Magistrates Court Rules Amendment Rules 2020

SL 2020/67

Made by the Magistrates Court in accordance with the *Magistrates Court Act 2004* section 39.

Part 1 — Preliminary

1. Citation

These rules are the *Magistrates Court Rules Amendment Rules 2020*.

2. Commencement

These rules come into operation as follows —

(a) Part 1 — on the day on which these rules are published in the *Gazette*;

(b) the rest of the rules — on 1 June 2020.

Part 2 — *Magistrates Court (Civil Proceedings) Rules 2005* amended

3. Rules amended

This Part amends the *Magistrates Court (Civil Proceedings) Rules 2005*.

4. Rule 4 amended

(1) In rule 4 delete the definition of ***listing conference***.

(2) In rule 4 insert in alphabetical order:

> ***status conference*** means a conference held under Part 10;

5. Rule 7A amended

(1) In rule 7A(1)(b) delete "counterclaim or".

(2) Delete rule 7A(3)(a) to (c) and insert:

> (a) the material facts relevant to the claim;

(b) any necessary particulars of the claim;

(c) the legal basis of the claim;

(3) After rule 7A(3) insert:

(3A) A statement of claim is not to include evidence.

6. Rule 8 amended

(1) In rule 8(1) delete "counterclaim or".

(2) In rule 8(2) before "claim" insert:

third party

(3) In rule 8(3) before "claim" (first occurrence) insert:

third party

(4) Delete rule 8(5).

Note: The heading to amended rule 8 is to read:
Making and serving third party claim

7. Rule 10 amended

(1) In rule 10(1) after "defence" (second occurrence) insert:

or, if the party wants to make a counterclaim, its statement of defence and counterclaim,

(2) After rule 10(2) insert:

(2A) A statement of defence and counterclaim must be in the approved form.

(3) In rule 10(3):

(a) after "statement of defence" insert:

(including the statement of defence in a statement of defence and counterclaim)

(b) delete paragraphs (a) to (c) and insert:

(a) the material facts relevant to the defence;

(b) any necessary particulars of the defence;

(c) the legal basis of the defence;

(4) After rule 10(3) insert:

(4) A statement of defence is not to include evidence.

(5) A counterclaim in a statement of defence and counterclaim —

(a) must contain all of the items set out in rule 7A(3); and

(b) is not to include evidence.

Note: The heading to amended rule 10 is to read:

Statement of defence or statement of defence and counterclaim

8. Rules 11 and 12 inserted

At the end of Part 2 insert:

11. Objecting to counterclaim (Act s. 9(4))

A party wanting to object under the Act section 9(4) to a counterclaim must —

(a) lodge the objection in the approved form; and

(b) serve it on the other parties.

12. Reply and statement of defence to counterclaim

(1) Within 14 days after being served with a statement of defence, the claimant may lodge and serve on the defendant a reply to the statement of defence.

(2) Within 14 days after being served with a statement of defence and counterclaim, the claimant must —

(a) lodge a statement of defence to the counterclaim; and

(b) serve it on the defendant.

(3) A statement of defence to a counterclaim —

(a) must contain all of the items set out in rule 10(3); and

(b) may include a reply; and

(c) is not to include evidence.

9. Rule 16 amended

In rule 16 delete “listing conference and endorse the date of that conference on the claim that is to be served.” and insert:

status conference.

Note: The heading to amended rule 16 is to read:
Registrar to list case for status conference

10. Rule 20 amended

(1) In rule 20 delete "defendant" (both occurrences) and insert:

party

(2) In rule 20(aa) and (b) after "defence" insert:

or a statement of defence and counterclaim

(3) In rule 20(b) delete "rule 41B." and insert:

rule 41B; or

(4) After rule 20(b) insert:

(c) lodged and served a statement of defence to a counterclaim in accordance with rule 12.

11. Rule 21 amended

(1) In rule 21:

(a) delete "Except" and insert:

(1) Except

(b) delete "defendant" and insert:

party against whom the application for default judgment is made

(c) in paragraphs (b) and (c) delete "$5 000" and insert:

$10 000

(d) in paragraph (c) delete "minor cases".

(2) At the end of rule 21 insert:

(2) If a claim is for an unliquidated amount of more than $10 000 but not more than the jurisdictional limit and

the registrar is unable to assess the unliquidated amount from the supporting material lodged in relation to the claim, the registrar may do any or all of the following —

(a) request that a party lodge additional supporting material in relation to the claim;

(b) give default judgment against the party against whom the application for default judgment is made for a specified amount, if the registrar is able to assess the amount from any additional supporting material lodged in relation to the claim;

(c) give default judgment against the party against whom the application for default judgment is made for an unliquidated amount and list the matter for a hearing by the Court of the claim to assess the amount that should be awarded.

(3) A registrar listing a matter for hearing under subrule (2)(c), may, but is not required to, notify the party against whom the application for default judgment is made of the hearing date.

(4) If a registrar notifies the party against whom the application for default judgment is made of the hearing under subrule (3) —

(a) the party who made the application for default judgment must lodge and serve a supporting affidavit at least 14 days before the hearing; and

(b) the Court may request that a party lodge additional supporting material in relation to the claim.

Note: The heading to amended rule 21 is to read:

Assessing claims when application for default judgment is made

12. Rule 22 deleted

Delete rule 22.

13. Rule 24 amended

In rule 24(1) after "statement of defence" (both occurrences) insert:

or a statement of defence and counterclaim

14. Rule 29 amended

After rule 29(2) insert:

(3) If a party lodges a notice of discontinuance, any other party to the claim may apply to the Court for an order for costs.

15. Rule 30A replaced

Delete rule 30A and insert:

30A. Informal disclosure

At least 14 days before the date of a pre-trial conference listed under rule 39(4), each party to the case must disclose documents relating to any matter in question in the case by providing an informal list of documents to the other parties.

16. Rule 30 replaced

Delete rule 30 and insert:

30. Party must disclose documents when ordered

(1) In this rule —

relevant order means an order made by a registrar or the Court under the Act section 16(1)(n) that a party must provide additional information by disclosing documents relevant to the case.

(2) A party against whom a relevant order is made must lodge and serve an affidavit containing a list of the documents by the date ordered.

(3) If the party subsequently comes into possession, or becomes aware that it is in possession, of further documents required to be disclosed under a relevant order, the party must, as soon as practicable after that, lodge and serve an affidavit containing a list of those documents.

(4) A party may object under rule 32 to the disclosure of any document otherwise required to be disclosed under a relevant order.

17. Rule 31 amended

Delete rule 31(3) and (4) and insert:

(3) The affidavit must be made by the deponent personally.

18. Part 8 heading amended

In the heading to Part 8 after "**interrogatories**" insert:

and requests for further particulars

19. Rule 38 inserted

At the end of Part 8 insert:

38. Requesting further particulars of a pleading

(1) In this rule —

pleading means any of the following documents lodged and served under Part 2 —

(a) a statement of claim;

(b) a defence;

(c) a third party claim;

(d) a statement of defence;

(e) a statement of defence and counterclaim;

(f) a statement of defence to a counterclaim;

(g) a reply.

(2) A party (the ***requesting party***) may request from another party further particulars of a pleading.

(3) The requesting party may apply to the Court for an order directing the other party to provide further particulars if —

(a) the other party has failed to respond to the request within 14 days of receiving it; or

(b) the further particulars given are, in the opinion of the requesting party, inadequate.

20. Rule 39 replaced

Delete rule 39 and insert:

39. Listing of pre-trial conferences

(1) A party to a claim may apply to the Court for a registrar to list the case for a pre-trial conference —

(a) after the claimant has lodged and served an originating claim; but

(b) before the claimant is served with a statement of defence or a statement of defence and counterclaim.

(2) An application under subrule (1) must be —

(a) in the approved form; and

(b) accompanied by a memorandum of consent signed by the parties to the claim.

(3) If a party does not make an application under subrule (1), the claimant must apply to the Court for a registrar to list the case for a pre-trial conference —

(a) if the defendant has lodged a statement of defence — within 14 days after the claimant is served with the statement of defence;

(b) if the defendant has lodged a statement of defence and counterclaim — within 14 days after the claimant has lodged a statement of defence to the counterclaim.

(4) If a party makes an application under subrule (1) that complies with subrule (2), or a claimant makes an application under subrule (3), the registrar must list the case for a pre-trial conference and notify the parties in writing.

(5) If the case is listed for a pre-trial conference pursuant to an application under subrule (1) —

(a) the parties are not required to lodge and serve any document relating to the claim referred to in Part 2 within the period specified in Part 2; and

(b) at the pre-trial conference, the registrar must order the period within which the parties are required to lodge and serve documents relating to the claim referred to in Part 2.

21. Rule 41A amended

In rule 41A delete "7A(2) and (3)." and insert:

7A(2), (3) and (3A).

22. Rule 41B amended

In rule 41B delete "defence, the party must do so in accordance with rule 10(2) and (3)." and insert:

defence or a statement of defence counterclaim, the party must do so in accordance with rule 10(2) to (5).

Note: The heading to amended rule 41B is to read:

Effect of order to lodge statement of defence or statement of defence and counterclaim

23. Rule 41C deleted

Delete rule 41C.

24. Rule 41D amended

(1) Delete rule 41D(1) and insert:

(1) In this rule —

pleading means any of the following documents lodged and served under Part 2 —

(a) a statement of claim;

(b) a defence;

(c) a third party claim;

(d) a statement of defence;

(e) a statement of defence and counterclaim;

(f) a statement of defence to a counterclaim;

(g) a reply.

(1A) A party may amend a pleading —

(a) before a date is set for the trial of the case, without the leave of a registrar or the Court; or

(b) after a date is set for the trial of the case, with the leave of a registrar or the Court.

(1B) A party seeking leave under subrule (1A)(b) must lodge and serve an affidavit in accordance with subrule (2) or (3) together with the proposed amended pleading.

(2) In rule 41D(2):

(a) delete "statutory declaration" and insert:

affidavit

(b) after "by the party" insert:

personally

(c) in paragraph (a) delete "in the case statement".

(d) in paragraph (b) delete "case statement" and insert:

proposed amended pleading

(3) In rule 41D(3):

(a) delete “statutory declaration” and insert:

affidavit

(b) in paragraphs (a) and (b) delete “in the amended case statement”.

(c) in paragraph (c) delete “amended case statement” and insert:

proposed amended pleading

Note: The heading to amended rule 41D is to read:
Amending documents lodged and served under Part 2

25. Rules 42 and 43A replaced

Delete rules 42 and 43A and insert:

42. Further pre-trial conference or status conference may be listed

(1) After a pre-trial conference the registrar must either —

(a) list the case for a further pre-trial conference; or

(b) list the case for a status conference.

(2) The registrar must notify the parties in writing of the listing.

26. Part 10 heading replaced

Delete the heading to Part 10 and insert:

Part 10 — Status conferences

27. Rules 45 and 46 replaced

Delete rules 45 and 46 and insert:

45. Purpose of status conference

The purpose of a status conference is to allow for the management of a case.

46. Attendance at status conference

(1) A party must attend a status conference and, subject to subrule (2), may do so in person or may be represented by the party’s solicitor or counsel.

(2) The Court may order that any or all of the following persons must attend a status conference —

(a) a party in person;

(b) a party's solicitor;

(c) a party's counsel.

(3) If a party or a person ordered to attend a status conference under subrule (2) fails to attend, the magistrate at the status conference may give default judgment against the party.

28. Rule 47 amended

Delete rule 47(1) and insert:

(1) The magistrate at a status conference may do any or all of the following —

(a) order that the parties attend before a mediator;

(b) order that the parties attend a pre-trial conference;

(c) order that the parties attend a further status conference;

(d) exercise the jurisdiction of the Court under the Act section 16(1)(m) to allow a party to amend its case statement;

(e) exercise the jurisdiction of the Court under the Act section 16(1)(n) to order a party —

(i) to provide additional information by disclosing documents relevant to the case in accordance with Part 7; or

(ii) to answer interrogatories in accordance with Part 8;

(f) exercise the jurisdiction of the Court under the Act section 16(1)(o)(i) to order the parties to exchange the written statements of the evidence that is anticipated will be given by witnesses in accordance with Part 13 Division 2;

(g) order a party to provide further particulars;

(h) list the case for trial;

(i) make any other orders necessary to facilitate settlement or to ensure the case is ready for trial.

Note: The heading to amended rule 47 is to read:

Powers of magistrate at status conference

29. Rule 48 deleted

Delete rule 48.

30. Rule 52 amended

In rule 52 delete "listing" and insert:

status

Note: The heading to amended rule 52 is to read:
Further status conference if case not settled at mediation

31. Rule 71 amended

(1) Delete rule 71(1) and insert:

(1) If a party wants to require a person to give evidence at a trial or to produce evidentiary material the party must lodge a request for the Court to issue a witness summons.

(2) After rule 71(2) insert:

(2A) The request may be made before the case is listed for trial.

(3) In rule 71(3) delete "date." and insert:

date or an earlier date as directed by the Court.

Note: The heading to amended rule 71 is to read:
Witness summons

32. Rule 79 amended

In rule 79 delete "judgment." and insert:

judgment or such other time as is ordered by the Court.

Note: The heading to amended rule 79 is to read:
Applying to set aside summary or default judgment (Act s. 17(3), 18(6) and 19(3))

33. Rule 109 replaced

Delete rule 109 and insert:

109. Applying for Court order except judgment

(1) This rule applies to —

(a) an application for a Court order other than —

(i) a judgment after trial; or

(ii) an order made in or as a consequence of a judgment, not being an order to set aside a judgment given under the Act section 17(3), 18(6) or 19(3);

or

(b) an application in relation to which rule 111(1) does not apply.

(2) A party may make an application —

(a) subject to subrule (3), by lodging the approved form; or

(b) with the leave of the Court, orally at any hearing.

(3) Before making an application under subrule 2(a), the party must confer with the other party to try to resolve the matters giving rise to the application.

34. Rule 110 amended

In rule 110 delete "Except as provided in rule 22(3), a" and insert:

A

Note: The heading to amended rule 110 is to read:

Supporting affidavit

35. Rule 111 amended

(1) In rule 111(1) delete "any supporting affidavit on every other party after it has been lodged and at least 10 days before the hearing of the application." and insert:

supporting affidavit on every other party after it has been lodged.

(2) In rule 111(2)(a)(ii) after "defence" insert:

or a statement of defence and counterclaim

(3) In rule 111(2)(a)(iii) delete "parties;" and insert:

parties;

or

36. Rule 112 amended

In rule 112(1) delete "at least 3 working days before the hearing of" and insert:

no later than 14 days after the party was served with

37. Rule 113A inserted

At the end of Part 18 insert:

113A. No response filed

(1) If a party fails to lodge and serve a response to an application in accordance with rule 112, a registrar may —

(a) grant the application, if satisfied that the party making the application is entitled to relief; or

(b) refer the application to a magistrate.

(2) A magistrate to whom an application is referred under subrule (1)(b) may, in chambers —

(a) without hearing the party making the application, grant it; or

(b) direct a registrar to list the application for hearing by a magistrate.

(3) A magistrate hearing the application may grant or refuse it.

38. Rule 127 amended

(1) In rule 127(1) delete "listing" and insert:

status

(2) Delete rule 127(2).

(3) In rule 127(3) delete "listing" and insert:

status

Note: The heading to amended rule 127 is to read:

Registrar to list case for status conference

39. Rule 131CA amended

In rule 131CA(2), (3), (4) and (5), delete "Court" and insert:

court

40. Rule 131CB amended

(1) In rule 131CB(3) delete "Court" and insert:

court

(2) In rule 131CB(5) delete "Court's" and insert:

court's

41. Rule 136 amended

In rule 136 delete "listing" and insert:

status

42. Part 23 inserted

After rule 138 insert:

Part 23 — Transitional rules for the *Magistrates Court Rules Amendment Rules 2020*

139. Terms used in this Part

In this Part —

amended Rules means the *Magistrates Court (Civil Proceedings) Rules 2005* as in force from time to time on and after commencement day;

commencement day means 1 June 2020;

former Rules means the *Magistrates Court (Civil Proceedings) Rules 2005* as in force before commencement day;

transitional case means a case that, as of commencement day, has been commenced but not concluded.

140. Application of amended Rules in relation to transitional cases

(1) Subject to rule 141, on and from commencement day the amended Rules apply in relation to a transitional case.

(2) If the amended Rules apply in relation to a transitional case, then, unless otherwise directed under rule 143 —

(a) everything lodged or served in relation to the case under a provision of the former Rules is taken to have been lodged or served under the corresponding provision of the amended Rules; and

(b) every order made, direction given or other thing done in relation to the case by the Court or by a registrar under a provision of the former Rules is taken to have been made, given or done under the corresponding provision of the amended Rules.

141. Application of former Rules in relation to certain transitional cases

(1) This rule applies to a transitional case if —

(a) under the former Rules Part 2, a party to the case is required to lodge and serve any of the following documents on a day falling on or after commencement day —

(i) a statement of claim;

(ii) a counterclaim;

(iii) a third party claim;

(iv) a response to a claim;

(v) a statement of defence;

or

(b) a pre-trial conference, listing conference or trial for which the case was listed before commencement day is held on or after commencement day.

(2) On and from commencement day, the former Rules continue to apply in relation to a transitional case to which this rule applies until —

(a) the Court or a registrar directs otherwise under rule 143; or

(b) the case is concluded.

142. Listing transitional cases for a status conference

(1) The Court may, of its own motion, list a transitional case for a status conference.

(2) The Court must list a transitional case for a status conference if a party to a transitional case applies to the Court in the approved form to have the case listed.

(3) The court must give the parties to the case 7 days written notice of a status conference for which the case is listed under this rule.

(4) The Court must conduct a status conference for which a case is listed under this rule in open court.

143. Court or registrar may give directions in relation to transitional issues

(1) At a status conference, pre-trial conference, listing conference or trial held in relation to a transitional case, the Court or a registrar may make any or all of the following directions —

(a) if the amended Rules do not apply in relation to the case, a direction that they are to apply in relation to the case on and from a specified date;

(b) a direction modifying the application of the amended Rules in relation to the case;

(c) any other direction necessary or convenient in connection with the application of the amended Rules in relation to the case.

Part 3 — *Magistrates Court (Minor Cases Procedure) Rules 2005* amended

43. Rules amended

This Part amends the *Magistrates Court (Minor Cases Procedure) Rules 2005*.

44. Rule 7 amended

Delete rule 7(2).

45. Rule 7A deleted

Delete rule 7A.

46. Rule 8 amended

(1) In rule 8(1) delete "counterclaim or".

(2) Delete rule 8(2) and (3).

(3) In rule 8(4) delete "if your claim is a third party claim it" and insert:

your third party claim

Note: The heading to amended rule 8 is to read:

How to make a third party claim

47. Rule 9 amended

(1) In rule 9(1) delete "complete the response served with the claim and lodge it" and insert:

lodge a response to the claim in the approved form

(2) Delete rule 9(2).

48. Rule 9A deleted

Delete rule 9A.

49. Rule 10B amended

Delete rule 10B(1) and insert:

(1) If in a response you admit liability for part of a claim made against you but indicate that you want to defend the rest of the claim, in your response you —

(a) must outline the basis upon which you admit part of the claim; and

(b) may offer an amount as full satisfaction for the claim.

50. Rule 10C amended

(1) In rule 10C(2):

(a) delete "registrar" and insert:

Court

(b) delete "pre-trial" and insert:

status

(2) In rule 10C(3):

(a) delete "pre-trial" and insert:

status

(b) delete "registrar" and insert:

magistrate

51. Rule 10 amended

In rule 10(1) delete "pre-trial conference." and insert:

a status conference or such other time as is ordered by the Court.

52. Rule 13A replaced

Delete rule 13A and insert:

13A. If someone has made a consumer/trader claim against you

If someone has made a consumer/trader claim against you and you want to make a third party claim against another person, you must lodge it in the approved form within 14 days after you have received a copy of the claim made against you.

53. Rule 13 amended

(1) In rule 13(1):

(a) delete "counterclaim or".

(b) delete "listing" and insert:

status

(2) In rule 13(2) delete "listing" and insert:

status

Note: The heading to amended rule 13 is to read:
Registrar to list case for status conference

54. Rule 14 amended

(1) In rule 14(1) delete "listing" and insert:

status

(2) In rule 14(2):

(a) delete "listing" (first occurrence) and insert:

status

(b) delete "listing" (second occurrence) and insert:

a further status

Note: The heading to amended rule 14 is to read:
Status conference

55. Rule 15 amended

In rule 15(1) and (2) delete "listing" (each occurrence) and insert:

status

Note: The heading to amended rule 15 is to read:
Attendance of parties at status conference

56. Rules 16 to 18 replaced

Delete rules 16 to 18 and insert:

16. When this Part applies

This Part applies if an application for default judgment is made against you or another party for a failure to lodge and serve a response in accordance with rule 9(1).

17. If the claim is for a liquidated amount

Unless rule 21 applies, if the claim is for a liquidated amount a registrar is to give default judgment for that amount.

18. If the claim is for an unliquidated amount

(1) Unless rule 21 applies, if the claim is for an unliquidated amount a registrar is to give default judgment for an unliquidated amount.

(2) When the registrar gives default judgment for an unliquidated amount, the registrar may do any or all of the following —

(a) request that you or another party lodge additional supporting material in relation to the claim;

(b) give default judgment against the defendant for a specified amount, if the registrar is able to assess the amount from any additional supporting material lodged;

(c) list the application for a hearing at which the Court will assess the amount.

(3) If the registrar lists the application for a hearing under subrule (2)(c) —

(a) the registrar must notify you and the other parties in writing at least 28 days before the hearing; and

(b) you must lodge and serve a supporting affidavit at least 14 days before the hearing.

(4) An application for default judgment under this Part does not need to be supported by an affidavit unless a hearing is listed under subrule (2)(c).

57. Rule 21 amended

Delete rule 21(1).

58. Part 5 heading replaced

Delete the heading to Part 5 and insert:

Part 5 — Status conferences and pre-trial conferences

59. Rule 23 amended

(1) Delete rule 23(1) and insert:

(1) If a defendant lodges a response, a registrar must, within 14 days, list the case for a status conference.

(2) In rule 23(2) delete "pre-trial" and insert:

status

Note: The heading to amended rule 23 is to read:
Listing case for a status conference

60. Rule 23AA inserted

After rule 23 insert:

23AA. What happens at a status conference

(1) The purpose of a status conference is to allow for the management of a case.

(2) Specifically, at a status conference the Court may do any or all of the following —

(a) refer the case to a pre-trial conference to be conducted by a registrar immediately;

(b) determine what facts, if any, are agreed by the parties;

(c) order the parties to —

(i) lodge and serve lists of documents the parties might tender in evidence at the trial in support of their claims or defences; or

(ii) exchange any other documents or information;

(d) extend the time for making counterclaims or third party claims (even if the time for making those claims has passed);

(e) list the case for a further status conference;

(f) make any other orders necessary to facilitate settlement or ensure the case is ready for trial.

(3) If the case involves a counterclaim that is not a minor case, then, at the status conference —

(a) the Court will consider whether or not you and the other parties consent to the counterclaim being dealt with under these rules; and

(b) if the parties do not consent to the counterclaim being dealt with under these rules, the court must —

(i) list the case for a hearing before the Court for it to determine what part of the case, if any, is to be dealt with under these rules; and

(ii) notify you and the other parties in writing of the hearing date.

(4) If the Court determines at the hearing referred to in subrule (3) that part of the case is to be dealt with under these rules, it will list the case for a further status conference.

(5) The court must notify you and the other parties in writing of the listing under subrule (4).

61. Rule 24 amended

(1) Delete rule 24(1) to (3) and insert:

(1) At a pre-trial conference the registrar may do any or all of the things that the Court may do at a status conference under rule 23AA(2)(b) to (f).

(2) In rule 24(4) after "further" insert:

status conference or

(3) Delete rule 24(5).

62. Rule 25 deleted

Delete rule 25.

63. Rule 26 amended

(1) In rule 26(1):

(a) before "pre-trial" insert:

status conference,

(b) delete "rule 25(2)," and insert:

rule 23AA(3),

(2) After rule 26(1) insert:

(1A) A subrogated insurer who is authorised in writing by you may, upon presentation of the written authorisation to the Court, represent or assist you at a status conference, a pre-trial conference or a hearing referred to in rule 23AA(3), but not at the trial of your case.

(3) In rule 26(2) delete "with any necessary modifications, applies" and insert:

applies with any necessary modifications

Note: The heading to amended rule 26 is to read:

Your attendance at a status conference, pre-trial conference or hearing

64. Rule 28 amended

(1) Before rule 28(1) insert:

(1A) A status conference must be conducted before a magistrate.

(2) In rule 28(2) after "settle a case at a" insert:

status conference or a

Note: The heading to amended rule 28 is to read:

Status of things said or done at a status conference or a pre-trial conference

65. Rule 42 amended

In rule 42 delete "given." and insert:

given or by such other date as the Court allows.

66. Part 16 inserted

After rule 81 insert:

Part 16 — Transitional rules for the *Magistrates Court Rules Amendment Rules 2020*

82. Terms used in this Part

In this Part —

amended Rules means the *Magistrates Court (Minor Cases Procedure) Rules 2005* as in force from time to time on and after commencement day;

commencement day means 1 June 2020;

former Rules means the *Magistrates Court (Minor Cases Procedure) Rules 2005* as in force before commencement day;

transitional case means a case that, as of commencement day, has been commenced but not concluded.

83. Application of amended Rules in relation to transitional cases

(1) Subject to rule 84, on and from commencement day the amended Rules apply in relation to a transitional case.

(2) If the amended Rules apply in relation to a transitional case, then, unless otherwise directed under rule 86 —

(a) everything lodged or served in relation to the case under a provision of the former Rules is taken to have been lodged or served under the corresponding provision of the amended Rules; and

(b) every order made, direction given or other thing done in relation to the case by the Court or by a registrar under a provision of the former Rules is taken to have been made, given or done under the corresponding provision of the amended Rules.

84. Application of former Rules in relation to certain transitional cases

(1) This rule applies to a transitional case if —

(a) under the former Rules Parts 2 and 3, a party to the case is required to lodge and serve any of the following documents on a day falling on or after commencement day —

(i) a statement of claim;

(ii) a counterclaim;

(iii) a third party claim;

(iv) a response to a claim;

(v) a statement of defence;

or

(b) a pre-trial conference, listing conference or trial for which the case was listed before commencement day is held on or after commencement day.

(2) On and from commencement day, the former Rules continue to apply in relation to a transitional case to which this rule applies until —

(a) the Court or a registrar directs otherwise under rule 86; or

(b) the case is concluded.

85. Listing transitional cases for a status conference

(1) The Court may, of its own motion, list a transitional case for a status conference.

(2) The Court must list a transitional case for a status conference if a party to a transitional case applies to the Court in the approved form to have the case listed.

(3) The court must give the parties to the case 7 days written notice of a status conference for which the case is listed under this rule.

(4) The Court must conduct a status conference for which a case is listed under this rule in open court.

86. Court or registrar may give directions in relation to transitional issues

(1) At a status conference, pre-trial conference, listing conference or trial held in relation to a transitional case, the Court or a registrar may make any or all of the following directions —

(a) if the amended Rules do not apply in relation to the case, a direction that they are to apply in

relation to the case on and from a specified date;

(b) a direction modifying the application of the amended Rules in relation to the case;

(c) any other direction necessary or convenient in connection with the application of the amended Rules in relation to the case.

Mr STEVEN HEATH, Chief Magistrate
Magistrates Court in Perth.

Date: 27 May, 2020.