

**DISTRICT COURT PRACTICE DIRECTIONS TO OPERATE
IN CONJUNCTION WITH THE DISTRICT COURT CIVIL RULES 2006**

Part I – Practice Directions

(These Practice Directions are made by the Chief Judge pursuant to Rule 11.)

These Practice Directions only apply on and after 4 September 2006 and to actions which are governed by the District Court Civil Rules 2006. All Practice Directions made prior to that date are superseded by these Directions except in relation to actions governed by the old Rules for which purpose they continue to apply.

Expressions in the Practice Directions bear the meanings given to them in Rule 4.

These Practice Directions may be referred to as the District Court Practice Directions 2006.

These Practice Directions are the same as the corresponding Supreme Court Practice Directions unless indicated otherwise, and if a Supreme Court Practice Direction is inappropriate, there will be a gap in the sequential numbering.

These Practice Directions have been amended by:

	<i>Date of Operation</i>	
Amendment # 1	1 May 2007	
Amendment # 2	1 January 2008	
Amendment # 3	1 June 2008	
Amendment # 4	1 July 2008	<i>[forms only]</i>
Amendment # 5	1 January 2009	<i>[forms only]</i>
Amendment # 6	1 March 2009	<i>[forms only]</i>
Amendment # 7	1 April 2009	
Amendment # 8	1 November 2010	
Amendment # 9	31 August 2009	
Amendment # 10	23 December 2009	
Amendment # 11	1 May 2010	<i>paragraphs 1-11, 12(b), 13, 15-17</i>
	1 July 2010	<i>paragraphs 12(a) and 14 [forms only]</i>
Amendment # 12	1 July 2010	
Amendment # 13	1 October 2010	
Amendment # 14	9 November 2010	
Amendment # 15	1 February 2011	
Amendment # 16	12 September 2011	<i>[forms only]</i>
Amendment # 17	1 April 2012	
Amendment # 18	1 December 2012	
Amendment #19	1 May 2013	

PART 1 – PRACTICE DIRECTIONS

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Chapter 1 – Registry Practice

Direction 1.1 – Searching Court Files (Rule 18)

- 1.1.1 The permission of the Court under section 131(2) of the *Supreme Court Act 1935* and section 54(2) of the *District Court Act 1991* may be sought by letter or email to the Registrar and without notice to any party or person interested.
- 1.1.2 Unless the Court has otherwise ordered, a party to an action may inspect or obtain copies of documents held on the court file for that action by an informal request to the Registry. Insofar as such documents are documents produced by third parties on subpoena, Rule 179 must be used.

Direction 1.2 – Transacting Business through the Civil Registry

- 1.2.1 The Civil Registry is open for business from 9.30am to 4.30pm each day except on Saturdays, Sundays, Public Holidays and the days between Christmas Day and New Year's Day.
- 1.2.2 For the purposes of Rule 5(5) the Christmas vacation is from Christmas Day in one year until, but not including, the second Monday in January in the following year.
- 1.2.3 Where it is sought to file or lodge documents, or to arrange for an urgent hearing by a Judge or a Master, at a time other than when the Registry is normally open for business the applicant should phone the after hours business number (Supreme Court (08) 8204 0494 and District Court (08) 8204 0301). The number will provide the current contact details of the rostered on call officer. If that officer is satisfied about the urgency of the request, he or she will arrange for the opening of the Registry and/or for a special hearing before a Judicial Officer.
- 1.2.4 Other than with the prior permission of the Judicial Officer no lawyer or litigant is to contact a Judicial Officer to seek any urgent hearing.
- 1.2.5 Unless waived under section 130(2) of the *Supreme Court Act* or section 53(2) of the *District Court Act* substantial fees are payable under the Regulations for opening the Registry out of hours and for holding special hearings of the Court.

Direction 1.3 – Facsimile Copies of Affidavits (Rule 162)

- 1.3.1 Other than where Rule 47 applies the signatures on an affidavit must be originals and not copies. A lawyer lodging or producing an affidavit to the Court impliedly warrants to the Court that the signatures on the documents are originals and not copies.
- 1.3.2 In cases of urgency where it is impossible for the lawyer to obtain the signed original copy of the affidavit before the hearing the lawyer may himself/herself swear an affidavit exhibiting a copy of the affidavit bearing facsimile signatures.

Direction 1.4 – Recording Orders and Directions

- 1.4.1 As soon as practicable after a Judicial Officer has pronounced an order or direction its contents are to be entered into the Court's computer system. A hard

copy as signed by the Judicial Officer or some person delegated by the Judicial Officer for that purpose is to be placed onto a hard copy Court file.

Direction 1.5 – Form of Sealed Judgments and Orders (Rule 241)

1.5.1 The front sheet for each sealed order is to be in accordance with Form 1 in Part 2. The nature of the order should be specified under “DOCUMENT TYPE”, eg JUDGMENT ON APPEAL.

1.5.2 The preamble to judgments and orders will be as follows:
Supreme Court Judge: The Honourable Justice
Supreme Court Master: His/Her Honour Judge
District Court Judge: His/Her Honour Judge
District Court Master: Master
Date of notice of appeal/summons/application:
Application made by: Plaintiff/Defendant, etc
Date(s) of hearing/trial:
Date of order:
Appearances: [Name] Lawyer/Counsel for the Plaintiff
[Name] Lawyer/Counsel for the Defendant, etc
(if E-application – E-application by consent)
Undertaking: (where applicable)
The Court orders (or declares) that:OR
By Consent the Court orders that:

1.5.3 This Practice Direction is subject to the provisions of the Corporations Rules 2003 (South Australia).

1.5.4 In the case of orders of the Full Court the Judges will be named as follows:
The Honourable the Chief Justice and Justices
.....and
.....
OR
The Honourable Justices
..... and
.....

1.5.5 When an attendance is certified fit for counsel by the Judge or Master, the following shall be added immediately after the last numbered paragraph of the order:

“Fit for counsel” *or*

“Fit for counsel in respect of attendances on [date(s)].”

- 1.5.6 The text of orders set out in the Common Form Judgments and Orders, as published by the Supreme Court, is to be used with the appropriate modifications to suit the circumstances of the case.
- 1.5.7 Where a detailed order is sought by summons or application, minutes of order must be filed with the summons or application and served on any party to be served.

Direction 1.6 – Suitors Fund (Rules 189-91)

- 1.6.1 Every order which directs funds to be lodged in Court is to contain:
- 1.6.1.1 The name, or a sufficiently identifying description, of the person by whom the funds are to be lodged.
 - 1.6.1.2 The amount, if ascertained, and the description of the funds.
- 1.6.2. A person lodging funds in Court is at the time of lodgment to furnish to the Registrar a pay-in slip in the form directed by the Registrar containing:
- 1.6.2.1 The title of the proceedings in relation to which the funds are lodged.
 - 1.6.2.2 The ledger credit to which the funds are to be credited.
 - 1.6.2.3 The description and amount of the funds lodged.
 - 1.6.2.4 The full names, address and description of the person lodging the funds.
 - 1.6.2.5 Particulars of the order or any other authority under which the lodgment is made and any other details showing the circumstances under which the lodgment is made.
- 1.6.3 The title of the account to which the funds are to be credited may be determined by the Registrar.
- 1.6.4.1 Any moneys which a person is entitled to have paid out to him/her may be paid out to him/her or to his/her attorney, appointed under a power which the Registrar deems sufficient, on the written request of such person or attorney, or to the lawyer of such person or attorney on the written authority of such person or attorney.
 - 1.6.4.2 Every such request or authority is to be in the form in paragraph 1.6.13 below and be attested by a commissioner for taking affidavits, a notary public, a justice of the peace or a proclaimed bank manager.
- 1.6.5 If the person entitled to payment out of any funds in Court or the attorney of any such person, appointed under a power which the Registrar deems sufficient, gives the Registrar instructions in writing to remit the money to such person or attorney by cheque sent by post the Registrar may at his discretion remit the money in accordance with the instructions.
- 1.6.6 Where money is, by an order, authorised to be paid to one person or a lawyer on the authority of another person, the signature to the authority must be attested by one of the persons mentioned in paragraph 1.6.4.2 hereof.

- 1.6.7 Where funds in Court are directed to be paid to any person who is deceased they may, unless the order otherwise directs, be paid to the administrator or executor, of the deceased person.
- 1.6.8 Where money in Court is, by an order, directed to be paid to any persons described therein as partners, or as trading or carrying on business in the name of a firm, such money may be paid to any one or more of such persons, unless the order otherwise directs.
- 1.6.9 The Registrar, upon a request signed by or on behalf of a person claiming to be interested in any funds in Court standing to the credit of an account specified in such request, may, in his/her discretion, issue a certificate of the amount and description of such funds, and such certificate shall have reference to the morning of the day of the date thereof, and shall not include the transactions of that day.
- The Registrar shall notify on such certificate:
- 1.6.9.1 The date of any order restraining the transfer, sale, delivery out, payment out, or other dealing with the funds in Court to the credit of the account mentioned in such certificate, and whether such order affects capital or interest.
- 1.6.9.2 Any charging order affecting such funds, of which the Registrar has received notice, and the names of the persons to whom notice is to be given, or in whose favour such restraining or charging order has been made.
- 1.6.9.3 The Registrar may re-date any such certificate, provided that no alteration in the amount or description of the funds has been made since the certificate was issued.
- 1.6.10 Upon a request signed by or on behalf of a person claiming to be interested in funds in Court, the Registrar may, in his/her discretion issue a transcript of the account in the books of the Court specified in such request, and, if so required by the person to whom it is issued, such transcript shall be authenticated by the Auditor-General.
- 1.6.11 The Registrar may also upon a like request supply such other information or issue such certificates with respect to any transactions or dealings with funds in Court as may from time to time be required in any particular case.
- 1.6.12 The Registrar need only pay out funds in Court upon being satisfied of the identity of the person entitled to receive them.

1.6.13

REQUEST FOR PAYMENT OUT

(action heading)

I of
.....

in the State of South Australia REQUEST that \$.....standing in Court to the credit of this action in the account numbering..... together with all interest accrued thereon to the date of payment be paid topursuant to the orderof.....dated the.....day of..... 20.....

DATED this.....day of..... 20.....

.....

Witness

(JP or Commissioner etc.)

Direction 1.7 – Form and Content of Documents Filed or Lodged at Court

1.7.1 Unless otherwise authorised all hard copy documents prepared for filing or lodgement in the Court are expected to:

- 1.7.1.1 be in the English language;
- 1.7.1.2 be on substantial A4 size white bond paper;
- 1.7.1.3 have single spacing between the lines (unless the document is one which is to be settled by the Court, in which case, double spacing is to be used);
- 1.7.1.4 have double spacing between the paragraphs;
- 1.7.1.5 be typed or printed so as to be completely legible in not less than size 12 font except for quotations which may be in size 10 font;
- 1.7.1.6 have margins of 4 centimetres to the left and 2 centimetres to the right;
- 1.7.1.7 be typed or printed on one side of the page only;
- 1.7.1.8 be paginated;
- 1.7.1.9 have figures and amounts of money expressed in numerals and not in words; and
- 1.7.1.10 have all erasures or handwritten additions authenticated.

1.7.2 If the Registrar is satisfied that a self represented litigant is unable to comply with Direction 1.7.1, the Registrar may accept the document for filing, providing that it is legible and able to be filed conveniently.

- 1.7.3 When there is substantial non-compliance with paragraph 1.7.1 the Registrar may refuse to accept the document for filing.

Chapter 2 – Electronic Technology

Direction 2.1 – Guidelines for the Use of Electronic Technology

Introduction

- 2.1.1 The purpose of this Practice Direction is to provide for the use of information technology in the processes of civil litigation, including actions commenced utilising the Electronic Filing System of the Courts Administration Authority, and in case management generally.
- 2.1.2 Parties to litigation are encouraged to develop, at an early stage, an agreement (“protocol”) for the electronic provision of information.
- 2.1.3 The Court may direct parties to any proceedings to use technology in accordance with the provisions of the Rules and Practice Directions.
- 2.1.4 The ability of the Court to support the use of technology will depend upon the resources available to it from time to time.
- 2.1.5 Practitioners and litigants should consider the CHECK LIST OF TECHNOLOGY ISSUES and the GUIDELINES - POSSIBLE FIELDS FOR DATABASE, both of which are available on the CAA website.
- 2.1.6 It is the responsibility of all parties to take appropriate steps to protect their own systems from viruses and other malicious code. When the Rules or Practice Directions require the service or provision of electronic information of any kind, the sender and recipient should check the information for viruses and other malicious code.

Matters to be Considered in every Case.

- 2.1.7 In every case parties must consider:
- 2.1.7.1 creation of electronic lists of disclosable documents;
 - 2.1.7.2 disclosure of documents by electronic means in accordance with an agreed protocol;
 - 2.1.7.3 provision for inspection of disclosed material by way of images; and
 - 2.1.7.4 provision of documents used in litigation including pleadings, disclosed documents, written statements of evidence, pre-trial written questions and answers, notices to admit and notices of response, schedules of costs and notices of dispute, Scott Schedules and responses, and written submissions, in electronic form.
- 2.1.8 When the number of documents likely to be disclosed is more than 500, or when the estimated length of hearing is more than four weeks, the parties must:
- 2.1.8.1 develop a protocol for the electronic provision of documents in an agreed electronic format using agreed fields and must consider the use of document images;
 - 2.1.8.2 consider whether the case warrants the engagement of an electronic litigation support provider and the use of real time transcript.
- 2.1.9 The protocol should be agreed prior to the service of the parties’ first list of documents unless the need for the protocol is not apparent at the time, in which

case, the protocol should be agreed as soon as practicable after the need becomes apparent.

2.1.10 At directions hearings, the Court may make orders that parties confer on the use of technology:

2.1.10.1 to provide information about their disclosable documents, the documents to be used at trial and imaged copies of such documents;

2.1.10.2 to manage information in the proceedings generally.

2.1.11 When the use of technology is raised by any party in a matter other than that to which direction 2.1.8 applies, each party should address the matters referred to in directions 2.1.8.1, 2.1.8.2 and 2.1.10 and should have regard to the CHECK LIST OF TECHNOLOGY ISSUES and to the GUIDELINES – POSSIBLE FIELDS FOR DATABASE, both of which are on the CAA website.

Electronic Disclosure of Documents

2.1.12 When the parties have agreed, or the Court has directed, that disclosure should be given by providing details of the documents in an electronic format, before disclosure is made:

2.1.12.1 the parties should endeavour to reach agreement on the protocol to be used; and

2.1.12.2 if agreement cannot be reached, the parties should seek a direction from a Master as to the specific protocol to be used.

2.1.13 Parties should make all reasonable efforts to agree on:

2.1.13.1 the medium to be used to provide data concerning their disclosable documents and/or images of the documents;

2.1.13.2 how data should be delimited;

2.1.13.3 the format of the data;

2.1.13.4 how the parties will record the date of service of the data and ensure that the party providing the data and the nature of the data may be readily identified;

2.1.14 Parties should consider providing data relating to their disclosable documents to the Court electronically (in addition to any hard copy list that may be required).

Electronic Service of Documents

2.1.15 When a party is required to serve a document in hard copy on another party, that party must, on the request of the receiving party, provide an electronic copy of that document.

2.1.16 A party may not be entitled to the costs of photocopying a document if that document could have been provided electronically.

2.1.17 Subject to paragraph 2.1.18, when a party provides the Court or another party with a document in electronic format, that document shall contain the same text and images as a paper copy (if produced).

2.1.18 When a document contains annexures, the party will normally be expected to provide an electronic version of those annexures together with the electronic

version of the host document, unless there is good reason for not supplying such annexures in an electronic format.

- 2.1.19 When appropriate, the parties should prepare a document in a structured format, such as HTML, so that hypertext links can be made where appropriate. For example, if a document refers to a Document ID, a hypertext link can be made to the relevant document image. This should be done in all written statements of evidence and expert reports to be used at trial.
- 2.1.20 Parties should make all reasonable efforts to agree, and in the absence of agreement, should seek a direction from the Registrar regarding:
- 2.1.20.1 the format in which electronic versions of documents will be provided;
 - 2.1.20.2 the methods by which electronic versions of documents are to be provided.
- 2.1.21 The Court may direct a party to provide it with copies of documents in a specified electronic format.
- 2.1.22 The protocol for the electronic provision of documents adapted to the needs of a particular case should:
- 2.1.22.1 list the fields to be used to describe each document in addition to those fields required by Form 20;
 - 2.1.22.2 focus particularly on the Document ID and Document Type fields (see Guidelines - Possible Fields for Database on the CAA website);
 - 2.1.22.3 when documents are to be imaged, identify the resolution, compression type and format to be used, whether images are to be reduced to A4 size (if the original is larger), whether they are to be prepared in colour or black and white (eg for colour photographs);
 - 2.1.22.4 identify how image files and directories are to be named and structured;
 - 2.1.22.5 indicate how disclosure lists and images (if any) are to be provided or offered for inspection (eg hard copy, CD Rom, disk, email, images, photographs etc);
 - 2.1.22.6 identify the format or structure for the provision of lists and images if they are to be produced (eg hard copy, word processing format, spreadsheet format, pre-defined database structure designed for import to a litigation support package etc);
- and
- 2.1.22.7 identify any other issues associated with the use of technology at the trial.

Use of Technology at the Hearing

- 2.1.23 When it is considered appropriate, the Court may direct the parties to confer with, or to engage, an electronic litigation service provider.
- 2.1.24 Subject to any direction of the Court otherwise, parties are encouraged to consider the use of electronic data at trial, and in particular to use electronic data for:

- 2.1.24.1 the basis for an index to agreed documents;
- 2.1.24.2 creation of a database of documents admitted into evidence and rulings on the admissibility of documents; and
- 2.1.24.3 management of information in the proceedings generally;
- 2.1.25 At least 24 hours prior to the hearing, to deliver to the trial Judge's Associate electronic versions of court documents to be used to supplement any hard copy documents which may have been lodged with the Registry;
- 2.1.26 To liaise with the Associate in relation to the use of such technology in court;
- 2.1.27 To advise the Court of the equipment and services (including appropriate hardware, software and additional infrastructure) which may be required at the trial;
- 2.1.28 To advise the Court of any special arrangements which may be required to ensure that appropriate equipment and services are available at the hearing.

Direction 2.2 – Electronic Filing of Documents Transitional

- 2.2.1 Rule 45 vests in the Registrar the responsibility for maintaining an electronic Case Management System to enable registered users to file documents in electronic form, to serve such documents electronically, to enable the transmission of electronic communications and to facilitate court proceedings by enabling the Court to call up filed documents and other information concerning them in screen readable form. This Direction applies only to all actions commenced on or after the date of operation of the *Supreme Court Rules 2006*, by legal practitioners who register pursuant to Rule 46, or have already registered, as users of the Courts Administration Authority (CAA) Electronic Filing System (EFS).
- 2.2.2 The reasonable requirements of litigants in person (including handicapped or disabled persons) and others not having the present technical capacity of dealing with the Court electronically will continue to be met by provision of appropriate registry counter facilities suitable for the needs of those concerned.

Electronic Communication

- 2.2.3 Where an action is commenced by a registered user of the EFS, the primary method of communication by legal practitioners and parties in person with the Court shall be by an electronic communication, utilising the relevant function on the Internet Website of the CAA ("the CAA Website") established for the purpose.
- 2.2.4 If a person is required or permitted to give information in writing or produce a document that is in the printed or typewritten form to either:
 - 2.2.4.1 the Court; or
 - 2.2.4.2 a person who has advised either
 - 2.2.4.2.1. the Registrar; or
 - 2.2.4.2.2 the person giving the information or producing the document,of their willingness to receive information by means of an electronic communication,

that requirement is taken to have been met if the person gives the information, or produces the document, by means of such a communication.

- 2.2.5 If the Court is required to give information to a person in writing, and that person is a registered user, or has advised the Registrar of his/her willingness to receive information by means of an electronic communication, that requirement is taken to have been met if the Court gives the information by means of such a communication.
- 2.2.6 A person who has an e-mail address must state that address on any documents or communication filed, served or given. The publishing of an e-mail address in such a manner indicates a willingness, thereafter, to receive information, at that address, by means of an electronic communication from both the Court and other parties or persons.
- 2.2.7 Information sent to the Registrar by facsimile transmission must be:
- 2.2.7.1 sent to the approved facsimile number for the Court; and
 - 2.2.7.2 accompanied by a cover sheet clearly stating:
 - 2.2.7.2.1 the sender's name, postal address, document exchange number (if any), telephone number, facsimile number and e-mail address (if any); and
 - 2.2.7.2.2 the number of pages transmitted; and
 - 2.2.7.2.3 what action is required in relation to the content.
- 2.2.8 If the information comprises a document that is required to be signed or sealed by or on behalf of the Registrar, and is accepted, the Registrar will:
- 2.2.8.1 if the sender requests that the document be held for collection - hold it for collection for 7 days; and
 - 2.2.8.2 if the sender does not request the document to be held for collection, or having made a request does not collect the document within 7 days - return the document by facsimile transmission to the facsimile number stated on the cover sheet.
- 2.2.9 A person who sends information to the Registrar by facsimile transmission must:
- 2.2.9.1 keep the original information and the transmission report evidencing successful transmission; and
 - 2.2.9.2 produce the original information or the transmission report as directed by the Court.
- 2.2.10 If the Court directs that the original information be produced, the first page of it must be endorsed with:
- 2.2.10.1 a statement that the information is the original of that sent by facsimile transmission; and
 - 2.2.10.2 the date that the information was sent by facsimile transmission.

Mode of Introduction of Electronic Filing System (EFS)

- 2.2.11 It is proposed that in actions utilising the EFS:

- 2.2.11.1 The primary record of proceedings is to be an electronic file, supplemented by such hardcopy materials as may be needed for use in specific hearings or trials;
 - 2.2.11.2 To the maximum extent feasible, matters will be dealt with "on-screen" and with production of only the minimum amount of hardcopy material required;
 - 2.2.11.3 The primary method of communication by practitioners with the Courts is to be through the CAA Web site, in a manner conforming with technical standards from time to time promulgated by the Courts; and
 - 2.2.11.4 The input of documents into the EFS in relation to new actions is by means of templates accessed through the CAA Web site by registered users. These require input of variable data, as appropriate, by registered users or through facilities provided in the registry, that will be incorporated into the relevant forms prescribed by the Practice Directions. Those forms have specifically been designed to facilitate data input in a manner that is suitable for e-business operations.
- 2.2.12 Where an action is commenced by a registered user using the EFS, all documents thereafter filed with, served on, or delivered to the Registrar in the matter, by any party, must, subject to this Practice Direction, be so filed, served or delivered using the EFS. If it is impractical for a party, or the legal representative of the party, to become a registered user, any document to be filed by or on behalf of the party will have to be in electronic format on diskette, brought to the registry for uploading; or will need to be scanned into the electronic file at the registry, from a hard copy suitable for that purpose.
- 2.2.13 It is not feasible to accommodate any pending proceedings that are based on a hardcopy record within the EFS. They will need to be carried through to completion in hardcopy format.
- 2.2.14 Principles, guidelines and standards for the EFS are those set out in Annexure A as appearing at the end of this Direction 2.2.
- 2.2.15 The EFS is accessed through the CAA Web site at www.courts.sa.gov.au. To effect access, the cursor should be positioned on "e lodgement" under the subheading "Courts".

Registration as a User

- 2.2.16.1 A firm or sole legal practitioner may become a registered user of the EFS by accessing the registration template on the CAA Web site and entering the appropriate data.
- 2.2.16.2 Registered user status will only be accorded to the holder for the time being of an alpha/numeric designator (commonly referred to as "*the Law Firm number*") issued by the Law Society of South Australia ("the Society") to a firm or sole legal practitioner for practice identification purposes ("L Code").
- 2.2.16.3 The Registrar will not permit registration unless satisfied, in accordance with Rule 46, that proper arrangements have been made, on application for registration, for timely payment of all court fees becoming due in respect of any electronic transactions initiated by the proposed registrant.

Electronic Authentication and Security of Passwords

- 2.2.17.1 Upon registration a registered user shall nominate:
- 2.2.17.1.1 the alpha/numeric designator (commonly referred to as “*the practitioner number*”) issued by the Society to each individual legal practitioner entitled to practice in South Australia for personal identification purposes (“the P Code”) in respect of each practitioner for the time being authorised by the user to operate the electronic filing system for and on behalf of that user; and
 - 2.2.17.1.2 ensure that each such practitioner thereafter nominates, by way of authentication code, a separate related password in respect of that person. Such password shall consist of not less than 8 characters, one of which must be numeric, and not more than 20 characters.
- 2.2.17.2 The last mentioned password shall conform to the technical requirements specified from time to time by the Registrar.
- 2.2.17.3 An authorised practitioner will not be permitted to operate the EFS without first entering a current valid electronic authentication code for that practitioner.
- 2.2.17.4 It is the obligation of each registered user (the L Code holder), forthwith, to inform the CAA, through the Society by such means as the Registrar may from time to time direct, of any change in the particulars contained in the application to become a registered user and, specifically, of any change in the details of authorised agents (the P Code holders) who may operate on their account. Until receipt of notice of revocation of the nomination of a person as an authorised agent, such person will be deemed to continue as the authorised agent of the registered user, who shall be bound by and responsible to the Court for the actions of the authorised agent.
- 2.2.17.5 Each transaction on the EFS must be initiated by an authorised agent on behalf of a registered user. The input of the P Code and password of that person will, for all purposes, conclusively establish the relevant authorised agent as the initiator of the transaction.

Security of Authentication Code

- 2.2.18.1 A registered user shall ensure the confidentiality and security of any electronic authentication codes assigned by it to all authorised practitioners and shall take reasonable steps to prevent unauthorised use of them.
- 2.2.18.2 It is the responsibility of a registered user to ensure that its registration details are forthwith amended when a practitioner ceases to be authorised to operate the electronic filing system on behalf of that user.
- 2.2.18.3 Until any such amendment is made, the registered user will be bound by the actions of each authorised practitioner nominated by it.

Submission of Documents to the Court

- 2.2.19.1 Documents may be submitted by or on behalf of a registered user to the Court via the EFS at any time on any day on which the EFS is operational. The system will be operational 24 hours per day, 7 days per week, except that, initially, any document in respect of which a filing fee is payable may only be processed for filing between the hours of 9 am and 4.30 pm, Monday to Friday.

- 2.2.19.2 Documents presented on diskette or in hard copy may only be so presented during hours in which the registry is normally open for business, unless the Registrar shall otherwise direct in a particular case.

Hard Copy Documents

- 2.2.20.1 The Registrar may, at any time, request a party to supply the registry with hard copies of any documents filed electronically.
- 2.2.20.2 Upon such request the filing party or the solicitor for such party must furnish hard copies of the relevant documents within such reasonable time frame as is specified by the Registrar.
- 2.2.20.3 The Registrar may also direct that any or all documents in proceedings be filed in hard copy, instead of using the EFS, for such period or periods as the Registrar may nominate.

Form of Documents

- 2.2.21.1 Where a document is to be filed using the EFS, the prescribed form and the input template related to it shall be used, unless there is good reason not to do so. If the circumstances of a case require departure from the prescribed form, the document shall be input using Form 40 [*Other Documents*] and the input template related to it.
- 2.2.21.2 All such documents shall, as far as possible, be, and print out in hard copy as, A4 in size, and the first page of the document must be A4 in size.
- 2.2.21.3 Provision should be made, in its preparation, for the sequential, paragraph numbering of each document in a filing, commencing with “1” in each instance.
- 2.2.21.4 The layout of the first page of each document filed should conform to Form 1.
- 2.2.21.5 Provision is to be made for a field on the top of the first page of each document submitted, in which the sequential identification number of the document within a file (“*the file document number*” or “*FDN*”) may be inserted.
- 2.2.21.6 The title or description of each document, as appearing on the first page of it, is to be reproduced at the top of each subsequent page. Where relevant, it must (as appropriate) include reference to the party making it, or on behalf of whom it is to be filed.
- 2.2.21.7 The EFS contains electronic templates capable of receiving all prescribed forms. Provided that a practitioner’s practice management system can supply data in a format conforming to LegalXML, it will be possible for data to be loaded directly from such system into the EFS using the bulk lodgement facility, as an alternative to keying such data in to the relevant electronic templates.

Endorsements on Documents

- 2.2.22 Where it is necessary, in conformity with the Rules or a direction of the Court, to include endorsements on any document:
- 2.2.22.1 If an endorsement can be made prior to the filing or issue of the document, that endorsement must be incorporated into the document before it is issued or filed.
- 2.2.22.2 If an endorsement must be made on a document that has already been filed or issued, a fresh copy of that document containing the relevant

endorsement must be prepared and the document must be re-filed or re-issued, as the case may be.

Annexures

- 2.2.23. Each annexure to an electronic document must be filed as a separate document in the proceedings.

Documents Incapable of Conversion to Electronic Form

- 2.2.24 In the case of documents (including exhibits or annexures) which, in whole or in part, cannot, for technical reasons, be directly converted into a readable electronic form by scanning, the following directions apply:

- 2.2.24.1 The originals of any such document must physically be lodged in the Registry.
- 2.2.24.2 A copy of the entire document, including any parts that can directly be converted into an electronic form and those that cannot be so converted, must be produced in a form which is capable of being effectively scanned. That copy is to be scanned in a format compatible with and submitted through the EFS for filing. It is to be endorsed at the top “COPY OF ORIGINAL LODGED IN REGISTRY”.
- 2.2.24.3 An appropriate scanner will be available in the Registry to meet the needs of any party who does not otherwise have reasonable access to scanning facilities compatible with the EFS.

Date and Time of Filing

- 2.2.25.1 When a document is transmitted to the Registrar using the EFS and is subsequently accepted by the Registrar, the receipt issued pursuant to Rule 49 as to time of filing will indicate the date and the time that the final part of the transmission of that document was received into the EFS.
- 2.2.25.2 When an originating process is transmitted to the Registrar for filing and issue using the EFS and it is subsequently accepted by the Registrar, the receipt issued pursuant to Rule 49 as to time of issue will indicate the date and the time that the last part of the transmission is received into the system.
- 2.2.25.3 The receipt issued pursuant to Rule 49 will, as appropriate to the circumstances, also indicate the file and file document number (FDN), and any date and time allocated for a related hearing. The copy of such notification must be attached, by either electronic or manual means, to a copy of the document before it is served on any party.

Security of Documents

- 2.2.26 The EFS automatically converts any document lodged electronically to Portable Document Format (PDF), so that it will, thereafter, be incapable of amendment, other than by the subsequent filing of another document in accordance with the provisions of Rule 54. This does not apply to draft minutes of order submitted to the Court for its consideration or for settling.

Electronic Disclosure of Documents

- 2.2.27 Where original disclosure has been made electronically any supplementary disclosure must be in the same electronic format.

- 2.2.28 Any indexing of documents pursuant to Rule 141 must conform to the Guidelines for the Use of Technology published in Practice Direction 2.1.

Tender Lists

- 2.2.29 If, in any proceedings, the Court gives a direction for the filing of a notice pursuant to Rule 159, such notice must be in electronic format and conform to the Guidelines published in Practice Direction 2.1.

Subpoenas

- 2.2.30 A request for the issue of a subpoena shall be lodged in the Registry by means of Form 26 through the EFS. If in order, the subpoena will be authenticated and then transmitted electronically to the registered user requesting it. The registered user may then print off hard copies for service. Where a party to proceedings commenced electronically does not have the technical capacity to comply with that requirement such party may submit a request to the Registry in hard copy capable of being scanned. The Registry staff will scan the request into the EFS and the requisite number of hard copies of the subpoena will be printed and supplied to the party requesting them.

Judgment in Default

- 2.2.31 A party desirous of entering a judgment in default of defence may do so by transmitting to the Registrar a request to enter such judgment, lodged by utilising Form 18, together with minutes of a proposed form of judgment for settling in electronic form. Such request shall identify those documents upon which the applicant relies as the basis for the entry of judgment and, itself, be allocated an FDN and filed as a document in the proceedings.

File Inspection and Procurement of Hard Copies of Documents

- 2.2.32.1 Subject to any specific direction by a Judge or Master and the development of the technical facility to support such access, it is proposed that a registered user will be entitled to “*read only*” access to any file on which that user has filed a document. The user may also, subject to any such direction and development, download a paper copy of any of the content of such file.
- 2.2.32.2 A registered user may, by e-mail request to the Registrar explaining the reason for it, seek *read only* access to any other specified file. If the Registrar is satisfied that the request is in accordance with section 131 of the *Supreme Court Act 1935* or section 54 of the *District Court Act 1991* (as the case may be), access and the right to copy will be granted by such means and subject to such conditions as the Registrar shall stipulate.
- 2.2.32.3 Any other person may apply to the Registrar, at the Registry, for permission to search a specified file. If the Registrar is satisfied that such request is in accordance with section 131 of the *Supreme Court Act 1935* or section 54 of the *District Court Act 1991* (as the case may be) approval (or conditional approval) will be granted. In terms of the approval Registry staff will, upon payment of any prescribed fee, assign a computer terminal and associated printer to the inspecting party to enable the inspection to be carried out.
- 2.2.32.4 Certified true paper copies of documents will be issued by the Registrar to any person who demonstrates a proper reason for requesting them. Such issue may be by request, by electronic or paper means, directed to the proper officer in the Registry.

- 2.2.32.5 In the event that access to any document on an electronic file may properly be restricted, such restriction shall be coded on the relevant portion of the file, so as to prevent access in accordance with that restriction.
- 2.2.32.6 The foregoing subparagraphs are to be read subject to (and are not intended to be in extension of) the provisions of section 131 of the *Supreme Court Act 1935* and section 54 of the *District Court Act 1991*. They are subject to the terms of any suppression order which may be made pursuant to Part VIII of the *Evidence Act 1929*.

Affidavits Filed Electronically

- 2.2.33.1 An affidavit shall be filed by transmitting, by authorised electronic communication, an image of the original affidavit, duly sworn in accordance with the Rules, to the Court for filing in an electronic filing system maintained by the Court.
- 2.2.33.2 In the case of a practitioner or party who is not a registered user, the original affidavit, duly sworn in accordance with the Rules, shall be delivered to the registry and scanned into the electronic filing system maintained by the Court.
- 2.2.33.3 Each exhibit to an affidavit filed in the electronic filing system shall be filed as a separate document in the proceedings, except where it is impractical to convert a specific document into electronic format, it shall be filed and lodged in accordance with the directions of the Registrar.
- 2.2.33.4 Each exhibit must be filed as a separate document in the proceedings.
- 2.2.33.5 Each exhibit to an affidavit must be separately book marked, using a type of book marking function compatible with the EFS system.
- 2.2.33.6 The names of the bookmarks are to follow the initials of the maker of the statement eg FN-1, FN-2, etc.
- 2.2.33.7 When, in a proceeding, a deponent swears more than one affidavit to which there are exhibits, the numbering of the exhibits in any affidavit subsequent to the first shall run consecutively throughout and not begin again with each affidavit.
- 2.2.33.8 Related documents (eg correspondence and invoices) may be assembled together and collectively presented as one exhibit. They must, however, be arranged in chronological order (commencing with the earliest), with each page being consecutively numbered through the whole of the exhibit.
- 2.2.33.9 In due course, when the network technology has been upgraded, it will be a requirement that, if the textual portion of the affidavit refers to anything included in the body of an exhibit to the same affidavit, then a hyperlink is to be created from that reference in the text of the affidavit to the document or documents referred to unless, for some reason, it is technically impractical to do so. The link function provided in an approved program should be utilised for that purpose.
- 2.2.33.10 When the deponent to an affidavit desires to refer to any document already exhibited to some other affidavit filed in the proceedings, that document must not again be exhibited to the affidavit then being sworn, but may create a hyperlink to it.
- 2.2.33.11 An affidavit, duly sworn in accordance with the Rules, together with any exhibits thereto, shall also be lodged in the registry in hard copy as soon as practicable

after its filing in electronic format, and, in the case of an exhibit which cannot for some reason be stored in the registry, dealt with as the Registrar shall direct.

Trial Books and Other Documents for Use by the Trial Judge

- 2.2.34.1 Any trial books for use at a hearing (where required) and (where produced) all written opening or final addresses or materials, outlines or submissions should be lodged with the Court by transmission in electronic format through the EFS, utilising Form 40 [*the Other Documents template*], or otherwise in an electronic format medium, unless the Court shall otherwise direct in a particular case. Facilities provided in the Registry may be utilised for that purpose by parties or persons not having the technical capacity to do so.
- 2.2.34.2 The following directions are applicable to all trial books or other materials provided for the use of a trial Judge:
- 2.2.34.2.1 Index pages shall be prepared. However, it will not be essential to include the page number reference in the index.
- 2.2.34.2.2 In addition to such index pages, where the index refers to more than one document within a single Portable Document Format (PDF) file in a bundle, a bookmark should be created in that PDF file for each such reference in the index. There should be as many bookmarks in that PDF file as there are references in the index to documents in that PDF file.
- 2.2.34.2.3 The bookmarking should be effected using the bookmarking function provided in a program compatible with the EFS.
- 2.2.34.2.4 The name given to each bookmark should be the same as the corresponding reference in the index.
- 2.2.34.2.5 If a bundle of documents includes:
- 2.2.34.2.5.1 more than one PDF document;
- 2.2.34.2.5.2 a number of references to *file document numbers* and also PDF documents; or
- 2.2.34.2.5.3 a number of references to *file document number*, then the various PDF documents or *file document number* references, as the case may be, should be arranged chronologically or in some logical order.
- 2.2.34.2.6 The index should act as a hyperlink to each document to which it refers.

Hearings

- 2.2.35.1 It is the intention that, in the long term, unless the presiding judicial officer otherwise directs, hearings involving documents filed electronically, whether in open Court or in Chambers, will be conducted utilising electronic technology. The speed with which that can be accomplished will be governed by the rate at which courtrooms can be appropriately equipped.
- 2.2.35.2 For the purpose of any such hearing practitioners will be given appropriate read only access to the electronic court file at the start of a hearing, by the Judge or Master conducting the hearing.

- 2.2.35.3 Practitioners should use any facility provided for the purpose to access and navigate around the relevant electronic case file. The Judge or Master, and other counsel, should be referred to relevant documents using the appropriate switching devices or links. Counsel may bring their paper copies of documents to Court for their own reference, but these may not be tendered to the Court, save as otherwise provided in this paragraph. If counsel bring electronic copies of their documents, these may not normally be loaded into the Court’s personal computer. Instead, these should be read using counsel’s own notebook or other computer.
- 2.2.35.4 In the event that a practitioner closes down a computer access facility provided in the course of a hearing for any reason, the legal practitioner in question may need to ask the Judge or Master to give that person fresh access to the case file in question.
- 2.2.35.5 At the end of the hearing, or if the hearing is halted for any significant length of time, representatives of parties should close down the access facility provided. This will prevent unauthorised access to the electronic case file. If the facility is not closed down, it may be possible for persons not involved in the case to peruse the documents contained in the electronic case file.
- 2.2.35.6 In the event that a practitioner wishes to refer to case files other than those relating to proceedings that have been listed for hearing, the practitioner should make a request to the Registrar for access to the case file at least one clear day before the day appointed for the hearing.
- 2.2.35.7 All documents for use at any hearing (including outlines and copy authorities) should be filed, using the EFS, at least one clear day in advance of the hearing. In the event that it is not reasonably possible to so file the documents in advance of the hearing, counsel may apply to the Judge or Master conducting the hearing for leave to use paper documents. Counsel will be required to justify non-compliance with the procedures envisaged by this Practice Direction and will normally be asked to give an undertaking to file all such documents in the EFS by the next working day after the hearing. Any document not filed using the EFS will not be included in the Court’s case record.

Presentation of Documents in Electronic Form at Registry for Filing in the EFS

- 2.2.36 Documents presented by a non-registered user at the Registry in electronic form for filing must comply with the following technical requirements:
- 2.2.36.1 The documents must be stored in the following types of portable media:
- 2.2.36.1.1 1.44 Mb 3 1/2 inch floppy diskettes
- 2.2.36.1.2 CD-ROM
- 2.2.36.2 The electronic format of the documents must be:
- 2.2.36.2.1 Microsoft Word 98
- 2.2.36.2.2 Microsoft Word 2000
- 2.2.36.2.3 PDF
- 2.2.36.2.4 TIFF (except files using LZW compression)
- 2.2.36.3 The portable media submitted must be labelled with the name of the person presenting them and the file names of the documents

- contained in it. Unnamed or illegibly named diskettes or other media will be rejected by the Registry.
- 2.2.36.4 Each set of portable media given to the Registry must contain only the documents included in the submission.
- 2.2.36.5 The non-registered user must warrant to the Registry that any portable media presented are virus free and all relevant files are otherwise free of corruption.
- 2.2.36.6 The portable media submitted will be returned to the person filing when the contents have been processed into the EFS.
- 2.2.36.7 Schedules of costs must be submitted in a spreadsheet format, approved by the Registrar.

Court e-mail Addresses and Facsimile Numbers

- 2.2.37 The following e-mail addresses and facsimile numbers are approved for use by persons desirous of communicating with the Court other than via the CAA web site:

e-mail addresses

supreme.registry@courts.sa.gov.au

district.civil@courts.sa.gov.au

Facsimile numbers

Supreme Court Registry - (08) 8212 7154

District Court Registry - (08) 8204 0544

Authentication of Documents by the Court in Lieu of Signature and/or Sealing

- 2.2.38.1 Any document that is required by the Rules or the practice of the Court to be issued under seal will bear a facsimile seal of the Court imprinted by computer.
- 2.2.38.2 Any document that is required by the Rules or the practice of the Court to be authenticated by the signature of a proper officer of the Court will bear upon it a facsimile of the signature of that officer imprinted by computer.

Security of Documents Lodged by Non registered Users

- 2.2.39.1 Upon presentation of the first document for electronic filing in proceedings by a person who is not a registered user, the Registrar will cause such person to be allocated a unique Personal Identification Number (PIN), and will require that person to input into the EFS a separate, confidential alpha/numeric password (consisting of not less than 8 characters, one of which must be numeric, and not more than 20 characters) as a personal electronic authentication code (EAC) in respect of the allocated PIN.
- 2.2.39.2 No document may be filed by such person in the proceedings unless it is first authenticated by that person. Authentication will be by way of typing in his/her PIN, together with its related EAC. Where more than one document is filed on the same occasion it shall only be necessary for the person to provide authentication once in respect of all the transactions.

- 2.2.39.3 By so authenticating the document the person in question warrants that he or she has personally viewed the document on screen, is satisfied that it has been uploaded in the form desired and authorises the filing of it in that form.
- 2.2.39.4 Upon release into the EFS, a document so authenticated shall be capable of *read only* access and may not thereafter be capable of alteration. It may, however, be withdrawn by the party authenticating it by leave of the Court. Any amendment of an authenticated document may only be made in the manner prescribed by Rule 54.

Disclaimer

- 2.2.40 A party or legal practitioner transmitting a document or information electronically either to the Court or to any other party shall be entitled to endorse at the foot of it an appropriate disclaimer to cater for the eventuality that a document or information is inadvertently sent to a transmittee not intended to receive it.

Production of Court Records in Other Courts and Tribunals

- 2.2.41 When the record of the Court is maintained as an electronic file, the Registrar may satisfy a proper requirement for production of it or any portion of it to any other Court or Tribunal, either by granting to that Court or Tribunal *read only* access to it (where it is practicable to do so) or by transmitting a copy of it to such Court or Tribunal by means of an electronic communication.

Cross Vesting Orders

- 2.2.42 The Registrar may, by agreement with the other Court concerned, comply with the requirements of Rules 110 and 112 by transmitting or receiving (as the case may be) copies of the relevant documents by means of an electronic communication, in lieu of sending or receiving the original documents.

Appeals from Subordinate Courts and Tribunals

- 2.2.43 In any case in which, in accordance with the prescribed procedures relating to appeals from subordinate Courts and Tribunals, it is incumbent on the Court or Tribunal appealed against to transmit its record or file related to the matter under appeal or any portion or portions of it to the Court, it will be sufficient compliance with such obligation in relation to any portion of the relevant record or file maintained in electronic format, if the Registrar and the Judge to whom the appeal is assigned are given direct computer access to it, or the relevant electronic portion of it.
- 2.2.44 Any report that may be requested of a judicial officer of a subordinate Court or Tribunal in relation to an appeal may be transmitted by means of an electronic communication from that judicial officer to the Registrar.

Annexure A

1 Terminology

Expressions used in this Practice Direction have the same meanings as corresponding expressions used in the SCR.

2 Functional Principles

The following functional principles, which have been adopted by the Council of the Courts Administration Authority (“CAA”), underpin and govern the e-business framework within which this Practice Direction is to operate:

- 2.1 The principles of the *Electronic Transactions Act* will be applied to the CAA e Business systems.
- 2.2 All Courts will use the same systems that have a common core and are functionally equivalent, but some variations will be necessary to accommodate local needs.
- 2.3 Electronic case files will comprise all written documents and other items presently included in paper case files, and also provide direct access to other relevant files.
- 2.4 Electronic case files will interface with other relevant electronic files maintained in the Courts, and with other automated official records, eg financial and statistical systems.
- 2.5 Case file items will be captured in electronic form at the earliest possible time.
- 2.6 Electronic case files that include the filing of pleadings and other documents in electronic form must also have the ability to capture file information for the Court for purposes such as effecting notice and service on the parties, verifying the timeliness of filing, and confirming receipt by the Court.
- 2.7 Electronic case files are to be designed to maintain the integrity of the Court’s files and ensure the effective control of the public record.
- 2.8 Electronic case files are to be designed to promote decreased reliance on paper copies, but should also continue to provide access to records in paper form.
- 2.9 Electronic case files are to be designed to accommodate local practices while satisfying the Judiciary’s more general information needs.
- 2.10 Systems will conform to basic requirements and industry standards and design, that emphasise ease of access, adaptability to change, reliability, and compatibility with alternative technological solutions and function needs.
- 2.11 Electronic case files are to provide enhanced user access to case file information.
- 2.12 Innovative solutions will be developed to accommodate unrepresented litigants, persons suffering disability and other parties who do not have access to computers.
- 2.13 Electronic case files will include appropriate security measures.
- 2.14 The Court will, during a specified transition phase, continue to accept paper documents.
- 2.15 There will always be an opportunity, no matter what stage proceedings have reached, to still produce paper copies of electronic documents in Court.

3 Technical Guidelines

The technical guidelines set out hereunder govern the manner in which the CAA electronic Filing System (“EFS”) has been developed and will be operated:

- 3.1 All documents filed electronically must be capable of being printed on paper, or transferred to archival media, without the loss of content, or material alteration of appearance.
- 3.2 Electronic documents must be submitted in a court designated electronic file format, and retained in the electronic format in which they are submitted.
- 3.3 Every implementation of electronic filing must accommodate the submission of non-electronic documents. Physical documents submitted to the Courts in paper form may be imaged to facilitate the creation of a single electronic case file.
- 3.4 A mechanism must be provided to ensure the authenticity of the electronically filed document. This requires the ability to verify the identity of the filer, as well as the ability to verify that a document has not been altered since it was filed.
- 3.5 The Court must control interactive access to the EFS via a user authentication process. When an electronic communication channel is used, the login process must be secured via the use of a telephone connection directly to the Court, a secure communication channel, or other secure means.
- 3.6 Files capable of carrying viruses in the Court’s computers (especially on floppy disk and in electronic mail) must be scanned for viruses prior to processing. This is particularly important when documents include exhibits of considerable volume and/or are from an unvouched source.
- 3.7 Access to computers for electronic filing must be isolated from access to other court networks and applications.
- 3.8 Electronic filing systems must protect electronic filings against system and security failures. In addition, they must provide appropriate backup and disaster recovery mechanisms.
- 3.9 All electronic submissions must generate a positive acknowledgment to the filer indicating that the document has been received by the Court. The positive acknowledgment must include the identity of the receiving court, date and time of the receipt of the documents (which is the Court’s official receipt date/time), and a Court assigned reference number.
- 3.10 Electronic filing systems must provide mechanisms for quality assurance and quality control of submitted documents and case management data by both the Court and the filer.
- 3.11 Subject to considerations of commercial in confidence and suppressed material, adequate public access to electronically filed documents must be provided.

4 Standards

Documents transmitted electronically to the EFS are required to comply with the following standards:

- 4.1 The preferred document format for electronic filing is Microsoft Word 2000. Electronic exhibits and images not available in text form should be embedded within the document.

- 4.2 The required format for batch electronic submission is LegalXML, in the standard for that format directed by the Court.
- 4.3 Electronic document submissions should carry sufficient case management data to enable the automation of the Court's case file process.
- 4.4 Hyperlinks embedded within an electronic document should refer only to another part of the same document or another document on the same electronic file. Hyperlink references to external documents or information should not be used.
- 4.5 The use of document images (including facsimile) as the document format for electronic submissions is strongly discouraged and should only be resorted to where it is essential to do so. Every effort should be made to have original documents submitted in a standard electronic format which retains document content and appearance in a compact, text-searchable form.
- 4.6 The CAA will designate what document features it is willing to accept in electronic format, and what features it is not willing to accept. It will also consider the use of a document feature list which shows which acceptable features require special handling, so that filers can indicate when these special-handling features are present in an electronically filed document.
- 4.7 The ability to archive Court documents in a rich electronic final-form document is necessary in order to maximise the long-term benefits of electronic filing.
- 4.8 The EFS will offer alternative means by which electronic documents can be delivered to the Court. Commonly available electronic delivery mechanisms include network or e-mail connections with the Court and physical delivery of media.
- 4.9 Digital signature standards in the form of a Personal Identification Number (PIN), based on public-private key encryption technology, may be used to authenticate the filer's identity and to ensure the integrity of a the content of a document.

Chapter 3 – Interlocutory Procedures, Affidavits and Pleadings

Direction 3.1 – Contents of Affidavits (Rule 162)

- 3.1.1 The address of a deponent in an affidavit may be a business address provided it is a place where the deponent may usually be found during normal working hours.
- 3.1.2 The face of the affidavit must show that the deponent is speaking of his/her own knowledge as required by Rule 162(2). If in interlocutory proceedings it is sought to make statements of belief under the exception to Rule 162(2), the deponent must depose to the source and grounds of each statement of belief. A statement to the effect, “I know the facts deposed in this my affidavit from my own knowledge except where otherwise appears”, without properly identifying the sources and grounds of information and belief, is unacceptable.
- 3.1.3 Each page of an affidavit is to be signed by the deponent and the witness and dated.
- 3.1.4 A document which is already on the Court file or part of the Court Record in an action, or in another action which will be before the Judge or Master at the same time as the first action, is not to be exhibited to an affidavit.
- When reference is to be made to such a document, it is to be described briefly using its file document number or with some other indication of where it is to be found on the Court file.
- The object of this Direction is that a document should appear only once on a Court file, or on a set of related Court files.
- 3.1.5 In an affidavit of service the only documents to be exhibited to the affidavit are those which do not otherwise appear on the Court file. When the documents which have been served are on the Court file it is sufficient to describe them briefly and to state the file document numbers (if known).
- 3.1.6 If the total number of pages of an affidavit and its exhibits (excluding front sheets) is 50 or more, or there are five or more exhibits to the affidavit, the exhibits must be bound together into a volume or volumes with or separate from the body of the affidavit and:
- 3.1.6.1 each volume must be paginated and contain an index showing the page at which each exhibit commences;
 - 3.1.6.2 each exhibit must be clearly marked with its exhibit designation and tagged so that its commencement can be seen without opening the volume;
 - 3.1.6.3 the binding must be of an appropriate size and allow the volume to lie flat when opened at any page;
 - 3.1.6.4 each volume (with any binding) must be no more than 3 cms thick; and
 - 3.1.6.5 the authorised person before whom the affidavit is made is to make a single certification of the exhibits as a bundle, rather than making a separate certification that each exhibit is the exhibit produced by the deponent at the time of making the affidavit.

The single certification should be made on the front sheet of the volume of exhibits and, if there is more than one volume, should be reproduced and included as a front sheet on each volume together with a separate statement of the exhibit numbers contained in each volume.

- 3.1.7 A party may file an affidavit comprising less than 50 pages or less than five exhibits in the manner required by Direction 3.1.6, but is not obliged to do so.
- 3.1.8 When more than one affidavit from the same deponent is to be filed in the same action:
- 3.1.8.1 each affidavit after the first is to be entitled the Second, Third, Fourth, etc, affidavit from that deponent, as the case may be;
- 3.1.8.2 the numbering of the exhibits in the later affidavit should be consecutive to those in the earlier affidavit or affidavits, that is, without any repetition of the numbering of the exhibits used in an earlier affidavit from the same deponent.
- 3.1.9 Unless a lawyer forms the view that there is good reason not to, documents comprising a sequence of correspondence between the same or related persons, and other documents comprising a sequence of a similar kind, are to be made a single exhibit instead of being marked as separate exhibits.

Direction 3.2 – Attendance on Interlocutory Hearings

- 3.2.1 In relation to business in Judges' and Masters' general lists:
- 3.2.1.1 Subject to paragraph 3.2.3 below, lawyers must be in attendance at the listed time for the application.
- 3.2.1.2 A telephone message or email that a lawyer is unable to attend upon a hearing is not acceptable.
- 3.2.1.3 A party making an interlocutory application should file any supporting affidavit and minutes of order at the time of the filing of the application. Answering affidavits should be filed at the earliest opportunity, but not later than 12.00 noon on the day preceding the day fixed for hearing of the application. Failure to observe this Direction may result in the application being adjourned with costs against the party at fault or his/her lawyer personally.
- 3.2.2 When a lawyer appears as counsel on interlocutory matters he or she may be so described in the order, but this is not to be taken as implying that the matter was fit for the attendance of counsel. Entitlement to counsel fees will be determined solely on whether the Judge or Master has certified the attendance as fit for counsel which should continue to be indicated at the end of the order.
- 3.2.3 The commencement of a hearing before a Judge or Master will not be delayed because the lawyer for a party is engaged before another Judge or Master unless the first mentioned Judge or Master sees fit to delay it where:
- 3.2.3.1 The time set for the commencement of the hearing before the other Judge or Master is more than half an hour before the time set for the commencement of the first mentioned hearing; and

- 3.2.3.2 The practitioner concerned could reasonably have expected that the second mentioned hearing would have been completed within sufficient time to allow him/her to attend on time for the first mentioned hearing.
- 3.2.4 In any other circumstances lawyers will be expected to arrange for another lawyer to attend on one or other of the applications. Where lawyers do not make proper arrangements for representation at a hearing, thus necessitating the application being adjourned, they can expect in the normal course to have costs ordered against them personally.
- 3.2.5 This Direction does not apply in respect of lawyer being delayed in lower Courts and commitments in lower Courts will not usually be accepted as a proper excuse for not attending at the appointed time in this Court.
- 3.2.6 Where a lawyer expects not to be available for an appointment before a Master because the list of a Judge or another Master is running more than 20 minutes late he or she should endeavour to warn the Master's staff in advance of his/her difficulties. Where a lawyer appearing before a Master has an appointment before a Judge which he or she could have expected to have attended upon under 3(a) and (b) above, but he or she is still before the Master at the time at which he or she is due before the Judge, he or she may request the Master to adjourn the application before him/her to a subsequent time.

Direction 3.2A – Adjournments by Consent of Applications, Status Hearings, Directions Hearings and Settlement Conferences before Masters

- 3.2A.1 When all interested parties consent to the adjournment of an application, status hearing, directions hearing or settlement conference listed before a Master, a party may seek that adjournment by sending a facsimile or e-mail to the Master's Personal Assistant at least one clear business day before the date on which the matter is listed for hearing.
- 3.2A.2 The consent to the adjournment by all other interested parties may be evidenced by attaching a copy of a letter, facsimile or e-mail from each party stating their consent.
- 3.2A.3 As soon as practicable after receipt of the facsimile or e-mail, the Master will, by facsimile or e-mail, inform the party requesting the adjournment whether or not the adjournment is granted.
- 3.2A.4 If no reply is received from the Master, the parties must attend at the appointed time for the hearing.

Direction 3.3 – Status Hearings (Rule 125) - District Court variation

In this Direction “court officer” means an officer of the Court nominated by the Registrar for that purpose.

- 3.3.1 Unless the Court otherwise directs all status hearings will be held in Adelaide. If a party seeks to have a status hearing held elsewhere, a written request should be made to the Registrar stating whether the other parties agree. If there is no agreement of all parties to a different location a Master will determine the location after a tele-conference (see Direction 3.10).

- 3.3.2 Whether the status hearing is directed to be held other than in Adelaide will depend upon the availability of an appropriate Judicial Officer or court officer to conduct a hearing in that place.
- 3.3.3 Where appropriate a status hearing may be conducted by a tele-conference (See Direction 3.10).

Direction 3.3A – Litigation Plans

- 3.3A.1 Subject to Rule 116(2), all parties are to file and serve a Litigation Plan in accordance with Form 55, with such adaptations as the circumstances of the case may require.
- 3.3A.2 Plaintiffs are to file and serve their Litigation Plans as follows:
- 3.3A.2.1 if the Status Hearing is conducted by a judicial officer - plaintiffs are to file and serve their Litigation Plans at least seven days before the Status Hearing fixed under Rule 125, and all other parties are to file and serve their Litigation Plans at least three days before the Status Hearing;
- 3.3A.2.2 if the Status Hearing is conducted by a court officer - plaintiffs are to file and serve their Litigation Plans at least seven days before the first directions hearing before a judicial officer, and all other parties are to file and serve their Litigation Plans at least three days before the first directions hearing before a judicial officer.
- 3.3A.3 Litigation Plans are intended:
- 3.3A.3.1 to inform the Court at an early stage of the parties' proposals with respect to a settlement conference, mediation or other form of dispute resolution;
- 3.3A.3.2 to identify at an early stage the issues in the case, and the interlocutory steps necessary to prepare the matter for trial;
- 3.3A.3.3 to enable the Court to make orders at an early stage which address in an integrated way all the necessary steps for the preparation of the matter for trial;
- 3.3A.3.4 to avoid or reduce the need for repetition of procedural steps and multiple directions hearings and adjournments which occurs if interlocutory steps are addressed in only a sequential way;
- 3.3A.3.5 to narrow the issues in dispute at an early stage; and
- 3.3A.3.6 to enable an early listing of a date for trial.
- 3.3A.4 The Court intends that each party will prepare its Litigation Plan using Form 55 with such insertions, modifications and additions as are necessary, so as to provide a complete statement of the interlocutory steps required or contemplated by that party before the trial. Parties are expected to ensure that the length and detail of their Litigation Plans is in proportion to the amount in dispute in the litigation, and to the nature and extent of the issues involved.
- 3.3A.5 The Court expects each party to give close attention to the preparation of its Litigation Plan. The course of the action to trial may be determined by reference to the respective Plans. Parties should assume that departures from the timetable

fixed by the Court after consideration of the Litigation Plans will not readily be permitted.

Direction 3.4 – Settlement Conferences (Rule 126) - District Court variation

In this Direction “court officer” means an officer of the Court nominated by the Registrar for that purpose.

- 3.4.1 The time and place for the Settlement Conference will be directed at the status hearing.
- 3.4.2 Where appropriate Judicial Officers or court officers are available, Settlement Conferences may be fixed to be held at locations other than in Adelaide.
- 3.4.3 Other than in exceptional circumstances Settlement Conferences will not be conducted by tele-conferencing.

Direction 3.5 – Further Directions Hearings After Failed Settlement Conferences (Rule 130) - District Court variation

- 3.5 Unless a contrary direction has been given the Registrar will convene a further Directions hearing to be held about 14 weeks after the closure of a failed Settlement Conference.

Direction 3.6 – Interlocutory Applications (Rules 129 and 131) – District Court variation

- 3.6.1 Inapplicable.
- 3.6.2 Where parties need to seek interlocutory orders which cannot be conveniently and expeditiously dealt with on directions hearings for which dates have already been set, an application under Rule 131 should be taken out and set down for hearing at the earliest opportunity. If any other hearing for reference for the action for trial has to be adjourned because interlocutory issues need to be resolved which could have been dealt with earlier, the party in default will be ordered to pay the costs of any further hearing.
- 3.6.3 File principals of all parties are expected to attend at the hearing of any application under Rule 120 that the action proceeds to trial.

Direction 3.7 – Listing Conferences

- 3.7.1 Upon an order that an action proceed to trial no trial date will usually be set, but a Listing Conference will be convened to be conducted by the Registrar or his/her delegate.
- 3.7.2 Prior to the Listing Conference the parties are to ascertain the availability of their witnesses and counsel and to formulate a realistic estimated length of trial.
- 3.7.3 At the Listing Conference the Registrar or his/her delegate will set a date, usually not earlier than six weeks ahead other than where there is an order for urgent trial, for the commencement of the trial after having taken into account as far as reasonably possible the availability of witnesses and counsel.
- 3.7.4 If any party fails to attend at the Listing Conference the Registrar or his delegate may proceed to fix a trial date in their absence.

- 3.7.5 Unless the Court otherwise orders the costs of a Listing Conference will be costs in the cause.
- 3.7.6 Matters unable to be listed at the first listing conference will not be adjourned to a further listing conference unless there is very good reason, such as inability to ascertain availability of witnesses. In the ordinary course there will only be one adjournment of a listing conference. If a matter is not ready to be listed at the first listing conference, it will be returned to the Masters' list. If a matter has been given an adjourned listing conference and cannot be listed at the adjourned listing conference, it will also be referred back to the Masters' list.

Direction 3.8 – Trial Books (Rule 121)

- 3.8.1 Where there are cross-actions (whether by way of counterclaim or contribution notice) or third party actions (including subsequent party actions), which are to be determined in conjunction with the trial of the action, all originating processes and pleadings for them are to be included in the trial book.
- 3.8.2 When an action has proceeded on affidavits in lieu of pleadings under Rule 96 the affidavits which stand in lieu of pleadings are to be included in the trial book.
- 3.8.3 Other than by direction of the Court, or agreement of all parties, no other affidavits, notices of address for service, notices to admit, lists of documents, offers to consent to judgment or superseded versions of pleadings are to be included in a trial book.
- 3.8.4 The trial book is to be paginated and indexed.

Direction 3.9 – Electronic Interlocutory Applications (Rule 132(2)) –District Court variation

This Practice Direction is the same as Supreme Court Practice Direction 3.9 except for the filing address in 3.9.3.1

Preliminary

- 3.9.1 The making and disposal of such applications are the equivalent of conducting a matter in an ordinary practice courtroom. This means that:
- 3.9.1.1 The system is to be used for issues requiring consideration and determination by a Master or Judge;
- 3.9.1.2 Communications between the relevant parties or their representatives, particularly in relation to matters of a confidential or otherwise sensitive nature, are not to be released to the Court;
- 3.9.1.3 The language and modes of address used must be the same as would be used if the matter were being dealt with in a Practice Court;
- 3.9.1.4 Undertakings given, in an e-mail communication, by a party or their representative to the Court or other parties are binding as if the undertakings were given in an ordinary courtroom; and
- 3.9.1.5 The Rules of contempt apply to such proceedings.

Types of Applications Which may be Dealt with Electronically

- 3.9.2.1 Such electronic applications can only be made where all parties involved have filed an address for service containing an email address.

- 3.9.2.2 Whether an application is to be dealt with electronically is in the discretion of the Court and will depend on the nature and complexity of the issues to be resolved, the number of parties, the views of the parties, the nature and extent of any evidence that may be required, and any urgency.
- 3.9.2.3 Examples of applications which will normally be accepted for electronic determination are:
- non contentious *ex parte* applications, including applications for final relief
 - permission to serve a summons for Judicial Review;
 - consent judgments or orders of any type;
 - most non contentious applications under the *Corporations Act*; for example, seeking relief such as an extension of time to convene a second creditor’s meeting, or approval or Directions in relation to the settlement of any matter, or to reinstate a deregistered company;
 - renew a summons;
 - extension of time;
 - non contentious party or non party disclosure of documents or other interlocutory applications;
 - non contentious amendments of pleadings;
 - approval of compromises on behalf of persons under a disability
- 3.9.2.4 Consent orders for the adjournment of set hearing dates must be made well before the hearing date. It should not be assumed the Court will grant such adjournments.

Initiation and Termination of Electronic Processing

- 3.9.3.1 A legal representative of a party seeking the electronic processing of an application is to send the application as an attachment to an e-mail to the Registrar directed to:
- district.efiling@courts.sa.gov.au (District Court)
- The e-mail should be in Form 17 in Part 2.
- 3.9.3.2 If the matter can be processed by the relevant Judicial Officer within 2 clear business days of the request, all relevant parties will be advised by the Registrar, by e-mail, of the terms of any order made.
- 3.9.3.3 If the application cannot be dealt with within that time, the Registrar will advise the applicant by a return message (see Annexure A) as to whether the application will be accepted and, if so, to which Judicial Officer it has been directed. If no response has been received to an e-mail within two working days after its transmission, the maker is to assume that it may not have been received and should contact the Registry to ascertain whether this is the situation. For an annual cost of the order of \$50 for up to 2000 messages, practitioners can subscribe to a service known as ReadNotify.com, which will, automatically, notify receipt of e-mail transmissions by addressees.
- 3.9.3.4 If an e-mail relates to a proceeding of which a specific Judicial Officer is already seized, that fact should be advised to the Registrar.

- 3.9.3.5 The Court may terminate the use of electronic processing of a matter, or any part of a matter, at any time, either at the request of a party or of its own motion.

Notification of Other Parties

- 3.9.4.1 In any case in which an application relates to a matter which is *inter partes* in nature, or as to which, in accordance with the practice and procedures of the court, any other party is to be given notice of it, a copy of the application should be transmitted by e-mail to such party, simultaneously with its transmission to the Registrar.
- 3.9.4.2 All subsequent documents transmitted to the Court shall, simultaneously, be transmitted to each other party referred to in 6.1 below. The date and time of each transmission will permanently be recorded on the relevant document file.
- 3.9.4.3 Due service of, or notice to, a party of any proceeding or document filed in a proceeding is deemed to be on the day following that on which it is transmitted to that party at the then correct e-mail address of the party, if that transmission occurs before or within normal business hours. If it occurs after normal business hours, it will be deemed to be on the day following the next business day after such transmission.

Transmission of Documents

- 3.9.5.1 All documents intended to be used and not already filed in the proceeding must be attached to the transmitting e-mail message, utilising one of the following application programs:
- Word XP
 - Word 2000
 - Word 97
 - Adobe Acrobat
- 3.9.5.2 Any document so transmitted must utilise a font such as Arial or Times New Roman minimum size 12, and be in Rich Text Format (RTF), Portable Document Format (PDF), Tagged Image Format (TIF), Graphical Information Format (GIF), Joint Photographic Experts Group (JPG), or as a Word document. If there are documents not already filed which cannot be attached in electronic format, the e-mail to the Registrar should indicate that situation and advise when such document will, physically, be filed in the Registry.
- 3.9.5.3 Where an e-mail message refers to a document earlier filed in court, a copy of the filed document may be attached to the message for ease of reference.
- 3.9.5.4 In urgent matters a document that is to be filed may be attached as stipulated in 5.1 above with an undertaking, in the relevant e-mail message, that it will be filed in the Court on the next business day. Exhibits to an affidavit (if any) are to be scanned so as to convert them to an electronic image (*.tif) file.
- 3.9.5.5 All copy documents attached to an e-mail message shall, where applicable, have any ink signatures, dates or other additions to the original document typed in, so that they may be read as completed documents. Where a document has already been filed the e-mail message shall indicate the date of filing and, if known, its File Document Number (FDN).

- 3.9.5.6 The Courts word processing application is Microsoft Office 2000. Documents will be received using Standard Internet e-mail format (SMTP) and be compatible with that system. They should, preferably, be transmitted using Rich Text Format. Documents sent by the Courts will be transmitted in Microsoft Word 2000.

Mode of Use of e-mail Application Facility

- 3.9.6.1 Where an e-mail message has been transmitted by a lawyer who is a principal of, or employed by, a firm of lawyers, that e-mail message must clearly identify the name of the lawyer sending it and, where appropriate, the separate e-mail address of that person.
- 3.9.6.2 The Court will deem that messages and attached documents purporting to have been sent to it by a lawyer have, in fact, been sent by that lawyer, have been authorised for transmission by the party on whose behalf they have been sent, and are the responsibility of such lawyer.
- 3.9.6.3 A lawyer transmitting copies of documents not already filed will be deemed to accept personal responsibility for payment of any Court filing or other fees attaching to the matters being dealt with electronically.
- 3.9.6.4 The Court may give directions as to how a specific matter, or part of a matter is to be processed. For example, directions may be given as to:
- 3.9.6.4.1 the topic or topics to be dealt with and in what manner;
 - 3.9.6.4.2 who may participate;
 - 3.9.6.4.3 the maximum length of e-mail messages and attachments; and
 - 3.9.6.4.4 the maximum time in which e-mail messages (including replies) must be sent to the Court.
- 3.9.6.5 Related e-mail messages sent on behalf of parties to the Court must be:
- 3.9.6.5.1 relevant to the topic or discussion thread in relation to which they are sent;
 - 3.9.6.5.2 brief and to the point; and
 - 3.9.6.5.3 timely

Consent Orders and Minutes of Order

- 3.9.7.1 Where a consent order or judgment is sought:
- 3.9.7.1.1 The consent of all parties other than that of the applicant is to be furnished to the Court by either:
 - 3.9.7.1.1.1 the endorsement of the consents on minutes of order which may be lodged electronically;
 - 3.9.7.1.1.2 by an e-mail to the Court from the solicitor for a party;
 - 3.9.7.1.1.3 by such other means as are acceptable to the Court.
 - 3.9.7.2
 - 3.9.7.2.1 When the order will need to be sealed draft Minutes of the order in a form suitable for them being settled ‘on screen’ for ultimate signature must be attached to the email.
 - 3.9.7.2.2 When the order sought is lengthy or complicated, Minutes of order should also be attached to the email.

- 3.9.7.2.3 In any other case Minutes need not be attached to the email, but the Court may respond to the application by requiring that Minutes be filed.
- 3.9.7.3 Orders made will be processed in the following manner:
- 3.9.7.3.1 those as to which a fiat only is required will be copied by the Court onto the court file and authenticated by the relevant Judicial Officers. A copy of the fiat will be transmitted electronically to the party or parties concerned;
- 3.9.7.3.2 those required to be sealed and entered will be settled “*on screen*” from the minutes sent to the Court, submitted electronically to the party or parties concerned for approval, and then hard copied and sealed and entered by the Registry. An e-mail message submitting settled minutes for approval of a party or parties will normally stipulate that, if no response is received from a party within 72 hours, that party will be deemed to have approved the settled minutes. The Court may review the form of a settled and sealed order if satisfied that a party did not receive the settled minutes and that they do not properly reflect the intention of the Judicial Officer who made the order.
- 3.9.7.3.3 any document so hard copied will bear the FDN allocated to it, as a means of cross reference.

Procedure where Information or Submissions Required

- 3.9.8.1 The e-mail transmitting the application may have attached to it brief submissions or representations to the Judicial Officer to whom the matter is assigned, without any direction requiring this to be done.
- 3.9.8.2 In any case in which the Court may desire further information or submissions to be made to it by a party in relation to a matter, such party will be advised by e-mail of the nature of the further information and submissions and the date by which it or they are to be supplied.
- 3.9.8.3 If such a request is not complied with in a timely manner the Court may, in its discretion, set the matter down for hearing in a normal chamber list, and advise the parties that attendance is required at the Practice Court at a stipulated time.

Conditions of Use, Privacy Aspects and Security

- 3.9.9.1 By transmitting an application to the Registrar in accordance with this Practice Direction, a lawyer represents to the Court that:
- 3.9.9.1.1 such lawyer has made due enquiry and that instructions received justify the making of the subject application;
- 3.9.9.1.2 insofar as the request attaches a copy of any affidavit not yet filed, the copy is a true copy of the original of the affidavit duly sworn which is held by the transmitter and that the original has duly been sworn or subscribed; and
- 3.9.9.1.3 the transmitter has taken all reasonable precautions to ensure that all material transmitted is virus free.
- 3.9.9.2 Each time the lawyer of any party transmits an e-mail message to a Court at one of the above addresses, the Court system will collect information as to:

- 3.9.9.2.1 the name of the transmitter;
 - 3.9.9.2.2 the time at which the message has been received; and
 - 3.9.9.2.3 the IP address of the transmitter
- 3.9.9.3 Such information will not be disclosed to any other person not entitled, by law, to it. However, any e-mail message sent to a Court may be monitored by its staff, or that of the Courts Administration Authority in order to facilitate decisions as to possible changes to its Web site, maintenance, or when e-mail abuse is suspected.
- 3.9.9.4 Any legal practitioner having concerns as to the security of information proposed to be transmitted should communicate those concerns to the Registrar prior to the transmission and confer with the proper officer of the Court as to such concerns.
- 3.9.9.5 For their part the Courts will take reasonable precautions to ensure that their transmissions are virus free. However, it is for lawyers dealing with them to adopt their own virus protection strategies.

Costs

- 3.9.10.1 The Adjudicating Officers will exercise their discretion to ensure that allowances made are fair and reasonable for the work done. Normally, the avoidance of a need to attend at court will result in some reduction in costs incurred.
- 3.9.10.2 One factor taken into account, in future, in the allowance or adjudication of costs, will be whether a matter which could have been processed as an e-application, has, unnecessarily, been set down in a list so as to require personal attendance at court.

Annexure A:

**REGISTRAR’S RESPONSE TO APPLICATION
FOR ELECTRONIC DISPOSAL**

Title of Action:

Number of Action of 20..... .

To: *[Return address of applicant for electronic processing.]*

- 1 Receipt is acknowledged of your e-mail dated 20..... .

- 2 This matter has been referred to ...*[Judicial Officer]*... for hearing and determination.
That Judicial Officer will communicate with you in due course.

OR

This matter has been referred to a Judicial Officer for initial consideration. It has been determined that it is unsuitable for hearing and determination electronically. The matter has been set down for hearing in the normal manner in the Practice Court before..... on..... 20....., atam/pm.

Date: [DD/MM/YYYY]

Name and title of releasing officer, for Registrar:

Direction 3.10 – Tele-conferences (Rules 133 and 134 and the Definition of “Tele-conference” in Rule 4)

- 3.10.1 Where all parties to an application are represented by lawyers it may be set down for hearing by telephone.
- 3.10.2. The lawyers for all parties are to be available to receive a telephone call from the Court at the time appointed for the hearing and for the next 30 minutes.
- 3.10.3 The Judicial Officer has a discretion to adjourn any such hearing to a hearing in a Practice Court where the lawyers are to attend.
- 3.10.4 Where the Court cannot make telephone contact with a lawyer at the time appointed for the hearing the Judicial Officer may proceed with the hearing in the same way as if a party had not attended at a hearing in the Practice Court.
- 3.10.5 Where an application has been set down for a tele-conference any lawyer for a party is entitled to attend in person.
- 3.10.6 No person shall make a recording of a tele-conference other than with the prior express permission of the Judicial Officer conducting the hearing.

Direction 3.11 – Certificate Certifying a Pleading (Rule 98(1)(b))

- 3.11.1 Under Rule 98(1)(b)(i) the signature on the certificate must be that of an individual lawyer and not that of a firm or company. It is not necessary that the name or signature of any counsel who has settled the pleading must appear on the certificate.
- 3.11.2 The name of the person who gives the certificate must be clearly typed or printed alongside their signature.
- 3.11.3 A certificate under Rule 98(1)(b) is in addition to any other certificate or signature which is required to appear on a pleading.
- 3.11.4 Where the pleading is filed electronically Rule 47 applies.
- 3.11.5 The Registry will not accept a pleading for filing that does not bear the necessary certificate under Rule 98(1)(b).

Direction 3.12 – Alternative Disclosure Regimes

- 3.12.1 Subject to Rule 136(1)(b) and Rule 139, and without limiting the ability of the parties under Rule 138 to reach some other agreement regulating disclosure of documents, the Court may order, or the parties may agree, that disclosure be made only of defined categories of documents or only by reference to specified issues.
- 3.12.2 If the Court orders, or the parties agree, that disclosure of documents is to be made only of defined categories of documents or only by reference to specified issues, the parties are, in the absence of further Court order or agreement, to make disclosure of documents under Rule 136 in accordance with the following provisions:
- (a) The plaintiff or other party having the carriage of the proceedings is to circulate a draft list of the categories of documents or specified issues, as the case may be.

- (b) The parties are to use reasonable endeavours to agree on the list of categories or issues.
- (c) Any other party who does not agree to the draft list of categories or issues is to circulate an alternative draft list showing marked up modifications to the original draft list.
- (d) If the parties are unable to agree on the list of categories or issues, as the case may be, the Court may determine the content of the list or direct that disclosure not proceed by way of categories of documents or by reference to specified issues.
- (e) When a final list of categories or specified issues is agreed upon or ordered, each party is, subject to any contrary Court order or express agreement, to make disclosure of documents under Rule 136 by reference to the sole criterion of whether a document falls within one of the listed categories or is directly relevant to one of the specified issues, as the case may be, and not by reference to the issues raised on the pleadings or affidavits in lieu of pleadings.

Chapter 4 – Practice on Particular Types of Proceedings

Direction 4.1 – Possession Proceedings Under Part 17 of the *Real Property Act 1886* (Rule 204)

- 4.1.1 The summons for possession is to be in Form 5 of Part 2.
- 4.1.2 A return date for the summons must be obtained from the Registry which will allow adequate time to serve the summons so that the defendant is required to attend not earlier than 16 days from the date of service (section 193 *Real Property Act 1886*) (“RPA”).
- 4.1.3 The summons must contain a proper description of the land and include a reference to the Certificate of Title and any other basic document of title (eg registered mortgage, registered lease).
- 4.1.4 The summons must be supported by an affidavit sworn by some person who can swear to the facts of his/her own knowledge and supported where appropriate by documents exhibited to the affidavit. The affidavit or affidavits in support must prove the plaintiff’s title and also make out one of the grounds set forth in section 192 of the RPA. Normally, the affidavit should exhibit copies of the documents from which applicants derive title and upon which they base their claim for possession. It should state whether the provisions of the National Credit Code apply or not.
- 4.1.5 The summons and any affidavit in support must be served personally upon the defendant (unless otherwise ordered) and a proper affidavit of service must be filed before the hearing. Such affidavit should contain the means of knowledge of the deponent of the identity of the person served.
- 4.1.6 Plaintiffs seeking orders for possession must file with the affidavit of service of the proceedings an affidavit deposing to whether or not any person has possession of the relevant premises or any part thereof:
- 4.1.6.1 as a tenant under a residential agreement; or
 - 4.1.6.2 as a former tenant holding over after the termination of a residential tenancy agreement.
- 4.1.7
- 4.1.7.1 A notice to defendants under R 204A(3)(a) is to be in Form 44.
 - 4.1.7.2 A notice to occupiers under R 204A(3)(b) is to be in Form 45.
 - 4.1.7.3 A request under R 204A(4) is to be in Form 46.
 - 4.1.7.4 A certificate under R 204A(7) is to be in Form 47.

Direction 4.2 – Extension of Time for Removal of Caveats and Removal of Caveats Under the *Real Property Act 1886*.

- 4.2.1 Where such an application cannot be dealt with in sufficient time in the normal course of a general list the plaintiff may request to have the summons made specially returnable.
- 4.2.2. In any case where an order is sought on the summons to extend the time for the removal of a caveat and an address for service has not been entered by the

defendant, proof must be given of the service of the summons. Such service may be effected pursuant to section 191(g) of the RPA.

4.2.3 On an application for an extension of time for the removal of a caveat a copy of the caveat and of the notice from the Registrar-General requiring an extension to be obtained should be exhibited to a supporting affidavit.

4.2.4 Applications for extension of time for removal of caveats should be made as soon as possible after the receipt of the notice from the Registrar-General and not left until shortly before the 21 day period expires. A party (or his/her lawyer personally) may be penalised in costs where orders are sought to extend the time so that a formal application can later be dealt with.

Direction 4.3 – Search Orders (also known as Anton Piller Orders) (Rule 148)

4.3.1 This Practice Direction supplements Rule 148 relating to search orders (also known as Anton Piller orders, after *Anton Piller KG v Manufacturing Processes Ltd* [1976] Ch 55).

4.3.2 This Practice Direction addresses (among other things) the Court’s usual practice relating to the making of a search order and the usual terms of such an order. While a standard practice has benefits, this Practice Direction and Form 43 in Part 2 do not, and cannot, limit the judicial discretion to make such order as is appropriate in the circumstances of the particular case.

4.3.3 Words and expressions in this Practice Direction that are defined in Rule 148 have the meanings given to them in that Rule.

4.3.4 Ordinarily, a search order is made without notice and compels the respondent to permit persons specified in the order (“search party”) to enter premises and to search for, inspect, copy and remove the things described in the order. The order is designed to preserve important evidence pending the hearing and determination of the applicant’s claim in a proceeding brought or to be brought by the applicant against the respondent or against another person. The order is an extraordinary remedy in that it is intrusive, potentially disruptive, and made without notice and prior to judgment.

4.3.5 A form of search order is set out in Form 43 (the footnotes and references to footnotes in that form should not form part of the order as made). That form may be adapted to meet the circumstances of the particular case. It contains provisions which are aimed at achieving the permissible objectives of a search order, while minimising the potential for disruption or damage to the respondent and for abuse of the Court’s process.

4.3.6 The search party must include an independent lawyer who will supervise the search and a lawyer or lawyers representing the applicant. It may be necessary that it include other persons, such as an independent computer expert, and a person able to identify things being searched for if difficulties of identification may arise. Ordinarily, the search party should not include the applicant or the applicant’s directors, officers, employees or partners or any other person associated with the applicant (other than the applicant’s lawyer).

4.3.7 The order should be clear about the maximum number of persons permitted to be in the search party. The number of people in the search party should be as small as is reasonably practicable. Form 43 contemplates that they will be named in the order. This is desirable but if it is not possible the order should at least give a

description of the class of person who will be there (eg “one lawyer employed by A, B and Co”).

- 4.3.8 The affidavits in support of an application for a search order should include the following information:
- 4.3.8.1 a description of the things or the categories of things, in relation to which the order is sought;
 - 4.3.8.2 the address or location of any premises in relation to which the order is sought and whether they are private or business premises;
 - 4.3.8.3 why the order is sought, including why there is a real possibility that the things to be searched for will be destroyed or otherwise made unavailable for use in evidence before the Court unless the order is made;
 - 4.3.8.4 the prejudice, loss or damage likely to be suffered by the applicant if the order is not made;
 - 4.3.8.5 the name, address, firm, and commercial litigation experience of an independent lawyer, who consents to being appointed to serve the order, supervise its execution, and do such other things as the Court considers appropriate; and
 - 4.3.8.6 if the premises to be searched are or include residential premises, whether or not the applicant believes that the only occupant of the premises is likely to be:
 - (i) a female; or
 - (ii) a child under the age of 18; or
 - (iii) any other person (“vulnerable person”) that a reasonable person would consider to be in a position of vulnerability because of that person’s age, mental capacity, infirmity or English language ability; or
 - (iv) any combination of (i), (ii) and (iii), and any one or more of such persons.
- 4.3.9 If it is envisaged that specialised computer expertise may be required to search the respondent’s computers for documents, or if the respondent’s computers are to be imaged (ie hard drives are to be copied wholesale, thereby reproducing documents referred to in the order and other documents indiscriminately), special provision will need to be made, and an independent computer specialist will need to be appointed who should be required to give undertakings to the Court.
- 4.3.10 The applicant’s lawyer must undertake to the Court to pay the reasonable costs and disbursements of the independent lawyer and of any independent computer expert.
- 4.3.11 The independent lawyer is an important safeguard against abuse of the order. The independent lawyer must not be a member or employee of the applicant’s firm of lawyers. The independent lawyer should be a lawyer experienced in commercial litigation, preferably in the execution of search orders. The Law Society has been requested to maintain a list of lawyers who have indicated willingness to be appointed as an independent lawyer for the purpose of executing search orders, but it is not only persons on such a list who may be appointed. The

responsibilities of the independent lawyer are important and ordinarily include the following:

- 4.3.11.1 serve the order, the application for it, the affidavits relied on in support of the application, and the originating process;
 - 4.3.11.2 offer to explain, and, if the offer is accepted, explain the terms of the search order to the respondent;
 - 4.3.11.3 explain to the respondent that he or she has the right to obtain legal advice;
 - 4.3.11.4 supervise the carrying out of the order;
 - 4.3.11.5 before removing things from the premises, make a list of them, allow the respondent a reasonable opportunity to check the correctness of the list, sign the list, and provide the parties with a copy of the list;
 - 4.3.11.6 take custody of all things removed from the premises until further order of the Court;
 - 4.3.11.7 if the independent lawyer considers it necessary to remove a computer from the premises for safekeeping or for the purpose of copying its contents electronically or printing out information in documentary form, remove the computer from the premises for that purpose, and return the computer to the premises within any time prescribed by the order together with a list of any documents that have been copied or printed out;
 - 4.3.11.8 submit a written report to the Court within the time prescribed by the order as to the execution of the order; and
 - 4.3.11.9 attend the hearing on the return date of the application, and have available to be brought to the Court all things that were removed from the premises. On the return date the independent lawyer may be required to release material in his or her custody which has been removed from the respondent's premises or to provide information to the Court, and may raise any issue before the Court as to execution of the order.
- 4.3.12 Ordinarily, the applicant is not permitted, without the permission of the Court, to inspect things removed from the premises or copies of them, or to be given any information about them by members of the search party.
- 4.3.13 Ordinarily, a search order should be served between 9:00 am and 2:00 pm on a business day in order to permit the respondent more readily to obtain legal advice. However, there may be circumstances in which such a restriction is not appropriate.
- 4.3.14 A search order must not be executed at the same time as the execution of a search warrant by the police or by a regulatory authority.
- 4.3.15 If the premises are or include residential premises and the applicant is aware that when service of the order is effected the only occupant of the residential premises is likely to be any one or more of a female, a child under the age of 18 years, or a vulnerable person, the Court will give consideration to whether:

- 4.3.15.1 if the occupants are likely to include a female or child, the independent lawyer should be a woman or the search party should otherwise include a woman; and
- 4.3.15.2 if the occupants are likely to include a vulnerable person, the search party should include a person capable of addressing the relevant vulnerability.
- 4.3.16 Any period during which the respondent is to be restrained from informing any other person (other than for the purposes of obtaining legal advice) of the existence of the search order should be as short as possible and not extend beyond 4.30 pm on the Return Date.
- 4.3.17 At the hearing of the application on the Return Date, the Court will consider the following issues:
- (a) what is to happen to any things removed from the premises or to any copies which have been made;
 - (b) how any commercial confidentiality of the respondent is to be maintained;
 - (c) any claim of privilege by the respondent;
 - (d) any application by a party; and
 - (e) any issue raised by the independent lawyer.
- 4.3.18 Appropriate undertakings to the Court will be required of the applicant, the applicant's lawyer and the independent lawyer, as conditions of the making of the search order. The undertakings required of the applicant will normally include the Court's usual undertaking as to damages. The applicant's lawyer's undertaking includes an undertaking not to disclose to the applicant any information that the lawyer has acquired during or as a result of execution of the search order, without the permission of the Court. Release from this undertaking in whole or in part may be sought on the return date.
- 4.3.19 If it is demonstrated that the applicant has or may have insufficient assets within the jurisdiction of the Court to provide substance for the usual undertaking as to damages, the applicant may be required to provide security for the due performance of that undertaking. The security may, for example, take the form of a bank's irrevocable undertaking to pay or a payment into Court. Form 43 contains provision for an irrevocable undertaking.
- 4.3.20 An applicant for a search order made without notice to the respondent is under a duty to the Court to make full and frank disclosure of all material facts to the Court. This includes disclosure of possible defences known to the applicant and of any financial information which may cast doubt on the applicant's ability to meet the usual undertaking as to damages from assets within Australia.
- 4.3.21 The order to be served should be endorsed with a notice which meets the requirements of Rule 225.
- 4.3.22 A search order is subject to the Court's adjudication of any claim of privilege against self-incrimination. The privilege against self-incrimination is available to individuals but not to corporations. The Court will not make an order reducing or limiting that privilege in circumstances where the legislature has not indicated that it may do so.

Direction 4.4 – Aged and Infirm Persons’ Property Act 1940 Applications (Rule 309)

- 4.4.1 An application for a protection order should be made by a *inter partes* summons in Form 2 of Part 2.
- 4.4.2 If the application is made by a person other than the proposed protected person, the husband, wife or near relative of the proposed protected person, or Public Trustee, the affidavit in support of the application should adduce proof of circumstances which render it proper for such other person to make the application.
- 4.4.3 The evidence in support of the application should show:
- 4.4.3.1 The age of the protected person and the nature of the alleged mental or physical infirmity, for which evidence of a medical practitioner is ordinarily required.
- 4.4.3.2 Particulars of the estate of the protected person, so far as they are known to the plaintiff or can be ascertained on reasonable enquiry.
- 4.4.3.3 The provisions of any will or codicil in existence given dates, the names of executors and particulars of any specific or demonstrative bequests or devises and where it is possible that the protected person was subject to any of the incapacities mentioned section 7 of the Act at the time of the making of the will, particulars should be given of any will or codicil made before the protected person became subject to such incapacity.
- 4.4.4 Evidence under paragraph 4.4.3.3 may be furnished by affidavit or by means of a copy of the will or codicil being exhibited to an affidavit. Any affidavit or exhibit containing information as to a will or codicil may be sealed up and filed in an envelope endorsed with a direction that it not be opened except by direction of a Judge or Master.
- 4.4.5 A knowledge of the names of the executors is of assistance in appointing a manager and fixing the amount of any security to be given. The other information required under paragraph 4.4.3.3 will be of assistance whenever the Court is asked to exercise jurisdiction under sections 16a and 16b of the Act.
- 4.4.6 When it is intended to seek an order restricting the testamentary capacity of the protected person or the circumstances indicate that such a course may be desirable, the summons should specifically ask for such an order.
- 4.4.7 On every application, minutes of order should be made available for the assistance of the Master. The minutes are to require service of the order on the manager, the protected person and the Registrar of Probate.
- 4.4.8 In cases having no special or unusual features, or when the estate is comparatively small, details of the amounts sought for costs should be available to the Master on the hearing of the application, to enable the fixation of a lump sum without adjudication.

Direction 4.5 – Dust Diseases List – District Court only

- 4.5.1 All documents filed in proceedings to which the *Dust Diseases Act 2005* applies must have immediately underneath the action number the words “Dust Diseases

Act 2005”. The proceedings will be put into the Dust Diseases List and managed in accordance with this Practice Direction.

4.5.2 At the first hearing before a Master, a category will be assigned to the case based on the state of health of the plaintiff or such other matter as the court considers relevant. These categories are:

Ordinary cases: eg where the plaintiff is suffering from a non life-threatening dust disease or where a claim is made for compensation to relatives.

Urgent cases: eg where the plaintiff is seriously ill and an expedited hearing is needed.

4.5.3 Practitioners are reminded of the provisions of Rule 33(1)(a) and (c) which exempt urgent cases, and cases where the court so directs, from the requirements of the 90 day rule.

4.5.4 If a party wishes to have proceedings categorised as urgent, whether on commencement or at a later time, an interlocutory application seeking a special hearing date for directions is to be filed pursuant to Rule 131 together with an affidavit setting out as fully as circumstances permit:

4.5.4.1 the nature of the disease alleged;

4.5.4.2 the condition of the plaintiff's health and the degree of urgency;

4.5.4.3 particulars of notification given to other parties to the proceedings and practitioners by whom they are represented;

4.5.4.4 readiness for hearing, and whether

4.5.4.4.1 experts' reports have been obtained and served;

4.5.4.4.2 further medical examinations are required;

4.5.4.5 a proposed expedited interlocutory timetable; and

4.5.4.6 if a hearing date is to be sought forthwith, the details and availability of witnesses and where it is requested that evidence be taken.

Where possible a supporting medical report should be exhibited to the affidavit.

These matters will be referred to a Master as soon as possible.

4.5.5 In cases of extreme urgency practitioners are reminded of the provisions of Rule 131(4).

4.5.6 A party seeking to have evidence taken urgently in proposed proceedings is requested to telephone the Registry on 8204 0289 as soon as possible, even though the proceedings have not been issued, with details of what is to be sought.

4.5.7 Masters will conduct regular hearings in relation to matters in the Dust Diseases List where directions will be given, but when it is appropriate matters will be dealt with by a Master according to the particular circumstances of the case.

4.5.8 In cases where it is necessary for a trial date or a date for taking evidence on examination pursuant to Rule 184 to be fixed immediately, the action may be referred forthwith to a Listing Appointment.

Direction 4.6 – Freezing Orders (also known as “Mareva Orders” or Asset Preservation Orders”) (Rule 247)

- 4.6.1 This Practice Direction supplements Rule 247 relating to freezing orders (also known as “Mareva Orders” after *Mareva Compania Naviera SA v International Bulkcarriers SA* (“*The Mareva*”) [1975] 2 Lloyd’s Rep 509, or “asset preservation orders”).
- 4.6.2 This Practice Direction addresses (among other things) the Court’s usual practice relating to the making of a freezing order and the usual terms of such an order. While a standard practice has benefits, this Practice Direction and Form 42 in Part 2 do not, and cannot, limit the judicial discretion to make such an order as is appropriate in the circumstances of the particular case.
- 4.6.3 Words and expressions in this Practice Direction which are defined in Rule 247 have the meanings given to them in that rule.
- 4.6.4 A form of freezing order is in Form 42. This form may be adapted to meet the circumstances of the particular case. It may be adapted for a freezing order made on notice to the respondent as indicated in the footnotes to the form (the footnotes and references to footnotes should not form part of the order as made). The form contains provisions aimed at achieving the permissible objectives of the order consistently with the proper protection of the respondent and third parties.
- 4.6.5 The purpose of a freezing order is to prevent frustration or abuse of the process of the Court, not to provide security in respect of a judgment or order.
- 4.6.6 A freezing order should be viewed as an extraordinary interim remedy because it can restrict the right to deal with assets even before judgment, and is commonly granted without notice to the respondent.
- 4.6.7 The respondent is often the person said to be liable on a substantive cause of action of the applicant. However, the respondent may also be a third party, in the sense of a person who has possession, custody or control, or even ownership, of assets which he or she may be obliged ultimately to disgorge to help satisfy a judgment against another person. Subrule 148(5)(e) addresses the minimum requirements that must ordinarily be satisfied on an application for a freezing order against such a third party before the discretion is enlivened. The third party will not necessarily be a party to the substantive proceeding, (see *Cardile v LED Builders Pty Ltd* [1999] [HCA] 18; (1999) 198 CLR 380) but will be a respondent to the application for the freezing or ancillary order. Where a freezing order against a third party seeks only to freeze the assets of another person in the third person’s possession, custody or control (but not ownership), the Form 42 will require adaptation. In particular, the references to “*your assets*” and “*in your name*” should be changed to refer to the other person’s assets or name (eg “*John Smith’s assets*”, “*in John Smith’s name*”).
- 4.6.8 A freezing or ancillary order may be limited to assets in Australia or in a defined part of Australia, or may extend to assets anywhere in the world, and may cover all assets without limitation, assets of a particular class, or specific assets (such as the amounts standing to the credit of identified bank accounts).
- 4.6.9 The duration of a freezing order made without notice should be limited to a period terminating on the return date of the application, which should be as early

as practicable (usually not more than a day or two) after the order is made, when the respondent will have the opportunity to be heard. The applicant will then bear the onus of satisfying the Court that the order should be continued or renewed.

- 4.6.10 A freezing order should reserve liberty for the respondent to apply on short notice. An application by the respondent to discharge or vary a freezing order will normally be treated by the Court as urgent.
- 4.6.11 The value of the assets covered by a freezing order should not exceed the likely maximum amount of the applicant’s claim, including interest and costs. Sometimes it may not be possible to satisfy this principle (for example, an employer may discover that an employee has been making fraudulent misappropriations, but does not know how much has been misappropriated at the time of the discovery and at the time of the approach to the Court).
- 4.6.12 The order should exclude dealings by the respondent with its assets for legitimate purposes, in particular:
- 4.6.12.1 payment of ordinary living expenses;
 - 4.6.12.2 payment of reasonable legal expenses;
 - 4.6.12.3 dealings and dispositions in the ordinary and proper course of the respondent’s business, including paying business expenses bona fide and properly incurred; and
 - 4.6.12.4 dealings and dispositions in the discharge of obligations bona fide and properly incurred under a contract entered into before the order was made.
- 4.6.13 When a freezing order extends to assets outside Australia, the order should provide for the protection of persons outside Australia and third parties. Such provisions are included in Form 42 for freezing orders.
- 4.6.14 The Court may make ancillary orders. The most common example of an ancillary order is an order for disclosure of assets. Form 42 provides for such an order and for the privilege against self-incrimination.
- 4.6.15 The Rules of Court confirm that certain restrictions expressed in *The Siskina* [1979] AC 210 do not apply in this jurisdiction. First, the Court may make a freezing order before a cause of action has accrued (a “prospective” cause of action). Secondly, the Court may make a free-standing freezing order in aid of foreign proceedings in prescribed circumstances. Thirdly, when there are assets in Australia, service outside of Australia is permitted under Rule 40(1)(1).
- 4.6.16 As a condition of the making of a freezing order, the Court will normally require appropriate undertakings by the applicant to the Court, including the usual undertakings as to damages.
- 4.6.17 If it is demonstrated that the applicant has or may have insufficient assets within the jurisdiction of the Court to provide substance for the usual undertaking as to damages, the applicant may be required to support the undertaking by providing security. There is provision for such security in Form 42.
- 4.6.18 The order to be served should be endorsed with a notice which meets the requirements of Rule 225.
- 4.6.19 An applicant for a freezing order without notice to the respondent is under a duty to make full and frank disclosure of all material facts to the Court. This includes

disclosure of possible defences known to the applicant and of any information which may cast doubt on the applicant's ability to meet the usual undertaking as to damages from assets within Australia.

- 4.6.20 The affidavits relied on in support of an application for a freezing or ancillary order should, if possible, address the following:
- 4.6.20.1 information about the judgment that has been obtained, or, if no judgment has been obtained, the following information about the cause of action:
 - (i) the basis of the claim for substantive relief;
 - (ii) the amount of the claim; and
 - (iii) if the application is made without notice to the respondent, the applicant's knowledge of any possible defence.
 - 4.6.20.2 the nature and value of the respondent's assets, so far as they are known to the applicant, without and outside Australia;
 - 4.6.20.3 the matters referred to in Rule 247(5); and
 - 4.6.20.4 the identity of any person, other than the respondent, who, the applicant believes, may be affected by the order, and how that person may be affected by it.

Direction 4.7 – Proceedings under the *Serious and Organised Crime (Unexplained Wealth) Act 2009 (Rule 316A)*.

- 4.7.1 Applications under s 14 (Rule 316A(2)) and under ss 15, 16(1), 19(2) and 20 of the Act (Rule 316A(7)) are to be in Form 50.
- 4.7.2 A warrant for search and seizure under s 16 of the Act (Rule 316A(12)) is to be in Form 51.
- 4.7.3 A notice of objection under section 24 of the Act (Rule 316A(14)) is to be in Form 52.

Direction 4.8 – Service Abroad Under the Hague Convention

- 4.8.1 A request for service abroad under Rule 41D is to be in Form 48;
- 4.8.2 A summary of the document to be served abroad as required by Rule 41D is to be in Form 49;
- 4.8.3 A certificate of service under Rule 41F is to be in the form of Part 2 of Form 48;
- 4.8.4 A request for service in this jurisdiction under Rule 41M is to be in the form of Part 1 of Form 48;
- 4.8.5 A summary of the document to be served in this jurisdiction as required by Rule 41M is to be in Form 49;
- 4.8.6 A certificate of service under Rule 41P is to be in the form of Part 2 of Form 48.

Chapter 5 – Proceedings in Court and Trials

Direction 5.1 – This Practice Direction does not apply in the District Court

Direction 5.2 – Interpreters in Court

- 5.2.1 An interpreting service to the Courts is provided by the Interpreting and Translation Centre, a branch of the Office of Multicultural & Ethnic Affairs.
- 5.2.2 The service provides interpreting facilities during Court hearings for persons accused of criminal offences, parties in civil proceedings and persons required to give evidence as witnesses in either criminal or civil proceedings in Court.
- 5.2.3 The service does not provide interpreters for lawyers taking instructions from clients or for parties in proceedings requiring to communicate with the lawyers.
- 5.2.4 Practitioners should notify the Court of the requirement for interpreting services in any conference, hearing or trial in both criminal and civil matters at the earliest possible time to the Listing Section of the Court. It is essential for such requests to be made immediately the need arises to allow the maximum possible time for the necessary arrangements to be put into effect.

Direction 5.3 – Noting of Appearances of Counsel and Lawyers

Counsel and lawyers appearing in cases listed before the Court must fill in and hand to the associate prior to the hearing a form indicating his/her name, the party for whom he/she appears and the name of his/her instructing lawyer. A specimen form appears below and supplies of the forms will be placed on all bar tables.

A P P E A R A N C E S

_____	V	_____
Crown/Plaintiff/Appellant		* Accused/Defendant/Respondent/ Third Party
_____		_____
with		with
_____		_____
instructed by		instructed by
_____		_____
_____		_____

Where counsel is not an admitted practitioner in this State, the following must each be answered:

- What is the full name of counsel, and if a QC or SC elsewhere stating that?
.....
.....
- What is the ground (identifying the Statute or Regulation and the relevant provision thereof) on which such counsel exercises a right of appearance before the Court?
.....
.....
.....
- Is there any restriction on his/her right to practice in his/her home jurisdiction and if so what restriction?
.....
.....
.....

To be completed and handed to the Associate before the commencement of the hearing

* If more than one - indicate for whom you are appearing

PLEASE PRINT PLAINLY

.....

Signed by counsel/solicitor

Direction 5.4 – Expert Witnesses (Rule 160)

- 5.4.1 These guidelines are not intended to address exhaustively all aspects of an expert's report and an expert's duties. Reference should also be made to Rule 160
- 5.4.2 These guidelines, however, must be complied with for an expert to comply with Rule 160(3)(e).
- 5.4.3 **General Duty to the Court:**
- 5.4.3.1 An expert witness has an overriding duty to assist the Court on matters relevant to the expert's area of expertise.
- 5.4.3.2 An expert witness is not an advocate for a party.
- 5.4.3.3 An expert witness's paramount duty is to the Court and not to the person retaining the expert.
- 5.4.4 **The Form of the Expert Report:**
- 5.4.4.1 If any tests or experiments are relied upon by the expert in compiling the report, the report should contain details of the qualifications of the person who carried out any such tests or experiments.
- 5.4.4.2 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the opposite party at the same time as the delivery of the report.
- 5.4.4.3 The report should set out separately from the factual findings or assumptions each of the opinions which the expert expresses.
- 5.4.4.4 The expert should give reasons for each opinion.
- 5.4.4.5 If an expert opinion is not fully researched because the expert considers that insufficient data is available - or for any other reason, this must be stated with an indication that the opinion is no more than a provisional one. Where an expert witness who has prepared a report believes that it may be incomplete or inaccurate without some qualification, that qualification must be stated in the report.
- 5.4.4.6 The expert should make it clear when a particular question or issue falls outside his/her field of expertise.
- 5.4.4.7 The expert's report will contain an acknowledgement at the commencement of the expert's report that the expert has been provided with copies of Rule 160 and this Practice Direction prior to preparing the expert's report and that the expert has read it and understood it.
- 5.4.4.8 At the end of the report the expert should declare that (the expert) has made all the inquiries which "*(the expert) believes are desirable and appropriate and that no matters of significance which (the expert) regards as relevant have, to (the expert's) knowledge, been withheld from the Court.*"
- 5.4.5 **The Further Obligations of an Expert and the Party Retaining the Expert:**

5.4.5.1 If, after exchange of reports or at any other stage, an expert witness changes his/her view on a material matter, having read another expert's report or for any other reason, the change of view should be communicated in writing (through legal representatives) without delay to each party to whom the expert witness's report has been provided and, when appropriate, to the Court.

5.4.5.2 If a draft of the expert's report (in whole or in part) or any of the content of a draft report has been provided or communicated to a party, a party's representative or a 3rd party a copy of the draft so provided or communicated must be retained by the expert.

5.4.6 **Consequences of Non Disclosure**

If a party fails to comply with the Rules of Court or this Practice Direction in respect of an expert's report:

5.4.6.1 The Court may adjourn the hearing or trial at the cost of the party in default or his/her lawyer.

5.4.6.2 The Court may direct that evidence from that expert not be adduced by that party at the trial in the action.

5.4.6.3 The Trial Judge may award costs to the other parties or reduce costs otherwise to be awarded to the party in default.

5.4.7 **Expert's Conference**

If experts retained by the parties meet at the direction of the Court, or at the request of lawyers for the parties, it would be improper conduct for an expert to be given or to accept instructions not to reach agreement. If, at a meeting directed by the Court, the experts cannot reach agreement on matters of expert opinion, they should specify their reasons for being unable to do so.

5.4.8 **Experts Employed by a Party to the Action**

The provisions and requirements of Rule 160 and this Practice Direction apply to any person called as an expert in the action, even if the expert is employed by a party to the action.

Direction 5.5 – Shadow Experts (Rule 161(2))

A Certificate under Rule 161(2) is to be in Form 19.

(As to service of such certificate see Rules 161(4) and (5)).

Direction 5.6 – Lists, Citation and Copies of Authorities

Format – District Court Variation

5.6.1 Lists of authorities should contain:

5.6.1.1 the full heading of the action;

5.6.1.2 the anticipated date of hearing;

5.6.1.3 the names or name of the Judge or Master who will hear the case (if known).

5.6.2 Lists of authorities should be divided into two parts:

- 5.6.2.1 PART I to be headed “Authorities to be Read” is to contain the authorities from which counsel will read passages to the Court;
- 5.6.2.2 PART II to be headed “Authorities to be Referred To” is to contain the authorities which are relied upon but from which counsel does not expect to read;
- 5.6.3 Care should be taken in compiling Part I to ensure that it contains only the cases from which counsel will read.
- 5.6.4 **Citations to be Provided**
- When a case is reported in the South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, the English authorised reports (The Law Reports) or in a series of reports containing only the decisions of a State or Territory Supreme Court, the citation of the report of the case in those Reports or in that series must be used. In addition, the medium neutral citation, when available, is to be provided for all judgments, whether reported or unreported.
- 5.6.5 **This Practice Direction does not apply in the District Court**
- 5.6.6 **Filing and Lodgement of List of Authorities - District Court variation**
- The list of authorities is to be delivered to the Judge’s Associate or the Master’s Personal Assistant, but if that Judge or Master is not known, it is to be lodged in the Registry *two working days* prior to the date set for the commencement of the hearing.
- 5.6.7 **Photocopies of Authorities**
- The Court discourages the handing up of photocopies of decisions readily available in the Supreme Court library or available electronically. The cost of those photocopies is not to be a cost to the client unless the client consents or the court so directs. Their cost will not be recoverable as an item of party and party costs except in those cases in which, before the hearing, the Court has authorised the handing up of the photocopies. If a party proposes to rely on a case not contained in the list of authorities, the existing practice of making a copy available to the court and to the other party should continue. The cost of the copying in such cases will not be recoverable either from the client or as an item of party and party costs. It is only in exceptional cases that copies of cases in Part II of the list are to be handed up.
- 5.6.8 **Copies for Reporters**
- 5.6.8.1 A paper copy of the list of authorities must be handed to the reporters in Court prior to the commencement of the hearing.
- 5.6.8.2 Copies of medical or expert reports to be tendered at the hearing should also be handed to the reporters in Court at the time at which they are tendered.

Direction 5.7 – Barristers’ Attire

- 5.7.1 The dress of barristers appearing in Court is to be black court coat or bar jacket, white jabot and gown (silk for Queen’s Counsel and stuff for junior counsel), dark trousers for men and dark skirt or slacks/trousers for women. As an alternative to the jabot, white bands may be worn with white shirt and winged collar.

- 5.7.2 Wigs will be worn only when the Court is hearing criminal proceedings (including appeals) and on ceremonial occasions. Wigs will not be worn in civil proceedings.
- 5.7.3 Barristers' attire should be at all times in a clean and neat condition.

Direction 5.8 – Delivery of Reserved Judgments

- 5.8.1 In ordinary cases, the Courts aim to deliver judgment no later than 60 days from the reservation of judgment. However, the Courts recognise that there will be particular cases in which that target is not appropriate. The Courts also recognise that due to workloads and other matters there may be occasions when it is not practicable for a Judge to observe the target.
- 5.8.2 Notwithstanding those comments, which are offered by way of explanation, in any case, after 60 days from the reservation of judgment, parties are at liberty to invoke the following protocol:
- 5.8.2.1 Where, following the hearing of any matter, the judgment is not delivered within 60 days of the date upon which judgment was reserved, any party may by letter addressed to the Chief Justice for the Supreme Court or the Chief Judge for the District Court, inquire about progress of the judgment.
- 5.8.2.2 The party making such an inquiry will deliver a copy of the letter to all other parties to the action.
- 5.8.2.3 The identity of a party making such an inquiry is not to be disclosed other than to –
- 5.8.2.3.1 the Chief Justice for the Supreme Court or the Chief Judge for the District Court; and
- 5.8.2.3.2 the other parties to the action.

Direction 5.9 – Circuit trials in the District Court – District Court only

- 5.9.1 In the normal course of events, Judges will not agree to hearing the trials of actions in part whilst on circuit and in part subsequently in Adelaide. They are to be heard entirely during the circuit sittings or entirely in Adelaide. This is because it is disruptive of the Court's lists in Adelaide to endeavour to accommodate trials that have been part heard on circuit.
- 5.9.2 There will be special cases in which a departure from the general rule may be requested. In such a case, an application is to be made to the trial Judge before the commencement of the trial, and if the request is granted, the date for resumption of the case is to be determined before the trial is adjourned over.

Direction 5.10 – Tender Books

Introduction

- 5.10.1 The Court expects the parties to cooperate in the preparation of a joint tender book of documents for use at trial. Ordinarily a joint tender book should be prepared whenever the number of documents to be tendered at the trial (excluding experts' reports) will exceed 25.

- 5.10.2 The purpose of this Practice Direction is to provide a set of standard directions for the preparation of a joint tender book of documents for use at trial.
- 5.10.3 The parties are to comply with the standard directions unless the Court otherwise directs, or the parties otherwise agree.
- 5.10.4 The Court may direct, or the parties may agree, that the standard directions do not apply, or should be varied, to suit the circumstances of a particular case, including those cases:
- 5.10.4.1 which do not involve significant documentary evidence;
 - 5.10.4.2 which involve multiple parties;
 - 5.10.4.3 in which it is a defendant or third party who will be tendering more documents than the plaintiff; or
 - 5.10.4.4 in which the plaintiff lacks the capacity or facilities with which to prepare a tender book.

Standard Directions

- 5.10.5 The plaintiff is, by no later than 28 days before the date fixed for the trial to commence, to provide to each other party:
- 5.10.5.1 a draft index to a tender book listing all the documents, other than experts' reports, which the plaintiff intends tendering at trial. The documents are to be listed in chronological sequence, or arranged in some other order appropriate for convenient use at the trial;
 - 5.10.5.2 a copy of each of the documents listed in the draft index.
- 5.10.6 Each defendant is, by no later than 21 days before the date fixed for the trial to commence, to provide each other party with:
- 5.10.6.1 a list, in an appropriate sequence, of any additional documents, other than experts' reports, which the defendant intends tendering at trial; and
 - 5.10.6.2 a copy of each of the documents in the defendant's list.
- 5.10.7 When there is a third party to the proceedings, the third party is, no later than 16 days before the date fixed for the trial to commence, to provide each other party with:
- 5.10.7.1 a list, in an appropriate sequence, of any additional documents, other than experts' reports, which the third party intends tendering at trial; and
 - 5.10.7.2 a copy of the documents in the third party's list.
- 5.10.8 The plaintiff is, by no later than 10 days before the date fixed for the trial to commence, to provide each other party with one copy, and the Court with two copies, of the joint tender book.
- 5.10.9 The joint tender book is to contain in an appropriate sequence a paginated and indexed copy of each of the documents listed in the plaintiff's draft index and in any list of additional documents provided to the plaintiff.
- 5.10.10 Each party is, by no later than four business days before the date fixed for the trial to commence, to serve on each other party a document indicating which, if

any, of the documents in the joint tender book will be the subject of an objection to the tender, together with a brief statement of the basis for objection.

- 5.10.11 The plaintiff is, at least one business day before the trial commences, to provide to the Court and to each other party a consolidated list of all the objections to the tender of documents in the joint tender book.

Direction 5.11 – Titles of Amended Pleadings (Rule 54(2))

- 5.11.1 An amended pleading filed under Rule 54(2) should be entitled as either the Second, Third, Fourth, etc, version of that pleading, as the case may be. The terms ‘Amended’, ‘Further’, ‘Revised’ or the like are not to appear in the title.

Example: If a Statement of Claim is being amended for the third time, the document should be entitled ‘Fourth Statement of Claim’.

Chapter 6 – Appellate Proceedings – District Court variation

Direction 6.1 – Summaries of Argument for Hearing of the Appeal (Rule 297)

The summary of argument for the hearing of an appellate proceeding should be as brief as possible and ordinarily is not to exceed about three pages. It should not be in the nature of a written submission.

- 6.2 The summary should:
- 6.2.1 contain a concise statement of the issues raised by the appeal;
 - 6.2.2 provide the Court with an outline of the steps in the argument to be presented on each issue;
 - 6.2.3 provide each other party with notice of the contentions to be advanced by that party;
 - 6.2.4 contain a succinct statement of each contention followed by a reference to the authorities (giving page or paragraph numbers) and to the legislation (giving section numbers), relevant passages of the evidence and exhibits, and to the judgment under appeal;
 - 6.2.5 and, if a party intends challenging any finding of fact:
 - 6.2.5.1 identify the error relied upon (including any failure to make a finding of fact);
 - 6.2.5.2 identify the finding which the party contends ought to have been made;
 - 6.2.5.3 state concisely why, in the party’s submission, the finding, or failure to make a finding, is erroneous;
 - 6.2.5.4 give references to the evidence to be relied upon in support of the argument.
- 6.3 Subject to Rule 297(3)(b) and (c), ordinarily the summary should not set out passages from the judgment under appeal, from the evidence, or from the authorities relied upon but is to be a guide to these materials.
- 6.4 In an appropriate case, a separate chronology or a summary of the evidence concerning a particular issue may be used.
- 6.5 As preparation of a summary of argument is a necessary element in the preparation of an argument, it is usually not appropriate for counsel to charge an additional fee for its preparation.

Direction 6.6 – Case books on appeals from Masters – District Court only

This Direction applies to all appeals which lie against judgments or orders of a Master of the District Court. It supplements the requirements laid down in Rule 298 of the District Court Rules 2006.

- 6.6.1 The case book is to be lodged with the Court by the appellant not less than 7 days prior to the scheduled hearing of the appeal.
- 6.6.2 The case book must contain any documents, in order of the File Document Number (FDN), relevant to the appeal and should be on plain good quality A4 size paper and be clear and legible. It must include a full copy of the Master’s decision which is the subject of

- the appeal and copies of any relevant orders made prior to the delivery of the decision appealed from and which bear upon it.
- 6.6.3 Case books are to be bound, so that when opened they lie flat. Staples are not to be used in binding.
- 6.6.4 Each case book shall contain an index. The index should contain columns for an item number, a short description of each document, the document’s date and FDN. It is to be inserted after the title page. If the document has been amended the original date is to be shown in the date column with the amended date appearing within the document description.
- 6.6.5 The parties should exclude all documents and parts of documents that are not relevant to the matter before the Court so as to reduce the bulk of the case book. As far as practicable parties should avoid the duplication of documents.
- 6.6.6 In the case of lengthy documents where parts only are relevant to the questions at issue, relevant extracts only should be included. A concise summary of the other parts may be included where necessary for the purposes of clarity.
- 6.6.7 The case book is to be prepared and produced in a manner satisfactory to the Registrar.
- 6.6.8 The cost of unnecessary documents or of documents copied at unnecessary length will not be allowed.
- 6.6.9 Where a party seeks an exemption from this Practice Direction, an application for such exemption, made in writing, will be determined by the Registrar.

Direction 6.7 – Presentation of submissions on Minor Civil Action Reviews – District Court only

(A copy of this Practice Direction is to be given to every applicant for a Minor Civil Action Review upon the filing of the application and a copy of it is to be attached to the sealed copy of the application which is served.)

- 6.7.1 At the hearing of this Minor Civil Action Review under s38 of the *Magistrates Court Act 1991* (“the Act”) you, as either the applicant for the review or a respondent to it, may present your case to the Judge on the hearing of the review, if you so wish, by either:
- (1) a document (“the written case”) which sets out what you want to say to the Judge about the matters in issue on the review; or
 - (2) you orally addressing the Judge on the hearing of the review; or
 - (3) employing, if you are entitled to do so, a lawyer to do so on your behalf, but under ss38(4) and (7)(a) of the Act your right to have a lawyer appear for you applies only in limited circumstances.

(The alternative which you choose is not dependent on what any other party chooses to do and some may choose (1), some (2) and some (3).)

- 6.7.2 The written case is to:
- (1) have at its top the District Court action number and the names of the parties as shown on the top of the application for review.
 - (2) state the date on which the review is next listed for hearing;
 - (3) be either typed or in legible handwriting;
 - (4) state whether you want the Court to hear any evidence which the Magistrate did not hear, what is that evidence and why it was not put before the Magistrate.
 - (5) not exceed 6 pages in length; and
 - (6) be signed and dated by you.
- 6.7.3 If you choose the option of the written case you must at least 2 days on which the Court is open for business prior to the hearing date for the review:
- (1) lodge a copy of your written case at the Registry of the Court or post it to the Registrar so that it arrives by that time; and
 - (2) post or give to each of the other parties to the review a copy of the written case.
- 6.7.4 If you have lodged a written case, you are not required to say anything to the judge on the hearing of the review except in answer to any questions put to you by the judge.
- 6.7.5 Even if you lodge a written case you should still attend at the hearing of the review in case the judge wants to ask you any questions, but, if you do not attend, the judge will have regard to the written case in the decision made about the review.
- 6.7.6 If you are unsure whether you can, or should, be represented by a lawyer on the hearing of the review, you should seek advice from a lawyer about it. Even if you are not to be represented by a lawyer on the hearing of the review, you may, if you wish, obtain legal advice about preparing a written case.

Chapter 7 – Proceedings under the *Corporations Act 2001* – District Court variation

Direction 7.1 – This Practice Direction does not apply in the District Court

Direction 7.2 – This Practice Direction does not apply in the District Court

Chapter 8 – Costs and Adjudications - District Court variation

Direction 8.1 – This Practice Direction does not apply in the District Court

Direction 8.2 – Schedules of Costs for Adjudications (Rule 273)

- 8.2.1 Evidence in letter form is to be lodged confirming service of the Schedule sought to be adjudicated.
- 8.2.2 Lawyers need not lodge their files and other supporting documents at the Registry when lodging Schedules of Costs for adjudication. If the Court requires the lawyer's file and supporting documents for an adjudication without attendance, or for inspection prior to the time set for an adjudication, a written notice to that effect will be given to the lawyer by leaving the same for collection by him/her in the Registry. When a lawyer has not lodged his/her file and other supporting documents prior to an appointment for an adjudication he or she must be able to produce them on request to the Adjudication Officer at the adjudication.
- 8.2.3 Schedules of Costs under Rule 273 must:
- 8.2.3.1 Show the individual items for profit costs in the schedule without any percentage increases being added to those individual items.
 - 8.2.3.2 Have each item in the schedule numbered consecutively.
 - 8.2.3.3 Have each page in the schedule numbered.
 - 8.2.3.4 Show the year in which the work claimed for was done at least once on each page of the schedule.
 - 8.2.3.5 Be divided into parts which correspond to the period over which any particular percentage increase is applicable and make provision for the amount of the percentage increase that is to be added at the end of each such part.
- 8.2.4 Schedules of costs which are not in this form will not be accepted for adjudication.
- 8.2.5 Any notice of dispute filed pursuant to Rule 273(2) is to contain brief grounds for each item of dispute. Lawyers involved in any disputed adjudication shall confer prior to the adjudication appointment with a view to resolving, limiting or clarifying the items in dispute. A date for adjudication of the schedule will not be fixed until written confirmation that the parties have conferred has been received by the Court.

Direction 8.3 – Application for Adjudication of Costs under the Commercial Arbitration and Industrial Referral Agreements Act 1986

An application for adjudication for costs under Rule 272 (1) is to be in Form 54.

Chapter 9 – Court Referred Mediations

Direction 9 - Court Referred Mediations (Rule 220)

- 9.1 Subject to any contrary direction in a particular action, this Practice Direction applies to mediations under s 32 of the District Court Act 1991.
- 9.2 If the parties and the Mediator do not reach agreement as to the Mediator’s fees, the Mediator may charge fees for the work in relation to the mediation which do not exceed the fees in the “Supreme and District Courts’ Indicator on Counsel Fees”.
- 9.3 The parties to the action are jointly and severally liable for the payment of the Mediator’s fees and the lawyers on the Court record for the parties are to use their best endeavours to ensure prompt payment of those fees.
- 9.4 The parties are expected to participate appropriately in the mediation and to make genuine attempts to resolve the matters in issue.
- 9.5 If the Mediator considers that a party has not participated appropriately in the mediation, or has not made genuine attempts to resolve the matters in issue, the Mediator may provide a written report to the Court of the circumstances.

Chapter 10 – This Practice Direction does not apply in the District Court

Chapter 11 – This Practice Direction does not apply in the District Court

Chapter 12 – This Practice Direction does not apply in the District Court

Chapter 13 – This Practice Direction does not apply in the District Court

Chapter 14 – Approved Forms

14.1 The Forms approved for documents to be filed in the Court (Rule 42) are those contained in Part 2 of these Practice Directions.

The Forms are the same as the Forms approved for use in the Supreme Court unless otherwise indicated and if a Supreme Court Form is irrelevant there will be a gap in the sequential numbering.

History of amendment

Practice Direction #	Nature of Amendments	Date of Operation
1.2.1	amended by Amendment No. 10	23 December 2009
1.7	inserted by Amendment No. 13	1 October 2010
2.1	substituted by Amendment No. 1	1 May 2007
2.2.14	amended by Amendment No. 1	1 May 2007
2.2 Annexure	inserted by Amendment No. 1	1 May 2007
3.1	renumbered by Amendment No. 2	1 January 2008
3.2	renumbered by Amendment No. 2	1 January 2008
3.2A	inserted by Amendment No. 3	1 June 2008
3.3	renumbered by Amendment No. 2	1 January 2008
3.1.4	inserted by Amendment No. 2	1 January 2008
3.1.5	inserted by Amendment No. 2	1 January 2008
3.1.6	inserted by Amendment No. 11 substituted by Amendment. No 17 amended by Amendment No. 18	1 May 2010 1 April 2012 1 December 2012
3.1.6.3	substituted by Amendment No. 18	1 December 2012
3.1.7	inserted by Amendment No. 11 substituted by Amendment No. 17	1 May 2010 1 April 2012
3.1.8	inserted by Amendment No. 17	1 April 2012
3.1.8.1	inserted by Amendment No. 17	1 April 2012
3.1.8.2	inserted by Amendment No. 17	1 April 2012
3.1.9	inserted by Amendment No. 18	1 December 2012
3.3A	inserted by Amendment No. 18	1 December 2012
3.9.7.1.2	deleted by Amendment No. 2	1 January 2008
3.9.7.2	substituted by Amendment No. 2	1 January 2008
3.9.10.1	amended by Amendment No. 3	1 June 2008
3.9.10.2	amended by Amendment No. 3	1 June 2008
3.12	inserted by Amendment No. 19	1 May 2013
4.1.7	inserted by Amendment No. 7	1 April 2009
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4.5.6	amended by Amendment No. 15	1 February 2011
4.6	inserted by Amendment No. 1	1 May 2007
4.6.7	amended by Amendment No. 3	1 June 2008
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4.8	inserted by Amendment No 14	9 November 2010
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Practice Direction #	Nature of Amendments	Date of Operation
5.4.5.2	inserted by Amendment No. 1	1 May 2007
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5.10	inserted by Amendment No. 11	1 May 2010
5.11	inserted by Amendment No. 11	1 May 2010
6	substituted by Amendment No. 12	1 July 2010
8 Heading	amended by Amendment No. 1	1 May 2007
8.2.1	amended by Amendment No. 3	1 June 2008
8.2.2	amended by Amendment No. 1	1 May 2007
8.2.4	amended by Amendment No. 1	1 May 2007
8.2.5	amended by Amendment No. 1	1 May 2007
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9.1.2.2.4	inserted by Amendment No. 11	1 May 2010
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9.2.2.5	renumbered Amendment No. 9	31 August 2009
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9.3.2	substituted by Amendment No. 11	1 May 2010
9.3.3	amended by Amendment No. 11	1 May 2010
9.10.1	substituted Amendment No. 9	31 August 2009
9.10.2	amended Amendment No. 9	31 August 2009
9 Appendix, para 3	deleted by Amendment No. 11	1 May 2010