



Western Australia

Magistrates Court Act 2004
Magistrates Court (Civil Proceedings) Act 2004

Magistrates Court Rules Amendment Rules 2023

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Magistrates Court Rules Amendment Rules 2023

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 2023*.

2. Commencement

These rules come into operation as follows —

- (a) Part 1 — on the day on which these rules are published on the WA legislation website;
- (b) the rest of the rules — on the day after that day.

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

3. Rules amended

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

4. Part 20A inserted

After rule 122 insert:

Part 20A — Litigation funders

122A. Term used: litigation funder

In this Part —

litigation funder means a person who —

- (a) provides funding or other financial assistance to a claimant for the purposes of conducting the claimant's case; and
- (b) exercises direct or indirect control or influence over the conduct of the claimant's case; and
- (c) does not exercise control or influence as —
 - (i) a legal practitioner advising or representing the claimant; or
 - (ii) the claimant's insurer.

122B. Claimant to notify Court of litigation funder

- (1) A claimant who receives funding or other financial assistance from a litigation funder must notify the Court of the existence of the litigation funder.
- (2) The notice must be given in writing as soon as is reasonably practicable after the person provides or

agrees to provide funding or other financial assistance to the claimant.

122C. Disclosure of agreements relating to litigation funder

The Court may, at any time, order the claimant to give to the Court a copy of any agreement relating to funding or other financial assistance a litigation funder provides or is to provide to the claimant for the purposes of conducting the case.

5. Rule 131E inserted

At the end of Part 21 Division 1A insert:

131E. Court may notify or give documents by email

- (1) Subject to subrule (2), the Court may, under this Division, notify a person of a thing, or deliver a copy of a document to them, by email.
- (2) This rule does not authorise the use of email —
 - (a) to serve a summons relating to a restraining order; or
 - (b) to serve a restraining order on a person bound by it; or
 - (c) to make a notification or deliver a document to a person who has not provided to the Court an email address, for themselves.

6. Schedule 1 amended

In the provisions listed in the Table:

- (a) delete “section 61(1) or (2a)” and insert:

section 61(1), (1A) or (2a)

- (b) delete “section 61(1) or (2a)” and insert:

section 61(1), (1A) or (2a)

- (c) delete “section 61(1) or (2a)” and insert:

section 61(1), (1A) or (2a)

Table

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Part 3 — *Magistrates Court (General) Rules 2005* amended

7. Rules amended

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

8. Rule 38A inserted

At the beginning of Part 5 Division 2 insert:

38A. Term used: civil litigation information

In this Division —

civil litigation information means any of the following information in relation to a case —

- (a) the names of the parties;
- (b) the amount and nature of the claim;
- (c) the amount of any judgment entered;
- (d) whether the case has been dismissed or discontinued.

9. Rule 39 amended

(1) Before rule 39(1) insert:

(1A) A person seeking access under section 33(8) of the Act to information held by the Court may —

- (a) make an application under this rule; or
- (b) if the information is civil litigation information, make an application under rule 39A.

- (2) In rule 39(1) delete “the Act section 33(8)” and insert:

this rule

10. Rule 39A inserted

After rule 39 insert:

**39A. Application for access to civil litigation information
(Act s. 33(8))**

- (1) A person seeking access under section 33(8) of the Act to civil litigation information may make an application under this rule.
- (2) The application must be lodged in the approved form.
- (3) A registrar may —
 - (a) grant the application; or
 - (b) refuse the application; or
 - (c) refer the application to a magistrate, and may attach to it a written report on the administrative implications of granting it.
- (4) A magistrate to whom an application is referred may, in chambers —
 - (a) without hearing the applicant, grant the application; or
 - (b) order a registrar to list the application for hearing by a magistrate.

- (5) If under subrule (4)(c) a registrar has attached a report to an application, a magistrate must consider the report before determining the application.
- (6) A magistrate hearing the application may grant or refuse it.

Date: 15 September 2023

Mr STEVEN HEATH, Chief Magistrate
Magistrates Court in Perth