

South Australia

LAND AND VALUATION DIVISION RULES 1978

(as varied to the 4th September 2006.)

The Land and Valuation Division Rules 1978, dated 4 May 1978, which came into operation on 4 May 1978 (*Government Gazette* 4 May 1978, p.1555), have been varied by the following rules:

	<i>Gazette</i>	<i>Date of operation</i>
Land and Valuation (Amendment) Rules, 1978	6 July 1978, p.81	6 July 1978
Land and Valuation (Amendment) Rules, 1979	29 March 1979, p.840	29 March 1979
Land and Valuation (Amendment) Rules, 1981	11 June 1981, p.1938	11 June 1981
Land and Valuation (Amendment) Rules, 1982	22 April 1982, p.1457	22 April 1982
Land and Valuation (Amendment) Rules, 1984	20 February 1984, p.815	20 February 1984
Land and Valuation Rules 1970, Amendment No 1 of 2006	24 August 2006, p.2895	4 September 2006

We, the Honourable William Andrew Noye Wells, and the Honourable Samuel Joshua Jacobs, Judges of the Supreme Court of South Australia, upon whom the jurisdiction of the Land and Valuation Court (a Division of the Supreme Court) has, by the respective instruments of our appointment, been conferred, hereby publish the following Rules, being a consolidation of the Land and Valuation Rules, 1970, as amended by Land and Valuation Rules 1971,1972,1973 (No 1),1973 (No 2),1975,1977 (No 1),1977 (No 2).

LAND AND VALUATION DIVISION RULES

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LAND AND VALUATION RULES 1978

PART I PRELIMINARY

[1 These consolidated Rules may be cited as the “Land and Valuation Rules, 1970–1984”.]

2 In these Rules, unless the context otherwise requires –

(a) the words defined in section 5 and section 62a of the *Supreme Court Act, 1935-1969* (as amended), and in section 6 of the *Land Acquisition Act, 1969* (as amended), shall have the meanings respectively assigned to them by those sections;

(b) “**as modified**”, when used in relation to –

- (i) the Supreme Court Rules ;
- (ii) any Order or Rule of the Supreme Court;
- (iii) any one or more of these Rules; or
- (iv) to any course of practice or procedure,

means with all modifications and adaptations necessary to ensure that they or it, have, or has, effect for the purposes of the Rule in which the expression occurs.

“**land and valuation matters**” means all actions, matters and proceedings (including appeals and references) in respect of which jurisdiction is conferred on the Court under and pursuant to –

- (i) the *Land Acquisition Act, 1969* (as amended);
- (ii) Part IIIA; or,
- (iii) any other Act.

“**Master**” means a Master of the Supreme Court;

“**Part IIIA**” means Part IIIA of the *Supreme Court Act, 1935-1969*, (as amended);

“**procedure**” includes service of proceedings, manner of service and sufficiency of service;

“**Registrar**” means the Registrar of the Supreme Court;

“**sign**” includes affix the Common Seal of a body corporate, and “signed” shall be construed accordingly;

“**the Minister**” in relation to an Act under which a particular matter or question arises, means the Minister of the Crown in the Government of the State of South Australia charged with the administration of that Act;

“**the Land Acquisition Act**” means the *Land Acquisition Act, 1969* (as amended);

“**the Rules**” or “**these Rules**” means the *Land and Valuation Court Rules, 1970* (as amended);

“**the Supreme Court Act**” means the *Supreme Court Act, 1935-1969* (as amended);

“**the Supreme Court**” means the Supreme Court of South Australia;

“**the Supreme Court Rules**” means the *Supreme Court Civil Rules 2006*;

- (c) A reference to the Judge includes a reference to every Judge upon whom, whether temporarily or permanently, the jurisdiction of the Court has, pursuant to Part IIIA of the Act, been conferred.
- (d) *****

3 The *Acts Interpretation Act, 1915-1957* , applies to these Rules in the same manner as if they had been enacted by Parliament.

- 4**
- (1) A declaratory instrument (as required by, or referred to in, these Rules) shall be either –
 - (a) in the form of a Statutory Declaration under the *Oaths Act, 1936*; or
 - (b) in the form of an affidavit as prescribed by the Supreme Court Rules .
 - (2) When a person files or lodges a duly completed declaratory instrument in pursuance, or in purported pursuance, of these Rules, he thereby pledges his oath as to the truth of the facts and matters stated in the instrument to the best of his knowledge, information and belief.
 - (3) A declaratory instrument may, where appropriate, exhibit a map, plan or other document or thing in the same manner as if the map, plan, document or thing was exhibited to an affidavit.

PART II RULES AS TO PROCEDURE

General rules

- 5**
- (1) So far as statutory provisions and these Rules do not provide for the circumstances of any particular case, and subject to those provisions and these Rules, the Supreme Court Rules and the course of Procedure and practice observed by the Supreme Court (whether exercising its jurisdiction in open Court or in Chambers) shall, as modified, apply to, and in relation to, all land and valuation matters.
 - (2) A specific reference in these Rules to an Order or Rule of the Supreme Court Rules, shall not derogate from the operation of this Rule.
- 6** If a question arises as to what rule or what course of practice or procedure is applicable in any particular case:–
- (a) Where the question arises in the course of a hearing before the Judge (whether in Court or in Chambers) it shall be determined by the Judge; and
 - (b) In all other cases, the question shall be determined by a Master or the Registrar; but any person affected by such determination may have that determination reviewed by the Judge in a summary manner.
- 7** These Rules shall be construed, interpreted and applied, to the fullest extent that their context will allow, in a manner that will best ensure the attainment of the following objects:–
- (a) The simplification of practice and procedure;
 - (b) The identification and clarification of material issues between parties;
 - (c) The saving of expense; and
 - (d) The expeditious disposal of the business of the Court.

- 8** The Judge shall, subject to any statutory requirement, have power to enlarge or abridge the time appointed by these Rules, or fixed by any order for enlarging or abridging the time, for doing any act or taking any proceeding, upon such terms (if any) as he deems just, and any such enlargement may be ordered although application for the enlargement is not made until after the expiration of the time so appointed or so fixed.
- 9** Subject to any statutory requirement non-compliance with any one or more of these Rules shall not, unless the Judge so directs, render void the proceedings to which the Rule or Rules relates or relate, but those proceedings may be set aside wholly or in a part as irregular, or amended, or otherwise dealt with in such manner, and upon such terms (if any), as the Judge deems just.
- 10** The Judge may adjourn any proceeding at any time upon such terms as to costs or otherwise as he thinks fit.
- 11** Subject to the provisions of any statutory enactment and of these Rules–
- (a) any land and valuation matter, application or other proceeding before a Master may at any time during the hearing by him be adjourned by him before a Judge either in Chambers or in Court;
 - (b) any land and valuation matter, application or other proceeding before a Master may at any time during the hearing by him be referred by the Registrar to the Judge, and the Judge may either dispose of the matter, application or proceeding or refer it back to the Registrar with such orders or directions as the Judge thinks fit;
 - (c) any matter, application or other proceeding, may, if the Judge or a Master thinks fit, be adjourned from Chambers to Court or from Court to Chambers.
- 12** The Judge may, at any stage of any proceedings, and subject to any statutory requirement, dispense with the observance of any Rule including a Rule that relates to or governs powers that the Judge may exercise of his own motion.
- 13**
- (1) The Judge, or a Master with the approval of the Judge, may, from time to time, issue Practice Directions, not inconsistent with the Act or with these Rules, as to the practice of the Court, and may revoke or vary any such Practice Directions.
 - (2) Practice Directions shall not have legislative force, but, in the interests of the expeditious and efficient disposal of the business of the Court, ought to be complied with unless there are good grounds for not doing so: [*sic*] Failure to comply with a Practice Direction may, where relevant, constitute part of the material taken into account by the Judge or a Master when performing their respective functions under the Act of [*sic*] these Rules.
- 14**
- (1) The Judge, or a Master with the approval of the Judge may, from time to time, issue Practice Memoranda, not inconsistent with the Act or with these Rules, with respect to any aspect of the business of the Court, and may revoke or vary any such Practice Memoranda.
 - (2) Practice Memoranda shall not have legislative force, but shall be issued for information and guidance of all concerned.

- 15** The Judge may direct the Registrar to send or publish a Practice Direction or Practice Memorandum to or in any one or more of the following:–
- (a) the *Government Gazette*;
 - (b) a newspaper specified by the Judge;
 - (c) the Secretary of the Law Society of South Australia;
 - (d) the Secretary of the South Australian Bar Association;
 - (e) the Clerk of a Local Court specified by the Judge;
 - (f) the Secretary of the Local Government Association;
 - (g) the Commonwealth Institute of Valuers (SA Division);
 - (h) the Real Estate Institute of SA Inc.

Official seal

- 16** The official seal of the Supreme Court of South Australia shall be also the official seal of the Land and Valuation Court.

Issue process and judicial notice

- 17** (1) All process issuing out of the Court shall be in the form prescribed by these Rules or otherwise by law, and sealed with the Seal of the Court.
- (2) All Courts shall take judicial notice of the signature of the Judge, and of the Registrar, when attached to a document issuing out of the Court.

Terms, vacations, sittings and hearings

- 18** The vacations and holidays of the court shall be those appointed for the Supreme Court, but the Judge may, if he deem it necessary, take business during a vacation.
- 19** (1) Sittings of the Court shall be held on such days, and at such times and places, as the Judge from time to time appoints.
- (2) More than one sitting of the Court may be held at the one time.
- (3) The Judge may direct that notice of the date, time and place appointed for any sittings be published by the Registrar in or at any one or more of the following:–
- (a) a Practice Direction;
 - (b) a Practice Memorandum;
 - (c) the *Government Gazette*;
 - (d) the Law Calendar for the State of South Australia;
 - (e) a news paper specified by the Judge;
 - (f) the office of a Local Court specified by the Judge;
 - (g) the office of the Secretary of the Local Government Association.
- 20** (1) Except where these Rules or the Judge otherwise provides or directs, the Registrar shall give not less than seven days' notice, to all parties concerned, of the date, time and place of the sittings of the Court at which a land and valuation matter is down to be heard.
- (2) The notice shall be in such form as is generally or specially directed by the Judge for the purposes of a particular case.

- (3) Service of one copy of the notice shall be effected upon every person concerned, and on one copy kept on file an endorsement shall be made by the Registrar showing the time and mode of each service.
- (4) The Judge may dispense with or abridge notice required by this Rule in cases of urgency or where, in his opinion, there are other special circumstances warranting such dispensation or abridgement.
- (5) Subject to any statutory requirement, the Judge may direct that notice be given by a party instead of by the Registrar, and the Registrar shall make a record of every such direction.

Court Offices – office – jurisdiction – records

- 21** (1) The Registrar shall be the Registrar of the Court and there shall be such Deputy Registrars, to be appointed by the Judge, as are necessary for the administration of justice and for the due execution of the judgments, orders and processes of the Court.
- (2) The registrar and all other officers of the Court shall, subject to the provisions of the *Public Service Act, 1967* (as amended), be under the control of the Court, and in the performance of their respective duties shall conform to the directions of the Judge.
- 22** (1) The office of the Land and Valuation Division shall be maintained at such place or places as the Judge appoints.
- (2) The Judge may direct that the office be kept open to the public at hours that are additional to the hours during which the several offices of the Supreme Court are kept open.
- 23** The Registrar shall have charge of the Records of the Court.
- 24** (1) Subject to this Rule, a Master may do and transact all such business, and exercise all such authority and jurisdiction as by virtue of Part IIIA may be done, transacted or exercised by the Judge.
- (2) Subject to any general or special direction by the Judge, the principal hearing of a land and valuation matter that is governed by Rules 86, 87, 88, 89, 90, 91, 91.1, 91.2, 93, 94, 99, 100, 102, 104, 105, 106, 107 and 107.1, shall take place before a Master who shall, subject to these Rules, determine the matter.
- (3) Subject to any general or Specific direction by the Judge, the principal hearings of all land and valuation matters other than those referred to in Sub-Rule 2 of the Rule shall take place before the Judge who shall, subject to these Rules, determine those matters.
- (4) For the purpose of exercising his discretion as to any general or specific direction, the Judge may have regard to nature, amount, value, magnitude and importance of the subject matter, the wishes (if any) of the parties expressed in writing before notice is given under Rule 20, the complexity or otherwise of the evidence tendered or likely to be tendered, the difficulty or uncertainty of the law involved or likely to be involved, and the circumstances of the case generally.
- (5) The contents of any general or special direction given under this Rule may be included in a Practice Direction, or in a Practice Memorandum, or in both.
- (6) A general or specific direction may be rescinded or varied from time to time.

Appeals from a Master to the Judge

- 25**
- (1) Any person affected by the order or decision of a Master may appeal to the Judge therefrom.
 - (2) The appeal shall, in the first instance, be brought before the Judge in Chambers and shall be so brought by notice in writing in the form (as modified) of Form 38 of the First Schedule to the Supreme Court Rules.
 - (3) Unless otherwise ordered, the notice shall be served upon the respondent and a copy filed with the registrar within four days after the order or decision complained of was made or given, and there shall be at least two clear days between service of the notice of appeal and the day of hearing.
 - (4) The appeal shall be by way of re-hearing, and further evidence may be received in the discretion of the Judge.
 - (5) Upon the appeal, in matters involving the exercise of discretion, the Judge may exercise his own discretion without regard to the manner in which the discretion has been exercised by a Master.

Appeals from a Master to the Full Court

- 26**
- (1) Where the principal hearing in a land and valuation matter has taken place before a Master, there shall be an appeal direct to the Full Court from his order determining the matter, which shall be subject to the provisions of this Rule.
 - (2) The appeal may be brought only by leave of the Judge, to whom the Master has referred the applicant's request for leave made to the Master upon his giving judgment in the matter, or to whom application for leave has subsequently been made by summons, or by leave of the Full Court, sought and obtained upon application by notice of motion according to the procedure and practice governing such applications.
 - (3) Application to the Judge under sub-Rule 2 of this Rule shall be made by summons *ex parte* within four days after the Master has given judgment.

- 27**
- The Registrar shall, in such form as he considers appropriate, keep or cause to be kept the following registers and records:—
- (a) A register of all land and valuation matters (including applications and other interlocutory matters) instituted or commenced in, or forwarded remitted or referred to, the Court.
 - (b) A register of all moneys deposits and fees paid into the Court.
 - (c) A record of all judgments, orders and findings of the Court including orders in all applications and interlocutory matters.
 - (d) A record of all notices published or otherwise given.
 - (e) All such other books, registers and records as the Judge may from time to time direct.

- 28**
- (1) Subject to sub-Rule (2) of this Rule, all certificates, summonses, orders and other documents to be issued out of the Court shall be issued by the Registrar or other duly authorised officer at the Registrar's Office on payment of the fees contained in the Schedule of Fees; and notices required to be given to the Registrar, and all documents required to be filed with the Registrar, shall be

delivered or transmitted to him at that office on payment of the appropriate fees (if any).

- (2) When the Court is sitting at any place other than Adelaide–
 - (a) All documents to be issued out of the Court may be issued by the Judge's Associate at that place, or otherwise as the Judge may direct; and
 - (b) All notices required to be given to the Registrar, and all documents required to be filed with the Registrar, may be delivered or transmitted to the Judge's Associate, or otherwise as the Judge may direct.

- 29** (1) Subject to sub-Rules (2) and (3) of this Rule, every separate land and valuation matter of which the Court becomes seised shall be allotted a number by the Registrar, which shall appear in the following form–

“LVD No. of 19 ”.

- (2) Where a summons in aid of settlement is taken out under Rule 40 , the proceeding shall be numbered in accordance with sub-Rule (1) of this Rule, except that immediately before the letters “LVD” shall appear in brackets the following prefix, namely “[SAS]”.
- (3) Where the Court becomes seised with a land and valuation matter that relates, wholly or in part, to land that formerly was, or was part of, the subject matter of a summons in aid of settlement, that matter shall continue with the same number as before, without the prefix.

Endorsement and heading of documents

- 30** Subject to any special requirement of these Rules, every document filed by a party shall–

- (a) be endorsed with the title and a short description of the matter (including a reference to the provision of the Act pursuant to which the matter is to proceed or is proceeding) and also with the name and address of the party filing the document, or his solicitor, if he be so represented; and
- (b) carry a heading in the following form:–

“SOUTH AUSTRALIA
IN THE SUPREME COURT
LAND AND VALUATION DIVISION
LVD No. of 19 ”.

Memorandum of appearance and address for service

- 31** (1) Except where these Rules otherwise provide, no party to a land and valuation matter shall be entitled to appear before the Court unless he, or his solicitor on his behalf, has previously lodged with the Registrar a memorandum of appearance containing an address for service (as those words are defined by Rule 6 of Order 4 of the Supreme Court Rules).
- (2) The lodging of a memorandum is not required where a document previously filed or lodged in the matter conforms in substance with the requirements of this Rule.
 - (3) Where a matter has been referred to or otherwise initiated in, the Court by filing or lodging with, or giving to, the Registrar a summons, notice, memorandum, or

other document, and serving upon, or giving to, any other party a copy thereof, or a document in the same form or to the same effect—

(a) the copy or other document so served or given shall bear an endorsement in the following form (or to the same effect):—

“Note— If you wish to appear before the Court, personally or by Counsel, in the above matter, you are required (if you have not already done so) to lodge with the Registrar of the Court a memorandum of appearance stating your address for service within ten (10) days after service of this document upon you. If you have arranged to appear by a solicitor the memorandum of appearance should be lodged by him.”; and

(b) the time limited for appearance shall, subject to any order made under rule 8 be ten days after service of the summons, notice, memorandum, or other document;

(c) the other party shall unless sub-Rule (2) of this Rule applies, or these Rules otherwise provide, lodge with the Registrar a memorandum of appearance within the time limited by paragraph (b) of this sub-Rule.

- (4) A party who has failed to comply with any requirement of this Rule may be permitted to appear upon such terms as to costs and otherwise as the Court directs.
- (5) Where a person has not entered an appearance a Judge or a Master may, if he sees fit to do so, act upon a consent in writing given by that person where the signature of that person to the consent has been attested by a Registrar, or by a witness, whose residence and description must be added to his attestation, and who shall be a practitioner of the Court, a commissioner for oaths, a notary public, a justice of the peace, a minister of religion acting and resident in the town or district where he attests, a proclaimed bank manager, a proclaimed postmaster, a proclaimed police officer, or a legally qualified medical practitioner.

Particulars

- 32** (1) The Court may, at any stage of any proceeding before it, order any party to give to any other party particulars, or further or better particulars, of any matter in respect of which it may seem proper in all the circumstances that such an order should be made.
- (2) Upon an application for particulars, or for further or better particulars, the Court may make such order as to costs or otherwise, and impose such terms and conditions, as may seem proper in all the circumstances.

Amendments

- 33** (1) An application to amend any proceeding before the Court may be made to the Court at any time prior to the hearing according to the Rules in force as to interlocutory applications, or at the hearing.
- (2) The Court may make the amendment sought upon such terms (including terms as to costs or adjournment), as he thinks just.
- (3) A party who intends to apply to amend at a hearing, shall give to the other parties and to the Registrar two days notice in writing of his intention and of the amendment proposed.

Practice and procedure at hearing

- 34**
- (1) Subject to sub-Rule (2) of this Rule, the number and order of addresses, and the practice generally on the hearing of any land and valuation matter or other proceeding shall, as far as practicable, conform to the practice prevailing in the Supreme Court.
 - (2) The Judge may, at any stage of a hearing, direct or allow any departure from the practice that appears to him to be desirable having regard to the nature of the case and the circumstances generally and, in particular, may permit evidence to be given by affidavit.

Withdrawal

- 35**
- (1) Subject to sub-Rule (6) of this Rule, a party having the carriage of a land and valuation matter in respect of which the Court has jurisdiction by virtue of subsection (1) of section 62d of the Act, may withdraw the matter by giving to the Registrar and to the other party written notice of his intention to do so not less than four days before the date fixed for the commencement of the sittings of the Court at which the matter would have been heard.
 - (2) On receiving notice of withdrawal the Registrar shall inform any board, tribunal, committee or other person whose decision was under review by the Court.
 - (3) A matter may be withdrawn on application when the case is before the Court.
 - (4) Where there are two or more issues or questions arising in the matter for determination, a party may withdraw one or some in manner provided by this Rule, whereupon the Court shall proceed to hear and determine the remainder of the case.
 - (5) The Court may, on a withdrawal, or partial withdrawal, make such order as to costs as may be deemed just.
 - (6) This Rule has no application to land and valuation matters where the Court is required to assess or fix compensation, whether any further order may be made or not.

Memorandum of settlement

- 36**
- (1) This Rule applies to a land and valuation matter –
 - (a) of which the Court stands seised;
 - (b) for the final disposal of which the Court will, in the opinion of the Judge, find it obligatory or necessary to fix a value, according to law, of a specified parcel or specified parcels of land (in this Rule referred to as “the subject land”); and
 - (c) in respect of which the parties have arrived at a settlement which, if approved pursuant to this Rule, and made, in substance, an order of the Court, would finally dispose of the matter.
 - (2) The parties to a land and valuation matter to which this Rule applies shall lodge with the Registrar a Memorandum of Settlement.
 - (3) The Memorandum of Settlement shall be signed by the parties, their respective counsel, or their respective solicitors, and shall set forth, with reasonable particularity, and to the satisfaction of the Judge, the issues of fact, of law, or of mixed fact and law (including valuation principle), with respect to which negotiations were conducted with a view to settlement, and the reasons that led

the parties to arrive at such term or terms of the settlement as fixes or fix the value of the subject land.

- (4) The Judge may, if in his opinion it is in the interests of justice to do so, approve the settlement, and make an order in terms of the Memorandum.
- (5) Where the Judge does not see fit to approve the settlement, he shall not enter final judgment thereon, and shall thereupon give such directions as he deems just and expedient for the hearing and determination of the matter.
- (6) The Judge may make an order pursuant to sub-Rule (4) of this order without the attendance of the parties, their respective counsel, or their respective solicitors, or he may direct their attendance before making the order.
- (7) Nothing in this Rule shall affect the meaning and operation of the Supreme Court Rules with respect to the settlement of causes or matters where one of the parties thereto is an infant or under some other legal disability.
- (8) The parties to a land and valuation matter to which this rule applies may lodge a Memorandum of Settlement by which all issues are resolved except the question of costs, or the question of disbursements, or both those questions, and stating that the parties are content to abide the Court's decision and order as to costs, or disbursements, or both (as the case may be).
- (9) The Judge may thereupon, if in his opinion it is in the interests of justice to do so, approve the settlement subject to the resolution of the outstanding question or questions, and may give such directions as he thinks just and expedient for the determination of that question or those questions.
- (10) Upon the determination by the Judge of that question or those questions he may make such orders and give such directions upon the whole of the matter as ought, in his opinion, to be made according to law.

Summonses to witnesses

- 37**
- (1) All summonses to witnesses shall be in or to the effect of Form 83 or Form 84 (as modified) of the First Schedule to the Supreme Court Rules as the case may require and shall be issued as provided in Rule 28 , on the written application of a party and payment of the prescribed fee, or at the direction of the Judge upon his own motion.
 - (2) Service of summonses shall, wherever practicable, be personal, and subject to any direction by the Judge, at the time of service reasonable expenses shall be paid or tendered to the person served.

Service generally

- 38**
- (1) A notice, proceeding, or document required by these Rules to be served on or given to a person, as to which no mode of service or giving is specially prescribed by these Rules shall be served in accordance with the requirements with respect to service contained in Orders 7, 9, 11 and 67 of the Supreme Court Rules, as modified.
 - (2) Subject to the requirements of any statutory enactment, where for any reason service cannot be effected in accordance with these Rules, the Judge may give such directions for substituted service or otherwise as, in his opinion, is best suited to the circumstances of the case, and on any such directions being carried out, service shall be deemed to have been effected.

Warrants

- 39** A warrant issued by the Court shall be in the form (as modified) of warrants issued by the Supreme Court according to the Supreme Court Rules and the prevailing practice.

Summons in aid of settlement (Land Acquisition Act)

- 40**
- (1) This Rule applies only where—
 - (a) a notice of intention to acquire has, pursuant to the Land Acquisition Act, been served by the Authority upon the claimant, but a disputed claim has not yet pursuant to that Act, been referred to the Court; and
 - (b) the Authority and the claimant are in treaty as to the compensation to be paid for and in respect of the land, but agreement has not yet been reached.
 - (2) An application under this Rule shall not be made other than by the Authority and the claimant jointly.
 - (3) Where in the course of the treaty between the Authority and claimant a question of fact, of law or of mixed fact and law (including a disputed principle of valuation) arises, the Authority and the claimant may concur in applying to the Court by summons for the determination by the judge of the question.
 - (4) The judge shall not entertain the application unless he is satisfied, by evidence on affidavit in support of the summons, that—
 - (a) if the question is resolved by him it is unlikely that the matter will become a disputed claim;
 - (b) the resolution of the question is desirable for the saving of expense and for composing differences between the parties in treaty; and
 - (c) generally, it is in the interests of justice that the determination should be made.
 - (5) The Judge shall give such directions as to how the issues are to be formulated and determined as he thinks appropriate.
 - (6) The Judge may, for the purpose of determining the question, make such findings, rulings and declarations as appear to him to be just.
 - (7) Upon the determination of the question, the Judge shall make such order as to costs as he thinks just.
 - (8) Where, notwithstanding, a determination under this Rule, a disputed claim, connected with or relating to the subject matter of the question so determined, is subsequently referred to the Court, no reference of any kind shall be made to the determination, or to any evidence or admissions given or made for the purposes of the summons under this Rule, unless—
 - (a) the parties to the summons under this Rule and the parties to the disputed claim are the same;
 - (b) both parties agree unconditionally to the reference; and
 - (c) the Judge is of opinion that it is in the interests of justice that the reference should be permitted.

Section 23 of the Land Acquisition Act: reference of disputed claim

- 41** (1) A disputed claim may be referred to the Court under section 23 of the Land Acquisition Act by filing with the Registrar (as one set of documents) true copies of the notice of acquisition the notice of claim and the reply or replies.

- (2) Upon such a reference, two sets of copy documents shall be lodged with the Registrar, one of which shall be filed, and the other of which shall be for the use of the Judge.

- 42**
- (1) Within the time limited by this Rule a set of copy documents shall be served—
 - (a) where the Authority refers the disputed claim – by the Authority upon the claimant, and upon every other person in whom, in the opinion of the Authority held at the time of the reference, a claim to compensation under section 18 of the Land Acquisition Act may reasonably be vested; and
 - (b) where the claimant refers the disputed claim – by the claimant upon the Authority and upon every other person in whom in the opinion of the claimant held at the time of reference, a claim to compensation under section 18 of the Land Acquisition Act may reasonably be vested.
 - (2) The time limited for service under this Rule shall be—
 - (a) where the person to be served is the other party to the disputed claim – within seven days after the date of reference; but
 - (b) where the person to be served is a person other than a party to the disputed claim – as soon as reasonably practicable after the date of reference.
 - (3) The Judge, may, upon application to him *ex parte*, enlarge the time limited by paragraph (a) of sub-Rule (2) of this Rule, and may also, upon a similar application, give directions as to whether a person should be served or not under sub-Rule (1) of this Rule, as to the manner and sufficiency of such service on any person, and as to the consequences of compliance with those directions.

- 43**
- The party referring the disputed claim may, at the time of lodging the copy documents, and shall, in any event, within four days after that reference, file a declaratory instrument that—
- (a) verifies the copy documents;
 - (b) sets forth the names and addresses of all persons upon whom service of the copy documents has been, or will be, made or attempted to be made under sub-Rule (1) of Rule 42 of these Rules; and
 - (c) requests the Court to determine the amount of compensation pursuant to section 23 of the Land Acquisition Act.

- 44**
- (1) Every set of copy documents served pursuant to Rule 43 shall in addition to the endorsement required by paragraph (a) of sub-Rule (3) of Rule 31 bear an endorsement in the following form (or to the same effect):

“NOTE: The Land and Valuation Court will, in due course, be enquiring into the question of compensation to be paid in respect of the land referred to in these papers which has been compulsorily acquired by (Name of Authority). If you have, or think you have, an interest in the land you should—

 - (a) Consider whether you wish personally, or by your solicitor, to apply to the Court for compensation; and
 - (b) if you do wish to apply make an application without delay; and you must as soon as practicable, and in any event within ten (10) days of the service of these papers on you, lodge with the Registrar a memorandum, signed by you and dated, of the names and addresses (so far as they are known to you) of all persons believed by you to

have an interest in the land. The memorandum, when lodged, is deemed to be under oath.”

- (2) Every person who is served with a set of copy documents shall, as soon as practicable, and, in any event, within ten days after service upon him, lodge with the Registrar a declaratory instrument in the form of a memorandum stating the names and addresses (so far as they are known to him) of all persons believed by him to have an interest in the land that is referred to in the copy documents, and verifying that to the best of his knowledge, information and belief there are no others.

- 45**
- (1) The party who has referred a disputed claim into Court shall, within fourteen days after the copy documents have been filed, take out a summons for directions pursuant to Rule 73 .
 - (2) A disputed claim shall not be set down or come on for hearing except pursuant to directions given upon an application under the summons for directions, for leave to set down the claim for hearing.

**Section 15 of the Land Acquisition Act: Claim for compensation
where acquisition not proceeded with**

- 46**
- (1) A claim for compensation under subsection (5) of section 15 of the Land Acquisition Act may be referred to the Court by filing with the Registrar a true copy of the notice in writing that was served upon the Authority, together with a declaratory instrument, that—
 - (a) states the date upon which the Authority determined, or is presumed to have determined, not to proceed with the acquisition;
 - (b) states the date upon which the notice of claim was served upon the Authority;
 - (c) verifies the copy notice; and
 - (d) describes the land with reasonable particularity.
 - (2) The declaratory instrument may exhibit a map or plan depicting the land that is the subject of the application.
- 47**
- The party who has referred the claim to Court shall forthwith serve upon the other party—
- (a) A notice stating that the claim has been duly referred, and the date upon which that was done; and
 - (b) a true copy of the declaratory instrument.
- 48**
- (1) The party who has referred to the Court a claim for compensation under subsection (5) of section 15 of the Land Acquisition Act shall within fourteen days after the copy notice has been served upon the other party take out a summons for directions pursuant to Rule 73 .
 - (2) A claim for compensation shall not be set down or come on for hearing except pursuant to directions given, upon an application under the summons for directions, for leave to set down the claim for hearing.

Summons for ejectment under section 24 of the Land Acquisition Act

- 49** (1) Subject to the provisions of section 24 of the Land Acquisition Act, the Authority may cause any person to be summoned to appear before the Judge to show cause why the person summoned should not give up possession to the Authority.
- (2) The summons shall be issued and served under Rule 78 of these Rules.
- 50** The summons shall, in addition to the requirements of Rule 78 , contain–
- (a) a description of the subject land; and
- (b) a reference to the *Government Gazette* in which the notice of acquisition was published,
- and shall require the person summoned to appear on a day not earlier than fourteen clear days after service of the summons; and thereupon or so soon thereafter as the parties or counsel on their behalf can be heard, the summons shall come on to be heard.
- 51** If, on the hearing of the summons, the person summoned fails to appear, then, upon proof of service of the summons and of the Authority's title, or, on the production of a consent to an order by the person summoned, the Judge may, upon application by the Authority, order immediate possession to be given to the Authority, or make such other order and impose such terms as he deems just.
- 52** If the person summoned appears by filing a memorandum of appearance and serving a copy of the memorandum on the Authority, the Judge shall hear the summons, and may upon application by the Authority, make such order thereon and impose such terms as he deems just.
- 53** For the purposes of the hearing of the summons the Judge shall have all the powers exercisable by him upon a summons for directions under Rule 73 , and shall have the power to give all such directions as to the hearing of the summons as may be given under that Rule.
- 54** The dismissal of a summons for ejectment shall not, of itself, impair the right of the Authority to take subsequently any other or further proceedings (whether under Section 24 of the Land Acquisition Act or not) against the person summoned to which he or it may be entitled.
- 55** Every order for possession upon a summons for ejectment shall have the effect of, and may be enforced in the same manner as, a judgment in the Supreme Court for the recovery of possession of land.
- 56** The Authority, having obtained an order for possession, shall be entitled to enter and take possession of the land mentioned in the order without issuing any further process if there is no person who is present on the land and who has actual possession thereof, or if the person in possession voluntarily gives up possession to the Authority.
- 57** Nothing in Rules 49 to 57 , inclusive, shall affect or abridge any remedies to which the Authority is otherwise entitled.

**Summons for the fixation of rent under subsection (4) of section 24
of the Land Acquisition Act**

58 The Authority may apply to the Court by summons under Rule 78 , for the fixation of a rate of rent for the purposes of subsection (4) of section 24 of the Land Acquisition Act.

59 An application of the kind referred to in Rule 58 may be made by summons or, upon such notice as the Judge deems proper, in the course of a land and valuation matter of which the Court is already seised.

60 A declaratory instrument shall be filed with the summons that—

- (a) describes the subject land with reasonable particularity;
- (b) refers to the *Government Gazette* in which the material notice of acquisition was published; and
- (c) states the rate at which the Authority seeks to have the rent fixed and gives a summary of the reasons to be adduced for so fixing it.

61 The Authority shall serve upon the person in possession of the subject land a true copy of the summons, and of the declaratory instrument filed with it, at least seven clear days before the day named in the summons for hearing the application.

62 For the purposes of the hearing of the summons, or (as the case may be) the application otherwise made, the Judge shall have all the powers exercisable by him upon a summons for directions under Rule 73 and shall have the power to give such directions with respect to the hearing of the summons as may be given under that Rule.

63 (1) Upon the hearing of the summons—

- (a) if the person in possession fails to appear, then upon proof of service of the copy of the summons and of the declaratory instrument in accordance with Rule 61 the Judge may proceed to hear and determine the summons, and fix the rent, in the absence of that person, or may make such order thereon and impose such terms as he deems just; but
- (b) if the person in possession appears to the summons by filing a memorandum of appearance and serving a copy of the memorandum on the Authority before the hearing, the Judge shall hear the summons, and may make such order and impose such terms thereon as he deems just.

(2) Where the Judge fixes the rent in the absence of the person in possession the Authority shall serve a copy of the Judge's Order upon that person as soon as reasonably practicable after it has been made.

(3) Upon the hearing of an application made otherwise than pursuant to a summons under Rule 58 the Judge may make such order and impose such terms thereon as may be just.

**Application under subsection (3) of section 28 of the Land Acquisition Act,
for an order that the Authority acquire applicant's interest in land**

64 A person interested in land to which section 28 of the Land Acquisition Act applies, and that has, pursuant to that section been temporarily occupied and used by the Authority may apply to the Court by summons for an order under sub-section (3) of that section.

- 65** (1) At the time of the issue of the summons there shall be filed with the Registrar a declaratory instrument that—
- (a) describes the land with reasonable particularity;
 - (b) states the period during which there was or has been temporary occupation and use of the land; and
 - (c) sets forth briefly the grounds upon which the applicant claims that the Court should make an order under subsection (3) of section 28.
- (2) The declaratory instrument may exhibit a map or plan depicting the land that is the subject of the application.
- 66** A true copy of the summons and of the declaratory instrument shall be served on the Authority ten clear days before the date named in the summons for hearing the application.
- 67** The Authority shall within seven days after being served with the copy of the summons and of the declaratory instrument, file with the Registrar and serve upon the other party a memorandum appearing to the summons, and stating briefly the grounds upon which (if such be the case) the Authority opposes the application.
- 68** For the purposes of the application, the Judge shall have all the powers exercisable by him upon a summons for directions under Rule 73 and shall have the power to give such directions with respect to the hearing of the summons as may be given under that Rule.

Section 29 of the Land Acquisition Act

- 69** A notice in writing served under subsection (1) of section 29 of the Land Acquisition Act shall describe the land in respect of which the claim is made with reasonable particularity, and may refer to a map or plan (to be attached to the notice).
- 70** (1) The Authority or the claimant under section 29 of the Land Acquisition Act may refer the matter to the Court for determination by filing with the Registrar a true copy of the notice in writing served upon the Authority by which compensation was claimed.
- (2) The party referring the matter to the Court shall, with the notice referred to in sub-Rule (1) of this Rule, file a declaratory instrument—
- (i) verifying the notice, and that it was served in compliance with the requirements of subsection (1) of section 29 of the Land Acquisition Act;
 - (ii) giving reasonable particulars of the entry and of the acts done by the Authority or persons authorised, or (as the case may be) of the temporary occupation and use, upon which the claim is founded; and
 - (iii) requesting the Court to exercise its jurisdiction under section 29.
- (3) The party referring the matter to the Court shall lodge with the Registrar a set of copy documents comprising the notice and the declaratory instrument.
- 71** The party referring the matter to the Court shall—
- (i) with all convenient speed and, in any event within seven days after the reference, serve upon the other party a true copy of the notice and the declaratory instrument; and

(ii) within seven days after effecting service under this Rule, take out a summons for directions under Rule 73,

and for the purposes of the hearing the Judge shall have all the powers conferred by that Rule.

72 The party upon whom service is effected under Rule 71 shall, within seven days of being served, file with the Court and serve upon the other party a memorandum of appearance.

Summons for directions

- 73**
- (1) Subject to these Rules, a party to a land and valuation matter may by summons (referred to in these Rules as a “summons for directions”) make a general application for directions in the matter.
 - (2) The application shall, unless the Judge otherwise directs, give four clear days notice of the hearing to the Registrar and to the parties concerned.
 - (3) The applicant may state in the summons the grounds upon which any particular order or direction is being sought by him and, where that is done, may support those grounds by affidavit, but where no such grounds are stated or no such affidavit is filed, the Judge may, upon the summons coming on for hearing, direct the applicant to deliver to the parties concerned a statement of grounds and that that statement shall be supported by affidavit.
 - (4) Every summons for directions shall be set down for the first convenient day after the expiration of the period of notice.
 - (5) Every affidavit to be used under this Rule shall be filed with the Registrar, and a copy served on the parties concerned, not less than two days before the summons comes on to be heard or (as the case may be) further heard, and affidavits in answer or reply may in like manner be filed and served without limit as to time.
 - (6) The Judge of his own motion, and any party to the summons, after the summons has come on for hearing the first time, may bring the summons on from time to time for further consideration upon two days written notice to the parties concerned and (where a party is bringing the summons on) to the Registrar.
 - (7) Upon any application, the Judge may make or give any interlocutory order or direction under any Act, these Rules or the Supreme Court Rules; and may make or give such orders or directions as seem proper to the Judge for better ascertaining and defining the matters and questions in dispute, or for the more convenient and expeditious determination of those questions, or for facilitating the proof of matters not in dispute and avoiding unnecessary expense or delay.
 - (8) Without affecting the generality of the foregoing, the Court may deal with, and give orders or directions for or with respect to—
 - (a) the admission in evidence of statements in documents, writings, records, reports or memoranda;
 - (b) the exchange of valuations and reports of other experts (in all fields) and of lists, particulars and schedules of sales and other transactions and of any other matters of fact, estimate or opinion intended to be relied on in support, or as confirmatory, of the valuation or opinion of any valuer or other expert or to be adduced in evidence for any other purpose;
 - (c) the obtaining by the Court of the assistance of an independent expert;

- (d) the preparation and agreeing, for use at the hearing, of maps plans, photographs and models;
 - (e) the arrangement of a view or views in the presence or absence of parties or their counsel, and the use to be made of any such views;
 - (f) the admission in evidence of copies of, or extracts from, books and documents of all kinds, and of agreed bundles of correspondence or other documents;
 - (g) interrogatories;
 - (h) discovery (including the production of documents in the custody of Government Departments);
 - (i) pleadings or further pleadings;
 - (j) the formulation of issues of fact, or of law, or of mixed fact and law (including disputed principles of valuation) to be heard and determined as preliminary questions, or as part of the principal proceedings;
 - (k) the application of Rule 84 ;
 - (l) the postponing or expediting of the hearing of a matter;
 - (m) the time or times, and the place or places, at which a matter will be heard or further heard;
 - (n) the persons upon whom any reference, summons, affidavit, declaratory instrument, pleading, or other document or proceeding shall be served, the manner of such service, and what shall be deemed sufficient service upon those persons;
 - (o) the joinder of parties, the making of representation orders, the admission of the Crown as intervener, the consolidation of proceedings, or the designation of specified proceedings as a test-case;
 - (p) generally as to procedure, and in particular, as to any departure from the practice prevailing in the Supreme Court as to the hearing of matters of the kind then before the Court, including the presentations of the respective cases, the number and order of addresses and of witnesses to be called;
 - (q) the giving of evidence or further evidence, wholly or in part by affidavit, or orally, and the cross examination before the Judge or Registration Court or Chambers of deponents;
 - (r) the setting down of the matter for hearing;
 - (s) the settling of the terms of any order of the Court;
 - (t) the reviewing of any decision of a Master in respect of costs;
 - (u) the settling of the terms upon which any case, or any point in a case, is reserved for the consideration of, or directed to be argued before, the Full Court;
 - (v) any other matter which the Rules prescribed or the Court allows to be dealt with upon the application.
- (9) Where a party brings on a summons for directions for hearing with the object of obtaining an order to set down the case for hearing, the proceeding shall include a pre-trial conference at which counsel (unless parties are appearing in person) shall attend, and the provisions of Rule 74 shall apply.
- (10) After a summons for directions has been taken out, and duly served, the Judge may, of his own motion, by notice issued by the Registrar call one or more pre-trial conferences to which the provisions of Rule 74 shall apply.

(11) Where, upon a summons for directions coming on for hearing (whether upon the first or upon some subsequent occasion), the parties intimate that there is a reasonable prospect that they will be able so to limit the issues in the case by mutual discovery of documents, admissions, agreements of facts or otherwise, that the further bringing on of the summons for directions before the holding of the pre-trial conference is likely to prove unnecessary, the Judge may adjourn the summons to a day to be fixed, or thereupon fixed, and direct that on the next occasion on which the summons is brought on, an application to have the case entered for trial will be entertained and a pre-trial conference will be held.

74

- (1) A pre-trial conference shall be held before the Judge, unless the Judge otherwise directs.
- (2) At a pre-trial conference, consideration shall be given to—
 - (a) further simplification of the issues;
 - (b) the necessity or desirability of amendments to pleadings or the further formulation by the parties of issues of fact, of law, and of mixed fact and law (including principles of valuation);
 - (c) the possibility of obtaining further admissions of fact and of documents that will avoid unnecessary proof;
 - (d) the limitation of the number of expert witnesses or of the issues covered by their evidence;
 - (e) the submission by the party of written arguments on issues of law or on issues of mixed law and fact (including principles of valuation);
 - (f) the final disposal of the case and the fixing of a date for hearing;
 - (g) at the joint request of the parties, such other matters as they consider may aid in the disposition of the matter.
- (3) At a pre-trial conference, the Judge may act of his own motion, and make all such orders and give all such directions as he thinks just with respect to the matters referred to in sub-Rule (2) of this Rule, and may adjourn the conference from time to time, and from place to place.
- (4) Without limiting the generality of sub-Rules (2) and (3) of this Rule, the Judge may at a pre-trial conference—
 - (a) deal with every application made by the parties or by either or any of them and remaining undisposed of;
 - (b) fix the time for compliance with any order or direction made at the conference, and for the doing of any act or the preparation of any thing in respect of which the Judge has power under Rule 73 ;
 - (c) make orders as to modes of proof in accordance with Rule 73 ;
 - (d) make orders that one or more issues or points arising in the case shall be tried or determined before any other or others;
 - (e) endeavour to secure that the parties—
 - (i) make all appropriate admissions and agreements; and
 - (ii) produce or disclose any document or thing that ought reasonably be made, produced or disclosed;and the Judge shall record any admission or agreement so made, or the facts relative to any such production or disclosure, and (with a view to such special

order, if any, as to costs as may be just being made at the hearing) any refusal to make an admission or agreement or to produce or disclose a document.

- (5) Every party to a matter and his solicitor and counsel shall give all such information and produce all such documents at a pre-trial conference as the Judge reasonably requires for the purpose of enabling him to conduct the conference properly.
- (6) If it appears proper to do so in the circumstances, the judge may, at a pre-trial conference, authorize information to be given, or a document to be produced or disclosed, under sub-Rule (5) of this Rule, to the Judge alone, but in the absence of such an authorization, any information given or document produced or disclosed pursuant to that sub-Rule shall be given, produced or disclosed to every party present or represented at the conference as well as to the Court.
- (7) Subject to sub-Rule (8) of this Rule, where the Judge at a pre-trial conference requires a party or his solicitor or counsel to give information or to produce or disclose a document at the conference and that information or document is not given produced or disclosed as the case may be, the Judge may cause the facts to be recorded in his pre-trial order, with a view to such special order, if any, as to costs as may be just being made at the trial.
- (8) Notwithstanding the provisions of this Rule, no information or document that is privileged from disclosure is required to be given, produced or disclosed under this Rule by a party or by his solicitor or counsel otherwise than with the consent of that party.

- 75**
- (1) On the conclusion of a pre-trial conference, the Judge shall, unless he deems it inappropriate to do so, make an order known as a pre-trial order.
 - (2) A pre-trial order—
 - (a) shall recite—
 - (i) the action taken at the pre-trial conference to which it relates;
 - (ii) the amendments (if any) allowed to the pleadings or other documents;
 - (iii) the admissions and agreements made by the parties and, where appropriate, those refused;
 - and
 - (b) shall control the subsequent course of the hearing unless the Judge, in his discretion otherwise orders.

General rules with respect to setting down

- 75.1**
- (1) This rule shall apply to and in relation to all land and valuation matters except those for which a special Rule has been made for setting down.
 - (2) Where by the institution of an appeal, by the reference of a dispute, difference, or question, or by the taking of any other procedural step, the Court becomes seised of a land and valuation matter for hearing and determination, the party who instituted the appeal, referred the dispute, difference, or question, or took the procedural step (as the case may be) shall within fourteen days after doing so take out a summons for directions pursuant to Rule 73 .
 - (3) Where a summons for directions has not been taken out pursuant to subrule (2) of this rule, the other, or another, party may take out the summons; or the judge, or his own motion, and without reference to the parties, may, in exercise of the power conferred on him by subrule (10) of Rule 73, call one or more pre-trial

conferences to which the provisions of Rules 74 and 75, as modified, shall apply.

- (4) A land and valuation matter to and in relation to which this Rule applies shall not be set down, or come on, for hearing except by, or pursuant to, an order made by the Judge under this Rule.

75.2 In every case where documents are first filed in virtue of which the Court becomes seised of a land and valuation matter for hearing and determination, the party filing them shall file with those documents four copies of a notice in the form following, that is to say—

“[Heading]

To: The Registrar of the Land and Valuation Court.

Take notice that on the date appearing hereunder the Land and Valuation Court became seised of the above matter further particulars of which appear hereunder—

Relevant statutory provision:

Nature of appeal, reference, or other initiating proceeding:

Relevant Land and Valuation Rule(s):

Signed

Dated Solicitor for

Powers exercisable upon a callover

75.3 Where the Judge is calling-over a Land and Valuation list, he may, if it seems to him just and expedient to do so in a particular case, exercise, with respect to that case, any of the powers conferred by paragraphs (l), (m), and (r) of subrule (8) of Rule 73, and may, with the consent of the parties, exercise any of the others [*sic*] powers conferred by Rules 73, 74, and 75.

76 At every stage in the progress of a land and valuation matter before the pre-trial conference, the parties shall give consideration to the matters referred to in sub-Rule (2) of Rule 74 and shall attend the pre-trial conference fully prepared forthwith to place before the Judge the circumstances relative to those matters.

Discovery and inspection of documents

- 77** (1) The provisions of Rules 10 to 26 inclusive of Order 31 of the Supreme Court Rules (as modified) shall apply to all land and valuation matters under and pursuant to Rules 41 to 45 inclusive, 46 to 48 inclusive, and 69 to 72 inclusive.
- (2) In those Supreme Court Rules—
- (a) a reference to the close of pleadings shall, with respect to each party, be read as a reference to the day upon which the copy summons for directions is first served upon that party;
 - (b) a reference to an action, or an action begun by writ, shall be read as a reference to a land and valuation matter of which the court is seised;
 - (c) a reference to an application, by means of a summons, for an order for discovery, shall be read as an application for such an order under and pursuant to a summons for directions.
 - (d) the reference in sub-Rule (1) of Rule 10 of Order 31 to “documents which are or have been in their possession, custody or power” shall be read as a

The order sought is:

.....
(State order sought with reasonable particularity)

The provision(s) of the enactment or the Rule or both (as the case may require) under which the application is brought is or are:

.....
(Give a reference or references; the text need not be set out)

The grounds upon which the application is made are:

.....
(State grounds with reasonable particularity)

- 78.1**
- (1) Where the summons is an originating proceeding, the summons shall carry an endorsement that complies with sub-Rule (3) of Rule 31.
 - (2) Every summons shall be sealed with the Seal of the Court, and when so sealed shall be deemed to be issued.
 - (3) One copy shall be lodged with the Registrar and one copy served on every party concerned.
 - (4) There shall be at least eight clear days between the service of the copy summons on a party and the day of the hearing of the application.
 - (5) Every summons shall, where necessary, be supported by affidavit, and a copy of every supporting affidavit shall be served with the copy summons, but if that is not practicable, then four clear days before the hearing of the application.
 - (6) Where the Judge hearing the application considers it just and expedient to do so, he may treat a summons as a summons for directions, and may exercise all the powers conferred on him by Rule 73 .
 - (7) Upon an application by summons the Judge shall have all the powers conferred by Rules 10 to 19 inclusive of Order 54 of the Supreme Court Rules, as modified.
 - (8) Without affecting the generality of the foregoing, this Rule shall apply to—
 - (a) applications under section 26 of the Land Acquisition Act for an order directing the application of money paid into Court;
 - (b) applications under section 62B of the Supreme Court Act.

Payment into court under section 20 of the Land Acquisition Act

- 79**
- (1) Where the Authority pays compensation into Court under section 20 of the Land Acquisition Act, the Authority shall, with the payment in, file with the Court a memorandum of payment-in, signed by, or by the solicitor of, the Authority and dated, that sets out the following information or matters:—
 - (a) The name and address of the Authority;
 - (b) the names and addresses of all the persons who are reasonably believed by the Authority to have interests in the subject land;
 - (c) a copy of the Notice of Acquisition; and
 - (d) the amount of money paid in.
 - (2) Where the subject land subsequently becomes land in respect of which a reference to Court is made under section 23 of the Land Acquisition Act, the memorandum of payment-in shall become part of, and shall be included in, the

Court's file relating to the land and valuation matter and shall be numbered accordingly.

- (3) Upon paying in the compensation, the Authority shall forthwith serve a copy of the memorandum of payment-in on each person mentioned in the memorandum, unless it would not be reasonably practicable to do so.

Section 53 of the *Crown Lands Act, 1929-1969*

- 80**
- (1) The Commissioner may pursuant to subsection (2a) of section 53 of the *Crown Lands Act, 1929-1969*, refer the matter to the Court by filing with the Registrar and serving upon the lessee or purchaser a declaratory instrument that—
 - (a) describes with reasonable particularity—
 - (i) the land being resumed (by reference to a map or plan, (which may be exhibited) or otherwise); and
 - (ii) the land to be retained by the lessee or purchaser,and states the total amount of compensation being claimed in respect of the land being resumed;
 - (b) sets forth a true copy of the notice of resumption given under subsection (1) of the above section;
 - (c) verifies the service of the notice of resumption in accordance with subsection (1) of the above section, and
 - (d) provided the concurrence of the lessee or purchaser has been obtained, states any special issue of fact, or of law, or of mixed fact and law (including any disputed principle of valuation) submitted jointly for the determination of the Court.
 - (2) A special issue referred to in paragraph (d) of sub-Rule (1) of this Rule need not be decisive of the dispute between the parties.
 - (3) *****
 - (4) At any time after a reference has been made pursuant to sub-Rule (1) of this Rule before the hearing of the matter in dispute, either party may in writing request the Judge to call a pre-trial conference and on receipt of the request, or, in any case, of his own motion and without any such request, the Judge may, on his discretion, call a pre-trial conference.
 - (5) The provisions of Rules 74 and 75 , as modified, shall apply to and in relation to any such conference.
 - (6) The Judge may, in the course of the principal hearing of the matter referred, exercise any of the powers conferred by Rule 73 .

Enroachments Act, 1944

- 81**
- (1) An application to the Court under the *Encroachments Act, 1944*, shall be by summons under Rule 78 of these Rules.
 - (2) Upon the application, the Judge may treat the summons as including a general application for directions, and shall have and may exercise the powers conferred by Rule 73 with respect to the application.
 - (3) For the purposes of applications under this Rule, sub-Rule (4) of Rule 78 shall be read as if the passage “twenty-eight clear days” were substituted for the passage “eight clear days”.

Part IIA of the *Highways Act, 1926-1969*

- 82**
- (1) Where, under subsection (2) of section 30b of the *Highways Act, 1926-1969*, there is a question as to whether any compensation is payable, or as to the amount of compensation payable, under Part IIA of that Act, any person having an estate or interest of the kind referred to in subsection (1) of section 30b (in this rule called “a person interested”) may refer the matter to the Court for determination by proceeding in accordance with this Rule.
 - (2) A person interested may refer to the Court a question as to compensation by filing with the Registrar, and serving upon the Commissioner, a declaratory instrument that—
 - (a) sets forth a copy of the proclamation of the controlled access road from which the restrictions complained of are alleged to have resulted;
 - (b) describes (by reference to a map or plan, which may be exhibited, or otherwise) with reasonable particularity, the land abutting the controlled access road in which the estate or interest concerned subsists;
 - (c) specifies the extent to which, or the manner in which, the estate or interest is alleged to be directly prejudiced; and
 - (d) states the amount of compensation claimed from the Commissioner.
 - (3) Provided the concurrence of the Commissioner has been obtained, a person interested may include in the declaratory instrument a statement of any special issue of fact, of law or of mixed fact and law (including any disputed principle of valuation) for the determination of the Court.
 - (4) A special issue referred to in sub-Rule (3) of this Rule need not be decisive of the question leading to the disagreement between the parties.
 - (5) *****
 - (6) At any time after a reference has been made pursuant to sub-Rule (1) of this Rule and before the hearing of the matter, either party may in writing request the Judge to call a pre-trial conference and on receipt of the request, or, in any case of his own motion and without any such request, the Judge may call a pre-trial conference.
 - (7) The provision of Rules 74 and 75 as modified, shall apply to and in relation to any such conference.
 - (8) The Judge may, in the course of the principal hearing of the matter referred, exercise any of the powers conferred by Rule 73 .

Land Settlement (Development Leases) Act, 1949-1969

- 83**
- (1) An application to the Court under the *Land Settlement (Development Leases) Act, 1949-1969* shall be by summons under Rule 78 of these Rules and may be made either by the Minister or the lessee.
 - (2) The affidavit in support of the application shall provide satisfactory evidence of—
 - (a) the land held, on miscellaneous lease;
 - (b) the land resumed (by reference to a map or plan (which may be exhibited) or otherwise);
 - (c) the improvements on the land, with sufficient identification of those which the lessee has paid for, carried out or constructed;
 - (d) the additional compensation recommended by the Land Board;
 - (e) moneys due to the Crown by the lessee under the lease;

- (f) the extent to which (if at all) any of the foregoing facts are in dispute; and may, if the other party concurs in the deponent's doing so, set forth any issues of fact, or of law, or of mixed fact and law (including any dispute as to principles of valuation) for the determination of the Court.
- (3) Upon the application, the Judge may treat the summons as including a general application for directions, and shall have and may exercise the powers conferred by Rule 73 with respect to the application.
- (4) For the purposes of applications under this Rule, sub-Rule (4) of Rule 78 shall be read as if the passage "twenty-eight clear days" were substituted for the passage "eight clear days".

Test-cases

- 84**
- (1) Where, at any given time, the Court is seised of two or more land and valuation matters, and the Judge is of opinion that, having regard to—
- (a) the locations of any parcels of land to which those matters relate;
 - (b) the issues or questions raised by those matters;
 - (c) the amounts of the sums claimed or at issue, or the values, or the apparent or alleged values, of the properties or rights with respect to which claims or issues have arisen; and
 - (d) the circumstances generally—
- it would save time and expense and would be in the interests of justice, to designate one of those matters a test-case pursuant to this Rule, the Judge may direct that one of the matters be designated a test-case for and in relation to that and another or other matters specified in the order, and may hear and determine the matter accordingly.
- (2) Where, in the opinion of the Judge, a question arises as to whether an order should be made pursuant to sub-Rule (1) of this Rule, the Judge may give such directions for the attendance of the parties concerned, or of counsel on their behalf, as appear to him just and necessary, and for hearing those parties or counsel upon that question.
- (3) The Judge may not, unless in his opinion there are special reasons for doing so, make an order pursuant to sub-Rule (1) of this Rule without hearing submissions from all parties concerned, or their counsel, as to whether the order should be made.
- (4) The Judge may make an order pursuant to sub-Rule (1) of this Rule, either upon his own motion, or upon application.
- (5) Where the Judge has designated a matter a test-case, he may give such directions, either before and for the purpose of the hearing, or from time to time as the hearing proceeds, as to the issues that may be canvassed, and generally as to the course of the proceedings, as he deems just.
- (6) The Judge may give such directions as to the sharing of the costs of the hearing, and, generally, as to the manner in which those costs are to be borne, as he deems just.
- (7) After hearing and determining the test-case, the Judge may make such orders for the final determination of the other matters to which sub-Rule (1) of this Rule refers as the justice of those matters requires, according to law.

Part IV of the Valuation of Land Act, 1971

84.1 (1) An appeal pursuant to subsection (3) of section 25 of the above Act, shall be by Notice of Appeal in the following form—

<i>South Australia</i>	<i>In the matter</i> of an appeal against the
<i>In the Supreme Court</i>	disallowance by the Valuer-General, of an
<i>Land and Valuation Division</i>	objection made to a valuation of land by the
L.V.D. No. of 19	Valuer-General, pursuant to subsection (3) of
	section 25 of the <i>Valuation of Land Act, 1971</i>

**NOTICE OF APPEAL FROM DISALLOWANCE BY THE VALUER-GENERAL
OF AN OBJECTION TO THE VALUATION OF LAND**

Take Notice that I

(full name)

of

(address)

hereby appeal to the Land and Valuation Court against the decision given on the day of, 19..... by the Valuer-General whereby the Valuer-General disallowed an objection to the valuation of the land described hereunder.

The description of the land in respect of which this appeal is brought is as follows:

.....

(here set forth the description of the land)

The Assessment Number (or other identification) of the valuation is (here set forth Assessment Number or other identification relating to the valuation in respect of which the appeal is brought).

The valuation was made on the day of, 19..... and notice of the Valuer-General's decision disallowing the objection was served upon the person by whom the objection was made on the day of, 19.....

The grounds on which the appeal is brought are

.....

(here set forth *in full* the grounds of appeal)

Dated this day of

Signed by, or on behalf of the appellant

TO the Valuer-General

AND TO the Registrar of the Land and Valuation Court.

(2) The appeal may be instituted by filing the original of the notice of appeal and one copy of the notice with the Registrar, and by serving one copy of the notice on the Valuer-General.

(3) Upon being served with a notice of appeal pursuant to sub-Rule (4) of this Rule the Valuer-General shall, with all convenient speed, forward to the Registrar—

(a) a certified extract from the entry in the Valuation roll relating to the valuation of the land described in the appeal;

(b) a copy of the objection in writing against the valuation;

- (c) a copy of the notice in writing of the decision of the Valuer-General with respect to the valuation served upon the person by whom the objection was made; and
 - (d) a copy of the written objection to the valuation served upon the Valuer-General by the person dissatisfied with the valuation of the land;
- and shall at the same time, serve upon the appellant a notice informing him—
- (e) that the documents referred to in paragraphs (a), (b), (c) and (d) have been forwarded to the Registrar; and
 - (f) that the appellant will, in due course, be informed by the Registrar or his solicitor (as the case may be) of the date and time of the hearing of the appeal.
- (4) Service upon the Valuer-General may be effected by leaving a copy of the notice at the public office of the Valuer-General between its regular hours of business.
 - (5) The appeal shall be instituted within twenty-one days after notice in writing of the Valuer-General's decision to disallow the objection has been served upon the person by whom the objection was made.
 - (6) *****
 - (7) The Judge shall have, with respect to every appeal, all such powers as are conferred on him by Rules 73 , 74 , 75 and 76 , and may exercise any of those powers from time to time as he deems just, and those Rules shall accordingly have effect as modified.
 - (8) Upon giving judgement on the appeal, the Judge shall give a certificate in triplicate of his decision, and the Registrar shall—
 - (a) file one copy;
 - (b) forward one copy to the appellant; and
 - (c) forward one copy to the Valuer-General.
 - (9) Sub-Rule (2) of Rule 109, Rule 110 and Rule 111 shall apply to and in relation to appeals brought under this rule as if those appeals were proceedings under the Complementary Amending Acts.

Part VIII of the *Law of Property Act, 1936-1969*

85 Proceedings for and in relation to partition under Part VIII of the *Law of Property Act, 1936-1969*, shall be taken in accordance with the practice and procedure hitherto applying to and in relation to such proceedings (as modified), except that they will be taken in the Land and Valuation Division of the Supreme Court, and not otherwise.

Roads (Opening and Closing) Act 1932 (as amended)

- 85.1**
- (1) This Rule applies to and in relation to claims for compensation under and pursuant to Section 22 of the above Act.
 - (2) Where a notice in writing claiming compensation has been served, two copies of the notice may, within thirty days from and after service, be filed in the Court and the court shall thereupon become seized of the claim for hearing and determination.
 - (3) Upon the summons for directions coming on for hearing, the Court, in addition to the powers conferred on it by Rules 73 , 74 and 75 , may—
 - (a) give such directions for service or substituted service of any relevant instruments, notices, or other documents as may be just and convenient, in

Signed by, or on behalf of the appellant

TO the Clerk of the Municipal (or District) Council of

AND TO the Registrar, the Land and Valuation Court AND TO

(other person(s) to be served)

- (2) An appeal may be commenced by filing the original of the notice of appeal and one copy of the notice with the Registrar, and serving one copy of the appeal upon the clerk of the Municipal or District Council concerned.
- (3) A copy of the notice of appeal shall, as soon as practicable after the appeal has been commenced, also be served by the appellant upon every person whose name it is alleged should be inserted in the assessment, or whose property is alleged to be omitted, or assessed below its full and fair value.
- (4) An appeal shall be commenced within twenty-one days after the publication of the notice of the assessment in question, or within twenty-one days after the giving of the notice of an alteration or addition to the assessment, as the case may be.
- (5) *****
- (6) *****
- (7) Service under sub-Rule (3) of this Rule may be by post.

87 (1) An appeal, under subsection (3) of section 204 and section 207 of the *Local Government Act, 1934-1969*, from the decision of an Assessment Revision Committee shall be by way of Notice of Appeal in the following form—

<p><i>South Australia</i> <i>In the Supreme Court</i> <i>Land and Valuation Division</i> L.V.D. No. of 19</p>	<p><i>In the matter of an appeal against the decision of the Assessment Revision Committee pursuant to section 204 and section 207 of the Local Government Act, 1934-1969.</i></p>
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NOTICE OF APPEAL FROM DECISION OF ASSESSMENT
REVISION COMMITTEE

Take Notice that I

(full name)

Of

(address)

hereby appeal to the Land and Valuation Court against the decision given on the of..... 19, of the Assessment Revision Committee of the Municipal (or District) Council of

on the appeal of

(full name)

and against the assessment of the property described hereunder.

The description of the property in respect of which the appeal is brought is as follows:

.....

(here set forth the description of the property)

The Assessment Number is(here set forth Assessment Number).
The decision of the Assessment Revision Committee was given on the
day of, 19

The grounds upon which the appeal is brought are:

.....

(here set forth in full the grounds of appeal)

Dated this day of, 19

Signed by, or on behalf of the appellant.....

TO the Clerk of the Municipal (or District) Council of.....

AND TO the Registrar, the Land and Valuation Court.

- (2) The appeal may be commenced by filing the original of the notice of appeal and one copy of the notice with the Registrar, and by serving one copy of the notice on the Clerk of the Municipal (or District) Council concerned.
- (3) The appeal shall be commenced within twenty-one days after the giving by the clerk of the Municipal (or District) Council concerned of notice in writing to the appellant in accordance with subdivision IV of section 206 of the *Local Government Act, 1934-1969*.
- (4) *****

88 Appeals against assessments based upon land value that are brought pursuant to section 212 of the *Local Government Act, 1934-1969*, shall be governed by Rules 86 and 87 which shall apply, as modified to and in relation to those appeals.

89 Appeals against decisions of Councils as to urban farm land that are brought pursuant to section 212a of the *Local Government Act, 1934-1969*, shall be governed by Rules 86 and 87 which shall apply, as modified, to and in relation to those appeals.

90 (1) Where the owner of a freehold interest, or of rateable property, of the kinds described in subsection (2) of section 303 of the *Local Government Act, 1934-1969*, is desirous of appealing to the Court pursuant to subsection (3) of that section, he may institute an appeal by filing with the Registrar a declaratory instrument, in the form of a memorandum of appeal, that—

- (a) verifies the making of the request required by subsection (2) of that section;
- (b) verifies that six weeks have elapsed since the making of the request;
- (c) verifies that, at the date of the filing, a resolution of the kind, and to the effect, referred to in subsection (3) of that section has not been made;
- (d) verifies that the street, road or land requested to be declared a public street or road is not less than forty feet; and
- (e) states that, upon the twenty-eighth day after the institution of the appeal, or so soon thereafter as the parties or counsel can be heard, the appellant intends to appeal to the Land and Valuation Court against the failure to make the resolution requested, and that every person served is entitled to appear and be heard on that appeal,

and, at the same time, lodging with the Registrar a copy of the memorandum for the use of the Judge, and also by serving a further copy of the memorandum upon the Clerk of the Council concerned.

- (2) The appellant shall also, as soon as practicable after instituting the appeal under sub-Rule (1) of this Rule, serve upon every owner of a freehold interest in the street, road or land, known at that time to the appellant, a copy of the memorandum of appeal.
- (3) *****
- (4) Service under sub-Rule (2) of this Rule may be by post.

- 91**
- (1) The owner of a freehold interest in the street, road or land that a Council has, by resolution pursuant to section 303 of the *Local Government Act, 1934-1969*, declared to be a public street or road, may, within fourteen days after notice has been given by the Council pursuant to subsection (5) of that section, institute an appeal to the Court from that resolution.
 - (2) Every such appeal shall be instituted by–
 - (a) filing with the Registrar a declaratory instrument in the form of a memorandum of appeal, in accordance with sub-Rule (3) of this Rule;
 - (b) at the same time, lodging with the Registrar a copy of the memorandum for the use of the Judge; and
 - (c) serving on the Clerk of the Council concerned a copy of the memorandum.
 - (3) Every such memorandum of appeal shall–
 - (a) verify receipt of the notice by the appellant of the Council's resolution from which the appeal is brought;
 - (b) state that, upon the expiration of twenty-eight days after the institution of the appeal, or so soon thereafter as the parties or counsel can be heard, the appellant intends to appeal to the Land and Valuation Court from the resolution of the Council therein verified, and that every person served is entitled to appear and be heard upon the appeal; and
 - (c) sets out briefly the grounds of the intended appeal.
 - (4) The appellant shall as soon as practicable after instituting the appeal under sub-Rule (2) of this Rule, serve upon every owner of a freehold interest in the street, road, or land, known at that time to the appellant, a copy of the memorandum of the appeal.
 - (5) *****
 - (6) Service under sub-Rule (4) of this Rule may be by post.

Section 304 of the *Local Government Act, 1934*, as amended

- 91.1**
- (1) A notice required by section 304 of the *Local Government Act, 1934*, as amended, to be given to the clerk and to every owner of any freehold interest in the street, road, or land, known to the appellant shall be in the following form:

LOCAL GOVERNMENT ACT, 1934 (AS AMENDED)

Notice under Section 304 of the above Act

To: [Here state the title of the clerk in question or the name and address of the owner so far as it is known to the appellant (as the case may be)].

Owner of freehold interest at [Here give if notice is to owner, description of freehold interest so far as it is reasonably practicable to do so by reference to an address, or by use of particulars taken from relevant Certificate of Title].

I [Here state name in full and address of person giving notice] *hereby give you notice* that I have appealed to the Land and Valuation Court against a resolution of [Here state the name of the Council] notice of the passing of which was received by me on [Here give date of receipt of the passing of resolution]. The contents of that notice are as follows:

[Here state notice of passing of resolution as received by the appellant.]

You are advised to study forthwith the provision of sections 303, 304 and 305, of the above Act in order to ascertain your rights and duties in this matter.

Signed.....

Appellant

Section 305 of the *Local Government Act, 1934, as amended*

- 91.2** (1) An application to the Court pursuant to subsection (6) of section 305 of the *Local Government Act, 1934*, as amended, shall be by way of summons pursuant to Rule 78 .
- (2) Any such application shall be made within twenty-eight days from and after the day on which the applicant was first aware of the declaration referred to in the subsection referred to in subrule (1) of this Rule.
- 92** (1) For the purposes of an enquiry directed pursuant to subsection (3a) of section 382b of the *Local Government Act, 1934-1969*, the Judge may give all such directions and make all such orders as appear to him to be necessary or expedient in order to carry out the inquiry effectively and may, in particular—
- (a) adjourn the inquiry from time to time and from place to place;
 - (b) adjourn the inquiry into Chambers or into Court, as the case may be;
 - (c) cause such summonses to witnesses to be issued by the Registrar and served as he deems necessary, in such form as he directs;
 - (d) give such directions, and make such orders, as he deems necessary as to the course of the proceedings on the inquiry, and as to the manner in which evidence may, or is to, be given as he deems expedient; and
 - (e) give such directions as to the publication of notices with respect to the inquiry, and as to the form, manner, frequency and method of publication of the notices as he deems appropriate.
- (2) Upon the inquiry the Judge shall have all powers of dealing with contempts of Court that are exercisable by a Supreme Court Judge in the trial of an action, and Order 61 of the Supreme Court Rules, as modified, shall apply accordingly.
- (3) The powers conferred by sub-Rule (2) of this Rule shall extend and apply to all contempts of the inquiry, whether committed in the face of the inquiry or otherwise.
- 93** Rules 58 to 63 , inclusive, of these Rules (as modified), shall apply to, and in relation to, an application to the Court, pursuant to subsection (2) of section 419 of the *Local Government Act, 1934-1969*, to fix a rent to be paid for lands occupied by virtue of the powers conferred by section 416 of that Act.
- 94** Rules 69 to 72 , inclusive, of these Rules (as modified) shall apply to, and in relation to, an application to the Court, pursuant to section 420 of the *Local Government Act, 1934-1969*, to determine the amount and application of compensation, to be paid for

or in respect of lands affected by the exercise by a Council of its powers under Part XX of that Act.

Section 57 of the Pastoral Act, 1936-1969

- 95** (1) For the purpose of referring a matter to the Court pursuant to a notice given to him under subsection (2) of section 57 of the *Pastoral Act, 1936-1969*, the Minister shall, with all convenient speed, file with the Registrar and serve upon the lessee—
- (a) a copy of the notice of re-valuation;
 - (b) a copy of the lessee's request for reconsideration of the re-valuation;
 - (c) a copy of the notice in writing of the Pastoral Board's decision fixing the rent;
 - (d) a copy of the notice given to the Minister by the lessee requiring the rent to be fixed;
- and shall, at the same time, serve upon the lessee a notice stating—
- (e) that the matter has now, in accordance with the lessee's request, been referred to the Court; and
 - (f) that the lessee will be informed by the Court in due course, of the date, time and place of the hearing in Court.
- (2) *****
- (3) At the same time as the documents referred to in paragraphs (a) to (d) (inclusive) of sub-Rule (1) of this Rule are filed, the Minister shall lodge a copy of the pastoral lease in question, and shall file a declaratory instrument that—
- (a) verifies the documents above referred to and exhibits the copy lease;
 - (b) sets forth, with reasonable particularity, a description of the land that is subject to the lease; and
 - (c) provided the concurrence of the lessee has been obtained states any issue of fact, of law or of mixed fact and law (including any disputed question of valuation) for the determination of the Court.
- (4) It shall be a sufficient compliance with paragraph (b) of sub-Rule (3) of this Rule, to exhibit to the declaratory instrument a map or plan, drawn with due accuracy, to an appropriate scale, depicting the land that is subject to the lease.
- (5) An issue of the kind described in paragraph (c) of sub-Rule (3) of this Rule need not be decisive of the matter.
- (6) A copy of the declaratory instrument shall be served on the lessee with the copy documents and notice referred to in sub-Rule (1) of this Rule.

Section 64 of the Pastoral Act, 1936-1969

- 96** (1) Where a disagreement of the kind described in section 64 of the *Pastoral Act, 1936-1969* has occurred, the Minister shall, with all convenient speed, refer the matter to the Court by filing with the Registrar, and serving on the lessee a declaratory instrument that—
- (a) exhibits a copy of the pastoral lease in question;
 - (b) sets forth, with reasonable particularity, a description of the land that is subject to the lease;
 - (c) verifies that the Minister and the lessee have failed to agree as to the value and position of the improvements existing on the land;

- (d) states, with reasonable particularity, the extent of the disagreement between the lessee and the Minister as to the improvements; and
 - (e) provided the concurrence of the lessee has been obtained, states any issue of fact, of law or of mixed fact and law (including any disputed principle of valuation) for the determination of the Court;
- and shall, at the same time, serve upon the lessee a notice stating–
- (f) that the matter has now in accordance with the requirements of section 64 of the *Pastoral Act, 1936-1969*, been referred to the Court for determination; and
 - (g) that the lessee will be informed by the Court, in due course, of the date, time and place of the hearing in Court.
- (2) It shall be a sufficient compliance with paragraph (b) of sub-Rule (1) of this Rule to exhibit to the declaratory instrument a map or plan, drawn, with due accuracy to an appropriate scale, depicting the land that is subject to the lease.
 - (3) An issue of the kind referred to in paragraph (e) of sub-Rule (1) of this Rule need not be decisive of the matter.
 - (4) *****

Section 84 of the *Pastoral Act, 1936-1969*

97

- (1) Where a dispute or difference has arisen of the kind described in section 84 of the *Pastoral Act, 1936-1969*, either party may refer the matter to the Court for determination.
- (2) A matter may be referred to the Court by the party's filing with the Registrar, and serving upon the other party, a declaratory instrument that–
 - (a) exhibits a copy of the pastoral lease in question;
 - (b) gives, with reasonable particularity a description of the land that is subject to the pastoral lease;
 - (c) sets forth copies of the notices referred to in section 80 of the above Act by which the resumption was affected;
 - (d) gives, with reasonable particularity, a description of the land remaining subject to the pastoral lease after the resumption;
 - (e) in general, states the nature and extent of the dispute or difference that has arisen; and
 - (f) provided the concurrence of the other party has been obtained, states any special issue of fact, of law or mixed fact and law (including any disputed principle of valuation) for the determination of the Court;

and, at the same time, serving upon the lessee a notice stating–

 - (g) that, in pursuance of section 84 of the above Act, the matter has been referred to the Court for determination; and
 - (h) that the lessee will be informed by the court, in due course, of the date, time and place of the hearing in Court.
- (3) It shall be a sufficient compliance with paragraphs (b) and (d) of sub-Rule (2) of this Rule to exhibit to the declaratory instrument a map or plan, drawn, with due accuracy, to an appropriate scale, depicting the Land as a whole and showing the part resumed and the part remaining subject to the lease.
- (4) An issue of the kind described in paragraph (f) of sub-Rule (2) of this Rule need not be decisive of the case.

(5) *****

Section 34 of the *Planning Act 1982* (as amended)

- 98**
- (1) Appeals pursuant to section 34 of the above Act shall be initiated, conducted, heard, and disposed of, in all respects in accordance with the practice and procedures hitherto applying to and in relation to appeals brought under and pursuant to Sections 26 and 27 of the *Planning and Development Act, 1966-1967* (as amended) (as modified).
 - (2) An appellant to the Court shall, as soon as practicable after filing the Notice of Appeal (which shall contain the particulars prescribed by paragraph 3 of Rule 38 of the Supreme Court Rules) in the Court, serve a copy of that notice upon the Secretary to the Planning Appeal Board who shall, as soon as practicable, forward to the proper officer of the Court, the whole file relating to the proceedings in which the appeal is brought, including the transcript of evidence taken at the hearing and the Determination of the Tribunal, together with a memorandum, signed by the Secretary, certifying that all Exhibits tendered at the hearing are forwarded with the transcript and are in a condition fit to be used for the purpose of the appeal.
 - (3) Subject to sub-Rules (4), (5) and (6), of this Rule and to any direction to the contrary by the Judge, upon the institution of an appeal to the Court, the Chairman of the board from whose determination the appeal is brought shall, as soon as reasonably convenient, furnish to the Judge a brief report as to—
 - (a) the issues that arose before the board; and
 - (b) the course of the proceedings generally,and may in the report refer to the grounds of appeal to the Court in so far as they appear to him relevant to that report.
 - (4) The Chairman need not furnish a report where the matters that would be included in it have been sufficiently discussed in the board's reasons for its determination.
 - (5) The Judge may request the Chairman to furnish a report, a further report or further reports, if, in his opinion, it is in the interests of justice to do so.
 - (6) The Judge may, in his discretion, disclose to the parties before him the contents of any report furnished pursuant to this Rule.

Section 65 of the *Mining Act, 1971*, as amended

- 98.1** Rules 75.1 and 75.2 shall apply to appeals to the Court pursuant to section 65 of the *Mining Act, 1971*, as amended.

Renmark Irrigation Trust Act, 1936-1969

- 99** (1) An appeal direct to the Court pursuant to section 87 of the *Renmark Irrigation Trust Act, 1936-1969*, shall be by way of notice in the following form:—

South Australia
In the Supreme Court
Land and Valuation Division
LVD No. of 19

In the matter of an appeal under Part VI of
the Renmark Irrigation Trust Act, 1936-1969.

NOTICE OF APPEAL FROM OR IN RELATION TO AN ASSESSMENT

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court against the assessment of my land (or, as the case may be).

The description of my land is as follows:

.....
(here set forth the description of the land)

The Assessment Number is (here state the Assessment Number)

The grounds on which I appeal are:

.....
(Grounds of appeal are to be here set out in full)

Dated theday of.....19.....

Signed by, or on behalf of the appellant

TO the Registrar of the Land and Valuation Court, Adelaide

AND TO the Secretary of the Renmark Irrigation Trust.

(2) In order to commence the appeal the original notice of appeal shall be filed, and one copy lodged, with the Registrar, and one copy shall be given to, or left for, the Secretary of the Renmark Irrigation Trust at his office during usual office hours.

100 (1) An appeal to the Court from a decision of the Renmark Irrigation Trust pursuant to section 89 of the *Renmark Irrigation Trust Act, 1936-1969*, shall be by way of notice in the following form:-

South Australia In the matter of an appeal under Part VI of the
In the Supreme Court *Renmark Irrigation Trust Act, 1936-1969.*
Land and Valuation Division
LVD No. of 19

NOTICE OF APPEAL FROM OR IN RELATION TO AN ASSESSMENT

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court from the *decision* of the Renmark Irrigation Trust *on my appeal to the Trust* against the assessment of my land (or as the case may be).

The description of my land is as follows:

.....
(here set forth the description of land)

The Assessment Number is (here state Assessment Number)

The grounds of my appeal are:

.....

(here set forth the grounds of appeal in full)

Dated theday of..... 19.....

Signed by, or on behalf of the appellant.....

TO the Registrar of the Land and Valuation Court, Adelaide

AND TO the Secretary of the Renmark Irrigation Trust.

- (2) In order to commence the appeal, the original notice of appeal shall be filed, and one copy lodged, with the Registrar, and one copy shall be given to, or left for, the Secretary of the Renmark Irrigation Trust during normal office hours.

Renmark Irrigation Trust Act, 1936-1969 – claims for compensation for the exercise by the trust of its powers under the Act: Part XII

- 101**
- (1) Where the question [arises] whether any and what compensation shall be paid by the Renmark Irrigation Trust to a person in the circumstances referred to in section 165 of the *Renmark Irrigation Trust Act, 1936-1969*, the question may be referred to the Court for determination and under and pursuant to this Rule.
 - (2) The question may be referred to the court, either by the Trust or by the person claiming compensation (in this Rule called “the claimant”), by filing with the Registrar, and serving upon the other party, a declaratory instrument that–
 - (a) states that the requirements of section 164 of the above Act have been complied with;
 - (b) sets out in full a copy of the claim for compensation made to the Trust pursuant to section 164;
 - (c) where the claimant is making the reference and where the claim for compensation referred to in paragraph (b) of this sub-Rule has not done so, states, with reasonable particularity, the material facts on which the claimant relies to support his claim; and the amount claimed; and
 - (d) provided the concurrence of the other party has been obtained, states any special issue of fact, of law, or of mixed fact and law (including any disputed question of valuation) for the determination of the Court.
 - (3) A special issue referred to in paragraph (d) of sub-Rule (2) of this Rule need not be decisive of the matter.
 - (4) Any part or parts of the declaratory instrument relating to paragraphs (b), (c) or (d) of sub-Rule (2) of this Rule may be supported by a map or plan drawn, with due accuracy, to an appropriate scale having regard to the things with which it or they, is or are concerned.
 - (5) *****

Sewerage Act, 1929-1969

- 102**
- (1) An appeal to the Court pursuant to section 86 or section 87 of the Sewerage Act shall be by way of notice in the following form:–

South Australia
In the Supreme Court
Land and Valuation Division
 LVD No. of 19 .

In the matter of an appeal under section 86
 (or as the case may be section 87) of the
Sewerage Act, 1929-1969.

NOTICE OF APPEAL FROM OR IN RELATION TO AN ASSESSMENT

Take Notice that I

(full name)

of

(address)

hereby appeal to the Land and Valuation Court against the *assessment* of my land (or as the case may be).

The *description* of my land is as follows:

.....

(here set forth the description of land)

The *Assessment Number* is(here state the Assessment Number)

The *grounds* on which I appeal are:

.....

(the grounds of appeal are to be here set out in full)

Dated theday of 19

Signed by, or on behalf of the appellant

TO the Registrar of the Land and Valuation Court, Adelaide

AND TO the Minister of Works, Adelaide.

- (2) The appeal shall be duly instituted by filing the original notice of appeal, and lodging one copy, with the Registrar, and giving to, or leaving for, the Minister of Works, or his secretary, at the Minister's office at Adelaide, during usual office hours, one copy of the same notice.

South-Eastern Drainage Act, 1931-1969

- 103** (1) The South-Eastern Drainage Board shall, upon determining an appeal under section 52, section 95 or section 103d of the *South-Eastern Drainage Board Act, 1931-1969*, forthwith—
- (a) give notice in writing of its determination to every party to the appeal; and
- (b) publish the determination in the *Government Gazette* , whether the determination necessitates an alteration in the assessment or not.
- 104** (1) An appeal to the Court from a determination of the South-Eastern Drainage Board under section 52 and section 53 of the *South-Eastern Drainage Board Act, 1931-1969*, shall be by way of notice of appeal in the following form:—

South Australia
In the Supreme Court
Land and Valuation Division
LVD No. of 19 .

In the matter of an appeal under Part III of
the South-Eastern Drainage Act, 1931-1969.

NOTICE OF APPEAL FROM THE DETERMINATION OF THE SOUTH-EASTERN DRAINAGE BOARD WITH RESPECT TO AN ASSESSMENT FOR THE PURPOSE OF DRAINAGE RATE

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court against the determination upon appeal, of the above board with respect to the assessment of my land for the purpose of drainage rate.

The description of my land is as follows:

.....
(here set forth the description of land)

The Assessment Number is(here state the Assessment Number)

The grounds on which I appeal are:

.....
(the grounds of appeal are to be here set out in full)

And further take notice that this appeal will be heard not less than thirty days after the service upon you of this notice at a date, time and place to be notified by the Court.

Dated theday of19.....

Signed by, or on behalf of the appellant

TO the Registrar of the Land and Valuation Court, Adelaide

AND TO the Secretary, the South-Eastern Drainage Board AND TO

.....
(here include the names of every other respondent to the appeal)

(2) Subject to sub-Rule (3) of this Rule, the appeal shall be duly instituted by filing the original notice of appeal, and lodging one copy, with the Registrar, and giving to, or leaving for, the Secretary of the South-Eastern Drainage Board at his office at Adelaide, on [sic] copy of the same notice.

(3) An appeal shall not be duly instituted unless the requirements of sub-Rule (2) of this Rule have been complied with within one month after the publication in the *Government Gazette* of the determination from which the appeal is brought.

(4) After duly instituting the appeal, the appellant shall, as soon as reasonably practicable, serve a copy of the notice of appeal on every other respondent.

(5) Service under sub-Rule (4) of this Rule may be by post.

105 (1) Subject to sub-Rules (2) and (3) of this Rule, the provisions of Rule 104 shall apply to and in relation to appeals to the Court—

(a) pursuant to section 95 and section 96; and

(b) pursuant to sections 103d and 103e, of the *South-Eastern Drainage Act, 1931-1969*.

(2) Where the appeal to the Court is pursuant to section 95 and section 96, the heading to, and opening paragraph of, notices of appeal shall be in the following form:—

South Australia
In the Supreme Court
Land and Valuation Division
LVD No. of 19 .

In the matter of an appeal under Part IV of
the *South-Eastern Drainage Act, 1931-1969*.

NOTICE OF APPEAL FROM THE DETERMINATION OF THE SOUTH-
EASTERN DRAINAGE BOARD WITH RESPECT TO AN ASSESSMENT OF
BENEFIT ACCRUED FROM SCHEME DRAINS

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court against the determination, upon
appeal, of the above board with respect to the assessment of the value of the benefit
accrued to my land from scheme drains.

- (3) Where the appeal to the Court is pursuant to section 103d and section 103e, the
heading to, and opening paragraph of, notices of appeal shall be in the following
form:—

South Australia
In the Supreme Court
Land and Valuation Division
L.V.D. No. of 19 .

In the matter of an appeal under Part IVa of the
South-Eastern Drainage Act, 1931-1969.

NOTICE OF APPEAL FROM THE DETERMINATION OF THE SOUTH-
EASTERN DRAINAGE BOARD WITH RESPECT TO THE VALUE OF
BETTERMENT RESULTING FROM DRAINS AND DRAINAGE WORKS

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court against the determination, upon
appeal, of the above board with respect to the assessment of the value of the
betterment resulting to my land from the construction of drains and drainage works.

Water Conservation Act, 1936-1969

- 106** (1) An appeal to the Court pursuant to section 31 of the *Water Conservation Act, 1936-1969*, shall be by way of notice in the following form:—

South Australia
In the Supreme Court
Land and Valuation Division
L.V.D. No. of 19 .

In the matter of an appeal under Part III of the
Water Conservation Act, 1936-1969

NOTICE OF AN APPEAL FROM OR IN RELATION TO AN ASSESSMENT OF
RATEABLE PROPERTY WITHIN A WATER DISTRICT

Take Notice that I
(full name)

of
(address)

hereby appeal to the Land and Valuation Court against the assessment of property of
which I am (alleged to be) the owner/occupier.

The description of the property is as follows:

.....
(here set forth the description of the property)

The Assessment Number is (here state the Assessment Number)

The grounds on which I appeal are:

.....
(here set forth in full the grounds of appeal)

Dated the day of 19

Signed by, or on behalf of the appellant

TO the Registrar of the Land and Valuation Court, Adelaide

AND TO the Secretary of the Minister of Works.

- (2) The appeal may be instituted by filing the original notice of appeal, and lodging one copy, with the Registrar, and by giving to, or leaving for, the secretary to the Minister of Works, at his office during usual office hours, one copy of the same notice.
- (3) The appellant shall, as soon as practicable after instituting the appeal, serve upon the person (if any) whose name it is proposed to insert in the assessment, or whose property is alleged to be omitted or assessed below its full and fair value, a copy of the notice.
- (4) Service under sub-Rule (3) of this Rule may be by post.

Waterworks Act, 1932-1969

- 107**
- (1) Subject to sub-Rule (2) of this Rule, the provisions of Rule 102 shall apply to and in relation to appeals to the Court pursuant to section 76 and section 77 of the *Waterworks Act, 1932-1969*.
 - (2) The heading to notices of appeals shall be in the following form:—

South Australia
In the Supreme Court
Land and Valuation Division
L.V.D. No. of 19 .

*In the matter of an appeal under section 76 and
section 77 of the Waterworks Act, 1932-1969.*

- (4) The appellant shall, as soon as reasonably practicable after instituting the appeal, serve upon any other landholder, occupier of a holding of other person whose interests appear to be affected by any matter raised on the appeal, a copy of the notice, and shall forthwith lodge with the Registrar a memorandum containing the name and address of any such person served.
- (5) Service under sub-Rule (4) of this Rule may be by post.
- (6) *****
- (7) The Judge may, upon such terms as he deems just (including terms as to costs), upon application by summons or at the hearing, give leave to a person served with a copy of the notice of appeal pursuant to sub-Rule (4) of this Rule to appear and be heard on the appeal, and to examine or cross-examine witnesses (if any).
- (8) The Judge shall determine every appeal in such manner as he thinks just and equitable.
- (9) The Director shall, subject to the Act, do all such things, and make all such variations and adjustments, as shall be just and consistent with the Court's determination, and in particular, by further notice, make such consequential adjustments as are necessary to notices served on landholders and occupiers of holdings pursuant to subsection (2) of section 11 of the Act.
- (10) For the purposes of these Rules, the *Eight Mile Creek Settlement (Drainage Maintenance) Act Amendment Act, 1970*, shall be deemed to be one of the complementary amending Acts.

General power to obtain or give directions with respect to proceedings under the complementary Amending Acts

- 108** Upon the Court's becoming seised of a land and valuation matter governed by any one of the Rules relating to the proceedings under the complementary amending acts, the Judge may, of his own motion, or upon application by one of the parties by letter to the Registrar, exercise, with respect to that matter, any of the powers conferred by Rules 73 , 74 and 75 (as modified).
- 109**
- (1) After the Court has become seised of any land and valuation matter governed by the complementary amending Acts and such of these Rules as relate thereto, the proper clerk or officer having custody thereof shall with all convenient speed cause the entire record and transcript (if any) with respect to the matter to be forwarded to the Registrar.
 - (2) The Judge may, for the purposes of, and either before or during the principal hearing, give directions for the production to the Court of such further records, transcripts and official documents relating to the matter then before the court as he deems proper in the interests of justice, and may, if necessary, enforce his directions by summons to produce issued by the Registrar.
- 110** Rule 84 shall apply to and in relation to all land and valuation matters.
- 111** (1) In a notice or other document by which an appeal is instituted, or other proceedings are initiated, pursuant to the Rules relating to proceedings under the complementary amending Acts, there shall be included in addition to the matters required or permitted by these Rules to be included, a statement by the person filing that notice or document—

- (a) suggesting a place for the hearing or to the effect that no such suggestion is made;
 - (b) as to whether he requests the appeal or other proceeding to be heard by the Judge or by a Master or whether he makes no such request;
 - (c) giving his address, or the address of his solicitor, for service; and
 - (d) as to whether he requests the respondent, or a specified respondent, or a specified party (as the case may be), to—
 - (i) give particulars with respect to the appeal or other proceeding, and as to what particulars are sought;
 - (ii) make discovery of any, and if so, of what documents;
 - (iii) make disclosure of all relevant sales or transactions upon which reliance will be placed; or
 - (iv) submit to some other interlocutory order and as to what order is sought, or as to whether he makes no such request.
- (2) A person on whom the notice or other document is served may, before the case comes on for hearing, intimate, by notice in writing to the party by whom or on whose behalf the notice or document is served, and to the Registrar, that he agrees with, or is willing to submit to, any suggestion or request made in the notice or document.

Costs, taxation and court fees

- 112** (1) Subject to any statutory enactment and to the provisions of these Rules, in assessing and allowing costs payable by or to any party under the order of the Court, the Taxing Officer shall be guided by, and shall act in accordance with the Cost Rules of the Supreme Court, as modified, and the Schedule of charges to those Rules (Second Schedule) including any Rules or Schedules of charges that may, from time to time, hereafter be made whether by way of addition – or amendments to, or in substitution for, those Cost Rules and that Schedule.
- (2) The notices required by the Cost Rules and the procedures generally on taxation shall be given and followed by the Taxing Officer and the parties.
- (3) In all cases, allowance on taxation for more than one counsel shall be subject to the certificate given by the Court or taxing officer.
- (4) The Taxing Officer shall have power to enlarge or abridge the time for the making of any application or the doing of any act pursuant to Order 65 of the Rules of the Supreme Court.
- 113** The several scales according to which costs ordered to be paid by or to any party and directed to be taxed shall be taxed and allowed shall be as follows:
- (1) The Highest Scale:– (a) Solicitor's costs in accordance with the said Costs Rules and Schedule of Charges; (b) Counsel's fees in accordance therewith and of the amount or amounts which would be allowed in an action in the Supreme Court; and, (c) other disbursements in accordance with the said Costs Rules and Schedule of Charges and with these Rules and the Schedule of Fees therein.
- (2) The Second Scale: – (a) Solicitor's costs and Counsel's fees – three-fourths of the amount which would be allowed under paragraph (1), (a) and (b) respectively; and, (b), other disbursements as provided for in paragraph (1)(c).

- (3) The Third Scale:– (a) Solicitor's costs and Counsel's fees – one half of the amounts which would be allowed under paragraph (1), (a) and (b) respectively; and, (b), other disbursements as provided for in paragraph (1)(c).
- (4) The Lowest Scale:– (a) Solicitor's costs and Counsel's fees – one-fourth of the amount which would be allowed under paragraphs (1), (a) and (b), respectively; and, (b), other disbursements as provided for in paragraph (1)(c).

114 Costs shall be taxed and allowed according to such scale as the Court or Judge, having regard to the nature, amount, value, magnitude and importance of the subject matter, and to the circumstances generally (including the circumstances that the principal hearing took place before the Judge or a Master, as the case may be), may direct: provided that the Court or Judge may direct that costs be taxed and allowed on some other basis, or may assess and order payment of a lump sum for costs, or may make such other order as seems meet in the circumstances.

115 The fees to be demanded by and paid to the Registrar shall be those set out in the Schedule hereto, but shall not be payable by the Crown.

SCHEDULE OF FEES – LAND AND VALUATION COURT

Note:– Where the provisions of this Schedule are inconsistent with the provisions of the Second Schedule to the Supreme Court Rules, the former shall prevail.

	\$
1. Subject to item 2, all originating proceedings by virtue of which the Court for the first time, becomes seised of the matter not being under section 62b(1) of the Act..	12.00
Any other matter.	5.00
2. Setting down for hearing – under section 62d(1) of the Act..	5.00
Any other matter..	20.00

For any other business, the same fee, *mutatis mutandis*, as is charged in the general jurisdiction of the Supreme Court.

History of amendment

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; sub = substituted		
2	am 1978	6 July 1978
2(b)	am 1981 am 2006	25 June 1981 4 September 2006
2(d)	del 1981	25 June 1981
6(b)	am 1981	25 June 1981
11(a)	am 1981	25 June 1981
11(b)	am 1981	25 June 1981
11©	am 1981	25 June 1981
13(1)	am 1981	25 June 1981
13(2)	am 1981	25 June 1981
14(1)	am 1981	25 June 1981
21(1)	am 1981	25 June 1981
24(1)	am 1981	25 June 1981
24(2)	am 1981	25 June 1981
25(1)	am 1981	25 June 1981
25(5)	am 1981	25 June 1981
26(1)	am 1981	25 June 1981
26(2)	am 1981	25 June 1981
26(3)	am 1981	25 June 1981
31(5)	am 1981	25 June 1981
36	sub 1978	6 July 1978
36(8)	ins 1979	29 March 1979
36(9)	ins 1979	29 March 1979
36(10)	ins 1979	29 March 1979
73(8)(k)	am 1978	6 July 1978
73(8)(t)	am 1981	25 June 1981
84	sub 1978	6 July 1978
84.1(3)(a)	sub 1982	6 May 1982
85.1	ins 1984	29 march 1984
86(6)	del 1978	6 July 1978
97(2)(f)	am 1978	6 July 1978
98 (heading)	sub 1984	29 March 1984
98(1)	sub 1984	29 March 1984
98(2)	am 1984	29 March 1984

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; sub = substituted		
110	sub 1978	6 July 1978
111(1)	am 1981	25 June 1981
112(1)	am 1981	25 June 1981
112(2)	am 1981	25 June 1981
112(4)	am 1981	25 June 1981
114	am 1981	25 June 1981