as custodian level where all electronic data referable to a particular entity will be compared with each other document in the data set referable to that entity or individual.

(5) Parties are to ensure that any associated data regarding the original file path and file name of any duplicates identified and removed before disclosure are kept and available for inspection upon request.

125—Format of indexed data to be served

(1) The indexed data is to contain the information set out in supplementary rules 126 to 129.

(2) Each party will produce indices of the disclosed documents in the described export format. The indexed data will be served in an Access mdb file named export.mdb that contains the 4 tables that make up the export format. The 4 tables are—

(a) export table;

(b) export extras table;

(c) parties table; and

(d) pages table.

126—Export Table

(1) The export table contains the core field information for each document (***Export Table***). All other tables are to be linked to the Export Table by the Document ID field. The Export Table is to contain the following—

(a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP.

(b) Host Reference— if the document is an Attached Document, the Document ID ABC.BBB.FFF.PPPP of the Host Document is entered here.

(c) Document Date—the date of the document as it appears on the document in the format DD-MMM-YYYY where DD=day, MMM=month and YYYY=year, eg 11-Jan-2000.

(i) For electronic material, the Document Date is the last date from the document's metadata. For electronic emails, the Document Date is the local time zone of the server when that email was sent or the received date. For electronic attachments, the Document Date is the last modified date or last saved date obtained from the metadata.

(ii) For hard copy material, the Document Date is the date appearing on the face of the document. This field is to be left blank if the document has no date, does not have a year or cannot be estimated. If the date can be estimated, the date is to be entered in the Document Date field and the Estimated Date field is to be marked "Yes".

(iii) Date ranges are not to be used. If there is a document that covers a period of time, the earliest date is to be entered in the Document Date field and the Estimated Date field is to be marked "Yes".

(iv) If the date is a partial date without a day or month, eg September 1997 or 1995, the missing day or month is to be assumed to be the first day of the month or year in question and the Estimated Date field is to be marked "Yes", eg "01-Sep-1997" or "01-Jan-1995".

(v) If a document contains what may be an original date as well as a subsequent date (possibly as a result of alterations being made to the document), the later date is to be taken as the document date and the Estimated Date field is to be marked "Yes".

(d) Document Type— documents are to be categorised into one of the agreed document types defined by the parties (***Document Type***). The Document Types are to be agreed in accordance with the particular needs of the case and include— Agenda, Agreement, Annual Report, ASX Document, Board Papers, Court Document, Diary, Drawing, E-File, E-File Attachment, Email, Email Attachment, Fax, File Note, Financial Papers, Form, Graph, Invoice, Letter, Memorandum, Minutes, Newspaper Clipping, Receipt, Report, Transcript and Other. Additional Document Types may be agreed by the parties.

(e) Document Title— for all emails, the subject line is to be used except when the document is a court exhibit or MFI, in which case the court reference and title is to be used. For all email attachments, e-files and e-file attachments, the original file name is to be used. For all hard copy documents, the title is to be objectively coded from the face of the document (the title or subject line and/or description).

(f) Levels— the level structure of the Document ID.

127—Export Extras Table

(1) The export extras table contains additional fields to the core fields for each document (***Export Extras Table***). It is linked to the Export Table via the Document ID field. The Export Extras Table is to contain the following—

(a) Document ID—the page number on the first page of the document **ABC.BBB.FFF.PPPP**. This is to match the Document ID entry in the Export Table.

(b) Category— one of the following options identifying the data type is to be used—text, memo, bool, numb, date, pick, utext or umemo.

(c) Label—the name of the field.

(d) Value—the actual data as a text string.

(e) memoValue—to be used if data contained within the field is longer than 255 characters.

(2) The Export Extras Table is to include—

(a) Privileged—this field indicates whether a claim of privilege is made over the document. The permissible values are—Yes, No or Part. This is a pick category.

(b) Privileged Basis—this field identifies the basis of privilege for each Privileged Document. The permissible values are—LPP (legal professional privilege); PSI (privilege against self-incrimination) or WPP (without prejudice privilege). This is a pick category. This field is required for a document marked as privileged or part privileged (Privileged = Yes or Part). This field may contain multiple entries for a single document.

(c) Reason for Redaction—denotes the reason for redaction. The permissible values are—Privilege and Confidential. This field may contain multiple entries for a single document. Parties are also to indicate the reason for redacting a particular section of a document on the image, eg by stamping the redacted section "redacted for confidentiality". This is a pick category.

(d) Handwritten Note—for hard copy documents only, when part of the document is handwritten or contains handwritten annotations (other than a signature of a deponent on an affidavit), this field is to be marked "Yes". This is a bool category.

(e) IsPlaceholder—for documents where a native file is included in addition to a placeholder document, this field is to be marked "Yes". This is a bool category.

(f) MD5— for electronic files only (including emails), it records the MD5 Hash Algorithm for any electronic file provided. This is a text category.

(g) Source Path—for electronic files only (including emails), it records the original file path of the native electronic document (without the file name). This is a memo category.

(h) File Name—for electronic files only (including emails), it records the file name of the native electronic document including the file extension. This is a text category.

(i) Sent Date—for electronic emails only, it records the sent date/time of emails as extracted from the application metadata. This is a text category.

(j) Created Date—for electronic files only (including emails), it records the created date/time of all native electronic documents as extracted from the metadata of those files if available. This is a text category.

(k) Last Saved Date—for electronic files only (including emails), it records the last saved/modified date/time from the application metadata if available. This is a text category.

(l) Last Modified Date—for electronic files only (including emails), it records the last modified date/time of all native electronic documents as extracted from the metadata of those files if available. This is a text category.

128—Parties Table

(1) The parties table contains people and organisation information for each document, including "to" (addressees), "from" (authors), "cc" (copied to), "bcc" (blind copied to), "between" (parties) and "attendees" (present at meetings) (***Parties Table***). It is linked to the Export Table via the Document ID field.

(2) The Parties Table is to contain the following—

(a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP. This is to match the Document ID entry in the Export Table.

(b) Correspondence Type—one of the following 6 options identifying the type of person is to be used, except that each of the following options is to be used to the extent available from the metadata of electronic documents—

(i) "From"—for authors;

(ii) "To"—for addressees;

(iii) "CC"—for addressees to whom the document was copied;

(iv) "BCC"—for addressees to whom the document was blind copied;

(v) "Between"—for parties to an agreement or other legal document (not correspondence); and

(vi) "Attendees"—for persons/organisations who attended the meeting.

(c) People— the person to whom the document relates in the format Last name and First initial only, eg "Jones L". If the person is identified by title and not by name, the title is to be entered in this field, eg "General Manager". If there is an organisation but no person, this field is to be left blank.

(d) Organisations—the organisation to which the document relates. The abbreviation for proprietary limited companies is to be "Pty Ltd" and the abbreviation for limited companies is to be "Ltd". If the organisation is unknown, this field is to be left blank.

(3) For electronic material, this information is to be solely sourced from the metadata of the file.

(4) For hard copy material, this information is to be objectively coded from the face value of the document.

(5) If there are multiple parties for a single document, there are to be multiple entries in this table for that document.

129—Pages Table

(1) The pages table is used to describe the location of the PDFs (including placeholders) and native files (***Pages Table***). It is linked to the Export Table via the Document ID field. The Pages Table is to contain the following—

(a) Document ID—the page number on the first page of the document ABC.BBB.FFF.PPPP. This is to match the Document ID entry in the Export Table.

(b) Image File Name—all documents are to have a multipage PDF file named *ABC.BBB.FFF.PPPP.pdf*. If a page is inserted, the file name will be *ABC.BBB.FFF.PPPP_NNN.pdf*. If a native file has been included, there will be two files— a placeholder PDF document (ABC.BBB.FFF.PPPP.pdf) and the native document (eg, ABC.BBB.FFF.PPPP.xls).

(c) Page Label—this is the filename minus the file extension (*ABC.BBB.FFF.PPPP*). If a page is inserted, the page label is to have a three digit suffix (ie *ABC.BBB.FFF.PPPP* _NNN). For native files, the page label is to be "Native".

(d) Page Num—this is used to sequence pages. For an entry when a placeholder document has been included, this is to be set as 1, and for the accompanying native file this is to be set as 2. For all other multi page text searchable PDF documents, this is to be set as 1.

(e) Num Pages—total number of pages of a multi-page text searchable PDF document. For native files, the Num Pages is to be set as 1.

(2) Each image, native file or PDF is to have an entry in the Pages Table. If there is insufficient space for a page number label on an image, the electronic image of the page is, if possible, to be reduced in size to make room for the Page Number Label. Page Number Labels may also include machine readable barcodes.

(3) The parties may apply Page Number Labels to paper documents when they contain relevant content, for example, folder covers, spines, separator sheets and dividers.

(4) Adhesive notes are not normally to be labelled but are to be scanned in place on the page to which they were attached. If this cannot be done without obscuring text, the adhesive note is to be numbered as the page after the page to which it was attached and the page is to be scanned twice – first with and then without the adhesive note.

130—Image directory and file structure

(1) The following media are to be in the described format—

(a) Data File Type and Format—Microsoft Access mdb file.

(b) File Composition—if a native file has been included, in addition a placeholder image is to be inserted stating that the user is to refer to the native file provided. The placeholder document is to be in the form of a multi-page text searchable PDF document. Both the placeholder and the native file will be allocated the same Document ID and will be referenced in the Pages Table.

(c) Image Type and Resolution—hard copy and electronic material converted to PDF documents are to be a minimum of 200 dpi. If a document is of poor quality, the dpi is to be increased to 300 dpi.

(d) Directory Structure and Naming Conventions—the directory structure and filename for each image file is to be in the format *ABC\BBB\FFF\PPPP_NNN.pdf*, where—

(i) ABC is the directory which is the 3 digit Party Code;

(ii) BBB is a sub-directory which is the Box Number and leading zeroes are to be used to result in a 3 digit structure;

(iii) FFF is a sub-directory which is the Folder Number and leading zeroes are to be used to result in a 3 digit structure;

(iv) ABC.BBB.FFF.PPPP.pdf is the filename. Leading zeroes are to be used. If a page is inserted, the filename will be ABC.BBB.FFF.PPPP_NNN.pdf. If a native file is inserted, the filename will be, for example, ABC.BBB.FFF.PPPP.xls

131—List of documents

(1) Subject to paragraphs (2) to (4), the indexed data is to be converted into a List of Documents under rule 136(2) of the Rules in form 29B.

(2) The List of Documents is to be listed in order of Document ID.

(3) The List of Documents is to include the following fields for each document—

(a) Document ID (in accordance with supplementary rule 120);

(b) Document Date in the format DD-MMM-YYYY where DD=Day, MMM=month, YYYY=Year, eg 11-Jan-2000;

(c) Host Reference (in accordance with Supplementary Rule 123);

(d) Document Type (in accordance with supplementary rule 126(1)(d));

(e) Document Title (in accordance with supplementary rule 126(1)(e));

(f) Author (when applicable, includes people and organisations); and

(g) Recipient (when applicable, includes people and organisations).

(4) The List of Documents is to be filed in hard copy form and served on each other party in an electronic searchable PDF format and, whenever practicable, text searchable.

132—Technical format of documents to be provided to other parties

(1) Lists of Documents, index data and disclosed documents are to be provided to each other party on a CD-ROM, DVD-ROM or portable USB hard drive.

(2) The CD-ROM, DVD-ROM or USB hard drive is to have a label with the name of the proceeding, party name, disk/USB number, action number, date, description of data (eg "The data & documents for Schedule 1 Part 1") and whether it is additional or replacement data.

133—Updating or adding additional documents, pages or data

(1) If a page of a document or new data needs to be inserted, deleted or replaced due to a mistake or otherwise, the responsible party is to reissue a new CD-ROM, DVD-ROM or portable USB hard drive containing a fresh copy of all the disclosed documents or data (including the inserted, deleted or replaced page or data).

(2) The responsible party is to reissue the entire record that has changed in the export format and the entire document is to be reissued in the appropriate directory

structure. An electronic index of the changes made is to be prepared and delivered with the update.

(3) An update is to be accompanied by a covering letter outlining the Document ID and the information that has changed.

(4) Amended or supplementary data, documents or lists are to be provided in the same format as set out in this Division 3.

134—Data security and virus responsibility

(1) It is the responsibility of the recipient of electronic data to test for viruses. A party producing data to another party is to take reasonable steps to ensure that the data is useable and is not infected by malicious software.

(2) If data is found to be corrupted, infected or otherwise unusable, the producing party is, within 2 business days after receipt of a written request from a receiving party, to provide to the receiving party a copy of the data that is not corrupted, infected or otherwise unusable as the case may be.

135—Inspection of original documents

Notwithstanding the requirements of this Division 3, each party to an action retains the right to view and copy original documents disclosed by another party to the action.

Division 4—Non-electronic disclosure

136—Introduction

The parties may agree in accordance with supplementary rule 107(2) that disclosure and production of documents is not to proceed electronically or the Court may make an order for non-electronic disclosure under supplementary rule 107(4).

137—List of documents

The list of documents under rule 136(2) of the Rules is to be in form 29C.

Division 5—Disclosure by categories or issues

138—Disclosure by categories or issues

(1) Subject to rule 136(1)(b) and rule 139 of the Rules, and without limiting the ability of the parties under rule 138 of the Rules to reach some other agreement regulating disclosure of documents, the Court may order, or the parties may agree, that disclosure be made only of defined categories of documents or only by reference to specified issues.

(2) If the Court orders or the parties agree that disclosure of documents is to be made only of defined categories of documents or only by reference to specified issues, the parties are, in the absence of further Court order or agreement, to make disclosure of documents under rule 136 of the Rules in accordance with the following provisions.

(3) The plaintiff or other party having the carriage of the proceeding is to circulate a draft electronic list of the categories of documents or specified issues, as the case may be.

(4) The parties are to use reasonable endeavours to agree on the list of categories or issues.

(5) Any other party who does not agree to the draft list of categories or issues is to circulate an alternative draft electronic list showing marked up modifications to the original or previous draft list.

(6) If the parties are unable to agree on the list of categories or issues, as the case may be, the Court may determine the content of the list or direct that disclosure not proceed by way of categories of documents or by reference to specified issues, as the case may be.

(7) When a final list of categories or specified issues is agreed upon or ordered, each party is, subject to any contrary Court order or express agreement, to make disclosure of documents under rule 136 of the Rules by reference to the sole criterion whether a document falls within one of the listed categories or is directly relevant to one of the specified issues, as the case may be, and not by reference to the issues raised on the pleadings or affidavits in lieu of pleadings.

Part 3A—Application for electronic trial

Division 1—Application and order for electronic trial

139—Introduction

(1) The Court expects the parties to a proceeding and their lawyers to consider, as early as practicable, the use of technology in the management of documents and conduct of the proceeding including at trial.

(2) The Court expects the parties to meet and confer with a view to agreeing whether there should be an electronic trial and, if so, the protocols to be used for the electronic provision of documents and the conduct of the proceeding up to and at trial.

(3) An order for a proceeding to be conducted by way of electronic trial may be made in a proceeding in which a significant number of the relevant documents have been, or will be, created or stored in an electronic format and the use of technology in the management of documents and conduct of the proceeding will help facilitate the quick, just and efficient resolution of the proceeding.

140—Application and order

(1) Subject to paragraph (2), the parties may jointly or individually apply to the Court for an order that the trial of the proceeding be conducted by way of electronic trial.

(2) An application for an electronic trial is to be made within 14 calendar days after the close of pleadings or with the permission of the Court, and is to outline—

(a) the key issues in dispute;

(b) the anticipated volume and/or electronic form of documents to be tendered;

(c) the manner in which disclosure of documents is to be given (which, as a guide, may be expected to be in a form similar to Part 3 Division 3 of this Chapter);

(d) the proposed platform or document database to be utilised by each party and during the electronic trial;

(e) the agreed or proposed protocols to be used for the electronic provision of documents; and

(f) the identity of the proposed electronic courtroom provider to prepare, install and maintain the electronic courtroom facilities to enable the trial to be conducted by way of electronic trial (the ***electronic courtroom provider***).

(3) The Court may at any time on application or its own initiative order that the trial of the proceeding is to be conducted by way of electronic trial or vary or revoke an order for electronic trial.

(4) Subject to any direction by the Court, all other rules and supplementary rules continue to apply to a proceeding the trial of which is to be conducted by way of electronic trial.

Division 2—Documents to be served electronically after order for electronic trial

141—Format of court documents to be served

(1) After an order is made for an electronic trial, all documents filed with the Court, including but not limited to pleadings or affidavits, are to be served between the parties in electronic form.

(2) If an exhibit or annexure to a court document has been disclosed in the proceeding, the parties are to refer to that document using its Document ID.

(3) A reference in a court document to a disclosed document is to be made using its allocated Document ID. A Document ID is, wherever possible, to be hyperlinked to its associated disclosed documents.

(4) All court documents with a court stamp, signature or hand marked changes—

(a) are to be imaged and served as multi page text searchable PDF documents in addition to the hyperlinked version of the court document; and

(b) are to contain the document's FDN.

(5) The naming convention of each file is to reflect the FDN, pleading, witness name or nature of the document; and the date filed in the Court. For example—

(a) FDN# affidavit of Joseph James Blogs filed [day] [month] [year]; or

(b) FDN# statement of claim filed [day] [month] [year]; or

(c) FDN# plaintiff's closing submissions filed [day] [month] [year].

(6) If errors are found in a served document, the producing party is to provide a corrected version of the document to the receiving party.

Division 3—Preparation for electronic trial

142—Parties to meet and confer

(1) If an order is made for an electronic trial, the parties are as soon as practicable after completion of disclosure to request to meet with the Registrar to arrange for the conduct of the electronic trial.

(2) The Court expects the parties to reach agreement about the costs of an electronic trial, which are not to be borne by the Court.

(3) The parties are to consider at the outset—

(a) preparation of an Electronic Trial Book in accordance with supplementary rule 204;

(b) the instructions to the electronic courtroom provider;

(c) the payment of third party costs;

(d) real time transcript;

(e) training of and access by judicial staff on and to the Electronic Trial Book;

(f) access by the trial Judge and judicial staff to the Electronic Trial Book from the conclusion of the trial to the delivery of judgment; and

(g) the requirements of Chapter 9 Part 5 of these Supplementary Rules.

Part 4—Non-party disclosure

[*no supplementary rules*]

Part 5—Gathering of evidentiary material

143—Introduction

(1) This Part addresses (among other things) the Court's usual practice relating to the making of a search order under rule 148 of the Rules and the usual terms of such an order. While a standard practice has benefits, this Part and form 30 do not, and cannot, limit the judicial discretion to make such order as is appropriate in the circumstances of the particular case.

(2) A search order compels the respondent to permit persons specified in the order (the ***search party***) to enter premises and to search for, inspect, copy and remove the things described in the order.

(3) The purpose of a search order is to preserve important evidence pending the hearing and determination of the applicant's claim in an action brought or to be brought by the applicant against the respondent or against another person.

(4) A search order is an extraordinary remedy in that it is intrusive, potentially disruptive, made before judgment and is ordinarily made without notice.

144—Search party

(1) The search party is to include an independent lawyer who will supervise the search and a lawyer representing the applicant.

(2) If it is envisaged that specialised computer expertise may be required to search the respondent's computers for documents, or if the respondent's computers are to be imaged (eg hard drives are to be copied wholesale, thereby reproducing documents referred to in the order and other documents indiscriminately), an independent computer specialist will need to be appointed who will be required to give undertakings to the Court.

(3) It may be necessary that the search party include other persons, such as a person able to identify things being searched for if difficulties of identification arise.

(4) Ordinarily, the search party should not include the applicant or the applicant's directors, officers, employees or partners or any other person associated with the applicant (other than the applicant's lawyer).

145—Identity of independent lawyer

(1) The independent lawyer is an important safeguard against abuse of the order.

(2) The independent lawyer must not be a member or employee of the applicant's firm of lawyers.

(3) The independent lawyer should be a lawyer experienced in commercial litigation, preferably in the execution of search orders. The Law Society maintains a list of lawyers willing to be appointed as an independent lawyer for the execution of search orders, but it is not only persons on that list who may be appointed.

146—Responsibilities of independent lawyer

(1) The responsibilities of the independent lawyer ordinarily include the following—

(a) serve the order, the application, the affidavits relied on in support of the application and the originating process on the respondent;

(b) explain to the respondent the terms of the order;

(c) explain to the respondent that he or she has the right to obtain legal advice;

(d) supervise the carrying out of the order;

(e) before removing things from the premises, make a list of them, allow the respondent a reasonable opportunity to check the correctness of the list, sign the list, and provide the parties with a copy of the list;

(f) take custody of all things removed from the premises until further order of the Court;

(g) if the independent lawyer considers it necessary to remove a computer from the premises for safekeeping or for copying its contents electronically or printing out information in documentary form—remove the computer from the premises for that purpose and return the computer to the premises within the time prescribed by the order together with a list of any documents that have been copied or printed out;

(h) submit a written report to the Court within the time prescribed by the order as to the execution of the order; and

(i) attend the hearing on the return date of the application (the ***return date***), and have available to be brought to the Court all things removed from the premises.

(2) On the return date, the independent lawyer may—

(a) be required to release material in his or her custody that has been removed from the respondent's premises or to provide information to the Court; and

(b) may raise any issue before the Court as to execution of the order.

147—Undertakings

(1) Appropriate undertakings to the Court will be required of the applicant, the applicant's lawyer and the independent lawyer as conditions of making a search order.

(2) The undertakings required of the applicant will normally include the usual undertaking as to damages.

(3) If the applicant has or may have insufficient assets within the jurisdiction to provide substance for the usual undertaking as to damages, the applicant may be required to support the undertaking by providing security. There is provision for such security in form 30.

(4) Security may take the form of a bank's irrevocable undertaking to pay or a payment into Court. An irrevocable undertaking is to be in wording contained within form 30 subject to such modifications as are necessary.

(5) The applicant's lawyer is to undertake to the Court to pay the reasonable costs and disbursements of the independent lawyer and of any independent computer expert.

(6) The applicant's lawyer is to undertake not to disclose to the applicant any information that the lawyer has acquired during or as a result of execution of the search order without the permission of the Court. Release from this undertaking in whole or in part may be sought on the return date.

148—Application

An application for a search order is to be accompanied by a supporting affidavit, undertakings and minutes of order.

149—Affidavit in support

The supporting affidavit is to include the following information—

(a) a description of the things or categories of things in relation to which the order is sought;

(b) the address or location of the premises in relation to which the order is sought and whether they are private or business premises;

(c) why the order is sought, including why there is a real possibility that the things to be searched for will be destroyed or otherwise made unavailable for use in evidence before the Court unless the order is made;

(d) the prejudice, loss or damage likely to be suffered by the applicant if the order is not made;

(e) the name, address, firm, and commercial litigation experience of an independent lawyer who consents to being appointed to serve the order, supervise its execution and do such other things as the Court considers appropriate; and

(f) if the premises to be searched are or include residential premises—whether to the best of the applicant's belief it is reasonably likely that the only occupants of the premises will be a child or children under the age of 18 or other persons in a position of vulnerability because of age, mental capacity, infirmity, English language ability or otherwise (***vulnerable persons***).

150—Hearing of application

(1) An applicant for a search order made without notice to the respondent is under a duty to the Court to make full and frank disclosure of all material facts to the Court.

(2) Without affecting the generality of paragraph (1), possible defences known to the applicant and any financial information that may indicate that the applicant is unable to meet the usual undertaking as to damages from assets within Australia are to be disclosed.

151—Terms of order

(1) A search order is to be modelled on form 30 (the footnotes and references to footnotes in that form should not form part of the order). That form may be adapted to meet the circumstances of the particular case. It contains provisions aimed at achieving the permissible objectives of a search order while minimising the potential for disruption or damage to the respondent and for abuse of the Court's process.

(2) The order should be clear about the identity of persons in the search party (see supplementary rule 144) and the maximum number of persons permitted to be in the search party. The number of persons should be as small as is reasonably practicable. Form 30 contemplates that they will be named in the order. If this is not possible, the order is at least to describe the class of person who will be in the search party (eg "one lawyer employed by AB and Co").

(3) If it is reasonably likely that the only occupants of the premises when service of the order is effected will be vulnerable persons, the Court will give consideration to whether the search party should include a person capable of addressing the relevant vulnerability.

(4) Any period during which the respondent is to be restrained from informing any other person (other than for the purpose of obtaining legal advice) of the existence

of the search order should be as short as possible and not extend beyond 4.30 pm on the return date.

(5) The order to be served is to be endorsed with a notice that meets the requirements of rule 225 of the Rules.

152—Execution of search order

(1) Ordinarily, a search order should be served between 9.00 am and 2.00 pm on a business day to permit the respondent more readily to obtain and act upon legal advice. However, there may be circumstances in which such a restriction is not appropriate.

(2) A search order should not be executed at the same time as execution of a search or other warrant by the police or another regulatory authority.

(3) Unless the Court otherwise orders, the applicant is not permitted, without the permission of the Court, to inspect things removed from the premises or copies of them, or to be given any information about them by members of the search party.

153—Subsequent hearing

(1) At the hearing of the application on the return date, the Court will consider the following issues—

(a) what is to happen to any things removed from the premises or to any copies that may be made;

(b) how any commercial confidentiality of the respondent is to be maintained;

(c) any claim of privilege;

(d) any application by a party; and

(e) any issue raised by the independent lawyer or any independent computer expert.

(2) A search order is subject to the Court's adjudication of any claim of privilege against self-incrimination. The privilege against self-incrimination is available to individuals but not to corporations. The Court will not make an order reducing or limiting that privilege in circumstances in which the legislature has not indicated that it may do so.

Part 6—Pre-trial examination by written questions

[*no supplementary rules*]

Part 7—Medical examinations

[*no supplementary rules*]

Part 8—Admissions

154—Notice to admit facts or documents

A notice to admit under rule 156 of the Rules is to be in form 31.

Part 9—Notice of evidence to be introduced at trial

Division 1—Notice generally

[*no supplementary rules*]

Division 2—Expert reports

155—Introduction

(1) The provisions of rule 160 of the Rules and this Division apply to any person called as an expert witness or providing an expert report in the action, even if the expert is, or is employed by or otherwise associated with, a party to the action.

(2) This Division must be complied with for an expert to comply with rule 160(3) of the Rules.

(3) This Division is not intended to address exhaustively all aspects of an expert's report and an expert's duties.

156—General duty to the Court

(1) An expert witness has an overriding duty to assist the Court on matters relevant to the expert's area of expertise.

(2) An expert is not an advocate for a party.

(3) An expert's paramount duty is to the Court and not to the person retaining the expert.

(4) If a draft of the expert's report (in whole or in part) or any of the content of a draft report has been provided or communicated to a party, a party's representative or a third party, a copy of the draft so provided or communicated is to be retained by the expert.

157—Form of expert report

(1) The report is to set out separately from the factual findings or assumptions each of the opinions that the expert expresses.

(2) The expert is to give reasons for each opinion, leading from identified factual findings or assumptions to the opinion.

(3) If tests or experiments are relied upon by the expert in compiling the report, the report is to contain details of the qualifications of the person who carried out the tests or experiments.

(4) When an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, they are to be provided to the opposite party at the same time as delivery of the report.

(5) If an expert opinion is not fully researched because the expert considers that insufficient information is available or for any other reason, this is to be stated with an indication that the opinion is no more than a provisional one.

(6) If an expert believes that a report may be incomplete or inaccurate without some qualification, that qualification is to be stated in the report.

(7) The expert is to make it clear when a particular question or issue falls outside his or her field of expertise.

(8) The expert's report is to contain—

(a) an acknowledgement that the expert has been provided with copies of rule 160 of the Rules and this Division before preparing the report and that the expert has read and understood them;

(b) a declaration that the expert has made all inquiries that the expert believes are desirable and appropriate and no matters of significance that the expert regards as relevant have, to the expert's knowledge, been withheld from the Court.

158—Further obligations of an expert and the party retaining the expert

If, after exchange of reports or at any other stage, an expert changes his or her view on a material matter, having read another expert's report or for any other reason, the change of view is to be communicated in writing (through lawyers) without delay to each party to whom the expert's report has been provided and, when appropriate, to the Court.

159—Consequences of non-disclosure

If a party fails to comply with the Rules or this Division in respect of an expert's report, the Court may—

(a) adjourn the hearing or trial at the cost of the party in default or his or her lawyer;

(b) direct that evidence from that expert not be adduced by that party at the trial in the action; and/or

(c) award costs incurred or thrown away due to the failure in favour of the other parties.

160—Expert's conference

(1) If experts retained by the parties meet at the direction of the Court, or at the request of lawyers for the parties, an expert must not be given or accept instructions not to reach agreement.

(2) If, at a meeting directed by the Court, the experts cannot reach agreement on matters of expert opinion, they are to specify their reasons for being unable to do so.

161—Shadow experts

A certificate under rule 161(2) of the Rules is to be in form 32.

Part 10—Evidence

Division 1—Affidavits

162—Form of affidavit

An affidavit under rule 162 of the Rules is to be in form 33.

Division 2—Use of affidavits in interlocutory proceedings

[*no supplementary rules*]

Division 3—Use of affidavit or expert report at trial

Subdivision 1—Tender books

163—Introduction

(1) Unless the Court otherwise directs, the parties are to cooperate in the preparation of a joint tender book of documents for use at trial whenever the number or volume of documents to be tendered at the trial (excluding experts' reports) will be substantial. As a guide, if there will be more than 25 documents or more than one lever arch folder of documents tendered, it is likely to be substantial.

(2) Unless the Court otherwise directs or the parties otherwise agree, when a joint tender book is to be prepared, the parties are to comply with the provisions of this Subdivision.

(3) The Court may direct, or the parties may agree, that the provisions of this Division do not apply, or should be varied, to suit the circumstances of a particular case, including those cases—

(a) that do not involve significant documentary evidence;

(b) that are large and complex matters;

(c) that involve multiple parties;

(d) in which a defendant or third party will be tendering more documents than the plaintiff; or

(e) in which a plaintiff lacks the capacity or facilities to prepare a tender book.

(4) If a defendant relevantly has the carriage of the action instead of the plaintiff, references in this Division to the "plaintiff" are to be read as referring to the defendant with the carriage of the action and references to a "defendant" are to be read as referring to a plaintiff.

164—Format of joint tender book

(1) Unless the Court otherwise directs, a document is to be included in the joint tender book if one party nominates its inclusion despite the fact that another party objects to its tender or opposes its inclusion.

(2) Unless the Court otherwise directs—

(a) documents in the joint tender book are to be arranged in a logical sequence independently of the party who nominates their inclusion or is likely to tender them;

(b) subject to subparagraphs (c) and (d), documents are to be arranged in a single chronological sequence;

(c) when a group of documents is relevant only to a discrete issue or topic or will be considered at trial separately from other documents, that group of documents may be arranged in its own chronological sequence separately from the other documents or other discrete groups of documents;

Examples—

Documents relating to quantum separate from documents relevant to liability.

A set of annual financial statements for several consecutive years separate from other documents.

A bundle of invoices or other transaction documents separate from other documents.

(d) when a group of documents does not lend itself to or there is no utility in chronological order, it may be arranged in some other logical order that has utility.

(3) The joint tender book may take the form of lever arch folders or spiral bound documents or both, as agreed by the parties.

(4) Unless the Court otherwise directs—

(a) the joint tender book is to be paginated either per volume or in a single numbering sequence as the parties agree;

(b) documents in the joint tender book are to be separated by dividers; and

(c) an index is to be included at the front of each volume either of the documents in that volume or of the whole tender book as the parties agree.

(5) If the parties cannot agree on an aspect of production of the joint tender book, they are to apply informally to the Registrar for directions.

165—Draft index to be served by plaintiff

(1) The plaintiff is, by no later than 28 calendar days before the date fixed for the trial to commence, to provide to each other party in electronic form a draft index to a joint tender book listing all documents, other than expert reports, that the plaintiff intends, absolutely or conditionally, to tender at trial.

(2) The plaintiff is, on request, to make available to another party for inspection, or on payment of a reasonable fee provide copies of, the nominated documents arranged in the order listed in the draft index.

166—Response to draft index

(1) Each defendant is, by no later than 21 clear calendar days before the date fixed for the trial to commence, to provide to each other party in electronic form an amended draft index including any additional documents, other than expert reports, that the defendant intends, absolutely or conditionally, to tender at trial.

(2) A defendant is, on request, to make available to another party for inspection, or on payment of a reasonable fee provide copies of, the additional nominated documents arranged in the order listed in the draft index.

(3) When there is a third party claim, each third party is, no later than 16 calendar days before the date fixed for the trial to commence, to provide to each other party in electronic form an amended draft index including any additional documents, other than expert reports, that the third party intends, absolutely or conditionally, to tender at trial.

(4) A third party is, on request, to make available to another party for inspection, or on payment of a reasonable fee provide copies of, the additional nominated documents arranged in the order listed in the draft index.

167—Lodgment and service of joint tender book

(1) The plaintiff is, by no later than 10 calendar days before the date fixed for the trial to commence, to lodge with the Court two copies, and provide to each other party one copy, of the joint tender book.

(2) If the plaintiff intends to include any additional documents in the joint tender book, the plaintiff is to provide to each other party in electronic form an amended draft index including reference to the additional documents as soon as possible without waiting for production of the joint tender book.

168—Notice of objections

Each party is, by no later than 4 clear business days before the date fixed for the trial to commence, to lodge with the Court and serve on each other party a schedule showing which, if any, documents in the joint tender book will be the subject of objection, together with a code identifying the nature of the objection.

Examples—

A party might use the following codes—

A authenticity not established

C inadmissible conclusion or opinion

H inadmissible hearsay

P inadmissible due to privilege

R not relevant

S inadmissible secondary evidence when primary evidence available.

Subdivision 2—Written witness statements

169—Introduction

(1) The Court may order or the parties may agree that written statements of evidence in chief of witnesses be prepared and exchanged before trial.

(2) Unless the Court otherwise directs or the parties otherwise agree, when written witness statements are to be prepared, the parties are to comply with the provisions of this Subdivision.

170—Format of written witness statements

(1) Written witness statements are to be in numbered paragraphs. A paragraph is to address a single topic and not be of excessive length.

(2) When a joint tender book is to be produced before written witness statements are to be prepared, the witness statements are to refer to documents in the tender book by number according to the index.

(3) When written witness statements are to be prepared before preparation of a joint tender book, the witness statements are in the first instance to refer to documents by reference to their number in a list of documents or, when applicable, in index data. After production of the joint tender book, references to the joint tender book by number according to its index are to be substituted for the disclosure-based references.

(4) Unless the Court otherwise directs, only the final version of the witness statements with references to the joint tender book are to be lodged with the Court.

171—Lodgment and service of witness statements

(1) The Court will give directions fixing the time for each party to serve written witness statements on each other party and for written witness statements to be lodged with the Court.

(2) Unless the Court otherwise directs, each other party is to lodge with the Court two copies, and serve on each other party one copy, of the final form of the written witness statements.

172—Notice of objections

Each party is, by no later than 4 clear business days before the date fixed for the trial to commence, to lodge with the Court and serve on each other party a schedule showing which, if any, passages of the written witness statements will be the subject of an objection, together with a code identifying the nature of the objection.

Example—

A party might use the following codes—

C inadmissible conclusion or opinion

H inadmissible hearsay

P inadmissible due to privilege

R not relevant

S inadmissible secondary evidence when primary evidence available

V impermissibly vague or ambiguous.

Subdivision 3—Expert reports

173—Introduction

Unless the Court otherwise directs or the parties otherwise agree, when expert evidence is to be adduced at trial, the parties are to comply with the provisions of this Subdivision.

174—Notice of objections

Each party is, by no later than 4 clear business days before the date fixed for the trial to commence, to provide to the Court and serve on each other party a schedule showing which, if any, passages of the expert reports will be the subject of objection, together with a code identifying the nature of the objection.

Example—

A party might use the following codes—

A assumptions not identified

C inadmissible conclusion or opinion

D reasoning not disclosed

E expert lacks expertise to express opinion

F no foundation for opinion

R not relevant

V impermissibly vague or ambiguous.

Division 4—Subpoenas

175—Form of subpoena

A subpoena under rule 173 of the Rules is to be in form 34.

176—Disposal of documents and things produced

A declaration by addressee under rule 180(3) of the Rules is to be in form 35.

Division 5—Examination of witnesses

[*no supplementary rules*]

Part 11—Offers of settlement

177—Offer of settlement

An offer of settlement under rule 187(3) of the Rules is to be in form 36.

178—Consequences of filing offer of settlement

An acceptance of an offer of settlement under rule 188(3) of the Rules is to be in form 37.

Part 12—Suitors fund

179—Payment into court

(1) Every order that directs funds to be lodged in court is to contain—

(a) the name, or a sufficient description, of the person by whom the funds are to be lodged; and

(b) the amount, if ascertained, and the description of the funds.

(2) A person lodging funds in court is at the time of lodgment to furnish to the Registrar a pay-in slip in a form directed by the Registrar containing—

(a) the action number and names of the parties to the proceeding in relation to which the funds are lodged;

(b) the description and amount of the funds lodged;

(c) the full name, address and description of the person lodging the funds; and

(d) particulars of the order or other authority under which the lodgment is made and any other details showing the circumstances under which the lodgment is made.

180—Monies in court

The title of the account to which the funds are to be credited may be determined by the Registrar.

181—Certificate or transcript of monies in court

(1) The Registrar, upon a request signed by or on behalf of a person claiming to be interested in funds in court standing to the credit of an account specified in the request, may, at his or her discretion, issue a certificate of the amount and description of the funds. Unless otherwise shown, the certificate will be taken to refer to the position at the beginning of the day and not include transactions on the day on which it is issued.

(2) The Registrar will notify on the certificate details of—

(a) any order restraining the transfer, payment out or other dealing with the funds in court to the credit of the account mentioned in the certificate, and whether such order affects capital or interest; and

(b) any restraining or charging order affecting the funds, of which the Registrar has received notice, and the name of the person to whom notice is to be given or in whose favour such restraining or charging order has been made.

(3) The Registrar may re-date a certificate, provided that in the amount or description of the funds has not changed since the certificate was issued.

(4) Upon a request signed by or on behalf of a person claiming to be interested in funds in court, the Registrar may, at his or her discretion, issue a transcript of the

account in the books of the Court specified in the request, and, if requested by the applicant, such transcript will be authenticated by the Auditor-General.

(5) The Registrar may upon a like request supply such other information or issue such other certificates with respect to transactions or dealings with funds in court as may from time to time be required in a particular case.

182—Payment out of court

(1) Moneys that a person is entitled to have paid out may be paid out to—

(a) the person; or

(b) the person's attorney appointed under a power that the Registrar deems sufficient, on the written request of the person or attorney; or

(c) the lawyer of the person or attorney on the written authority of the person or the attorney.

(2) Every request or authority is to be in form 38 and be attested by a Commissioner for taking affidavits, a Notary Public, a Justice of the Peace or a proclaimed bank manager.

(3) If the person entitled to payment out of funds in court or the person's attorney appointed under a power that the Registrar deems sufficient gives to the Registrar instructions in writing to remit the money to the person or attorney by cheque sent by post, the Registrar may at his or her discretion remit the money in accordance with the instructions.

(4) When money is, by an order, authorised to be paid to a person or lawyer on the authority of another person, the signature to the authority is to be attested by a Commissioner for taking affidavits, a Notary Public, a Justice of the Peace or a proclaimed bank manager.

(5) When money is, by an order, to be paid to a person who is deceased, it may be paid to the administrator or executor of the deceased person, unless the order otherwise directs.

(6) When money is, by an order, to be paid to persons described therein as partners, or as trading or carrying on business in the name of a firm, it may be paid to any one or more of such persons, unless the order otherwise directs.

(7) The Registrar need only pay out funds in court upon being satisfied of the identity of the person entitled to receive them.

Part 13—Power to stay or dismiss proceedings

[*no supplementary rules*]

Part 14—Security for costs

[*no supplementary rules*]

Chapter 8—Special kinds of action

Part 1—Application of general rules

[*no supplementary rules*]

Part 2—Actions in defence of liberty

183—Directions hearing

(1) Upon receipt of an affidavit proving service of the originating process on the defendant or of a notice of address for service or earlier if requested, the Registrar will convene a directions hearing.

(2) At the directions hearing, a Master or Judge will give directions for the further conduct of the action.

Part 3—Actions for judicial review

184—Manner of commencement of action

(1) A summons in an action for judicial review under rule 200A(1) of the Rules is to be in form 39.

(2) A statement of grounds under rule 200A(3) of the Rules is to be in form 40.

185—Response

A response to the statement of grounds under rule 200B(3) of the Rules is to be in form 41.

186—Matters to be heard by Judge of land and valuation division

(1) A judicial review proceeding involving compulsory acquisition, encroachment, land partition or sale, land boundary, land development, valuation or attribution of use for statutory revenue purposes under prescribed legislation will be managed and heard by a Judge of the Land and Valuation Division.

(2) In this direction, prescribed legislation means—

Aboriginal Heritage Act 1988;

Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981;

Coast Protection Act 1972;

Crown Land Management Act 2009;

Development Act 1993.

Emergencies Services Funding Act 1998;

Emergency Service Funding Act 1998;

Encroachments Act 1944;

Highways Act 1926;

Historic Shipwrecks Act 1981;

Land Acquisition Act 1969;

Law of Property Act 1936;

Local Government Act 1999;

Mining Act 1971;

Pastoral Land Management and Conservation Act 1989;

Petroleum and Geothermal Energy Act 2000;

Roads (Opening and Closing) Act 1991;

Survey Act 1992;

Taxation and Administration Act 1996; or

Valuation of Land Act 1971.

187—Directions hearing

Unless the Court otherwise directs, in an action for judicial review, the Registrar will fix a date for an initial directions hearing approximately 2 weeks after the commencement of the action (and in fixing the date the Registrar may consider but is not bound by wishes expressed by a party).

Part 4—Interpleader actions

[*no supplementary rules*]

Part 5—Actions for possession of land

188—Summons

(1) A summons for possession of land under rule 204 of the Rules is to be in form 6.

(2) A summons is to contain a proper description of the land and include a reference to the certificate of title and any other basic document of title (eg registered mortgage, registered lease).

(3) A return date for the summons should be obtained from the Registry that will allow sufficient time to serve the summons so that the defendant is required to attend not earlier than 16 calendar days from the date of service (section 193 of the *Real Property Act 1886*).

189—Supporting affidavit

(1) The summons is to be supported by an affidavit sworn by a person who can swear to the facts of his or her own knowledge and supported when appropriate by documents exhibited to the affidavit.

(2) The affidavit in support is to—

(a) prove that the plaintiff is—

(i) the registered proprietor of a freehold estate in the relevant land within the meaning of section 192(a) of the *Real Property Act 1886*;

(ii) a registered mortgagee or encumbrancee in respect of the relevant land within the meaning of section 192((b) of the *Real Property Act* 1886; or

(iii) a lessor of the relevant land within the meaning of section 192(c) or (d) of the *Real Property Act 1886*; and

(b) if the plaintiff is the registered proprietor—prove that the plaintiff is the registered proprietor of a freehold estate in possession within the meaning of section 192(a) of the *Real Property Act 1886*; or

(c) if the plaintiff is a registered mortgagee or encumbrancee—prove that the person in possession is a mortgagor or encumbrancer in default, or a person claiming under such mortgagor or encumbrancer, within the meaning of section 192(b) of the *Real Property Act 1886*; or

(d) if the plaintiff is a lessor—prove that the plaintiff has a power to re-enter where the rent is in arrear for 3 months within the meaning of section 192(b) of the *Real Property Act 1886*; or

(e) if the plaintiff is a lessor—prove that the plaintiff has a power to re-enter where the rent is in arrear for 3 months within the meaning of section 192(b) of the *Real Property Act 1886*; and

(f) exhibit copies of the documents from which the plaintiff derives title; and

(g) exhibit copies of the documents upon which the plaintiff bases the entitlement to possession; and

(h) state whether the provisions of the *National Credit Code* apply.

(3) The plaintiff is to file with the summons or when appropriate with the affidavit of service of the proceeding an affidavit deposing to whether any person has possession of the relevant premises or part thereof—

(a) as a tenant under a residential tenancy agreement; or

(b) as a former tenant holding over after termination of a residential tenancy agreement.

190—Service

(1) Unless the Court otherwise orders, the summons and supporting affidavit is to be served personally upon the defendant.

(2) An affidavit of service is to be filed before the hearing. The affidavit is to disclose the means of knowledge of the deponent of the identity of the person served.

191—Notice to defendant and occupiers

(1) A notice to defendants of an application for permission to serve a warrant of possession under rule 204A(3)(a) of the Rules is to be in form 42.

(2) A notice to occupiers of an application for permission to serve a warrant of possession under rule 204A(3)(b) of the Rules is to be in form 43.

(3) A certificate of service of notice of application for permission to serve a warrant of possession under rule 204A(7) of the Rules is to be in form 44.

192—Notice of opposition by defendant or occupiers

A notice of opposition to an application for permission to serve a warrant of possession under rule 204A(4) of the Rules is to be in form 45.

Part 6—Probate actions

193—Production of original will

(1) In a probate action in which a party seeks to have a will propounded or pronounced against, the Court may, on the application of a party or on its own initiative, order that the original of the will be lodged in the Probate Registry pending determination of the action.

(2) A party propounding a will in solemn form or seeking an order pronouncing against a will in solemn form is to produce or arrange for production of the original will for marking by the Judge or Master hearing the matter.

(3) A party wishing to use at a hearing an original will in the custody of the Probate Registry should, at least 2 clear business days before the hearing, request the Probate Registry to produce the will to the Judge or Master hearing the matter.

(4) If the document sought to be propounded or pronounced against is said to be a copy or a reconstruction of a will—

(a) the particular copy or reconstruction must be produced;

(b) due execution of the original will must be proved;

(c) the accuracy of the copy or reconstruction must be proved; and

(d) the facts giving rise to any presumption of revocation and the facts (if any) said to rebut the presumption must be proved.

194—Proof of execution of will

(1) A party propounding a will in solemn form is to prove due execution of the will.

(2) If due execution is to be proved by affidavit, a true copy of the will is to be made an exhibit to the affidavit.

195—Costs in probate matters

When there are a number of separately represented parties, the Court will exercise its general discretion as to costs under rule 263 of the Rules as appropriate in the circumstances of a particular case, but having particular regard to—

(a) ordering costs against parties who have not succeeded;

(b) ordering costs in the light of whatever offers have been made under rule 187 of the Rules;

(c) not giving full costs to separately represented parties when they could properly have been jointly represented;

(d) awarding less than full costs when the amount in issue is relatively small.

Part 7—Actions for administration

[*no supplementary rules*]

Part 8—Admiralty actions

[*no supplementary rules*]

Part 9—Caveats

196—Application for extension of time for removal of caveat

(1) An application for an extension of time for removal of a caveat under section 191 of the *Real Property Act 1886* is to be made as soon as possible after receipt of the notice from the Registrar-General and not left until shortly before the 21 day period expires.

(2) When an application to extend time for removal of a caveat cannot be dealt with in sufficient time in the normal course of a general list, the plaintiff may request to have the summons made specially returnable.

(3) A party or his or her lawyer personally may be penalised in costs on an application to extend time when the need for the application is due to their own delay.

197—Service of summons

(1) Service of the summons may be effected pursuant to section 191(b) of the *Real Property Act 1886*.

(2) When an application is brought to extend time for removal of a caveat, and an address for service has not been entered by the defendant, proof is to be given of the service of the summons.

Part 10—Executors, administrators and trustees

198—Remuneration of executors, administrators and trustees

(1) The allowance of remuneration to executors, administrators or trustees in relation to deceased estates, whether under section 70 of the *Administration and Probate Act 1919* or under section 91 of the *Trustee Act 1936*, is a matter for determination by the Court in each case.

(2) The Masters may from time to time publish an indicator to the exercise of the jurisdiction in cases in which there are no special or unusual circumstances. Such an indicator is a guide only and does not fetter the exercise of the discretion in a particular case.

(3) A copy of any indicator is to be available on the Courts Administration Authority website and at the Registry.

Chapter 9—Trial

Part 1—Constitution of Court for trial

[*no supplementary rules*]

Part 2—Court's power to control trial

Division 1—Pre-trial directions

199—Convening pre-trial directions hearing

(1) Ordinarily, the Judge allocated to the trial of an action will convene a pre-trial directions hearing to be held approximately 3 or 4 weeks before the trial is to commence.

(2) The trial Judge may, without hearing from the parties, dispense with holding a pre-trial directions hearing if satisfied that such a hearing is unnecessary.

200—Preparation for pre-trial directions hearing

(1) By the time of the pre-trial directions hearing, all interlocutory and pre-trial steps should have been completed.

(2) The parties should, before the pre-trial directions hearing, proactively review that they have complied with the Rules, these Supplementary Rules and directions by the Court and are ready for trial, including—

(a) no late application for permission to amend pleadings is to be made;

(b) no late request or application for permission to seek particulars or to provide particulars is to be made;

(c) no late request or application for permission to seek further and better disclosure or to seek production is to be made;

(d) no late disclosure of documents is to be made;

(e) no late application for permission to serve a notice to admit for permission is to be made;

(f) compliance with the rules relating to the joint tender book of documents;

(g) compliance with the rules relating to expert evidence;

(h) no late application for permission to serve a new or amended expert report is to be made;

(i) if the trial is to proceed on the basis of written witness statements or affidavits— compliance with previous directions relating to the timing of the provision of written witness statements or affidavits;

(j) if the trial is to proceed on the basis of written witness statements or affidavits— no late application for permission to serve a new or amended written witness statement or affidavit is to be made;

Note—

Rule 131(5) and (6) of the Rules constrains the making of interlocutory applications after the parties have certified that the action is ready to proceed to trial or the Court has dispensed with such certification under rule 120A(5).

201—Pre-trial directions hearing

(1) Other than for good reason, counsel retained for the trial should attend at the pre-trial directions hearing.

(2) At the pre-trial directions hearing, the matters that might be considered by the Court in a particular case may include—

(a) confirmation that counsel have been briefed for trial.

(b) identification or preparation of a statement of issues to be determined at trial;

(c) narrowing issues (including agreement on facts, the use of section 59J of the *Evidence Act 1929*, other evidentiary aids to proof and agreement on the law);

(d) the form and timing of openings (including written openings and mini-openings);

(e) whether there is to be a view, inspection or demonstration;

(f) subpoenas;

(g) documentary evidence (including nature, form and objections);

(h) lay witness evidence (including the nature and identity of lay witnesses and whether the evidence of particular witnesses can be agreed, dispensed with or shortened);

(i) expert witness evidence (including conferral of experts, identification of differences in assumptions or in opinions, manner and timing of taking expert evidence, whether evidence should be taken concurrently and whether all lay evidence should be called before any expert witness is called by any party);

(j) order in which witnesses are to be called (including any witnesses who are able to attend to give evidence only at particular times and interposition);

(k) special witness requirements (including disability access and impairment, interpreters and evidence by audiovisual link);

(l) conferral by counsel in relation to objections to witness statements, expert reports or documentary evidence;

(m) lists of authorities;

(n) when applicable, arrangements for an electronic trial;

(o) whether all attempts at settlement, including mediation, have been exhausted;

(q) confirmation of estimated trial length.

Division 2—Electronic trials

202—Preparation for electronic trial

(1) If an order is made under supplementary rule 140 that the trial of a proceeding is to be by way of electronic trial, the parties are to—

(a) prepare for the electronic trial in accordance with Chapter 7 Part 3A of these Supplementary Rules; and

(b) report to the Court at the pre-trial directions hearing on the final proposed arrangements for the conduct of the electronic trial in accordance with supplementary rule 201.

(2) Unless the Court otherwise directs or the parties otherwise agree, the parties are to comply with supplementary rules 163 to 168 for preparation of a joint tender book.

203—Electronic trial book

(1) The parties are to prepare an electronic database for the electronic trial called the Electronic Trial Book.

(2) All documents intended to be used at trial are to be hyperlinked to the referenced document and included in the Electronic Trial Book.

(3) Unless the Court otherwise directs or the parties otherwise agree, the Electronic Trial Book is to include—

(a) all court documents, including submissions or other documents not filed with the Court but provided to the trial judge;

(b) all pleadings, including particulars;

(c) the parties' lay and expert evidence;

(d) the joint tender book documents;

(e) subpoenas issued in the proceeding;

(f) any authorities relied upon; and

(g) any other documents or interlocutory materials that the parties agree or the Court directs be included.

204—Providing additional documents during electronic trial

(1) A party is to obtain consent from all other parties to the matter before providing new documents to the Court in electronic form.

(2) If a new document, not included in the Electronic Trial Book, is required for cross-examination of a witness or submission, the party requiring the document is to ensure that the document is provided to the electronic courtroom provider the evening or morning before the hearing commences to ensure that the document is readily accessible during the electronic trial and access to the document does not delay the orderly conduct of the trial.

205— Real time transcript

(1) The parties are to advise the Court if real time transcript is required at the pre-trial directions hearing in accordance with supplementary rule 201.

(2) If the parties agree that real time transcript is to be provided, the costs of the transcript and any third party provider are to be paid by the parties and not the Court.

Part 3—Issues involved in trial of action

[*no supplementary rules*]

Part 4—Evidence at trial

Division 1—General rules about taking evidence

[*no supplementary rules*]

Division 2—Limitation on right to call evidence etc

[*no supplementary rules*]

Division 3—Documentary evidence

206—Production of documents at trial

A notice to produce under rule 215 of the Rules is to be in form 46.

Division 4—Cross-examination on pleadings

[*no supplementary rules*]

Part 5—Record of trial

[*no supplementary rules*]

Part 6—Effect of death or incapacity of Judge

[*no supplementary rules*]

Chapter 10—Alternative dispute resolution

Part 1—Mediation

207—Mediation

(1) Unless the Court otherwise directs, this supplementary rule applies to mediations under section 65 of the *Supreme Court Act 1935*.

(2) If the parties and the mediator do not reach agreement as to the mediator's fees, the mediator may only charge fees for the work in relation to the mediation that do not exceed the fees in the "Supreme and District Courts' Indicator on Counsel Fees".

(3) The parties to the action are jointly and severally liable for payment of the mediator's fees.

(4) The lawyers on the Court record for the parties are to use their best endeavours to ensure prompt payment of those fees.

(5) The parties are expected to participate appropriately in the mediation and to make genuine attempts to resolve the matters in issue.

(6) If the mediator considers that a party has not participated appropriately in the mediation or has not made genuine attempts to resolve the matters in issue, the mediator may provide a written report to the Court of the circumstances.

Part 2—Arbitration

[*no supplementary rules*]

Chapter 11—Judgment

Part 1—Nature of relief

208—Pre-judgment interest

The appropriate rate for the calculation of interest on pre-judgment economic loss under section 30C of the *Supreme Court Act 1935* is a matter for determination by the Judge or Master in each case. As a guide only, and subject to any contrary legislative provision, the Court may calculate interest in such cases as follows—

(a) in respect of the period from 1 January to 30 June or part of that period in a year, the cash rate of interest last set by the Reserve Bank of Australia before that 1 January, plus 4%; and

(b) in respect of the period from 1 July to 31 December or part of that period in a year, the cash rate of interest last set by the Reserve Bank of Australia before that 1 July, plus 4%.

Part 2—Judgment by consent

[*no supplementary rules*]

Part 3—Default judgments

[*no supplementary rules*]

Division 1—Entry of default judgment by permission of Court

[*no supplementary rules*]

Division 2—Entry of default judgment where Court's permission not required

[*no supplementary rules*]

Division 3—Power to set aside default judgments etc

[*no supplementary rules*]

Part 4—Summary judgment

[*no supplementary rules*]

Part 5—Judgment on admissions

[*no supplementary rules*]

Part 6—Publication of reasons for judgment

209—Publication of reasons for judgment

(1) The Court aims to deliver judgment in routine cases within 3 months of reservation of judgment. However, there will be particular cases in which that target is not appropriate and other cases in which, due to workloads and other matters, it will not be practicable for a Judge to observe the target.

(2) When judgment is not delivered within 3 months of reservation of judgment, a party may by letter addressed to the Chief Justice inquire about progress of the judgment.

(3) The party making such an inquiry is to deliver a copy of the letter to all other parties to the action.

(4) The identity of a party making such an inquiry is not to be disclosed to—

(a) a judicial officer other than the Chief Justice; and

(b) any other person except the other parties to, and a person having an interest in, the outcome of the action.

Part 7—Judgments against partnerships etc

[*no supplementary rules*]

Part 8—Judgment in representative action

[*no supplementary rules*]

Part 9—Entry of judgment

210—Entry of judgment

(1) The front sheet for each sealed judgment or order is to be in accordance with form 1.

(2) The nature of the judgment or order is to be specified under "DOCUMENT TYPE", eg JUDGMENT ON APPEAL.

(3) The preamble to the judgment or order is to be in accordance with form 47.

(4) The text of judgments and orders set out in the Common Form Judgments and Orders, as published by the Supreme Court, is to be used with the appropriate modifications to suit the circumstances of the case.

(5) This supplementary rule is subject to the provisions of the *Corporations Rules 2003* (South Australia).

Part 10—Power to correct, vary or set aside judgment

[*no supplementary rules*]

Part 11—Orders ancillary to judgment

[*no supplementary rules*]

Part 12—Injunctions

Division 1—Freezing orders

211—Introduction

(1) This Division addresses (among other things) the Court's usual practice relating to the making of a freezing order under rule 247 of the Rules and the usual terms of such an order. While a standard practice has benefits, this Division and form 48 do not, and cannot, limit the judicial discretion to make such order as is appropriate in the circumstances of the particular case.

(2) A freezing order restrains a respondent from removing assets located in or outside Australia or from disposing of, dealing with, or diminishing the value of those assets.

(3) The order is designed to prevent frustration or abuse of the process of the Court, not to provide security in respect of a judgment or order.

(4) The order is an extraordinary interim remedy in that it can restrict the right to deal with assets even before judgment and is commonly granted without notice to the respondent.

(5) A freezing order or ancillary order may be sought against a third party (not the person said to be liable on a substantive cause of action of the applicant) who has possession, custody, control or ownership of assets that he or she may be obliged ultimately to disgorge to help satisfy a judgment against another person. If so, the third party is to be joined as a respondent to the application for the freezing or ancillary order.

(6) When a freezing order against a third party seeks only to freeze the assets of another person in the third party's possession, custody or control (but not ownership), form 48 will require adaptation. In particular, the references to "*your assets*" and "*in your name*" should be changed to refer to the other person's assets or name (eg "*John Smith's assets*", "*in John Smith's name*").

(7) A freezing or ancillary order may—

(a) be limited to assets in Australia or in a defined part of Australia or may extend to assets anywhere in the world;

(b) cover all assets without limitation, assets of a particular class, or specific assets (such as the amount standing to the credit of an identified bank account).

(8) Rule 247 of the Rules has the effect that certain restrictions expressed in *The Siskina* [1979] AC 210 do not apply in this jurisdiction.

(a) First, the Court may make a freezing order before a cause of action has accrued (a "prospective" cause of action).

(b) Secondly, the Court may make a free-standing freezing order in aid of a foreign proceeding in prescribed circumstances.

(c) Thirdly, when there are assets in Australia, service outside of Australia is permitted under Chapter 3 Part 4 of the Rules.

212—Undertakings

(1) Appropriate undertakings will normally be required of the applicant as a condition of making a freezing order.

(2) The undertakings required of the applicant will normally include the usual undertaking as to damages.

(3) If the applicant has or may have insufficient assets within the jurisdiction of the Court to provide substance for the usual undertaking as to damages, the applicant may be required to support the undertaking by providing security. There is provision for such security in form 48.

213—Application

An application for a freezing order is to be accompanied by a supporting affidavit, undertakings and minutes of order.

214—Affidavit in support

The supporting affidavit is to address the following information—

(a) any judgment that has been obtained;

(b) if no judgment has been obtained, the following information about the cause of action—

(i) the basis of the claim for substantive relief;

(ii) the amount of the claim; and

(iii) if the application is made without notice to the respondent—the applicant's knowledge of any possible defence;

(c) the nature and value of the respondent's assets, so far as known to the applicant, within and outside Australia;

(d) the matters referred to in rule 247(5) of the Rules; and

(e) the identity of any person, other than the respondent, who, to the best of the applicant's belief, may be affected by the order and how that person may be affected by it.

215—Hearing of application

(1) An applicant for a freezing order or ancillary order made without notice to the respondent is under a duty to the Court to make full and frank disclosure of all material facts to the Court.

(2) Without affecting the generality of paragraph (1), possible defences known to the applicant and any financial information that may cast doubt on the applicant's ability to meet the usual undertaking as to damages from assets within Australia are to be disclosed.

216—Terms of order

(1) A freezing order is to be modelled on form 48 (the footnotes and references to footnotes in that form should not form part of the order made). That form may be adapted to meet the circumstances of the particular case. It may be adapted for a freezing order made on notice to the respondent as indicated in the footnotes to the form. It contains provisions aimed at achieving the permissible objectives of the order while minimising the potential for disruption or damage to the respondent and third parties.

(2) The duration of a freezing order made without notice should be limited to a period terminating on the return date of the application, which should be as early as practicable (usually no more than a day or two) after the order is made, when the respondent will have the opportunity to be heard. The applicant is then to bear the onus of satisfying the Court that the order should be continued or renewed.

(3) A freezing order should reserve liberty for the respondent to apply on short notice. An application by the respondent to discharge or vary a freezing order will normally be treated by the Court as urgent.

(4) The value of the assets covered by a freezing order should not exceed the likely maximum amount of the applicant's claim, including interest and costs. Sometimes it may not be possible to satisfy this principle (for example, an employer may know that an employee has been making fraudulent misappropriations but not know how much has been misappropriated at the time of the approach to the Court).

(5) The order should exclude dealings by the respondent with assets for legitimate purposes, in particular—

(a) payment of ordinary living expenses;

(b) payment of reasonable legal expenses incurred in the action in which the freezing order is made;

(c) dealings and dispositions in the ordinary and proper course of the respondent's business, including paying business expenses bona fide and properly incurred; and

(d) dealings and dispositions in the discharge of obligations bona fide and properly incurred under a contract entered into before the order was made.

(6) When a freezing order extends to assets outside Australia, the order should provide for the protection of persons outside Australia and third parties. Such provisions are included in form 48.

(7) The Court may make ancillary orders. The most common example of an ancillary order is an order for disclosure of assets. Form 48 provides for such an order and for the privilege against self-incrimination.

(8) The order to be served should be endorsed with a notice in compliance with rule 225 of the Rules.

Part 13—Orders dealing with property

[*no supplementary rules*]

Part 14—Orders for accounts or report

[*no supplementary rules*]

Part 15—Appointment of receiver

[*no supplementary rules*]

Part 16—Protection of persons under disability

[*no supplementary rules*]

Part 17—Representative actions

[*no supplementary rules*]

Part 18—Service of judgment

[*no supplementary rules*]

Part 19—Interest on judgment debt

217—Interest on judgment debt

Unless another rate is fixed by law, interest on a judgment debt accrues—

(a) in respect of the period from 4 September 2006 to 30 September 2008 - at the rate of 6.5 percent per annum;

(b) in respect of the period from 1 October 2008 to 30 June 2010 - at the rate of 10 percent per annum;

(c) with effect from 1 July 2010—

(i) in respect of the period from 1 January to 30 June or part of that period in a year, the cash rate of interest last set by the Reserve Bank of Australia before that 1 January, plus 6 percent per annum; and

(ii) in respect of the period from 1 July to 31 December or part of that period in a year, the cash rate of interest last set by the Reserve Bank of Australia before that 1 July, plus 6 percent per annum.

Chapter 12—Costs

Part 1—Record of costs to be kept

[*no supplementary rules*]

Part 2—Court's discretion as to costs

218—Scale of costs to 30 June 2011

(1) Subject to paragraphs (2) to (5), the scale of costs for work done in the period from 4 September 2006 to 30 June 2011 is fixed by Schedule 1.

(2) For work done in the period from 1 August 2007 to 30 September 2008, the costs specified in Schedule 1 (excluding Items 4(a) and 16(a)(i)) are to be increased by 1.8%.

(3) For work done in the period from 1 October 2008 to 30 September 2009, the costs specified in Schedule 1 (excluding Items 4(a) and 16(a)(i)) are to be increased by 6.1%.

(4) For work done in the period from 1 October 2009 to 30 September 2010, the costs specified in Schedule 1 (excluding Items 4(a) and 16(a)(i)) are to be increased by 9.7%.

(5) For work done in the period from 1 October 2010 to 30 June 2011, the costs specified in Schedule 1 (excluding Items 4(a) and 16(a)(i)) are to be increased by 12.6%.

219—Scale of costs from 1 July 2011

(1) Subject to the subsequent paragraphs of this supplementary rule, the scale of costs for work done in the period from 1 July 2011 is fixed by Schedule 2.

(2) For work done in the period from 1 October 2012 to 30 September 2013, the costs specified in Schedule 2 are to be increased by 4.7%.

(3) For work done in the period from 1 October 2013 to 30 September 2014, the costs specified in Schedule 2 are to be increased by 7.7%.

(4) For work done in the period from 1 October 2014, the costs specified in Schedule 2 are to be increased by 11.1%.

Part 3—Adjudication upon costs

220—Initiation of proceeding for adjudication upon costs

A short form claim for costs under rule 271(1) of the Rules is to be in form 49.

221—Application for adjudication under statute

An application for an adjudication of costs under rule 272(1) of the Rules is to be in form 50.

222—Schedule of costs

(1) A schedule of costs under rule 273(1) of the Rules is to be in form 51.

(2) A schedule of costs under rule 273(1) of the Rules is to—

(a) show each individual item for profit costs without any percentage increase being added to the individual item;

(b) number each item consecutively;

(c) number each page consecutively;

(d) show the year in which the work was done at least once on each page;

(e) be divided into parts that correspond to the period over which any particular percentage increase is applicable and make provision for the amount of the percentage increase to be added at the end of each such part.

(3) A schedule of costs that is not in this form will not be accepted for adjudication.

(4) Evidence in letter form is to be lodged confirming service of the schedule of costs sought to be adjudicated.

223—Lawyer's file

(1) A lawyer is not to lodge the files or other supporting documents at the Registry when lodging a schedule of costs for adjudication.

(2) If the Court requires the lawyer's file and supporting documents for an adjudication without attendance, or for inspection before the time set for an adjudication, the Registry will inform the lawyer by written notice.

(3) A lawyer must be able to produce the files and other supporting documents on request to the adjudicating officer at the adjudication.

224—Notice of dispute

A notice of dispute under rule 273(2) of the Rules is to contain brief grounds for each item in dispute.

225—Conferral of parties

(1) The lawyers involved in a disputed adjudication are to confer before the adjudication appointment with a view to resolving, limiting or clarifying the items in dispute.

(2) A date for adjudication of the schedule of costs will not be fixed until written confirmation that the parties have conferred is received by the Court.

Chapter 13—Appellate proceedings

Part 1—General

226—Interpretation

In this Chapter—

appellant means a person who is given a right to appeal or apply for permission to appeal or make any other application dealt with in this Chapter;

respondent means the person who undertakes the defence of the appellate proceeding.

227—Appeals to be head by Judge of land and valuation division

An appeal or application for permission to appeal under section 30(1)(a) to (d) and section 30(4) of the *Environment, Resources and Development Court Act 1993* will be heard by a Judge of the Land and Valuation Division.

Part 2—Appeals

228—Form of notice of appeal

A notice of appeal under rule 282(2)(a) of the Rules is to be in form 52.

229—Name of party—Police

In an appeal under section 42 of the *Magistrates Court Act 1991*, the South Australian Police, whether as appellant or respondent, are to be referred to as "Police" and not as "South Australian Police" or "SA Police".

Example—

"Jones v Police" or "Police v Jones"

230—Interlocutory application for permission to appeal to Full Court

An interlocutory application under rules 289(1)(b) and 291(1)(b) of the Rules to a Judge or Master of the Court for permission to appeal against a judgment of that Judge or Master is to be made in accordance with rule 131 of the Rules in the proceeding in which the judgment was given.

231—Application book for application for permission to appeal to Full Court

The application book under rule 290(1)(c)(ii) of the Rules in relation to an application for permission to appeal—

(a) is to contain a copy of the notice of appeal, each affidavit filed under rule 290(1)(a) of the Rules, and any other document (other than the summary of argument) necessary for the Court to consider in relation to the application;

(b) is not to include a copy of the transcript of evidence or exhibits tendered at trial, unless their inclusion is essential for the determination of the application, in which case the appellant should include copies only of the relevant transcript pages or exhibits;

(c) is to be paginated and contain a simple index identifying each document in the book and the page at which the document commences;

(d) is otherwise to comply with supplementary rule 239(1).

Part 3—Applications for permission to appeal

[*no supplementary rules*]

Part 4—Reservation or reference of questions of law

[*no supplementary rules*]

Part 5—Miscellaneous

Division 1—Appeal to single Judge

232—Setting down appeal

(1) An appeal that is to be heard by a single Judge will be allocated to a single Judge appeal sittings month being a month the first day of which is no sooner than 21 calendar days after the date of filing.

(2) The first day of the sittings month is usually the first Monday of the calendar month, except for January.

(3) The Registrar will forward a notice to the parties confirming the sittings month to which the appeal has been allocated.

(4) During the previous month, the Registrar will publish in the Court's case list a warning list of appeals that will be listed for hearing in the following month

(5) A party is not required to set the appeal down.

233—Listing appeal

(1) A party wishing the Court to take into account the party's or counsel's availability when listing an appeal should make a request in writing as soon as practicable after receiving notification of the sittings month.

(2) Between 1 and 2 weeks before commencement of the single Judge appeal sittings month, the Registrar will publish in the Court's case list an appeals list showing the date and time allocated for the hearing of each appeal.

(3) The parties may contact the associate to the named Judge to seek a different date and time for the hearing of the appeal but should not assume that the Court will be able to accommodate such a request.

234—Referral of appeal to Full Court

If a single Judge refers an appeal under section 42(2)(b) of the *Magistrates Court Act 1991* to the Full Court, the preparation of case books, setting down of the appeal and listing of the appeal will be governed by the rules and supplementary rules applying to appeals direct to the Full Court.

235—Timing of summary of argument and list of authorities

(1) The appellant's summary of argument, list of authorities and any chronology or summary of evidence are to be emailed to the Court no later than 5.00 pm, 4 clear business days before the listed hearing date.

(2) The respondent's summary of argument, list of authorities and any chronology or summary of evidence are to be emailed to the Court no later than 5.00 pm, 2 clear business days before the hearing date.

(3) The email and the summary of argument, list of authorities and any chronology or summary of evidence are to be prepared, lodged and served in compliance with supplementary rules 52, 53, 54 and 236.

(4) The email is to be sent with the subject line required by supplementary rule 54(3)—

(a) to the chambers email address of the Judge who is to hear the appeal (see the link to the Supreme Court on the Courts Administration Authority website (http://www.courts.sa.gov.au);

(b) if and only if the identity of the single Judge is not known—to submissions@courts.sa.gov.au

(5) In each case the email is to be sent to the other parties as required by supplementary rule 54(5) or (6).

236—Form and content of summary of argument

(1) The summary of argument is to be as brief as possible and, without the prior permission of the Court, is not to exceed 10 pages. It should not be in the nature of a written submission.

(2) The summary of argument is to—

(a) contain a concise statement of the issues raised by the appeal;

(b) provide the Court with an outline of the steps in the argument to be presented on each issue;

(c) contain a succinct statement of each contention to be advanced by the party followed by a reference to authorities (giving paragraph or page numbers), legislation (giving section numbers), relevant passages of the evidence and exhibits and/or the reasons for the judgment under appeal;

(d) if a party intends to challenge a finding of fact—

(i) identify the relevant finding or failure to make a finding;

(ii) state concisely why the finding or failure to make a finding is said to be erroneous;

(iii) identify the finding that the party contends should have been made; and

(iv) give references to the evidence to be relied upon in support of the argument; and

(e) identify any ground of appeal that is not to be pursued.

(3) Except when necessary to identify the error at first instance, the summary of argument should not set out passages from reasons for a judgment under appeal, from the evidence, or from the authorities relied upon, but is instead to be a guide to these materials.

237—Reference to authority

(1) A summary of argument is to provide a citation to cases in the manner required by supplementary rule 53 for a list of authorities.

(2) A summary of argument is to hyperlink each authority referred to in the manner required by supplementary rule 53 for a list of authorities.

238—Costs in criminal appeals to a single Judge

(1) This supplementary rule applies to appeals to a single Judge of the Court under section 42 of the *Magistrates Court Act 1992* or section 22(2)(c) of the *Youth Court Act 1993* against a judgment of a Magistrate in a criminal action (***Magistrates criminal appeal***).

(2) Costs in a Magistrates criminal appeal are in the discretion of the Court.

(3) The general rule is that costs follow the event and in the ordinary case costs fixed at $500 plus the appeal filing fee will be awarded in favour of a successful appellant and costs fixed at $500 will be awarded in favour of a successful respondent.

(4) The general rule that costs follow the event is subject to the discretion of the Court.

Examples—

1 When the appellant succeeds on part of the appeal or one issue on appeal but fails on another.

2 When a party is guilty of misconduct in relation to the original or appellate proceeding.

3 When one party adopts an unreasonable position on appeal.

(5) If either party intends to apply for costs in an amount other than that reflected in paragraph (3), that party is to make an application at the outset of the hearing of the appeal. In that event, the Court may fix a different amount for the purpose of paragraph (3) that will generally apply regardless of which party is successful on the appeal or may make any other order that the Court thinks fit.

Examples—

1 An application might be based on the complexity of the appeal requiring especially extensive preparation for the hearing of the appeal.

2 An application might be based on the appeal being listed for an especially lengthy hearing.

3. An application might be based on the reasonable retention of senior counsel to argue the appeal.

(6) The Court may, if it thinks fit, dispense with the requirement in paragraph (5) that an application for costs in an amount other than that reflected in paragraph (3) is to be made at the outset of the hearing of the appeal.

Division 2—Appeal to Full Court

239—Format of case books

(1) The presentation of case books is to comply with the following—

(a) the books are to have a title page;

(b) the books are to be paginated and indexed;

(c) documents in case books are to be copied using both sides of A4 sized bond paper and their contents are to be clear and legible;

(d) case books are to be bound so that when opened they lie flat, eg bound with spiral binding, and staples are not to be used in the binding;

(e) the cover is to be of manila type board not heavier than 300 gsm;

(f) a short description of the nature of each document is to precede each document (eg statement of claim).

(2) The index to the case book is to—

(a) be located immediately after the title page;

(b) contain columns for an item number, a short description of each document, the document's date (if a document has been amended, the original date is to be shown in the date column with the amended date appearing with the document description) and page number;

(c) state the exhibit number or mark (including the letters "MFI" when appropriate) and the date of the document, and give a brief description of the document in relation to each exhibit, including exhibits to affidavits;

(d) apart from those cases to which paragraph (5)(e) applies, if an exhibit tendered at trial or a tender book of documents contains more than 1 separate document—separately identify each document within the exhibit or tender book, with a short description of each document, the date of the document and the page number of the document in the case book;

(e) number documents consecutively in the "Item Number" column and these numbers are to appear in the body of the book at the head of the corresponding document;

(f) in relation to the evidence of witnesses, show the surname, typed in capital letters, preceding the full given names and the detail shown in the following example—

Example—

JONES John James	Pages
Examination	1-4
Cross-examination	4-8
Re-examination	8-9
Further cross-examination	9-10

(g) subject to paragraph (5)(e), when the case book comprises more than one volume—be included in full in each volume.

(3) The documents in the case book are to be arranged in the following order—

(a) originating process and pleadings;

(b) subject to paragraph (6), the evidence, whether oral or by affidavit;

(c) subject to paragraph (6), the evidence taken on commission or before an examiner;

(d) subject to paragraph (5)(e), the exhibits;

(e) reasons for judgment of the primary Court or Judge;

(f) formal judgment or sealed order of the primary Court or Judge;

(g) the sealed order granting permission to appeal (if permission was necessary);

(h) the notice of appeal to the Full Court;

(i) any order referring a case or a point in a case to the Full Court for determination.

(4) If the judgment or order appealed against was made by a Judge of the Court on appeal, the following additional documents are to be included in the case book before the notice of appeal—

(a) the reasons for judgment given by the Judge on appeal;

(b) the formal order of the Court on appeal;

(c) if permission was necessary—any formal order granting permission to appeal.

(5) The exhibits to be included in the case book are to—

(a) be arranged in the order in which they were lettered or numbered at trial;

(b) contain a note at the foot of the first page of each exhibit of the page of transcript that records the tender of the exhibit;

(c) contain at the top of the first page of each document a short description of the nature of the document;

(d) if it is not practicable to include colour copies of colour photographs exhibited at trial in the case book—be placed in a pocket inside the back cover, with the exhibit number and page of transcript at which the photograph was tendered marked on the back of each photograph in the pocket;

(e) if an exhibit tendered at trial contains several bundled documents—be paginated and identified separately in an index and, in the case of a tender book of documents containing a complete index of its contents, may be replicated for the appeal in a separate volume or volumes of the case book without repagination and without incorporation of the content of the index in the case book index. Documents in the tender book not admitted at trial or not relevant to the grounds of appeal should be omitted from the case book without re-paginating or re-indexing the tender book.

(6) In relation to transcript—

(a) in the case of an appellate proceeding arising from a judgment of the Supreme Court, the District Court or the Environment, Resources and Development Court—it is not usually necessary to include in the case book a copy of the transcript of the witnesses' evidence or of the proceedings as the Court will itself arrange for the transcript to be provided electronically to the members of the Full Court;

(b) in the case of an appellate proceeding arising from a judgment of any other court or tribunal—the party responsible for the carriage of the appellate proceeding is to seek directions from the Registrar as to whether it is necessary for that party to provide a paper copy of the transcript of the proceedings in the case book (in some cases, the Court may be able to arrange for the transcript to be provided electronically to the members of the Full Court);

(c) whether or not the transcript of evidence of witnesses is provided electronically, the index to the case book is to comply with paragraph (2)(f);

(d) if the transcript of evidence is not available electronically—the transcript is to be provided in a separate volume of the case book maintaining the trial page numbering;

(e) if a paper copy of the transcript of evidence is not included in the case book—the party responsible for the carriage of the appellate proceeding is, on request and upon receiving the appropriate fee for copying, to provide another party to the proceeding with a supplementary case book containing a copy of the transcript.

(7) With a view to reducing the bulk of the case book—

(a) the parties are to exclude all documents and parts of documents (such as formal parts) that are not relevant to the matter before the Full Court— for example, if the only issue on appeal is that of liability, evidence relating to damages is not to be copied, and vice versa;

(b) as far as practicable, parties are to avoid duplication;

(c) subject to subparagraph (d), unnecessary repetition of formal headings is to be avoided in the body of the book, and formal parts of documents, such as

jurats, formal identification of exhibits and the like, should be omitted unless there is special reason to include them;

(d) if documents have been copied in a way that makes it more convenient to include copies of the formal parts, that may be done;

(e) a concise summary of excluded parts of documents may be included when necessary for purposes of clarity.

(8) Lists of documents, pre-trial questions and their answers, affidavits and correspondence should not be included in the case book unless they were tendered in evidence. If pre-trial questions and answers are included, they should be copied in parallel columns so that each answer appears opposite the corresponding question.

(9) Addresses by counsel, argument and submissions are not to be included, unless there is a particular reason to do so (such as a dispute on appeal whether the case was conducted on a certain basis). Directions are to be sought from the Registrar if the inclusion of such material is proposed.

(10) The party lodging the case books is to have a certificate signed by the lawyers for all parties, or by the parties personally if not represented by lawyers, certifying that the case books have been examined by them and that they are satisfied that the case books have been prepared in accordance with the Rules and Supplementary Rules and are accurate and complete. This certificate is to be included as the last document in the case book.

(11) Despite the inclusion of a certificate, the Registrar may reject a case book that he or she considers to be unsatisfactory.

(12) The Registrar may waive the requirement for the certificate to be signed by those parties who have informed the Registrar in writing that they do not wish to participate in any way in the appeal.

240—Preparation of draft index and case books

(1) The appellant is to lodge and serve on all other parties a draft electronic index to the case books as soon as practicable and in any event within 21 calendar days after—

(a) filing a notice of appeal when the appeal is as of right;

(b) obtaining permission to appeal when permission is required; or

(c) a decision by the Court to refer an application for permission to appeal for hearing before the Full Court.

(2) If the appellant fails to lodge and serve a draft index to the case books in accordance with paragraph (1), another party may—

(a) lodge and serve a draft index to the case books; or

(b) apply for dismissal of the appellate proceeding for want of prosecution.

(3) The respondent is to lodge and serve on all other parties notice of agreement with the draft index or an amended electronic version of the draft index as soon as practicable and in any event within 14 calendar days after receipt of the draft index from the appellant.

(4) Following lodgment of a draft index to the case books, the Registrar will make an appointment to settle the draft index no less than 14 calendar days after the lodgment and inform the parties to the appeal of the appointment.

(5) Unless the Registrar otherwise directs, case books are to be lodged and served on the other parties by the appellant and the appellate proceeding is to be set down for hearing within 5 business days after the settling of the draft index.

241—Listing appeal

(1) At the appointment to settle the index to the case books, the Registrar will fix the time allowed for hearing the appellate proceeding and will allocate a date and time for hearing of the appellate proceeding. An appointment for this purpose will be fixed even if the parties agree on the content of the case books.

(2) The solicitors involved in each case should attend the appointment with an estimate of the time required for the hearing and the availability of counsel over the next 3 sittings of the Full Court. Cases will be listed for hearing even if solicitors or the parties do not attend.

(3) If an urgent hearing of an appellate proceeding is required before the appointment to settle the case books would be fixed in the ordinary course, a party may seek a special listing by request to the Registrar.

(4) Despite rule 21(3) of the Rules, an application under rule 21 of the Rules for review of a decision of the Registrar fixing the time allowed for hearing the appellate proceeding or allocating a date and time for hearing the appellate proceeding is to be made within 2 business days after the decision. The review will generally be heard by the Chief Justice on short notice to the parties.

(5) The date and time for hearing appellate proceedings will be published from time to time in the Court's case list.

242—Setting down appeal

(1) Unless the Registrar otherwise directs, an appellate proceeding to be heard by the Full Court is to be set down by the appellant or the party having carriage of the proceeding within 5 business days after settling the draft index to the case books.

(2) If permission has been granted to another party under rule 296(1) of the Rules to set the appellate proceeding down for hearing, that party is to set the proceeding down within 5 business days after the grant of permission.

(3) In order to set an appellate proceeding down under rule 296 of the Rules, the party having the carriage of the matter is to—

(a) file two requests to set down in form 53;

(b) file three sets of case books in hard copy;

(c) send by email to the Court at submissions@courts.sa.gov.au, copied to each other party, an attachment containing a set of the case books in the image format of PDF and, whenever practicable, text searchable (using OCR); and

(d) file a completed Information Sheet in form 54.

(4) Service of the case books on the other parties to the appeal is to be effected by email in accordance with paragraph (3)(c) and not by hard copy.

243—Form and content of summary of argument

(1) The form and content of the summary of argument are to comply with supplementary rule 236.

(2) As preparation of a summary of argument is a necessary element in the preparation of an argument, it is usually not appropriate for counsel to charge an additional fee for its preparation.

244—Lodgment and service of summary of argument and list of authorities

(1) Subject to paragraph (7), the appellant's summary of argument, list of authorities and any chronology or summary of evidence are to be lodged with the Court by emailing them to submissions@courts.sa.gov.au and simultaneously served on the respondent no later than 4.30 pm 8 clear business days before the listed hearing date.

(2) Subject to paragraph (7), the respondent's summary of argument, list of authorities and any chronology or summary of evidence are to be lodged with the Court by emailing them to submissions@courts.sa.gov.au and simultaneously served on the appellant no later than 4.30 pm 4 clear business days before the listed hearing date.

(3) If the appellant intends at the hearing of the appeal to raise a new point as a result of the respondent's summary of argument not identified in the appellant's summary of argument that will embarrass the respondent if advance notice is not given—the appellant is to lodge with the Court a summary of argument articulating that point by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.

(4) If the respondent delivers a summary of evidence in accordance with paragraph (2) and the appellant intends at the hearing of the appeal to challenge or supplement the respondent's summary of evidence—the appellant is to lodge a summary of evidence identifying any items disputed and why and any additional items by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.

(5) The appellant may lodge a summary of argument in reply to the respondent's summary of argument not exceeding 4 pages by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.

(6) An email and summary of argument, list of authorities, chronology or summary of evidence governed by this supplementary rule are to be prepared, lodged and served in compliance with supplementary rules 52, 53, 54 and 236.

(7) A party may apply to the Registrar at the appointment referred to in supplementary rule 240(4) to vary the timetable prescribed by this supplementary rule.

245—Skeleton of oral argument

(1) A party may, but unless the Court otherwise directs is not required to, lodge with the Court a skeleton outline of the propositions that the party intends to advance in oral argument.

(2) A skeleton outline is to—

(a) be lodged with the Court no later than the commencement of the hearing;

(b) be given to all other parties at the same time as given to the Court;

(c) be no longer than 3 pages;

(d) state propositions sequentially in the order they are intended to be addressed in oral argument;

(e) cross refer to the party's summary of argument.

Division 3—Matters other than appeals heard by Full Court

246—Matters other than appeals

(1) An application that is to be heard by the Full Court is to be filed in the Registry in the usual way.

(2) The application will be referred to the Appeals Clerk who will, if the matter is in order and is appropriate for Full Court consideration, enter it in the list of matters for the next convenient Full Court sittings.

(3) Applications for admission to practise as a lawyer will automatically be listed before the Full Court.

Chapter 14—Contempt of Court

Part 1—Contempt committed in face of court

[*no supplementary rules*]

Part 2—Court initiated proceedings for contempt—other cases

247—Summons for contempt

A summons under rule 302 or 303 of the Rules is to be in form 55.

Part 3—Contempt proceedings by party to proceeding

[*no supplementary rules*]

Part 4—Hearing of charge of contempt

[*no supplementary rules*]

Chapter 15—Statutory proceedings

Part 1—General principles

248—Application to Registrar

An application to the Registrar under rule 308(2) of the Rules is to be in form 56.

Part 2—Substantive proceedings under particular Acts

Division 1—Aged and Infirm Persons' Property Act 1940

249—Form of summons

(1) An application under section 8 of the *Aged and Infirm Persons' Property Act 1940* (the ***Act***) for a protection order under rule 310 of the Rules is to be made by summons—

(a) if the application is made by the person whose property is sought to be protected—in form 5;

(a) otherwise—in form 6 naming the person whose property is sought to be protected as a defendant.

(2) When it is intended to seek an order restricting the testamentary capacity of the person whose property is sought to be protected or the circumstances indicate that such a course may be desirable, the summons should specifically ask for such an order.

(3) Unless the Court otherwise directs, unless the application is made by the person whose property is sought to be protected, the summons and supporting affidavit are to be served on the person whose property is sought to be protected.

Note—

Section 8(2) of the Act requires the summons to be served on the person whose property is sought to be protected unless the Court in any special case otherwise directs.

250—Affidavit in support

(1) The application is to be supported by an affidavit identifying—

(a) the age of the person whose property is sought to be protected and the nature of the alleged mental or physical infirmity, for which evidence of a medical practitioner is ordinarily required;

(b) the assets and liabilities of the estate of the person whose property is sought to be protected, so far as known to the plaintiff or ascertainable on reasonable enquiry;

(c) any will or codicil in existence, which should be exhibited;

(d) if it is possible that the person whose property is sought to be protected was subject to an incapacity identified in section 7 of the Act when making any such will—any will or codicil made before the person possibly became subject to such incapacity, which should be exhibited.

(2) A knowledge of the names of the executors is of assistance in appointing a manager and fixing the amount of security to be given. The other information required under paragraph (1)(d) will be of assistance whenever the Court is asked to exercise jurisdiction under sections 16 and 16A of the Act.

(3) An affidavit or exhibit containing information as to a will or codicil may be sealed and filed in an envelope endorsed with a note that it not be opened except by direction of a Judge or Master.

(4) If the application is made by a person other than the person whose property is sought to be protected, his or her spouse or near relative or Public Trustee—the affidavit in support of the application should prove the circumstances that make it proper for the plaintiff to make the application.

Note—

Section 8(1)(d) of the Act provides that an application may be made by any other person who adduces proof of circumstances which in the opinion of the court make it proper that such other person should make the application.

251—Minutes of order

(1) On every application, minutes of order should be prepared for the Court.

(2) The minutes are to require service of the order on the manager, the protected person and the Registrar of Probate.

252—Costs

In cases having no special or unusual features, or when the estate is comparatively small, details of the amount sought for costs should be made available on the hearing of the application to enable the fixing of a lump sum without adjudication.

Division 2—Criminal Assets Confiscation Act 2005 and Proceeds of Crime Act 2002 (Cth)

[*no supplementary rules*]

Division 3—Family Relationships Act 1975

[*no supplementary rules*]

Division 4—Inheritance (Family Provision) Act 1972

253—Notice of action

Notice of action under rule 314(4) of the Rules is to be in form 57.

Division 5—Native Title (South Australia) Act 1994

[*no supplementary rules*]

Part 3—Statutory appeals against administrative decisions

254—Notice of appeal

(1) A notice of appeal from an administrative decision under an enactment under rule 320(1) of the Rules is to be in form 58.

(2) An appeal under section 92 of the *Taxation Administration Act 1996* is to name as the respondent the Commissioner of State Taxation.

255—Statement of facts, issues and contentions

(1) A statement of facts, issues and contentions under rule 320(3) of the Rules is to be in form 59.

(2) Unless the Court otherwise directs, the statement of facts, issues and contentions is not to exceed 15 pages.

(3) Part 1 is to—

(a) be brief;

(b) identify succinctly the subject matter of the decision subject to appeal;

(b) identify succinctly the decision subject to appeal;

(c) identify succinctly the essential facts, if any, relied on that were not accepted by the decision maker in making the decision the subject of the appeal,

taking into account the fact that documents annexed to the statement may be expected to address the underlying facts.

(4) Part 2 is to—

(a) be brief;

(b) identify succinctly the issues in neutral terms without setting out either party's position on the issues;

(c) address only issues understood to be contested.

(5) Part 3 is to—

(a) be brief;

(b) identify succinctly the party's contention on each issue in Part 2;

(c) not contain argument in support of the contentions, references to evidence or to authorities.

(6) Part 4 is to—

(a) be brief;

(b) identify succinctly the party's contention why an extension of time should be granted or refused when applicable;

(c) not contain argument in support of the contention or references to evidence or authorities.

(7) On an appeal under section 92 of the *Taxation Administration Act 1996*, the appellant's statement of facts, issues and contentions is to annex—

(a) the Minister's determination of the objection;

(b) the appellant's objection to the assessment;

(c) the assessment the subject of the objection.

256—Respondent's statement of facts, issues and contentions

(1) The respondent's statement of facts, issues and contentions under rule 321(2) of the Rules is to be in form 60.

(2) Unless the Court otherwise directs, the statement of facts, issues and contentions is not to exceed 15 pages.

(3) A respondent's statement of facts, issues and contentions is to follow the format of the appellant's statement of facts, issues and contentions.

257—Subsequent steps

Directions hearings will ordinarily be listed before a Judge of the Court for management in a similar manner to a special classification action but may on occasions be listed before a Master.

258—Appeals to be heard by Judge of land and valuation division

An appeal against a decision by the Minister on an objection to a decision of the Commissioner under a taxation law under section 92 of the *Taxation Administration Act 1996* in which the principal issue is valuation will be managed and heard by a Judge of the Land and Valuation Division.

Part 4—Arbitration proceedings

Division 1—General

[*no supplementary rules*]

Division 2—International commercial arbitration

259—Application for stay and referral to arbitration—foreign arbitration agreements

An application under section 7 of the International Arbitration Act to stay a proceeding and refer the parties to arbitration under rule 326 of the Rules is to be in form 61.

260—Application to enforce foreign award

An application under section 8(2) of the International Arbitration Act to enforce a foreign award under rule 327 of the Rules is to be in form 62.

261—Application for referral to arbitration—Model Law

An application under article 8 of the Model Law to refer parties to arbitration under rule 328 of the Rules is to be in form 63.

262—Subpoenas

(1) An application under section 23(3) of the International Arbitration Act to issue a subpoena under rule 329 of the Rules is to be in form 64.

(2) A subpoena under section 23(3) of the International Arbitration Act—

(a) to attend for examination before an arbitral tribunal under rule 329(3)(a) of the Rules—is to be in form 65A;

(b) to produce to the arbitral tribunal the documents mentioned in the subpoena under rule 329(3)(b) of the Rules—is to be in form 65B;

(c) to attend for examination and produce documents under rule 329(3)(c) of the Rules—is to be in form 65C.

263—Application relating to evidence for arbitration

An application for an order under section 23A(3) of the International Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal for an arbitration under rule 330(1) of the Rules is to be in form 66.

264—Application relating to disclosure of confidential information

An application under section 23F or 23G of the International Arbitration Act for an order prohibiting or allowing the disclosure of confidential information under rule 331(1) of the Rules is to be in form 67.

265—Application for other order—Model Law

An application for relief under article 11(3), 11(4), 13(3), 14, 16(3), 17H(3), 17I, 17J or 27 of the Model Law under rule 332(1) of the Rules is to be in form 68.

266—Application to set aside award—Model Law

An application under article 34 of the Model Law to set aside an award under rule 333(1) of the Rules is to be in form 69.

267—Enforcement of award—Model Law

An application under article 35 of the Model Law to enforce an award under rule 334(1) of the Rules is to be in form 70.

268—Enforcement of award—Investment Convention

An application under section 35(2) of the International Arbitration Act to enforce an Investment Convention award under rule 335(1) of the Rules is to be in form 71.

Division 3—Domestic commercial arbitration

269—Application for referral to arbitration

An application under section 8 of the Commercial Arbitration Act to refer the parties to arbitration under rule 336(1) of the Rules is to be in form 72.

270—Subpoenas

(1) An application under section 27A of the Commercial Arbitration Act to issue a subpoena under rule 337(1) of the Rules is to be in form 73.

(2) A subpoena under section 27A of the Commercial Arbitration Act—

(a) to attend for examination before an arbitral tribunal under rule 337(3)(a) of the Rules—is to be in form 74A;

(b) to produce to the arbitral tribunal the documents mentioned in the subpoena under rule 337(3)(b) of the Rules—is to be in form 74B;

(c) to attend for examination and produce documents under rule 337(3)(c) of the Rules—is to be in form 74C.

271—Application relating to evidence for arbitration

An application for an order under section 27B of the Commercial Arbitration Act that a person attend before the Court for examination or to produce documents or do a thing required by an arbitral tribunal under rule 338(1) of the Rules is to be in form 75.

272—Application relating to disclosure of confidential information

An application under section 27H or 27I of the Commercial Arbitration Act for an order prohibiting or allowing the disclosure of confidential information under rule 339(1) of the Rules is to be in form 76.

273—Application for other order

An application for relief under section 11(3), 11(4), 13(4), 14, 16(9), 17H, 17I, 17J, 19(6), 27 or 27J of the Commercial Arbitration Act under rule 340(1) of the Rules is to be in form 77.

274—Preliminary point of law

An application under section 27J of the Commercial Arbitration Act for leave to apply for determination of a question of law arising in the course of an arbitration and, if leave be granted, for the determination of the question of law under rule 341 of the Rules is to be in form 78.

275—Application to set aside award

An application under article 34 of the Commercial Arbitration Act to set aside an award under rule 342(1) of the Rules is to be in form 79.

276—Appeal

(1) An application under section 34A of the Commercial Arbitration Act for leave to appeal on a question of law arising out of an award under rule 343 of the Rules is to be in form 80.

(2) The appellant is, within 2 business days after filing a notice of appeal, to serve a copy of the notice of appeal on—

(a) all parties to the appeal; and

(b) the arbitral tribunal.

277—Application to enforce arbitral award

An application under section 35 of the Commercial Arbitration Act to enforce an award under rule 344(1) of the Rules is to be in form 81.

Part 5—Ancillary proceedings

278—Foreign Judgments Act

Notice of registration of a judgment under rule 346(7) of the Rules is to be in form 82.

Part 6—Enforcement of judgments

279—Enforcement of Judgments Act

(1) A summons for examination of a judgment debtor under section 4 of the *Enforcement of Judgments Act 1991* is to be in form 83.

(2) A request for issue of a warrant, summons or garnishee against a judgment debtor under section 4, 5, 6 or 7 of the *Enforcement of Judgments Act 1991* is to be in form 84.

(3) A request for issue of a warrant of possession under section 11 of the *Enforcement of Judgments Act 1991* is to be in form 85.

(4) A warrant of sale under section 7 of the *Enforcement of Judgments Act 1991* is to be in form 86.

(5) A warrant of arrest under section 12 of the *Enforcement of Judgments Act 1991* is to be in form 87.

(6) A notice of claim of property subject to execution under section 16(2) of the *Enforcement of Judgments Act 1991* is to be in form 88.

(7) A person arrested on a warrant issued under section 4(4) or 5(6) of the *Enforcement of Judgments Act 1991* will usually be brought before the Registrar if the warrant was issued by the Registrar and before a Master if the warrant was issued by a Master.

(8) A person arrested on a warrant issued under section 12 of the *Enforcement of Judgments Act 1991* will usually be brought before a Judge in the first instance.

Chapter 16—Sheriff's duties

[*no supplementary rules*]

Chapter 17—Lawyers and notaries public

Part 1—Preliminary

[*no supplementary rules*]

Part 2—General procedural rules

280—Form of applications

(1) An originating application under rule 362(2) of the Rules when there is a defendant is to be in form 89A.

(2) An originating application under rule 362(2) of the Rules when there is no defendant is to be in form 89B.

(3) An originating application under rule 362(2) when there is to be a hearing date listed is to be in form 89C.

(4) An interlocutory application under rule 362(3) is to be in form 26.

Part 3—Allocation of Court business

[*no supplementary rules*]

Part 4—Admission of lawyers

Division 1—Application for admission

281—Application for admission by original applicant

(1) An originating application for admission under rule 370(1)(a) of the Rules is to be in form 90.

(2) The application is to be accompanied by the relevant filing fee under Schedule 1 of the *Supreme Court Regulations 2005*.

Note—

Rule 370(1) provides that the originating application and supporting affidavit are to be lodged with the Law Society on behalf of the Court.

282—Affidavit in support of application for admission

An affidavit in support of an application for admission under rule 370(1)(b) of the Rules is to be in form 91A or form 91B as applicable.

283—Certificate of principal

A certificate from the applicant's principal under rule 370(2)(a) of the Rules is to be in form 92.

284—Notice of application

A notice to be placed on the Law Society's website under rules 370(1)(c) and 371(1)(b) of the Rules is to be in form 93.

285—Application for admission by re-applicant

(1) An originating application for admission under rule 371(1)(a) of the Rules is to be in form 90.

(2) The application is to be accompanied by the relevant filing fee under Schedule 1 of the *Supreme Court Regulations 2005*.

Note—

Rule 371(1) provides that the originating application and supporting affidavit are to be lodged with the Law Society on behalf of the Court.

286—Board of Examiners report

The Board is to file in Court its report and recommendation on the application for admission prepared pursuant to section 15(4) of the Act. A front sheet is not required.

Division 2—Objection to admission

287—Objection

A notice of objection under rule 373(2)(a) of the Rules is to be in form 94.

Division 3—Hearing of application for admission

288—Attendance at Full Court sitting

(1) If an applicant seeks to be exempted from the requirement to attend the Full Court sitting at which the his or her admission will be moved, the applicant is to write to the Law Society on behalf of the Court seeking an exemption from attendance and setting out why the he or she will be unable to attend.

(2) The Master who holds the appointment as Chair of the Board will grant or refuse the application on behalf of the Court.

(3) At least 14 calendar days before the date on which the Court will be moved to admit an applicant, the applicant is to inform the Law Society by letter whether the applicant has been exempted from the requirement to attend the Full Court admission sitting.

(4) If the applicant has been so exempted, he or she is to request that the Supplementary Roll of Practitioners sheet be forwarded after the Court has approved the admission to enable the Roll to be signed in accordance with Part 5 Division 2 of these Supplementary Rules.

(5) If notification in accordance with paragraph (3) is not received, it will be assumed that the applicant intends to attend personally at the admission sitting.

289—Oath or affirmation of admission

The oath or affirmation of admission to be administered to newly admitted practitioners of the Court is as follows—

"I (*state full name*) swear on oath and promise that I will diligently and honestly perform the duties of a practitioner of this Court and will faithfully serve and uphold the administration of justice under the Constitution of the Commonwealth of Australia and the laws of this State and of the other States and Territories of Australia. So help me God. I swear."

"I (*state full name*) do truly and solemnly affirm and promise that I will diligently and honestly perform the duties of a practitioner of this Court and will faithfully serve and uphold the administration of justice under the Constitution of the Commonwealth of Australia and the laws of this State and of the other States and Territories of Australia."

Division 4—The Roll of Practitioners

290—Change of name

(1) When a lawyer has changed his or her name as a result of marriage, divorce, separation or otherwise, the lawyer will be permitted to re-subscribe the Roll of

Practitioners without moving the Full Court for that purpose upon production of evidence of the change of name.

(2) If the lawyer holds a practising certificate, the lawyer is to re-subscribe the Roll of Practitioners within 28 calendar days after changing his or her name.

(3) An application to re-subscribe the Roll of Practitioners is to be made by application under rule 308 of the Rules in the proceeding in which the original order for admission was made supported by an affidavit—

(a) exhibiting a certified copy of the certificate of change of name or a certified copy of the birth certificate on which the notation of change has been made;

(b) exhibiting a certified copy of the marriage certificate; or

(c) deposing to the fact that the lawyer proposes to practise in the lawyer's former name and to use that name for all professional purposes.

(4) Upon receipt of the application and affidavit, the Registrar, if satisfied that it is appropriate, will arrange for the lawyer to re-subscribe the Roll of Practitioners.

Division 5—Lapsed orders for admission

291—Application for re-admission

An interlocutory application for re-admission under rule 377(2)(a) of the Rules is to be in form 26.

Part 5—Registration of interstate and New Zealand lawyers

Division 1—Application for registration

292—Introduction

A registration applicant will be granted registration to practise as a barrister and solicitor in South Australia irrespective of whether the applicant practises or is entitled to practise only as a solicitor or only as a barrister in the first jurisdiction.

Note—

Rule 368(1) assigns to the Board, inter alia, the functions and powers of the Court relating to the decision to admit and enrol a registration applicant applying under the Mutual Recognition Acts.

293—Application for registration

(1) An originating application for registration under the Mutual Recognition Acts under rule 379(1)(a) or rule 382(1)(a) of the Rules is to be in form 95A or 95B as applicable.

(2) An applicant is to include within the application for registration full details of any condition or restriction on the applicant's right to practise or practising certificate imposed by—

(a) the admitting authority;

(b) legislation or statutory instrument; or

(c) the authority charged with the responsibility for issuing practising certificates,

in the first jurisdiction or any other jurisdiction in which the applicant is admitted.

(3) The application is to be accompanied by the relevant filing fee under Schedule 1 of the *Supreme Court Regulations 2005*.

Note—

Rule 379(1) provides that the originating application is to be lodged with the Law Society on behalf of the Court.

294—Conditions of registration

(1) The discretion to impose conditions under rule 379(7) of the Rules will generally be exercised so as to equate with conditions applying to the applicant's registration in the first jurisdiction.

(2) The Board may impose other conditions, in lieu of or in addition to a condition applying to the applicant's registration in the first jurisdiction, within the limits prescribed by section 20(5) of the *Mutual Recognition Act 1992* (Cth) and section 19(5) of the *Trans-Tasman Mutual Recognition Act 1997* (Cth).

(3) An applicant who has carried on practice—

(a) for a continuous period of no less than 3 years following admission to practice, or

(b) for aggregate periods amounting to no less than 3 years during the 5 years immediately preceding the filing of an application,

will normally be entitled to registration in South Australia free of conditions or restrictions if at the time of the application for registration no condition or restriction applies to his or her practice in the first jurisdiction.

295—Notification to registration applicant

(1) The Secretary to the Board will notify the applicant of the Board's determination.

(2) Upon the Board's approval of an applicant's registration in South Australia, the Secretary to the Board will forward to the applicant a Notification of Registration Certificate.

Division 2—The Roll of Practitioners

296—Application of this Division

This Division applies to—

(a) an original applicant, a re-applicant or a lapsed applicant whose admission has been admitted by the Full Court in absentia under rule 375 of the Rules and who were exempted by the Court from the requirement to attend the sitting at which he or she was admitted (***admittees***); and

(b) a registration applicant whose application for registration has been granted under rule 379 of the Rules (***registrants***).

297—Oath or affirmation of admission and signing the Roll of Practitioners

(1) A registrant may elect to—

(a) take the oath or affirmation of admission and sign the Roll of Practitioners in person before the Registrar; or

(b) take the oath or affirmation of admission and sign the Supplementary Roll of Practitioners sheet in absentia before an authorised witness and return it to the Law Society on behalf of the Registrar.

(2) If a registrant has elected under paragraph (1)(a) to proceed before the Registrar, the Registrar will arrange a time for the person to take the oath or affirmation of admission and sign the Roll of Practitioners before the Registrar.

(3) If an admittee or a registrant has elected to proceed in absentia, the Law Society will forward to the person—

(a) an affidavit containing the oath or affirmation of admission set out at supplementary rule 289;

(b) the Supplementary Roll of Practitioners sheet;

(c) an affidavit deposing to signing the Supplementary Roll of Practitioners sheet; and

(d) a copy of this Division.

298—Supplementary Roll of Practitioners

The right-hand column of the Supplementary Roll of Practitioners sheet is to contain the following endorsement which is to be executed by the authorised witness before whom it is signed—

"The within named (*full name*) appeared before me on (*date*) and signed his/her name as it appears in my presence.

……"

299—Affidavit deposing to signing Supplementary Roll of Practitioners sheet

The content of the affidavit deposing to signing the Supplementary Roll of Practitioners sheet is as follows—

"contemporaneously with swearing/affirming (*delete whichever is inapplicable*) this affidavit I did—

(a) take an oath/make an affirmation (*delete whichever is inapplicable*) of admission; and

(b) sign my name in the Supplementary Roll of Practitioners sheet."

300—Execution of documents

(1) The applicant is to—

(a) swear or affirm the affidavit containing the oath or affirmation of admission;

(b) sign the Supplementary Roll of Practitioners sheet; and

(c) swear or affirm the affidavit deposing to signing the Supplementary Roll of Practitioners sheet.

(2) The authorised witness before whom the affidavits are sworn or affirmed and the Supplementary Roll of Practitioners sheet is signed is to complete the endorsement required by supplementary rule 298 after the applicant has signed the Supplementary Roll.

(3) The authorised witness before whom the affidavits are sworn or affirmed is to provide the following information beneath his or her signature—

"Print name ……

Authority pursuant to which oath/affirmation (*delete whichever is inapplicable*) administered……"

(4) The original signed Supplementary Roll of Practitioners sheet and the two affidavits are to be lodged with the Law Society on behalf of the Registrar.

301—Entry of name into Roll of Practitioners

(1) Upon receipt of the duly executed Supplementary Roll of Practitioners sheet and two affidavits, the Law Society is to transmit the documents to the Registrar.

(2) Upon receipt, the Registrar will—

(a) include the Supplementary Roll of Practitioners sheet in the Supplementary Roll of Practitioners; and

(b) enter the name of the applicant on the Roll of Practitioners in the usual order with the following endorsement alongside the applicant's name—

"see Supplementary Roll of Practitioners".

302—Issue of practising certificate

An admittee or registrant is not entitled to be issued with a practising certificate until the Supplementary Roll of Practitioners sheet and two accompanying affidavits have been returned duly executed.

Division 3—Lapsed grants of registration

303—Application for re-registration

An interlocutory application for re-registration under rule 382(2)(a) of the Rules is to be in form 26.

Part 6—Practising certificates

Division 1—Preliminary

[*no supplementary rules*]

Division 2—Application to cancel, suspend or amend

304—Application to cancel, suspend or amend practising certificate

An originating application under rule 386(1) of the Rules for an order cancelling, suspending or amending a practising certificate is to be in form 89A.

305—Application to stay order

An interlocutory application under rule 388 of the Rules for a stay of an order cancelling, suspending or amending a practising certificate is to be in form 26.

306—Application to revoke order

An interlocutory application under rule 389 of the Rules to revoke an order cancelling, suspending or amending a practising certificate is to be in form 26.

Division 3—Show cause events

307—Notice of show cause event by holder

An affidavit comprising notice by a holder of a show cause event under rule 390 of the Rules is to be in form 33.

308—Statement relating to show cause event by holder

An affidavit comprising a statement by a holder relating to a show cause event under rule 391 of the Rules is to be in form 33.

309—Statement relating to show cause event by applicant

An affidavit comprising a statement by an applicant relating to a show cause event under rule 392 of the Rules is to be in form 33.

Division 4—Application for immediate suspension

310—Application for immediate suspension of practising certificate

An application for immediate suspension of a practising certificate under rule 394(1) of the Rules is to be made—

(a) if there is an existing application under rule 386 or notice or statement under rule 390, 391 or 392 of the Rules—by interlocutory application in form 26;

(b) otherwise—by originating application in form 89A.

311—Application to revoke or vary order

An interlocutory application by the holder to revoke or vary an order immediately suspending the holder's practising certificate under rule 396(1) of the Rules is to be in form 26.

Division 5—Re-issue of practising certificates

312—Introduction

(1) This Division addresses the procedure for applications under rule 9 of the LPEAC Rules for the issue of a practising certificate when a current South Australian certificate has not been held for at least 3 years.

(2) The Board takes into account requirements affecting all practitioners that may have changed since the applicant last practised. In this regard, the Board has imposed conditions, when appropriate, that an applicant within a specified period, usually 12 months, of the date of issue of the first renewed practising certificate is to attend and complete course work—

(a) for a recognised trust account course;

(b) for a recognised risk management course.

(3) The Board may impose conditions—

(a) restricting the right of practice of the applicant to that of an employed solicitor under the supervision of a lawyer who has been admitted in South Australia for at least 5 years or a period specified by the Board; and/or

(b) requiring the applicant to attend a specified number of hours of structured continuing legal education within a specified period (and when areas of future legal practice are nominated, possibly within those areas).

(4) When an applicant is employed by the government, a corporation or other body or person who is not a lawyer, the Board may impose a condition restricting the applicant's right of practice to acting only for his or her current employer.

(5) An applicant should consider these possible conditions or restrictions when preparing an application and address them if necessary.

313—Affidavit

(1) An application for the re-issue of a practising certificate when a current South Australian certificate has not been held for at least 3 years is to be made by way of affidavit in form 33 and lodged with the Law Society on behalf of the Board.

(2) The following matters are to be addressed in the affidavit—

(a) the date of first admission in South Australia and any other jurisdiction in which admitted;

(b) the period during which a South Australian practising certificate was held including the period during which the last practising certificate was held;

(c) details of practice when a practising certificate was held, including whether work was full or part-time and details of the type of work carried out and nature of any employment;

(d) details of practice or other employment (particularly law-related employment) since the last South Australian practising certificate was held;

(e) a statement that the applicant has not practised the profession of law without holding a practising certificate and has not committed any other act that might constitute a proper ground for disciplinary action, or, if otherwise, details of practice without a practising certificate or of such act;

(f) details of any disciplinary matters; and

(g) details of intended future practice, such as for example whether the applicant proposes to practise on his or her own account or as a partner or employee of a law firm or government law office or in some other capacity.

314—Certificate of good standing

(1) A certificate of fitness or good standing from the Commissioner must accompany the affidavit lodged with the Board.

(2) When the applicant has been admitted in other jurisdictions, the Board requires a certificate of fitness or good standing from the appropriate authority in each jurisdiction in which the applicant has been admitted.

315—Further renewal

Each applicant who is required to attend or complete course work or structured continuing legal education or to work under supervision for a specified period is, before the further renewal of a practising certificate, to provide evidence to the Board via the Law Society that the conditions imposed have been complied with within the specified period.

Part 7—Disciplinary proceedings

316—Disciplinary proceedings

An originating application to institute a disciplinary proceeding under rule 398(1) of the Rules is to be in form 89A.

317—Consent to order striking off name from Roll of Practitioners

An originating application for an order striking the name of a lawyer from the Roll of Practitioners under rule 400(1) of the Rules is to be in form 89A.

318—Application for interim suspension or conditions

An application for an interim suspension of or imposition of conditions on a lawyer's practising certificate under rule 401(1) of the Rules is to be made—

(a) if there is an existing application under rule 398 of the Rules—by interlocutory application in form 26;

(b) otherwise—by originating application in form 89A.

319— Hearing and determination of application

The setting of the matter down for hearing and the hearing of the matter is to be governed by Chapter 13 to the extent applicable.

Part 8—Costs

320— Adjudication of costs

(1) An originating application for adjudication of costs of a lawyer under rule 405(1) of the Rules—

(a) by a person claiming to be entitled to legal costs—is to be in form 96A.

(b) by a person who is liable to pay or has paid legal costs—is to be in form 96B.

(2) An originating application for adjudication of costs of a manager or supervisor under rule 405(1) of the Rules is to be in form 96C.

(3) An application for review of an adjudication under rule 405(4) of the Rules is to be instituted by interlocutory application in form 26.

321—Application to set aside costs agreement

An originating application to set aside a costs agreement under rule 406(1) of the Rules is to be in form 89A.

322—Other proceeding in relation to costs of a lawyer

An application relating to any other proceeding under the Act or in the inherent jurisdiction of the Court in relation to costs of a lawyer under rule 404 of the Rules is to be made—

(a) if there is an existing proceeding in the Court in relation to the same matter—by interlocutory application in form 26;

(b) otherwise—by originating application in form 89A.

Part 9—Appeals

323—Appeals

An appeal against a decision of the Law Society, the Board, LPEAC or the Tribunal under rule 408(1) is to be in form 52.

Part 10—Other proceedings involving lawyers

324—Form of originating application

An application under rule 410 of the Rules is to be made—

(a) if there is an existing proceeding in the Court in relation to the same matter—by interlocutory application in form 26;

(b) otherwise—by originating application in form 89A.

Part 11—Public notaries

325—Introduction

(1) This Part addresses the procedure for admission of public notaries under sections 91 and 92 of the Act.

(2) Applicants are referred to *Re Bos* [2003] SASC 320; (2003) 230 LSJS 27.

326—Application for admission as a public notary

(1) An application for admission as a public notary is to be made by filing with the Court an originating application in form 89B.

(2) The application may be heard before a Master.

327—Affidavit in support of application for admission

The application is to be supported by an affidavit deposing to—

(a) the applicant's date of birth;

(b) the applicant's qualifications and experience relevant to the application;

(c) the applicant's knowledge of the functions and duties of public notaries, including any study undertaken by the applicant relevant to that knowledge;

(d) the applicant's character;

(e) the purpose for which the applicant seeks to be admitted as a public notary and the manner in which the applicant, if admitted, proposes to practise;

(f) publication of notice of the making of the application for admission in the Public Notices section of *The Advertiser*; and

(g) any other matter relevant to the Court's consideration of the application.

328—Service

A copy of the application and supporting affidavit is to be served at least 14 calendar days before the hearing on each of the Law Society and the Notaries' Society of South Australia Inc.

329—Hearing

Applicants are to attend personally on the hearing of the application, although they may be represented by a lawyer.

330—Signing the Roll of Notaries

(1) As soon as practicable after an order admitting the person as a public notary is made, the notary is to—

(a) cause the order to be sealed;

(b) take the oath or make an affirmation of admission; and

(c) sign the Roll of Notaries at a time arranged with the Registrar.

(2) The oath or affirmation of admission to be administered to newly admitted public notaries Court is as follows—

"I (*state full name*) swear on oath and promise that I will not make or attest any Act, contract, or instrument in respect of which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a Public Notary according to the best of my skill and ability. So help me God. I swear."

"I (*state full name*) do truly and solemnly affirm and promise that I will not make or attest any Act, contract, or instrument in respect of which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a Public Notary according to the best of my skill and ability."

Part 12— Senior Counsel

Division 1—General

331—Introduction

(1) This Part addresses the procedure for the appointment of Senior Counsel in the State of South Australia.

(2) Appointment to the office of Senior Counsel is by the Chief Justice on behalf of the Court.

(3) In this Part, a reference to the Chief Justice includes an Acting Chief Justice.

332—Devolution of functions

(1) If the Chief Justice is temporarily unable to perform the duties of the office or is disqualified from discharging his or her functions under this Part, the powers of the Chief Justice devolve upon the senior puisne Judge.

(2) If the senior puisne Judge is temporarily unable to discharge or is disqualified from discharging his or her functions under this Part, his or her functions devolve upon the next most senior Judge available.

(3) If the junior puisne Judge is temporarily unable to discharge or is disqualified from discharging his or her functions under this Part, his or her functions devolve upon the next most junior Judge available.

333—Criteria for appointment

(1) Appointment as Senior Counsel will be made on the basis of a combination of the following qualities—

(a) sufficient standing, evidenced by a high level of professional eminence and distinction;

(b) wide experience in advocacy;

(c) highly developed advocacy skills;

(d) legal learning, such that the applicant may properly be described as learned in the law;

(e) integrity;

(f) availability;

(g) independence.

(2) ***Integrity*** includes—

(a) honesty, candour, discretion and plain dealing with the courts, professional colleagues and clients;

(b) independence of mind;

(c) professional standing, namely having the respect of the judiciary and the profession with respect to observing duties to the courts and to the administration of justice, while preparing and presenting a client's case with dedication and skill, and having the trust and confidence of professional colleagues.

(3) ***Availability*** involves a practitioner adopting a mode of practice that ensures that his or her services are available generally to prospective clients and are not unduly restricted by client or business relationships. This does not preclude the acceptance of a general or special retainer on behalf of a client. Senior Counsel must honour the duty to accept briefs to appear within their area of practice and for which they are available, regardless of personal opinions about the parties or

about the causes, and subject only to exceptions relating to appropriate fees and conflicting obligations. The criterion of availability does not apply to counsel holding a statutory office or in the employment of the Crown or the Legal Services Commission.

(4) ***Independence*** includes objectivity and detachment. Besides absence of connections that restrict availability, it involves the ability and courage to give advice and to make decisions that serve the best interests of the client and the administration of justice.

Division 2—Application for appointment

334—Form of application

(1) An application for appointment as Senior Counsel is to be made to the Chief Justice by completing form 97.

(2) The application is to be lodged with the Chief Justice by email to chambers.chiefjustice@courts.sa.gov.au in pdf format.

The file should be named by the applicant's surname followed by the applicant's initial(s); for example, SMITH, J.pdf.

The subject of the email should be 'SC Application'.

(3) An applicant must disclose in the application whether he or she is the subject of disciplinary proceedings and any other fact that might disqualify the applicant from appointment as Senior Counsel and is subject to a continuing obligation to do so until he or she has been appointed.

(4) No other documents, such as references, are to be included.

335—Timing of application

(1) In order to be considered in a calendar year, an application is to be lodged with the Chief Justice by 30 June of that year.

(2) An applicant who is unsuccessful in the year of application will be reconsidered in the following year, but not in subsequent years without further application being made.

(3) An applicant may submit a revised application for consideration before 30 June of the following year if relevant information has changed. An applicant who is unsuccessful in two consecutive years may submit a fresh application in a subsequent year.

Division 3—Consideration and appointment

336—Notification

(1) As soon as practicable after 30 June in each year, the Chief Justice will provide a list of the current year's applicants and copies of the relevant applications, including revised applications, to—

(a) the Attorney-General;

(b) Judges and Masters of the Supreme Court;

(c) the senior resident Judge of the Federal Court of Australia;

(d) the senior resident Judge of the Family Court of Australia;

(e) the senior resident Judge of the Federal Circuit Court;

(f) the Chief Judge of the District Court;

(g) the Senior Judge of the Industrial Relations Court;

(h) the Chief Magistrate of the Magistrates Court;

(i) the Deputy President of the Administrative Appeals Tribunal;

(j) the Solicitor-General;

(k) the Director of Public Prosecutions;

(l) the National Vice President, Australian Association of Women Judges;

(m) the President of the South Australian Bar Association;

(n) the President of the Law Society of South Australia;

(o) the President of the Women Lawyers Association;

(p) the Chief Counsel of the Legal Services Commission.

(2) It is expected that the following persons will consult as specified in the following sub-paragraphs—

(a) in the case of the senior resident Judge of each of the Federal Court and the Family Court—the other Judges of the Court resident in the jurisdiction and, if thought fit, the other Judges before whom the applicant has appeared;

(b) in the case of the Chief Judge of the District Court—the Judges and Masters of the District Court;

(c) in the case of each of the Presidents of the South Australian Bar Association, the Law Society of South Australia and the Women Lawyers Association—his or her council or executive and such other members as he or she considers appropriate;

(d) in the case of each head of another jurisdiction—judicial officers of that jurisdiction before whom the applicant has appeared.

(3) The fact that an application has been made, and its terms, shall be treated as confidential, and shall only be disclosed to the extent necessary to enable the processes of consultation referred to in this Division. All consultations should be undertaken with discretion, respecting as far as possible the privacy of applicants.

337—Consultation

(1) As soon as practicable after providing a copy of the applications, the Chief Justice will appoint a time for the following persons to meet as a group with the Chief Justice for the purpose of consultation on the applications—

(a) the Attorney-General or the Attorney-General's nominee;

(b) the Solicitor-General;

(c) the Director of Public Prosecutions;

(d) the National Vice President, Australian Association of Women Judges or the Vice President's nominee;

(e) the President of the Law Society of South Australia or the President's nominee;

(f) the President of the South Australian Bar Association or the President's nominee;

(g) the President of the Women Lawyers' Association or the President's nominee;

(h) the Chief Counsel of the Legal Services Commission.

(2) As soon as practicable after consulting with the persons referred to in paragraph (1), the Chief Justice will appoint a time for the following persons to meet as a group with the Chief Justice for the purpose of consultation on the applications—

(a) the senior puisne Judge and the junior puisne Judge of the Supreme Court;

(b) the Chief Judge of the District Court;

(c) the Chief Magistrate;

(d) the senior resident Judge of the Federal Court of Australia;

(e) the senior resident Judge of the Family Court of Australia;

(f) the senior resident Judge of the Federal Circuit Court;

(g) the senior Judge of the Industrial Relations Court;

(h) the Deputy President of the Administrative Appeals Tribunal.

(3) The Judges and Masters of the Supreme Court may comment to the Chief Justice on the applications if they wish. The Chief Justice will meet with the Judges or Masters who wish to comment.

(4) If an applicant nominates for consultation a head of another jurisdiction in which the applicant practises, the Chief Justice will forward a copy of the application to the head of that jurisdiction, and will invite that person to comment on the application.

338—Appointment

(1) After taking account of the opinions of the persons consulted pursuant to this Division, the Chief Justice will decide which applicants will be appointed to the office of Senior Counsel, and will inform each applicant in writing of the outcome of his or her application.

(2) Appointments will be made under the hand of the Chief Justice by an instrument in writing bearing the seal of the Supreme Court and will, if practicable, be announced no later than 30 November of each year.

(3) The appointment of Senior Counsel will be announced publicly, and will be published in the South Australian Government Gazette.

(4) The Chief Justice will not usually provide reasons for declining to appoint an applicant. However, the Chief Justice may, of his or her own volition, or at the request of a person with whom the Chief Justice is required to consult, offer to meet with an unsuccessful applicant to discuss the application and the reason for its refusal. An unsuccessful applicant may request such a meeting.

339—Seniority

Senior Counsel rank in seniority according to the date of their appointment, and in the case of persons appointed on the same date, by the date of their admission and in the case of persons admitted on the same date, by alphabetical order of their surnames.

Division 4—Incidents of office

340—Undertaking

Senior Counsel, by seeking and achieving appointment, undertake—

(a) to confine the nature of their practice to the type of work usually performed by Senior Counsel and to do so in a manner consistent with the standards reflected in the criteria for appointment;

(b) to use the designation only while they remain practising barristers in sole practice or retained under statute by the Crown, or during temporary appointments in a legal capacity to a court, tribunal or statutory body, or in retirement from legal practice;

(c) that, if they practise in future as a solicitor or in partnership or association with a solicitor, they will not permit their partners or associates to attribute to them, in connection with such legal practice, the title SC or Senior Counsel or any other indicia of the Office of Senior Counsel; and

(d) to disclose in writing to the Chief Justice as soon as practicable the result of disciplinary proceedings taken against them after their appointment.

341—Attire

Subject to the requirements and permission of particular courts, tribunals and other jurisdictions, Senior Counsel are to wear the court dress generally worn by Senior Counsel (see supplementary rule 58).

342—Title and use of post nominals

(1) A person appointed as Senior Counsel will be entitled to the appellation of Senior Counsel and to the use of the abbreviation "SC" after his or her name.

(2) A person holding the office of Queen's Counsel in and for the State of South Australia is entitled to adopt the appellation of Senior Counsel and to be recognised as such upon giving notice of such adoption and upon giving notice of resignation from the office of Queen's Counsel to the Chief Justice for transmission to His Excellency the Governor. Any such Queen's Counsel will be entitled to be recognised as Senior Counsel from the date of such notice, but will take precedence as and be deemed to hold office as Senior Counsel in accordance with the date of his or her appointment as Queen's Counsel.

(3) A person holding the office of Queen's Counsel in and for the State of South Australia is entitled to retain the style or appellation of Queen's Counsel and will take precedence in accordance with the date of his or her appointment as Queen's Counsel.

343—Interstate Queen's Counsel and Senior Counsel

(1) Queen's Counsel and Senior Counsel appointed as such elsewhere in Australia will be accorded in the courts of this State the title under which they practise in the jurisdiction in which they were appointed and the status and privileges of Senior Counsel in this State, without the necessity of obtaining a separate appointment as Senior Counsel or Queen's Counsel in South Australia.

(2) Such a person will rank in seniority according to his or her date of appointment as Queen's Counsel or Senior Counsel in the first jurisdiction in which he or she was so appointed.

Division 5—Cessation of office

344—Resignation

(1) A Senior Counsel may resign his or her appointment by writing, signed by counsel and delivered to the Chief Justice.

(2) Without limiting the power of the Chief Justice under supplementary rule 345, a Senior Counsel who changes his or her manner of practice will be expected to offer to resign his or her appointment. The Chief Justice may accept the resignation if the Chief Justice considers that, in the changed circumstances, the person does not qualify for appointment.

345—Revocation

(1) The Chief Justice may revoke an appointment as Senior Counsel, including that of a person previously appointed as Queen's Counsel in and for the State of South Australia who has adopted the style or appellation of Senior Counsel, if—

(a) in a disciplinary proceeding the Supreme Court, the Legal Practitioners Disciplinary Tribunal or the Commissioner finds the person guilty of conduct that, in the opinion of the Chief Justice, is incompatible with the office of Senior Counsel;

(b) in the opinion of the Chief Justice that person has acted or practised in a manner incompatible with the office of Senior Counsel; or

(c) in the opinion of the Chief Justice that person is otherwise unfit to hold the office of Senior Counsel.

(2) Before exercising the power conferred by this supplementary rule, the Chief Justice will give the person concerned an opportunity to show cause why his or her appointment or recognition should not be revoked.

(3) The revocation or resignation of an appointment will be published in the South Australian Government Gazette.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this ……2nd…… day of ……September……..2014.

C KOURAKIS, CJ

T. A. GRAY, J

J. R. SULAN, J

A. M. VANSTONE, J

M. DAVID, J

P. KELLY, J

D. H. PEEK, J

M. F. BLUE, J

T. L. STANLEY, J

K. G. NICHOLSON, J

A. E. BAMPTON, J

G. J. PARKER, J

Schedule 1—Scale of costs up to 30 June 2011

(The amounts allowable under this Schedule may be increased by the operation of supplementary rule 218)

Documents

1	Drawing a document that is necessary to originate, or for use in, or in connection with, any proceeding or in a matter, whether litigious or otherwise, including the engrossment of the original, per A4 page, provided that a greater amount may be allowed where the matter is of importance and/or difficulty (see Notes D, E and G)	$65.00
2	Where a document is partly printed and partly drawn, the drawing fee for the drawn part will be allowed and, in addition, for the printed matter (including all perusals of the same), per A4 page (see Notes D and E)	$14.50
3	Engrossing the original of a document where no allowance is made for such engrossment elsewhere, including the solicitor's own copy, per A4 page (see Notes D and E)	$14.50
4	Before 1 October 2008—	
	(a) photocopying or printing a document including printing an email (sent or received), per page.	$1.00
	From 1 October 2008—	
	(b) subject to sub-item (c), photocopying or printing a document, including printing an email (sent or received), per page;	$1.00
	(c) for photocopying or printing documents which are, or which should be, photocopied or printed at the same time (including the printing of emails), for each page after the first 20 pages.	$0.40
	(see Note L)	
5	Perusing a document, per A4 page or equivalent (However, if the document is of substance, an amount not exceeding $19.50 per A4 page or equivalent may be allowed)	$7.20
6	Scanning of documents, including emails, where full perusal is not justified, per A4 page or equivalent (see Note D)	$2.10

Attendances

(see Note C)

7	The attendance of a solicitor where the nature of the work requires the exercise of special skill or legal knowledge, per hour (see Note K)	$263.00

8	The attendance of a solicitor where work done does not require special skill or legal knowledge, but where it is proper that a solicitor should personally attend, and travelling time, per hour	$162.00
	(see Note K)	
9	Attending on an application, matter or adjudication in chambers or on a pre-trial conference, or a settlement conference (not certified fit for counsel) or a callover—	
	(a) if short or matter adjourned without substantial argument	$95.00
	(b) if ordinary	$163.00
	(c) if protracted or of difficulty, per hour—in a range	$263.00
10	Attendance of a clerk on work not properly able to be carried out by a junior clerk, including travelling time, per hour	$127.00
11	Attending at Court to file or lodge documents or papers, or to set down, attendance to deliver documents or any other attendance capable of performance by a junior clerk, including attending to set down a chamber application and to search the list for chamber appointments and all attendances necessary to settle and seal an order or other document, and filing or lodging documents or papers at Court electronically, per attendance or lodgment	$21.00
12	An attendance by telephone of a solicitor, for each 6 minutes interval or part of 6 minutes	$27.00
13	An attendance by telephone of a clerk—	
	(a) on a matter of substance	$13.50
	(b) on a short call where a message is left	$3.10
14	An attendance on the swearing of an affidavit—	
	(a) of a solicitor to be sworn to an affidavit	$38.20
	(b) of a solicitor to take an affidavit where the solicitor or the solicitor's firm has prepared the affidavit	$20.60
	(c) of a clerk to be sworn to an affidavit	$20.60
	(d) of a solicitor on another person to be sworn to an affidavit where no charge is made under paragraph (b) (such fee is to include all charges for marking exhibits and for perusing or reading over the affidavit when the attendance properly does not exceed 15 minutes. If the attendance exceeds 15 minutes, the attendance will be allowed proportionately, at the rate fixed by item 7 of the scale.)	$40.20
Letters		
15	Any letter (including an email letter)—	
	(a) per A4 page, provided that letters of less than one page and the first page of a letter are to be charged proportionally	$65.00
	(b) circular letters after the first (including the cost of copying/printing), per A4 page	$8.30
	(see Notes D and E)	
16	For receiving and sending documents by fax transmission and email and the electronic scanning of documents—	
	(a) for incoming fax transmissions,	
	(i) Before 1 October 2008, per page	$1.00

	(ii)	From 1 October 2008	
		the first 20 pages, per page	$1.00
		for each subsequent page	$0.40
	(b)	for outgoing fax transmissions, for the first page (and, for each subsequent page, an additional $2.10)	$9.30
	(c)	for outgoing emails (not charged under item 15) (and, for each attachment, an additional $7.30)	$7.30
	(d)	for electronically scanning documents, for the first sheet (and, for each subsequent sheet, an additional $2.10)	$7.30
	Where applicable, STD and ISD charges will be allowed as a disbursement		
17	For the payment of an account where an account in writing has been rendered and which is in order, including any letter sent with the payment of that account, if the letter relates solely to the account, and to include all disbursements on cheques		$8.30
Registration of certificate of judgment under *Service and Execution of Process Act 1992*			
18	Instructions for and attending to registration of a certificate of judgment under the *Service and Execution of Process Act 1992* (Cth), including all correspondence, documents, attendances in relation thereto as assessed pursuant to section 22A(1) of the Act, but not exceeding		$363.00
Miscellaneous			
19	Paging, collating, binding and indexing copy documents for use of the Trial Judge, including the index		
	(a)	for the first 10 A4 pages	$9.30
	(b)	for more than 10 A4 pages	$17.50
20	Paging, collating, binding and indexing a brief or appeal book—		
	(a)	for 10 pages or less	$18.60
	(b)	from 11 pages to 50 pages	$74.30
	(c)	from 51 pages to 100 pages	$123.00
	(d)	from 101 pages to 200 pages	$195.00
	(e)	for more than 200 pages	$285.00
	Where it is proper to deliver more than one brief, and in respect of appeal books after the first, an additional amount of half of the amount allowable under this item for the first copy of the brief or appeal book will be allowed for each additional brief or appeal book.		
	Where a brief or appeal book exceeds 300 pages, the pages in excess of 300 pages may be treated as a separate brief or appeal book.		
21	Care and consideration in the preparation of a brief is to be an amount in the discretion of the adjudicating officer but, in cases where oral evidence is to be called on disputed matters or where there is to be substantial argument on legal matters, the amount allowed is		$85.00
22	Preparation of short form Claim for costs, per A4 page		$65.00
23	Drawing and the engrossment of the original, and of the solicitor's own copy of—		
	(a)	a proof of a witness for a brief, where it is not necessary substantially to recast any notes made of the statement of the witness or to collate any number of previous statements	

(b) indices (where not otherwise provided)

(c) formal lists

(d) copies of extracts from other documents

per A4 page $32.00

24 The Lump Sum allowed on a default judgment pursuant to rule 229(4) of the Rules $1,790.00

Notes

A The amount allowed for each of the above items is to be at the discretion of the adjudicating officer, who is at liberty, in the particular circumstances of the matter, to disallow an item entirely or allow a greater or lesser amount for an item. The adjudicating officer may allow a greater amount when the matter is of importance or difficulty.

B Each Schedule of costs (other than a short form Claim for costs) must show—

(a) the time spent on an attendance; and

(b) the number of A4 pages (or the equivalent) contained in any document for which a charge is made; and

(c) the name of any solicitor and the status of any clerk in respect of whom an attendance is charged; and

(d) a separate identifying number for each item and the date of the item; and

(e) the items of work and disbursements in chronological order.

C Where the time for an attendance is only a portion of an hour, such amount may be allowed in accordance with the scale as the proportion of the hour bears to the amount allowed for the whole of the hour.

D Where, in this Schedule, fees (other than for photocopying, printing, electronic scanning, or sending and receiving fax transmissions) are set by reference to an A4 page, such fees are fixed (except in the case of correspondence) on the basis that the typed or printed content of each page consists of 30 lines of 12 size print with a left hand margin no wider than 4 centimetres and a right hand margin no wider than 2 centimetres). Where correspondence is concerned, the fee is fixed on the basis that the typed content of each page consists of 45 lines in 12 size print with margins as previously stated in this note. The fee allowable may be adjusted by the adjudicating officer depending on whether the document or correspondence in question exceeds or falls short of those standards.

Where the contents of a document (or page of a document) are less than one A4 page in length, the fee allowed is, therefore, to be at the discretion of the adjudicating officer.

E Where a document is prepared on other than A4 paper, the amounts to be allowed under items 1, 2, 3 and 15 may be increased or decreased in the discretion of the adjudicating officer.

F Only the amount of disbursements actually paid or payable are to be shown in the Schedule as disbursements. Where a disbursement is yet to be paid, this must be specially stated.

G For drawing of any Schedule of costs (not including a short form Claim for costs), the adjudicating officer may allow an additional 50 per cent on all drawing fees.

H Such allowance for kilometerage by motor vehicle or other conveyance will be made as the adjudicating officer considers reasonable.

I Where the Court orders a party, or a party or person is otherwise required, to adjudicate costs both as between party and party and solicitor and client, the appropriate form is to be modified by the applicant so as to provide for the inclusion of both party and party and solicitor and client costs and the respondent's respective responses thereto.

J The maximum rate for perusal is appropriate for documents such as pleadings, particulars, advices and opinions and for the more complicated medical and expert reports. A middle range figure will be appropriate for standard expert reports, lists of documents and medical reports. The lower rate will apply to appearances, ordinary correspondence, special damages, vouchers and the like. In cases where a large volume of documents is required to be perused, an hourly rate may be allowed by the adjudicating officer instead of a perusal fee.

K When an instructing solicitor is in Court, the lower attendance rate should be allowed if the solicitor is merely assisting counsel by being present, but the higher rate should be allowed if the solicitor is more actively involved, for example, by proofing witnesses, preparing indices, etc.

L Where a substantial number of sheets are, or should be, photocopied at the same time, regard may be had to commercial photocopying rates in respect of multiple copies of the same document, for each sheet after the first.

M The costs allowed in the scale do not include the Goods and Services Tax (**GST**) which is to be added except in the following circumstances. GST should not be included in a claim for costs in a party/party Schedule of costs if the receiving party is able to recover GST as in input tax credit. Where the receiving party is able to obtain an input tax credit for a proportion of GST only, only the portion which is not eligible for credit should be claimed in the party/party Schedule of costs. Where there is a dispute as to whether GST is properly claimed in the party/party Schedule of costs, the receiving party must provide a certificate signed by the solicitors or auditors of the receiving party as to the extent of any input tax credit available to the receiving party.

Schedule 2—Scale of costs from 1 July 2011

(The amounts allowable under this Schedule may be increased by the operation of supplementary rule 219)

DOCUMENTS		
Drawing and engrossing		
[Including original and the lawyer's file copy]		
1	Drawing any document of importance other than correspondence and those listed in item 2, per ¼ page.	$28.00
2	Drawing proofs, indices, formal lists, extracts from other documents, lists of authorities, or other formal documents, per ¼ page.	$14.00
3	Engrossing documents, when copying or scanning is not appropriate, per ¼ page.	$4.00
Perusing and examining documents and electronic documents		
4	Perusing documents, per ¼ page.	$2.00-$8.00
5	Examining documents, when a perusal is not justified, per ¼ page.	$0.50
Documents produced by copying or scanning, or receiving emails, faxes, or any other electronic transmissions		
6	Per sheet.	$0.30
ATTENDANCES AND COMMUNICATIONS		
Attendances and oral communications, whether personal or by electronic communication, and including attendances to swear or take affidavits, per six minute unit		
7	By a lawyer involving skill.	$30.00
8	By a lawyer not involving skill.	$18.00
9	By a non lawyer employed or engaged by a lawyer.	$14.00
10	Arranging appointments, per person, including all work involved.	$20.00
Attending Hearings, including preparation, and when not attending as instructing lawyer for counsel		
11	Short.	$110.00
12	Ordinary.	$190.00
13	If protracted, per 6 minute unit of hearing time.	$30.00
Filing and delivery		
14	Filing or delivery of documents other than personal service, when no other attendance is properly allowable.	$20.00
CORRESPONDENCE		
[Including original to send and the lawyer's file copy, and the ordinary postal or transmission expenses]		
15	Whether sent by letter, email, SMS, or fax, per ¼ page.	$20.00
16	Circular correspondence, after the first, per item (plus copying for subsequent pages after the first page).	$10.00
MISCELLANEOUS		
17	Paying disbursements by whatever means and including all work and associated expenses.	$20.00
18	Preparation of Trial Books, Tender Books, Books of Exhibits, Application Books, Appeal Books and Briefs, including indices, pagination and binding, per page.	$1.50

19	Lump sum on a default judgment.	$2040.00

NOTES

General

A The amount allowed for each of the above items is to be at the discretion of the adjudicating officer, who is at liberty, in the particular circumstances of the matter, to disallow an item entirely or allow a greater or lesser amount for an item. The adjudicating officer may allow a greater amount where the matter is of importance or difficulty.

B The costs allowed in the scale do not include the Goods and Services Tax (**GST**) which is to be added except in the following circumstances. GST should not be included in a claim for costs in a short form Claim or Schedule of costs if the receiving party is able to recover GST as an input tax credit. If the receiving party is able to obtain an input tax credit for only a proportion of the GST, only the portion which is not eligible for credit should be claimed in the party/party Schedule of costs. If there is a dispute as to whether GST is properly claimed in the party/party Schedule of costs, the receiving party must provide a certificate signed by the lawyers or auditors of the receiving party as to the extent of any input tax credit available to the receiving party.

Attendances

C A six minute unit comprises six minutes or part thereof, but no part is to be allowed as a full unit if it is unreasonable to do so.

D When a lawyer is instructing counsel, the lower attendance rate should be allowed if the lawyer is merely assisting by being present, but the higher rate should be allowed if the lawyer is more actively involved, for example, by proofing witnesses, preparing indices, etc.

Documents and perusals

E Unless the adjudicating officer considers there is good reason to depart from it, pages for items in this Schedule are to be measured by compliance with supplementary rule 46 of the Supplementary Rules and on the basis that a full page contains 44 lines and a quarter page contains 11 lines. A part of a quarter page is to be treated as a full quarter page. Each page of a short form claim for costs or itemised schedule of costs drawn in accordance with the Supplementary Rules may be allowed as a standard page.

F If a document is prepared on other than A4 paper, the amounts to be allowed may be increased or decreased in the discretion of the adjudicating officer.

G A rate towards the maximum rate for perusal is appropriate for documents such as pleadings, particulars, advices and opinions and for the more complicated medical and expert reports. A middle range figure will be appropriate for standard expert reports, lists of documents and medical reports. A rate towards the lower rate will apply to appearances, notices of address for service, ordinary correspondence, special damages vouchers and the like. In cases in which a large volume of documents must be perused, an hourly rate may be allowed by the adjudicating officer instead of a perusal fee.

Copying scanning and emailing

H When a substantial number of sheets are, or should be, photocopied or scanned at the same time, regard may be had to commercial photocopying rates in respect of multiple copies of the same document, for each sheet after the first.

I When multiple emails or SMSs are claimed, those dealing with the same issues over a period of 48 hours extending over not more than 3 consecutive days excluding non-business days will be treated as one.

Disbursements

J Allowable disbursements are whenever possible to be included in the same item as the corresponding claim for lawyer's costs, but within the disbursements column.

K Only the amount of disbursements actually paid or payable are to be shown in the Schedule as disbursements. If a disbursement is yet to be paid, this must be specially stated.

L Such allowance for kilometerage by motor vehicle or other conveyance will be made as the adjudicating officer considers reasonable.

Schedules of Costs

M Each Schedule of costs (other than a short form Claim for costs) must show—

(a) the time spent on an attendance; and

(b) the number of A4 pages (or the equivalent) contained in any document for which a charge is made; and

(c) the name of any lawyer and the status of any clerk in respect of whom an attendance is charged; and

(d) a separate identifying number for each item and the date of the item; and

(e) the items of work and disbursements in chronological order; and

(f) succinctly the nature of the work done.

N When the Court orders a party, or a party or person is otherwise required, to adjudicate costs both as between party and party and lawyer and client, the appropriate form is to be modified by the applicant so as to provide for the inclusion of both party and party and lawyer and client costs and the respondent's respective responses thereto.

South Australia

Supreme Court Civil Supplementary Rules 2014

SCHEDULE 3—APPROVED FORMS

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Form 1 Front sheet

FDN (*Court generated*)

IN THE SUPREME COURT OF SOUTH AUSTRALIA

IN THE CIVIL JURISDICTION

SCCIV of

BETWEEN

(***NAME***)

Plaintiff/Appellant/Applicant (*delete whichever is inapplicable*)

and

(***NAME***)

Defendant/Respondent (*delete whichever is inapplicable*)

(*document type, eg summons, third party notice, notice of appeal, etc.*)

Filed on behalf of the (*role of party*), (*name*) by (*solicitor*)

(*or*)

Filed by (*role of party*), (*name*)

(*address*) (*mandatory field*)

(*telephone*)

(*mobile*)

(*facsimile*)

(*DX Box*)

(*email*)

(*'L' Code*)

(*'P' Code*)

(*if above address is not the address for service under rule 58, state address for service*)

Settled by:

Date and time of filing:

Supplementary Rules 25(2)(q) and 26(2)(i)

Form 2 Cost estimate—medical negligence disputes

COST ESTIMATE—MEDICAL NEGLIGENCE DISPUTES

Notes

1. To be provided by each party with the letter of claim and the letter of response.
2. The purpose of preparing and providing the cost estimate includes directing attention to costs and proportionality by setting out the estimated costs.
3. The proportionality for the future can be gauged by dividing the answer to Question 1 by the answer to Question 7.
4. The estimate of future costs in Question 7 flows from the 3 preceding questions.
5. The information is provided in a format so that it may be collected and analysed.

QUESTIONNAIRE

1. What is the approximate value of the claim?	$(*amount*)
2. In which jurisdiction will proceedings be issued?	
3. Is counsel engaged?	
4. How many witnesses of fact are likely to be called: 4.1 in respect of breach and causation? 4.2 in respect of quantum?	 4.1 4.2
5. What are the disciplines of the experts upon which you propose to rely?	5.1 Joint experts (*please list*) 5.2 Experts in respect of breach and causation. (*please list*) 5.3 Experts in respect of quantum. (*please list*)
6. What is your time estimate for the length of trial?	
7. What is your estimate of future costs up to and including trial?	$(*amount*)

Supplementary Rule 29

Form 3 Memorandum concerning compliance—pre-action steps

MEMORANDUM CONCERNCING COMPLIANCE—PRE-ACTION STEPS

This is an action in respect of a construction dispute/medical negligence dispute (*delete whichever is inapplicable*) within the meaning of Chapter 3 Part 2 Division 2 of the *Supreme Court Civil Supplementary Rules 2014* (***Division 2***).

The plaintiff certifies that:

- the parties have substantially complied with Division 2.
- the plaintiff has substantially complied with Division 2 to the extent able but the defendant has not.
- the plaintiff has commenced the action without substantially complying with Division 2 due to urgency under supplementary rule 11 of the Division 2.
- the plaintiff has not substantially complied with Division 2.

(*delete whichever is inapplicable*)

Annexed to this memorandum is a copy of the letter of claim and letter of response (*delete if inapplicable*)

Rule 34(3)

Form 4 Summons—general

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff, (*name*) makes a claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Statement of Claim/Affidavit (*delete whichever is inapplicable*).

Action required

If you wish to defend the claim, you must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Summons on you; and

(b) file a Defence/answering Affidavit (*delete whichever is inapplicable*) within 28 calendar days after service of the Statement of Claim/Affidavit relied on by the plaintiff (*delete whichever is inapplicable*) on you.

If a Notice of Address for Service and a Defence/answering Affidavit (*delete whichever is inapplicable*) is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Notice of Address for Service and Defence/answering Affidavit (*delete whichever is inapplicable*) must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

Summons issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Summons has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought (*delete this section if statement of claim filed*)

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by a Statement of Claim or Affidavit in lieu of pleading.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:

"Any better full name of the (*role of the party*) is not known, and not reasonably ascertainable by, the plaintiff"

2 If the plaintiff intends to apply for an authorisation under rule 81 the summons is to bear the following endorsement under rule 81(2):

"The plaintiff brings this action as representative of a group of which each member has a common interest being (*set out question of law or fact in which there is a common interest*) and intends to apply for the necessary authorisation under rule 81."

3 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 34(3)

Form 5 Summons—no defendant

SUMMONS

The plaintiff, (*name*) applies for the relief set out in this summons.

Hearing

The Court will hear the application for relief, or make orders for the conduct of the proceeding, at the time and place stated below.

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Endorsements

Summons issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Summons has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:
"Any better full name of the (*role of the party*) is not known, and not reasonably ascertainable by, the plaintiff"

2 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rules 34(3) and 204(2)

Form 6 Summons—specific hearing date

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff, (*name*) makes a claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Statement of Claim/Affidavit (*delete whichever is inapplicable*).

Action required

The Court will hear the application for relief, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service before attending Court or taking any other step in the proceeding.

The Notice of Address for Service must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Endorsements

Summons issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Summons has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying Statement of Claim/Affidavit (*delete whichever is inapplicable*), the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:

"Any better full name of the (*role of the party*) is not known, and not reasonably ascertainable by, the plaintiff"

2 If the plaintiff intends to apply for an authorisation under rule 81 the summons is to bear the following endorsement under rule 81(2):

> "The plaintiff brings this action as representative of a group of which each member has a common interest being (*set out question of law or fact in which there is a common interest*) and intends to apply for the necessary authorisation under rule 81."

3 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 123(5)

Form 7 Notice to defendant of moratorium on steps

NOTICE TO DEFENDANT OF MORATORIUM ON STEPS

TO THE DEFENDANT: (*name*) of (*address*)

TAKE NOTICE that:

1. the plaintiff does not intend to take any further steps in this action until after the action is removed from the list of inactive cases;

2. the action will, by reason of this notice and rule 123(5) of the *Supreme Court Civil Rules 2006*, be entered in the list of inactive cases;

3. the action will remain in the list of inactive cases unless and until the Court makes an order removing the action from the list of inactive cases on the application of a party having given to all parties at least 14 calendar days written notice;

4. while the action remains in the list of inactive cases, you are not required to file a Notice of Address for Service or Defence or to take any other step in the action against the plaintiff;

5. while the action remains in the list of inactive cases, no party is entitled to take any steps in the action (other than applying to remove the action from the list of inactive cases).

Warning

If you wish to bring a claim against the plaintiff or another party in this action and that claim is subject to a time limit under the *Limitation of Actions Act 1936* or for any other reason, time will not cease to run merely because the action is in the list of inactive cases.

Application to remove action from inactive list

If you wish to have the action proceed, you must:

(a) file at a Registry of the Court and serve on the plaintiff a Notice of Address for Service;

(b) file at a Registry of the Court and serve on the plaintiff an Interlocutory Application seeking an order that the action be removed from the list of inactive cases.

In that event, the Court will convene a hearing and send notice of it to you. You should attend at that hearing in person or by your lawyer.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rules 35(2) and 37(1)

Form 8 Cross action by counterclaim

CROSS ACTION BY COUNTERCLAIM

PART 1 (*delete this part if inapplicable*)

TO THE DEFENDANT TO CROSS ACTION: (*name of defendant to counterclaim who is NOT an existing party in the action*) of (*address*).

The (*role of party*), (*name*) makes a counterclaim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Statement of Counterclaim/Affidavit (*delete whichever is inapplicable*).

Action required

If you wish to defend the claim, you must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Cross Action on you; and

(b) file a Defence/answering Affidavit (*delete whichever is inapplicable*) within calendar 28 days after service of the Statement of Counterclaim/Affidavit relied on by the Cross Claimant (*delete whichever is inapplicable*) on you.

If a Notice of Address for Service and a Defence/answering Affidavit (*delete whichever is inapplicable*) is not filed within the time stated, you will not be entitled to challenge the (*role of party*)'s claim against you and you will be taken to have admitted the (*role of party*)'s claim against you. A judgment in respect of such liability may be given against you in your absence and without further notice.

The Notice of Address for Service and Defence/answering Affidavit (*delete whichever is inapplicable*) must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

PART 2 (*delete this part if inapplicable*)

TO THE DEFENDANT TO CROSS ACTION: *(name of defendant to counterclaim who IS an existing party in the action)* of (*address*)

The (*role of party*), (*name*) makes a counterclaim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Statement of Counterclaim/Affidavit (*delete whichever is inapplicable*).

Action required

If you wish to defend the claim, you must file a Defence/answering Affidavit (*delete whichever is inapplicable*) within 28 calendar days after service of the Statement of Counterclaim/Affidavit relied on by the Cross Claimant (*delete whichever is inapplicable*) on you.

If a Defence/answering Affidavit (*delete whichever is inapplicable*) is not filed within the time stated, you will not be entitled to challenge the (*role of party*)'s claim against you and you will be taken to have admitted the (*role of party*)'s claim against you. A judgment in respect of such liability may be given against you in your absence and without further notice.

PART 3

GENERAL

Endorsements

Cross Action issued pursuant to section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Cross Action has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought (*delete this section if statement of claim filed*)

On the grounds stated in the accompanying affidavit, the Cross Claimant seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by a Statement of Counterclaim or Affidavit in lieu of pleading.

Cross Claimant's address

The Cross Claimant's address for service is:

Place:

Email:

The Cross Claimant's address is (*if the cross claimant is an individual - place of residence or business; if the cross claimant is a corporation - principal place of business*).

Date:

Signed by (*name*)

Cross Claimant/Cross Claimant's solicitor (*delete whichever is inapplicable*)

STATEMENT OF COUNTERCLAIM

(***see form 20***)

Rule 36(3)

Form 9 Third party action

THIRD PARTY ACTION

TO THE THIRD PARTY: (*name*) of (*address*)

This action has been brought by the plaintiff against the defendant. The plaintiff's claim against the defendant is set out in the copy Summons and Statement of Claim/Affidavit (*delete whichever is inapplicable*) attached.

The (*role of party*), (*name*) makes a third party claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Statement of Third Party Claim/Affidavit (*delete whichever is inapplicable*).

Action required

If you wish to defend the claim, you must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Third Party Action on you; and

(b) file a Defence/answering Affidavit (*delete whichever is inapplicable*) within 28 calendar days after service of the Statement of Third Party Claim/Affidavit relied on by the Third Party Claimant (*delete whichever is inapplicable*) on you.

If a Notice of Address for Service and a Defence/answering Affidavit (*delete whichever is inapplicable*) is not filed within the time stated, you will not be entitled to challenge the (*role of party's*) claim against you and you will be taken to have admitted the (*role of party's*) claim against you. A judgment in respect of such liability may be given against you in your absence and without further notice.

The Notice of Address for Service and Defence/answering Affidavit (*delete whichever is inapplicable*) must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Endorsements

Third Party Action issued pursuant to section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Third Party Action has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought (*delete this section if statement of claim filed*)

On the grounds stated in the accompanying affidavit, the Cross Claimant seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This summons must be accompanied by a Statement of Third Party Claim or Affidavit in lieu of pleading.

Cross Claimant's address

The Cross Claimant's address for service is:

Place:

Email:

The Cross Claimant's address is (*if the cross claimant is an individual - place of residence or business; if the cross claimant is a corporation - principal place of business*).

Date:

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

STATEMENT OF THIRD PARTY CLAIM

(***see form 18***)

Rule 40(3)

Form 10 Notice of summons to be served outside Australia

NOTICE OF SUMMONS TO BE SERVED OUTSIDE AUSTRALIA

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

TAKE NOTICE that the plaintiff (*name*) of (*address of plaintiff*) has commenced an action against you in the Supreme Court of South Australia by a Summons issued on (*date issued*) in (*action number*). Copies of the Summons and the Statement of Claim are attached.

Action required

You must, within (*number*) days of service of this Notice upon you, file a Notice of Address for Service in accordance with the *Supreme Court Civil Rules 2006* in the Registry of the Supreme Court of South Australia at (*address*) in the State of South Australia if you wish to defend the action.

If you do not file such a Notice of Address for Service, judgment may be given against you in your absence without further notice.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Note

This Notice is to be used when directed by the Court or where the law of the place of service does not allow service of a summons.

Rule 41AF

Form 11 Request for service in a foreign country

REQUEST FOR SERVICE IN A FOREIGN COUNTRY

I, (*name*), solicitor for (*role of party*), (*name*) request that (*identify document to be served*) be transmitted:

- in accordance with the (*insert name of convention or law of foreign country*)
- through the diplomatic channel to (*name of country*) for service on the (*role of party*), (*name*) at (*address for service*) or elsewhere in (*name of country*)

(*delete whichever is inapplicable*).

I personally undertake to be responsible for the expenses incurred by the Court in respect of the requested service of documents and, on receiving due notification of the amount of the expenses incurred, will pay the amount to the Registrar of the Court.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 41AF

Form 12 Request for transmission of documents to a foreign government

REQUEST FOR TRANSMISSION OF DOCUMENTS TO A FOREIGN GOVERNMENT

The Chief Justice of the Supreme Court of South Australia requests the Secretary of the Attorney-General's Department/Department of Foreign Affairs and Trade (*delete whichever is inapplicable*) to transmit to the government of (*insert name of country*) the following documents:

(*insert documents*)

with the requests that:

(a) the documents be served on (*insert name of respondent*), against whom this proceeding has been taken in the Supreme Court of South Australia, in accordance with the law of (*insert name of country*); and

(b) evidence of service of the documents be officially certified or declared (on oath or otherwise) to the Supreme Court of South Australia in the manner consistent with usage or practice of the courts in (*insert name of country*) in proving service of legal process.

(*delete if inapplicable*) The Chief Justice requests that, if efforts to effect personal service of the documents prove ineffectual, the government or court of (*insert name of country*) be requested to certify or declare (on oath or otherwise) that fact to this Court.

(*delete if inapplicable*) The following information is provided in support of the request:

(*insert any additional information that may be required by any convention applying to the service of the documents*)

Date:

.....

Signed by an officer acting with the authority of the Chief Justice

Note

The request should be made:

(a) if the Attorney-General's Department is the Central Authority for the purpose of a convention that applies to the service of the documents—to the Secretary of the Attorney-General's Department; or

(b) in any other case—to the Secretary of the Department of Foreign Affairs and Trade.

Rules 41D(2)(a) and 41F(2)(a)

Form 13 Request for service abroad of judicial documents and certificate of service

REQUEST FOR SERVICE ABROAD OF JUDICIAL DOCUMENTS AND CERTIFICATE OF SERVICE

PART 1 Request for service abroad of judicial documents

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15th of November 1965

Identity and address of the applicant on whose behalf the forwarding authority requests service	Identity and address of receiving authority (*Central Authority/additional authority*)

The undersigned forwarding authority has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, (*identity of addressee and address*)

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5):
(*specify method*)

(c) by delivery to the addressee, if the addressee accepts it voluntarily (second paragraph of Article 5).

(*delete whichever is inapplicable*)

The receiving authority (*Central Authority/additional authority*) is requested to return or to have returned to the applicant a copy of the following documents – and of the

annexes (*delete if inapplicable*) - with a certificate of service as provided in Part 2 of this Form.

(list of documents)

Done at (*place*), on the (*date*)

Signature or stamp (or both) of forwarding authority

PART 2 Certificate of service

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15th of November 1965

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention:
(*delete whichever is inapplicable*)

1. that the documents listed in Part 1 have been served
on (*date*)
at (*place, street, number*)
in one of the following methods authorised by Article 5:
(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention,
(b) in accordance with the following particular method:
(*specify method*)
(c) by delivery to the addressee, who accepted it voluntarily.

(*delete whichever is inapplicable*)

The documents referred to in the request have been delivered to:
(*identity and description of person*)
relationship to the addressee (*family, business or other*)
(*delete whichever is inapplicable*)

2. that the documents have not been served, by reason of the following facts:
(*specify facts*)

In conformity with the second paragraph of Article 12 of the Convention, the forwarding authority is requested to pay or reimburse the expenses detailed in the attached statement. (*delete if inapplicable*).

Annexes

Documents returned:

In appropriate cases, documents establishing the service:

Done at (*place*), on the (*date*)

Signature or stamp (or both) of forwarding authority

Rule 41D(2)(c)

Form 14 Summary of the document to be served

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15th November 1965

(Article 5, fourth paragraph)

Identity and address of the addressee (*Central Authority/additional authority*):

IMPORTANT

The enclosed document is of a legal nature and may affect your rights and obligations. The summary of the document to be served will give you some information about its nature and purpose. You should however read the document itself carefully. It may be necessary to seek legal advice.

If your financial resources are insufficient, you should seek information on the possibility of obtaining legal aid or advice either in the country where you live or in the country where the document was issued.

Enquiries about the availability of legal aid or advice in the country where the document was issued may be directed to

.....

SUMMARY OF THE DOCUMENT TO BE SERVED

Name and address of the forwarding authority:

Particulars of the parties:

JUDICIAL DOCUMENT

Nature and purpose of document:

Nature and purpose of the proceeding and, when appropriate, the amount in dispute:

Date and place for entering appearance:

Court in which proceeding pending/judgment given:

Date of judgment: (*delete if inapplicable*)

Time limits stated in the document: (*delete if inapplicable)*

Rules 41M(2) and 41P(4)(a)

Form 15 Request for service of foreign judicial documents and certificate of service

REQUEST FOR LOCAL SERVICE OF FOREIGN JUDICIAL DOCUMENTS AND CERTIFICATE OF SERVICE

PART 1 Request for service abroad of judicial documents

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15th of November 1965

Identity and address of the applicant on whose behalf the forwarding authority requests service	Identity and address of receiving authority (*Central Authority/additional authority*)

The undersigned forwarding authority has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee (*identity of addressee and address*)

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5):
(*specify method*)

(c) by delivery to the addressee, if the addressee accepts it voluntarily (second paragraph of Article 5).

(*delete whichever is inapplicable*)

The receiving authority (*Central Authority/additional authority*) is requested to return or to have returned to the applicant a copy of the following documents – and of the annexes (*delete if inapplicable*) - with a certificate as provided in Part 2 of this Form.

(list of documents)

Done at (*place*), on the (*date*)

Signature or stamp (or both) of forwarding authority

PART 2 Certificate of service

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15th of November 1965

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention:
(*delete whichever is inapplicable*)

1. that the documents listed in Part 1 have been served
   on (*date*)
   at (*place, street, number*)
   in one of the following methods authorised by Article 5:
   (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention,
   (b) in accordance with the following particular method:
   (*specify method*)
   (c) by delivery to the addressee, who accepted it voluntarily.
   (*delete whichever is inapplicable*)

   The documents referred to in the request have been delivered to:
   (*identity and description of person*)
   relationship to the addressee (*family, business or other*)
   (*delete whichever is inapplicable*)

2. that the document has not been served, by reason of the following facts:
   (*specify facts*)

In conformity with the second paragraph of Article 12 of the Convention, the forwarding authority is requested to pay or reimburse the expenses detailed in the attached statement. (*delete if inapplicable*)

Annexes

Documents returned:

In appropriate cases, documents establishing the service:

Done at (*place*), on the (*date*)

Signature or stamp (or both) of forwarding authority

Rules 23(1)(b), 23(2)(b), 59(3) and 59(4)

Form 16 Notice of acting and address for service

NOTICE OF ACTING AND ADDRESS FOR SERVICE

(*name*), solicitor acts/now acts (*delete whichever is inapplicable*) as solicitor for the (*role of party*), (*name*) whose address for service is/is now (*delete whichever is inapplicable*):

(*insert address for service*)

Date:

Signed by (*name*)

Solicitor for (*role of party*)

Rules 23(2)(a), 59(3) and 59(4)

Form 17 Notice of address for service

NOTICE OF ADDRESS FOR SERVICE

The address for service of the (*role of party*), (*name*) is/is now (*delete whichever is inapplicable*):

(*insert address for service*)

Date:

Signed by (*name*)

(*role of party*)

Rules 91, 98 and 99

Form 18 Statement of claim

STATEMENT OF CLAIM

Introduction

(*summarise the claim in less than 50 words*)

The causes of action relied on are:

(*list causes of action*)

Part 1: Background and uncontroversial matters

(*plead background and facts or matters expected to be uncontroversial*)

Part 2: Basis of causes of action and other material matters

(*plead the basis of each cause of action and material facts or matters on which each cause of action is based insofar as not addressed in Part 1*)

Part 3: Remedies and ancillary remedies

(*set out remedies and ancillary remedies sought*)

Certificate:

This pleading is put forward in accordance with the instructions of the (*role of party*), (*name*) and it complies with the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rules 92, 98 and 100

Form 19 Defence

DEFENCE

Part 1: Background and uncontroversial matters

(*plead answer to plaintiff's plea of background and facts or matters expected to be uncontroversial*)

(*plead any additional background and facts or matters expected to be uncontroversial*)

Part 2: Basis of causes of action and other material matters

(*plead answer to plaintiff's pleas*)

(*plead any additional material facts or matters insofar as not addressed in Part 1*)

(*plead any preliminary issues or special defences*)

Part 3: Remedies and ancillary remedies

(*plead answer to remedies and ancillary remedies sought*)

Certificate:

This pleading is put forward in accordance with the instructions of the (*role of party*), (*name*) and it complies with the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name*)

Defendant/Defendant's solicitor (*delete whichever is inapplicable*)

Rules 91, 98 and 99

Form 20 Statement of counterclaim

STATEMENT OF COUNTERCLAIM

The (*role of party*), (*name*) counterclaims against the (*role of party*), (*name*) as follows.

Introduction

(*summarise the claim the subject of the counterclaim in less than 50 words*)

The causes of action relied on are:

(*list causes of action*)

Part 1: Background and uncontroversial matters

(*plead background and facts or matters expected to be uncontroversial*)

(*matters may be repeated from the defence or another earlier generation pleading*)

Part 2: Basis of causes of action and other material matters

(*plead the basis of each cause of action and material facts or matters on which each cause of action is based insofar as not addressed in Part 1*)

(*matters may be repeated from the defence or another earlier generation pleading*)

Part 3: Remedies and ancillary remedies

(*set out remedies and ancillary remedies sought*)

Certificate:

This pleading is put forward in accordance with the instructions of the (*role of party*), (*name*) and it complies with the *Supreme Court Civil Rules 2006*.

Date:

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rules 35(2), 91, 98 and 99

Form 21 Contribution claim

CONTRIBUTION CLAIM

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

In this action the defendant, (*name*) claims an entitlement to indemnity and/or contribution from you on the following basis:

Introduction

(*summarise the contribution claim in less than 50 words*)

The causes of action relied on are:

(*list causes of action, eg right to contribution under section 6 of the* Law Reform (Contributory Negligence and Proportionate Liability) Act 2011)

Part 1: Background and uncontroversial matters

(*plead background and facts or matters expected to be uncontroversial*)

(*matters may be repeated from the defence or another earlier generation pleading*)

Part 2: Basis of causes of action and other material matters

(*plead the basis of each cause of action and material facts or matters on which each cause of action is based insofar as not addressed in Part 1*)

(*matters may be repeated from the defence or another earlier generation pleading*)

Part 3: Remedies and ancillary remedies

(*set out remedies sought*)

Certificate:

This pleading is put forward in accordance with the instructions of the defendant, (*name*) and it complies with the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name*)

Defendant/Defendant's solicitor (*delete whichever is inapplicable*)

Rules 94, 98 and 101

Form 22 Reply

REPLY

Part 1: Background and uncontroversial matters

(*plead any response to defendant's plea of background and facts or matters expected to be uncontroversial*)

Part 2: Basis of causes of action and other material matters

(*plead any response to defendant's additional material facts or matters, preliminary issues or special defences*)

Part 3: Remedies and ancillary remedies

(*plead any response to defendant's answer*)

Certificate:

This pleading is put forward in accordance with the instructions of the plaintiff, (*name*) and it complies with the *Supreme Court Civil Rules 2006.*

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Supplementary Rule 74

Form 23 Liquidated debt claim election

LIQUIDATED DEBT CLAIM ELECTION

Election

The plaintiff elects that this action proceed initially under supplementary rule 74.

Nature of claim

The claim is for a liquidated amount.

(*or*)

The claim is an unliquidated claim for property damage the cost of which has been paid by the plaintiff and an invoice for which is attached to the Statement of Claim.

(*delete whichever is inapplicable*)

Certification

I certify that, in my reasonable opinion, the claim will be uncontested or is not genuinely contestable.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rules 120(4) and 120A(2)

Form 24 Certificate of readiness for trial

CERTIFICATE OF READINESS FOR TRIAL

(*to be filed by the file principals for the parties*)

IT IS CERTIFIED by the file principals for the parties named below on due enquiry having been made that:

1 All pleadings are closed and no party has any intention of filing any further pleading or seeking any amendment of any pleading.

2 All particulars ordered or requested have been given as between all parties and no further particulars are sought.

3 The parties have made disclosure of all documents in their possession in accordance with the Rules and any order of the Court, and are not aware of any other documents of which disclosure should be made.

4 No party has any intention of making any further application for disclosure of documents by a stranger to the action, and any such application already made is completed and complied with and no further application will be made.

5 All parties have completed inspection of all documents of which disclosure has been made.

6 No party has any intention of seeking to file pre-trial questions for any other party, or, if they have already been delivered, no party has any intention of seeking any better answers.

7 Any pre-trial questions which have been delivered have been answered.

8 Any requests to admit assertions have been served and responded to and no party has any intention of bringing a further application about them.

9 Except for any subpoena which, on the advice of counsel, should only be made returnable at trial, all subpoenas for the production of documents have been issued, served and complied with to the satisfaction of the party issuing the same, except for any matter specifically reserved on the return of any such subpoena for the consideration of the trial Judge.

10 When rule 159 has been invoked, all material has been filed and served in accordance with that Rule.

11 All expert reports to be used by the parties have been obtained and made available to all parties as required by the Rules. Such reports, the tender of which can be agreed, have been agreed and no direction is sought or thought to be desirable to limit the number of expert witnesses to be called.

12 The quantum of special damages has been agreed at $(*amount*) (*or state any other situation*) and all reasonable efforts have been made to agree the quantum of any which remain in dispute.

13 Any actuarial certificates will be tendered by consent.

14 All interlocutory processes are completed and the action is in all respects ready for trial.

15 The estimated length of trial is (*period*) days.

16 The following Judges may possibly be disqualified from hearing the action: (*list names*)

17 The trial book has been delivered to the Registrar.

18 All endeavours to resolve the matter other than by trial have been exhausted without success and the parties and their advisers do not believe that the matter can be resolved other than by proceeding to trial.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Date:

.....

Signed by (*name*)

Defendant/Defendant's solicitor (*delete whichever is inapplicable*)

Rule 130G(3)

Form 25 Litigation plan

LITIGATION PLAN

Notes

1. This Litigation Plan should contain modifications or additions as necessary to provide a complete statement of interlocutory steps contemplated before trial.

2. The length and detail of this Litigation Plan should be proportionate to the amount in dispute and the nature and extent of the issues involved.

PART A: INFORMATION

1. Case Overview

What is the case about?

.....

2. Key issues

What are the key issues in the case?

.....

3. Parties

(a) Have all persons who should be parties been joined? Yes/No

(b) If not, the (*role of party*) seeks to join (*name*) because

.....

4. Pre-action protocols

(a) Has the plaintiff complied? Yes/No

(b) Has the defendant complied? Yes/No

(c) Has the third party complied? (*delete if inapplicable*) Yes/No

5. Alternative dispute resolution

(a) Do the parties seek to attempt to resolve their dispute through alternative dispute resolution (ADR)? Yes/No

(b) If yes, what form of ADR is proposed and who is to be the neutral party (*if any*)?

.....

(c) Should interlocutory steps be suspended pending the ADR? Yes/No

(d) What interlocutory steps, if any, need to be taken before ADR?

.....

(e) When will/should the ADR be held?

.....

6. Pleadings

(a) Have the pleadings closed? Yes/No

(b) If no, the further or amended pleadings which are intended by..... are

.....

(c) Does any party intend to make any application to strike out/for further particulars (*delete whichever is inapplicable*) in relation to another party's pleading? Yes/No

(d) If yes, the (*name of party*) proposes to apply to strike out/for further particulars (*delete whichever is inapplicable*) the following paragraphs of (*name of party*)'s pleading:

.....

7. Disclosure of Documents

(a) Should order disclosure proceed other than by reference to direct relevance to the issues arising from the pleadings? Yes/No

Examples:

1. disclosure only of particular categories of documents;

2. disclosure of those documents to which reference has been made in a pleading, upon which a party itself intends to rely at trial, which may be detrimental to a party's case, or which may be of assistance in proof of another party's case;

3. disclosure by reference to a statement of issues.

(b) If yes, the criteria for disclosure proposed is

……

because……

(c) Should the complex electronic protocol or hard copy protocol apply in lieu of the default simple electronic protocol? Yes/No

(d) Should the applicable protocol be modified? Yes/No

8. Expert Reports

(a) Have expert reports already been obtained? Yes/No

(b) If yes, they have been obtained from ……..

an expert in ……..

in relation to……..

(c) Does any party intend to obtain a (further) report from an expert? Yes/No

(d) If yes, a report is expected from ……..

an expert in ……..

in relation to……..

by (*date*)……..

9. Other Interlocutory Steps

(a) Are any other interlocutory steps needed to prepare for trial? Yes/No

(b) If yes, the steps proposed by……

are…….....

because……..

Note 1. As many interlocutory steps as possible should be undertaken concurrently.

Note 2. The parties should invoke only those procedures, and take only those steps, that are reasonably necessary to prepare for trial.

10. Trial

(a) What is the likely length of trial?
……..

(b) Should the trial be listed for a date earlier or later than in the ordinary course?

(c) If yes, it should be listed

……

because……...

PART B: PROPOSED DIRECTIONS

Proposed Directions

The proposed directions for the progress of the matter through to trial are:

Step	Date

Note

If a party disagrees whether a step should be taken or about the date by which it should be taken, add additional columns for each type of party (plaintiff, defendant, third party) and show in each party's column any objection or modified date for a step proposed by another party.

Rule 131(1)

Form 26 Interlocutory application

INTERLOCUTORY APPLICATION

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

Application

The (*role of party*), (*name*) seeks the following orders or directions:

1. (*set out orders or directions sought*)

Endorsements

Application issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

Hearing

You will be notified separately of the time and place of the hearing of the application.

Date:

.....

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 132(2)

Form 27 Electronic application and minutes

ELECTRONIC APPLICATION AND MINUTES

- ❑ **By consent**
- ❑ **Ex parte**
- ❑ **Inter partes**

(*mark box*)

Application

Action title (*abbreviated*):

Action Number: (*action number*)

Applicant: (*role of party*), (*name*)

Date of application: (*date*)

Particulars

1. The applicant seeks the following specific orders/directions:
(*state specific orders/directions sought*).

2 The grounds/reasons for the orders/directions sought are:
(*state reasons for application or refer to relevant affidavit evidence*)

3 (*when order is by consent*) The consent is evidenced by:
(*set out how the consent is being given, eg by endorsement on minutes of order, by e-mail from another solicitor dated* (date) *or otherwise.*)

Date:

.....

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Note

Draft minutes of order should be attached to the electronic application other than in the case of short or routine orders in the following form.

MINUTES OF ORDER

Judicial Officer:

The Honourable / Master of the Supreme Court (*delete whichever is inapplicable*)

Date of application: (*date*)

Application made by: (*role of party*)

Date of hearing: (*date*)

Date of order: (*date*)

Appearances:

(*solicitor/counsel*) for the (*role of party*), (*name*)

THE COURT ORDERS that:

(*insert text of proposed order in sequentially numbered paragraphs and in double space*)

Supplementary Rule 95(4)

Form 28 Registrar's response to application for electronic disposal

REGISTRAR'S RESPONSE TO APPLICATION FOR ELECTRONIC DISPOSAL

(Action Heading)

TO: (*return email address of applicant for electronic processing*)

1 Receipt is acknowledged of your email dated (*date*).

2 This matter has been referred to (*Judicial Officer*) for hearing and determination. That Judicial Officer will communicate with you in due course.

(*or*)

This matter has been referred to a Judicial Officer for initial consideration. It has been determined that it is unsuitable for hearing and determination electronically. The matter has been set down for hearing in the normal manner in the Practice Court before.....on..... at .....am/pm.

Date:

(*name and title of releasing officer)*

For the Registrar

Rule 136(2)

Form 29A List of documents—simple electronic protocol

LIST OF DOCUMENTS

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

The (*role of party*), (*name*) makes disclosure as follows:

1 The documents which are at present in the possession of the (*role of party*) and directly relevant to any issue arising on the pleadings:

1.1 for which privilege is not claimed are:
(*numbered list of documents*)

1.2 for which privilege is claimed are:
(*numbered list of documents specifying grounds on which privilege is claimed*).

2 The documents which have been, but are no longer in possession of the (*role of party*), and are directly relevant to any issue arising on the pleadings, are:
(*numbered list of documents stipulating when they were last in the possession, and what happened to them and where they might be found*).

3 The (*role of party*), by this list of documents, has now fully discharged the obligations of the (*role of party*), as at the date of delivery of this list, regarding disclosure of documents in this action.

Date:

Signed by (*name*)
(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Rule 136(2)

Form 29B List of documents—complex electronic protocol

LIST OF DOCUMENTS

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

The (*role of party*), (*name*) makes disclosure as follows:

1 The documents which are at present in the possession of the (*role of party*) and directly relevant to any issue arising on the pleadings:

1.1 for which privilege is not claimed are:
(*numbered list of documents*)

1.2 for which privilege is claimed are:
(*numbered list of documents specifying grounds on which privilege is claimed*).

2 The documents which have been, but are no longer in possession of the (*role of party*), and are directly relevant to any issue arising on the pleadings, are:
(*numbered list of documents stipulating when they were last in the possession, and what happened to them and where they might be found*).

3 The (*role of party*), by this list of documents, has now fully discharged the obligations of the (*role of party*), as at the date of delivery of this list, regarding disclosure of documents in this action.

Date:

Signed by (*name*)
(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Rule 136(2)

Form 29C List of documents—hard copy

LIST OF DOCUMENTS

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

The (*role of party*), (*name*) makes disclosure as follows:

1 The documents which are at present in the possession of the (*role of party*) and directly relevant to any issue arising on the pleadings:

1.1 for which privilege is not claimed are:
(*numbered list of documents*)

1.2 for which privilege is claimed are:
(*numbered list of documents specifying grounds on which privilege is claimed*).

2 The documents which have been, but are no longer in possession of the (*role of party*), and are directly relevant to any issue arising on the pleadings, are:
(*numbered list of documents stipulating when they were last in the possession, and what happened to them and where they might be found*).

3 The (*role of party*), by this list of documents, has now fully discharged the obligations of the (*role of party*), as at the date of delivery of this list, regarding disclosure of documents in this action.

Date:

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Rule 148

Form 30 Search order

SEARCH ORDER

TO: (*name of person against whom the order is made*)

If you (being the person bound by this order):

(a) refuse or neglect to do any act within the time specified in the order for the doing of the act; or

(b) disobey the order by doing an act which the order requires you to abstain from doing,

you will be liable to imprisonment, sequestration of property or other punishment.

Any other person who knows of this order and does anything that helps or permits you to breach the terms of this order may be similarly punished.

This is a search order made against you on (*date*) by (*name of Judge or Master*) at a hearing without notice to you after the Court was given the undertakings set out in Schedule B to this order and after the Court read the affidavits listed in Schedule C to this order.

THE COURT ORDERS:

INTRODUCTION

1 (a) The application for this order is made returnable immediately.

(b) The time for service of the application, supporting affidavits and originating process is abridged and service is to be effected by (*time and date*).

2 Subject to paragraph 3 below, this order has effect up to and including (*date*) (***the Return Date***). On the Return Date at (*time*) am/pm, there will be a further hearing in respect of this order in the Supreme Court of South Australia, 1 Gouger Street, Adelaide.

3 You may apply to the Court at any time to vary or discharge this order; including, if necessary, by telephone to (*insert*).

4 This order may be served only between (*time*) am/pm and (*time*) am/pm (*on a business day*).[1]

5 In this order:

(a) ***applicant*** means the person who applied for this order, and if there is more than one applicant, includes all the applicants;

(b) ***independent computer expert*** means the person (if any) identified as the independent computer expert in the search party referred to in Schedule A to this order;

(c) ***independent lawyer*** means the person identified as the independent lawyer in the search party referred to in Schedule A to this order;

(d) ***listed thing*** means anything referred to in Schedule A to this order;

(e) ***premises*** means the premises and any of the premises identified in Schedule A to this order, including any vehicles and vessels that are under the respondent's control on or about the premises or that are otherwise identified in Schedule A;

(f) ***search party*** means the persons identified or described as constituting the search party in Schedule A to this order;

(g) ***thing*** includes a document;

(h) ***you***, when there is more than one of you, includes all of you and includes you if you are a corporation;

(i) any requirement that something be done in your presence means:

(A) in the presence of you or of one of the persons described in paragraph 6 below; or

(B) if there is more than one of you, in the presence of each of you, or, in relation to each of you, in the presence of one of the persons described in 6 below.

6 This order must be complied with by:

(a) yourself; or

(b) any director, officer, partner, employee or agent of yourself; or

(c) any other person having responsible control of the premises.

[1] Normally the order should be served between 9.00 am and 2.00 pm on a business day to enable the respondent more readily to obtain legal advice.

7 This order must be served by, and be executed under the supervision of, the independent lawyer.

ENTRY, SEARCH AND REMOVAL

8 Subject to paragraphs 10 to 20 below, upon service of this order you must permit members of the search party to enter the premises so that they can carry out the search and other activities referred to in this order.

9 Having permitted members of the search party to enter the premises, you must:

(a) permit them to leave and re-enter the premises on the same and the following day until the search and other activities referred to in this order are complete;

(b) permit them to search for and inspect the listed things and to make or obtain a copy, photograph, film, sample, test or other record of the listed things;

(c) disclose to them the whereabouts of all the listed things in your possession, custody or power, whether at the premises or otherwise;

(d) disclose to them the whereabouts of all computers, computer disks and electronic information storage devices or systems at the premises in which any documents among the listed things are or may be stored, located or recorded and cause and permit those documents to be printed out;

(e) do all things necessary to enable them to access the listed things, including opening or providing keys to locks and enabling them to access and operate computers and providing them with all necessary passwords;

(f) permit the independent lawyer to remove from the premises into the independent lawyer's custody:

(i) the listed things or things which reasonably appear to the independent lawyer to be the listed things and any things the subject of dispute as to whether they are listed things; and

(ii) the copies, photographs, films, samples, tests, other records and printed out documents referred to above; and

(g) permit the independent computer expert (if there is one) to search any computer and make a copy or digital copy of any computer hard drive and permit the independent computer expert (if any) or the independent lawyer to remove any computer hard drive and computer from the premises as set out in paragraphs 20 and 21 below.

RESTRICTIONS ON ENTRY, SEARCH AND REMOVAL

10 This order may not be executed at the same time as a search warrant (or similar process) is executed by the police or by a regulatory authority.

11 You are not required to permit anyone to enter the premises until:

(a) the independent lawyer serves you with copies of this order and any affidavits referred to in Schedule C (confidential exhibits, if any, need not be served until further order of the Court); and

(b) you are given an opportunity to read this order and, if you so request, the independent lawyer explains the terms of this order to you.

12 Before permitting entry to the premises by anyone other than the independent lawyer, you, for a time (not exceeding two hours from the time of service or such longer period as the independent lawyer may permit):

(a) may seek legal advice;

(b) may ask the Court to vary or discharge this order;

(c) (provided you are not a corporation) may gather together any things that you believe may tend to incriminate you or make you liable to a civil penalty and hand them to the independent lawyer in (if you wish) a sealed envelope or container; and

(d) may gather together any documents that passed between you and your lawyers for the purpose of obtaining legal advice or that are otherwise subject to legal professional privilege or client legal privilege, and hand them to the independent lawyer in (if you wish) a sealed envelope or container.

13 Subject to paragraph 22 below, the independent lawyer must not inspect or permit to be inspected by anyone, including the applicant and the applicant's lawyers, anything handed to the independent lawyer in accordance with paragraphs 12(c) and (d) above and the independent lawyer must deliver it to the Court at or before the hearing on the Return Date.

14 During any period referred to in paragraph 12 above, you must:

(a) inform and keep the independent lawyer informed of the steps being taken;

(b) permit the independent lawyer to enter the premises but not to start the search;

(c) not disturb or remove any listed things; and

(d) comply with the terms of paragraphs 25 and 26 below.

15 Anything the subject of a dispute as to whether it is a listed thing must promptly be handed by you to the independent lawyer for safekeeping pending resolution of the dispute or further order of the Court.

16 Before removing any listed things from the premises (other than things referred to in paragraph 15 above), the independent lawyer must supply a list of them to you, give you a reasonable time to check the correctness of the list, and give you and the applicant's solicitor a copy of the list signed by the independent lawyer.

17 The premises must not be searched, and things must not be removed from the premises, except in the presence of you or of a person who appears to the independent lawyer to be your director, officer, partner, employee, agent or other person acting on your behalf or on your instructions.

18 If the independent lawyer is satisfied that full compliance with paragraph 17 above is not reasonably practicable, the independent lawyer may permit the search to proceed and the listed things to be removed without full compliance.

19 The applicant's solicitors and the independent lawyer must not allow the applicant in person to inspect or have copies of anything removed from the premises nor communicate to the applicant information about its contents or about anything observed at the premises until 4.30 pm on the Return Date or other time fixed by further order of the Court.

COMPUTERS

20 (a) If it is expected that a computer will be searched, the search party must include a computer expert who is independent of the applicant and of the applicant's solicitors (the independent computer expert).

(b) Any search of a computer must be carried out only by the independent computer expert.

(c) The independent computer expert may make a copy or digital copy of the computer hard drive and remove that copy or digital copy from the premises.

(d) The independent computer expert may search the computer or the copy or digital copy of the computer hard drive at the premises and/or away from the premises for listed things and may copy the listed things electronically or in hard copy or both.

(e) The independent computer expert must as soon as practicable, and in any event before the hearing on the Return Date, deliver the copy or digital copy of the computer hard drive and all electronic and hard copies of listed things to the independent solicitor, together with a report of what the independent computer expert has done including a list of such electronic and hard copies.

(f) The independent lawyer must, at or prior to the hearing on the return date, deliver to the Court all things received from the independent computer expert and serve a copy of the independent computer expert's report on the parties.

(g) If no independent computer expert has been appointed, but the independent lawyer considers it necessary to remove a computer from the premises for safekeeping or for the purpose of copying its contents electronically and printing out information in documentary form, the independent lawyer may remove the computer from the premises for that purpose.

(h) If the independent lawyer removes a computer from the premises under paragraph 20(g) above, the independent lawyer may cause the copying of its contents electronically and printing out its information in documentary form.

21 (a) Unless you are a corporation, you are entitled to object to steps under paragraphs 20(b) to (f) above on the ground that they might tend to incriminate you or make you liable to a civil penalty.

(b) You are entitled to object to steps under paragraphs 20(b) to (f) and (h) above on the ground that the computer contains material that is otherwise privileged.

(c) Upon communicating any objection under paragraph 21(a) or (b) above to the independent lawyer, paragraphs 20(b) to (f) and (h) above become inoperative to the extent that you have objected to them. In that event, if the applicant's solicitor communicates to the independent lawyer that the applicant proposes to contest the objection:

(i) the independent computer expert shall remove the computer hard drive (or, if that is not practicable, the computer) from the premises and deliver it into the custody of the independent lawyer who shall deliver it to the Court at or prior to the Return Date;

(ii) on the Return Date or on another date, the applicant may apply to the Court for orders to similar effect as paragraphs 20(b) to (f) and (h) above and if you object, the Court may adjudicate upon your objection.

INSPECTION

22 Before the Return Date, you or your solicitor or representative shall be entitled, in the presence of the independent lawyer, to inspect anything removed from the premises and to:

(a) make copies of the same; and

(b) provide the independent lawyer with a signed list of things that are claimed to be privileged or confidential and which you claim ought not to be inspected by the applicant.

PROVISION OF INFORMATION

23 Subject to paragraph 24 below, you must:

(a) at or before the further hearing on the Return Date (or within such further time as the Court may allow) to the best of your ability inform the applicant in writing as to:

(i) the location of the listed things;

(ii) the name and address of everyone who has supplied you, or offered to supply you, with any listed thing;

(iii) the name and address of every person to whom you have supplied, or offered to supply, any listed thing; and

(iv) details of the dates and quantities of every such supply and offer;

(b) within (*insert number*) business days after being served with this order, make and serve on the applicant an affidavit setting out the above information.

24 (a) This paragraph 24 applies if you are not a corporation and you wish to object that compliance with paragraph 23 above may tend to incriminate you or make you liable to a civil penalty.

(b) This paragraph 24 also applies if you are a corporation and all of the persons who are able to comply with paragraph 23 above on your behalf and with whom you have been able to communicate wish to object that compliance may tend to incriminate them or make them liable to a civil penalty.

(c) You must, at or before the further hearing on the Return Date (or within such further time as the Court may allow), notify the applicant in writing that you or all the persons referred to in paragraph (b) above wish to take such objection and identify the extent of the objection.

(d) If you give such notice, you need comply with paragraph 23 above only to the extent, if any, that it is possible to do so without disclosure of the material in respect of which the objection is taken.

(e) If you give such notice, the Court may give directions as to the filing and service of affidavits setting out the matters that you or the persons referred to in paragraph (b) above wish to place before the Court in support of the objection.

PROHIBITED ACTS

25 Except for the sole purpose of obtaining legal advice, you must not, until 4.30 pm on the Return Date, directly or indirectly inform any person of this proceeding or of the contents of this order, or tell any person that a proceeding has been or may be brought against you by the applicant.

26 Until 4.30 pm on the Return Date you must not destroy, tamper with, cancel or part with possession, power, custody or control of the listed things otherwise than in accordance with the terms of this order or further order of the Court.

COSTS

27 The costs of this application are reserved to the Judge hearing the application on the Return Date.

SCHEDULE A

Premises

The premises located at (*insert address or addresses*) including any vehicle or vehicles under the respondent's control on or about those premises.

Listed Things

1

2

3

Search Party

1 The independent lawyer: (*insert name and address*)

2 The applicant's solicitor or solicitors:

(a) (*insert name and address*) (*or description eg a partner or employed solicitor of A, B and Co*).

(b) (*insert name and address*) (*or description eg a partner or employed solicitor of A, B and Co*).

(c) (*insert name and address*) (*or description e.g. a partner or employed solicitor of A, B and Co*).

3 Other members of the search party:

(a) (*insert name and address*) in the capacity of (*eg an independent computer expert*)

(b) (*insert name and address*) in the capacity of (*insert capacity*)

SCHEDULE B

UNDERTAKINGS GIVEN TO THE COURT

Undertakings given to the Court by the applicant:

1 The applicant undertakes to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.

2 The applicant will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.

3 The applicant will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.

4 If the applicant has not already done so, as soon as practicable the applicant will file an application for hearing on the Return Date and an originating process (in the form of the draft produced to the Court).

5 The applicant will insure the things removed from the premises against loss or damage for an amount that reasonably appears to the applicant to be their full value.[2]

6 The applicant will:[3]

(a) on or before (*insert date*) cause a written irrevocable undertaking to pay in the sum of $(*insert amount*) to be issued from a bank with a place of business within Australia in respect of any order the Court may make referred to in the undertaking as to damages contained in paragraph (1) above; and

(b) immediately upon issue of the irrevocable undertaking to pay, cause a copy of it to be served on the respondent.

---

[2] Depending on the nature of the things likely to be removed and their likely value, and the likely particular risks of their being lost or damaged, this undertaking or a more elaborate one may be required.

[3] See supplementary rule 147.

Undertakings given to the Court by the applicant's solicitor

1 The applicant's solicitor will pay the reasonable costs and disbursements of the independent lawyer and of any independent computer expert.

2 The applicant's solicitor will provide to the independent lawyer for service on the respondent copies of the following documents:

(a) this order;

(b) the application for this order for hearing on the Return Date;

(c) the following material insofar as it was relied on by the applicant at the hearing when the order was made:

(i) affidavits (or draft affidavits);

(ii) exhibits capable of being copied (other than confidential exhibits);

(iii) any written submission; and

(iv) any other document that was provided to the Court.

(d) a transcript, or if none is available a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put to the Court; and

(e) the originating process, or if none was filed any draft originating process produced to the Court.

3 The applicant's solicitor will answer to the best of his or her ability any question as to whether a particular thing is a listed thing.

4 The applicant's solicitor will use his or her best endeavours to act in conformity with the order and to ensure that the order is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.

5 The applicant's solicitor will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.

6 The applicant's solicitor will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.

7 The applicant's solicitor will not disclose to the applicant any information that the solicitor acquires during or as a result of execution of the search order, without the permission of the Court.

8 The applicant's solicitor will endeavour to follow all directions of the independent lawyer.

Undertakings given to the Court by the independent lawyer

1 The independent lawyer will use his or her best endeavours to serve the respondent with this order and the other documents referred to in the undertaking by the applicant's solicitor above.

2 Before entering the premises, the independent lawyer will:

(a) offer to explain the terms and effect of the search order to the person served with the order and, if the offer is accepted, do so; and

(b) inform the respondent of his or her right to obtain legal advice.

3 Subject to undertaking 4 below, the independent lawyer will retain custody of all things removed from the premises by the independent lawyer pursuant to this order until delivery to the Court or further order of the Court.

4 At or before the hearing on the Return Date, the independent lawyer will provide a written report on the carrying out of the order to the Court and provide a copy to the applicant's solicitor and to the respondent or the respondent's solicitor. The report will attach a copy of any list made pursuant to the order and a copy of any report received from an independent computer expert.

5 The independent lawyer will use his or her best endeavours to act in conformity with the search order and to ensure that the order is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.

6 The independent lawyer will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.

7 The independent lawyer will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.

Undertakings given to the Court by the independent computer expert

1 The independent computer expert will use his or her best endeavours to act in conformity with the order and to ensure that the order, so far as it concerns the independent computer expert, is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.

2 The independent computer expert will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.

3 The independent computer expert will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.

4 The independent computer expert will use best endeavours to follow all directions of the independent lawyer.

SCHEDULE C

AFFIDAVITS RELIED ON

Name of Deponent	Date affidavit made
1	
2	
3	

NAME AND ADDRESS OF APPLICANT'S SOLICITORS

The Applicant's solicitors are:

(*insert name, address, reference, fax and telephone numbers both in and out office hours*)

Rule 156

Form 31 Notice to admit

NOTICE TO ADMIT

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

You are required, within 14 calendar days or such other extended time as may be fixed by the Court or agreed between the parties, to respond to the following assertions by:

(a) denying the assertion and stating the grounds of the denial;

(b) stating that the respondent is not in a position to admit or deny the assertion and explaining why the respondent is not in a position to do so; or

(c) claiming privilege or some other proper ground for refusing to respond to the assertion.

Date:

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Rule 161(2)

Form 32 Certificate by shadow expert

CERTIFICATE BY SHADOW EXPERT

I (*name of shadow expert*) of (*address*) CERTIFY:

1 I understand that it is not my role to provide evidence at the trial of this action;

2 I have not been previously engaged in any other capacity to give advice or an opinion in relation to any party's case or any aspect of it.

Date:

.....

Signed by (*name*)

Shadow expert

Rule 162

Form 33 Affidavit

AFFIDAVIT

I (*full name, address and occupation of deponent*) SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM (*delete whichever is inapplicable*) THAT:

1. (*set out text of affidavit in successive, numbered paragraphs*)

Sworn/Affirmed (*delete whichever is inapplicable*)
by the abovenamed deponent
at (*place*)
on (*date*)

.....
(*signature of deponent*)

before me .....
(*signature and title of attesting witness*)

(*print name of witness*)

(*ID number of witness*)

Rule 173

Form 34 Subpoena

SUBPOENA

TO: (*name*) of (*address*)

You are ordered:

☐ **to attend to give evidence – see Section A of this form; or**

☐ **to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents – see Section B of this form; or**

☐ **to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents – see Section C of this form.**

(*select one only of these three options)*

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), *(name)* whose address for service is:

Place:

Email:

(delete whichever of Section A, B or C below that is not applicable)

SECTION A Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court of South Australia, 1 Gouger Street, Adelaide

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

SECTION B Details of subpoena to produce only

You must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court of South Australia, 1 Gouger Street, Adelaide

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

Supreme Court Civil Registry
Lower Ground Floor
Sir Samuel Way Building
241- 259 Victoria Square
Adelaide, South Australia, 5000

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space*)

SECTION C Details of subpoena both to attend to give evidence and to produce

Insofar as you are required by this subpoena to attend to give evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court of South Australia, 1 Gouger Street, Adelaide

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

Insofar as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court of South Australia, 1 Gouger Street, Adelaide

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

Supreme Court Civil Registry
Lower Ground Floor
Sir Samuel Way Building
241- 259 Victoria Square
Adelaide, South Australia, 5000

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space*)

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. Insofar as this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:
   (a) at the address specified in the subpoena for the purpose; or
   (b) if more than one address is so specified, at any one of those addresses;
   so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.

Objection to inspection of the document or thing produced

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.

7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. The copy of a document may be:
   (i) a photocopy; or

(ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

Return or destruction of documents or copies

10. You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.

11. If you have so informed the Court, the Registrar may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
    (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
    (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 180(3)

Form 35 Notice and Declaration by addressee of subpoena

NOTICE AND DECLARATION BY ADDRESSEE OF SUBPOENA

TO: (*name of addressee*) of (*address*)

Notice to Addressee

The ***Addressee*** is the person to whom the subpoena is addressed and who will be the recipient of the subpoena.

You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be:

(a) a photocopy; or

(b) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

You must complete the Declaration below, attach it to the subpoena or a copy of the subpoena, and return them with the documents or things you provide to the Court under the subpoena.

If you declare that the material you produce are copies of documents, the Registrar may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is or includes an original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

DECLARATION BY ADDRESSEE (SUBPOENA RECIPIENT)

(*tick the relevant option below, provide your address as appropriate, sign and date*)

☐ **All** of the material I am providing to the Court in compliance with the attached subpoena are **copies of documents**. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.

☐ **Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. Once the material is no longer required, all of the material should be returned to me at the following address:

.....

.....

(*signature of addressee*) .....

(*name of addressee*) .....

(*date*) .....

Rule 187(3)

Form 36 Offer of settlement

OFFER OF SETTLEMENT

The (*role of party*), (*name*) OFFERS pursuant to rule 187 to settle the action (*or if a particular claim in the action such as costs, specify it*) as follows:

1. (*insert terms of offer with precision in numbered paragraphs*)

(*if applicable*) Under rule 187(5) this offer is accompanied by a payment into Court of $ *(amount*)

Date:

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 188(3)

Form 37 Acceptance of offer

ACCEPTANCE OF OFFER

The (*role of party*), (*name*) ACCEPTS pursuant to rule 188 the offer made by the (*role of party*), (*name*) filed on (*date*) and seeks judgment by consent in terms of that offer.

Date:

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Supplementary Rule 182

Form 38 Request for payment out

REQUEST FOR PAYMENT OUT

I (*name*) of (*address*) in the State of South Australia

REQUEST that $(*amount*) standing in Court to the credit of this action in account number (*number*) together with all interest accrued to the date of payment out be paid to (*name*) pursuant to the order of (*Judge or Master*) dated (*date*).

Date:

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Signed by (*name*)

Justice of Peace/Commissioner for taking affidavits/(*etc*) (*delete whichever is inapplicable*)

Rule 200A(1)

Form 39 Summons—judicial review

SUMMONS

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff makes a claim for judicial review against you or which may affect you. Details of the nature of the claim and the orders sought are contained in the attached Statement of Grounds. Further details are contained in the affidavit to be served with this Summons.

Action required

If you wish to oppose the claim, you or your solicitor must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Summons on you; and

(b) file a Response to Statement of Grounds and, where applicable, a responding affidavit within 28 calendar days after service of this Summons on you.

The Notice of Address for Service and Response and any responding affidavit must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

If a Notice of Address for Service and a Response is not filed within the time stated, orders may be made against you in your absence and without further notice.

Endorsements

Summons issued pursuant to rule 200A of the *Supreme Court Civil Rules 2006*.

This Summons has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Accompanying documents

This summons must be accompanied by a Statement of Grounds and Affidavit.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Notes

1 If the full name of a party is not known the summons may be endorsed as follows:

"Any better full name of the (*role of the party*) is not known, and not reasonably ascertainable by, the plaintiff"

2 If the plaintiff intends to apply for an authorisation under rule 81 the summons is to bear the following endorsement under rule 81(2):

"The plaintiff brings this action as representative of a group of which each member has a common interest being (*set out question of law or fact in which there is a common interest*) and intends to apply for the necessary authorisation under rule 81."

3 As to other endorsements which may be required on a summons see rule 38(3)(a).

Rule 200A(3)

Form 40 Statement of grounds—judicial review

STATEMENT OF GROUNDS

1. Nature of application

(*set out nature of the application for judicial review*)

2. Decision, act or omission

(*set out decision, act or omission subject of the application*)

3. Grounds of review

(*set out grounds why decision, act or omission is alleged to be invalid, wrongful or otherwise liable to order for judicial review*)

4. Orders sought

(*set out orders sought*)

Certificate:

This statement of grounds is put forward in accordance with the instructions of the plaintiff, (*name*) and it complies with the *Supreme Court Civil Rules 2006.*

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 200B(3)

Form 41 Response to statement of grounds—judicial review

RESPONSE TO STATEMENT OF GROUNDS

1. Nature of application

(*reiterate plaintiff's identification of nature of the application for judicial review*)

2. Decision, act or omission

(*set out any qualification to the plaintiff's identification of the decision, act or omission subject of the application*)

3. Response to grounds of review

(*set out response to plaintiff's grounds of review and any preliminary issues or special defences why the orders sought should not be granted*)

4. Response to orders sought

(*set out any further response to orders sought*)

Certificate:

This response to statement of grounds is put forward in accordance with the instructions of the plaintiff (*name of party*) and it complies with the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name*)

Defendant/Defendant's solicitor (*delete whichever is inapplicable*)

Rule 204A(3)(a)

Form 42 Notice to defendant of application for permission to serve

NOTICE TO DEFENDANT OF APPLICATION FOR PERMISSION TO SERVE WARRANT OF POSSESSION

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff intends to apply to the Registrar of the Supreme Court for the issue of a warrant of possession to give effect to the order for possession made on (*date*) of the property known as (*address of property*).

Action required

If, having regard to the circumstances that have occurred since the making of the order for possession, you wish to contend that there is good and sufficient reason why the warrant should not be issued, you must within 10 calendar days after the date of this notice file in the Supreme Court and send to the plaintiff:

(a) a Notice of Opposition to Permission to Serve Warrant of Possession (form 45); and

(b) an affidavit deposing to the facts upon which you will seek to rely at the hearing.

In that event, the Court will convene an urgent hearing and send notice of it to you. You should attend at that hearing in person or by your lawyer.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Note

If you oppose the issue of the warrant, and it is issued, you may be liable to pay the legal costs of the plaintiff of the hearing—which will be added on to the amount which has to be repaid under the mortgage (*add if applicable*).

Rule 204A(3)(b)

Form 43 Notice to occupier of application to serve warrant of possession

NOTICE TO OCCUPIER OF APPLICATION FOR PERMISSION TO SERVE WARRANT OF POSSESSION

This NOTICE is given to you as an occupier of (*address of property*).

By an order of the Supreme Court made on (*date*), the Court ordered that possession of the property be given to the plaintiff. The plaintiff intends to apply to the Registrar for the issue of a warrant of possession to give effect to the order for possession. The execution of such a warrant will mean that you will be evicted from the property.

Action required

If, having regard to the circumstances that have occurred since the making of the order for possession, you wish to contend that there is good and sufficient reason why the warrant should not be issued and that you should not be evicted from the property, you must within 10 calendar days after the date of this notice file in the Supreme Court and send to the plaintiff:

(a) a Notice of Opposition to Permission to Serve Warrant of Possession (form 45); and

(b) an affidavit deposing to the facts upon which you will seek to rely at the hearing.

In that event, the Registrar will convene an urgent hearing and send notice of it to you. You should attend at that hearing in person or by a lawyer.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Note

If you oppose the issue of the warrant, and it is issued, you may be liable to pay the legal costs of the plaintiff of the hearing

Rule 204A(8)

Form 44 Certificate of service of application for permission to serve

CERTIFICATE OF SERVICE OF APPLICATION FOR PERMISSION TO SERVE WARRANT OF POSSESSION

The plaintiff applies for the issue of a warrant of possession to give effect to the order for possession made in this action on (*date*).

Certificate

I (*name*), plaintiff/plaintiff's solicitor (*delete whichever is inapplicable*) CERTIFY that:

(1) on (*date*) notice in form 42 attached was duly sent by prepaid post to the defendant, (*name*);

(2) on (*date*) notice in form 43 attached was duly sent by prepaid post to the occupiers of (*address of property*); and

(3) there is no reason why a warrant of possession should not now issue.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 204A(4)

Form 45 Notice of opposition to permission to serve warrant of possession

NOTICE OF OPPOSITION TO PERMISSION TO SERVE WARRANT OF POSSESSION

I (*name*), a defendant/occupier (*delete whichever is inapplicable*) of the property request a hearing before the Court to oppose the issue of a warrant of possession.

The names of the persons who are occupiers of the property are: (*names*)

Defendant/occupier's address

The defendant/occupier's address for service is:

Place:

Email:

The defendant/occupier's address is (*if the defendant/occupier is an individual - place of residence or business; if the defendant/occupier is a corporation - principal place of business*).

Date:

Signed by (*name*)

Defendant/Occupier/Defendant's solicitor/Occupier's solicitor (*delete whichever is inapplicable*)

Note

Rule 204A(4) requires that this notice be supported by an affidavit deposing to the facts upon which you, the defendant/occupier, seek to rely.

Rule 215

Form 46 Notice to produce

NOTICE TO PRODUCE

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

You are REQUIRED to produce and show to the Court at the trial of this action the following documents which are in your possession:

1. (*numbered paragraphs describing each document of which production is sought*)

Date:

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Supplementary Rule 210(3)

Form 47 Form of sealed judgment or order

FORM OF SEALED JUDGMENT OR ORDER

(*The front sheet for each sealed order is to be in form 1*)

(*The nature of the order should be specified under* "DOCUMENT TYPE", *eg* JUDGMENT ON APPEAL)

(*The preamble to judgments and orders is as follows*:)

Supreme Court Judge: The Honourable Justice.....

Supreme Court Master: His/Her Honour Judge.....

Date of notice of appeal/summons/application (*delete whichever is inapplicable*):

Application made by: plaintiff/defendant (*delete whichever is inapplicable*)

Date of hearing/trial (*delete whichever is inapplicable*):

Date of order:

Appearances:
(*name*), solicitor/counsel (*delete whichever is inapplicable*) for the plaintiff
(*name*), solicitor/counsel (*delete whichever is inapplicable*) for the defendant, etc.
(*if e-application – e-application by consent*)

Undertaking: (*where applicable*)

The Court orders/declares (*delete whichever is inapplicable*) that:

(*or*)

By consent the Court orders that:

Notes:

1. In the case of orders of the Full Court the Judges will be named as follows:

   "The Honourable Chief Justice and Justices..... and

   ....."

   (*or*)

   "The Honourable Justices ....., ... and ....."

2. When an attendance is certified fit for counsel by the Judge or Master, the following is to be added immediately after the last numbered paragraph of the order:

   "Fit for counsel"

   (*or*)

   "Fit for counsel in respect of attendances on (*dates*)."

Rule 247

Form 48 Freezing order

FREEZING ORDER

TO: (*name of person against whom the order is made*)

If you

(a) refuse or neglect to do any act within the time specified in this order for the doing of the act; or

(b) disobey the order by doing an act which the order requires you to abstain from doing,

you will be liable to imprisonment, sequestration of property or other punishment.

Any other person who knows of this order and does anything which helps or permits you to breach the terms of this order may be similarly punished.

This is a freezing order made against you on (*date*) by Justice (*name of Judge*) at a hearing without notice to you after the Court was given the undertakings set out in Schedule A to this order and after the Court read the affidavits listed in Schedule B to this order.[1]

THE COURT ORDERS:

INTRODUCTION

1 (a) The application for this order is made returnable immediately.

(b) The time for service of the application, supporting affidavits and originating process is abridged and service is to be effected by (*time and date*).[2]

2 Subject to the next paragraph, this order has effect up to and including (*date*) (***the Return Date***). On the Return Date at (*time*) am/pm, there will be a further hearing

[1] The words "without notice to you" and "and after the Court read the affidavits listed in Schedule B to this order" are appropriate only in the case of an order made without notice to the respondent.
[2] Paragraph 1 is appropriate only in the case of an order made without notice.

in respect of this order in the Supreme Court of South Australia, 1 Gouger Street, Adelaide.[3]

3 Anyone served with or notified of this order, including you, may apply to the Court at any time to vary or discharge this order or so much of it as affects the person served or notified.

4 In this order:

(a) ***applicant***, if there is more than one applicant, includes all the applicants;

(b) ***you***, when there is more than one of you, includes all of you and includes you if you are a corporation;

(c) ***third party*** means a person other than you and the applicant; and

(d) ***unencumbered value*** means value free of mortgages, charges, liens or other encumbrances.

5 (a) If you are ordered to do something, you must do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions.

(b) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.

FREEZING OF ASSETS

(*for order limited to assets in Australia*)

6 (a) You must not remove from Australia or in any way dispose of, deal with or diminish the value of any of your assets in Australia (***Australian assets***) up to the unencumbered value of AUD$ (*amount*) (***the Relevant Amount***).

(b) If the unencumbered value of your Australian assets exceeds the Relevant Amount, you may remove any of those assets from Australia or dispose of or deal with them or diminish their value, so long as the total unencumbered value of your Australian assets still exceeds the Relevant Amount.

(*if the Court makes a worldwide order, the following additional paragraph* (*c*) *also applies.*)

[3] Paragraph 2 is appropriate only in the case of an order made without notice.

(c) If the unencumbered value of your Australian assets is less than the Relevant Amount, and you have assets outside Australia (***ex-Australian assets***):

(i) you must not dispose of, deal with or diminish the value of any of your Australian assets and ex-Australian assets up to the unencumbered value of your Australian and ex-Australian assets of the Relevant Amount; and

(ii) you may dispose of, deal with or diminish the value of any of your ex-Australian assets, so long as the unencumbered value of your Australian assets and ex-Australian assets still exceeds the Relevant Amount.

(*for either form of order*)

7 For the purposes of this order:

(1) your assets include:

(a) all your assets, whether or not they are in your name and whether they are solely or co-owned;

(b) any assets that you have the power, directly or indirectly, to dispose of or deal with as if they were your own (you are to be regarded as having such power if a third party holds or controls the asset in accordance with your direct or indirect instructions); and

(c) the following assets in particular:

(i) the property known as (*title/address*) or, if it has been sold, the net proceeds of the sale;

(ii) the assets of your business (known as (*name*)) (carried on at (*address*)) or, if any or all of the assets have been sold, the net proceeds of the sale; and

(iii) any money in account number (*account number*) (*in the name of*) at (*name of bank and name and address of branch*);

(2) the value of your assets is the value of the interest you have individually in your assets.

PROVISION OF INFORMATION[4]

8 Subject to paragraph 9, you must:

(a) at or before the further hearing on the Return Date (or within such further time as the Court may allow) to the best of your ability inform the applicant in writing of all your assets in Australia/world wide (*delete whichever is inapplicable*), giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the assets;

(b) within (*insert number*) business days after being served with this order, swear and serve on the applicant an affidavit setting out the above information.

9 (a) This paragraph 9 applies if you are not a corporation and you wish to object that compliance with paragraph 8 may tend to incriminate you or make you liable to a civil penalty.

(b) This paragraph 9 also applies if you are a corporation and all of the persons who are able to comply with paragraph 8 on your behalf and with whom you have been able to communicate wish to object that compliance may tend to incriminate them respectively or make them respectively liable to a civil penalty.

(c) You must, at or before the further hearing on the Return Date (or within such further time as the Court may allow), notify the applicant in writing that you or all the persons referred to in (b) wish to take such objection and identify the extent of the objection.

(d) If you give such notice, you need comply with paragraph 8 only to the extent, if any, that it is possible to do so without disclosure of the material in respect of which the objection is taken.

(e) If you give such notice, the Court may give directions as to the filing and service of affidavits setting out such matters as you or the persons referred to in (b) wish to place before the Court in support of the objection.

[4] See supplementary rule 216(7).

EXCEPTIONS TO THIS ORDER

10 This order does not prohibit you from:

(a) paying up to $(*amount*) a week/day on your ordinary living expenses;

(b) paying $(*amount*) on your reasonable legal expenses;

(c) dealing with or disposing of any of your assets in the ordinary and proper course of your business, including paying business expenses bona fide and properly incurred; and

(d) in relation to matters not falling within (a), (b) or (c), dealing with or disposing of any of your assets in discharging obligations bona fide and properly incurred under a contract entered into before this order was made, provided that before doing so you give the applicant, if possible, at least two business days written notice of the particulars of the obligation.

11 You and the applicant may agree in writing that the exceptions in the preceding paragraph are to be varied. In that case the applicant or you must as soon as practicable file with the Court and serve on the other a minute of the proposed consent order recording the variation signed by or on behalf of the applicant and you, and the Court may order that the exceptions are varied accordingly.

12 (a) This order will cease to have effect if you:

(i) pay the sum of $(*amount*) into Court; or

(ii) pay that sum into a joint bank account in the name of your solicitor and the solicitor for the applicant as agreed in writing between them; or

(iii) provide security in that sum by a method agreed in writing with the applicant to be held subject to the order of the Court.

(b) Any such payment and any such security will not provide the applicant with any priority over your other creditors in the event of your insolvency.

(c) If this order ceases to have effect pursuant to paragraph 12(a), you must as soon as practicable file with the Court and serve on the applicant notice of that fact.

COSTS

13 The costs of this application are reserved to the Judge hearing the application on the Return Date.

PERSONS OTHER THAN THE APPLICANT AND RESPONDENT

14 Set off by banks

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

15 Bank withdrawals by the respondent

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

(*for worldwide order*)

16 Persons outside Australia

(a) Except as provided in subparagraph (b) below, the terms of this order do not affect or concern anyone outside Australia.

(b) The terms of this order will affect the following persons outside Australia:

(i) you and your directors, officers, employees and agents (except banks and financial institutions);

(ii) any person (including a bank or financial institution) who:

(A) is subject to the jurisdiction of this Court; and

(B) has been given written notice of this order, or has actual knowledge of the substance of the order and of its requirements; and

(C) is able to prevent or impede acts or omissions outside Australia that constitute or assist in a disobedience breach of the terms of this order; and

(iii) any other person (including a bank or financial institution), only to the extent that this order is declared enforceable by or is enforced by a court in a country or state that has jurisdiction over that person or over any of that person's assets.

(*for worldwide order*)

17 Assets located outside Australia

Nothing in this order shall, in respect of assets located outside Australia, prevent any third party from complying or acting in conformity with what it reasonably believes to be its bona fide and properly incurred legal obligations, whether

contractual or pursuant to a court order or otherwise, under the law of the country or state in which those assets are situated or under the proper law of any contract between a third party and you, provided that in the case of any future order of a court of that country or state made on your or the third party's application, reasonable written notice of the making of the application is given to the applicant.

SCHEDULE A

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

1. The applicant undertakes to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.

2. As soon as practicable, the applicant will file and serve upon the respondent copies of:
   (a) this order;
   (b) the application for this order for hearing on the Return Date;
   (c) the following material insofar as it was relied on by the applicant at the hearing when the order was made:
      (i) affidavits (or draft affidavits);
      (ii) exhibits capable of being copied;
      (iii) any written submission; and
      (iv) any other document that was provided to the Court;
   (d) a transcript, or if none is available a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put to the Court;
   (e) the originating process, or if none was filed any draft originating process produced to the Court.

3. As soon as practicable, the applicant will cause anyone notified of this order to be given a copy of it.

4. The applicant will pay the reasonable costs of anyone other than the respondent that have been incurred as a result of this order, including the costs of finding out whether that person holds any of the respondent's assets.

5. If this order ceases to have effect[5] the applicant will promptly take all reasonable steps to inform in writing anyone who has been notified of this order, or whoever the applicant has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.

6. The applicant will not, without permission of the Court, use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in or outside Australia, other than this proceeding.

7. The applicant will not, without permission of the Court, seek to enforce this order in any country outside Australia or seek in any country outside Australia an order of a similar nature or an order conferring a charge or other security against the respondent or the respondent's assets.

8. The applicant will:
   (a) on or before (*date*) cause an irrevocable undertaking to pay in the sum of $(*amount*) to be issued by a bank with a place of business within Australia, in respect of any order the Court may make pursuant to undertaking paragraph 1. above; and
   (b) immediately upon issue of the irrevocable undertaking, cause a copy of it to be served on the respondent.[6]

[5] For example, if the respondent pays money into Court or provides security, as provided for in paragraph 12 of this Order.
[6] See supplementary rule 212(3).

SCHEDULE B[7]

AFFIDAVITS RELIED ON

Name of Deponent	Date affidavit made
1.	
2.	
3.	

NAME AND ADDRESS OF APPLICANT'S LEGAL REPRESENTATIVES

The applicant's legal representatives are:
(*name, address, reference, fax and telephone numbers both in and out of office hours and email*)

[7] Schedule B is appropriate only in the case of an order made without notice.

Rule 271(1)

Form 49 Short form claim for costs

SHORT FORM CLAIM FOR COSTS

SHORT FORM CLAIM FOR COSTS OF THE (*ROLE OF PARTY*), (*name*)
Presented pursuant to order dated (*date*)

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

If you wish to dispute any item in this claim you must comply with Rule 271(4) of the *Supreme Court Civil Rules 2006* and, within 28 calendar days of service of this claim:

(1) set out in the appropriate column below, your response to each disputed item; and
(2) file in the Court and serve on the (*party presenting claim*) a copy of the claim containing such responses.

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Note 1. It is expected that the completion of this form will take account of the increases from time to time in the costs contained in the Scales comprising Schedules 1 and 2 of the Supreme Court Civil Supplementary Rules 2014 – see rule 264 of the Supreme Court Civil Rules 2006. If more than one rate of costs applied during the period in which the costs were incurred, the amounts claimed for each item in each relevant period should be set out separately in each of the paragraphs of this form and the "Amount Claimed" for each item should be calculated by reference to the fee which was applicable to that item during each relevant period. 2. The numbers in the round brackets below are the item numbers in Schedules 1 and 2 to the Supreme Court Civil Supplementary Rules 2014. 3. Only relevant portions of this form are to be used.					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
DOCUMENTS					
1. **Drawing and Engrossing** ***To 30 June 2011 inclusive (Schedule 1)*** *Drawing documents referred to in* (1) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Drawing documents referred to in* (23) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Documents partly printed and partly drawn* (2) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Engrossing* (3) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Drawing documents referred to in* (1) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period ……..			$		$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Drawing documents referred to in (2) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Engrossing* (3) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for drawing and engrossing**					
2. **Perusing & Examining** ***To 30 June 2011 inclusive (Schedule 1)*** *Perusals* (5) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Scanning Documents* (6) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Perusing documents* (4) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period ……..			$		$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Examining documents (5) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for perusing and examining**					
3. **Copying etc** ***To 30 June 2011 inclusive (Schedule 1)*** *Copying or scanning documents, or receiving emails, faxes or other electronic transmissions* (4) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Copying or scanning documents, or receiving emails, faxes or other electronic transmissions* (6) Briefly state the nature of the documentation and the number of pages (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for copying etc**			$		$
ATTENDANCES AND COMMUNICATIONS					
4. **Personal Attendances by Solicitors** ***To 30 June 2011 inclusive (Schedule 1)*** *Attendances referred to in* (7)			$		$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Specify attendances claimed: (eg 5 attendances on plaintiff/defendant to obtain instructions - total 7.5 hours 3 conferences with counsel - total 2.5 hours) (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Attendances referred to in* (8) Briefly summarise attendances claimed and state total number of hours (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Attendances by a solicitor involving skill* (7) Specify attendances claimed: (eg 5 attendances on plaintiff/defendant to obtain instructions - total 75 units, 3 conferences with counsel - total 25 units) (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Attendances by a solicitor not involving skill* (8) Specify attendances claimed: (eg 2 attendances travelling for site inspection) (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for personal attendances by solicitors**					
5. **Personal Attendances by Non-Lawyers**					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
To 30 June 2011 inclusive (Schedule 1) *Clerk's (other than junior clerk) attendances and travelling time referred to in* (10) Briefly summarise the nature and number of attendances (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Attendances by a non-lawyer employed or engaged by a solicitor* (9) Briefly summarise attendances claimed and state total number of units (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for personal attendances by non-lawyers**			$		$
6. **Other Oral Communications by Solicitors** ***To 30 June 2011 inclusive (Schedule 1)*** *Telephone attendances* (12) Specify number of attendances by reference to 6 minute units (eg 15 x 1 unit, 10 x 2 units) (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Attendances by telephone, video call etc involving skill* (7) Specify number of attendances by reference to 6 minute units: (eg 15 x 1 unit, 10 x 2 units)			$		$

	Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
	(i) For the period …….. and (*if applicable*) (ii) For the period …….. *Attendances by telephone, video call etc not involving skill* (8) Specify number of attendances claimed by reference to 6 minute units: (eg 15 x 1 unit, 10 x 2 units) (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for other oral communications by solicitors**					
7.	**Other Oral Communications by Non-Lawyers** ***To 30 June 2011 inclusive* (*Schedule 1*)** *Telephone attendances on matters of substance* (13(a)) Specify number of attendances by reference to 6 minute units (eg 15 x 1 unit, 10 x 2 units) (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Short telephone attendances where message left* (13(b)) Specify number of attendances (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive* (*Schedule 2*)** *Attendances by telephone, video call etc* (9) Specify number of attendances by references to 6 minute units: (eg 15 by 1 unit, 10 x 2 units)			$		$

	Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
	(i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for other oral communications by non-lawyers**					
8.	**Arranging Appointments** ***From 1 July 2011 inclusive* (*Schedule 2*)** *Arranging appointments, per person, including all work involved* (10) (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for appointments**			$		$
9.	**Attendances re Affidavits** ***To 30 June 2011 inclusive* (*Schedule 1*)** *Attendances re Affidavits* (14) Specify number of attendances (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive* (*Schedule 2*)** *Attendances re affidavits by a solicitor involving skill* (7) Specify attendances claimed: (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Attendances re affidavits by a solicitor not involving skill* (8) Specify attendances claimed: (i) For the period …….. and (*if applicable*)			$		$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
(ii) For the period ……..					
Sub-total for affidavits					
10. **Attending Hearings**			$		$
To 30 June 2011 inclusive (Schedule 1)					
Solicitor attending in chambers (including pre-trial conferences, settlement conference and callovers) (9)					
(i) For the period ……..					
Specify					
(a) total number of short attendances;					
(b) total number of ordinary attendances;					
(c) total number of protracted attendances and number of hours.					
(ii) For the period …….. (*specify as above*).					
From 1 July 2011 inclusive (Schedule 2)					
Attending Hearings, including preparation, and when not attending as instructing solicitor for counsel					
A Short (11)					
Briefly summarise attendances claimed and state total number of attendances.					
(i) For the period …….. and (*if applicable*)					
(ii) For the period ……..					
B Ordinary (12)					
Briefly summarise attendances claimed and state total number of attendances					
(i) For the period …….. and (*if applicable*)					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
(ii) For the period ……..					
C Protracted (13)					
Briefly state the nature of the attendances and the hearing time in 6 minute units.					
(i) For the period …….. and (*if applicable*)					
(ii) For the period ……..					
Sub-total for hearings					
11. **Filing and Delivery**			$		$
To 30 June 2011 inclusive (Schedule 1)					
Junior clerks attendances (11)					
Briefly summarise the nature and number of attendances					
(i) For the period …….. and (*if applicable*)					
(ii) For the period ……..					
From 1 July 2011 inclusive (Schedule 2)					
Filing or delivery of documents other than personal service (14)					
Briefly summarise the nature and number of attendances					
(i) For the period …….. and (*if applicable*)					
(ii) For the period ……..					
Sub-total for filing and delivery					
CORRESPONDENCE					
12. **Letters and Other Correspondence**			$		$
To 30 June 2011 inclusive (Schedule 1)					
Letters (15(a))					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Specify (eg. 8 x 1 page, 10 x 2 pages etc.) (i) For the period …….. and (*if applicable*) (ii) For the period …….. *Circular letters* (15(b)) Specify number of items after the first (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Letters, Emails, SMSs or Faxes* (15) Specify number and length of letters and email, SMSs or Fax transmissions (i) For the period …….. and (*if applicable*) (ii) For the period …….. (Eg. 4 x 1.25 pages, 10 x 2.75 pages) *Circular correspondence* (16) Specify number of items after the first (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for correspondence**					
13. **Faxes** ***To 30 June 2011 inclusive (Schedule 1)*** *Facsimile transmissions, e-mails and electronic scanning* (16) Specify number of and length of transmissions (eg. 8 x 1 page, 10 x 2 pages etc.) (i) For the period …….. and (*if applicable*)			$		$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
(ii) For the period …….. **Sub-total for faxes etc**					
MISCELLANEOUS					
14. **Paying Disbursements** ***To 30 June 2011 inclusive (Schedule 1)*** *Payment of accounts* (17) Specify number of accounts paid (i) For the period …….. and (*if applicable*) (ii) For the period …….. ***From 1 July 2011 inclusive (Schedule 2)*** *Payment of disbursements* (17) Specify number of disbursements paid (i) For the period …….. and (*if applicable*) (ii) For the period …….. **Sub-total for paying disbursements**			$		$
15. **Preparation of Trial Books etc** ***To 30 June 2011 inclusive (Schedule 1)*** *Copy documents* (19) Specify number of pages and divide into costs periods when necessary *Briefs & Appeal Books* (20) Specify number of pages and divide into costs periods when necessary *Care and consideration in preparation of a brief* (21)					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
Specify number of claims ***From 1 July 2011 inclusive (Schedule 2)*** *Preparation of Trial Books etc* (18) Specify number of pages and divide into costs periods when necessary **Sub-total for preparation of Trial Books etc**					
TOTAL SOLICITORS FEES			$		$
DISBURSEMENTS					
Counsel fees Specify and attach scanned copy of accounts **Total counsel fees**			$		$
Other disbursements Specify and attach scanned copy of accounts **Total other disbursements**					
TOTAL COSTS AND DISBURSEMENTS			$		$

GST

State if the costs claimant is not entitled to recover the GST component of its costs as an input tax credit. If the costs claimant is entitled to recover only a portion of the GST component state what proportion is not recoverable.

Note carefully

If you do not file and serve a response to this Claim as required by rule 271 within 28 days of its service on you, you will be taken to have admitted the Claim in full, and judgment may be entered against you for its total amount.

Rule 272(1)

Form 50 Application for adjudication of legal costs

APPLICATION FOR ADJUDICATION OF LEGAL COSTS

1. I, (*name of applicant*) of (*address*), apply under (*insert law*) for an adjudication of the following costs (*describe the costs by reference to dates, accounts etc*).

2. The person who is liable to pay the costs is (*name and address of that person*).

3. The costs sought are (*insert or annex details*).

Date:

Signed by (*name*)

Applicant/Applicant's solicitor (*delete whichever is inapplicable*)

Rule 273(1)

Form 51 Itemised schedule of costs for adjudication

ITEMISED SCHEDULE OF COSTS FOR ADJUDICATION

Presented by the (*role of party*) pursuant to the judgment/order (*dated*) by (*Judge)*

Amounts disallowed	Date	Item No	Details of Item	Disbursements	Costs

TOTAL CLAIMED:

LESS AMOUNTS DISALLOWED:

ADD ADJUDICATION FEES:

TOTAL ALLOWED AT

Notes

1. If there are to be concurrent adjudications between solicitor and client and party and party, the Schedule should be in landscape format and the necessary additional columns inserted.

2. If the respondent does not file and serve a response to this Schedule as required by rule 273(2) within 14 calendar days of its service, the Court may on the adjudication, allow an undisputed item without inquiry.

Rule 282(2)(a)

Form 52 Notice of appeal

NOTICE OF APPEAL

TO THE RESPONDENT: (*name*) of (*address*)

The (*role of party*), (*name*) APPEALS to the (*Full Court/a single Judge*) (*delete whichever is inapplicable*) of the Supreme Court of South Australia against the judgment of a (*single Judge/Master/Magistrate*) (*delete whichever is inapplicable*) of the (*Court*).

Particulars of Judgment

Date of judgment: (*date*)

Judicial Officer appealed from: (*name*)

File No of Court appealed from: (*number*)

Appeal as of right/by permission

Permission to appeal required/not required/granted (*delete whichever is inapplicable*) (*if applicable*) Date of grant of permission: (*date*)

1. Orders complained of

(*set out the text of the relevant orders*)

(*set out whether the appeal is against the whole or a part of the orders and if a part, identify them*)

2. Orders sought

(*set out the relief sought in numbered paragraphs*)

3. Grounds of appeal

(*set out grounds of appeal in numbered paragraphs*)

4. Permission to appeal (*if applicable*)

(*set out grounds for permission to appeal*)

5. Extension of time (*if applicable*)

(*set out grounds for extension of time*)

Transmission of documents

(*if applicable*) The Registrar of the (*Court*) is requested:

(a) to advise the Registrar of the Supreme Court of the existence of the appeal and afford that Court access to any electronic file relating to this matter; and

(b) to forward to the Registrar all hard copy material relevant to the appeal that is not contained in such electronic file.

Date:

Signed by (*name*)

Appellant/Appellant's solicitor (*delete whichever is inapplicable*)

Note

The party or parties appealing must serve a copy of the notice of appeal on the Registrar or other proper officer of any other Court appealed from and the respondent within 2 business days after filing the notice of appeal, as required by rule 284(1).

Rule 296 and Supplementary Rule 242(3)(a)

Form 53 Request to set down appeal for hearing

REQUEST TO SET DOWN APPEAL FOR HEARING

I (*role of party*), (*name*) request to SET DOWN this appeal for hearing before the Full Court.

Date:

_____

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Note

Case books as required by supplementary rule 234 must be filed in the Registry along with or before the filing of this request.

Supplementary Rule 242(3)(d)

Form 54 Information sheet for setting down appeal for hearing

INFORMATION SHEET FOR SETTING DOWN APPEAL FOR HEARING

Action number:

Appellant: (*name*)

Respondent: *(name*)

Date of hearing of appeal:

Solicitor for the appellant: (*name, telephone, email*)

Counsel for the appellant: (*name, telephone, email*)

Solicitor for the respondent: (*name, telephone, email*)

Counsel for the respondent: (*name, telephone, email*)

The following judges may be disqualified from hearing the appeal:

(*insert names*)

because: (*insert reason*)

Any other factors that need to be considered:

Date:

.....

Signed by (*name*)

Appellant's solicitor/Appellant (*delete whichever is inapplicable*)

Date:

.....

Signed by (*name*)

Respondent's solicitor/Respondent (*delete whichever is inapplicable*)

Notes

1 This form is to be signed by the solicitor who has the conduct of the appeal.

2 The appellant's solicitor is to lodge this form, duly completed, at the time of setting down the appeal and is to send a copy of this completed form to the respondent's solicitor.

3 The respondent's solicitor is to complete the respondent's information and send a copy to the Appeals Clerk and a copy to the appellant's solicitor within 5 business days of receiving it.

Rules 302, 303 of the *Civil Rules 2006*; Rule 130(7)(a) of the *Criminal Rules* 2014

Form 55 Summons for contempt

SUMMONS FOR CONTEMPT

Part 1 (*to be used when the prosecutor is the Registrar - delete if inapplicable*)

REGISTRAR'S SUMMONS FOR CONTEMPT

TO: (*name of person summoned*) of (*address*)

Action required

You are required to attend before the Supreme Court on the hearing of this summons, which is issued by the Registrar of the Court, to answer a charge of contempt of Court in that you did on (*date*) (*set out the formulated charge of the alleged contempt*).

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Endorsements

This summons is issued pursuant to rule (*number*) of the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name and title of releasing officer*)
For the Registrar

Note

If you fail to attend at the above time and place, orders may be made against you in your absence and you may be punished for contempt of Court.

Part 2 (*to be used when the prosecutor is a party to the proceedings - delete if inapplicable*)

SUMMONS FOR CONTEMPT

TO: (*name of person summoned*) of (*address*)

Action required

You are required to attend before the Supreme Court on the hearing of this summons, which is issued by the Registrar of the Court, to answer a charge of contempt of Court in that you did on (*date*) (*set out the formulated charge of the alleged contempt*).

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Endorsements

This summons is issued pursuant to rule 303(7) of the *Supreme Court Civil Rules 2006.*

This summons is issued at the instigation of (*role of party*), (*name*) whose address for service is (*address*).

Date:

Signed by (*name and title of releasing officer*)
For the Registrar

Note

If you fail to attend at the above time and place, orders may be made against you in your absence and you may be punished for contempt of Court.

Rule 308(2)

Form 56 Application to Registrar

APPLICATION TO REGISTRAR

Application

The (*role of party*), (*name*) requests the Registrar to carry out:

(*specify in separate paragraphs the administrative or minor judicial functions sought*)

Endorsements

Application made pursuant to section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

Date:

Signed by (*name*)

(*role of party*)'s solicitor/(*role of party*) (*delete whichever is inapplicable*)

Rule 314(4)

Form 57 Notice to potential claimant of claim

NOTICE TO POTENTIAL CLAIMANT OF CLAIM
Inheritance (Family Provision) Act 1972

TO: (*name of potential claimant*)

Notice

The plaintiff, (*name*) of (*address*) being a (*state relationship to the deceased eg son, widow etc*) of (*name of deceased*) late of (*state last address of deceased*) has instituted this action (*action number*) in the Supreme Court of South Australia on (*date of issue of summons*) seeking an order under the *Inheritance (Family Provision) Act 1972* for provision out of the estate of the deceased (*if applicable*) over and above that given by the last will (or on the intestacy of (*name deceased*)).

Action required

If you also have grounds to make such a claim, and wish to do so, you should file a Statement of Claim in the action seeking such an order within 28 calendar days after the service of this notice to you. Under section 8(1) of the *Inheritance (Family Provision) Act 1972*, your application should be served on the executor (administrator) within 6 months from the granting of Probate (Letters of Administration), though the Court has power to extend that time.

If you wish to make a claim, you should seek legal advice as soon as possible.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 320(1)

Form 58 Notice of appeal against administrative decision

NOTICE OF APPEAL AGAINST ADMINISTRATIVE DECISION

TO THE RESPONDENT: (*name*) of (*address*)

The appellant, (*name*) APPEALS to the Supreme Court of South Australia against the decision of (*name*) dated (*date*).

1. Decision subject of appeal

(*set out relevant decision*)

2. Orders sought

(*state briefly but specifically the orders sought*)

3. Grounds of appeal

(*set out grounds of appeal in successively numbered paragraphs*)

Date:

Signed by (*name*)

Appellant/Appellant's solicitor (*delete whichever is inapplicable*)

Rule 320(3)

Form 59 Statement of facts, issues and contentions

STATEMENT OF FACTS, ISSUES AND CONTENTIONS

1. Facts

(*identify the subject matter of the decision subject to appeal*)

(*identify the decision subject to appeal*)

(*set out succinctly the essential facts, if any, relied on not accepted by the decision maker*)

2. Issues

(*identify succinctly the controversial issues in neutral terms in successively numbered paragraphs*)

3. Contentions

(*identify succinctly the appellant's contention on each issue in successively numbered paragraphs*)

4. Extension of time (*if applicable*)

(*set out grounds for extension of time*)

5. Annexures

(*annex reasons given by the decision maker for the determination*)

(*annex application, objection or other formal submission by the appellant to the decision maker the subject of the determination when applicable*)

(*annex assessment or other formal act the subject of the appellant's submission to the decision maker when applicable*)

(*if value of land or any other thing is in issue—annex copy of any expert report by a valuer addressing its value*)

Certificate:

This statement of facts, issues and contentions is put forward in accordance with the instructions of the appellant, (*name*), and it complies with the *Supreme Court Civil Rules 2006*.

Date:

Signed by (*name*)

Appellant/Appellant's solicitor (*delete whichever is inapplicable*)

Rule 321(2)

Form 60 Response to statement of facts, issues and contentions

RESPONSE TO STATEMENT OF FACTS, ISSUES AND CONTENTIONS

1. Facts

(*set out the response to any contested facts in the appellant's part 1*)

2. Issues

(*replicate the issues in the appellant's part 2*)

(*identify succinctly any additional issues in neutral terms*)

3. Contentions

(*identify succinctly the respondent's contention on each issue*)

4. Extension of time (*if applicable*)

(*set out the response to the application for extension of time*)

5. Annexures

(*if value of land or any other thing is in issue—annex copy of any expert report by a valuer addressing its value*)

Certificate:

This response to statement of facts, issues and contentions is put forward in accordance with the instructions of the respondent, (*name*), and it complies with the *Supreme Court Civil Rules 2006*.

Date:

.....

Signed by (*name*)

Respondent/Respondent's solicitor (*delete whichever is inapplicable*)

Rule 326

Form 61 Interlocutory application for stay and referral to arbitration

INTERLOCUTORY APPLICATION FOR STAY AND REFERRAL TO ARBITRATION

International Arbitration Act 1974* (Cth) *s 7

TO THE (*ROLE OF PARTY*): (*name*) of (*address*)

The (*role of party*), (*name*), being a party to an arbitration agreement, applies for an order under section 7 of the *International Arbitration Act 1974* (Cth) to stay the whole/part (*delete whichever is inapplicable*) of this proceeding and referral of the parties to arbitration and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 7 of the *International Arbitration Act* 1974 (Cth) staying the whole/part (*delete whichever is inapplicable*) of this proceeding and referring (*identify parties and dispute to be referred*) to arbitration;
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. a copy of the arbitration agreement; and
2. an affidavit stating the material facts on which the claim for relief is based.

Date:

.....

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 327

Form 62 Originating application to enforce foreign award

ORIGINATING APPLICATION TO ENFORCE FOREIGN AWARD
International Arbitration Act 1974* (Cth) *s 8(2)

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 8(2) of the *International Arbitration Act 1974* (Cth) to enforce a foreign award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before..... in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 8(2) of the *International Arbitration Act 1974* (Cth) enforcing a foreign award (*state details of award and how it is sought to be enforced*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. the documents referred to in section 9 of the *International Arbitration Act 1974* (Cth); and
2. an affidavit stating:
   a. the extent to which the foreign award has not been complied with, at the date this application is made; and
   b. the usual or last known place of residence or business of the person against whom it is sought to enforce the foreign award or, if the person is a company, the last known registered office of the company.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 328

Form 63 Interlocutory application for referral to arbitration

INTERLOCUTORY APPLICATION FOR REFERRAL TO ARBITRATION UNDER ARTICLE 8 OF THE MODEL LAW

***International Arbitration Act 1974* (Cth)**

TO THE (*ROLE OF PARTY*): (*name*) of (*address*).

The (*role of party*), (*name*), being a party to an arbitration agreement, applies for an order under article 8 of the Model Law under the *International Arbitration Act 1974* (Cth) to refer parties to arbitration and the other relief set out in this application

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

Hearing

The application will be heard before…….in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under article 8 of the Model Law under the *International Arbitration Act 1974* (Cth) referring (*identify parties and dispute to be referred*) to arbitration;

2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. a copy of the arbitration agreement; and
2. an affidavit stating the material facts on which the claim for relief is based.

Date:

.....

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 329

Form 64 Originating application for issue of subpoena

ORIGINATING APPLICATION FOR ISSUE OF SUBPOENA
International Arbitration Act 1974* (Cth) *s 23

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 23(3) of the *International Arbitration Act 1974* (Cth) for issue of a subpoena and the other relief set out in this application

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before..... in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 23(3) of the *International Arbitration Act 1974* (Cth) that a subpoena issue to (*identify person to whom subpoena is sought and type of subpoena*);

2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. a draft subpoena in accordance with form 65A, 65B or 65C;
2. an affidavit stating—
    a. the parties to the arbitration;
    b. the name of the arbitral tribunal conducting the arbitration;
    c. the place where the arbitration is being conducted;
    d. the nature of the arbitration;
    e. the terms of the permission given by the arbitral tribunal for the application;
    f. the conduct money (if appropriate) to be paid to the addressee; and
    g. the witness expenses payable to the addressee.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 329(3)(a)

Form 65A Subpoena to attend for examination

SUBPOENA TO ATTEND FOR EXAMINATION

International Arbitration Act 1974* (Cth) *s 23(3)

TO: (*name*) of (*address*)

You are ordered to attend for examination. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 8 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

Date, time and place at which you must attend for examination, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend for examination unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

Applications in relation to subpoena

5. You have the right to apply to the Court:
   (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
   (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

6. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court - arrest

7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

8. Note 7 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 329(3)(b)

Form 65B Subpoena to produce documents

SUBPOENA TO PRODUCE DOCUMENTS

International Arbitration Act 1974* (Cth) *s 23

TO: (*name*) of (*address*)

You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

You must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5–11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

(*name*) at (*address*)

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space*)

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend to produce the subpoena (or a copy of it) and the document or thing unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the arbitral tribunal:
   (a) at the address specified in the subpoena for the purpose; or
   (b) if more than one address is specified - at any of those addresses;
   so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.

Objection to inspection of the document or thing produced

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the (*name of arbitral tribunal*) in writing of your objection and of the grounds of your objection.

7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the (*name of arbitral tribunal*) may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the (*name of arbitral tribunal*), produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. The copy of a document may be:
(i) a photocopy; or
(ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

Return or destruction of documents or copies

10. You may, at the time of production, inform the (*name of arbitral tribunal*) that any document or copy of a document produced need not be returned and may be destroyed.

11. If you have so informed the (*name of arbitral tribunal*), the (*name of arbitral tribunal*) may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
(a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
(b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 329(3)(c)

Form 65C Subpoena to attend for examination and produce documents

SUBPOENA TO ATTEND FOR EXAMINATION AND PRODUCE DOCUMENTS

International Arbitration Act 1974* (Cth) *s 23

TO: (*name*) of (*address*)

You are ordered to attend for examination and to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

Insofar as you are required by this subpoena to attend for examination, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.

Insofar as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5–11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

(*name*) at (*address*)

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space.*)

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the arbitral tribunal:
   (a) at the address specified in the subpoena for the purpose; or
   (b) if more than one address is specified - at any of those addresses;
   so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.

Objection to inspection of the document or thing produced

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the (*name of arbitral tribunal*) in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the (*name of arbitral tribunal*) may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the (*name of arbitral tribunal*), produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. the copy of a document may be:
   (i) a photocopy; or

(ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

Return or destruction of documents or copies

10. You may, at the time of production, inform the (*name of arbitral tribunal*) that any document or copy of a document produced need not be returned and may be destroyed.

11. If you have so informed the (*name of arbitral tribunal*), the (*name of arbitral tribunal*) may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
    (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
    (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 330(1)

Form 66 Originating application for order to give evidence or produce documents

ORIGINATING APPLICATION FOR ORDER TO GIVE EVIDENCE OR PRODUCE DOCUMENTS

International Arbitration Act 1974* (Cth) *s 23A

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 23A(3) of the *International Arbitration Act 1974* (Cth) that the defendant attend before the Court for examination/produce documents/do a thing required by the arbitral tribunal (*delete whichever is inapplicable*) and the other relief set out in this application

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 23A(3) of the *International Arbitration Act 1974* (Cth) that the defendant attend before the Court for examination/produce documents/do a thing required by the arbitral tribunal (*delete whichever is inapplicable*) (*insert details*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating:

1. the person against whom the order is sought;
2. the order sought;
3. the ground under section 23A(1) of the *International Arbitration Act 1974* (Cth) relied on;
4. the terms of the permission given by the arbitral tribunal for the application; and
5. the material facts relied on for the making of the order.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 331(1)

Form 67 Originating application to prohibit/allow disclosure of confidential information

ORIGINATING APPLICATION TO PROHIBIT/ALLOW DISCLOSURE OF CONFIDENTIAL INFORMATION

International Arbitration Act 1974* (Cth) s *23F or 23G

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 23F/23G (*delete whichever is inapplicable*) of the *International Arbitration Act 1974* (Cth) prohibiting/allowing (*delete whichever is inapplicable*) the disclosure of confidential information and the other relief set out in this application

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 23F/23G (*delete whichever is inapplicable*) of the *International Arbitration Act 1974* (Cth) that the disclosure of confidential information (*insert details of the confidential information and to whom disclosure is sought to be prevented or allowed*) be prohibited/allowed (*delete whichever is inapplicable*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating:

1. the person against whom the order is sought;
2. the order sought;
3. the material facts relied on for the making of the order;
4. if the application is made under section 23F, the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made; or
5. if the application is made under section 23G, either:
    a. the date the arbitral tribunal's mandate was terminated; or
    b. the date and terms of:
        (i) the request made to the arbitral tribunal for disclosure of the confidential information; and
        (ii) the arbitral tribunal's refusal to make the order.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 332(1)

Form 68 Originating application for relief under Model Law

ORIGINATING APPLICATION FOR RELIEF UNDER MODEL LAW
***International Arbitration Act 1974* (Cth)**

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under article 11(3), 11(4), 13(3), 14, 16(3), 17H(3), 17I, 17J or 27 (*delete whichever is inapplicable*) of the Model Law under the *International Arbitration Act 1974* (Cth) and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under article 11(3), 11(4), 13(3), 14, 16(3), 17H(3), 17I, 17J or 27 (*delete whichever is inapplicable*) of the Model Law that (*insert details of the specific order sought*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating the material facts on which the application for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 333(1)

Form 69 Originating application to set aside award under article 34 of Model Law

ORIGINATING APPLICATION TO SET ASIDE AWARD UNDER ARTICLE 34 OF MODEL LAW

***International Arbitration Act 1974* (Cth)**

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name),* being a party to an arbitration agreement, applies for an order under article 34 of the Model Law under the *International Arbitration Act 1974* (Cth) setting aside an award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Award subject of application to set aside

(*identify the award*)

Basis of application

(*identify whether the plaintiff relies on article 34(2)(a) or (b) of the Model Law*)
(*identify which subparagraph of article 34(2)(a) or (b) is relied upon*)

Grounds

(*set out briefly the grounds of the application to set aside*)

Order sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under article 34 of the Model Law under the *International Arbitration Act 1974* (Cth) setting aside the award;
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit:

1. exhibiting a copy of the arbitration agreement and of the award including the reasons of the arbitral tribunal for the award; and
2. identifying:
    a. the detailed grounds for seeking the order;
    b. the material facts relied on for making the order; and
    c. the date on which the plaintiff received the award or, if a request was made under article 33 of the Model Law to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 334(1)

Form 70 Originating application to enforce award

ORIGINATING APPLICATION TO ENFORCE AWARD UNDER ARTICLE 35 OF THE MODEL LAW
***International Arbitration Act 1974* (Cth)**

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under article 35 of the Model Law under the *International Arbitration Act 1974* (Cth) to enforce an award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under article 35 of the Model Law under the *International Arbitration Act 1974* (Cth) enforcing an award (*insert details of the award and how it is sought to be enforced*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. the documents referred to in article 35 of the Model Law; and
2. an affidavit stating:
   a. the extent to which the award has not been complied with, at the date this application is made; and
   b. the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 335(1)

Form 71 Originating application to enforce Investment Convention award

ORIGINATING APPLICATION TO ENFORCE INVESTMENT CONVENTION AWARD

International Arbitration Act 1974* (Cth) *s 35(2)

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 35(2) of the *International Arbitration Act 1974* (Cth) to enforce an Investment Convention award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(if applicable) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 35(2) of the *International Arbitration Act 1974* (Cth) enforcing an Investment Convention award (*insert details of the award and how it is sought to be enforced*);

2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating:

1. the extent to which the award has not been complied with, at the date this application is made; and

2. the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

Plaintiff's address

The Plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 336

Form 72 Interlocutory application for referral to arbitration

INTERLOCUTORY APPLICATION FOR REFERRAL TO ARBITRATION

Commercial Arbitration Act 2011 s 8

TO THE (*ROLE OF PARTY*): (*name*) of (*address*).

The (*role of party*), (*name*), being a party to an arbitration agreement, applies for an order under section 8 of the *Commercial Arbitration Act 2011* to refer parties to arbitration and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(if applicable) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 8 of the *Commercial Arbitration Act 2011* referring (*identify parties and dispute sought to be referred*) to arbitration;

2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. a copy of the arbitration agreement; and

2. an affidavit stating the material facts on which the application for relief is based.

Date:

.....

Signed by (*name*)

(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 337(1)

Form 73 Originating application for issue of subpoena

ORIGINATING APPLICATION FOR ISSUE OF SUBPOENA

Commercial Arbitration Act 2011 s 27A

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 27A of the *Commercial Arbitration Act 2011* for issue of a subpoena and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) in the Registry before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 27A of the *Commercial Arbitration Act 2011* that a subpoena issue to (*identify person to whom subpoena is sought and type of subpoena*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. a draft subpoena in accordance with form 74A, 74B or 74C;
2. an affidavit stating:
   a. the parties to the arbitration;
   b. the name of the arbitral tribunal conducting the arbitration;
   c. the place where the arbitration is being conducted;
   d. the nature of the arbitration;
   e. the terms of the permission given by the arbitral tribunal for the application;
   f. the conduct money (if appropriate) to be paid to the addressee; and
   g. the witness expenses payable to the addressee.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 337(3)(a)

Form 74A Subpoena to attend for examination

SUBPOENA TO ATTEND FOR EXAMINATION

Commercial Arbitration Act 2011 s 27A

TO: (*name*) of (*address*)

You are ordered to attend for examination. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 8 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

Date, time and place at which you must attend for examination, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

3. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend for examination unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date your attendance is required.

Applications in relation to subpoena

5. You have the right to apply to the Court:
   (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
   (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

6. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court - arrest

7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

8. Note 7 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 337(3)(b)

Form 74B Subpoena to produce documents

SUBPOENA TO PRODUCE DOCUMENTS

Commercial Arbitration Act 2011 s 27A

TO: (*name*) of (*address*)

You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

You must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5–11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

(*name*) at (*address*)

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space.*)

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend for examination unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the arbitral tribunal:
   (a) at the address specified in the subpoena for the purpose; or
   (b) if more than one address is specified - at any of those addresses;
   so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.

Objection to inspection of the document or thing produced

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the (*name of arbitral tribunal*) in writing of your objection and of the grounds of your objection.

7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the (*name of arbitral tribunal*) may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the (*name of arbitral tribunal*), produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. The copy of a document may be:
   (i) a photocopy; or

(ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

Return or destruction of documents or copies

10. You may, at the time of production, inform the (*name of arbitral tribunal*) that any document or copy of a document produced need not be returned and may be destroyed.

11. If you have so informed the (*name of arbitral tribunal*), the (*name of arbitral tribunal*) may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
    (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
    (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 337(3)(c)

Form 74C Subpoena to attend for examination and produce documents

SUBPOENA TO ATTEND FOR EXAMINATION AND PRODUCE DOCUMENTS

Commercial Arbitration Act 2011 s 27A

TO: (*name*) of (*address*)

You are ordered to attend for examination and to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is (*date*). (*see Note 1*)

(*if applicable*) The last date for service was fixed by order made by Justice (*name*) dated (*date*).

FILED:

(*Registry to place seal*)

Issued at the request of (*role of party*), (*name*) whose address for service is:

Place:

Email:

Details of subpoena

Insofar as you are required by this subpoena to attend for examination, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

You must continue to attend from day to day unless excused by the arbitral tribunal or the Court or until the hearing of the matter is completed.

Insofar as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the arbitral tribunal at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5–11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: (*name of arbitral tribunal*) at (*address*)

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

(*name*) at (*address*)

Schedule of documents

The documents and things you must produce are as follows:

(*list the documents or things. attach list if insufficient space.*)

Notes

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a company

3. If the subpoena is addressed to a company, the company must comply with the subpoena by its appropriate or proper officer.

Conduct money

4. You need not comply with the subpoena insofar as it requires you to attend for examination unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

5. If this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the arbitral tribunal:
   (a) at the address specified in the subpoena for the purpose; or
   (b) if more than one address is specified - at any of those addresses;
   so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production, or if you receive notice of a later date from the issuing party, before the later date or time.

Objection to inspection of the document or thing produced

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the (*name of arbitral tribunal*) in writing of your objection and of the grounds of your objection.

7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the (*name of arbitral tribunal*) may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the (*name of arbitral tribunal*), produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. The copy of a document may be:
   (i) a photocopy; or

(ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-ROM).

Return or destruction of documents or copies

10. You may, at the time of production, inform the (*name of arbitral tribunal*) that any document or copy of a document produced need not be returned and may be destroyed.

11. If you have so informed the (*name of arbitral tribunal*), the (*name of arbitral tribunal*) may destroy the document or copy instead of returning it to you.

Applications in relation to subpoena

12. You have the right to apply to the Court:
    (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
    (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Rule 338(1)

Form 75 Originating application for order to give evidence or produce documents

ORIGINATING APPLICATION FOR ORDER TO GIVE EVIDENCE OR PRODUCE DOCUMENTS

Commercial Arbitration Act 2011 s 27B

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 27B of the *Commercial Arbitration Act 2011* that the defendant attend before the Court for examination/to produce documents/do a thing required by the arbitral tribunal (*delete whichever is inapplicable*) and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the hearing of the application, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 27B of the *Commercial Arbitration Act 2011* that the defendant attend before the Court for examination/produce documents/do a thing required by the arbitral tribunal (*delete whichever is inapplicable*) (*insert details*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating:

1. the person against whom the order is sought;
2. the order sought;
3. the ground under section 27B of the *Commercial Arbitration Act 2011* relied on;
4. the terms of the permission given by the arbitral tribunal for the application; and
5. the material facts relied on for the making of the order.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 339(1)

Form 76 Originating application relating to disclosure of confidential information

ORIGINATING APPLICATION TO PROHIBIT/ALLOW DISCLOSURE OF CONFIDENTIAL INFORMATION

Commercial Arbitration Act 2011 s 27H or s 27I

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 27H/27I (*delete whichever is inapplicable*) of the *Commercial Arbitration Act 2011* prohibiting/allowing (*delete whichever is inapplicable*) the disclosure of confidential information and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before..... in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(if applicable) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 27H/27I (*delete whichever is inapplicable*) of the *Commercial Arbitration Act 2011* that the disclosure of confidential information (*insert details of the confidential information and to whom disclosure is sought to be prevented or allowed*) be prohibited/allowed (*delete whichever is inapplicable*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating:

1. the person against whom the order is sought;
2. the order sought;
3. the material facts relied on for the making of the order;
4. if the application is made under section 27H, the terms of the order of the arbitral tribunal allowing disclosure of the information and the date the order was made; or
5. if the application is made under section 27I, either:
    a. the date the arbitral tribunal's mandate was terminated; or
    b. the date and the terms of:
        i. the request made to the arbitral tribunal for disclosure of the confidential information; and
        ii. the arbitral tribunal's refusal to make the order.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 340(1)

Form 77 Originating application for other order

ORIGINATING APPLICATION FOR OTHER ORDER UNDER THE COMMERCIAL ARBITRATION ACT 2011

Commercial Arbitration Act 2011

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 11(3), 11(4), 13(4), 14, 16(9), 17H, 17I, 17J, 19(6) or 27 of the *Commercial Arbitration Act 2011* (*select one of these options and delete the others*) and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 11(3), 11(4), 13(4), 14, 16(9), 17H, 17I, 17J, 19(6) or 27 of the *Commercial Arbitration Act 2011* (*delete whichever is inapplicable*) of the Model Law that (*insert details of the specific order sought*);
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit stating the material facts on which the application for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 341(1)

Form 78 Originating application for determination of question of law

ORIGINATING APPLICATION FOR DETERMINATION OF QUESTION OF LAW

Commercial Arbitration Act 2011 s 27J

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 27J of the *Commercial Arbitration Act 2011* for leave to apply for the determination of a question of law arising in the course of an arbitration and, if leave is granted, for determination of that question of law and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…….. in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date*).

Arbitration subject of application to determine question of law

(*identify the arbitration to which the question relates*)

Question of law

(*set out succinctly the question of law*)

Grounds for leave to determine question of law

(*set out grounds of application for leave to apply for the determination of the question of law*)

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under 27J of the *Commercial Arbitration Act 2011* granting leave to apply for the determination of a question of law arising in the course of an arbitration and, if leave is granted, for determination of that question of law;
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit:

1. exhibiting a copy of the arbitration agreement and evidence of the consent of all other parties to the determination of the question of law under section 27J of the *Commercial Arbitration Act 2011*; and
2. identifying:
   a. the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company;
   b. the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
   c. the facts on the basis of which the question of law is to be determined and the basis on which those facts are stated, including whether they are agreed, assumed, found by the arbitral tribunal or otherwise; and
   d. the detailed grounds on which it is contended that leave should be granted.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Note

The plaintiff must serve a copy of the application and supporting affidavit on the defendant forthwith.

Rule 342(1)

Form 79 Originating application to set aside award

ORIGINATING APPLICATION TO SET ASIDE AWARD

Commercial Arbitration Act 2011 s 34

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name),* being a party to an arbitration agreement, applies for an order under section 34 of the *Commercial Arbitration Act 2011* to set aside an award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Award subject of application to set aside

(*identify the award*)

Basis of application

(*identify whether the plaintiff relies on section 34(2)(a) or (b) of the Commercial Arbitration Act 2011*)

(*identify which subparagraph of section 34(2)(a) or (b) is relied upon*)

Grounds

(*set out briefly the grounds of the application to set aside*)

Order sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 34 of the *Commercial Arbitration Act 2011* setting aside the award;
2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit:

1. exhibiting a copy of the arbitration agreement and of the award including the reasons of the arbitral tribunal for the award; and
2. identifying:
    a. the detailed grounds for seeking the order;
    b. the material facts relied on for making the order; and
    c. the date on which the plaintiff received the award or, if a request was made under section 33 of the Act to the arbitral tribunal to correct the award, the date on which that request was disposed of by the arbitral tribunal.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 343(1)

Form 80 Originating application for leave to appeal against award

ORIGINATING APPLICATION FOR LEAVE TO APPEAL AGAINST AWARD

Commercial Arbitration Act 2011 s 34A

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 34A of the *Commercial Arbitration Act 2011* for leave to appeal on a question of law arising out of an award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Award subject of application for leave to appeal on a question of law

(*set out the text of the relevant part of the award to which the question relates*)

(*state whether the appeal is against the whole or a part of the award and if a part, identify it*)

Question of law

(*set out succinctly the question of law*)

Grounds of application for leave

(*set out grounds of application for leave to appeal the question of law*)

Grounds of appeal

(s*et out grounds of appeal in numbered paragraphs*)

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 34A of the *Commercial Arbitration Act 2011* granting leave to appeal on a question of law arising out of the award referred to above;
2. an order that the appeal be allowed and (*set out the substantive orders sought on the appeal if leave is granted*);
3. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by an affidavit:

1. exhibiting a copy of the arbitration agreement, a copy of the award, including the reasons of the arbitral tribunal for the award, and evidence of the consent of all parties that an appeal may be made under section 34A of the *Commercial Arbitration Act 2011*; and
2. identifying:
    a. the name and usual or last known place of residence or business of any person whose interest might be affected by the proposed determination of the question of law or, if the person is a company, the last known registered office of the company;
    b. the nature of the dispute with sufficient particularity to give an understanding of the context in which the question of law arises;
    c. where in the award and how the arbitral tribunal determined the question of law or when and how the arbitral tribunal was asked to determine the question of law;

d. the relevant facts found by the arbitral tribunal on the basis of which the question of law is to be determined;
e. why determination of the question of law will substantially affect the rights of one or more parties;
f. why it is contended that the decision of the arbitral tribunal on the question of law is obviously wrong or that the question of law is of general public importance and the decision of the arbitral tribunal is open to serious doubt; and
g. why it is just and proper in the circumstances for the question to be determined by the Court.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Note

The plaintiff must serve a copy of the application and supporting affidavit on the defendant forthwith.

Rule 344(1)

Form 81 Originating application to enforce award

ORIGINATING APPLICATION TO ENFORCE AWARD

Commercial Arbitration Act 2011 s 35

TO THE DEFENDANT: (*name*) of (*address*).

The plaintiff, (*name*), being a party to an arbitration agreement, applies for an order under section 35 of the *Commercial Arbitration Act 2011* to enforce an award and the other relief set out in this application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17) before attending Court or taking any other steps in the proceeding.

Hearing

The application will be heard before…… in the Supreme Court of South Australia, 1 Gouger Street, Adelaide on.....at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

(*if applicable*) The Court ordered that the time for serving this application be abridged to (*Court to insert date).*

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks:

1. an order under section 35 of the *Commercial Arbitration Act 2011* enforcing an award (*insert details of the award and how it is sought to be enforced*)r;

2. (*state briefly but specifically any other orders sought*).

Accompanying documents

This application must be accompanied by:

1. the documents referred to in section 35 of the *Commercial Arbitration Act 2011*; and
2. an affidavit stating:
   a. the extent to which the arbitral award has not been complied with at the date this application is made; and
   b. the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a company, the last known registered office of the company.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a company - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 346(7)

Form 82 Notice of registration of foreign judgment

NOTICE OF REGISTRATION OF FOREIGN JUDGMENT

Foreign Judgments Act 1991 (Cth)

TO (*NAME OF JUDGMENT DEBTOR*) of (*address of judgment debtor*)

Pursuant to an order of this Court dated (*date*), a judgment against you, particulars of which are set out below, was on (*date*) registered in the Supreme Court of South Australia pursuant to the *Foreign Judgments Act 1991*.

You are entitled, pursuant to section 7 of the Act, to apply to set aside the registration of the judgment on any of the grounds set out in that section, within (*number*) days of service of this notice upon you.

The name and address of the solicitor for the judgment creditor in South Australia, upon whom any proceedings taken by you to set aside the registration of the judgment may be served, is set out on the attached Form 1.

PARTICULARS OF JUDGMENT

Judgment creditor:	(*full name, address and occupation*)
Judgment debtor:	(*full name, address and occupation*)
Date of Judgment:	(*date*)
Particulars of judgment:	(*including the amount (if any) ordered to be paid, the rate of interest (if any) payable on it, the date from which interest (if any) is payable and/or (where applicable) particulars of personal property ordered to be recovered or delivered up.*)

Date:

.....

Signed by (*name*)

Judgment creditor/Solicitor for the judgment creditor (*delete whichever is inapplicable*)

Supplementary Rule 279(1)

Form 83 Summons for examination of judgment debtor

SUMMONS FOR EXAMINATION OF JUDGMENT DEBTOR

Enforcement of Judgments Act 1991 s 4

TO (*NAME OF PERSON SUMMONED*) of (*address of person summoned*)

You are a judgment debtor in the sum of $(*amount*) pursuant to a judgment entered on (*date*).

(*or)*

You are alleged to be a person who may be able to assist with the investigation of the means of a judgment debtor (*full name of judgment debtor*) to satisfy a judgment of $(*amount*) entered against that person on (*date*).

You are summoned to appear before the Supreme Court of South Australia for examination in connection with the payment of such judgment debt and/or to then produce the following documents (*full description of all of the documents required*).

The application will be heard before …….. in the Supreme Court at 1 Gouger Street, Adelaide on …….. at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Date:

Signed by (*name and title of releasing officer*)
For the Registrar

Note

If you fail to appear, as required by the summons, the Court may, pursuant to section 4(4) of the *Enforcement of Judgments Act 1991*, issue a warrant for you to be arrested and brought before the Court.

Supplementary Rule 279(2)

Form 84 Request for issue of warrant

REQUEST FOR ISSUE OF WARRANT

TO THE REGISTRAR

The (*role of party*), (*name*) requests you to issue a summons/warrant/garnishee (*delete whichever is inapplicable*) in the form requested against (*name of person*) of (*address*) in relation to the judgment entered in this action on (*date*), which remains wholly unsatisfied/partly unsatisfied as to the sum of $(*amount*) (*delete whichever is inapplicable*).

Date:

.....

Signed by (*name*)
Judgment creditor/Solicitor for the judgment creditor (*delete whichever is inapplicable*)

Supplementary Rule 279(3)

Form 85 Warrant of possession

WARRANT OF POSSESSION

Enforcement of Judgments Act 1991 s 11

TO THE SHERIFF OF SOUTH AUSTRALIA

In this action, on (*date*), it was ordered that the plaintiff, (*name*) recover from the defendant, (*name*) possession of (*full description of property, including relevant title reference*).

YOU ARE DIRECTED to take whatever lawful steps are necessary to cause the plaintiff to have possession of the property and to dispossess the defendant of the property and to report to this Court concerning your execution of this Warrant and the results and your costs and expenses of doing so.

Rule 204A Endorsement

This warrant must not be executed after (*insert date no later than 6 months after the order for possession of the land*)

(*or*)

This warrant was issued under rule 204A of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*)

Date:

Signed by (*name and title of releasing officer*)
For the Registrar

Note

As to the difference between the two types of endorsements, see rule 204A

Supplementary Rule 279(4)

Form 86 Warrant of sale

WARRANT OF SALE

Enforcement of Judgments Act 1991 s 7

TO THE SHERIFF OF SOUTH AUSTRALIA

In this action the (*role of party*), (*name*) of (*address*) is, pursuant to a judgment or order dated (*date*), indebted to the (*role of party*), (*name*) as follows:

Balance of judgment sum .....$ (*amount*)
Costs .....$ (*amount*)
Judgment debt interest under rule 261 to date of warrant .....$ (*amount*)
Costs and expenses of this warrant .....$ (*amount*)
Total .....$ (*amount*)

YOU ARE DIRECTED:

1. To sell the personal and real property of the (*role of party*), (*name*) as is within the State of South Australia in order to satisfy the unsatisfied judgment, interest and costs and further interest accruing under rule 261 after the date of this warrant, until you receive payment of the monies the subject of this warrant and all of your expenses and fees relating to its execution.
2. To report to this Court concerning your execution of this warrant and the results.

Date:

Signed by (*name and title of releasing officer*)
For the Registrar

Supplementary Rule 279(5)

Form 87 Warrant of arrest

WARRANT OF ARREST
Enforcement of Judgments Act 1991 s 12

TO THE SHERIFF OF SOUTH AUSTRALIA

In this action, on (*date*) this Court ordered (*set out terms of the order for arrest*)

YOU ARE DIRECTED to arrest (*name and address of person to be arrested*) pursuant to the order and to bring that person before the Court in accordance with the terms of the order and rule 348(7).

Date:

_____
Signed by (*name and title of releasing officer*)
For the Registrar

Supplementary Rule 279(6)

Form 88 Notice of claim to property subject to execution

NOTICE OF CLAIM TO PROPERTY SUBJECT TO EXECUTION

Enforcement of Judgments Act 1991 s 16(2)

TO THE SHERIFF OF SOUTH AUSTRALIA

I, (*name*) of (*address*) claim to have an interest in the property mentioned below and seek that you give effect to such claim. This notice is given pursuant to section 16(2) of the *Enforcement of Judgments Act 1991*.

Particulars of the property are:
(*set out full details of the property in which the interest is claimed*)

Particulars of interest claimed are:
(*set out full details of the nature of the claim*)
(*if notice relates to more than one item of property, separately identify each item and the details related to it*)

Date:

.....

Signed by (*name*)
(*role of party*)/(*role of party's*) solicitor (*delete whichever is inapplicable*)

Rule 362(2)

Form 89A Originating application—general

ORIGINATING APPLICATION

TO THE DEFENDANT (*name*) of (*address*)

The plaintiff, (*name*) applies for the relief set out in this Application.

Action required

If you wish to defend the claim, you or your solicitor must:

(a) file a Notice of Address for Service within 14 calendar days after service of this Application on you; and

(b) file an answering Affidavit within 28 calendar days after service of the Affidavit relied upon by the plaintiff.

The Notice of Address for Service and answering Affidavit must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

If a Notice of Address for Service and answering Affidavit is not filed within the time stated, orders may be made against you in your absence and without further notice.

Endorsements

Application issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Application has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This application must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 362(2)

Form 89B Originating application—no defendant

ORIGINATING APPLICATION

The plaintiff, (*name*) applies for the relief set out in this Application.

The Court will hear this application at a time and place to be advised.

Endorsements

Application issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Application has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This application must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 362(2)

Form 89C Originating application—specific hearing date

ORIGINATING APPLICATION

TO THE DEFENDANT (*name*) of (*address*)

The plaintiff (*name*) applies for the relief set out in this Application.

Action required

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Hearing

The application will be heard before …….. in the Supreme Court at 1 Gouger Street, Adelaide on …….. at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

Endorsements

Application issued pursuant to section (*number*) of the (*Act*)/(rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*).

This Application has the following endorsements under section (*number*) of the (*Act*)/rule (*number*) of the *Supreme Court Civil Rules 2006* (*delete whichever is inapplicable*):

Orders sought

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

(*state briefly but specifically the orders sought*)

Accompanying documents

This application must be accompanied by an affidavit stating the material facts on which the claim for relief is based.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Service on the Defendant

(*select one of these three options and delete the others*)

It is intended to serve this application on all defendants.

It is intended to serve this application on the following defendants:

(*name of each defendant on whom application is to be served*)

It is not intended to serve this application on any defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 370(1)(a) and 371(1)(a)

Form 90 Originating application for admission

IN THE MATTER
of
(NAME OF APPLICANT)
an applicant for admission as a practitioner

ORIGINATING APPLICATION

I, (*name*) apply for admission as a barrister and solicitor of the Supreme Court of South Australia.

I intend that the application be heard at the sittings of the Full Court to be held on (*date*) or at such other time as the Court shall direct.

Accompanying documents
This originating application must be accompanied by an affidavit demonstrating the applicant's eligibility for admission.

Applicant's address
The applicant's address for service is:
Place:
Email:
The applicant's address is (*place of residence or business*).

Date:

.....
Signed by (*name*)
Applicant/Re-applicant (*delete whichever is inapplicable*)

Rule 370(1)(b)

Form 91A Affidavit in support of application for admission

AFFIDAVIT

I (*full name, address and occupation of deponent*) SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM (*delete whichever is inapplicable*) THAT:

1. My date of birth is (*date*).

2. I have complied with the academic requirements for admission meeting rule 2.1/4 (*delete whichever is inapplicable*) of the LPEAC Rules in that I have (*set out details of the academic qualifications meeting rule 2.1 or rule 4 of the LPEAC Rules).*

3. A true copy of the original certificate dated (*date*) that I have obtained or become qualified to obtain the academic qualifications referred to in paragraph 2 above (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'A'. I am the person therein named.

4. I have complied with the practical requirements for admission meeting rule 2.4/4 (*delete whichever is inapplicable*) of the LPEAC Rules in that I have (s*et out details of the academic qualifications and experience meeting rule 2.4 or rule 4 of the LPEAC Rules*).

5. A true copy of the original certificate dated (*date*) that I have obtained or become qualified to obtain the academic qualifications and experience referred to in paragraph 4 above (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'B'. I am the person therein named.

6. I have in all other respects complied with Chapter 17 Part 4 of the *Supreme Court Civil Rules 2006* and the *LPEAC Rules 2004*.

7. A true copy of my driver's licence/passport/birth certificate (*delete whichever is inapplicable*) (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'C'. I am the person therein named.

8. I have not been convicted or found guilty by a Court of any offences, nor, as far as I am aware, are there any charges or proceedings outstanding against me in relation to any offence or offences alleged to have been committed by me (*add, if necessary, 'save and except that (or those) referred to in a direction (or intimation*) of the Board of Examiners dated (*date*) in a sealed envelope now shown to me and marked "D"').

Note If the position is otherwise, full details must be given in relation to each offence or alleged offence in a separate statement, which is to be exhibited to the affidavit in a sealed envelope, of the date and nature of the charge, the Court in which it was or will be heard, the sentence (if any) imposed, and the circumstances in which the offence was or is alleged to have been committed.

9. I have not otherwise done or suffered anything likely to affect adversely my good fame and character, nor am I aware of any circumstances that might affect my fitness to be admitted as a practitioner.

Note If the position is otherwise, set out any facts or circumstances that the applicant is required to bring to the notice of the Board of Examiners. These include that the applicant:

(i) is or has been bankrupt and the circumstances of bankruptcy;

(ii) has been found to have engaged in academic dishonesty such as plagiarism.

(*Where the applicant is admitted to practice elsewhere, the following should be included in paragraph 9:*)

I was admitted to practise in (*state where*) on (*date of first admission*) and I remain enrolled as a practitioner of that jurisdiction. I have not at any time been struck off the Roll of Practitioners or otherwise been suspended from practise and I am not presently subject to any disciplinary inquiry or proceeding.

10. I authorise the Board of Examiners to obtain from any institution at which I have pursued any course of study as part of the practical or academic requirements for admission, such information as the Board may think fit and in such form as the Board may request as to any matter relevant to the course of study, including information as to whether during the course of study I engaged in any dishonest conduct including plagiarism or other conduct relevant to the determination of whether I am a fit and proper person to be admitted as a practitioner.

11. I do not suffer from any illness or condition, either permanently or intermittently, that would affect my ability to perform all the duties and responsibilities reasonably required of a legal practitioner adequately or safely.

Note If the position is otherwise, set out the facts and circumstances relating to any relevant illness or condition.

12. I am a resident in Australia.

13. (*delete whichever paragraph is inapplicable*)

English is my native language.

(or)

English is not my native language. I am sufficiently fluent in written and spoken English to enable me to practise as a practitioner

Sworn/Affirmed (*delete whichever is inapplicable*)
by the abovenamed deponent
at (*place*)
on (*date*)

.....
(*signature of deponent*)

before me .....
(*signature and title of attesting witness*)

(*print name of witness*)

(*ID number of witness*)

Rule 370(1)(b)

Form 91B Affidavit by clerk in support of application for admission

AFFIDAVIT BY CLERK IN SUPPORT OF APPLICATION FOR ADMISSION

I (*full name, address and occupation of deponent*) SWEAR ON OATH/DO TRULY AND SOLEMNLY AFFIRM (*delete whichever is inapplicable*) THAT:

1. My date of birth is (*date*).

2. I have complied with the academic requirements for admission meeting rule 2.1/4 (*delete whichever is inapplicable*) of the LPEAC Rules in that I have (*set out details of the academic qualifications meeting rule 2.1 or rule 4 of the LPEAC Rules).*

3. A true copy of the original certificate dated (*date*) that I have obtained or become qualified to obtain the academic qualifications referred to in paragraph 2 above (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'A'. I am the person therein named.

4. I was articled to (*name of supervising practitioner*), a practitioner of the Supreme Court of South Australia, pursuant to articles of clerkship dated (*date*).

5. In pursuance of the articles I served (*name of supervising practitioner*) as (*his or her*) clerk at (*his or her*) office situated at (*place*) in South Australia under (*his or her*) personal supervision and that of *(his or her)* partner (*name of partner practitioner*) who at all material times had been in practice in the said State for a continuous period of five years, continuously from the date of the execution of the articles to (*date*) inclusive, except as appears hereunder (*full details are to be given of the applicant's service under articles*).

6. (*delete if inapplicable*) During my period of service, I was absent from the office and employment of (*name of supervising practitioner*) on duty as a member of the naval, military or air force of the Commonwealth of Australia as shown hereunder (*give appropriate details to show whether any absence was permitted by the Rules*).

7. (*delete whichever paragraph is inapplicable)*

In addition to periods of absence to attend lectures and examinations and on annual leave for study or recreation, I was absent from the office and employment of (*name of supervising practitioner*) during my period of service with the consent of (*name of supervising practitioner*) or that of (*his or her*) partner on the following occasions (*give length and occasion of each absence*).

(*or*)

Except for periods of absence to attend lectures and examinations, and on annual leave for study or recreation, I was not at any time during my period of service absent from the office and employment of (*name of supervising practitioner*) or that of (*his or her*) partner.

8. I have not at any time during my period of service been absent from the office and employment of (*name of supervising practitioner*) without (*his or her*) consent or that of (*his or her*) partner.

9. I did not during my period of service, nor have I since my articles expired, pursued any occupation or business other than my employment pursuant to my articles or the proper business of a practitioner.

Note If the applicant has pursued any other occupation or business, particulars are to be given.

10. During my period of service, I served (*name of supervising practitioner*) faithfully and diligently pursuant to my articles.

11. I have undertaken a supplementary course of study/tuition/training (*delete whichever is inapplicable*) meeting rule 2.4(c) of the LPEAC Rules approved by the Board of Examiners in that I have (*set out details of the supplementary course of study/tuition/training meeting rule 2.4(c) or rule 4 of the LPEAC Rules*).

12. A true copy of the original certificate dated (*date*) that I have obtained that I have undertaken the supplementary course of study/tuition/training (*delete whichever is inapplicable*) referred to in paragraph 11 above (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'B'. I am the person therein named.

13. I have in all other respects complied with Chapter 17 Part 4 of the *Supreme Court Civil Rules 2006* and the *LPEAC Rules 2004*.

14. A true copy of my driver's licence/passport/birth certificate (*delete whichever is inapplicable*) (the original of which I am required to produce to the Law Society upon lodgment) is now shown to me marked 'C'. I am the person therein named.

15. I have not been convicted or found guilty by a Court of any offences, nor, as far as I am aware, are there any charges or proceedings outstanding against me in relation to any offences alleged to have been committed by me (*add, if necessary, 'save and except that (or those) referred to in a direction (or intimation*) of the Board of Examiners dated (*date*) in a sealed envelope now shown to me and marked "D").

Note If the position is otherwise, full details must be given in relation to each offence or alleged offence in a separate statement, which is to be exhibited to the affidavit in a sealed envelope, of the date and nature of the charge, the Court in which it was or will be heard, the sentence (if any) imposed, and the circumstances in which the offence was or is alleged to have been committed.

16. I have not otherwise done or suffered anything likely to affect adversely my good fame and character, nor am I aware of any circumstances that might affect my fitness to be admitted as a practitioner.

Note If the position is otherwise, set out any facts or circumstances that the applicant is required to bring to the notice of the Board of Examiners. These include that the applicant:

(i) is or has been bankrupt and the circumstances of bankruptcy;

(ii) has been found to have engaged in academic dishonesty such as plagiarism.

17. I do not suffer from any illness or condition, either permanently or intermittently, that would affect my ability to perform all the duties and responsibilities reasonably required of a legal practitioner adequately or safely.

Note If the position is otherwise, set out the facts and circumstances relating to any relevant illness or condition.

18. I am a resident in Australia.

19. (*delete whichever paragraph is inapplicable)*

English is my native language.

(*or*)

English is not my native language. I am sufficiently fluent in written and spoken English to enable me to practise as a practitioner.

Sworn/Affirmed (*delete whichever is inapplicable*)
by the abovenamed deponent
at (*place*)
on (*date*)

.....
(*signature of deponent*)

before me .....
(*signature and title of attesting witness*)

(*print name of witness*)

(*ID number of witness*)

Rule 370(2)(a)

Form 92 Certificate of practitioner to whom applicant for admission was articled

CERTIFICATE OF PRACTITIONER TO WHOM APPLICANT FOR ADMISSION WAS ARTICLED

I, (*name*) of (*address*), a practitioner of the Supreme Court of South Australia, CERTIFY that:

(*delete whichever paragraph is inapplicable*)

1. In pursuance of articles of clerkship dated (*date*), (*name of applicant*) served me as my clerk at my office at (*address*) in the State of South Australia under my personal supervision (*(if applicable) and that of my partner* (*name of partner practitioner*) *who at all material times had been in practice in the said State for a continuous period of five years*) in the practice of a practitioner of the Supreme Court of South Australia continuously from the date of the execution of the said articles to (*date*) inclusive, except for the periods referred to below.

2. At the time of the execution of the said articles, I was a duly admitted practitioner of the Supreme Court of South Australia in practice as a principal and had been in practice in this State for a continuous period of five years.

3. During the whole period of service of articles I have been and am now practising as a practitioner in this State as a principal, and during the period of service I did not at any time have more than three articled clerks including (*name of applicant*).

4. (*delete if inapplicable*) (*name of applicant*) was absent from my employment during the period of service on duty as a member of the naval, military or air force of the Commonwealth of Australia for the period (*give date*).

5. (*delete whichever paragraph is inapplicable*)
   In addition to periods of absence to attend lectures and examinations and for annual leave for study or recreation, (*name of applicant*) has been absent from my employment with my consent or that of my partner on the following occasions during (his/her) period of service (*specify details of absence*):

(or)

Except for periods of absence to attend lectures and examinations and for annual leave for study or recreation, (*name of applicant*) has not been absent from my employment during the above period of service.

6. (*name of applicant*) has never been absent from my employment during (his/her) period of service without my consent or that of my partner.

7. (*delete if inapplicable*) With my consent, (*name of applicant*) was employed as a bona fide pupil in the office of (*name of partner practitioner*), my agent in Adelaide for the following period (*state period*). (*name of partner practitioner*) has informed me that (*name of applicant*) served (him or her) faithfully and diligently as a clerk for the period during which (he or she) was so employed and (*here give particulars in relation to service with Adelaide agent*).

8. To the best of my knowledge, information and belief, (*name of applicant*) did not during (*his or her*) articles pursue any occupation or business other than (*his or her*) employment as an articled clerk.

9. (*name of applicant*) served me faithfully and diligently as my articled clerk pursuant to the articles.

10. (*name of applicant*)'s conduct, character and habits during (*his or her*) period of service were satisfactory and (*he or she*) is in my opinion a fit and proper person to be admitted as a practitioner of the Supreme Court of South Australia.

11. There are no other facts or circumstances relating to the qualification, service, conduct, character or habits of (*name of applicant*) that are known to me and should be communicated to the Board of Examiners (*add, if necessary, 'save and except those disclosed in the affidavit of* (*name of applicant*) *sworn/affirmed herein on (date), or as the case may require*).

Date:

_____

Signed by (*name*)

Practitioner to whom applicant was articled

Rules 370(1)(c) and 371(1)(b)

Form 93 Notice for Law Society website

NOTICE FOR LAW SOCIETY WEBSITE

I, (*name of applicant*) GIVE NOTICE that I intend to apply to the Supreme Court of South Australia for an order that I be admitted and enrolled as a barrister and solicitor of the Supreme Court at the sittings of the Court to be held on (*date*) or at such other time as the Court shall direct.

Rule 373(2)(a)

Form 94 Notice of objection

NOTICE OF OBJECTION

I, (*name of objector)* of (*address*) GIVE NOTICE that I object to (*name of applicant*) being admitted and enrolled as a barrister and solicitor of the Supreme Court of South Australia.

The grounds of my objection are (*identify briefly grounds of the objection*).

Date:

.....

Signed by (*name*)

Objector

Note

Rule 373(2)(b) requires that in conjunction with this notice an affidavit be lodged—
(i) identifying the detailed grounds of objection; and
(ii) setting out the facts, information or belief on which the objector relies.

Rule 379(1)(a)

Form 95A Originating application for registration—Mutual Recognition Act

ORIGINATING APPLICATION FOR REGISTRATION
Mutual Recognition Act 1992* (Cth) *s 19

The applicant, (*name*) GIVES NOTICE that the applicant seeks registration in South Australia as a barrister and solicitor of the Supreme Court of South Australia under section 19 of the *Mutual Recognition Act 1992* (Cth).

Information

As required by the Act, I supply the following information:

1. I am normally resident in (*State or Territory*).

2. I am duly admitted and am at the present time entitled to practise as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) in the Supreme Court of (*State or Territory*). The date of my admission was (*date*).

3. The names and dates of admission of every other jurisdiction in which I have been admitted are as follows:

   Jurisdiction Date of Admission

   (*If not admitted elsewhere, state 'None'*)

4. I am not the subject of disciplinary proceedings in any jurisdiction (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to my conduct as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*).

5. My registration as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) is not cancelled or currently suspended as a result of disciplinary action in any jurisdiction.

6. I am not otherwise prohibited from practising as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) in any jurisdiction,

and am not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any jurisdiction.

7. In carrying out my occupation, I am subject to the following special conditions: (*state special conditions, if any, and the relevant State or Territory. Otherwise state: 'No special conditions'.*)

8. I consent to the making of inquiries of, and the exchange of information with, the authorities of any jurisdiction regarding my activities as a legal practitioner however styled or otherwise regarding matters relevant to this notice.

Accompanying documents

This application must be accompanied by:

1. a certified copy of an instrument or instruments evidencing the applicant's existing registration in the first jurisdiction;
2. a copy of a certificate of fitness or good standing in the applicant's first jurisdiction and any other jurisdiction in which the applicant is admitted or is registered under the *Mutual Recognition Act 1992* (Cth);
3. a certified copy of a driver's licence, passport or birth certificate as evidence of identity; and
4. a statutory declaration verifying the statements and other information in the originating application (*see next page*).

Applicant's address

The applicant's address for service is:

Place:

Email:

The applicant's address is (*place of residence or business*).

Date:

_____

Signed by (*name*)

Applicant

Statutory Declaration:

I, (*full name, address and occupation*) being the above named applicant, DO SOLEMNLY AND SINCERELY DECLARE that all the information set out in this application is to the best of my knowledge and belief true and correct in every particular, and that the accompanying documents are what they purport to be.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936*.

(*The Declaration should be made, executed, witnessed, etc, strictly in accordance with the requirements of the law relating to statutory declarations in force in the jurisdiction in which the Declaration is made.*)

Rule 379(1)(a)

Form 95B Originating application for registration—Trans-Tasman Recognition Act

ORIGINATING APPLICATION FOR REGISTRATION
Trans-Tasman Recognition Act 1997* (*Cth*) *s 18

The applicant (*name of applicant*) GIVES NOTICE that the applicant seeks registration in South Australia as a barrister and solicitor of the Supreme Court of South Australia under section 18 of the *Trans-Tasman Recognition Act 1997* (Cth).

Information

As required by the Act, I supply the following information:

1. I am normally resident in (*State, Territory or Country)*.

2. I am duly admitted and am at the present time entitled to practise as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) in the High Court of New Zealand. The date of my admission was (*date*).

3. The names and dates of admission of every other jurisdiction in which I have been admitted are as follows:

   Jurisdiction Date of Admission

   (*If not admitted elsewhere, state 'None'*)

4. I am not the subject of disciplinary proceedings in any jurisdiction (including any preliminary investigations or action that might lead to disciplinary proceedings) in relation to my conduct as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*).

5. My registration as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) is not cancelled or currently suspended as a result of disciplinary action in any jurisdiction.

6. I am not otherwise prohibited from practising as a barrister/solicitor/barrister and solicitor/legal practitioner (*delete whichever is inapplicable*) in any jurisdiction,

and am not subject to any special conditions in carrying on that occupation, as a result of criminal, civil or disciplinary proceedings in any jurisdiction.

7. In carrying out my occupation, I am subject to the following special conditions:

(*state special conditions, if any, and the relevant State or Territory. Otherwise state: 'No special conditions'.*)

8. I consent to the making of inquiries of, and the exchange of information with, the authorities of any jurisdiction regarding my activities as a legal practitioner however styled or otherwise regarding matters relevant to this notice.

Accompanying documents

This application must be accompanied by:

1. a certified copy of an instrument or instruments evidencing the applicant's existing registration in the first jurisdiction;
2. a copy of a certificate of fitness or good standing in the applicant's first jurisdiction and any other jurisdiction in which the applicant is admitted or is registered under the *Mutual Recognition Act 1992* (Cth);
3. a certified copy of a driver's licence, passport or birth certificate as evidence of identity; and
4. a statutory declaration verifying the statements and other information in the originating application (*see next page*).

Applicant's address

The applicant's address for service is:

Place:

Email:

The applicant's address is (*place of residence or business*).

Date:

.....

Signed by (*name*)
Applicant

Statutory Declaration:

I, (*full name, address and occupation*) being the above named applicant, DO SOLEMNLY AND SINCERELY DECLARE that all the information set out in this application is to the best of my knowledge and belief true and correct in every particular, and that the accompanying documents are what they purport to be.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936*.

(*The Declaration should be made, executed, witnessed, etc, strictly in accordance with the requirements of the law relating to statutory declarations in force in the jurisdiction in which the Declaration is made.*)

Rule 405(1)

Form 96A Application for fixing legal costs by person claiming costs

ORIGINATING APPLICATION TO FIX LEGAL COSTS

Legal Practitioners Act 1981 Schedule 3

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff, (*name*) applies under Part 7 of Schedule 3 to the *Legal Practitioners Act 1981* for an adjudication of the following costs (*describe the costs by reference to dates, bills etc*).

The plaintiff claims that you are liable to pay the costs.

The plaintiff claims that the costs in issue are to be adjudicated on:

- the applicable (*insert*) Court Scale;
- pursuant to a retainer agreement dated (*date*)

(*delete whichever is inapplicable*)

Action required

The Court will make orders for the conduct of the proceeding at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Hearing

The application will be heard before …….. in the Supreme Court at 1 Gouger Street, Adelaide on …….. at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Accompanying documents

This application must be accompanied by:

1. copies of the bills issued by the lawyer or firm of lawyers for the costs to which the application relates;
2. if the costs are to be adjudicated pursuant to a retainer agreement of the retainer agreement—a copy of the retainer agreement.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Service on the Defendant

It is intended to serve this application on the defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 405(1)

Form 96B Application for fixing legal costs by person liable for or who paid costs

ORIGINATING APPLICATION TO FIX LEGAL COSTS

Legal Practitioners Act 1981 s 48

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff, (*name*) applies under section 48 of the *Legal Practitioners Act 1981* for an adjudication of the following costs (*describe the costs by reference to dates, bills etc*).

The plaintiff is liable to pay/has paid (*delete whichever is inapplicable*) the costs.

The plaintiff claims that the costs in issue are to be adjudicated on:

- the applicable (*insert*) Court Scale;
- pursuant to a retainer agreement dated (*date*)

(*delete whichever is inapplicable*)

The defendant accepts the costs as fair and reasonable to the extent of $(*amount*).

Action required

The Court will make orders for the conduct of the proceeding at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Hearing

The application will be heard before …….. in the Supreme Court at 1 Gouger Street, Adelaide on …….. at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Accompanying documents

This application must be accompanied by:

1. copies of the bills issued by the lawyer or firm of lawyers for the costs to which the application relates;
2. if the costs are to be adjudicated pursuant to a retainer agreement of the retainer agreement—a copy of the retainer agreement.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Service on the Defendant

It is intended to serve this application on the defendant.

Date:

.....

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Rule 405(1)

Form 96C Application for fixing costs of manager or supervisor

ORIGINATING APPLICATION TO FIX LEGAL COSTS

TO THE DEFENDANT: (*name*) of (*address*)

The plaintiff, (*name*) applies under section 48 of the *Legal Practitioners Act 1981* for an adjudication of the following costs (*describe the costs by reference to dates, bills etc*).

Action required

The Court will make orders for the conduct of the proceeding at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority (www.courts.sa.gov.au) or by telephoning the Registry of the Court (8204 0289).

Hearing

The application will be heard before …….. in the Supreme Court at 1 Gouger Street, Adelaide on …….. at …….. or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

Accompanying documents

This application must be accompanied by:

1. copies of bills issued for the costs to which the application relates;
2. the agreement or other document setting out the basis on which the bills have been compiled.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is (*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*).

Service on the Defendant

It is intended to serve this application on the defendant.

Date:

Signed by (*name*)

Plaintiff/Plaintiff's solicitor (*delete whichever is inapplicable*)

Supplementary Rule 334(1)

Form 97 Application for consideration for appointment as senior counsel

APPLICATION FOR CONSIDERATION FOR APPOINTMENT AS SENIOR COUNSEL

Personal details

Name: .....

Business address: .....

Business telephone: .....

Business email address: .....

Date of birth: .....

Qualifications and experience

Tertiary qualifications:

Nature of Qualification	University or Institution	Date of Conferral

Date of admission to practice:

Jurisdiction	Date of Admission
South Australia	

Description of principal areas of practice since first admission, including courts and tribunals (*and in the case of Commonwealth courts and tribunals, their locations*), in which the applicant has most frequently appeared:

(attach additional sheet if space insufficient)

Any other information relevant to consideration of this application:
(*attach additional sheet if space insufficient*)

Other matters

In addition to consultation with those persons mentioned in supplementary rule 337, I request the Chief Justice to consult with the head(s) of the following jurisdiction(s) concerning my application:

(*insert head of jurisdiction*)

Particulars of any conduct of the applicant of which the applicant is aware that has been the subject of any complaint received or investigation undertaken by the Commissioner or the Legal Practitioners Conduct Board or any equivalent body in South Australia or in any other jurisdiction:

(*insert particulars of any conduct*)

Acknowledgement

I, the applicant, (*name*):

(a) acknowledge that I have read Chapter 17 Part 12 of the *Supreme Court Supplementary Rules 2014*;

(b) agree to be bound by it and by any amendment to or replacement of it;

(c) have not concealed any conduct or matter relating to me that, if known by the Commissioner, could reasonably be expected to be investigated by the Commissioner;

(d) undertake to notify the Chief Justice forthwith of any conduct or matter referred to in paragraph (c) that may occur or arise during the currency of this application and at any time during the period that I hold appointment as Senior Counsel;

(e) declare that the facts contained in this application are true and correct; and

(f) authorise the Commissioner, and the equivalent body in any other jurisdiction, to release to the Chief Justice such information concerning any complaint or investigation relating to my conduct as

a legal practitioner as the Chief Justice may require during the currency of this application and at any time during the period that I hold appointment as Senior Counsel.

Date:

.....

Signed (*name*)
Applicant

A. MARTIN, Government Printer, South Australia