

South Australia

Land and Valuation Division Rules 2014

(as varied to the 18 May 2020 – Amendment No. 2)

The Land and Valuation Divisional Rules 2014, dated 25th August 2014 that came into operation on 1st October 2014 (*Government Gazette* 11 September 2014, p. 4367) have been varied by Supreme Court rules dated:

		<i>Gazette</i>	<i>Date of operation</i>
#1	25 September 2015	15 October 2015, p. 4602	1 December 2015
#2	5 May 2020	14 May 2020, p. 1164	18 May 2020

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

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Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

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

2—Commencement

These Rules commence on 1 October 2014.

Part 2—Objects

3—Objects

The objects of these Rules are—

- (a) to establish orderly procedures for the just, efficient and timely resolution of land and valuation disputes;
- (b) to facilitate and encourage the resolution of land and valuation disputes by agreement between the parties; and
- (c) to minimise the cost of land and valuation litigation to the litigants and to the State.

Part 3—Interpretation

4—Interpretation

[subrule 4(1) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (1) In these Rules, unless the contrary intention appears, a term defined in the Uniform Civil Rules 2020 has the meaning defined by those Rules.
- (2) In these Rules, unless the contrary intention appears—
acquisition action means—
 - (a) an application for an order for the compulsory acquisition of an interest in land or any other thing under—
 - (i) section 24(3) of the *Coast Protection Act 1972*;
 - (ii) section 28(3) of the *Land Acquisition Act 1969*;
 - (iii) section 62A(1) of the *Mining Act 1971*; or
 - (iv) any other statutory provision in respect of which jurisdiction is vested in the Court;
 - (b) an application for determination whether a claimant is entitled to compensation or of the amount of compensation in respect of an acquisition or proposed acquisition under—
 - (i) section 15(4) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;
 - (ii) section 25(2) of the *Coast Protection Act 1972*;

- (iii) section 38(6) of the *Crown Land Management Act 2009*;
 - (iv) section 41(3) of the *Crown Land Management Act 2009*;
 - (v) section 30B(2) of the *Highways Act 1926*;
 - (vi) section 20(4) of the *Historic Shipwrecks Act 1981*;
 - (vii) section 15(6) of the *Land Acquisition Act 1969*;
 - (viii) section 29(2) of the *Land Acquisition Act 1969*;
 - (ix) section 210(3) of the *Local Government Act 1999*;
 - (x) section 62A(2) of the *Mining Act 1971*;
 - (xi) clause 6(4)(c) of the Schedule to the *Pastoral Land Management and Conservation Act 1989*;
 - (xii) section 39(2) of the *Pastoral Land Management and Conservation Act 1989*;
 - (xiii) section 31(1)(b) or section 32(3) of the *Roads (Opening and Closing) Act 1991*;
 - (xiv) any other statutory provision in respect of which jurisdiction is vested in the Court;
- (c) a reference of a question into Court under section 23C of the *Land Acquisition Act 1969*;
 - (d) an application for valuation of an object or record and an order vesting title in the Minister under section 31 of the *Aboriginal Heritage Act 1988*;
 - (e) an application for an order of ejectment or payment of rent under section 24(2) of the *Land Acquisition Act 1969*; or
 - (f) an application for an extension of the period for acquisition of land under section 15(4a)(b) of the *Land Acquisition Act 1969*;

boundary action means—

- (a) an application in respect of an encroachment under section 4 of the *Encroachments Act 1944*;
- (b) an application for determination of the true boundary of an allotment under section 10 of the *Encroachments Act 1944*;
- (c) an appeal against an administrative decision of the Surveyor-General approving a plan under section 51(8) of the *Survey Act 1992*; or
- (d) any other action involving the boundary of an allotment of land in respect of which jurisdiction is vested in the Court;

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

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

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

[Interpretation General Civil Rules deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

lodgment action means—

- (a) the payment of monies into Court under section 23A(3) of the *Land Acquisition Act 1969*; or
- (b) the filing of an agreement for compensation in the Court under section 23B(1) of the *Land Acquisition Act 1969*;

[Interpretation Uniform Civil Rules inserted by Land and Valuation Division Rules 2014 (Amendment No. 2)]
Uniform Civil Rules means the *Uniform Civil Rules 2020*;

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

- (a) the Minister, Valuer-General or Ministerial review panel under section 67(1) of the *Crown Land Management Act 2009*;
- (b) the Minister on the attribution of use of land under section 9(4) of the *Emergencies Services Funding Act 1998*;
- (c) a Council on the attribution of use of land under section 156(12) of the *Local Government Act 1999*;
- (d) a valuer on a valuation of land under section 169(15) of the *Local Government Act 1999*;
- (e) the Valuer-General or a land valuer under section 56 of the *Pastoral Land Management and Conservation Act 1989*;
- (f) the Minister on assessment of value under section 43(10) of the *Petroleum and Geothermal Energy Act 2000*;
- (g) the Valuer-General or a land valuer under section 25C of the *Valuation of Land Act 1971*; or
- (h) any other person in respect of which jurisdiction is vested in the Court.

Part 4—Application of Rules

5—Application of Rules

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

[subrule 5(2) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[subrule 5(3) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[subrule 5(4) deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (4) *****

Part 5—Repeal and transitional provisions

6—Repeal

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

7—Transitional provision

- (1) Unless the Court otherwise directs, these Rules apply to—
 - (a) proceedings commenced on or after the commencement date; and
 - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) The Court may direct that these Rules, or the Rules in force before these Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.

Chapter 2—General procedural rules and allocation of Court business

[Part 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 1—*****

Part 2—Court’s control of procedure

[rule 8 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

8—*****

[rule 9 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

9—*****

[Part 3 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 3—*****

Part 4—Distribution of Court’s business

[Division 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 1—*****

Division 2—Jurisdiction of Masters

10—Jurisdiction of Masters

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

[subrule 10(2) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[subrule 10(4) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (4) The trial or final hearing of an action can only be heard and determined by a Master if—
 - (a) a Judge of the Court directs that it is to be heard and determined by a Master; or
 - (b) all parties consent to trial by a Master.

[Part 5 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 5—*****

Chapter 3—Elements of action at first instance

[Part 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 1—*****

[Part 2 heading amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 2—Pre-action steps

[Division 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 1—*****

[Division 2 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 2—*****

[rule 11 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

11—Pre-action steps

- (1) Subject to subrule (2), rule 61.7 of the Uniform Civil Rules does not apply to a proceeding in the Court.
- (2) Rule 61.7 of the Uniform Civil Rules applies to a boundary action (whether or not based on a monetary claim) other than an action excluded from the application of rule 61.7 of the Uniform Civil Rules by subrule 61.8(1) of the Uniform Civil Rules.

Part 3—Commencement of action

Division 1—How action is commenced

Subdivision 1—Acquisition and boundary actions

[rule 12 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

12—General

- (1) Subject to subrule (2), this Subdivision applies to acquisition and boundary actions in the Court.
- (2) An appeal against an administrative decision of the Surveyor-General approving a plan under section 51(8) of the *Survey Act 1992* is governed by Subdivision 3 instead of this Subdivision.
- (3) Subject to subrule (4), an action governed by this Subdivision must be instituted as a claim by a Claim in the prescribed form set out in Schedule 7 to the Uniform Civil Rules supported by a statement of claim in the prescribed form.

Prescribed forms—

Form 1 Claim

Form 1S Statement of Claim uploaded with Claim

Filing instructions—

If a Claim is filed physically at Registry, a Form 1 incorporating a statement of claim is to be used.

If a Claim is filed using the Electronic System, a Form 1S is to be uploaded with the Claim.

- (4) An action governed by this Subdivision may, if a proceeding has been started in the Court in relation to the acquisition or boundary the subject of the action, be made—
- (a) if the new action is by the Applicant in the proceeding—by amending the existing Claim and statement of claim to introduce the new action; or
 - (b) if the new action is by any other party in the proceeding—by cross claim by filing a Cross Claim and statement of cross claim in the prescribed form set out in Schedule 7 to the Uniform Civil Rules.

Prescribed forms—

Form 61 Cross Claim

Form 61S Statement of Cross Claim uploaded with Cross Claim

Filing instructions—

If a Cross Claim is filed physically at Registry, a Form 61 is to be used.

If a Cross Claim is filed using the Electronic System, a Form 61S is to be uploaded.

13—Acquisition action

[rule 13 amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

The statement of claim in an acquisition action is to identify—

- (a) the nature of the action;
- (b) the land or other subject matter of the action;
- (c) the statutory provision under which the claimed entitlement to the order sought arises;
- (d) the statutory provision giving to the Court jurisdiction to hear and determine the action;
- (e) the name, address and interest of persons known to have or to claim an interest in the land or other subject matter of the action; and

[para 13(f) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (f) the relief sought.

14—Boundary action

[rule 14 amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

The statement of claim in a boundary action is to identify—

- (a) the nature of the action;
- (b) the land the subject of the action;
- (c) the statutory provision under which the action is brought;
- (d) in the case of an appeal against an administrative decision, the administrative decision the subject of the appeal;
- (e) the statutory provision giving to the Court jurisdiction to hear and determine the action; and

[para 14(f) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

(f) the relief sought.

[rule 15 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

15—*****

Subdivision 2—Lodgment actions

[rule 15 inserted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

15—General

- (1) This Subdivision applies to lodgment actions in the Court.
- (2) An action governed by this Subdivision must be instituted as an originating application.

[rule 16 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

16—Payment in proceeding

- (1) A lodgment action involving a payment of monies into court under section 23A(3) of the *Land Acquisition Act 1969* must be instituted by an Originating Application in the prescribed form set out in Schedule 7 to the Uniform Civil Rules identifying—
 - (a) the nature of the proceeding as being a payment of monies into court under section 23A(3) of the *Land Acquisition Act 1969*;
 - (b) the land in respect of which the monies are paid into court; and
 - (c) the amount of monies paid into court.

Prescribed form—

Form 6 Originating Application – Interpleader

- (2) A copy of the notice of acquisition published in the Gazette under section 16 of the *Land Acquisition Act 1969* must accompany or be filed at the same time as the Originating Application.
- (3) The Originating Application is not required to be accompanied by an affidavit.
- (4) The applicant must join as an interested party the person whose interest in the land is the subject of the payment into court.
- (5) If agreement about compensation is reached by the negotiating parties in respect of the land before payment out, the agreement or the documents evidencing the agreement are to be exhibited to an affidavit filed in the proceeding.
- (6) An application for payment out of the monies paid into court under section 26 of the *Land Acquisition Act 1969* must be made by interlocutory application in the prescribed form set out in Schedule 7 to the Uniform Civil Rules supported by an affidavit in the prescribed form deposing to and exhibiting such consents as may be required and a search copy of the Certificate of Title immediately before the acquisition.

Prescribed forms—

Form 77 Interlocutory Application

Form 12 Affidavit

17—Compensation agreement proceeding

- (1) A lodgment action involving an agreement for compensation under section 23B(1) of the *Land Acquisition Act 1969* must be instituted by an Originating Application in the prescribed form set out in Schedule 7 to the Uniform Civil Rules identifying—
 - (a) the nature of the proceeding as being the lodgment of an agreement for compensation under section 23B(1) of the *Land Acquisition Act 1969*; and
 - (b) the land in respect of which the compensation agreement was made.

Prescribed form—

Form 6 Originating Application – Interpleader

- (2) A copy of the agreement or the documents evidencing the agreement for compensation must accompany or be filed at the same time as the Originating Application.
- (3) The Originating Application is not required to be accompanied by an affidavit.
- (4) The applicant must join as an interested party the other party to the compensation agreement.
- (5) An application for orders to give effect to the agreement under section 23B(2) of the *Land Acquisition Act 1969* must be made by interlocutory application in the prescribed form set out in Schedule 7 to the Uniform Civil Rules supported by an affidavit in the prescribed form.

Prescribed forms—

Form 77 Interlocutory Application

Form 12 Affidavit

Subdivision 3—Valuation appeals

18—Valuation appeal

- (1) A valuation appeal or appeal under section 51(8) of the *Survey Act 1992* must be instituted by a notice of appeal in the prescribed form set out in Schedule 7 to the Uniform Civil Rules.

Prescribed form—

Form 5 Originating Application – Appeal Against Administrative Decision

- (2) The notice of appeal is to identify—
 - (a) the valuation decision the subject of the appeal;
 - (b) the land or other subject matter of the disputed valuation;
 - (c) the statutory provision under which the appeal is brought;
 - (d) the orders sought;
 - (e) the grounds of appeal; and
 - (f) if an extension of time in which to appeal is sought—the grounds for the extension of time.

[Part 4 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 4—*****

[rule 19 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

19—*****

Chapter 4—Documents and service

[Part 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 1—*****

[Division 2 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 1—*****

[rule 20 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

20—*****

[Division 2 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 2—*****

[rule 21 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

21—Form of documents for filing in Court

All documents filed in the Court must contain as part of the action heading, immediately below the references to “Supreme Court of South Australia” and “civil jurisdiction”, the words “Land and Valuation List”.

[Part 2 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 2—*****

Chapter 5—Parties and pleadings

Part 1—Parties and non-party participation

Division 1—Parties generally

[rule 22 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

22—*****

[rule 23 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

23—*****

24—Valuation appeal

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

Part 2—Defining issues

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

25—Acquisition action

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

[subrule 25(2) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[subrule 25(3) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (3) If there is an issue whether a party has any entitlement to compensation, the pleadings are to address separately and distinctly the question of entitlement to compensation from any question of the amount of compensation.
- (4) If the question whether there is to be an acquisition, whether a party has an entitlement to compensation or the amount of compensation has been decided in whole or part by agreement between the parties, a party relying on the agreement is to –
 - (a) refer in the party’s pleading to the agreement and its effect; and
 - (b) not refer in the pleading to the facts giving rise to the question to the extent it has been resolved by the agreement except as necessary to describe the effect of the agreement.

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

[subrule 25(6) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

26—Boundary action

- (1) This rule applies to the extent that an action comprises or includes a boundary action.
- (2) The statement of claim is to annex a plan showing the relevant land and any relevant boundaries.

[subrule 26(3) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[rule 27 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

27—*****

[rule 28 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

28—Valuation appeal

- (1) This rule applies to a valuation appeal or appeal under section 51(8) of the *Survey Act 1992*.
- (2) The notice of appeal must identify the administrative decision the subject of the appeal.
- (3) The notice of appeal must identify the grounds on which it is contended that the administrative decision the subject of the appeal is erroneous.
- (4) The appellant must file with the notice of appeal a statement of facts issues and contentions in the prescribed form set out in Schedule 7 to the Uniform Civil Rules.

Prescribed form—

Form 11 Statement of Facts Issues and Contentions Standalone

- (5) The statement of facts issues and contentions must set out briefly—
 - (a) the decision and the subject matter of the decision;
 - (b) the essential facts, if any, relied on that were not accepted by the decision maker;
 - (c) the essential issues raised on the appeal;
 - (d) the appellant's contention on each issue;
 - (e) what is contended to be the proper value of the land or thing the subject of the valuation when applicable; and
 - (f) the grounds for any application for an extension of time.
- (6) The statement of facts issues and contentions must be accompanied by an affidavit exhibiting a copy of—
 - (a) the decision and any reasons given by the decision maker;
 - (b) any formal submission by the appellant to the decision maker the subject of the decision; and

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

[rule 29 substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

29—Response

- (1) This rule applies to a valuation appeal or appeal under section 51(8) of the *Survey Act 1992*.
- (2) Within 28 calendar days of service of the notice of appeal, the respondent must file and serve a response to the statement of facts issues and contentions in the prescribed form set out in Schedule 7 to the Uniform Civil Rules.

Prescribed form—

Form 57 Response to Statement of Facts Issues and Contentions

- (3) The response to statement of facts issues and contentions must set out briefly—
 - (a) a response to any contested essential facts on which the appellant relies;
 - (b) the essential issues raised by the appellant on the appeal and any additional essential issues raised by the respondent on the appeal;
 - (c) the respondent's contention on each issue identified by the appellant and respondent;
 - (d) if an extension of time in which to appeal is sought, the ground of opposition if any.
- (4) The response to the statement of facts issues and contention must be accompanied by an affidavit exhibiting a copy of any expert report by a valuer addressing the value of the land or thing obtained by the respondent.

Chapter 6—Case management

[Part 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 1—*****

[Part 2 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 2—*****

[Part 3 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 3—*****

Part 4—Listing of actions for trial

30—Proceeding to trial

- (1) The Court may at any time fix the trial date or the date at which a trial date will be fixed.
- (2) The Court may fix a trial date or trial listing date under subrule (1) even though, when the Court makes that order, the action is not ready for trial.
- (3) When the Court makes an order under subrule (1), it is the responsibility of the parties to ensure that the action is ready for trial at the fixed trial date or the trial listing date, as the case may be.

[subrule 30(4) substituted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (4) If an action will not be ready for trial at the fixed trial date or trial listing date, as the case may be, a party becoming aware of that fact must, as soon as practicable, file and serve an interlocutory application in the prescribed form set out in Schedule 7 to the Uniform Civil Rules seeking appropriate orders from the Court.

Prescribed form—

Form 77 Interlocutory Application

Chapter 7—Pre-trial procedures

[Part 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 1—*****

[rule 31 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

31—*****

Part 2—Interlocutory steps generally

[rule 31 inserted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

31—Directions hearing

- (1) Directions hearings will generally be presided over by a Judge of the Court.
- (2) The purpose of directions hearings is to—
 - (a) ascertain whether the matter can be resolved by settlement;
 - (b) crystallise the issues in dispute; and
 - (c) ensure that the matter proceeds as expeditiously and efficiently as possible to trial.

[Division 1 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Division 1—*****

[rule 32 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

32—*****

[Part 3 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 3—*****

[Part 4 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 4—*****

[Part 5 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 5—*****

[Part 6 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 6—*****

[Part 7 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 7—*****

Part 8—Admissions

33—Notice to admit matters in expert reports

- (1) A party may, with the permission of the Court, give notice to another party (an expert report notice to admit) asking the other party to admit—
 - (a) all facts identified in an expert report by the expert as being true or as being assumptions of fact assumed by the expert to be true;
 - (b) the authenticity, relevance and admissibility of all documents annexed to an expert report; and/or

- (c) the truth of statements contained in all documents annexed to an expert report.
- (2) An expert report notice to admit is given by—
 - (a) filing the notice in the Court; and
 - (b) serving the notice on the party asked to make the admission.

34—Response to notice to admit

[subrule 34(1) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (1) A party to whom an expert report notice to admit is addressed (the *recipient*) is, within 14 calendar days after the notice is given or a longer time agreed by the parties or allowed by the Court, to give a notice (an *expert report notice of response*) responding to the notice to admit—
 - (a) by admitting the assertion; or
 - (b) by—
 - (i) denying the assertion and stating the grounds of the denial; or

[subpara 34(1)(b)(ii) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (ii) stating that the recipient is not in a position to admit or deny the assertion and explaining why the recipient is not in a position to do so; or
 - (iii) claiming privilege or some other proper ground for refusing to respond to the assertion.

[subrule 34(2) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (2) If the recipient fails to respond to an assertion in an expert report notice to admit as required by subrule (1), the recipient is taken to have admitted the assertion.
- (3) An expert report notice of response is given by—
 - (a) filing the notice in the Court; and
 - (b) serving the notice on the party who gave the expert report notice to admit.

35—Applications and orders

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

[para 35(1)(a) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

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

[para 35(1)(b) amended by Land and Valuation Division Rules 2014 (Amendment No. 2)]

- (b) if satisfied that the recipient has denied or failed to admit an assertion without adequate reason for doing so—determine the issue raised by the assertion in advance of the trial.
- (2) If a party unreasonably denies or fails to admit an assertion, the Court will, unless there is good reason for not doing so, order the party to pay costs arising from the denial or failure.

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

[Part 9 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 9—*****

[Part 10 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 10—*****

[Part 11 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 11—*****

[Part 12 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 12—*****

[Part 13 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 13—*****

[Part 14 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Part 14—*****

[Chapter 8 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 8—*****

[Chapter 9 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 9—*****

[Chapter 10 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 10—*****

[Chapter 11 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 11—*****

[Chapter 12 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 12—*****

[Chapter 13 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 13—*****

[Chapter 14 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 14—*****

[Chapter 15 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 15—*****

[Chapter 16 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 16—*****

[Chapter 17 deleted by Land and Valuation Division Rules 2014 (Amendment No. 2)]

Chapter 17—*****

History of Amendment

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
4(1)	am am02	18 May 2020
4(2) (definition)	del am02 ins am02	18 May 2020 18 May 2020
5(2)	am am02	18 May 2020
5(3)	am am02	18 May 2020
5(4)	del am02	18 May 2020
Chapter 2 Part 1	del am02	18 May 2020
8	del am02	18 May 2020
9	del am02	18 May 2020
Chapter 2 Part 3	del am02	18 May 2020
Chapter 2 Part 4 Div 1	del am02	18 May 2020
10(2)	am am02	18 May 2020
10(4)	am am02	18 May 2020
Chapter 2 Part 5	del am02	18 May 2020
Chapter 3 Part 1	del am02	18 May 2020
Chapter 3 Part 2 heading	am am02	18 May 2020
Chapter 3 Part 2 Div 1	del am02	18 May 2020
Chapter 3 Part 2 Div 2	del am02	18 May 2020
11	sub am02	18 May 2020
12	sub am02	18 May 2020
13	am am02	18 May 2020
13(f)	am am02	18 May 2020
14	am am02	18 May 2020
14(f)	am am02	18 May 2020
15	ins am02 del am02	18 May 2020 18 May 2020
15(2) Note	ins am01	1 December 2015
16	sub am02	18 May 2020
17	sub am02	18 May 2020
18(1)	sub am02	18 May 2020
Chapter 3 Part 4 (entire)	del am02	18 May 2020
Chapter 4 Part 1 Div 1 (entire)	del am02	18 May 2020
Chapter 4 Div 2 heading	del am02	18 May 2020
21	sub am02	18 May 2020
Chapter 4 Part 2 (entire)	del am02	18 May 2020
22	del am02	18 May 2020
23	del am02	18 May 2020
25(2)	am am02	18 May 2020
25(3)	am am02	18 May 2020

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
25(6)	am am02	18 May 2020
26(3)	am am02	18 May 2020
27	del am02	18 May 2020
28	sub am02	18 May 2020
29	sub am02	18 May 2020
Chapter 6 Part 1 (entire)	del am02	18 May 2020
Chapter 6 Part 2 (entire)	del am02	18 May 2020
Chapter 6 Part 3 (entire)	del am02	18 May 2020
30(4)	sub am02	18 May 2020
Chapter 7 Part 1 (entire)	del am02	18 May 2020
31	ins am02	18 May 2020
Chapter 7 Part 2 Div 1 (entire)	del am02	18 May 2020
Chapter 7 Part 3 (entire)	del am02	18 May 2020
Chapter 7 Part 4 (entire)	del am02	18 May 2020
Chapter 7 Part 5 (entire)	del am02	18 May 2020
Chapter 7 Part 6 (entire)	del am02	18 May 2020
Chapter 7 Part 7 (entire)	del am02	18 May 2020
34(1)	am am02	18 May 2020
34(1)(b)(ii)	am am02	18 May 2020
34(2)	am am02	18 May 2020
35(1)(a)	am am02	18 May 2020
Chapter 7 Part 9 (entire)	del am02	18 May 2020
Chapter 7 Part 10 (entire)	del am02	18 May 2020
Chapter 7 Part 11 (entire)	del am02	18 May 2020
Chapter 7 Part 12 (entire)	del am02	18 May 2020
Chapter 7 Part 13 (entire)	del am02	18 May 2020
Chapter 7 Part 7 (entire)	del am02	18 May 2020
Chapter 8 (entire)	del am02	18 May 2020
Chapter 9 (entire)	del am02	18 May 2020
Chapter 10 (entire)	del am02	18 May 2020
Chapter 11 (entire)	del am02	18 May 2020
Chapter 12 (entire)	del am02	18 May 2020
Chapter 13 (entire)	del am02	18 May 2020
Chapter 14 (entire)	del am02	18 May 2020

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
Chapter 15 (entire)	del am02	18 May 2020
Chapter 16 (entire)	del am02	18 May 2020
Chapter 17 (entire)	del am02	18 May 2020