

# UNIFORM SPECIAL STATUTORY RULES 2022

## SOUTH AUSTRALIA

**Came into operation on 29 August 2022 (*South Australian Government Gazette* 26 August 2022, pages 4058-5807) have been varied by Uniform Special Statutory Amending Rules:**

<i>No.</i>	<i>Date</i>	<i>Gazette</i>	<i>Date of operation</i>
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2	11 December 2023	22 December 2023, p. 4323	1 January 2024
3	7 August 2024	21 August 2024, p. 2614	26 August 2024
4	6 December 2024	12 December 2024, p.4699	16 December 2024
5	26 March 2025	3 April 2025, p. 586	3 April 2025
6	10 April 2025	24 April 2025, p. 794	28 April 2025
7	28 June 2025	10 July 2025, p.2495	10 July 2025
8	14 August 2025	21 August 2025, p.3543	21 August 2025
9	4 March 2026	12 March 2026, p.652	12 March 2026
10	<b>1 April 2026</b>	<b>23 April 2026, p.829</b>	<b>23 April 2026</b>

**The Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Judge of the Youth Court and the Chief Magistrate of the Magistrates Court, and the Judge of the Youth Court make the following Uniform Special Statutory Rules 2022 under the *Supreme Court Act 1935*, the *District Court Act 1991*, the *Youth Court Act 1993* and the *Magistrates Court Act 1991*, and all other enabling powers.**

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### Note—

The numbering convention adopted in these Rules provides for a gap in the numbering of rules between chapters. The rule numbering in each chapter begins with a new factor of ten. For example, the last rule in Chapter 1 is rule 10 but the first rule in Chapter 2 is rule 21.

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**Note—**

Each individual form in the Index to Schedule 1—Forms is available separately on *the Rules, Forms and Fees* page of the CAA website.

## Chapter 1—General

### Part 1—Introduction

#### 1.1—Title

These Rules may be cited as the *Uniform Special Statutory Rules 2022*.

#### 1.2—Commencement

These Rules come into effect—

- (a) subject to subrule (b), on the date of their publication in the Gazette;
- (b) if these Rules are published in the Gazette on a day other than a Monday, these Rules come into effect on the date that is the first Monday following that publication.

#### 1.3—Repeal

The Previous Rules are repealed.

#### 1.4—Transition

- (1) Unless the Court otherwise orders—
  - (a) these Rules apply to—
    - (i) a proceeding commenced; and
    - (ii) a step in a proceeding taken, on or after the commencement date; and
  - (b) the Previous Rules continue to govern a step in a proceeding taken before the commencement date.
- (2) If the time to commence or take a step in a proceeding under the Previous Rules has not expired as at the commencement date, the time to commence or take a step in the proceeding continues to be governed by the Previous Rules (unless these Rules provide for a longer time).
- (3) Unless the Court otherwise orders, a proceeding instituted before the commencement date is to be regarded as an originating application.
- (4) In respect of a proceeding instituted before the commencement date—
  - (a) a party who instituted the proceeding (by whatever name called) is now an applicant;
  - (b) a party against whom the proceeding was instituted (by whatever name called) is now a respondent; and
  - (c) a party who was an intervenor is now an interested party.
- (5) Despite subrule (1), if a proceeding governed by one of the following provisions of the Uniform Civil Rules was instituted before the commencement date, that proceeding continues to be governed by the Uniform Civil Rules—
  - (a) Chapter 19 Part 6 Division 8—Production, examination, monitoring and freezing orders;

**Note—**

Examination orders continue to be governed by rule 236.30 of the Uniform Civil Rules.

- (b) Chapter 20 Part 5—ICAC and ACC Investigations;
- (c) Chapter 20 Part 17—Serious and organised crime control;
- (d) Chapter 20 Part 18—Terrorism preventative detention reviews;
- (e) Chapter 22 Part 9—Serious and organised crime public safety order.

## 1.5—Object

The object of these Rules is to facilitate the just, efficient, timely, cost-effective and proportionate resolution or determination of the issues in proceedings governed by these Rules.

### Notes—

Section 3 of the Legislation Interpretation Act 2021 generally applies the provisions of the Act to “legislative instruments”.

These Rules are a “legislative instrument” within the meaning of the Legislation Interpretation Act 2021.

Section 14 of the Legislation Interpretation Act 2021 provides that, in interpreting a provision of an Act or a legislative instrument, the interpretation that best achieves the purpose or object of the Act or the instrument (whether or not that purpose or object is expressly stated in the Act or instrument) is to be preferred to any other interpretation.

## 1.6—Application of Rules

- (1) Subject to the following subrule, these Rules apply to all proceedings in the Supreme Court, District Court, Youth Court and Magistrates Court of South Australia of the type referred to in Chapters 2 to 8.
- (2) A provision of these Rules appearing under a heading referring to a specified Court or Courts only applies as a rule of the specified Court or Courts and does not apply to proceedings in another Court.

## 1.7—Persona designata matters

- (1) This rule applies to applications that under the relevant legislation are to be made to a person holding a designated judicial office within one or more of the Courts in that person’s individual capacity (a *designated person*) rather than to a court.
- (2) A provision in these Rules (including a template or prescribed form) relating to an application governed by this rule is not mandatory, but merely serves as a template that may or may not be used.

## Part 2—Interpretation

### 2.1—Definitions

- (1) In these Rules—

*address for service*—has the meaning given by rule 44.1 of the Uniform Civil Rules;

*appellate proceeding* means—

- (a) an appeal (including a review in the nature of an appeal) against a judgment, order or decision of a court; or
- (b) a case stated;

*audio link* means audio communication between the Court and a participant by telephone or other electronic means for the purpose of a court hearing;

**audio visual link** means audio visual communication between the Court and a participant by video or other electronic means for the purpose of a court hearing;

**business day** means a day other than a Saturday, Sunday or public holiday;

**Chief Executive** means—

- (a) in respect of a proceeding in the Youth Court—the Chief Executive within the meaning of the *Youth Justice Administration Act 2016* (presently the Chief Executive of the Department for Human Services); or
- (b) in respect of a proceeding in a Court other than the Youth Court—the CE within the meaning of the *Correctional Services Act 1982* (presently the Chief Executive of the Department for Correctional Services);

**Chief Judicial Officer** means—

- (a) in respect of the Supreme Court—the Chief Justice or Acting Chief Justice of the Court;
- (b) in respect of the District Court—the Chief Judge or Acting Chief Judge of the Court;
- (c) in respect of the Youth Court—the Judge or Acting Judge of the Court;
- (d) in respect of the Magistrates Court—the Chief Magistrate or Acting Chief Magistrate of the Court;

**commencement date** means the date on which these Rules come into effect under rule 1.2;

**Commissioner of Police** means the Commissioner within the meaning of the *Police Act 1988*;

the **Court** means the Supreme Court, District Court, Youth Court or Magistrates Court as applicable and, when the context indicates, means a judicial officer having power to act in the manner the subject of the relevant provision of these Rules;

**court access basis**—has the meaning given by rule 29.2 of the Joint Criminal Rules;

**Director of Public Prosecutions** means the Director of Public Prosecutions for the State or Commonwealth as the context requires;

**Electronic System** means the **Electronic System** within the meaning of the Uniform Civil Rules;

**expert** means a person having, or purporting to have, expertise or experience in a field qualifying the person to give expert evidence within the field (and, to avoid doubt, includes a party, partner or associate of a party or person employed by a party);

**expert report** means a written report by an expert relevant to issues in the proceeding in question;

**Higher Court** means the Supreme Court or District Court;

**in chambers** means a hearing, determination or making of an order by a judicial officer in the judicial officer's chambers or in a courtroom as if in the judicial officer's chambers whether in the presence or absence of the parties;

**in court** means a hearing, determination or the making of an order by a judicial officer in a courtroom or via audio visual link or audio link, except one in a courtroom as if in the judicial officer's chambers;

**Joint Criminal Rules** means the *Joint Criminal Rules 2022*;

**judicial officer** means the following, and includes such a person on whom jurisdiction is conferred personally by reason of their judicial office—

- (a) in respect of the Supreme Court—a Justice, Auxiliary Justice, Associate Justice, Auxiliary Associate Justice or Judicial Registrar of the Court;
- (b) in respect of the District Court—a Judge, Auxiliary Judge, Associate Judge, Auxiliary Associate Judge or Judicial Registrar of the Court;
- (c) in respect of the Youth Court—a Judge, Auxiliary Judge, Magistrate, Auxiliary Magistrate, Special Justice or Judicial Registrar of the Court;
- (d) in respect of the Magistrates Court—a Magistrate, Auxiliary Magistrate, Special Justice or Judicial Registrar of the Court;

**law firm** means a law practice within the meaning of the *Legal Practitioners Act 1981* and includes—

- (a) the Crown Solicitor, Australian Government Solicitor, Office of the Director of Public Prosecutions or any other government body practicing as solicitors;
- (b) the Legal Services Commission, Aboriginal Legal Rights Movement, a community legal centre or any other body providing legal aid services practising as solicitors; and
- (c) an in-house government, corporate or other solicitor;

**Note—**

It is the responsibility of a solicitor to ensure that the solicitor is lawfully entitled to so practice under the *Legal Practitioners Act 1981*. For example, section 51 of that Act identifies which legal practitioners are entitled to practise before a State court on behalf, amongst others, of the State Government, State Government bodies, the Legal Services Commission, community legal centres or the Law Society.

**law firm or office** means a law firm or the SAPOL Prosecution Branch;

**lawyer** means a law firm, a solicitor working in a law firm or office or a barrister;

**Lower Court** means the Environment, Resources and Development Court, Youth Court or Magistrates Court;

**Minister for Health** means the Minister responsible for the administration of the *Mental Health Act 2009* (presently the Minister for Health and Wellbeing);

**Minister for Human Services** means the Minister responsible for the administration of the *Youth Justice Administration Act 2016* (presently the Minister for Human Services);

**original service**—has the meaning given by rule 42.11 of the Uniform Civil Rules;

**party** means an applicant, appellant, respondent or interested party in a proceeding or appellate proceeding;

**party access basis**—has the meaning given by rule 29.2 of the Joint Criminal Rules;

**personal service**—has the meaning given by rule 42.1 of the Uniform Civil Rules;

**post service**—has the meaning given by rule 42.3 of the Uniform Civil Rules;

**pre-trial conference**—means a hearing having one or more of the following purposes:

- (a) to explore fully the possibility of disposing of the proceeding or part of the proceeding other than by way of trial or to narrow the issues;
- (b) to enable the duration of the trial to be estimated as accurately as possible;

- (c) to determine what evidence if any may be proved by affidavit;
- (d) for the witnesses to be called to be identified; and
- (e) to facilitate the course of the trial;

**Previous Rules** means—

- (a) in the context of the Supreme Court—the *Supreme Court Special Applications Rules 2014*; the *Supreme Court Criminal Rules 2014* and the *Supreme Court Criminal Supplementary Rules 2014*;
- (b) in the context of the District Court—the *District Court Special Applications Rules 2014*; the *District Court Criminal Rules 2014* and the *District Court Criminal Supplementary Rules 2014*;
- (c) in the context of the Youth Court—the *Youth Court (Young Offenders) Rules 2016* the *Youth Court (General) Rules 2016*; *Youth Court (Care and Protection) Rules 2018*; the *Youth Court (Adoption) Rules 2018* and the *Youth Court (Youth Treatment Orders) Rules 2021*;
- (d) in the context of the Magistrates Court—the *Magistrates Court Rules 1992 (Criminal)*;

**Principal Registrar** means—

- (a) in respect of the Supreme Court—the Registrar or Acting Registrar of the Court and includes a person to whom a function of the Principal Registrar has been delegated;
- (b) in respect of the District Court—the Registrar or Acting Registrar of the Court and includes a person to whom a function of the Principal Registrar has been delegated;
- (c) in respect of the Youth Court—the Registrar or Acting Registrar of the Court and includes a person to whom a function of the Principal Registrar has been delegated;
- (d) in respect of the Magistrates Court—the Principal Registrar or Acting Principal Registrar of the Court and includes a person to whom a function of the Principal Registrar has been delegated;

**proceeding** means a proceeding governed by these Rules and includes—

- (a) an originating application governed by these Rules;
- (b) a proceeding governed by these Rules seeking review of an administrative decision notwithstanding that it may be called an “appeal” by a statutory provision; and
- (c) where the context requires—an appellate proceeding governed by these Rules;

**Registrar** means—

- (a) in respect of the Supreme Court—the Registrar, a Deputy Registrar or a person acting as the Registrar or a Deputy Registrar of the Court;
- (b) in respect of the District Court—the Registrar, a Deputy Registrar or a person acting as the Registrar or a Deputy Registrar of the Court;
- (c) in respect of the Youth Court—the Registrar a Deputy Registrar or a person acting as the Registrar or a Deputy Registrar of the Court;

- (d) in respect of the Magistrates Court—the Principal Registrar, a Registrar, a Deputy Registrar or a person acting as the Principal Registrar, a Registrar or a Deputy Registrar of the Court;

**responsible solicitor** in a proceeding—see rule 8.3 and rule 9.3;

**return date** means the hearing date as shown—

- (a) on an originating application, interlocutory application, order and summons or other document; or
- (b) otherwise in a notice of hearing issued by the Court;

**Rules** means the *Uniform Special Statutory Rules 2022*;

**SAPOL** means South Australia Police within the meaning of section 4 of the *Police Act 1988*;

**SAPOL Prosecution Branch** means—

- (a) the Prosecution Services Branch of SAPOL;
- (b) the Professional Conduct Section of the Ethical and Professional Services Branch of SAPOL; or
- (c) the Licensing Enforcement Branch of SAPOL;

**Sheriff** means the sheriff within the meaning of the *Sheriff's Act 1978* and where the context requires includes deputy sheriffs and sheriff's officers within the meaning of section 6 of the *Sheriff's Act 1978*;

**statutory provision** includes—

- (a) an Act within the meaning of the *Legislation Interpretation Act 2021* and, where applicable, legislation of another polity that would be an Act if made in or under the laws of South Australia;
- (b) a legislative instrument within the meaning of the *Legislation Interpretation Act 2021* and, where applicable, an instrument of another polity that would be a legislative instrument if made in or under the laws of South Australia;
- (c) these Rules and any other applicable rules of court; and
- (d) a provision of such an Act, legislative instrument or rules of court;

**step** in a proceeding or appellate proceeding includes a document filed, process issued, action taken or order made in the proceeding;

**trial date** means the date listed for the trial to commence;

**Uniform Civil Rules** means the *Uniform Civil Rules 2020*;

**without notice** means without serving or informing another party or other person of an application to the Court.

- (2) In these Rules a term defined in the Uniform Civil Rules that is not defined in these Rules has the meaning defined in the Uniform Civil Rules.

- (3) In these Rules a term defined in a statutory provision referred to in a scope of Part or Division or Subdivision or in a rule that is not defined in these Rules has the meaning defined in that statutory provision.

**Note 1—**

Section 6 of the *Legislation Interpretation Act 2021* provides that definitions in a legislative instrument apply to the construction of the instrument except insofar as a contrary intention appears.

**Note 2—**

Section 7 of the *Legislation Interpretation Act 2021* provides that, if a word or phrase has a defined meaning, other parts of speech and grammatical forms of the word or phrase have corresponding meanings.

**Note 3—**

A term that is defined in this rule or at the beginning of a Chapter, Part, Division, Subdivision or in a rule is underlined to indicate that it is a defined term, unless it is a commonly used term. However, an underlined term may bear a different meaning to the defined meaning where the context so indicates.

**Note 4—**

Certain commonly used terms are not underlined or hyperlinked to their definitions. They are:

*Act*

*Commissioner of Police*

*Court*

*judicial officer*

*party*

*proceeding*

*Rules*

*statutory provision*

## 2.2—Calculation of time

- (1) This rule applies to the calculation of time fixed by or under these Rules or an order of the Court and is subject to manifestation of a contrary intention.
- (2) A reference to a *day* is a reference to a calendar day.
- (3) If time is fixed by reference to a date or event, the day of the date or on which the event occurs is not to be counted.

**Examples—**

1. On 1 March, the Court orders a party to file a document within 14 days. The party must file the document by no later than 15 March.
  2. The Court orders a party to file a document at least 14 days before a hearing scheduled on 31 March. The party must file the document by no later than 16 March.
- (4) When the time for a document to be filed is fixed prospectively, if that period would otherwise end on a day when the Registry is closed, that period is extended to end on the next day on which the Registry is open.

*Supreme Court and District Court*

- (5) Time does not run between 25 December and 1 January for the purpose of the period fixed by these Rules for filing a response or responding affidavit to an originating application or for filing a notice of appeal or review governed by Chapter 9.

### 2.3—Interpretation

- (1) In these Rules, notes, examples and references to prescribed forms are part of these Rules.

**Note—**

Section 19 of the *Legislation Interpretation Act 2021* identifies material that, subject to any express provision to the contrary, does and does not form part of a legislative instrument.

- (2) In these Rules—
- (a) if the word “or” appears at the end of the penultimate item in a list, all of the preceding items in the list are to be read as if the word “or” appeared at the end of each; and
- (b) if the word “and” appears at the end of the penultimate item in a list, all of the preceding items in the list are to be read as if the word “and” appeared at the end of each.

**Note—**

Sections 6 to 20 of the *Legislation Interpretation Act 2021* contain rules of construction. Those rules of construction apply to these Rules subject to manifestation of a contrary intention.

### 2.4—Statutory equivalent language

In these Rules, in respect of a proceeding or appellate proceeding governed by these Rules—

- (a) if an applicable statutory provision refers to a “summons”, “information” or another term for the document as originating process for the institution of a proceeding, a reference in these Rules to an “originating application” as originating process for the institution of a proceeding is to be understood as a reference to a “summons”, “information” or the other document as originating process for the purpose of the statutory provision;
- (b) if an applicable statutory provision refers to a “plaintiff”, “informant” or another term for the party instituting a proceeding, a reference in these Rules to an “applicant” in a proceeding is to be understood as a reference to a “plaintiff”, “informant” or that other term for the purpose of the statutory provision;
- (c) if an applicable statutory provision refers to a “defendant” or another term for the party against whom a proceeding is instituted, a reference in these Rules to a “respondent” in a proceeding is to be understood as a reference to a “defendant” or that other term for the purpose of the statutory provision;
- (d) if an applicable statutory provision refers to “permission” to institute or to take a step in a proceeding or appellate proceeding or to appeal, a reference in these Rules to “leave” to institute or to take a step in a proceeding or appellate proceeding or to appeal is to be understood as a reference to “permission” to institute or to take a step in a proceeding or appellate proceeding or to appeal for the purpose of the statutory provision;
- (e) if an applicable statutory provision refers to a hearing or application by “telephone”, a reference in these Rules to a hearing or application by “audio link” is to be understood as including a reference to a hearing or application by “telephone”;
- (f) if an applicable statutory provision refers to a hearing or application by “electronic means (other than by telephone)”, a reference in these Rules to a hearing or application by “audio visual link” is to be understood as including a reference to a hearing or application by “electronic means (other than by telephone)”.

## Part 3—Application of Uniform Civil Rules

### 3.1—Application of Uniform Civil Rules

- (1) Unless the Court otherwise orders and subject to subrule (2), the Uniform Civil Rules apply to proceedings in the Court under these Rules.
- (2) To the extent of any inconsistency between these Rules and the Uniform Civil Rules, these Rules prevail.

**Note—**

All proceedings under these Rules are instituted as originating applications rather than claims and are governed generally by Chapter 8, amongst others, of the Uniform Civil Rules.

## Part 4—Emergency modification or disapplication

### 4.1—Emergency power

- (1) This rule applies if—
  - (a) the State or Federal Government declares, or exercises powers based on there being, the existence of emergency conditions; or
  - (b) the Chief Judicial Officer determines that emergency conditions affecting the Court or the community justify exercise of the power conferred by this rule.
- (2) When this rule applies, the Chief Judicial Officer may declare that particular rules are modified or disapplied in particular circumstances in a manner and for a time that is necessary or desirable to deal with the emergency conditions giving rise to the existence of the power conferred by this rule.
- (3) A declaration under subrule (2) may apply to—
  - (a) a particular proceeding or class of proceedings;
  - (b) a particular party or class of parties;
  - (c) a particular lawyer or law firm or office or class of lawyers or law firms or offices; or
  - (d) a particular step or class of steps.
- (4) The Principal Registrar must cause to be published any declaration made under this rule on the CAA website.

## Part 5—Documents

### 5.1—Forms

- (1) The forms contained in Schedule 1 prescribe the form and content of defined types of documents to be filed at court (*prescribed forms*).
- (2) The Chief Judicial Officer may—
  - (a) modify or delete a prescribed form contained in Schedule 1; or
  - (b) prescribe the form and content of additional defined types of documents to be filed at court (*prescribed forms*).
- (3) When these Rules refer to a prescribed form, that form (as modified under subrule (3) when applicable) must, subject to subrule (6) and any direction by the Court, be used for that purpose or in those circumstances.

- (4) If there is no specific prescribed form for a particular type of document, the generic prescribed form must be used.

**Prescribed form—**

Form 131 Generic

- (5) Subrule (6) applies when these Rules refer to a prescribed form that is—
- (a) an order to be used in specific circumstances (as opposed to the generic form of an order);
  - (b) a bail agreement, guarantee or other document agreed or executed by a party or other person; or
  - (c) any other document issued by the Court or to which the Court is a party.
- (6) The content of a form referred to subrule (6) is presumptive only and the wording of orders, conditions or other content may be changed by the Court.
- (7) If the number of a prescribed form has the suffix “e”, it—
- (a) must be used if the form is filed using the Electronic System; and
  - (b) may be used if the form is filed physically at a registry of the Court if the form is completed electronically.
- (8) If the number of a prescribed form has the suffix “h”, it may be used if the form is filed physically at a registry of the Court if the form is completed manually.

## 5.2—General forms

- (1) If these Rules do not mandate use of a specific originating application, an originating application must be in the prescribed form.

**Prescribed form—**

Form 1 Originating Application

Form 2 Originating Application and Notice

Form 4 Originating Application Ex Parte

Form 5 Originating Application Ex Parte – Warrant

Form 6 Originating Application for Review

Form 111 Originating Application to Vary or Revoke Order

Form 121 Originating Application for Enforcement

- (2) Subject to subrule (3), an affidavit must be in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

Form 8 Exhibit front sheet to Affidavit

- (3) An affidavit or certificate of proof of service or attempted service report must be in the prescribed form.

**Prescribed form—**

Form 25 Affidavit of Proof of Service

Form 26 Certificate of Proof of Service

Form 27 Attempted Service Report

- (4) If these Rules do not mandate use of a specific multilingual notice, a multilingual notice must be in the prescribed form.

**Prescribed form—**

Form 21 Multilingual Notice

- (5) A notice to respondent served outside the State must be in the prescribed form.

**Prescribed form—**

Form 22 Notice to Party Served Interstate

Form 23 Notice to Party Served in New Zealand

Form 24 Notice to Party Served outside Australia

- (6) A notice of acting must be in the prescribed form.

**Prescribed form—**

Form 51 Notice of Acting

- (7) A notice of change of address for service must be in the prescribed form.

**Prescribed form—**

Form 52 Notice of Change of Address for Service

- (8) An Authorisation or Deauthorisation must be in the prescribed form.

**Prescribed form—**

Form 53 Authorisation

Form 54 Deauthorisation

- (9) A response must be in the prescribed form.

**Prescribed form—**

Form 55 Response

- (10) If these Rules do not mandate use of a specific notice of objection, a notice of objection must be in the prescribed form.

**Prescribed forms—**

Form 63 Notice of Objection

- (11) An interlocutory application must be in the prescribed form.

**Prescribed form—**

Form 61 Interlocutory Application

- (12) An application for remission of fees must be in the prescribed form.

**Prescribed form—**

Form 62A Application to Registrar for Remission or Reduction of Court Fees

- (13) A subpoena or summons or warrant to produce a person in custody must be in the prescribed form.

**Prescribed forms—**

Form 71A Summons to Produce Person in Custody

Form 71B Warrant to Produce Person in Custody

Form 73A Subpoena to Attend to Give Evidence (Supreme and District Courts)

Form 73B Subpoena to Attend to Give Evidence (Magistrates and Youth Courts)

- Form 74A Subpoena to Produce Documents (Supreme and District Courts)
- Form 74B Subpoena to Produce Documents (Magistrates and Youth Courts)
- Form 75A Subpoena to Attend and Produce Documents (Supreme and District Courts)
- Form 75B Subpoena to Attend and Produce Documents (Magistrates and Youth Courts)
- Form G2A Witness Summons to Attend to Give Evidence (Youth Court)
- Form G2B Witness Summons to Produce Documents (Youth Court)
- Form G2C Witness Summons to Attend and Produce Documents (Youth Court)

(14) A list of documents must be in the prescribed form.

**Prescribed forms—**

Form 76 List of Documents

(15) A formal offer, withdrawal of formal offer, acceptance of formal offer or response to formal offer must be in the prescribed form.

**Prescribed forms—**

Form 132 Formal Offer

Form 133 Withdrawal of Formal Offer

Form 134 Acceptance of Formal Offer

Form 135 Response to Formal Offer

(16) A record of outcome must be in the prescribed form.

**Prescribed forms—**

Form 31 Record of Outcome (Interim Order)

Form 32 Record of Outcome (Interim Order and Summons)

Form 64 Record of Outcome (Interim Order)

Form 91 Record of Outcome

Form 114 Record of Outcome [Variation or Revocation]

Form 123 Record of Outcome

(17) If these Rules do not mandate use of a specific order, a formal order must be in the prescribed form.

**Prescribed forms—**

Form 33 Order (Interim)

Form 34 Order and Summons (Interim)

Form 92 Order

Form 115 Order for Variation or Revocation

(18) If these Rules do not mandate use of a specific warrant, a warrant must be in the prescribed form.

**Prescribed forms—**

Form 38 Warrant of Interim Detention

Form 70 Warrant of Apprehension

Form 70D Warrant of Apprehension of Witness

Form 105 Apprehension Warrant

Form 108 Miscellaneous Warrant

- (19) A claim for costs or response to claim for costs must be in the prescribed form.

**Prescribed forms—**

Form 136 Claim for Costs

Form 137 Response to Claim for Costs

### 5.3—Authorisation to enter and inspect

- (1) A record of outcome making an order under section 27(2) of the *District Court Act 1991*, section 22(2) of the *Magistrates Court Act 1991* or section 20(2) of the *Youth Court Act 1993* authorising an officer of the Court to enter any land or building and carry out an inspection that the Court considers relevant to a proceeding must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) An order under section 27(2) of the *District Court Act 1991*, section 22(2) of the *Magistrates Court Act 1991* or section 20(2) of the *Youth Court Act 1993* authorising an officer of the Court to enter any land or building and carry out an inspection that the Court considers relevant to a proceeding must be in the prescribed form.

**Prescribed form—**

Form 33C Order - Authorisation to Enter and Inspect Land or Building

### 5.4—Originating applications

- (1) This rule applies to all proceedings governed by these Rules unless these Rules provide otherwise in relation to a specific type of proceedings or a contrary intention appears.
- (2) An originating application must be supported by an affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

- (3) Subject to subrule (4), the deponent of the supporting affidavit must depose to facts known of the deponent's own knowledge.
- (4) If it is not practicable to obtain an affidavit from a witness able to speak of their own knowledge, an affidavit may contain a statement that the deponent reasonably believes to be true if the deponent also states the ground of belief in respect of the statement.
- (5) Unless the application is *ex parte*, the applicant must serve an originating application, together with any supporting affidavit and a multilingual notice in the prescribed form, on the respondent and any interested party as soon as practicable in accordance with rule 82.3 of the Uniform Civil Rules.

**Prescribed form—**

Form 21 Multilingual Notice

**Notes—**

A different form of multilingual notice is required to be served in some circumstances, such as when the Court has made an interim order or the application is to revoke or vary an existing order.

In some circumstances, a multilingual notice is not required to be served.

## 5.5—Response and responding affidavit

- (1) This rule applies to all types of proceedings (other than those that may be made without notice) governed by these Rules unless these Rules provide otherwise in relation to a specific type of proceeding or a contrary intention appears.
- (2) If a respondent or interested party wishes to oppose or make submissions about an originating application, unless these Rules so require in respect of a specific type of application, they need not file a Response.
- (3) If a respondent or interested party wishes, or is required by these Rules, to file a Response, they must, within 14 days after service, file a Response in the prescribed form in accordance with rule 83.1 of the Uniform Civil Rules.

### Prescribed form—

Form 55 Response

- (4) If a respondent or interested party wishes to rely on any facts contrary, or in addition, to those relied on in a supporting affidavit by the applicant, they must within 14 days after service file a responding affidavit in the prescribed form in accordance with rule 83.2 of the Uniform Civil Rules.

### Prescribed form—

Form 7 Affidavit

## 5.6—Service of documents

- (1) This rule applies to all types of proceedings (other than those that may be made without notice) governed by these Rules unless these Rules provide otherwise in relation to a specific type of proceeding or a contrary intention appears.
- (2) A party who files a document must serve it on all other parties as soon as practicable in accordance with rule 41.1 of the Uniform Civil Rules.

## 5.7—Persona designata matters

- (1) This rule applies to applications that under the relevant legislation are to be made to a designated person.
- (2) The templates for a generic application to a designated person that is to be made *ex parte* are as follows.

### Templates—

Form 4PD Originating Application Ex Parte Persona Designata

Form 5PD Originating Application Ex Parte – Warrant Persona Designata

- (3) The template for a generic application to a designated person that is to be made inter partes is as follows.

### Template—

Form 1PD Originating Application Persona Designata

- (4) The template for a generic application and notice to a designated person that is to be made inter partes is as follows.

### Template—

Form 2PD Originating Application and Notice Persona Designata

- (5) The template for an affidavit as follows.

**Template—**

Form 7PD Affidavit Persona Designata

- (6) The template for a record of outcome on an application to a designated person is as follows.

**Template—**

Form 91PD [Record of Outcome](#) Persona Designata

- (7) The template for a generic order on an application to a designated person is as follows.

**Template—**

Form 92PD [Order](#) Persona Designata

- (8) The template for a generic search warrant on an application to a designated person is as follows.

**Template—**

Form 101PD [Search Warrant](#) Persona Designata

- (9) Use of a template referred to in this rule is not mandatory.”

## Part 6—Divisions: Magistrates Court

### 6.1—Divisions

- (1) Subject to subrule (2), the statutory jurisdictions the subject of these Rules are assigned to the Criminal Division of the Court.
- (2) The statutory jurisdictions the subject of [Chapter 2 Part 3](#), [Chapter 3 Part 4](#) and [Chapter 3 Part 17](#) are assigned to the Civil (General Claims) Division of the Court.

**Notes—**

Section 7 of the *Magistrates Court Act 1991* divides the Court into six divisions being the Civil (General Claims), Civil (Consumer and Business) and Civil (Minor Claims) Divisions as well as the Criminal, the Nunga Court and Petty Sessions Divisions.

Section 10(2) of the *Magistrates Court Act 1991* provides that the Rules may assign a particular statutory jurisdiction (other than a statutory jurisdiction specifically assigned by or under another Act to a particular Division of the Court) either to the Civil (General Claims) Division or to the Criminal Division, of the Court.

## Part 7—Parties and representation

### Division 1—Parties

#### 7.1—Party types

- (1) Parties to an action are either applicants, respondents or interested parties.
- (2) An *applicant* is a party (whenever joined) seeking final relief from the Court in the action.
- (3) A *respondent* is a party (whenever joined)—
- (a) against whom final relief is sought from the Court in the action; or
  - (b) whose interests may be directly and adversely affected by the orders sought in the action.

- (4) An *interested party* is a party (whenever joined) who should be given the opportunity to be heard in relation to the proceeding or who must be joined to be bound by the result.
- (5) Parties to an appellate proceeding governed by Chapter 18 of the Uniform Civil Rules are the appellant bringing the appellate proceeding, the respondent against whom the appellate proceeding is brought and any interested party joined under the rules in Chapter 18 of the Uniform Civil Rules.
- (6) When there are multiple parties of the same party type (for example, 2 respondents), the first named party of that type is designated as the First [Party Type] and so on.

**Example—**

John Doe  
First Respondent

Jane Doe  
Second Respondent

- (7) The Court may at any stage order that the party title of a party be changed.

## 7.2—Identity of parties

- (1) If there is to be an application by SAPOL, the application is to be brought by and in the name of Commissioner of Police as applicant.
- (2) The Commissioner of Police may delegate or otherwise authorise the function of instituting or conducting a proceeding or appellate proceeding in the name of the Commissioner of Police.

## 7.3—Change of parties

- (1) The Court may at any stage order the joinder or disjoinder of a party to a proceeding or appellate proceeding on such conditions as it thinks fit.
- (2) The Court may at any stage order the correction of the name of a party.

## Division 2—Representation: lawyers

### 8.1—Right of legal representation of parties

A party may be represented in a proceeding or appellate proceeding by a law firm legally entitled to practise in South Australia.

### 8.2—Law firm acting for party

- (1) A law firm retained to act for a party in a proceeding or appellate proceeding must file a notice of acting for the party in the proceeding in the prescribed form as soon as practicable after acceptance of the retainer.

**Prescribed form—**

Form 51 Notice of Acting

**Note—**

A duty solicitor who appears on a one off basis for a respondent is not regarded, for the purpose of this rule, as being retained to act for the respondent in the proceeding and is not required to file a notice of acting.

- (2) A party who is no longer represented by a law firm in a proceeding or appellate proceeding must file a notice of acting in the prescribed form as soon as practicable

after termination of the law firm's retainer unless a different law firm has been retained to represent the party in the proceeding.

**Prescribed form—**

Form 51 Notice of Acting

- (3) A law firm whose retainer to act for a party in a proceeding or appellate proceeding has been terminated must, if a notice of acting by another law firm or the party is not filed within 7 days—
  - (a) file and serve on its client an interlocutory application seeking leave to cease to act; and
  - (b) appear at the next hearing of the proceeding to seek appropriate orders.
- (4) A law firm is to be regarded as representing a party in a proceeding or appellate proceeding if and from the time when—
  - (a) the law firm files a notice of acting for the party in the proceeding; or
  - (b) the law firm's name is announced to the Court as the party's law firm by a lawyer appearing in court to represent the party in the proceeding.

**Note—**

A lawyer who appears as a friend of the Court is not regarded as representing a party in the proceeding.

- (5) A law firm is to be regarded as ceasing to represent a party in a proceeding or appellate proceeding if and from the time when—
  - (a) a different law firm files a notice of acting for the party in the proceeding under subrule (1);
  - (b) the party files a notice of acting in the proceeding under subrule (2); or
  - (c) the Court so orders.
- (6) If there is a change in the physical address, email address or telephone number of a law firm or the responsible solicitor shown in a party's address for service, a notice of change of address for service must be filed and served on all parties within 7 days.

**Prescribed form—**

Form 52 Notice of Change of Address for Service

### **8.3—Responsible solicitor acting for party**

- (1) When a law firm commences to represent a party in a proceeding or appellate proceeding, it must nominate an individual solicitor who has the overall responsibility for representation of the party in the proceeding (the ***responsible solicitor***).

**Note—**

The mere fact that a lawyer undertakes work on a matter (including appearing at a hearing of the matter) does not entail that the lawyer is the responsible solicitor if there is a lawyer on record as the responsible solicitor who continues to have the overall responsibility for the conduct of the matter.

- (2) A law firm may file a notice of acting nominating a different individual as the responsible solicitor.
- (3) An individual nominated as the responsible solicitor continues to have overall responsibility for representation of the party in the proceeding or appellate proceeding.

unless and until the law firm files a notice of acting nominating a different individual as the responsible solicitor.

#### 8.4—Counsel for party

A party may appear or be represented in a proceeding or appellate proceeding by one or more counsel who is a solicitor or barrister legally entitled to practise in South Australia.

#### 8.5—Party bound by conduct of lawyer

- (1) Subject to subrule (2), a party in a proceeding or appellate proceeding is bound by the conduct of the law firm who is recorded as representing the party and by counsel who appears for the party in the proceeding.
- (2) The Court may order that a party is not bound by the conduct of a law firm or counsel in a proceeding if—
  - (a) the law firm or counsel acted outside their scope of authority; and
  - (b) the Court considers that it is reasonable in all the circumstances that the party not be so bound.

### Division 3—Representation: police prosecution

#### Note—

The rules in this Division do not prevent the Commissioner of Police being represented by a law firm (such as the Director or the Crown Solicitor’s Office) or a lawyer under Division 2.

#### 9.1—Right of representation of Commissioner

The Commissioner of Police may be represented in a proceeding by the SAPOL Prosecution Branch.

#### 9.2—SAPOL Prosecution Branch acting for the Commissioner

- (1) If the SAPOL Prosecution Branch representing the Commissioner of Police files a document in a proceeding, the SAPOL Prosecution Branch must be shown in the filing party details box as the “law firm/office” and the document may, but is not required to, show a sworn police prosecutor or prosecuting solicitor as the “responsible solicitor”.
- (2) If there is a change in the physical address, email address or telephone number of the SAPOL Prosecution Branch shown in the Commissioner’s address for service, a notice of change of address for service must be filed and served on all parties within 7 days.

#### Prescribed form—

Form 52 Notice of Change of Address for Service

#### 9.3—Responsible solicitor

- (1) If the SAPOL Prosecution Branch is representing the Commissioner of Police, it may, but is not required to, nominate an individual sworn police prosecutor or prosecuting solicitor who has the overall responsibility for representation of the Commissioner in the proceeding (the *responsible solicitor*).
- (2) The SAPOL Prosecution Branch may file a notice of acting nominating a different individual as the responsible solicitor.
- (3) An individual nominated as the responsible solicitor continues to have overall responsibility for representation of the Commissioner in the proceeding unless and until the SAPOL Prosecution Branch files a notice of acting nominating a different individual as the responsible solicitor.

#### 9.4—Counsel for Commissioner

The Commissioner of Police may appear or be represented in a proceeding by a sworn police prosecutor or prosecuting solicitor of the SAPOL Prosecution Branch.

#### 9.5—Commissioner bound by conduct of SAPOL Prosecution Branch

The Commissioner of Police is bound by the conduct of the SAPOL Prosecution Branch and a police prosecutor or prosecuting solicitor representing or appearing for the Commissioner in a proceeding.

#### 9.6—Duties to the Court

A police prosecutor or a prosecuting solicitor of the SAPOL Prosecution Branch who represents or appears for the Commissioner in a proceeding owes the same duties to the Court as solicitors and counsel representing or appearing for a party owe to the Court.

### Division 3—Representation: non-lawyers

#### 10.1—No right of representation by non-lawyer

- (1) Subject to the following subrules and any applicable statute, a person may not be represented or appear in a proceeding or appellate proceeding by a person other than a law firm or lawyer legally entitled to practice in South Australia.
- (2) To avoid doubt, this rule does not prevent an individual from acting or appearing as a self-represented party without any representation.
- (3) The Court may give leave for a person other than a law firm or lawyer to represent or appear for a party in a proceeding or appellate proceeding on such terms as the Court thinks fit if—
  - (a) where the party is a public authority—
    - (i) the representative is a public officer of the public authority; and
    - (ii) the representative has power to bind the party in the proceeding; and
    - (iii) the Court considers that it is in the interests of justice to give such leave; or
  - (b) where the party is a company or other legal entity not being an individual—
    - (i) the representative is a director of the company or officer of the other legal entity; and
    - (ii) the representative has power to bind the party in the proceeding; and
    - (iii) the Court considers that it is in the interests of justice to give such leave.
- (4) The Court may if it thinks fit give leave to a self-represented party to be assisted in the presentation of their case at a hearing or trial by a person approved by the Court but, unless the Court otherwise orders, such leave does not permit the person assisting to address the Court.

## Chapter 2—Preventative detention

### Part 1—Scope of chapter

#### 21.1—Scope of chapter

This Chapter applies to proceedings in which a person is sought to be detained for protection of the safety of the community.

**Notes—**

Chapter 3 Part 5 Division 3 applies to proceedings in which a person is sought to be detained for protection of the safety of the community after breaching a supervision order.

Chapter 5 Part 3 applies to proceedings in which a person is sought to be detained for investigative purposes.

Rule 82.2 applies to proceedings in which a person is sought to be detained for service purposes.

## Part 2—Mental impairment: Supreme Court

### Division 1—General

#### 22.1—Scope of Part

This Part applies to all proceedings under Part 8A Division 4 Subdivision 3 of the *Criminal Law Consolidation Act 1935*.

#### 22.2—Definitions

In this Part—

*Act* means the *Criminal Law Consolidation Act 1935*;

*continuing supervision order* means a declaration that a person is liable to continuing supervision under section 269UA(7) together with a detention order or release on licence order under section 269UB(1) of the Act, and includes an order varying or revoking a previous continuing supervision order;

*detention order* means an order committing a person to detention under section 269UB(1)(a) or 269UC(1) of the Act

*release on licence order* means an order that a person be released on licence under section 269UB(1)(b) or 269UC(1) of the Act

*subject* means the person the subject of an application or order governed by this Part.

### Division 2—Continuing supervision orders

#### 23.1—Application

- (1) An application by the State under section 269UA(1) of the Act for a continuing supervision order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1S Originating Application – Mental Impairment Continuing Supervision Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) exhibit available records and reports relevant to the grounds for making the application; and
  - (c) identify whether the applicant seeks a detention order or release on licence order.
- (3) The applicant must join—
  - (a) the subject as a respondent; and
  - (b) the Commissioner for Victims Rights as an interested party.

### 23.2—Continuing supervision order

- (1) A record of outcome making a continuing supervision order under section 269UA(7) and 269UB(1) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a continuing supervision order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AD Order - Mental Impairment Continuing Supervision Order

- (3) If the Court makes a detention order, the Principal Registrar must as soon as practicable cause to be issued a warrant of commitment in the prescribed form to the Sheriff, the Commissioner of Police and the Minister for Health.

**Prescribed form—**

Form 93I Warrant of Commitment – Mental Impairment Continuing Supervision Order Detention

## Division 3—Variation and revocation

### 24.1—Application

- (1) An application under section 269UC(1) of the Act for a variation or revocation of a continuing supervision order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111 Originating Application to Vary or Revoke Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) if the application seeks a variation or revocation of a release on licence order— address compliance or non-compliance by the subject with the conditions of the order;
  - (c) address any relevant change in circumstances since the previous continuing supervision order was made; and
  - (d) address any other relevant circumstances.

- (3) The applicant must join—
- (a) the subject as a respondent (if the subject is not the applicant);
  - (b) the State of South Australia as a respondent (if the State is not the applicant);
  - (c) the Parole Board as an interested party; and
  - (d) the Public Advocate as an interested party.

## 24.2—Variation or revocation

- (1) A record of outcome varying or revoking a continuing supervision order under section 269UC(1) of the Act must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115 Order for Variation or Revocation

- (3) If the Court makes a detention order, the Principal Registrar must as soon as practicable cause to be issued a warrant of commitment in the prescribed form to the Sheriff, the Commissioner of Police and the Minister for Health.

**Prescribed form—**

Form 93I Warrant of Commitment – Mental Impairment Continuing Supervision Order Detention

## Division 4—Appeal

### 25.1—Appeal

An appeal under section 269UD of the Act against a continuing supervision order or decision not to make a continuing supervision order is governed by Chapter 9.

## Part 3—Public health

### Division 1—General

#### 31.1—Scope of Part

This Part applies to all review proceedings under section 77 or 78 of the *South Australian Public Health Act 2011*.

#### 31.2—Definitions

In this Part—

*Act* means the *South Australian Public Health Act 2011*;

*detention order* means an order by the Chief Public Health Officer under section 77 of the *South Australian Public Health Act 2011* that a person be detained (whether or not containing other requirements under section 77(6) of the Act);

*subject* means the person the subject of a detention order under section 77 of the Act

## Division 2—Application by Chief Public Health Officer: Supreme Court and Magistrates Court

### 32.1—Application

- (1) An application by the Chief Public Health Officer under section 77(7), (8a) or (9) of the Act for review or confirmation of a detention order must be—
  - (a) in the prescribed form;
  - (b) supported by an affidavit in the prescribed form; and
  - (c) accompanied by a draft order in the prescribed form.
  - (d) the Public Advocate as an interested party.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

Form 92 Order

- (2) The supporting affidavit must—
  - (a) exhibit the detention order to which the review relates;
  - (b) identify the grounds on which the detention order was made;
  - (c) depose to the facts on the basis of which the original detention order and any previous extension of the detention order were made;
  - (d) identify the grounds on which an extension to the current detention order is sought; and
  - (e) depose to the facts on the basis of which the extension to the current detention order is sought.
- (3) The applicant must join—
  - (a) the subject as a respondent; and
  - (b) if the subject is a person under a legal incapacity within the meaning of the Uniform Civil Rules—a parent or guardian of the subject or such other person as is ordered by the Court as a respondent; and
  - (c) the Public Advocate as an interested party.
- (4) The applicant must serve the originating application, supporting affidavit, draft order and a multilingual notice in the prescribed form on the other parties as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

### 32.2—Hearing and determination

- (1) A record of outcome in respect of the outcome of an application for review or confirmation of a detention order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) The Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (3) The applicant must serve an order issued under subrule (2) on the respondent as soon as practicable.

## **Division 3—Application by subject: Supreme Court**

### **33.1—Application**

- (1) An application by the subject under section 78 of the Act for review of a detention order must be in the prescribed form supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 6 Originating Application for Review

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) exhibit the detention order the subject of the review;
  - (b) identify the grounds for review; and
  - (c) depose to the facts on the basis of which the detention order is challenged.
- (3) The applicant must join the Chief Public Health Officer as the respondent.
- (4) The applicant must serve the originating application and supporting affidavit on the respondent as soon as practicable.

### **33.2—Hearing and determination**

- (1) A record of outcome in respect of the outcome of an application for review of a detention order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an order varying, revoking or substituting the detention order or remitting its subject matter for further consideration, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

## **Part 4—Terrorism**

### **Division 1—General**

#### **35.1—Scope of Part**

This Part applies to all proceedings under the *Terrorism (Preventative Detention) Act 2005*.

#### **35.2—Definitions**

In this Part—

*Act* means the *Terrorism (Preventative Detention) Act 2005*;

*detention order* means a preventative detention order within the meaning of the Act;

*extension order* means an order extending or further extending how long a preventative detention order is to be in force under section 12(4) of the Act;

*prohibited contact order* means a prohibited contact order within the meaning of the Act;

*revocation order* means an order under section 15(2) or (4) of the Act revoking a detention order or prohibited contact order respectively;

*subject* means the person the subject of an application or order governed by this Part.

## **Division 2—Detention and contact orders: Supreme and District Courts**

### **Subdivision A—General**

#### **36.1—Provision of documents**

- (1) Subject to subrule (2), the originating application and other documents provided to the Court under this Division are not to be filed in accordance with rule 32 of the Uniform Civil Rules but provided to the Court confidentially in accordance with this Division.
- (2) If the applicant so elects, an application may be made by filing the documents in court in accordance with rule 32.1 of the Uniform Civil Rules.
- (3) If subrule (2) applies—
  - (a) documents generated by the Court will be issued in accordance with rule 35.1 of the Uniform Civil Rules; and
  - (b) unless the Court otherwise orders, all documents will be treated as filed or issued on a party access basis.

#### **36.2—Application by physical lodgement**

- (1) This rule applies if an applicant is to physically lodge an application for a detention order, prohibited contact order or revocation order.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Chapter 3 Part 16 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is the subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by an eligible Judge as soon as practicable.
- (4) The applicant, together if so advised with their lawyer, must attend in person before the Judge for a private hearing about whether the order is to be made and if so for the making of the order.
- (5) The application, supporting affidavit and requisite number of copies of a draft order must be given physically to the Judge at the hearing.

#### **36.3—Application by email or other electronic means**

- (1) This rule applies if an applicant is to lodge by email or other electronic means an application for a detention order, prohibited contact order or revocation order.

- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Chapter 3 Part 16 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is the subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by an eligible Judge as soon as practicable.
- (4) The application, supporting affidavit and draft order must be transmitted by email or, with the leave of the Principal Registrar or a Registrar, by other electronic means in accordance with the instructions of the Principal Registrar or a Registrar.
- (5) The applicant, together if so advised with their lawyer, must attend by audio link or audio visual link before the Judge for a private hearing about whether the order is to be made and if so for the making of the order.

## Subdivision B—Detention orders

### 36.4—Application

- (1) An application under section 10 of the Act for a detention order and if applicable for an associated prohibited contact order under section 13 of the Act must be—
  - (a) in the prescribed form;
  - (b) supported by an affidavit in the prescribed form; and
  - (c) accompanied by the requisite number of copies of a draft order.

#### Prescribed forms—

Form 4 Originating Application Ex Parte

Form 7 Affidavit

Form 92 Order

- (2) The supporting affidavit must—
  - (a) depose to the facts forming the basis for the application for the detention order;
  - (b) verify the grounds of the application for the detention order;
  - (c) identify the period of detention sought, why that period is proposed and the facts justifying detention for that period;
  - (d) identify any previous applications in relation to the subject for a detention order or order under a corresponding preventative detention law and their outcome;
  - (e) identify any previous detention of the subject under a detention order or order under a corresponding preventative detention law;
  - (f) if the application includes an application for an associated prohibited contact order—
    - (i) depose to the facts forming the basis for the application for the prohibited contact order; and
    - (ii) verify the grounds of the application for the prohibited contact order;

- (g) address any other matter relevant to the exercise of the discretion to make a detention order and if applicable an associated prohibited contact order; and
  - (h) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) If urgency renders it impracticable to make an affidavit before making the application, the applicant must—
- (a) inform the Judge of the matters referred to in subrule (2); and
  - (b) undertake to prepare and forward to the Judge as soon as practicable an affidavit verifying the information provided to the Judge about the matters referred to in subrule (2) and why it was impracticable to make an affidavit before making the application.

### **36.5—Order**

- (1) A detention order must be in the prescribed form.
- Prescribed form—**
- Form 92 Order
- (2) If the Judge determines to make a detention order—
- (a) the Judge will sign and date the order;
  - (b) signing of the order is a sufficient record of the decision to make the order without the need to make any other record;
  - (c) if the application is made under rule 36.2—the Judge will retain one copy of the order and give the other copy to the applicant;
  - (d) if the application is made under rule 36.3—the Judge will retain one copy of the order and cause a copy to be transmitted by email or other electronic means to the applicant.

### **Subdivision C—Prohibited contact orders**

#### **36.6—Application**

- (1) An application under section 13 or 14 of the Act for a prohibited contact order must be—
- (a) in the prescribed form;
  - (b) supported by an affidavit in the prescribed form; and
  - (c) accompanied by the requisite number of copies of a draft order.

**Prescribed forms—**

Form 4 Originating Application Ex Parte

Form 7 Affidavit

Form 92 Order

- (2) The supporting affidavit must—
- (a) identify the detention order in force in relation to the subject;
  - (b) depose to the facts forming the basis for the application;
  - (c) verify the grounds of the application;

- (d) address any other matter relevant to the exercise of the discretion to make a prohibited contact order; and
- (e) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.

**Prescribed form—**

Form 7 Affidavit

- (3) If urgency renders it impracticable to make an affidavit before making the application, the applicant must—
  - (a) inform the Judge of the matters referred to in subrule (2); and
  - (b) undertake to prepare and forward to the Judge as soon as practicable an affidavit verifying the information provided to the Judge about the matters referred to in subrule (2) and why it was impracticable to make an affidavit before making the application.

### **36.7—Order**

The provisions of rule 36.5 apply with any necessary changes to a prohibited contact order.

### **Subdivision D—Extension and revocation orders**

### **36.8—Application**

- (1) An application for an extension order under section 12 of the Act or for a revocation order under section 15 of the Act must be—
  - (a) in the prescribed form;
  - (b) supported by an affidavit in the prescribed form; and
  - (c) accompanied by the requisite number of copies of a draft order.

**Prescribed forms—**

Form 4 Originating Application Ex Parte

Form 7 Affidavit

Form 92 Order

- (2) The supporting affidavit must—
  - (a) identify the detention order in force in relation to the subject;
  - (b) if applicable, identify the prohibited contact order in force in relation to the subject;
  - (c) depose to the facts forming the basis for the application;
  - (d) verify the grounds of the application;
  - (e) address any other matter relevant to the exercise of the discretion to make an extension order or revocation order; and
  - (f) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.

### **36.9—Order**

The provisions of rule 36.5 apply with any necessary changes to the extension order or revocation order.

## Division 3—Review of detention orders: Supreme Court

### 37.1—Application

- (1) A review of a detention order under section 17 of the Act must be—
  - (a) instituted by the police officer who is detaining the subject by filing an originating application in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the circumstances in which the detention order was made;
  - (b) identify the circumstances giving rise to the making of the detention order;
  - (c) address the matters referred to in rule 36.4(2) subject to any necessary changes; and
  - (d) exhibit a copy of the order and all other materials before the issuing authority.
- (3) The applicant must join—
  - (a) the subject as a respondent; and
  - (b) the State of South Australia as an interested party.
- (4) Unless the Court otherwise orders, all documents filed in the proceeding are to be accepted for filing on a party access basis.

### 37.2—Hearing and determination

- (1) Unless the Court otherwise orders, the hearing of an application to which rule 37.1 refers will be in chambers in the presence of the parties, their lawyers and such other persons as the Court may permit.
- (2) The Court may order that the hearing be conducted by audio visual link or audio link.

**Note—**

Section 17(2) of the *Terrorism (Preventative Detention) Act 2005* authorises the making of such an order.

- (3) An order under section 17(3) of the Act may include such consequential orders as the Court thinks fit.
- (4) A record of outcome in respect of the final outcome of the review must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (5) If the Court makes a substantive order under paragraph (a), (b), (c) or (d) of section 17(3) of the Act, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

## Part 5—Uncontrolled sexual instincts: Supreme Court

### Division 1—General

#### 41.1—Scope of Part

This Part applies to all proceedings under Part 3 Division 5 of the *Sentencing Act 2017*.

#### 41.2—Definitions

In this Part—

*Act* means the *Sentencing Act 2017*;

*detention order* means an interim detention order or extended detention order;

*extended detention order* means an order committing a person to extended detention under section 57(7) of the Act;

*interim detention order* means an order committing a person to interim detention under section 57(5) of the Act;

*subject* means the person the subject of an application or order governed by this Part.

### Division 2—Initiation of proceeding

#### 42.1—Application by Attorney-General

- (1) An application by the Attorney-General under section 57(3) of the Act for an extended detention order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

##### Prescribed forms—

Form 1AA Originating Application – Uncontrolled Sexual Instincts - Extended Detention Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) exhibit available records and reports relevant to the grounds for making the application; and
  - (c) if an interim detention order is sought—depose to the facts on the basis of which the interim order is sought.

#### 42.2—Referral by another court

- (1) If the District Court or the Magistrates Court remands a person under section 57(2) of the Act to the Supreme Court to be dealt with under Part 3 Division 5 of the Act, the Director of Public Prosecutions must as soon as practicable—
  - (a) file an originating application seeking determination whether an extended detention order should be made in respect of the person under section 57 of the Act in the prescribed form; and

- (b) file the originating application together with a supporting affidavit in the prescribed form.

**Prescribed forms—**

Form 1AA Originating Application – Uncontrolled Sexual Instincts - Extended Detention Order

Form 7 Affidavit

- (2) Rule 42.1(2) applies to a supporting affidavit governed by this rule.

## **Division 3—Detention**

### **43.1—Interim detention order**

- (1) A record of outcome making an interim detention order under section 57(5) of the Act must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim detention order, the Court will issue a formal interim detention order in the prescribed form.

**Prescribed form—**

Form 33G Order - Uncontrolled Sexual Instincts Detention Order (Interim)

- (3) If the Court makes an interim detention order, the Principal Registrar must as soon as practicable cause to be issued a warrant of interim detention in the prescribed form to—

- (a) the Sheriff;
- (b) the Commissioner of Police; and
- (c) the Chief Executive.

**Prescribed form—**

Form 38A Warrant of Interim Detention - Uncontrolled Sexual Instincts

### **43.2—Extended detention order**

- (1) A record of outcome making an extended detention order under section 57(7) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an extended detention order, the Court will issue a formal extended detention order in the prescribed form.

**Prescribed form—**

Form 92AM Order - Uncontrolled Sexual Instincts Detention Order

- (3) If the Court makes an extended detention order, the Principal Registrar must as soon as practicable cause to be issued a warrant of extended detention in the prescribed form to—

- (a) the Sheriff;
- (b) the Commissioner of Police; and

- (c) the Chief Executive of the Department for Correctional Services or the Department of Human Services (Youth Justice Services).

**Prescribed form—**

Form 93J Warrant of Commitment - Uncontrolled Sexual Instincts Extended Detention

## **Division 4—Release on licence or discharge of detention order**

### **44.1—Application**

- (1) An application under section 58 of the Act for discharge of an extended detention order or under section 59 of the Act for release on licence must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1AB Originating Application - Uncontrolled Sexual Instincts [Release on Licence or Discharge]

Form 7 Affidavit

- (2) The applicant must join as the respondent—
- (a) if the application is made by the Director—the subject; or
  - (b) if the application is made by the subject—the Director.

### **44.2—Order**

- (1) A record of outcome ordering the discharge of an extended detention order under section 58 of the Act or release on licence under section 59 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a discharge order or release on licence order, the Court will issue a formal discharge order or release on licence order in the prescribed form.

**Prescribed form—**

Form 92AN Order - Uncontrolled Sexual Instincts Release on Licence or Discharge and Acknowledgement

- (3) If the Court makes a discharge order or release on licence order, the Principal Registrar must ensure that a copy of the order is provided as soon as practicable to—
- (a) the Commissioner of Police;
  - (b) the Chief Executive; and
  - (c) the Parole Board or Training Centre Review Board.

## **Part 6—Serious Child Sex Offenders: Supreme Court**

### **Division 1—General**

#### **45.1—Scope of Part**

This Part applies to all proceedings under Part 3 Division 2A of the *Sentencing Act 2017*.

## 45.2—Definitions

In this Part—

*Act* means the *Sentencing Act 2017*;

*sentence* means a sentence of indeterminate duration imposed under section 48I of the Act;

*serious child sex offender* means a person taken to be a serious child sex offender under section 48G of the Act.

## Division 2—Release on licence or extinguishment of sentence

### 46.1—Application

- (1) An application under section 48K of the Act for release on licence or under section 48M of the Act for the extinguishment of sentence must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 ABC Originating Application – Serious Child Sex Offender – Release on Licence or Extinguishment of Sentence

Form 7 Affidavit

- (2) The applicant must join as the respondent—
  - (a) if the application is made by the Director—the serious child sex offender; or
  - (b) if the application is made by the serious child sex offender—the Director.

### 46.2—Order

- (1) A record of outcome refusing the application under section 48K of the Act for release on licence or under section 48M of the Act for the extinguishment of sentence must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court grants the application and makes a release on licence order or an extinguishment of sentence order, the Court will issue a formal release on licence order or extinguishment of sentence order in the prescribed form.

**Prescribed form—**

Form 92ANA Order – Serious Child Sex Offender – Release on Licence or Extinguishment of Sentence and Acknowledgement

- (3) If the Court makes a release on licence order or an extinguishment of sentence order, the Principal Registrar must ensure that a copy of the order is provided as soon as practicable to—
  - (a) the Commissioner of Police;
  - (b) the Chief Executive; and
  - (c) the Parole Board or Training Centre Review Board.

## Chapter 3—Preventative control measures

### Part 1—General

#### 51.1—Scope of Chapter

This Chapter applies to proceedings in which a person, class of persons, animal or substance is sought to be subject to control or other measures for the protection of individuals or the community.

#### 51.2—Definitions

In this Chapter—

*judicial officer* means—

- (a) if the power is vested in the Court by the relevant statutory provision—a judicial officer of the Court; or
- (b) if the power is vested by the relevant statutory provision in an individual judicial officer of the Court—a judicial officer who is eligible under the statutory provision to exercise the power.

### Part 2—Animals: Magistrates Court

#### Division 1—Animals

##### 52.1—Scope of Division

This Division applies to all proceedings for the destruction or disposal of an animal or object under section 31A(5)(b) or 31C(2) of the *Animal Welfare Act 1985* or of property under section 43(2) of the *Livestock Act 1997*.

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court) to issue a warrant or make an order.

##### 52.2—Definitions

In this Division—

*Livestock Act* means the *Livestock Act 1997*;

*Welfare Act* means the *Animal Welfare Act 1985*.

##### 52.3—Application under Welfare Act

- (1) An application under the following sections of the Welfare Act must be in the prescribed form and supported by an affidavit in the prescribed form—
  - (a) section 31A(5)(b) of the Act— for a warrant authorising the destruction of an animal; or
  - (b) section 31C(2) of the Act— for an order authorising the destruction or disposal of a seized animal.

**Prescribed forms—**

Form 1C Originating Application – Animal Welfare Act Warrant

Form 7 Affidavit

- (2) The application must be accompanied by—
  - (a) one copy of a draft warrant or draft order in the prescribed form; and
  - (b) such number of copies as are required by the applicant.

**Prescribed forms—**

Form 106 Warrant – Animal Welfare Act Destruction or Disposal

Form 92B Order – Animal Welfare Act Disposal of Animal

- (3) The applicant must join as respondents —
  - (a) the owner of the animal; and
  - (b) the person who is, or if it is now in the possession of an inspector or another enforcement body was, in possession of the animal.

#### **52.4—Oral application under Welfare Act**

- (1) This rule applies when an application under section 31A(5)(b) for a warrant authorising the destruction of an animal is to be made orally by audio visual link or audio link under section 31D(5) of the Act.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a Magistrate as soon as practicable.
- (4) The applicant must, before the hearing, formulate the terms of the proposed warrant.
- (5) The applicant must inform the respondents of the hearing unless the circumstances are too urgent to permit this.
- (6) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the Magistrate for a hearing to determine whether an order is to be made and if so for making of the order.
- (7) If the respondents are given notice of the hearing, they may attend the hearing.
- (8) The applicant must undertake at the hearing to prepare and file as soon as practicable—
  - (a) an originating application in compliance with rule 52.3(1); and
  - (b) an affidavit verifying the information provided to the Magistrate and why it is impracticable in the circumstances to make an application under rule 52.3.

#### **52.5—Hearing and determination under Welfare Act**

- (1) If the application is made under rule 52.3 and the Magistrate determines to authorise the proposed destruction or disposal—
  - (a) the Magistrate will sign and date the warrant or order provided in draft by the applicant;

- (b) signing of the warrant or order is a sufficient record of the decision without the need to make any other record;
  - (c) the Magistrate will retain one copy of the signed warrant or order and give the other copy or copies to the applicant.
- (2) If the application is made under rule 52.4 and the Magistrate determines to authorise the proposed destruction under section 31A(5)(b)—
- (a) the Magistrate will prepare, sign and date a warrant;
  - (b) signing of the warrant is a sufficient record of the decision without the need to make any other record;
  - (c) the Magistrate will retain the signed warrant and inform the applicant of its terms.
- (3) If the application is made under rule 52.4, the applicant must as soon as practicable after the hearing of the application file—
- (a) an originating application in compliance with rule 52.3(1); and
  - (b) an affidavit verifying the information provided to the Magistrate and why it was impracticable in the circumstances to make an application under rule 52.3.
- (4) If the Court issues a warrant or order authorising the proposed destruction or disposal, the applicant must serve the warrant or order on the respondents as soon as practicable.

## **52.6—Application under Livestock Act**

- (1) An application under section 43(2) of the Livestock Act must be in the prescribed form and supported by an affidavit in the prescribed form.

### **Prescribed forms—**

Form 5F Originating Application Ex Parte – Livestock Act Warrant

Form 7 Affidavit

- (2) The application must be accompanied by—
- (a) one copy of a draft warrant; and
  - (b) such number of copies as are required by the applicant.

## **Division 2—Dangerous dogs**

### **53.1—Scope of Division**

This Division applies to all proceedings under section 59 of the *Dog and Cat Management Act 1995* for the destruction or control of a dog.

### **53.2—Definitions**

In this Division—

*Act* means the *Dog and Cat Management Act 1995*.

### **53.3—Application**

- (1) An application under section 59 of the Act for an order for destruction or control of an unduly dangerous dog must be—
- (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1C Originating Application – Animal Welfare Act Warrant

Form 7 Affidavit

- (2) The applicant must join as respondents—
- (a) the owner of the dog; and
- (b) the person who is, or if it is now in the possession of a Council or another enforcement body was, in possession of the dog.

### **53.4—Order**

- (1) A record of outcome making an order under section 59 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an order relating to the dog, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92B Order – Animal Welfare Act Disposal of Animal

- (3) The applicant must serve on the respondents the formal order as soon as practicable.

## **Part 3—Controlled substances**

### **Division 1—General**

#### **56.1—Scope of Part**

This Part applies to all applications under section 30ZL, section 30ZM or section 33T of the *Controlled Substances Act 1984*.

#### **56.2—Definitions**

In this Part—

*Act* means the *Controlled Substances Act 1984*.

### **Division 2—Extension of retention period and forfeiture**

#### **57.1—Application**

- (1) An application under the following sections of the Act must be in the prescribed form and supported by an affidavit in the prescribed form—
- (a) section 30ZL of the Act—to extend the period of retention of material seized under Part 4A Division 5 of the Act; or
- (b) section 30ZM of the Act—for any of forfeiture and harvest and/or destruction of material seized under Part 4A Division 5 of the Act.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join as respondents—
- (a) the owner of the seized material; and
  - (b) the licensed grower or licensed processor from whom the material was seized.

### **Division 3—Prohibition of conduct or business**

#### **58.1—Application**

An application under section 33T of the Act for an order prohibiting a person from engaging in specified conduct or carrying on a specified business or kind of business must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

## **Part 4—Fortification removal**

### **Division 1—General**

#### **61.1—Scope of Part**

This Part applies to all proceedings under Part 16 of the *Summary Offences Act 1953*.

#### **61.2—Definitions**

In this Part—

*Act* means the *Summary Offences Act 1953*;

*final order* means an order confirming, varying or withdrawing a fortification removal order under section 74BF of the Act;

*fortification removal order* means a fortification removal order made under section 74BB of the Act;

*preliminary hearing* means a hearing for the purpose of determining whether to make a fortification removal order under section 74BB of the Act;

*premises* means the premises the subject of an application or order under this Part.

### **Division 2—Application and preliminary hearing: Magistrates Court**

#### **62.1—Application**

- (1) An application under section 74BB of the Act for a fortification removal order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join as respondents—
- (a) any person who has a registered proprietary interest in the premises or who to the knowledge of the applicant has or claims a proprietary interest in the premises and
  - (b) the occupier of the premises.

### 62.2—Preliminary hearing

- (1) At the preliminary hearing, the Court may require the deponent to the supporting affidavit to give oral evidence (in person or, with leave, by audio visual link or audio link).
- (2) The Court may if it thinks fit adjourn the preliminary hearing for the applicant to adduce further evidence.

### 62.3—Fortification removal order

- (1) A record of outcome in respect of a fortification removal order made at a preliminary hearing must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a fortification removal order, the Court will issue a formal fortification removal order in the prescribed form.

**Prescribed form—**

Form 92AK Order – Summary Offences Act - Fortification Removal Order

- (3) The applicant must serve on the respondents the formal fortification removal order, the supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 36C Multilingual Notice – Interim Order and Notice about Objection

**Notes—**

Sections 74BD(1) and (2) require service on the occupier and owner.

Sections 74BD(3) and (4) require personal service or service by registered post, unless service cannot be promptly effected, in which case it will be sufficient service for the Commissioner of Police to affix a copy of the fortification removal order to the premises at a prominent place at or near to the entrance to the premises.

## Division 3—Objection and final hearing: Magistrates Court

### 63.1—Notice of Objection

- (1) A notice of objection by a respondent under section 74BE of the Act must be in the prescribed form.

**Prescribed form—**

Form 63 Notice of Objection

- (2) The notice of objection must be supported by an affidavit in the prescribed form verifying the grounds of the objection and containing the evidence on which the respondent intends to rely.

**Prescribed form—**

Form 7 Affidavit

- (3) The respondent must serve on the other parties the notice of objection and supporting affidavit as soon as practicable.

### **63.2—Subsequent hearings**

- (1) After a notice of objection has been filed, the Court will issue to the parties a notice of hearing in the prescribed form.

**Prescribed form—**

Form 69 Notice of Hearing

- (2) At the hearing, the Court may take one or more of the following actions—
- (a) give directions for steps to be taken in preparation for trial;
  - (b) give directions as to the order of evidence and generally as to the conduct of the trial;
  - (c) list the matter for a pre-trial conference;
  - (d) adjourn the matter to a further hearing;
  - (e) make other orders.
- (3) The provisions of rule 86.3, rule 86.5, rule 87.1 and rule 87.3 apply, with any necessary changes, to an application governed by this Part.

### **63.3—Final order**

- (1) A record of outcome making a final order under section 74BF of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a final order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AK Order – Summary Offences Act - Fortification Removal Order

- (3) Unless the Court otherwise orders, the Commissioner of Police must serve on the other parties the final order as soon as practicable.

## **Division 4—Withdrawal: Magistrates Court**

### **64.1—Withdrawal notice**

- (1) A withdrawal notice by the Commissioner under section 74BH of the Act must be in the prescribed form.

**Prescribed form—**

Form 82 Withdrawal Notice – Fortification Removal Order

- (2) The Commissioner must serve on the other parties the withdrawal notice as soon as practicable.

**Notes—**

Section 74BH(3) requires service on the occupier and all persons on whom the fortification removal order was served.

Sections 74BH(4), 74BD(3) and (4) require personal service or service by registered post, unless service cannot be promptly effected, in which case it will be sufficient service for the Commissioner to affix a copy of the withdrawal notice to the premises at a prominent place at or near to the entrance to the premises.

## **Division 5—Appeal: Supreme Court**

### **65.1—Appeal against registration order**

An appeal under section 74BG of the Act against a final order is governed by Chapter 9.

**Note—**

Section 74BG confers a right of appeal on the Commissioner or an objector against a decision on a notice of objection on a question of law or, with permission, on a question of fact.

## **Part 5—High risk offenders**

### **Division 1—General**

#### **71.1—Scope of Part**

This Part applies to all proceedings under the *Criminal Law (High Risk Offenders) Act 2015*.

#### **71.2—Definitions**

In this Part—

*Act* means the *Criminal Law (High Risk Offenders) Act 2015*;

*continuing detention order* means a continuing detention order within the meaning of the Act;

*extended supervision order* means an extended supervision order within the meaning of the Act;

*interim detention order* means a detention order made under section 18(4) of the Act;

*interim supervision order* means an interim supervision order within the meaning of the Act;

*subject* means the person the subject of a supervision order or application for a supervision order within the meaning of the Act;

*supervision order* means an interim supervision order or an extended supervision order within the meaning of the Act.

#### **71.3—Evidence**

Without affecting the right of any party to adduce other evidence, the Court may receive any evidence given in a criminal proceeding concerning the subject and may give such weight to that evidence as it thinks fit.

## Division 2—Supervision orders: Supreme Court

### 72.1—Application

- (1) An application under section 7 of the Act for an extended supervision order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1N Originating Application – High Risk Offenders Act - Extended Supervision Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) exhibit available records and reports relevant to the grounds for making the application; and
  - (c) if an interim supervision order is sought—depose to the facts on the basis of which the interim order is sought.
- (3) The applicant must serve a multilingual notice in the prescribed form on the respondent at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

### 72.2—Interim supervision order

- (1) A record of outcome making an interim supervision order under section 9 of the Act must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim supervision order, the Court will issue a formal interim supervision order in the prescribed form.

**Prescribed form—**

Form 33F Order – High Risk Offenders Supervision Order (Interim)

- (3) If the Court makes an interim supervision order, the Principal Registrar must cause a copy of the order to be sent as soon as practicable to—
  - (a) the Commissioner of Police;
  - (b) the Chief Executive; and
  - (c) the Parole Board.

### 72.3—Extended supervision order

- (1) A record of outcome making an extended supervision order under section 7(4) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an extended supervision order, the Court will issue a formal extended supervision order in the prescribed form.

**Prescribed form—**

Form 92Z Order – High Risk Offenders - Extended Supervision Order

- (3) If the Court makes an extended supervision order, the Principal Registrar must cause a copy of the order to be sent as soon as practicable to—
- (a) the Commissioner of Police;
  - (b) the Chief Executive; and
  - (c) the Parole Board.

## **Division 3—Continuing detention orders: Supreme Court**

### **73.1—Application**

- (1) If the Parole Board is satisfied that the subject has breached a condition of an extended supervision order and directs under section 17(1)(b)(ii) of the Act that the subject be detained in custody pending attendance before the Court, the Attorney-General must as soon as practicable—
- (a) file an originating application in the prescribed form seeking determination whether a continuing detention order should be made in respect of the subject under section 18 of the Act; and
  - (b) file a supporting affidavit in the prescribed form.

**Prescribed forms—**

Form 122 Originating Application and Notice of Referral – High Risk Offenders – Continuing Detention

Form 7 Affidavit

- (2) The applicant must join as a respondent the subject.
- (3) The applicant must serve a multilingual notice in the prescribed form on the subject at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

### **73.2—Interim detention**

- (1) A record of outcome making an interim detention order under section 18(4) of the Act must be in the prescribed form.

**Prescribed form—**

Form 123 Record of Outcome

- (2) If the Court makes an interim detention order, the Court will issue a formal interim detention order in the prescribed form.

**Prescribed form—**

Form 124A Order – High Risk Offenders Act - Interim Detention

- (3) If the Court makes an interim detention order, the Principal Registrar must cause a warrant of interim detention in the prescribed form to be issued as soon as practicable to—
- (a) the Sheriff;

- (b) the Commissioner of Police; and
- (c) the Chief Executive.

**Prescribed form—**

Form 125A Warrant of Interim Detention - High Risk Offenders

### 73.3—Continuing detention

- (1) A record of outcome making a continuing detention order under section 18(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 123 Record of Outcome

- (2) If the Court makes a continuing detention order, the Court will issue a formal continuing detention order in the prescribed form.

**Prescribed form—**

Form 124B Order – High Risk Offenders - Continuing Detention

- (3) If the Court makes a continuing detention order, the Principal Registrar must cause a warrant of detention in the prescribed form to be issued as soon as practicable to—
  - (a) the Sheriff;
  - (b) the Commissioner of Police; and
  - (c) the Chief Executive.

**Prescribed form—**

Form 125B Warrant of Detention – High Risk Offenders

## Division 4—Variation and revocation: Supreme Court

### 74.1—Application

- (1) An application under section 13 or 19 of the Act for variation or revocation of an interim supervision order, extended supervision order or continuing detention order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111D Originating Application to Vary or Revoke Order – High Risk Offenders  
Extended Supervision Order

Form 111C Originating Application to Vary or Revoke Order – High Risk Offenders  
Continuing Detention Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) if the application seeks a variation or revocation of an extended supervision order—address compliance or non-compliance by the subject with the conditions of the order;
  - (c) address any relevant change in circumstances since the order was made;

- (d) if made by the subject—address why it is in the interests of justice to grant leave to make the application; and
  - (e) address any other relevant circumstances.
- (3) The applicant must join as respondents—
- (a) if the applicant is the subject—the Attorney-General and, if the application is to vary or revoke a continuing detention order, the Parole Board;
  - (b) if the applicant is the Attorney-General—the subject and, if the application is to vary or revoke a continuing detention order, the Parole Board; and
  - (c) if the applicant is the Parole Board—the subject and the Attorney-General.
- (4) If the applicant is the Attorney-General or the Parole Board, the applicant must serve a multilingual notice in the prescribed form on the subject at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

## **74.2—Application when leave required**

- (1) If leave is required under section 13(2) or 19(2) of the Act—
- (a) the proceeding must be instituted in the ordinary way in accordance with rule 74.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Sections 13(2) and 19(2) provide that an application may only be made by the person subject to an extended supervision order or continuing detention order with the permission of the Court. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
- (a) the institution of the proceeding is conditional on leave being granted; and
  - (b) if leave is refused, the proceeding lapses.

## **74.3—Order**

- (1) A record of outcome varying or revoking an interim supervision order, extended supervision order or continuing detention order under section 13 or 19 of the Act must be in the prescribed form.

**Prescribed forms—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal variation or revocation order in the prescribed form.

**Prescribed forms—**

Form 115F Order for Variation or Revocation of Interim Supervision Order or Extended Supervision Order

Form 115E Order for Variation or Revocation of Continuing Detention Order

- (3) If the Court makes a variation or revocation order, the Principal Registrar must cause a copy of the order to be sent as soon as practicable to—
- (a) the Commissioner of Police;
  - (b) the Chief Executive; and
  - (c) the Parole Board.

## **Division 5—Apprehension of person to appear before Parole Board: Magistrates Court**

### **75.1—Application**

- (1) An application under section 11(6)(b)(ii), section 13A(13)(b)(ii) or section 15(2)(b)(ii) or (3)(b) of the Act for a warrant for the apprehension of the subject must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 5A Originating Application Ex Parte – Apprehension Warrant

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts comprising the basis for the application; and
  - (b) if the application is made under section 15(2)(b)(ii) or (3)(b) of the Act—set out the member’s or police officer’s grounds for suspecting that the subject may have breached a condition of the order.
- (3) The application must be accompanied by a draft warrant in the prescribed form.

**Prescribed form—**

Form 105 Apprehension Warrant

### **75.2—Warrant**

A warrant of apprehension of the subject under section 11(6)(b)(ii), section 15(2)(b)(ii) or section 15(3)(b) of the Act must be in the prescribed form.

**Prescribed form—**

Form 105 Apprehension Warrant

## **Part 6—Intervention orders: Magistrates and Youth Courts**

### **Division 1—General**

#### **81.1—Scope of Part**

- (1) Subject to subrules (2) and (3), this Part applies to all proceedings under the *Intervention Orders (Prevention of Abuse) Act 2009*.

- (2) This Part does not apply to the making or variation of an intervention order in a criminal proceeding under section 28 of the *Sentencing Act 2017* which is governed instead by Chapter 7 Part 4 Division 4 and Chapter 8 Part 1 Division 7 respectively of the Joint Criminal Rules.
- (3) This Part does not apply to criminal proceedings, which are governed by the Joint Criminal Rules.

## 81.2—Definitions

In this Part—

*Act* means the *Intervention Orders (Prevention of Abuse) Act 2009*;

*domestic abuse* means domestic abuse within the meaning of the Act;

*final hearing* means a hearing to determine whether to issue a final intervention order under section 23, a problem gambling order under section 24 or a tenancy order under section 25 of the Act;

*final intervention order* means an interim intervention order confirmed as a final intervention order or a final intervention order issued in substitution for an interim intervention order under section 23 of the Act;

*interim intervention order* means an interim intervention order issued under section 18 or 21 of the Act;

*intervention order* means an interim intervention order or final intervention order;

*landlord* means a landlord within the meaning of section 25 of the Act;

*preliminary hearing* means a preliminary hearing under section 21 of the Act;

*pre-trial conference date* means the date listed for a pre-trial conference or, if there is to be no pre-trial conference, the date when the matter is to be listed for trial;

*problem gambling attachment order* means an attachment order within the meaning of section 24(3) of the Act;

*problem gambling order* means a problem gambling order within the meaning of section 24 of the Act;

*protected person* means the person protected or sought to be protected (as the case may be) by—

- (a) an intervention order;
- (b) a tenancy order; or
- (c) a problem gambling order;

*recorded evidence* means—

- (a) a recording of evidence of a relevant person potentially admissible under section 28A of the Act; or
- (b) a prescribed recording within the meaning of and potentially admissible under section 13BB of the *Evidence Act 1929*;

*subject* means the person the subject of an intervention order, problem gambling order, tenancy order, nationally recognised domestic violence order or registered foreign intervention or an application for such an order;

*tenancy order* means a tenancy order within the meaning of section 25 of the Act.

### 81.3—Recorded evidence

If recorded evidence is required by these Rules to be filed and served, unless the Court otherwise orders, it must be provided to the Court and served on a USB storage device (or other electronic storage device determined by the Principal Registrar or a Registrar) in an envelope marked with—

- (a) the case number and name of the respondent;
- (b) the apprehension report number (if applicable); and
- (c) the name of the witness and date when the recording was made.

## Division 2—Police and criminal court issued interim intervention orders

### Subdivision A—Police-issued interim intervention orders

#### 82.1—Statement of factual matters

- (1) Upon issuing an interim intervention order under section 18(1) of the Act, the issuing police officer must prepare a statement of the factual matters supporting the issue of the order in the prescribed form.

**Prescribed form—**

Form 9 Statement of Factual Matters supporting Police Issued Interim Intervention Order

- (2) Upon serving an interim intervention order on the subject under section 18(4) of the Act, the issuing police officer must also serve the statement of factual matters prepared under subrule (1).

#### 82.2—Originating application to extend detention

- (1) An application under section 34(4) or 35(2) of the Act to extend a period of detention must be in the prescribed form.

**Prescribed form—**

Form 4C Originating Application Ex Parte – Intervention Order Act - Extension of Detention for Service

- (2) An order extending a period of detention under section 34(4) or 35(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 92AC Order – Intervention Orders Act - Extension of Detention

#### 82.3—Originating application/notice of police issued interim order

- (1) Upon issuing an interim intervention order under section 18(1) of the Act, the Commissioner of Police must file an originating application and notice of police issued interim intervention order in the prescribed form.

**Prescribed form—**

Form 2E Originating Application and Notice – Police Issued Interim Intervention Order

**Notes—**

Section 18(5) of the Act provides that, upon service of a police issued interim intervention order, the issuing police officer will be taken to have made an application to the Court for an intervention order.

Section 18(6)(b) provides that the Commissioner of Police must notify the Registrar in writing of the prescribed details of the order or give a copy of the order to the Registrar.

- (2) If the applicant intends to apply for a problem gambling order, problem gambling attachment order or tenancy order, the originating application must include an application for such an order.
- (3) The applicant must join—
  - (a) the subject as the respondent;
  - (b) if a problem gambling attachment order is sought—the third person holding or owing the money in question as an interested party; and
  - (c) if a tenancy order is sought—the landlord as an interested party.
- (4) The applicant must file on a court access basis at the same time as the originating application an annexure to originating application intervention order in the prescribed form.

**Prescribed form—**

Form 3 Annexure to Intervention Order Originating Application

**Note—**

Rule 29.2 of the Joint Criminal Rules provides that access to view, download or copy a document filed on a court access basis is limited to court officers unless the Court otherwise orders.

- (5) The applicant must file at the same time as the originating application the statement of factual matters prepared under rule 82.1.
- (6) The return location, date and time shown in the originating application and notice of police issued interim intervention order are to be the same as are contained in the interim intervention order.
- (7) The annexure to the intervention order originating application must not be served on the subject or any other person.
- (8) Upon an originating application and notice of police issued interim intervention order being filed, the Principal Registrar must ensure that the relevant public sector agencies are notified of the prescribed details of the interim intervention order in the prescribed form in accordance with section 18(9) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

## **82.4—Revocation of interim order**

- (1) Upon revocation by the Commissioner of Police of an interim intervention order under section 19(1) of the Act, the applicant must give notice to the Principal Registrar by filing a notice of revocation in the prescribed form.

**Prescribed form—**

Form 83 Notice of Revocation of Police-Issued Interim Intervention Order

- (2) Upon a notice of revocation being filed, the Principal Registrar must cause the relevant public sector agencies to be notified of the revocation in the prescribed form in accordance with section 19(3) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

## 82.5—First hearing

- (1) By the first hearing of the proceeding, the applicant must file and serve on the other parties an affidavit in the prescribed form in support of the grounds for issuing the interim intervention order.

### Prescribed form—

Form 7A Affidavit of Person other than Protected Person – Support Application for Intervention Order

Form 7B Affidavit of Protected Person – Support Application for Intervention Order

Form 7P Affidavit of Protected Person

- (2) If it is not reasonably practicable to produce an affidavit by the first hearing, the affidavit must be filed and served by a date specified by the Court at the first hearing.

## Subdivision B—Criminal court-issued interim intervention orders

### 82.6—Institution of proceeding

- (1) Upon a court making an interim intervention order under section 23A of the Bail Act, the Court will create a special statutory proceeding in which the Commissioner is the applicant and the defendant in the criminal proceeding is the respondent and cause to be filed in that proceeding the interim intervention order as the originating document in the case.
- (2) Upon the institution of the special statutory proceeding, further steps in the proceeding are to be governed by Divisions 6 to 8, 10 and 13 of this Part.

## Division 3—Applications for intervention orders

### 83.1—Application

- (1) An application under section 20 of the Act for an intervention order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

### Prescribed forms—

Form 1O Originating Application – Intervention Order

Form 1OS Interim Intervention Order Proposed Terms

Form 7A Affidavit of Person other than Protected Person – Support Application for Intervention Order

Form 7B Affidavit of Protected Person – Support Application for Intervention Order

- (2) If the applicant intends to apply for a problem gambling order, problem gambling attachment order or tenancy order, the originating application must include an application for such an order.
- (3) The applicant must join—
  - (a) the subject as the respondent;
  - (b) if a problem gambling attachment order is sought—the third person holding or owing the money in question as an interested party; and
  - (c) if a tenancy order is sought—the landlord as an interested party.

- (4) The applicant must file on a court access basis at the same time as the originating application an annexure to originating application intervention order in the prescribed form.

**Prescribed form—**

Form 3 Annexure to Intervention Order Originating Application

**Note—**

Rule 29.2 of the Joint Criminal Rules provides that access to view, download or copy a document filed on a court access basis is limited to court officers unless the Court otherwise orders.

- (5) If the application is made by the Commissioner of Police and the applicant intends to rely on recorded evidence, it must be referred to as an attachment in the originating application and provided to the Court in accordance with rule 81.3 at the same time as the originating application.
- (6) If special arrangements are sought for taking evidence from a witness, the applicant must identify the special arrangements and why they are sought in the originating application or supporting affidavit.
- (7) The Court may in its discretion order that a further and better affidavit be filed in support of the originating application.
- (8) Unless the applicant is the Commissioner of Police, if the originating application alleges domestic abuse, the Court may refer the applicant to the Women’s Domestic Violence Assistance Service or another service providing advice or assistance to applicants for intervention orders.

**Note—**

Under the Act, the applicant is not to serve any other parts with the filed documents before the preliminary hearing.

- (9) Despite subrule (6), an application for special arrangements for taking of evidence from a witness under section 29 of the Act may be made by interlocutory application in accordance with rule 86.3.

### **83.2—Application when leave required**

- (1) If leave is required under section 20(1)(b), (2)(a) or (b)(iii) of the Act—
- (a) the proceeding must be instituted in the ordinary way in accordance with rule 83.1;
- (b) the originating application must seek the necessary leave; and
- (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Notes—**

Section 20(1)(b) provides that an application may be made on behalf of a person against whom it is alleged an act of abuse may be committed by a suitable representative given permission to apply by the Court.

Section 20(2)(a) provides that an application may be made by a child with the permission of the Court if the child has attained the age of 14 years.

Section 20(2)(b)(iii) provides that an application may be made on behalf of a child by a suitable representative of the child given permission to apply by the Court.

Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
  - (a) the institution of the proceeding is conditional on leave being granted; and
  - (b) if leave is refused, the proceeding lapses.

### **83.3—Application for preliminary hearing by audio visual link or audio link**

- (1) If the applicant seeks that the preliminary hearing be conducted in whole or in part by audio visual link or audio link—
  - (a) the originating application must include a request identifying the type of hearing requested; and
  - (b) the originating application or the supporting affidavit must set out the grounds for making the request.

**Note—**

Section 21(2) addresses a hearing by telephone or other electronic means. Under rule 2.4, a statutory reference to telephone or other electronic means is equivalent to a reference in these Rules to an audio visual link or audio link.

- (2) The Court may make an order in chambers granting or refusing leave for the preliminary hearing to be conducted by audio visual link or audio link without hearing the applicant or may order that the application be heard on the return date.

## **Division 4—Preliminary hearing**

### **84.1—Preparation for preliminary hearing**

- (1) The applicant must be ready to proceed with the preliminary hearing on the return date and in particular—
  - (a) the applicant must have the deponent to the supporting affidavit present, or if leave has been granted under rule 83.3, available by audio visual link or audio link to give oral evidence;
  - (b) if the applicant proposes to rely on recorded evidence under section 28A—the applicant must have the subject of the recorded evidence present, or if leave has been granted under rule 83.3, available by audio visual link or audio link to give oral evidence; and
  - (c) if the applicant proposes to rely on any oral evidence other than from the deponent to an affidavit or the subject of recorded evidence—the applicant must have the witness present, or if leave has been granted under rule 83.3, available by audio visual link or audio link to give oral evidence.
- (2) The applicant must investigate, and disclose to the Court, before the preliminary hearing whether there are circumstances that may require special arrangements for taking evidence by a witness at the preliminary hearing or at the final hearing.

### **84.2—Conduct of preliminary hearing**

- (1) Unless the applicant is the Commissioner of Police, the application for an intervention order must be supported by oral evidence (in person or, with leave, by audio visual link or audio link).
- (2) If the applicant is the Commissioner of Police, the Court may require either of the following to give oral evidence (in person or by audio visual link or audio link)—

- (a) the deponent to the affidavit; or
  - (b) subject to section 28A(2)(b), the person the subject of recorded evidence sought to be admitted under section 28A of the Act.
- (3) The preliminary hearing must be recorded in a manner directed by the Court.
  - (4) At the hearing, the applicant must inform the Court of any order, agreement, application or legal proceeding referred to in section 20(3) of the Act of which the applicant is aware.

**Note—**

Section 20(3) requires an applicant for an intervention order to inform the Court of any order, agreement, application or legal proceeding referred to in that subsection of which the applicant is aware.

- (5) If the applicant is not the Commissioner of Police and does not allege domestic abuse, the applicant must provide information to the Court to enable the Court to determine the matters referred to in paragraphs (a), (b) and (c) of section 21(4) of the Act.
- (6) The Court may require an applicant to obtain professional advice on the making of special arrangements for taking evidence by a witness.

### 84.3—Interim order

- (1) A record of outcome of a preliminary hearing must be in the prescribed form.

**Prescribed form—**

Form 32 Record of Outcome (Interim Order and Summons)

- (2) If the Court makes an interim intervention order, the Court will issue a formal interim intervention order and summons in the prescribed form.

**Prescribed form—**

Form 34E Intervention Order and Summons (Interim)

- (3) SAPOL must serve by original service on the subject the interim intervention order and summons, the supporting affidavit, any recorded evidence on an electronic storage device and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 36B Multilingual Notice – Interim Order and Summons - Intervention Order

**Note—**

If the applicant is a person other than the Commissioner of Police, the interim intervention order and summons and accompanying documents must not be served by the applicant but will be served by SAPOL.

- (4) Upon an interim intervention order being made, the Principal Registrar must cause the relevant public sector agencies to be notified of the prescribed details of the interim intervention order in accordance with section 21(11) of the Act in the prescribed form.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (5) Upon an interim intervention order being made, the Principal Registrar must cause a notice in the prescribed form, or by alternative means cause the information required by the applicable statutory provisions, to be sent to—

- (a) each protected person;
- (b) the Commissioner of Police; and

- (c) the applicant (if not the protected person or Commissioner of Police).

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

- (6) If the applicant seeks a tenancy order, the applicant must serve a notice in the prescribed form by original service on—
- (a) the landlord as soon as practicable; and
- (b) the subject at the same time as serving the documents referred to in subrule (3).

**Prescribed form—**

Form 28 Notice of Application to Assign Tenancy

## **Division 5—Audio visual link or audio link applications**

### **85.1—Application**

- (1) An applicant who applies orally by audio visual link or audio link pursuant to section 21(2) of the Act must satisfy the Court that particular urgency exists and that the application cannot reasonably be made by written application under rule 83.1.
- (2) If the preliminary hearing proceeds on an oral application—
- (a) the provisions of rule 84.1 and rule 84.2 apply in respect of the preliminary hearing; and
- (b) the preliminary hearing must be recorded in a manner directed by the Court.
- (3) If an interim intervention order is made—
- (a) the terms of the order must be recorded in writing and the Principal Registrar must cause the applicant to be notified;
- (b) the provisions of rule 84.3 apply in respect of the order; and
- (c) the applicant must, as soon as practicable, file a written application and the other documents required to be filed by rule 83.1.

## **Division 6—Interlocutory steps up to listing for trial**

### **86.1—Conferral by parties**

To the extent necessary to comply with this Division, and without contravening any term of an intervention order, the parties must confer fully and frankly.

### **86.2—Hearing after service of interim intervention order**

- (1) This rule applies to the first and any subsequent hearing (other, except in subrule (3), than a final hearing) after an interim intervention order has been made.
- (2) The parties must inform the Court of any order, agreement, application or legal proceeding referred to in section 20(3) of the Act of which they are aware.

**Note—**

Section 20(3) requires an applicant for an intervention order to inform the Court of any order, agreement, application or legal proceeding referred to in that subsection of which the applicant is aware.

- (3) If the subject consents to a final intervention order being made, the Court may make a final intervention order at the hearing.

**Note—**

Section 23(3) provides that, if a respondent disputes some or all of the grounds on which a final intervention order is sought but consents to the order, the Court may make a final intervention order without receiving any further submissions or evidence as to the grounds.

- (4) If the subject does not consent to a final intervention order being made, the Court may take one or more of the following actions—
- (a) give directions for steps to be taken in preparation for trial;
  - (b) give directions as to the order of evidence and generally as to the conduct of the trial;
  - (c) list the matter for a pre-trial conference;
  - (d) adjourn the matter to a further hearing;
  - (e) make other orders.
- (5) If the applicant alleges domestic abuse, ordinarily the Court will not adjourn the matter to a further hearing more than once before listing it for a pre-trial conference.

### 86.3—Interlocutory applications

- (1) Unless the Court otherwise orders, the following applications must be made by an interlocutory application in the prescribed form supported by an affidavit in the prescribed form—
- (a) an application that, if granted, would have the effect of delaying a listed trial;
  - (b) an application that relies on potentially contentious evidence;
  - (c) an application that cannot reasonably be made without notice;
  - (d) an application that the applicant seeks to be determined in chambers without hearing the parties; or

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

Form 7P Affidavit of Protected Person

- (e) an application for an order that special arrangements be made for taking evidence under section 29 of the Act (other than when such an application is made under rule 83.1(6)).
- (2) Unless the Court otherwise orders, a written interlocutory application must be filed and served at least 7 days before the hearing at which the orders are to be sought.
- (3) Unless the Court otherwise orders, an application other than one referred to in subrule (1) may be made by oral application at a hearing.
- (4) Unless the Court grants leave, any interlocutory application must be made not later than the pre-trial conference date.
- (5) If a trial date has already been fixed, an interlocutory application may be listed before the trial Magistrate at or immediately before commencement of the trial.

### 86.4—Recorded evidence

- (1) If a party seeks to rely on recorded evidence, they must file and serve it in accordance with rule 81.3 at least 21 days before the pre-trial conference date.
- (2) If a party seeks leave under section 28A(2)(b) of the Act to further examine or cross-examine a protected person on recorded evidence the subject of subrule (1), they must

file and serve an interlocutory application seeking such leave at least 7 days before the pre-trial conference date.

**Note—**

Section 28A(2)(b) provides that, if evidence of a relevant person is admitted in the form of a recording pursuant to section 28A, the relevant person cannot be further examined, cross-examined or re-examined on the evidence so admitted without the permission of the Court. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (3) If a party seeks to rely on recorded evidence, they must file and serve an electronic transcript of the recorded evidence at least 14 days before the trial date.

### **86.5—Pre-trial conference**

- (1) Before the pre-trial conference date, each party must have ascertained the precise matters in issue both as to fact (in detail) and law to enable the pre-trial conference to perform the functions referred to in subrule (2) and at the conference the parties must inform the Court of those matters.
- (2) The principal functions of a pre-trial conference are to—
  - (a) explore fully the disposal of the proceeding other than by way of trial; and
  - (b) if the matter cannot be resolved—
    - (i) explore fully narrowing the issues;
    - (ii) enable the duration of the trial to be estimated as accurately as possible,
    - (iii) determine what evidence if any may be proved by affidavit; and
    - (iv) facilitate the course of the trial.
- (3) A pre-trial conference must be attended by—
  - (a) each party but a party's attendance may be by audio visual link or audio link if that party is in custody; and
  - (b) each party's counsel briefed to appear at the trial or, by leave of the Court, if attendance of a party's counsel is not practicable, by that party's solicitor.
- (4) A pre-trial conference may be presided over by a Judge, Magistrate or Judicial Registrar.
- (5) Unless the Court otherwise orders, a pre-trial conference will not be open to the public.
- (6) Nothing said or not said at a pre-trial conference can be used at a subsequent trial or other hearing of the proceeding.
- (7) At the end of a pre-trial conference, if the matter is not resolved the Court will generally list the matter for trial.
- (8) Parties must attend a pre-trial conference ready for the matter to be listed for trial if it is not resolved.

### **86.6—Affidavit evidence before trial**

The Court may, if it thinks fit, order that evidence intended to be adduced at trial by a party or the parties be contained in an affidavit or affidavits, to be filed and served in accordance with a time frame fixed by the Court.

## Division 7—Pre-trial preparation

### 87.1—Expert reports

If a party intends to adduce evidence from an expert at trial, the party must, at least 21 days before the trial date, obtain an expert report from the intended expert and file it and serve it on the other parties.

### 87.2—Written questions

- (1) If the subject is not represented by a lawyer and wishes to ask questions of a protected person or a child exposed to the effects of an alleged act of abuse, they must, at least 21 days before the trial date, file a document in the prescribed form on a court access basis containing the proposed questions.

#### Prescribed form—

Form 68 Proposed Questions for Cross-Examination of Witness

#### Note—

Section 29(4) of the Act provides that cross-examination of such witnesses when the respondent is not legally represented is to be undertaken by the respondent submitting to the Court, in the manner required by the Court, the questions the respondent proposes the witness be asked in cross-examination and the Court (or the Court's nominee) asking the witness those of the questions submitted that are determined by the Court to be allowable in cross-examination or as otherwise directed by the Court.

- (2) The proposed questions will not be disclosed before trial by the Court to the applicant, the protected person or the person to whom the questions are to be directed.

### 87.3—Summary of facts and argument

- (1) The applicant must, at least 28 days before the trial date, file and serve on the other parties a summary of facts and argument on which the applicant intends to rely at trial.
- (2) The respondent must, at least 14 days before the trial date, file and serve on the other parties a summary of facts and argument on which the respondent intends to rely at trial.
- (3) The summary must outline—
  - (a) the facts that are agreed;
  - (b) the issues that are in dispute;
  - (c) a list of documents that will be relied on at trial (if any);
  - (d) a list of witnesses who may be called to give evidence at trial;
  - (e) a summary of relevant legislation, common law and authorities with citations;
  - (f) whether the Court will need to have any information technology (software or hardware) available for the presentation of evidence; and
  - (g) the name of counsel who will appear at trial (if applicable).
- (4) Any documents or witness statements referred to in the summary must be served (but not, unless the Court otherwise orders, filed) with the summary.
- (5) The applicant must not include the address, telephone number or other contact details of any person in any material provided to the respondent under this rule.

## Division 8—Trial

### 88.1—Written questions

- (1) This rule applies when written questions have been filed under rule 87.2.
- (2) At trial, the Court will ask such of the written questions as it rules are allowable and may make such changes to a written question as it thinks fit to ensure that it is in appropriate form.
- (3) The Court may disallow a written question on any ground on which an oral question in the same terms may be disallowed.

#### Examples—

The Court may, for example, disallow a question on the ground that it—

- (a) is irrelevant;
  - (b) if relevant only to credit, is not capable of seriously affecting the opinion of the Court as to the credit of the witness;
  - (c) is unnecessarily complicated, repetitive or prolix;
  - (d) is misleading or confusing;
  - (e) is vexatious, offensive, oppressive, insulting or humiliating; or
  - (f) is based on a stereotype, including sexual, racial, ethnic, cultural, age or physical or mental disability.
- (4) The Court may give directions to permit further questions to be submitted as the trial progresses.

### 88.2—Application for problem gambling order: Magistrates Court

If the applicant has applied for a problem gambling order or problem gambling attachment order or the Court determines that the question of making such an order should be considered, unless the Court otherwise orders, the question whether such an order should be made must be addressed at the trial.

#### Note—

Section 24 of the Act provides that, if the Court makes a final intervention order, it may make a problem gambling order that the Liquor and Gambling Commissioner could make as a problem gambling family protection order under the *Problem Gambling Family Protection Orders Act 2004*.

### 88.3—Application for tenancy order: Magistrates Court

- (1) If the applicant has applied for a tenancy order, unless the Court otherwise orders the question whether such an order should be made must be addressed at the trial.

#### Note—

Section 25 provides that, if the Court makes a final intervention order and other specified conditions are satisfied, it may make a tenancy order that the respondent will be taken to have assigned their interest in a tenancy agreement to a specified person or persons with the landlord's consent.

- (2) If the Court determines that the question of making a tenancy order should be considered and notice has not been given to the landlord or the subject—
  - (a) the Court will adjourn the matter to a future date to hear and determine whether to make a tenancy order; and
  - (b) the applicant must serve a notice in the prescribed form by original service as soon as practicable on—

- (i) the landlord if notice has not previously been given to the landlord;
- (ii) the subject if they were not present when the Court determined that the question of making a tenancy order should be considered.

**Prescribed form—**

Form 28 Notice of Application to Assign Tenancy

## **Division 9—Interim problem gambling attachment orders: Magistrates Court**

### **89.1—Interim attachment order**

- (1) This rule applies if the Court makes a problem gambling attachment order which is an interim order because it is not made in the presence of the subject and the third person.
- (2) Upon making an interim problem gambling attachment order, the Court will—
  - (a) adjourn the matter to a future date to hear and determine whether to make a final problem gambling attachment order;
  - (b) issue an interim problem gambling attachment order and notice of hearing in the prescribed form giving notice to the subject and the third person of the interim order and the adjourned hearing.

**Prescribed form—**

Form 34H Order and Summons - Problem Gambling - Attachment Order and Summons [Interim]

- (3) SAPOL must serve the interim problem gambling attachment order and notice of hearing by original service—
  - (a) on the subject if the order was not made in their presence;
  - (b) on the third person if the order was not made in their presence.

**Note—**

If the applicant is a person other than the Commissioner of Police, the order must not be served by the applicant but will be served by SAPOL.

## **Division 10—Final intervention, problem gambling or tenancy order**

### **90.1—Order**

- (1) A record of outcome in respect of the outcome of a final hearing must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a final intervention order, a problem gambling order, a problem gambling attachment order or a tenancy order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AB Order – Intervention Order/Problem Gambling/Tenancy Order or Attachment Order

### **90.2—Service of order**

- (1) If the Court makes one of the following orders, unless the respondent is present in court when the order is made, SAPOL must serve the order on the respondent as soon as practicable—

- (a) a final intervention order in the form of issuing a final intervention order in substitution for an interim intervention order;
- (b) a problem gambling order;
- (c) a problem gambling attachment order; or
- (d) a tenancy order.

**Notes—**

Section 23(4) provides that, if an interim intervention order is confirmed, the order continues in force against the respondent as a final intervention order without any further requirement for service.

Section 23(5) provides that, if a final intervention order is issued in substitution for an interim intervention order, it comes into force when served on the respondent in accordance with section 23 (and until the order is so served the interim intervention order continues in force).

Section 24(2) provides that a problem gambling order must be served on the respondent and is not binding until so served.

Section 25(3) provides that a tenancy order takes effect on the day on which it is made or on such later day as is specified in the order.

- (2) If an order is required under subrule (1) to be served—
  - (a) if the respondent has an address for service in the proceeding—it may be served at the address for service in any manner permitted by and in accordance with the Uniform Civil Rules; or
  - (b) otherwise—unless the Court otherwise orders, it must be served by original service on the respondent.
- (3) If the applicant is a person other than the Commissioner of Police, the order must not be served by the applicant but will be served by SAPOL.

### **90.3—Notice of order**

- (1) Upon a final intervention order being made or an interim intervention order being revoked, the Principal Registrar must cause the relevant public sector agencies to be notified of the prescribed details of the order in the prescribed form, and if a final intervention order is made a copy of the order, in accordance with section 23(8) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (2) Upon a final intervention order being made or an interim intervention order being revoked, the Principal Registrar must cause a notice in the prescribed form, or by alternative means cause the information required by the applicable statutory provisions, to be sent to—
  - (a) each protected person;
  - (b) the Commissioner of Police; and
  - (c) the applicant (if not the protected person or Commissioner of Police).

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

- (3) Upon a problem gambling order or a problem gambling attachment order being made, the Principal Registrar must cause a notice in the prescribed form, or by alternative

means cause the information required by the applicable statutory provisions, together with a copy of the order in accordance with section 24(5) of the Act to be sent to—

- (a) each protected person;
- (b) the Commissioner of Police;
- (c) the applicant (if not the protected person or Commissioner of Police);
- (d) the Liquor and Gambling Commissioner; and
- (e) the proprietor or licensee of any premises specified in the order.

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

- (4) Upon a tenancy order being made, the Principal Registrar must cause a notice in the prescribed form, or by alternative means cause the information required by the applicable statutory provisions, together with a copy of the order to be sent in accordance with section 25(5) of the Act to—

- (a) each protected person;
- (b) the subject;
- (c) the landlord of the premises specified in the order;
- (d) the assignee of the premises specified in the order (if not the protected person);
- (e) the Registrar of the South Australian Civil and Administrative Tribunal.

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

## **Division 11—Nationally recognised domestic violence orders**

### **91.1—Application for declaration of recognised DVO**

- (1) An application under section 29ZE or 29ZF of the Act for a declaration that a domestic violence order or general violence order is a nationally recognised domestic violence order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed form—**

Form 4B Originating Application Ex Parte – Intervention Order Act - Domestic Violence Order Nationally Recognised

- (2) The application must be accompanied by a copy of the original domestic violence order or general violence order .
- (3) The applicant must file on a court access basis at the same time as the originating application an annexure to originating application intervention order in the prescribed form.

**Prescribed form—**

Form 3 Annexure to Intervention Order Originating Application

**Note—**

Rule 29.2 of the Joint Criminal Rules provides that access to view, download or copy a document filed on a court access basis is limited to court officers unless the Court otherwise orders.

## 91.2—Making and service of declaration

- (1) A record of outcome in respect of an application for a declaration must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a declaration and orders, with the consent of the applicant, that the order be served on the respondent, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (3) If the Court orders service of the order on the subject, SAPOL must serve the order as soon as practicable on the subject by original service unless the Court orders another method of service.

**Notes—**

Section 29ZD(7) of the Act provides that notice of a declaration is not to be served on the respondent unless the person who makes the application consents to service.

If the applicant is a person other than the Commissioner of Police, the order must not be served by the applicant but will be served by SAPOL.

## 91.3—Notification of declaration

- (1) Upon a declaration being made under section 29ZD or 29ZF of the Act, the Principal Registrar must cause the relevant public sector agencies to be notified of the declaration in the prescribed form.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (2) Upon a declaration being made, the Principal Registrar must cause the Court in which the original domestic violence order or general violence order was made to be notified of the declaration in the prescribed form.

**Prescribed form—**

Form 97C Notice of Order – Intervention Orders Act - Nationally Recognised Domestic Violence Order

## 91.4—Notification of variation or revocation

Upon the Court varying or revoking a nationally recognised domestic violence order under section 29P of the Act, the Principal Registrar must cause a notice in the prescribed form of the variation or revocation to be sent to the Court in which the original domestic violence order or general violence order was made.

**Prescribed form—**

Form 97C Notice of Order – Intervention Orders Act - Nationally Recognised Domestic Violence Order

## 91.5—Certificate of notification of DVO

A certificate under section 29W of the Act of notification of making or variation of a nationally recognised domestic violence order must be in the prescribed form.

**Prescribed form—**

Form 96B Certificate of Proper Notification – Intervention Orders Act

## Division 12—Foreign intervention orders

### 92.1—Application to register foreign intervention order

- (1) An application under section 30 of the Act to register a foreign intervention order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4D Originating Application Ex Parte –Registration Foreign Order

Form 7 Affidavit

- (2) The applicant must file on a court access basis at the same time as the originating application an annexure to originating application intervention order in the prescribed form.

**Prescribed form—**

Form 3 Annexure to Intervention Order Originating Application

**Note—**

Rule 29.2 of the Joint Criminal Rules provides that access to view, download or copy a document filed on a court access basis is limited to court officers unless the Court otherwise orders.

- (3) The supporting affidavit must depose to the grounds for registration and, if applicable, reasons to support a request that an order not be served on the subject.
- (4) If the Court makes a registration order, the Court will determine whether the order is required to be served.
- (5) A record of outcome in respect of the outcome of the application must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (6) If the Court makes an order for registration, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AA Order – Intervention Order - Registration of Foreign Intervention Order

- (7) If the Court requires a registration order to be served, SAPOL must serve on the subject the order—
  - (a) if the subject has an address for service in the proceeding—at the address for service in any manner permitted by and in accordance with the Uniform Civil Rules; or
  - (b) otherwise—unless the Court otherwise orders, it must be served by original service.

**Note—**

If the applicant is a person other than the Commissioner of Police, the order must not be served by the applicant but will be served by SAPOL.

## 92.2—Notice of registration

- (1) Upon a registration order being made, the Principal Registrar must cause the relevant public sector agencies to be notified of the declaration in the prescribed form in accordance with section 30(6)(c) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (2) Upon a registration order being made, the Principal Registrar must cause a notice in the prescribed form in accordance with sections 30(6)(a) and (b) of the Act to be sent to—
- (a) each protected person; and
- (b) the Commissioner of Police.

**Prescribed form—**

Form 97D Notice of Order – Intervention Orders Act - Registration of Foreign Intervention Order

## Division 13—Variation and revocation

### 93.1—Application of Division

This Division applies to applications to vary or revoke intervention orders or problem gambling orders—

- (a) made under these Rules; or
- (b) made under Chapter 2 Part 8 Division 1 of the Joint Criminal Rules.

**Note—**

An application to vary or revoke an intervention order made under section 28 of the Sentencing Act 2017 and Chapter 7 Part 4 Division 4 of the Joint Criminal Rules is to be made in the criminal proceeding in which the intervention order was made: see Chapter 8 Part 1 Division 7 of the Joint Criminal Rules.

### 93.2—Application to revoke or vary

- (1) An application under section 26, 26A or 27 of the Act to revoke or vary an intervention order or problem gambling order must be—
- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 112A Interlocutory Application to Vary or Revoke Order - Intervention Order

Form 112B Affidavit of Person other than Protected Person - Support Application to Vary or Revoke Intervention Order

Form 112C Affidavit of Protected Person - Support Application to Vary or Revoke Intervention Order

- (2) The provisions of rule 83.1(5) and (6) and rule 83.2, to the extent applicable, apply with any necessary changes to an application governed by this rule.
- (3) Subject to rule 93.4(2) and subrule (4), the applicant must serve the interlocutory application and supporting affidavit on the other parties as soon as practicable—

- (a) if another party has an address for service in the proceeding in which the order was made—it may be served at that address for service in any manner permitted by and in accordance with the Uniform Civil Rules;
  - (b) otherwise—unless the Court otherwise orders, it must be served by original service.
- (4) If the person making the application is not the subject and is required to serve the subject—
- (a) the interlocutory application and supporting affidavit must be accompanied by a multilingual notice in the prescribed form; and
  - (b) the documents must be served by SAPOL.

**Prescribed form—**

Form 113B Multilingual Notice – Variation or Revocation of Intervention Order

**Note—**

If the applicant is a person other than the Commissioner of Police, the documents must not be served by the applicant but will be served by SAPOL.

### **93.3—Application when leave required**

- (1) If leave is required under section 26(1)(b), (2)(a) or (b)(iii) of the Act—
- (a) the application must be made in the ordinary way in accordance with rule 93.2;
  - (b) the interlocutory application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Notes—**

Section 26(1)(b) of the Act provides that an application may be made on behalf of a person against whom it is alleged an act of abuse may be committed by a suitable representative given permission to apply by the Court.

Section 26(2)(a) provides that an application may be made by a child with the permission of the Court if the child has attained the age of 14 years.

Section 26(2)(b)(iii) provides that an application may be made on behalf of a child by a suitable representative of the child given permission to apply by the Court.

Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine the application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an application seeking leave is filed under this rule—
- (a) the interlocutory application is conditional on leave being granted; and
  - (b) if leave is refused, the interlocutory application lapses.

### **93.4—Application for interim variation**

- (1) This rule applies if an application is made under section 26A of the Act for an interim variation of an intervention order.
- (2) If this rule applies, the interlocutory application and supporting affidavit must not be served on the subject.

- (3) The provisions of rule 83.1(5), (6) and (7) apply with any necessary changes to an application governed by this rule.
- (4) A record of outcome of an application for an interim variation of an intervention order must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (5) If the Court makes an interim variation order, the Court will issue a formal interim variation order and summons in the prescribed form.

**Prescribed form—**

Form 115A Order for Interim Variation of Intervention Order

- (6) SAPOL must serve the interim variation of intervention order and summons, the supporting affidavit, any recorded evidence on an electronic storage device and a multilingual notice in the prescribed form on the subject as soon as practicable—
- (a) if the subject has an address for service in the proceeding in which the order was made—it may be served at that address for service in any manner permitted by and in accordance with the Uniform Civil Rules;
- (b) otherwise—unless the Court otherwise orders, it must be served by original service.

**Prescribed forms—**

Form 113B Multilingual Notice – Variation or Revocation of Intervention Order

**Note—**

If the applicant is a person other than the Commissioner of Police, the documents must not be served by the applicant but will be served by SAPOL.

- (7) Upon an interim variation order being made, the Principal Registrar must cause the relevant public sector agencies to be notified of the prescribed details of the order in the prescribed form in accordance with section 26A(10) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (8) Upon an interim variation order being made, the Principal Registrar must cause a notice in the prescribed form, or by alternative means cause the information required by the applicable statutory provisions, together with a copy of the order in accordance with section 26A(9) of the Act to be sent to—
- (a) each protected person; and
- (b) the Commissioner of Police.

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

### **93.5—Audio visual link or audio link applications**

- (1) An applicant who applies orally by audio visual link or audio link under section 26A(2) of the Act must satisfy the Court that particular urgency exists and the application cannot reasonably be made by written application under rule 93.2.
- (2) If the preliminary hearing proceeds on an oral application—

- (a) the provisions of rule 84.1 and rule 84.2, to the extent applicable, apply with any necessary changes in respect of the hearing; and
  - (b) the evidence given at the hearing must be recorded in a manner directed by the Court.
- (3) If an interim order is made—
- (a) the terms of the order must be recorded in writing and the Principal Registrar must ensure that they are sent to the applicant;
  - (b) the provisions of rule 93.4 apply in respect of the interim variation to the intervention order; and
  - (c) the applicant must, as soon as practicable, file a written application and the other documents required to be filed by rule 93.2.

### 93.6—Subsequent steps

- (1) If the parties entitled to be heard on the application consent to the application, the Court may make an order on the basis of that consent.
- (2) Unless the Court otherwise orders, the provisions of Divisions 6, 7 and 8, to the extent applicable, apply with any necessary changes to an application governed by this Division.

### 93.7—Order

- (1) A record of outcome of the hearing of a variation or revocation application must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115B Order for Final Variation or Revocation of Intervention or Problem Gambling Order

### 93.8—Service of order

- (1) If the Court varies one of the following orders, unless the subject is present in court when the order is made, SAPOL must serve the variation order on the subject as soon as practicable—
  - (a) an intervention order;
  - (b) a problem gambling order on the application of a beneficiary.

**Notes—**

Section 26(7) of the Act provides that, if an intervention order is varied, it comes into force when served on the respondent in accordance with section 26 (and until the order is so served the intervention order in its unamended form continues in force).

If the applicant for the variation is a person other than the Commissioner of Police, the order must not be served by the applicant but will be served by SAPOL.

- (2) If SAPOL is required under subrule (1) to serve a variation order—
  - (a) if the subject has an address for service in the proceeding—it may be served at that address for service in any manner permitted by and in accordance with the Uniform Civil Rules;

- (b) otherwise—unless the Court otherwise orders, it must be served by original service.
- (3) If the Court revokes an intervention order, the Principal Registrar must cause to be served on the subject the revocation order—
  - (a) if the subject has an address for service in the proceeding—at the address for service in any manner permitted by and in accordance with the Uniform Civil Rules; or
  - (b) otherwise—unless the Court otherwise orders, it must be served by personal service or by posting it to the last known address of the subject.

**Note—**

Section 26(8) requires the Registrar to serve written notice of the revocation on the defendant personally or by post at the address for service provided by the defendant under the Act or in some other manner authorised by the Court. Under rule 2.4, a statutory reference to a defendant is equivalent to a reference in these Rules to a respondent.

### 93.9—Notice of order

- (1) Upon an intervention order being varied or revoked, the Principal Registrar must cause the relevant public sector agencies to be notified of the prescribed details of the variation or revocation in the prescribed form in accordance with section 26(10) of the Act.

**Prescribed form—**

Form 37 Notice to Relevant Public Sector Agencies about Intervention Order

- (2) Upon an intervention order being varied or revoked, the Principal Registrar must cause a notice in the prescribed form, or by alternative means cause the information required by the applicable statutory provisions, together with a copy of the order to be sent in accordance with section 26(9) of the Act to—
  - (a) each protected person;
  - (b) the Commissioner of Police; and
  - (c) the applicant (if not a protected person or police officer).

**Prescribed form—**

Form 97B Notice of Order – Intervention Orders Act Order

## Division 14—Costs

### 94.1—Costs

- (1) Subject to any applicable statutory provision, the Court may make such order as it thinks fit in relation to the costs of a proceeding or step governed by this Part.
- (2) The Court may take into account any lack of compliance with rule 86.1 or the other provisions of this Part on the question of costs.

**Note—**

Section 189C of the *Criminal Procedure Act 1921* provides that costs will not be awarded against an informant (defined to include an applicant for an intervention order) in a proceeding for a restraining order (defined to include an intervention order under the Act) unless the

Court is satisfied that the informant has acted in bad faith or unreasonably in bringing the proceeding.

## Part 7—Offensive weapons

### Division 1—Offensive weapons forfeiture and custody

#### Subdivision A—General

##### 96.1—Scope of Division

- (1) Subject to subrule (2), this Division applies to all proceedings under section 180 of the *Criminal Procedure Act 1921*.
- (2) This Part does not apply to the making of an offensive weapon order in a criminal proceeding under Chapter 7 Part 4 of the Joint Criminal Rules but it does apply to variation or revocation of such an order.

##### 96.2—Definitions

In this Division—

*Act* means the *Criminal Procedure Act 1921*;

*offensive weapon* means an offensive weapon within the meaning of section 180 of the Act;

*offensive weapon order* means an order under section 180(1)(d), (e), (f) or (g) of the Act;

*owner* means the owner of the thing alleged to be an offensive weapon the subject of an application or order governed by this Part;

*possessor* means the person who is, or if it is now in the possession of the police was, in possession of the thing alleged to be an offensive weapon the subject of an application or order governed by this Part.

#### Subdivision B—Application and order

##### 96.3—Application

- (1) An application under section 180 of the Act for an offensive weapon order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join as respondents—
  - (a) the owner; and
  - (b) the possessor.

##### 96.4—Order

- (1) A record of outcome making an order under section 180 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an offensive weapon order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92Y Order – Firearms Act – Firearms Order

- (3) The applicant must serve on the respondents the formal order as soon as practicable.

## **Subdivision C—Variation and revocation**

### **96.5—Application to vary or revoke order**

- (1) An application to vary or revoke an offensive weapon order under section 180(2) of the Act must be—

- (a) in the prescribed form; and  
 (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join—
- (a) if the applicant is the Commissioner of Police—the owner and the possessor;  
 (b) if the applicant is the owner—the Commissioner of Police and the possessor;  
 (c) if the applicant is the possessor—the Commissioner of Police and the owner;  
 (d) if the applicant is any other person—the Commissioner of Police, the owner and the possessor.
- (3) The applicant must serve by original service on the respondents the originating application, supporting affidavit and, if the applicant is the Commissioner of Police, a multilingual notice in the prescribed form, as soon as practicable.

**Prescribed form—**

Form 113A Multilingual Notice – Variation or Revocation of Order

### **96.6—Order**

- (1) A record of outcome making a variation or revocation order under section 180(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92Y Order – Firearms Act - Firearms Order

- (3) The applicant must serve on the respondents the formal order as soon as practicable.

## Division 2—Firearms forfeiture

### 97.1—Scope of Division

This Division applies to all proceedings for a firearm-related forfeiture order under section 59(2) or 63 of the *Firearms Act 2015*.

**Note—**

The making of firearm forfeiture orders and disposal orders under section 59(4) of the *Firearms Act 2015* in a criminal proceeding is addressed by Chapter 7 Part 4 of the Joint Criminal Rules.

### 97.2—Definitions

In this Division—

**Act** means the *Firearms Act 2015*;

**firearm-related forfeiture order** means an order for the forfeiture or disposal of—

- (a) a firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism under section 63 of the Act; or
- (b) equipment, a device, an object or a document under section 59(2) of the Act;

**item** means—

- (a) the firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism the subject of an application or order under section 63 of the Act; or
- (b) the equipment, device, object or document the subject of an application or order under section 59(2) of the Act;

**owner** means the owner of the item;

**possessor** means the person who is, or if it is now in the possession of the police was, in possession of the item.

### 97.3—Application

- (1) An application under section 59(2) or 63 of the Act for a firearm-related forfeiture order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join as respondents—
  - (a) the owner; and
  - (b) the possessor.

### 97.4—Order

- (1) A record of outcome making an order under section 59(2) or 63 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a firearm-related forfeiture order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (3) The applicant must serve the formal order on the respondents as soon as practicable.

## **Part 8—Problem gambling order reviews: Magistrates Court**

### **101.1—Scope of Part**

- (1) This Part applies to all proceedings under section 16 of the *Problem Gambling Family Protection Orders Act 2004*.

### **101.2—Definitions**

In this Part—

*Act* means the *Problem Gambling Family Protection Orders Act 2004*;

*Commissioner* means the Liquor and Gambling Commissioner under the *Liquor Licensing Act 1997* (or the Commissioner's delegate);

*complainant* means the person who made the complaint that resulted in the order or decision by the Commissioner the subject of the application for review;

*subject* means the person the subject of an application for an order or an order by the Commissioner under the Act.

### **101.3—Application**

- (1) An application under section 16 of the Act for a review of a decision of the Commissioner must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 6B Originating Application for Review – Problem Gambling Family Protection Order or Decision

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts comprising the basis for the application;
  - (b) exhibit the order or evidence of the decision made by the Commissioner; and
  - (c) if a stay is sought—depose to the facts on the basis of which the stay is sought.
- (3) The applicant must join—
- (a) the subject (if the applicant is not the subject) as a respondent;
  - (b) the complainant (if the applicant is not the complainant) as a respondent; and
  - (c) the Commissioner as an interested party.

### **101.4—Order**

- (1) A record of outcome of the hearing of the review application must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) Upon final determination of the application, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AG Order - Problem Gambling Family Protection Act Review

## **Part 9—Registered child sex offender control orders: Magistrates Court**

### **Division 1—General**

#### **106.1—Scope of Part**

This Part applies to all proceedings under Part 5C of the *Child Sex Offenders Registration Act 2006*.

#### **106.2—Definitions**

In this Part—

*Act* means the *Child Sex Offenders Registration Act 2006*;

*control order* means an interim order or a final order;

*final order* means a control order under section 66JA of the Act;

*interim order* means an interim control order under section 66JC of the Act;

*subject* means a registrable offender within the meaning of the Act.

#### **106.3—Service of order**

- (1) Unless the Court otherwise orders, an order that is required by the Act to be served on the subject must be served by personal service.
- (2) An application to extend the period of detention under section 66JG of the Act for the purpose of service of an order may be made orally in person or by audio visual link or audio link.

### **Division 2—Application for control order**

#### **107.1—Application**

- (1) An application under section 66JA of the Act for a control order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1J Originating Application – Child Sex Offenders Registration Act - Control Order

Form 7 Affidavit

- (2) An application for a control order when the applicant seeks an interim order without notice under section 66JC(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 1I Originating Application – Child Protection Restraining Order (Interim Order Sought)

- (3) The applicant must serve by original service on the subject the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

## **Division 3—Interim hearing and order**

### **108.1—Application for interim order**

- (1) If the applicant seeks an interim order, the Court will ordinarily hear and determine the application for an interim order on the return date.
- (2) The applicant must be ready to proceed with the hearing of that question on the return date and in particular must have the deponent to the supporting affidavit and any other witness from whom the applicant wishes to adduce evidence present, or if leave has been granted available by audio visual link or audio link, to give oral evidence.
- (3) The Court may require the deponent to the supporting affidavit to give oral evidence (in person or by audio visual link or audio link).

### **108.2—Interim order**

- (1) A record of outcome making an interim order under section 66JC of the Act must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 33E Order – Child Sex Offenders Registration Act - Control Order (Interim)

- (3) Unless the subject is present in court when the order is made, the applicant must serve on the subject the order as soon as practicable.

## **Division 4—Subsequent hearings and final orders**

### **109.1—Subsequent hearings**

- (1) If the subject consents to a final order being made, the Court may make a final order at the hearing.
- (2) If the subject does not consent to a final order being made, the Court may take one or more of the following actions—
- (a) give directions for steps to be taken in preparation for trial;
  - (b) give directions as to the order of evidence and generally as to the conduct of the trial;
  - (c) list the matter for a pre-trial conference;
  - (d) adjourn the matter to a further hearing;
  - (e) make other orders.
- (3) The provisions of rule 86.3, rule 86.5, rule 87.1 and rule 87.3 apply, with any necessary changes, to an application governed by this Part.

## 109.2—Final order

- (1) A record of outcome making a final order under section 66JA of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a final order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92J Order - Child Sex Registrable Offender Control Order

- (3) If the Court makes a final order, unless the subject is present in court when the order is made, the applicant must serve on the subject the final order as soon as practicable.

## Division 5—Variation and revocation

### 110.1—Application

- (1) An application under section 66JE of the Act for variation or revocation of a control order must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111A Originating Application to Vary or Revoke Order – Child Registrable Control Order

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts comprising the basis for the application;
  - (b) address compliance or non-compliance by the subject with the conditions of the control order;
  - (c) address any relevant change in circumstances since the order was made; and
  - (d) address any other relevant circumstances.
- (3) The applicant must join as the respondent—
- (a) if the application is made by the Commissioner of Police—the subject; and
  - (b) if the application is made by the subject—the Commissioner of Police.

### 110.2—Application when leave required

- (1) If leave is required under section 66JE(2) of the Act—
- (a) the proceeding must be instituted in the ordinary way in accordance with rule 110.1;
  - (b) the originating application must seek the necessary leave; and

- (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Section 66JE(2) of the Act provides that an application may only be made by the person the subject of an order with the permission of the Court. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
- (a) the institution of the proceeding is conditional on leave being granted; and
- (b) if leave is refused, the proceeding lapses.

### **110.3—Variation or revocation**

- (1) A record of outcome varying or revoking a control order under section 66JE of the Act must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal variation or revocation order in the prescribed form.

**Prescribed form—**

Form 115D Order for Variation or Revocation of Child Sex Registrable Offender Control Order

- (3) If the Court makes a variation or revocation order on the application of the applicant, unless the subject is present in court when the order is made, the applicant must serve on the subject the variation or revocation order as soon as practicable.

## **Part 10—Registered child sex offender reporting orders**

### **Division 1—General**

#### **116.1—Scope of Part**

This Part applies to all proceedings under the *Child Sex Offenders Registration Act 2006* except those governed by Chapter 3 Part 9 of these Rules.

#### **116.2—Definitions**

In this Part—

*Act* means the *Child Sex Offenders Registration Act 2006*;

*subject* means a registrable offender within the meaning of the Act.

## **Division 2—Child sex offender registration order**

### **117.1—Application and order: Magistrates Court**

- (1) An application under section 9(1a) or (2) of the Act for an order that a person comply with the reporting obligations under the Act must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must serve by original service on the respondent the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

- (3) A record of outcome making an order under section 9(1a) or (2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

### **117.2—Appeal against registration order: Supreme Court**

An appeal under section 10 of the Act against an order that a person comply with the reporting obligations under the Act is governed by Chapter 9.

**Note—**

Section 10 confers a right of appeal against a child sex offender registration order.

## **Division 3—Serious registrable offender declarations**

### **118.1—Appeal against declaration: District Court**

- (1) An appeal under section 10B of the Act against a declaration that a person is a serious registrable offender must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 6 Originating Application for Review

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) exhibit the serious registrable offender declaration; and
  - (b) depose to the facts comprising the basis for the appeal.

- (3) The applicant must join as the respondent the Commissioner of Police.

**Note—**

Section 10B confers a right of appeal on a registered child sex offender who is aggrieved by a decision of the Commissioner under Part 2, being a declaration that a registrable offender is a serious registrable offender.

### **118.2—Application for additional reporting requirements: Magistrates Court**

- (1) An application under section 15A(5) of the Act for an order imposing additional reporting requirements on the subject must be—

- (a) in the prescribed form; and  
 (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must serve by original service on the subject the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

- (3) A record of outcome making an order under section 15A(5) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

### **118.3—Application to vary or revoke order: Magistrates Court**

- (1) An application under section 15A(7) of the Act to vary or revoke an order imposing additional reporting requirements on the subject must be—

- (a) in the prescribed form; and  
 (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join as the respondent—

- (a) if the application is made by the Commissioner of Police—the subject; and  
 (b) if the application is made by the subject—the Commissioner of Police.

- (3) A record of outcome making an order under section 15A(7) of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

## **Division 4—Suspension of reporting obligations: Supreme Court**

### **119.1—Application and order**

- (1) An application under section 37 of the Act to suspend reporting obligations must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1K Originating Application – Child Sex Offenders Registration Act - Suspend Reporting Obligations

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) if the applicant is subject to a child sex offender registration order—identify the order including when it was made, the Court that made it, the offence for which the applicant was sentenced when it was made and, if the applicant is subject to a restraining order under section 99AA or 99AAC of the *Criminal Procedure Act 1921*, the terms of that order;
  - (c) if the applicant is not subject to a child sex offender registration order— identify each sentence imposed on the applicant by reason of which the applicant is a registrable offender;
  - (d) set out the grounds on which the application is made;
  - (e) set out details of the applicant’s antecedent criminal history;
  - (f) exhibit a report of any expert witness on whose evidence the applicant relies; and
  - (g) exhibit any other documentary evidence on which the applicant relies.
- (3) The applicant must join as the respondent the Commissioner of Police.
- (4) The Court may, on the application of the Commissioner of Police, direct that the applicant submit to examination by a medical practitioner registered under the *Health Practitioner Regulation National Law (South Australia) Act 2010* or another person, and may obtain from the practitioner or other person a report relating to an issue arising in relation to the application.
- (5) If the applicant fails to comply with a direction to submit to an examination, the Court may stay the hearing of the application until the applicant complies with the direction or dismiss the application.
- (6) A record of outcome making an order under section 37 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

## **Part 11—Restraining orders: Magistrates and Youth Courts**

### **Division 1—General**

#### **121.1—Scope of Part**

- (1) Subject to subrule (2), this Part applies to all proceedings under Part 4 Division 7 of the *Criminal Procedure Act 1921*.

- (2) This Part does not apply to the making of a restraining order in a criminal proceeding under Chapter 7 Part 4 of the Joint Criminal Rules but it does apply to variation or revocation of such an order.

### 121.2—Definitions

In this Part—

*Act* means the *Criminal Procedure Act 1921*;

*final order* means—

- (a) a paedophile restraining order or child protection restraining order under section 99AA or 99AAC of the Act; or
- (b) an order confirming or replacing an interim paedophile restraining order or child protection restraining order under section 99C(6)(b) or (7) of the Act;

*interim order* means an interim paedophile restraining order or child protection restraining order made without notice to the respondent under section 99C(2) of the Act;

*restraining order* means an interim or final paedophile restraining order or child protection restraining order or registered foreign restraining order;

*subject* means the person the subject of a paedophile restraining order, child protection restraining order or registered foreign restraining order or an application for such an order.

### 121.3—Service of order

- (1) Subject to subrule (2), a restraining order that is required by the Act to be served on the subject must be served—
  - (a) by personal service; or
  - (b) in any other manner authorised by the Court.
- (2) If the Court orders substituted service of a restraining order under section 99E(5) of the Act, the order must be served in accordance with the method of service ordered by the Court.

## Division 2—Applications for restraining orders

### 122.1—Application

- (1) An application under section 99AA of the Act for a paedophile restraining order must be in the prescribed form.

**Prescribed form—**

Form 1W Originating Application – Paedophile Restraining Order

- (2) An application under section 99C(2) of the Act for a paedophile restraining order when the applicant seeks an interim order without notice must be in the prescribed form.

**Prescribed form—**

Form 1V Originating Application – Paedophile Restraining Order (Interim Order Sought)

*Magistrates Court*

- (3) An application by the Commissioner of Police under section 99AAC of the Act for a child protection restraining order must be in the prescribed form.

**Prescribed form—**

Form 1H Originating Application – Child Protection Restraining Order (Commissioner of Police as Applicant)

*Magistrates Court*

- (4) An application by a child or guardian of a child under section 99AAC of the Act for a child protection restraining order must be in the prescribed form.

**Prescribed form—**

Form 1G Originating Application – Child Protection Restraining Order (Child or Guardian of Child as Applicant)

*Magistrates Court*

- (5) An application under section 99C(2) of the Act for a child protection restraining order when the applicant seeks an interim order without notice must be in the prescribed form.

**Prescribed form—**

Form 1I Originating Application - Child Protection Restraining Order (Interim Order Sought)

*Both Courts*

- (6) The application must be supported by an affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

- (7) If special arrangements will be sought for taking evidence from a witness, the applicant must identify the special arrangements and the reason they are sought in the originating application or supporting affidavit.

- (8) Subject to subrules (9) and (10), the applicant must serve by original service on the subject the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

*Magistrates Court*

- (9) If the application is governed by subrule (4), the subject need not be served in the first instance.

*Both Courts*

- (10) If the applicant applies for an interim order without notice under section 99C(2) of the Act, the subject need not be served in the first instance.

*Magistrates Court*

- (11) If the application is by the Commissioner of Police for a child protection restraining order, the Court may if it thinks fit—

- (a) join the relevant child or their guardian as an interested party;
- (b) order the applicant to serve the application on the relevant child or their guardian; or

- (c) make such other or further order as it thinks fit about giving notice to or hearing the relevant child or their guardian.

**Note—**

Section 99AAC of the Act provides that the Court may require that an application under the section be served on the child or a guardian of the child personally or issue any orders it thinks fit to ensure that the child or a guardian of the child is given an opportunity to be heard in relation to the application.

### **Division 3—Application by child or guardian: Magistrates Court**

#### **123.1—Initial hearing**

- (1) If the application is by a child or guardian for a child protection restraining order and the application is not made by telephone by a person introduced by a police officer, the Court will ordinarily hear and determine whether to order service of the application on the subject or dismiss the application on the return date.

**Note—**

Section 99AAC(7) of the Act provides that if the applicant is not a police officer and the application is not made by telephone by a person introduced by a police officer, the Court has a discretion to dismiss the application and must not issue a summons for the appearance of the defendant and must dismiss the application unless it is supported by oral evidence. Under rule 2.4, a statutory reference to a defendant is equivalent to a reference in these Rules to a respondent.

- (2) The applicant must be ready to proceed with the hearing of that question on the return date and in particular must have the deponent to the supporting affidavit and any other witness from whom the applicant wishes to adduce evidence present, or if leave has been granted available by audio visual link or audio link, to give oral evidence.
- (3) The applicant must investigate, and disclose to the Court, before the hearing whether there are circumstances that may require special arrangements for taking evidence by a witness at the hearing or at the final hearing.
- (4) The Court may require the deponent to the supporting affidavit to give oral evidence (in person or by audio visual link or audio link).

### **Division 4—Applications for interim orders**

#### **124.1—Application for interim order**

- (1) If the applicant seeks an interim order, the Court will ordinarily hear and determine the application for an interim order on the return date and, if the application is governed by rule 123.1 and the interim order is sought without notice, will hear both questions concurrently.
- (2) The applicant must be ready to proceed with the hearing of that question on the return date and in particular must have the deponent to the supporting affidavit and any other witness from whom the applicant wishes to adduce evidence present, or if leave has been granted, available by audio visual link or audio link to give oral evidence.
- (3) The applicant must investigate, and disclose to the Court, before the hearing whether there are circumstances that may require special arrangements for taking evidence by a witness at the hearing or at the final hearing.
- (4) The Court may require the deponent to the supporting affidavit to give oral evidence (in person or by audio visual link or audio link).

## 124.2—Interim order and summons

- (1) A record of outcome for making an interim order, or for making an interim order and issue of a summons, under section 99C(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 32 Record of Outcome (Interim Order and Summons)

- (2) If the Court makes an order governed by this rule without notice, the Court will issue a formal order and summons in the prescribed form.

**Prescribed form—**

Form 34B Order and Summons – Child Protection Restraining Order (Show Cause)

Form 34G Order and Summons – Paedophile Restraining Order and Summons (Show Cause)

- (3) If the Court makes an order governed by this rule on notice, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 33D Order – Child Protection Restraining Order (Show Cause)

Form 33H Order – Paedophile Restraining Order and Summons (Show Cause)

- (4) Unless the subject is present in court when the order is made, the applicant must serve on the subject the order or order and summons and, if not previously served, the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 36A Multilingual Notice - Interim Order and Summons

## Division 5—Subsequent hearings and final orders

### 125.1—Subsequent hearings

- (1) If the respondent consents to a final order being made, the Court may make a final order at the hearing.
- (2) If the respondent does not consent to a final order being made, the Court may take one or more of the following actions—
- (a) give directions for steps to be taken in preparation for trial;
  - (b) give directions as to the order of evidence and generally as to the conduct of the trial;
  - (c) list the matter for a pre-trial conference;
  - (d) adjourn the matter to a further hearing;
  - (e) make other orders.
- (3) The provisions of rule 86.3, rule 86.5, rule 87.1 and rule 87.3 apply, with any necessary changes, to an application governed by this Part.

### 125.2—Final order

- (1) A record of outcome making a final order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a final order, the Court will issue a formal order in the prescribed form.

**Prescribed forms—**

Form 92I Order – Child Protection Restraining Order and Acknowledgment

Form 92AF Order – Paedophile Restraining Order and Acknowledgement

- (3) If the Court makes a final order, unless the subject is present in court when the order is made or the Court otherwise orders under section 99E(6) of the Act, the applicant must serve on the subject the final order as soon as practicable.

## **Division 6—Foreign restraining orders**

### **126.1—Application to register foreign restraining order**

- (1) An application under section 99H of the Act to register a foreign restraining order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4D Originating Application Ex Parte – Registration Foreign Order

Form 7 Affidavit

- (2) A record of outcome of the application must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (3) If the Court makes an order for registration, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (4) The applicant must serve on the subject the order, unless the Court otherwise orders, by original service.

### **126.2—Notice of registration**

Upon a registration order being made, the Principal Registrar must cause a copy of the order to be forwarded to the Commissioner of Police.

**Note—**

Section 99H(5) requires the Registrar to forward a foreign restraining order registered under section 99H to the Commissioner of Police.

## **Division 7—Variation, revocation or cancellation**

### **127.1—Application of Division**

This Division applies to applications to vary or revoke restraining orders—

- (a) made under these Rules; or
- (b) made under Chapter 7 Part 4 Division 4 of the Joint Criminal Rules.

### 127.2—Application

- (1) An application under section 99F of the Act for variation or revocation of a restraining order or under section 99H(4) of the Act for variation or cancellation of registration of a foreign restraining order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed form—**

Form 111F Originating Application to Vary or Revoke Order - Restraining Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts comprising the basis for the application;
  - (b) address compliance or non-compliance by the subject with the conditions of the order;
  - (c) address any relevant change in circumstances since the order was made;
  - (d) address any other relevant circumstances.
- (3) The applicant must join as respondents—
  - (a) if the application is made by the Commissioner of Police—the subject and, if the original application was made by a child or guardian of a child, that person;
  - (b) if the application is made by a child or guardian of a child—the subject and the Commissioner of Police;
  - (c) if the application is made by the subject—the Commissioner of Police and, if the original application was made by a child or guardian of a child, that person.

### 127.3—Application when leave required

- (1) If leave is required under section 99F(1a) of the Act—
  - (a) the proceeding must be instituted in the ordinary way in accordance with rule 127.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Section 99F(1a) provides that an application may only be made by the person the subject of an order with the permission of the Court. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
  - (a) the institution of the proceeding is conditional on leave being granted; and
  - (b) if leave is refused, the proceeding lapses.

### 127.4—Variation, revocation or cancellation

- (1) A record of outcome varying or revoking a restraining order under section 99F or varying or cancelling registration of a foreign restraining order under section 99H(4) of the Act must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation, revocation or cancellation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115H Order for Variation or Revocation of Restraining Order

- (3) If the Court makes a variation order, unless the subject is present in court when the order is made or the Court otherwise orders under section 99E(6) of the Act, the applicant must serve on the subject the variation order as soon as practicable.

## Part 12—Restriction orders: Magistrates and Youth Courts

### Division 1—General

#### 131.1—Scope of Part

- (1) Subject to subrule (2), this Part applies to all proceedings under Part 4 Division 5 of the *Criminal Procedure Act 1921*.
- (2) This Part does not apply to the making of a restriction order in a criminal proceeding under Chapter 7 Part 4 Division 4 of the Joint Criminal Rules but it does apply to a variation or revocation of such an order.

#### 131.2—Definitions

In this Part—

*Act* means the *Criminal Procedure Act 1921*;

*final order* means—

- (a) a non-association or place restriction order or both under section 78(2) of the Act; or
- (b) an order confirming or replacing an interim non-association or place restriction order or both under section 80(6)(b) or (7) of the Act;

*interim order* means an interim non-association and/or place restriction order made under section 80(2) of the Act;

*restriction order* means a non-association and/or place restriction order under Part 4 Division 5 of the Act;

*subject* means the person the subject of a restriction order or an application for such an order.

#### 131.3—Service of order

- (1) Subject to subrule (2), a restriction order that is required by the Act to be served on the subject must be served by personal service.

- (2) If the Court orders substituted service of a restriction order under section 81(4) of the Act, the order must be served in accordance with the method of service ordered by the Court.

## Division 2—Applications

### 132.1—Application

- (1) An application under section 78 of the Act for a restriction order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1U Originating Application – Non-Association or Place Restriction Order

Form 7 Affidavit

- (2) An application for a restriction order when the applicant seeks an interim order without notice under section 80(2) of the Act must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1T Originating Application – Non-Association or Place Restriction Order (Interim Order Sought)

Form 7 Affidavit

- (3) The supporting affidavit must—
- (a) depose to the facts comprising the basis for the application; and
  - (b) if an interim order is sought—depose to the facts on the basis of which an interim order is sought.
- (4) Subject to subrule (5), the applicant must serve by original service on the subject the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

- (5) If the applicant applies for an interim order without notice under section 80(2) of the Act, the subject need not be served in the first instance.

## Division 3—Application for interim order

### 133.1—Hearing

- (1) If the applicant seeks an interim order, the Court will ordinarily hear and determine the application for an interim order on the return date.
- (2) The applicant must be ready to proceed with the hearing of that question on the return date and in particular must have the deponent to the supporting affidavit and any other witness from whom the applicant wishes to adduce evidence present, or if leave has been granted, available by audio visual link or audio link, to give oral evidence.
- (3) The Court may require the deponent to the supporting affidavit to give oral evidence (in person or by audio visual link or audio link).

### 133.2—Interim order

- (1) A record of outcome making an interim order under section 80(2) of the Act must be in the prescribed form.

**Prescribed form—**

Form 32 Record of Outcome (Interim Order and Summons)

- (2) If the Court makes an interim order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 34F Order and Summons – Non-Association and/or Place Restriction Order and Summons (Show Cause)

- (3) If the Court makes an interim order without notice, the applicant must serve on the subject the interim order and summons, originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 36A Multilingual Notice – Interim Order and Summons

## Division 4—Subsequent hearings and final orders

### 134.1—Subsequent hearings

- (1) If the subject consents to a final order being made, the Court may make a final order at the hearing.

**Note—**

Section 78(5) provides that, if a respondent disputes some or all of the grounds on which an order is sought but consents to the order, the Court may make a final order without receiving any further submissions or evidence as to the grounds.

- (2) If the subject does not consent to a final order being made, the Court may take one or more of the following actions—
- (a) give directions for steps to be taken in preparation for trial;
  - (b) give directions as to the order of evidence and generally as to the conduct of the trial;
  - (c) list the matter for a pre-trial conference;
  - (d) adjourn the matter to a further hearing;
  - (e) make other orders.
- (3) The provisions of rule 86.3, rule 86.5, rule 87.1 and rule 87.3 apply, with any necessary changes, to an application governed by this Part.

### 134.2—Final order

- (1) A record of outcome making a final order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a final order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AE Order Non-Association and/or Place Restriction Order and Acknowledgement

- (3) Unless the Court otherwise orders under section 80(5) of the Act, the applicant must serve on the subject the final order as soon as practicable.

## **Division 5—Variation and revocation**

### **135.1—Application**

- (1) An application under section 82 of the Act for variation or revocation of an order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111E Originating Application to Vary or Revoke Order - Non-Association Order and or Place Restriction Order

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts comprising the basis for the application;
  - (b) address compliance or non-compliance by the subject with the conditions of the order;
  - (c) address any relevant change in circumstances since the order was made; and
  - (d) address any other relevant circumstances.
- (3) The applicant must join as the respondent—
- (a) if the application is made by the Commissioner of Police—the subject;
  - (b) if the application is made by the subject—the Commissioner of Police.

### **135.2—Application when leave required**

- (1) If leave is required under section 82(2) of the Act—
- (a) the proceeding must be instituted in the ordinary way in accordance with rule 135.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Section 82(2) provides that an application may only be made by the person the subject of an order with the permission of the Court. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
- (a) the institution of the proceeding is conditional on leave being granted; and
  - (b) if leave is refused, the proceeding lapses.

### 135.3—Variation or revocation

- (1) A record of outcome varying or revoking an order under section 82 of the Act must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115G Order for Variation or Revocation of Non-Association Order and Place Restriction Order

## Part 13A—Declared street gangs: Supreme Court

### Division 1—General

#### 136.1—Scope of Part

This Part applies to all proceedings under Part 3BA of the *Criminal Law Consolidation Act 1935*.

#### 136.2—Definitions

In this Part—

*Act* means the *Criminal Law Consolidation Act 1935*;

*Group* means the group the subject of an application under section 83GI(1) or declaration under section 84GK of the Act or a corresponding declaration.

*Declared Street Gang* means a group declared under section 83GK of the Act

### Division 2—Declarations

#### 137.1—Application for declaration

- (1) An application under section 83GI(1) of the Act for a declaration that a *group* be declared street gang must be—
- (a) in the prescribed form that;
- (i) identifies the particular *group* in respect of which the declaration is sought; and
- (ii) describes the nature and any distinguishing characteristics of the *group*; and
- (iii) sets out the grounds of the application; and

**Note—**

Where an existing Declared Street Gang order exists under section 83GK of the Act, and the group the subject of this declaration is known by different identifying or distinguishing characteristics that was not included in the original application, the Commissioner of Police may make an application to the Court for a further declaration relating to this *group*. The latest application may reference details of an earlier application.

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4DSG Originating Application – Declared Street Gang

Form 7 Affidavit

- (2) The supporting affidavit must—

- (a) identify the **group** (by name or otherwise), its nature and its distinguishing characteristics;
- (b) depose to the facts forming the basis for the application;
- (c) verify the grounds of the application; and
- (d) identify any previous applications for a declaration in relation to the **group** and their outcome.

**Note—**

Section GJ(1) of the Act requires the Commissioner of Police to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State. Further, to advise interested parties of their rights relating to making or providing submissions to the Court at the hearing of the application.

- (3) The Court may make an order joining a person as a party to the action or for the giving of notice of the action to a person or class of persons.

### **138.2—Inspection of documents**

An application under section 83GI(4)(d) of the Act for inspection of the originating application or supporting affidavit must be made—

- (a) by an interlocutory application and supporting affidavit which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
- (b) by oral application at the hearing on the return date.

**Note—**

Section 83GI(4) of the Act requires the Commissioner of Police, subject to preserving confidentiality in criminal intelligence, to make a copy of an application and supporting affidavit available for inspection by a representative, member or former member of the group, person who may be directly affected by the outcome of the application and any other person whom the Court considers should be provided with an opportunity to inspect them.

### **138.3—Response and responding affidavit**

An interested party—

- (a) who wishes to adduce evidence or make submissions in relation to the orders sought in an originating application must file a response in accordance with [rule 83.1 of the Uniform Civil Rules](#); and
- (b) who wishes to adduce evidence in relation to the orders sought in an originating application must file an affidavit in response in accordance with [rule 83.2 of the Uniform Civil Rules](#).

### **138.4—Hearing and determination**

- (1) An application under section 83GO(1) of the Act to make written submissions or under section 83GO(4) of the Act to adduce evidence or cross-examine the deponent of an affidavit at the hearing of the application must be made—

- (a) by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form, which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

- (b) by oral application at the hearing on the return date.

**Note—**

Section 83GQ of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) The Court may make a declaration under section 83GK of the Act where there has been an application under section 83GI of the Act.

**Note—**

Declaration made under section 83GZI(1) of the Act, following application by the Director of Public Prosecutions, provides that the during criminal proceedings, the court is satisfied beyond reasonable doubt that a group at a particular time met the criteria of a street gang, within the meaning of paragraph (a) of the definition of street gang in section 83GH(1) of the Act.

- (3) A record of outcome of a declaration must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (4) If the Court makes a declaration, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92DSG Order

**Note—**

Section 83GL(1) of the Act requires the Commissioner of Police to publish notice of a declaration made under Division 2, in the Gazette, a newspaper circulating generally throughout the State and on a website maintained by the Commissioner

## Division 3—Revocation

### 139.1—Application to revoke declaration

- (1) An application under section 83GN(1) of the Act to revoke a declaration that a *group* is a declared street gang must be—

- (a) in the prescribed form; and  
(b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111RD Interlocutory Application to Revoke Declaration

Form 7 Affidavit

**Note—**

Section 83GN(1) of the Act specifies who has standing to make an application.

- (2) The supporting affidavit must—

- (a) identify the interest and standing of the person applying for revocation;  
(b) depose to the facts forming the basis for the application;  
(c) verify the grounds of the application; and  
(d) identify any previous applications for revocation of the declaration in relation to the *declared street gang* and their outcome.

- (3) If it not an application made by the Commissioner of Police, they must be joined as the respondent.

**Notes—**

Section 83GN(3) of the Act requires the grounds and information supporting the grounds to be set out and verified by affidavit.

Section 83GN(4) requires the application and supporting affidavit, if not made by the Commissioner of Police, to be served on the Commissioner of Police.

**139.2—Application for leave to make application**

- (1) If leave is required under section 83GN(1)(b)(iii) or section 83GN(2) of the Act—
  - (a) the application must be made in the ordinary way in accordance with rule 139.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Notes—**

Section 83GN(1)(b)(iii) of the Act specifies who has standing to apply for permission to make the application.

Section 83GN(2) provides that permission of the Court is required if a revocation application has been made within the preceding 12 months and been refused or not finally determined.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an application seeking leave is filed under this rule—
  - (a) the revocation application is conditional on leave being granted; and
  - (b) if leave is refused, the revocation application lapses.

**139.3—Hearing and determination**

- (1) An application under section 83GO(1) of the Act to make written submissions or under section 83GO(4) of the Act to adduce evidence or cross-examine the deponent of an affidavit at the hearing of the application must be made—
  - (a) by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form, which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

- (b) by oral application at the hearing on the return date.

**Note—**

Section 83GQ of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) A record of outcome of revocation must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (3) If the Court makes a revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115RD Order for Revocation

**Note—**

Section 83GN(7) requires the Commissioner of Police to publish notice of the application in the Gazette, a newspaper circulating generally throughout the State and make reasonable effort to notify in relation to the revocation any persons who made or provided submissions on the making of the declaration.

## **Part 13—Serious and organised crime declared organisations: Supreme Court**

### **Division 1—General**

#### **141.1—Scope of Part**

This Part applies to all proceedings under Part 2 or Part 6 Division 2 or 3 of the *Serious and Organised Crime (Control) Act 2008*.

#### **141.2—Definitions**

In this Part—

*Act* means the *Serious and Organised Crime (Control) Act 2008*;

*organisation* means the organisation the subject of an application under section 9(1) or declaration under section 11 of the Act or a corresponding declaration.

### **Division 2—Declarations**

#### **142.1—Application for declaration**

- (1) An application under section 9(1) of the Act for a declaration that an organisation is a declared organisation must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1X Originating Application – Serious and Organised Crime Control - Declared Organisation

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the organisation (by name or otherwise), its nature and its distinguishing characteristics;
  - (b) depose to the facts forming the basis for the application;
  - (c) verify the grounds of the application; and
  - (d) identify any previous applications for a declaration in relation to the organisation and their outcome.
- (3) The applicant—
- (a) if the organisation is a legal entity—must join the organisation as a respondent;

- (b) if the organisation is not a legal entity—must join the organisation as an unincorporated association under rule 23.3(2) of the Uniform Civil Rules; and
  - (c) may join any other person as an interested party.
- (4) Unless the Court otherwise orders, the applicant may serve the originating application and supporting affidavit on the organisation—
- (a) by original service;
  - (b) by affixing them to any premises regularly used by the organisation as a club house or club rooms;
  - (c) by post service addressed to the organisation at any premises regularly used by the organisation as a club house or club rooms;
  - (d) if the applicant cannot reasonably identify the existence or location of premises regularly used by the organisation as a club house or club rooms—by original service on an office holder of the organisation; or
  - (e) if the applicant cannot reasonably identify the existence or location of premises regularly used by the organisation as a club house or club rooms or an office holder of the organisation—by original service on a member of the organisation.

**Note—**

Section 10(1) of the Act requires the Commissioner of Police to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State.

- (5) The Court may make an order joining a person as a party to the action or for the giving of notice of the action to a person or class of persons.
- (6) The applicant must serve a multilingual notice in the prescribed form at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

**142.2—Inspection of documents**

An application under section 9(6)(d) of the Act for inspection of the originating application or supporting affidavit must be made—

- (a) by an interlocutory application and supporting affidavit which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
- (b) by oral application at the hearing on the return date.

**Note—**

Section 9(6) of the Act requires the Commissioner of Police, subject to preserving confidentiality in criminal intelligence, to make a copy of an application and supporting affidavit available for inspection by a representative, member or former member of the organisation, person who may be directly affected by the outcome of the application and any other person whom the Court considers should be provided with an opportunity to inspect them.

**142.3—Response and responding affidavit**

- (1) A respondent or interested party—
  - (a) who wishes to adduce evidence or make submissions in relation to the orders sought in an originating application must file a response in accordance with rule 83.1 of the Uniform Civil Rules; and

- (b) who wishes to adduce evidence in relation to the orders sought in an originating application must file an affidavit in response in accordance with rule 83.2 of the Uniform Civil Rules.
- (2) A person referred to in section 15(1)(c), (d) or (e) of the Act who seeks to make submissions must apply—
  - (a) by interlocutory application and supporting affidavit which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
  - (b) by oral application at the hearing on the return date.

#### **142.4—Hearing and determination**

- (1) An application under section 15(1) of the Act to make written submissions or under section 15(4) of the Act 267.1—Definitions to adduce evidence or cross-examine the deponent of an affidavit at the hearing of the application must be made—
  - (a) by interlocutory application and supporting affidavit which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or
  - (b) by oral application at the hearing on the return date.

**Note—**

Section 18 of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) A record of outcome of a declaration must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (3) If the Court makes a declaration, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

**Note—**

Section 12(1) of the Act requires the Commissioner of Police to publish notice of any declaration made by the Court in the Gazette and a newspaper circulating generally throughout the State.

### **Division 3—Revocation**

#### **143.1—Application to revoke declaration**

- (1) An application under section 14(1) of the Act to revoke a declaration that an organisation is a declared organisation must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111 Originating Application to Vary or Revoke Order

Form 7 Affidavit

**Note—**

Section 14(1) of the Act specifies who has standing to make an application.

- (2) The supporting affidavit must—
  - (a) identify the interest and standing of the person applying for revocation;
  - (b) depose to the facts forming the basis for the application;
  - (c) verify the grounds of the application; and
  - (d) identify any previous applications for revocation of the declaration in relation to the organisation and their outcome.
- (3) The applicant must join as respondents—
  - (a) the Commissioner of Police; and
  - (b) if the applicant is not the organisation—the organisation.

**Notes—**

Section 14(3) of the Act requires the grounds and information supporting the grounds to be set out and verified by affidavit.

Section 14(6) requires the application and supporting affidavit, if not made by the Commissioner of Police, to be served on the Commissioner of Police.

Section 14(7) requires the Commissioner of Police to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State.

### **143.2—Application for leave to make application**

- (1) If leave is required under section 14(1)(b)(iii) or section 14(2) of the Act—
  - (a) the application must be made in the ordinary way in accordance with rule 143.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Notes—**

Section 14(1)(b)(iii) of the Act specifies who has standing to apply for permission to make the application. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

Section 14(2) provides that permission of the Court is required if a revocation application has been made within the preceding 12 months and been refused or not finally determined. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an application seeking leave is filed under this rule—
  - (a) the revocation application is conditional on leave being granted; and
  - (b) if leave is refused, the revocation application lapses.

### **143.3—Hearing and determination**

- (1) An application under section 15(1) of the Act to make written submissions or under section 15(4) of the Act 267.1—Definitions to adduce evidence or cross-examine the deponent of an affidavit at the hearing of the application must be made—

- (a) by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form, which, unless the Court otherwise orders, must be filed not less than 7 days before the return date; or

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

- (b) by oral application at the hearing on the return date.

**Note—**

Section 18 of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

- (2) A record of outcome of revocation must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (3) If the Court makes a revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115 Order for Variation or Revocation

**Note—**

Section 14(10) of the Act requires the Commissioner of Police to publish notice of any revocation of a declaration made by the Court in the Gazette and a newspaper circulating generally throughout the State.

## **Division 4—Interstate declarations**

### **144.1—Registration**

- (1) An application under section 39 of the Act to register a corresponding declaration made under a corresponding law must be in the prescribed form and need not be supported by an affidavit.

**Prescribed form—**

Form 1 Originating Application

- (2) The applicant must join as the respondent—
- (a) if the organisation is a legal entity—the organisation;
  - (b) if the organisation is not a legal entity—the organisation as an unincorporated association under rule 23.3(2) of the Uniform Civil Rules.
- (3) An application under this rule may be made without notice.

### **144.2—Cancellation by Registrar**

- (1) An application under section 39F to cancel the registration or notice under section 39D of cancellation of a corresponding declaration must be made in the action instituted under rule 144.1 for registration of the declaration by an application to Registrar in the prescribed form.

**Prescribed form—**

Form 62 Application to Registrar

- (2) Upon cancelling the registration of a corresponding declaration, the Principal Registrar must cause written notice of the cancellation to be given to the Commissioner of Police.

**Notes—**

Sections 39D(2)(a) and 39F(2)(a) of the Act require the Registrar, on receiving notice or an application respectively from the Commissioner, to cancel the registration of the declaration without delay.

Sections 39D(2)(b) and 39F(2)(b) require the Registrar on cancelling the registration of the declaration to give to the Commissioner written notice of the cancellation.

Section 39G requires the Commissioner to publish notice of cancellation of registration of a declaration in the Gazette.

### 144.3—Cancellation by Court

- (1) An application under section 39E of the Act by the organisation to cancel registration of a corresponding declaration must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The applicant must join the Commissioner of Police as the respondent.

**Note—**

Section 39G of the Act requires the Commissioner to publish notice of a cancellation of registration of a declaration in the Gazette.

## Part 14—Serious and organised crime control orders: Supreme Court

### Division 1—General

#### 146.1—Scope of Part

This Part applies to all proceedings under Part 3 and Part 6 Divisions 4 and 5 of the *Serious and Organised Crime (Control) Act 2008*.

#### 146.2—Definitions

In this Part—

**Act** means the *Serious and Organised Crime (Control) Act 2008*;

**associate** means a person alleged to be an associate of the subject for the purpose of section 22(2)(b)(ii) or (c) of the Act;

**organisation** means the organisation the subject of a declaration under section 9(1) of the Act or a corresponding declaration;

**subject** means the person who is the subject of a control order or an application for a control order under section 22 of the Act or a corresponding control order.

## Division 2—Control orders

### 147.1—Application for control order

(1) An application under section 22(1) of the Act for a control order must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

(2) The supporting affidavit must—

- (a) if the application is made under section 22(2)(a) or (b)—identify the organisation;
- (b) if the application is made under section 22(2)(b)(ii) or (c)—identify the associates of the subject;
- (c) if the application is made under section 22(2)(a) or (b)(i)—identify the nature of the subject's membership of the organisation;
- (d) if the application is made under section 22(2)(b)(ii) or (c)—identify the serious criminal activity engaged in;
- (e) depose to the facts forming the basis for the application;
- (f) verify the grounds of the application;
- (g) identify any previous applications for a control order against the subject and their outcome;
- (h) address the following matters relevant to the exercise of the discretion to make a control order—
  - (i) the subject's behaviour relevant to assessment of the risk that the subject will engage in serious criminal activity;
  - (ii) if applicable, the reasons given by the Court for making the relevant declaration in relation to the organisation;
  - (iii) the extent to which a control order might assist in preventing the subject from engaging in serious criminal activity;
  - (iv) the prior criminal record (if any) of the subject and any alleged associate;
  - (v) any legitimate reason the subject may have for associating with an associate; and
  - (vi) any other matter relevant to the exercise of the discretion; and
- (i) if an interim control order is sought—depose to the facts on the basis of which the interim order is sought.

(3) The application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

(4) The applicant must join the subject as the respondent.

- (5) Subject to subrule (6), the applicant must serve a multilingual notice in the prescribed form at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

- (6) If the applicant applies for an interim control order without notice under section 22A of the Act, the originating application, supporting affidavit and draft order need not be served in the first instance.

## 147.2—Interim control order

- (1) A record of outcome of an application for an interim control order must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim control order without notice—
- (a) the Court will issue a formal order and notice about objection in the prescribed form; and
  - (b) the applicant must serve the interim order and notice about objection, together with the originating application, supporting affidavit, draft order and multilingual notice in the prescribed form, on the subject as soon as practicable.

**Prescribed forms—**

Order 35 Order and Notice about Objection (Interim)

Form 36C Multilingual Notice - Interim Order and Notice about Objection

- (3) If the Court makes an interim order with notice—
- (a) the Court will issue a formal order in the prescribed form; and
  - (b) the applicant must serve the interim order on the subject as soon as practicable, which may be served at the subject's address for service if the subject has one.

**Prescribed form—**

Form 33 Order (Interim)

**Notes—**

Section 22B(1)(b) and (2) of the Act require the Commissioner to serve an interim control order on the respondent by personal service if the order was not made in the presence of the respondent or their lawyer.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

### 147.3—Objection when interim control order made without notice

- (1) A notice of objection under section 22D of the Act to an interim control order made without notice must in the prescribed form.

**Prescribed form—**

Form 63 Notice of Objection

**Note—**

Section 22D(3) of the Act requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time in which to lodge a notice of objection must be made by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

**Note—**

Section 22D(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim control order or such longer period as the Court may allow.

### 147.4—Hearing and determination of control order application

- (1) A record of outcome on an application for a control order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a control order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (3) If the Court makes a control order, unless the subject is present in court when the order is made, the applicant must serve the order on the subject as soon as practicable.

**Note—**

Section 22B(1)(b) and (2) of the Act require the Commissioner to serve a control order on the respondent by personal service if the order was not made in the presence of the respondent or their lawyer.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

## Division 3—Variation and revocation

### 148.1—Application to revoke or vary control order

- (1) An application under section 22C(1) of the Act to revoke or vary a control order must be—
- (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111 Originating Application to Vary or Revoke Order

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts forming the basis for the application; and
- (b) if an interim variation order is sought—
- (i) set out the grounds for seeking an interim variation order; and
- (ii) set out whether the interim variation order is sought without notice and if so the grounds and whether it is sought to defer service of the originating application until the hearing and determination of the application for an interim order.
- (3) If a variation is sought, the application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 115 Order for Variation or Revocation

- (4) The applicant must join as the respondent—
- (a) if the applicant is the subject—the Commissioner of Police; and
- (b) if the applicant is the Commissioner of Police—the subject.
- (5) Subject to subrule (6), if the applicant is the Commissioner of Police, the applicant must serve a multilingual notice in the prescribed form on the subject at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 113A Multilingual Notice – Variation or Revocation of Order

- (6) If the applicant applies for an interim variation order without notice under section 22C(6) of the Act, the originating application and supporting affidavit need not be served on the respondent in the first instance.

## **148.2—Application for leave to make application**

- (1) If leave is required under section 22C(2) of the Act—
- (a) the application must be made in the ordinary way in accordance with rule 148.1;
- (b) the application must seek the necessary leave; and
- (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Notes—**

Section 22C of the Act provides that permission of the Court is required if the application is made by the respondent. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
- (a) the revocation or variation application is conditional on leave being granted; and

- (b) if leave is refused, the application lapses.

### **148.3—Application for interim variation order**

- (1) A record of outcome of an application for an interim variation order must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim variation order without notice—
- (a) the Court will issue a formal order and notice about objection in the prescribed form; and
- (b) the applicant must serve the interim order and notice about objection, together with the originating application, supporting affidavit, draft order and a multilingual notice in the prescribed form on the subject as soon as practicable.

**Prescribed forms—**

Order 35 Order and Notice about Objection (Interim)

Form 36C Multilingual Notice - Interim Order and Notice about Objection

- (3) If the Court makes an interim variation order with notice—
- (a) the Court will issue a formal order in the prescribed form; and
- (b) the applicant must serve the interim order on the respondent as soon as practicable.

**Prescribed form—**

Form 33 Order (Interim)

**Notes—**

Section 22C(9) of the Act requires the Commissioner to serve an interim variation order on the subject by personal service if the order was not made in the presence of the subject or their lawyer.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the subject, at premises at which the process server has reasonable cause to believe that the subject is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

### **148.4—Objection when interim variation order made without notice**

- (1) A notice of objection under section 22D of the Act to an interim variation order made without notice must be made by filing a notice of objection in the prescribed form.

**Prescribed form—**

Form 63 Notice of Objection

**Note—**

Section 22D(3) of the Act requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time to lodge a notice of objection must be made by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

**Note—**

Section 22D(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim variation order or such longer period as the Court may allow.

### **148.5—Hearing and determination of variation or revocation application**

- (1) A record of outcome of an application for a variation or revocation order must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal variation or revocation order in the prescribed form.

**Prescribed form—**

Form 115 Order for Variation or Revocation

- (3) If the Court makes a revocation or variation order on the application of the Commissioner of Police, unless the subject is present in court when the order is made, the applicant must serve the order on the subject as soon as practicable.

**Notes—**

Section 22C(9) of the Act requires the Commissioner to serve a variation order on the subject by personal service if the order was not made in the presence of the subject or their lawyer.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the subject, at premises at which the process server has reasonable cause to believe that the subject is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

## **Division 4—Interstate control orders**

### **149.1—Application for registration**

- (1) An application under section 39I of the Act to register a corresponding control order made under a corresponding law must be in the prescribed form and need not be supported by an affidavit.

**Prescribed form—**

Form 1 Originating Application

- (2) The applicant must join the subject as the respondent.
- (3) Subject to subrule (4), an application under this rule may be made without notice.
- (4) If the applicant or the Principal Registrar considers that the corresponding control order needs to be adapted or modified for its effective operation in this State, the applicant must serve the application and any supporting affidavit on the subject.

## 149.2—Hearing and determination of application for registration

- (1) If rule 149.1(4) does not apply, the Principal Registrar will register the control order if satisfied that the application has been properly made under Division 4 of Part 6 of the Act.
- (2) If the Principal Registrar refers the application to the Court under sections 39J(2) and 39K of the Act, the application will be heard by the Court in the same manner as an application to vary a control order under Division 3.
- (3) If the control order is registered, the Principal Registrar must cause the Commissioner of Police to be given a certificate of the registration with a copy of the registered corresponding control order attached.

**Note—**

Section 39M(1) of the Act requires the Registrar to give the certificate and order to the Commissioner within 2 working days after registration.

- (4) If the control order is registered, the Commissioner of Police must serve a copy of the registered corresponding control order on the subject as soon as practicable.

**Notes—**

Section 39M(2)(a) of the Act requires the Commissioner to serve the order by personal service.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the subject, at premises at which the process server has reasonable cause to believe that the subject is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Section 39M(2)(b) requires the Commissioner to publish notice of the registration of the order in the Gazette.

## 149.3—Cancellation by Registrar

- (1) An application under section 39O(2) and (3) to cancel, or notice under section 39Q of cancellation of, the registration of a corresponding control order must be made in the action instituted under rule 149.1 for registration of the declaration by an application to Registrar in the prescribed form.

**Prescribed form—**

Form 62 Application to Registrar

- (2) Upon cancelling the registration of a corresponding declaration, the Principal Registrar must cause the Commissioner of Police to be given written notice of the cancellation.

**Notes—**

Sections 39O(3)(a) and 39Q(2)(a) of the Act require the Registrar on receiving notice or an application from the Commissioner to cancel the registration of the control order without delay.

Sections 39O(3)(b) and 39Q(2)(b) require the Registrar on cancelling the registration of the control order to give to the Commissioner written notice of the cancellation.

- (3) Upon receipt of a notice of cancellation, the Commissioner of Police must serve a copy of the notice of cancellation on the subject as soon as practicable.

**Notes—**

Sections 39O(4) and 39Q(3) of the Act require the Commissioner to serve the notice of cancellation on the respondent by personal service.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

#### **149.4—Cancellation by Court**

- (1) An application by the subject under section 39P of the Act to cancel registration of a corresponding declaration must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The subject must join the Commissioner of Police as the respondent.

#### **149.5—Variation by Court**

- (1) An application to register a variation to a corresponding control order made by a court in the jurisdiction in which the order was made under section 39O of the Act must be—
- (a) made in the action instituted under rule 149.1 for registration of the corresponding control order by an interlocutory application in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

- (2) The interlocutory application and supporting affidavit must be served on the other party as soon as practicable.
- (3) The application will be heard by the Court in the same manner as an application to vary a control order under Division 3.
- (4) If the variation is registered, the Principal Registrar must cause the Commissioner of Police to be given a certificate of the registration with a copy of the registered variation order attached.

**Note—**

Sections 39O(1)(a) and 39M(1) of the Act require the Registrar to give the certificate and order to the Commissioner within 2 working days after registration.

- (5) If the variation is registered, the Commissioner of Police must serve a copy of the registered corresponding control order on the subject as soon as practicable.

**Notes—**

Sections 39O(1)(a) and 39M(2)(a) of the Act require the Commissioner to serve the variation order by personal service.

Section 39T(3) provides for alternative service if a process server is unable to gain access to the subject, at premises at which the process server has reasonable cause to believe that the subject is present, for the purpose of effecting personal service.

Section 39T(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Sections 39O(1)(a) and 39M(2)(b) require the Commissioner to publish notice of the registration of the variation order in the Gazette.

## Part 15—Serious and organised crime public safety orders

### Division 1—General

#### 151.1—Scope of Part

This Part applies to all proceedings under Part 4 of the *Serious and Organised Crime (Control) Act 2008*.

#### 151.2—Definitions

In this Part—

*Act* means the *Serious and Organised Crime (Control) Act 2008*;

*authorisation order* means an order under section 25 of the Act authorising the making or varying of a public safety order;

*public safety order* means a public safety order or variation to a public safety order within the meaning of and made or proposed to be made under the Act;

*subject* means the person or class of persons the subject of a public safety order or an application for a public safety order under section 25 of the Act.

### Division 2—Public safety orders: Magistrates Court

#### 152.1—Written application

- (1) An application under section 25(2) of the Act for an authorisation order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the premises, event or area proposed to be the subject of the public safety order;
  - (b) if the application is made in respect of a class of persons—identify the class;
  - (c) if the subject is believed to be or have been a member of a declared organisation—depose to the facts giving rise to the belief;

- (d) if the subject is or has been subject to a control order—identify the control order;
  - (e) if the subject is believed to associate or have associated with members of a declared organisation or persons subject to a control order—depose to the facts giving rise to the belief;
  - (f) if the subject is believed to have previously behaved in a way that posed a serious risk to public safety or security or to have a history of engaging in serious criminal activity—depose to the facts giving rise to the belief;
  - (g) identify the serious risk, and likelihood and consequences of the risk, to public safety or security that justifies making the proposed public safety order and depose to the facts giving rise to the perception of risk;
  - (h) identify the manner in which and extent to which it is believed that the proposed public safety order would mitigate the perceived risk to public safety or security and depose to the facts giving rise to the belief;
  - (i) identify other measures reasonably available to mitigate the perceived risk to public safety or security, the manner in which and extent to which it is believed that they would do so and depose to the facts giving rise to the belief;
  - (j) if the application is to authorise the making of a public safety order —exhibit the proposed public safety order;
  - (k) if the application is to authorise the making of a variation to a public safety order—exhibit the public safety order and the proposed variation;
  - (l) identify why it is considered necessary for the relevant public safety order or orders to operate for more than 72 hours;
  - (m) depose to any facts relevant to whether making the order is appropriate in the circumstances;
  - (n) identify any previous applications for a public safety order against the subject and their outcome; and
  - (o) address the following matters relevant to the exercise of the discretion to authorise a public safety order—
    - (i) whether advocacy, protest, dissent or industrial action or another legitimate purpose is the likely reason for the subject being present at the relevant premises or event or within the relevant area; and
    - (ii) any other matter relevant to the exercise of the discretion.
- (3) The applicant must—
- (a) if the application is to authorise the making of a public safety order or variation to a public safety order in respect of a person—join that person as the respondent;
  - (b) if the application is to authorise the making of a public safety order or variation to a public safety order in respect of a class of persons—
    - (i) if the class comprises members of an unincorporated or incorporated association—join that association as the respondent; or
    - (ii) in any other case—join each person who is or is believed to be a member of the class as a respondent.

- (4) The application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (5) The applicant is not required to serve the originating application or supporting affidavit on the respondent.

**Note—**

Section 25(3) of the Act provides that an authorisation order may be made by the Court on an application made without notice to any person.

- (6) The applicant must notify the Principal Registrar or a Registrar—
- (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Part 16 or Chapter 2 Part 4 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (7) A time will be appointed for hearing the application by a Magistrate as soon as practicable.
- (8) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the Magistrate for a hearing to determine whether an order is to be made and if so for making of the order.

## 152.2—Oral application

- (1) This rule applies when an application for an authorisation order is to be made orally by audio visual link or audio link under section 25(5) of the Act.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Part 16 or Chapter 2 Part 4 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a Magistrate as soon as practicable.
- (4) The applicant must, before the hearing, formulate the terms of the proposed public safety order or varied public safety order.
- (5) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the Magistrate for a hearing to determine whether an order is to be made and if so for making of the order.
- (6) The applicant must undertake at the hearing to prepare and file as soon as practicable—
  - (a) an originating application in compliance with rule 152.1(1); and

- (b) an affidavit verifying the information provided to the Magistrate about the matters referred to in rule 152.1(2) and why it is impracticable in the circumstances to make an application under rule 152.1.

### **152.3—Hearing and determination**

- (1) If the application is made under rule 152.1 and the Magistrate determines to make an authorisation order—
  - (a) the Magistrate will sign and date the order provided in draft by the applicant;
  - (b) signing of the order is a sufficient record of the decision without the need to make any other record;
  - (c) the Magistrate will retain one copy of the signed order and give the other copy to the applicant.
- (2) If the application is made under rule 152.2 and the Magistrate determines to make an authorisation order—
  - (a) the Magistrate will prepare, sign and date an order;
  - (b) signing of the order is a sufficient record of the decision without the need to make any other record;
  - (c) the Magistrate will retain the signed order and inform the applicant of its terms.
- (3) If the application is made under rule 152.2, the applicant must as soon as practicable after the hearing of the application file—
  - (a) an originating application in compliance with rule 152.1(1); and
  - (b) an affidavit verifying the information provided to the Magistrate about the matters referred to in rule 152.1(2) and why it was impracticable in the circumstances to make an application under rule 152.1.
- (4) If the Court makes an authorisation order, the applicant must serve the order at the same time as the public safety order or varied public safety order is served under section 30 of the Act.

## **Division 3—Objections to public safety orders: Magistrates Court**

### **153.1—Notice of objection**

- (1) A notice of objection under section 26(1) of the Act to a public safety order must be:
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form filed in the action in which the authorisation order was made under Division 2.

**Prescribed form—**

Form 63 Notice of Objection

- (2) The objector must serve the notice of objection and supporting affidavit on the applicant as soon as practicable.

**Note—**

Section 26(3) of the Act provides that a copy of the notice of objection must be served by the objector on the Commissioner by registered post at least 2 days before the day appointed for hearing of the notice.

### 153.2—Hearing and determination

- (1) A record of outcome of an objection to a public safety order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a variation order, the Court will issue a formal variation order in the prescribed form.

**Prescribed form—**

Form 92 Order

## Division 4—Appeal: Supreme Court

### 154.1—Appeal against registration order

An appeal under section 28 of the Act against a decision not to authorise a proposed public safety order or decision on an objection is governed by Chapter 9.

**Notes—**

Section 28 confers a right of appeal on the Commissioner against a decision on an application under section 25.

Section 28 confers a right of appeal on the Commissioner or an objector against a decision on a notice of objection on a question of law or, with permission, on a question of fact.

## Part 16—Terrorism control confirmations: Supreme Court and District Court

### Division 1—General

#### 156.1—Scope of Part

- (1) Subject to subrule (2), this Part applies to all proceedings under the *Terrorism (Police Powers) Act 2005*.
- (2) Applications for confirmation in relation to a special powers authorisation that is an investigative authorisation within the meaning of section 3(2) of the *Terrorism (Police Powers) Act 2005* are governed by Chapter 4 Part 8 of these Rules and not by this Part.

**Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make a confirmation.

#### 156.2—Definitions

In this Part—

*Act* means the *Terrorism (Police Powers) Act 2005*;

***physical written application*** means an application for a preventative authorisation confirmation made in writing in accordance with regulation 4(1) of the Regulations and provided physically to the Judge hearing the application;

***preventative authorisation*** means a special powers authorisation that is a preventative authorisation within the meaning of section 3(1) of the Act;

***preventative authorisation confirmation*** means confirmation that a relevant authority has proper grounds for issuing a preventative authorisation (whether the confirmation occurs before the issuing of the preventative authorisation under section 3(5) of the Act or after the issuing of the preventative authorisation under section 3(6) of the Act);

the ***Regulations*** means the *Terrorism (Police Powers) Regulations 2021*;

***relevant authority*** means the relevant authority within the meaning of section 3(3) of the Act;

***remote oral application*** means an application for a preventative authorisation confirmation made orally under and governed by regulation 4(3)(b) of the Regulations;

***remote written application*** means an application for a preventative authorisation confirmation made in writing in accordance with regulation 4(3)(a) of the Regulations and provided by email or other electronic means;

***special area declaration*** means a special area declaration issued under section 13 of the Act;

***special area declaration confirmation*** means confirmation that the issuing a special area declaration is appropriate under section 13(3) of the Act;

***written application*** means a physical written application or a remote written application.

### 156.3—Provision of documents

- (1) Subject to subrule (2), the originating application and other documents provided to the Court under this Part are not to be filed in accordance with rule 32 of the Uniform Civil Rules but provided to the Court confidentially in accordance with this Division.
- (2) If the applicant so elects, an application may be made by filing the documents in court in accordance with rule 32.1 of the Uniform Civil Rules.
- (3) If subrule (2) applies—
  - (a) documents generated by the Court will be issued in accordance with rule 35.1 of the Uniform Civil Rules; and
  - (b) unless the Court otherwise orders, all documents will be treated as filed or issued on a party access basis.

### 156.4—Written application

- (1) This rule applies to a written application.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Part 15 or Chapter 2 Part 4 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a Judge as soon as practicable.
- (4) The application and supporting affidavit must—

- (a) if the application is a physical written application—be given, together with two copies of the draft order, physically to the Judge at the hearing; or
  - (b) if the application is a remote written application—be transmitted, together with the draft order, by email or, with the leave of the Principal Registrar or a Registrar, by other electronic means in accordance with the instructions of the Principal Registrar or a Registrar.
- (5) The applicant or their lawyer, together with the deponent to the supporting affidavit (if not the applicant), must attend before the Judge for a private hearing whether the order is to be made and if so for making of the order—
- (a) if the application is a physical written application—in person; or
  - (b) if the application is a remote written application—by audio link or audio visual link.

### **156.5—Remote oral application**

- (1) This rule applies to a remote oral application.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Part or Part 15 or Chapter 2 Part 4 or Chapter 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a Judge as soon as practicable.
- (4) The applicant must, before the hearing, formulate the terms of the preventative authorisation.
- (5) The applicant or their lawyer, together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the Judge to determine whether an order is to be made and if so for making of the order.
- (6) The applicant must undertake at the hearing to prepare and forward to the Judge as soon as practicable—
  - (a) an originating application in compliance with rule 157.1(1); and
  - (b) an affidavit verifying the information provided to the Judge about the matters referred to in rule 157.1(2) and why it is impracticable in the circumstances to make a written application.

### **Division 2—Preventative authorisation confirmation**

#### **Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make a confirmation order.

### **157.1—Application**

- (1) An application under section 3(5) or (6) of the Act for a preventative authorisation confirmation must be—
  - (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4E Originating Application Ex Parte – Terrorism Police Powers Act - Special Powers Authorisation or Special Area Declaration Confirmation

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the terrorist act that is believed to be imminent and depose to the facts giving rise to that belief;
  - (b) identify how the exercise of powers under the Act would substantially assist in prevention of the terrorist act and depose to the facts giving rise to that belief;
  - (c) verify the grounds of the application for confirmation that the relevant authority has or had proper grounds for issuing a preventative authorisation;
  - (d) if the application is made under section 3(5) of the Act—exhibit a document containing the terms of the proposed preventative authorisation;
  - (e) if the application is made under section 3(6)(a) of the Act—
    - (i) exhibit the preventative authorisation issued under section 3(6) of the Act; and
    - (ii) depose to the requisite satisfaction that it was necessary to issue the preventative authorisation because of the urgency of the circumstances and the facts giving rise to that urgency;
  - (f) if the application is to be made by remote written application—depose to the circumstances why it is impracticable in the circumstances to make a physical written application;
  - (g) identify any previous applications for confirmation that a relevant authority had proper grounds for issuing a preventative authorisation in relation to the perceived terrorist act and their outcome;
  - (h) address any other matter relevant to the exercise of the discretion to make the confirmation; and
  - (i) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

## **157.2—Hearing and determination of written application**

- (1) This rule applies to a written application.
- (2) If the Judge determines to confirm that the applicant has or had proper grounds for issuing a preventative authorisation—
  - (a) the Judge will sign and date the order provided in draft by the applicant;
  - (b) signing of the order is a sufficient record of the decision without the need to make any other record;

- (c) if the application is a physical written application—the Judge will retain one copy of the signed order and give the other copies to the applicant; and
- (d) if the application is a remote written application—the Judge will retain the signed order and cause a copy to be transmitted by email or other electronic means to the applicant.

### 157.3—Hearing and determination of oral application

- (1) This rule applies to a remote oral application.
- (2) The applicant must inform the Judge—
  - (a) of the matters referred to in rule 157.1(2);
  - (b) why it is impracticable in the circumstances to make a written application; and
  - (c) of any other matter required by the Judge.
- (3) If the Judge determines that the applicant has or had proper grounds for issuing a preventative authorisation—
  - (a) the Judge will prepare, sign and date an order;
  - (b) signing of the order is a sufficient record of the decision without the need to make any other record; and
  - (c) the Judge will retain the signed order and inform the applicant of its terms.
- (4) The applicant must as soon as practicable after the hearing of the application forward to the Judge—
  - (a) an originating application in compliance with rule 157.1(1); and
  - (b) an affidavit verifying the information provided to the Judge about the matters referred to in rule 157.1(2) and why it was impracticable in the circumstances to make a written application.

### Division 3—Special area declaration confirmation

**Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make a confirmation order.

### 158.1—Application

- (1) An application for a special area declaration confirmation must be made by filing an originating application in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4E Originating Application Ex Parte – Terrorism Police Powers Act – Special Powers Authorisation or Special Area Declaration Confirmation

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the site or area the subject of the proposed special area declaration;
  - (b) identify the terrorist act that is believed to be at risk of occurrence and depose to the facts giving rise to that belief,

- (c) identify how the exercise of powers under the Act would assist in prevention or reduction of the risk or consequences of the terrorist act and depose to the facts giving rise to that belief,
  - (c) verify the grounds of the application;
  - (d) exhibit a document containing the terms of the proposed special area declaration;
  - (e) identify any previous applications for confirmation that issuing a special area declaration is appropriate in the circumstances in relation to the perceived terrorist act and their outcome;
  - (f) address any other matter relevant to the exercise of the discretion to make the confirmation; and
  - (g) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

## **158.2—Hearing and determination**

- (1) If the Judge determines to confirm that the issuing of a special area declaration is appropriate in the circumstances—
- (a) the Judge will sign and date the order provided in draft by the applicant;
  - (b) signing of the order is a sufficient record of the decision without the need to make any other record; and
  - (c) the Judge will retain one copy of the signed order and give the other copies to the applicant.

## **Part 17—Vulnerable adult safeguarding orders: Magistrates Court**

### **Division 1—General**

#### **161.1—Scope of Part**

This Part applies to all proceedings under Part 4 Division 6 of the *Aging and Adult Safeguarding Act 1995*.

#### **161.2—Definitions**

In this Part—

*Act* means the *Aging and Adult Safeguarding Act 1995*;

*vulnerable adult* means the person for whose protection an order is sought or made under Part 4 Division 6 of the Act;

*vulnerable adult safeguarding order* means an order under section 33 of the Act.

## Division 2—Vulnerable adult safeguarding orders

### 162.1—Application

- (1) An application under section 33 of the Act for a vulnerable adult safeguarding order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1A Originating Application – Ageing and Adult Safeguarding Order (Interim Order Sought)

Form 1B Originating Application – Ageing and Adult Safeguarding Order

Form 7 Affidavit

- (2) The application must be accompanied by a draft order in the prescribed form.

**Prescribed forms—**

Form 33A Order – Ageing and Adult Safeguarding Order (Interim)

Form 92A Order – Ageing and Adult Safeguarding Order

- (3) The applicant must join as respondents—
  - (a) the vulnerable adult; and
  - (b) if the applicant seeks an order requiring a specified person to do a specified thing, or to refrain from doing a specified thing, in respect of the vulnerable adult—that person.
- (4) The applicant must serve by original service on the respondent the originating application, supporting affidavit and a multilingual notice in the prescribed form as soon as practicable.

**Prescribed form—**

Form 21 Multilingual Notice

### 162.2—Application when leave required

- (1) If leave is required under section 31(1)(b) of the Act—
  - (a) the proceeding must be instituted in the ordinary way in accordance with rule 162.1;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Section 31(1)(b) provides that an application may only be made with the permission of the Court if it is not made under section 31(1)(a). Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to leave.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
  - (a) the institution of the proceeding is conditional on leave being granted; and

- (b) if leave is refused, the proceeding lapses.

### 162.3—Application for interim order

- (1) If the applicant seeks an interim order, the Court will ordinarily hear and determine the application for an interim order on the return date.
- (2) A record of outcome for an interim order must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (3) If the Court makes an interim order requiring a respondent to do or refrain from doing a specified thing—

- (a) the Court will issue a formal order in the prescribed form; and

**Prescribed form—**

Form 33A Order— Ageing and Adult Safeguarding Order (Interim)

- (b) unless the respondent is present in court when the order is made, the applicant must serve on the respondent the interim order as soon as practicable.

### 162.4—Final order

- (1) A record of outcome making a vulnerable adult safeguarding order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a vulnerable adult safeguarding order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92A Order - Ageing and Adult Safeguarding Order

- (3) If the Court makes a vulnerable adult safeguarding order, unless the respondent is present in court when the order is made, the applicant must serve on the respondent the vulnerable adult safeguarding order as soon as practicable.

## Division 3—Variation or revocation

### 163.1—Application

- (1) An application under section 33(3) of the Act for variation or revocation of a vulnerable adult safeguarding order must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111 Originating Application to Vary or Revoke Order

Form 7 Affidavit

- (2) The applicant must join as respondents—

- (a) if the applicant is the Commissioner of Police—the vulnerable adult and, if the original order required a person to do a specified thing or to refrain from doing a specified thing, that person;

- (b) if the applicant is a person required by the original order to do a specified thing or to refrain from doing a specified thing— the Commissioner of Police and the vulnerable adult; or
- (c) if the applicant is the vulnerable adult—the Commissioner of Police and, if the original order required a person to do a specified thing or to refrain from doing a specified thing, that person.

### **163.2—Variation or revocation**

- (1) A record of outcome varying or revoking a vulnerable adult safeguarding order under section 33(3) of the Act must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115 Order for Variation or Revocation

- (3) If the Court makes a variation or revocation order, unless the respondent is present in court when the order is made, the applicant must serve on the respondent the formal order.

## Part 18—Community safety orders: Supreme Court

### Division 1—General

#### 166.1—Scope of Part

This Part applies to all proceedings under Part 9.10 of the Code.

#### 166.2—Definitions

In this Part—

*Code* means the *Criminal Code* enacted by the *Criminal Code Act 1995 (Cth)*;

*detention order* means a community safety detention order made under section 395.12 of the Code;

*supervision order* means a community safety supervision order made under section 395.13 of the Code.

### Division 2—Supervision and detention orders

#### 167.1—Supervision orders

The template for a supervision order is as follows.

Template—

Form 92CS Order – Community Safety Supervision Order

#### 167.2—Detention orders

The template for a detention order is as follows.

Template—

Form 92CD Order – Community Safety Detention Order

## Part 19—Street gang control orders: Supreme Court and Youth Court

### Division 1—General

#### 168.1 —Scope of Part

This Part applies to all proceedings under Part 3AB of the *Criminal Law Consolidation Act 1935*.

#### 168.2—Definitions

In this Part—

*Act* means the *Criminal Law Consolidation Act 1935*;

*associate* means a person alleged to be an associate of the subject for the purpose of section 83GT(2)(b)(ii) or (c) of the Act;

*street gang* means the group the subject of a declaration under section 83GK(1) of the Act or a corresponding declaration;

*subject* means the person who is the subject of a street gang control order or an application for a street gang control order under section 83GT of the Act or a corresponding control order.

## Division 2—Street gang control orders

### 169.1—Application for street gang control order

- (1) An application under section 83GT(1) of the Act for a street gang control order must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1SG Originating Application – Street Gang Control Order

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) if the application is made under section 83GT(2)(a) or (b)—identify the street gang;
  - (b) if the application is made under section 83GT(2)(b)(ii) or (c)—identify the associates of the subject;
  - (c) if the application is made under section 83GT(2)(a) or (b)(i)—identify the nature of the subject's participation in the group;
  - (d) if the application is made under section 83GT(2)(b)(ii)—identify the serious criminal activity engaged in;
  - (e) depose to the facts forming the basis of the application;
  - (f) verify the grounds of the application;
  - (g) identify any previous applications for a street gang control order against the subject and their outcome;
  - (h) address the following matters relevant to the exercise of the discretion to make a control order—
    - (i) the likelihood that the respondent will engage in serious criminal activity if they are not subject to an order;
    - (ii) if applicable, the reasons given by the court for making the relevant declaration in relation to the street gang;
    - (iii) the extent to which a control order might assist in preventing the subject from participating or further participating in a street gang;
    - (iv) the prior criminal record (if any) of the subject and any alleged associate;
    - (v) any legitimate reason the subject may have for associating with an associate;
    - and
    - (vi) any other matter relevant to the exercise of discretion; and
  - (i) if an interim street gang control order is sought—depose to the facts on the basis of which the interim order is sought.

- (3) The application must be accompanied by a draft order in the prescribed form.

**Prescribed Form—**

Form 92SG Order – Street Gang Control Order

- (4) The applicant must join the subject as the respondent.
- (5) Subject to subrule (6), the applicant must serve a multilingual notice in the prescribed form at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 21 Multilingual Notice

- (6) If the applicant applies for an interim street gang control order without notice under section 83GU of the Act, the originating application, supporting affidavit, and draft order need not be served in the first instance.

## 169.2—Interim street gang control order

- (1) A record of outcome of an application for an interim street gang control order must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim street gang control order without notice—
- (a) the Court will issue a formal order and notice about objection in the prescribed form; and
  - (b) the applicant must serve the interim street gang control order, together with the originating application, supporting affidavit, draft order, and multilingual notice in the prescribed form, on the subject as soon as practicable.

**Prescribed forms—**

Form 33SG Order (Interim) – Street Gang Control Order

Form 36C Multilingual Notice – Interim Order and Notice about Objection

- (3) If the Court makes an interim street gang control order with notice—
- (a) the Court will issue a formal order in the prescribed form; and
  - (b) the applicant must serve the interim order on the subject as soon as practicable, which may be served at the subject's address for service if the subject has one.

**Prescribed forms—**

Form 33SG Order (Interim) – Street Gang Control Order

**Notes—**

Section 83GW of the Act requires the Commissioner to serve an interim variation order on the subject by personal service if the order was not made in the presence of the subject or their lawyer.

Section 83GZJ(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 83GZJ(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Section 83GZA(3) of the Act requires that where the subject of a street gang control order is a child, the Commissioner must give written notice of the making of an order or variation or revocation of an order to a parent or guardian of the child, or if unable to after making reasonable attempts, any other prescribed person or person of a prescribed class.

### 169.3—Objection when interim order made without notice

- (1) A notice of objection under section 83GX of the Act to an interim order made without notice must be in the prescribed form.

**Prescribed form—**

Form 63 Notice of Objection

**Note—**

Section 83GX(3) of the Act requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time in which to lodge a notice of objection must be made by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 61 Interlocutory Application

Form 7 Affidavit

**Note—**

Section 83GX(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim street gang control order or such longer period as the court may allow.

### 169.4—Hearing and determination of street gang control order application

- (1) A record of outcome on an application for a street gang control order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a street gang control order, the Court will issue a formal order in the prescribed form—

**Prescribed Form—**

Form 92SG Order – Street Gang Control Order

- (3) If the Court makes a street gang control order, unless the subject is present in court when the order is made, the applicant must serve the order on the subject as soon as practicable.

**Notes—**

Section 83GV(1)(b) and (2) of the Act require the Commissioner of Police to serve a control order on the respondent by personal service if the order was not made in the presence of the respondent or their lawyer.

Section 83GZJ(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 83GZJ(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Section 83GZA(3) of the Act requires that where the subject of a street gang control order is a child, the Commissioner must give written notice of the making of an order or variation or revocation of an order to a parent or guardian of the child, or if unable to after making reasonable attempts, any other prescribed person or person of a prescribed class.

### **Division 3—Variation and revocation**

#### **170.1—Application to vary or revoke street gang control order**

- (1) An application under section 83GW(1) of the Act to vary, or revoke a street gang control order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111SG Originating Application to Vary or Revoke Order – Street Gang Control Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts forming the basis for the application; and
  - (b) if an interim variation order is sought—
    - (i) set out the grounds for seeking an interim variation order; and
    - (ii) set out whether the interim variation order is sought without notice and if so the grounds and whether it is sought to defer service of the originating application until the hearing and determination of the application for an interim order.
- (3) If a variation is sought, the application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 115SG Order for Variation or Revocation – Street Gang Control Order

- (4) If an interim variation is sought, the application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 116SG Order for Interim Variation – Street Gang Control Order

- (5) The applicant must join the respondent—
  - (a) if the applicant is the subject—the Commissioner of Police; and

- (b) if the applicant is the Commissioner of Police—the subject.
- (6) Subject to subrule (7), if the applicant is the Commissioner of Police, the applicant must serve a multilingual notice in the prescribed form on the subject at the same time as serving the originating application and supporting affidavit.

**Prescribed form—**

Form 113A Multilingual Notice – Variation or Revocation of Order

- (7) If the applicant applies for an interim variation order without notice under section 83GW(5) of the Act, the originating application and supporting affidavit need not be served on the respondent in the first instance.
- (8) An application to vary or revoke an interim street gang control order is to be made on the prescribed form.

**Prescribed forms—**

Form 61 Interlocutory Application

## **170.2—Application for leave to make application**

- (1) If leave is required under section 83GW(2) of the Act—
- (a) the application must be made in the ordinary way in accordance with rule 170.1;
  - (b) the application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.

**Note—**

Section 83GW(2) of the Act provides that permission of the of the Court is required if the application is made by the respondent. Under rule 2.4, a statutory reference to permission is equivalent to a reference in these Rules to ‘leave’.

- (2) The Court may determine an application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an originating application seeking leave is filed under this rule—
- (a) the revocation or variation application is conditional on leave being granted; and
  - (b) if leave is refused, the application lapses.

## **170.3—Hearing and determination of interim variation order application**

- (1) A record of outcome of an application for an interim variation order must be in the prescribed form.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

- (2) If the Court makes an interim variation order without notice—
- (a) the Court will issue a formal order in the prescribed form; and

- (b) the applicant must serve the interim order, together with the originating application, supporting affidavit, and a multilingual notice in the prescribed form on the subject as soon as practicable.

**Prescribed form—**

Form 116SG Order for Interim Variation – Street Gang Control Order

Form 36C Multilingual Notice – Interim Order and Notice about Objection

- (3) If the Court makes an interim variation order with notice—

- (a) the Court will issue a formal order in the prescribed form; and  
 (b) the applicant must serve the interim order on the respondent as soon as practicable.

**Prescribed form—**

Form 116SG Order for Interim Variation – Street Gang Control Order

**Notes—**

Section 83GW(8) of the Act requires the Commissioner to serve an interim variation order on the subject by personal service if the order was not made in the presence of the subject or their lawyer.

Section 83GZJ(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 83GZJ(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Section 83GZA(3) of the Act requires that where the subject of a street gang control order is a child, the Commissioner must give written notice of the making of an order or variation or revocation of an order to a parent or guardian of the child, or if unable to after making reasonable attempts, any other prescribed person or person of a prescribed class.

## **170.4—Objection when interim variation order made without notice**

- (1) A notice of objection under section 83GX of the Act to an interim variation order made without notice must be made by filing a notice of objection in the prescribed form.

**Prescribed form—**

Form 63 Notice of Objection

**Note—**

Section 83GX(3) of the Act requires that the Commissioner of Police be served with the notice of objection by registered post.

- (2) An application for an extension of time to lodge a notice of objection must be made by interlocutory application in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed form—**

Form 61 Interlocutory Application

Form 7 Affidavit

**Note—**

Section 83X(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim variation order or such longer period as the Court may allow.

### **170.5—Hearing and determination of variation or revocation application**

- (1) A record of outcome of an application for a variation or revocation order must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (2) If the Court makes a variation or revocation order, the Court will issue a formal variation or revocation order in the prescribed form.

**Prescribed form—**

Form 115SG Order for Variation or Revocation – Street Gang Control Order

- (3) If the Court makes a revocation or variation order on the application of the Commissioner of Police, unless the subject is present in court when the order is made, the applicant must serve the order on the subject as soon as practicable.

**Notes—**

Section 83GW(8) of the Act requires the Commissioner to serve an interim variation order on the subject by personal service if the order was not made in the presence of the subject or their lawyer.

Section 83GZJ(3) provides for alternative service if a process server is unable to gain access to the respondent, at premises at which the process server has reasonable cause to believe that the person is present, for the purpose of effecting personal service.

Section 83GZJ(4) empowers the Court to make such orders as to service of an application, order or other document relating to a proceeding in the Court as it thinks fit.

Section 83GZA(3) of the Act requires that where the subject of a street gang control order is a child, the Commissioner must give written notice of the making of an order or variation or revocation of an order to a parent or guardian of the child, or if unable to after making reasonable attempts, any other prescribed person or person of a prescribed class.

## Chapter 4—Private applications ancillary to investigations

### Part 1—General

#### Division 1—Scope of chapter

##### 171.1—Preliminary

This Chapter applies to *ex parte* proceedings ordinarily heard in private in which orders are sought authorising investigatory steps or actions, or otherwise in which ancillary orders are sought relating to criminal or disciplinary investigations, including the disclosure of confidential or protected information.

Notes—

Chapter 5 applies to proceedings ancillary to investigations that are ordinarily not heard in private.

Part 4 Division 3 and Division 4 of this Chapter provide for *inter partes* proceedings where documents are filed and matters are heard in the ordinary way.

##### 171.2—Application of Divisions

Division 3 and Division 4 apply to all applications governed by this Chapter except when a rule provides otherwise in relation to a specific type of application.

#### Division 2—Interpretation

##### 172.1—Definitions

In this Chapter—

*judicial officer* means—

- (a) if the power is vested in the Court by the relevant statutory provision—a judicial officer of the Court; or
- (b) if the power is vested by the relevant statutory provision in an individual judicial officer of the Court—a judicial officer who is eligible under the statutory provision to exercise the power;

*physical written application* means an application—

- (a) made by physical lodgement of the originating application, supporting affidavit and copies of a draft order or warrant; and
- (b) heard in the physical presence of the applicant or their lawyer;

*remote application* means a remote oral application or remote written application;

*remote oral application* means an application made and heard orally and remotely by audio visual link or audio link under a statutory provision in cases of urgency;

*remote written application* means an application under a statutory provision in cases of urgency—

- (a) made by email or other electronic transmission of the originating application, supporting affidavit and draft order or warrant; and
- (b) heard remotely by audio visual link or audio link.

## Division 3—Applications

### 173.1—Provision of documents

- (1) Subject to subrule (2), unless a rule provides otherwise in respect of specific types of applications, the originating application and other documents provided to the Court under this Chapter are not to be filed in accordance with rule 32 of the Uniform Civil Rules but are to be provided to the Court confidentially in accordance with this Division.
- (2) If the applicant so elects, an application may be made by filing the documents in court in accordance with rule 32.1 of the Uniform Civil Rules.
- (3) If subrule (2) applies—
  - (a) documents generated by the Court will be issued in accordance with rule 35.1 of the Uniform Civil Rules;
  - (b) unless the Court otherwise orders, all documents will be treated as filed or issued on a party access basis; and
  - (c) if any application has previously been made under any provision of this Chapter or Chapter 3 Part 15 or Part 16 or Chapter 2 Part 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application— the application must disclose the name of the judicial officer of the Court to whom each such previous application was made.

### 173.2—Form of application

- (1) Subject to the succeeding subrules, an application governed by this Chapter must be made by a physical written application and will be governed by rule 173.3.
- (2) If the applicant so elects, an application may be made by a remote written application, and will be governed by rule 173.4, if—
  - (a) the statutory provision conferring power on the Court or a judicial officer so provides; or
  - (b) the Principal Registrar or a Registrar or a judicial officer so directs on oral application by an applicant.
- (3) If the applicant so elects, an application may be made by a remote oral application, and will be governed by rule 173.5, if—
  - (a) the statutory provision conferring power on the Court or a judicial officer so provides; or
  - (b) the Principal Registrar or a Registrar or a judicial officer so directs on oral application by an applicant.

### 173.3—Physical written application

- (1) This rule applies when an application is to be made by a physical written application.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Chapter or Chapter 3 Part 15 or Part 16 or Chapter 2 Part 4 in respect of a person

who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.

- (3) A time will be appointed for hearing the application by a judicial officer as soon as practicable.
- (4) The applicant must—
  - (a) prepare an originating application in the prescribed form;
  - (b) prepare a supporting affidavit in the prescribed form by the applicant or another deponent deposing to—
    - (i) the grounds on which the order or warrant (as the case may be) is sought;
    - (ii) the facts forming the basis for the application;
    - (iii) any matters required to be addressed by the specific rule or statutory provision governing the type of order or warrant sought; and
    - (iv) any matter of which the deponent is aware that is relevant to the decision by the judicial officer whether to issue the order or warrant; and
  - (c) prepare a draft order or warrant.
- (5) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend in person before the judicial officer for a private hearing whether the order or warrant is to be issued and, if so, for its issue.
- (6) The originating application, supporting affidavit, one copy of the proposed order or warrant and such number of additional copies of the proposed order or warrant as are needed for service or execution must be given to the judicial officer at the hearing.

#### **173.4—Remote written application**

- (1) This rule applies when an application is to be made by a remote written application.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Chapter or Chapter 3 Part 15 or Part 16 or Chapter 2 Part 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a judicial officer as soon as practicable.
- (4) The applicant must—
  - (a) prepare an originating application in the prescribed form;
  - (b) prepare a supporting affidavit in the prescribed form sworn or affirmed by the applicant or another deponent addressing the matters referred to in rule 173.3(4)(b) and deposing why it is impracticable in the circumstances to make a physical written application; and
  - (c) prepare a draft order or warrant (as the case may be).

- (5) The originating application, supporting affidavit and draft order or warrant must be transmitted by email or, with the leave of the Principal Registrar or a Registrar, by other electronic means in accordance with the instructions of the Principal Registrar or a Registrar.
- (6) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the judicial officer for a private remote hearing to determine whether the order or warrant is to be issued and, if so, for its issue.

### **173.5—Remote oral application**

- (1) This rule applies when an application is to be made by a remote oral application.
- (2) The applicant must notify the Principal Registrar or a Registrar orally—
  - (a) that an application is to be made;
  - (b) of the general nature of the application; and
  - (c) if any application has previously been made in court under any provision of this Chapter or Chapter 3 Part 15 or Part 16 or Chapter 2 Part 4 in respect of a person who is suspected of having committed or committing or may commit a criminal offence who is a subject of the current application—of the name of the judicial officer of the Court to whom each such previous application was made.
- (3) A time will be appointed for hearing the application by a judicial officer as soon as practicable.
- (4) The applicant must, before the hearing, formulate the terms of the order or warrant sought.
- (5) The applicant or their lawyer together with the deponent to the supporting affidavit (if not the applicant), must attend by audio visual link or audio link before the judicial officer for a private remote hearing to determine whether the order or warrant is to be issued and, if so, for its issue.
- (6) At the hearing, the applicant must undertake to prepare and forward to the judicial officer as soon as practicable—
  - (a) an originating application in compliance with the rule governing the particular application being made;
  - (b) an affidavit—
    - (i) verifying the information provided orally to the judicial officer about the matters referred to in rule 173.3(4)(b); and
    - (ii) identifying why it was impracticable in the circumstances to make a physical written application or remote written application; and
  - (c) a copy of the signed duplicate order or warrant.

## **Division 4—Hearing and determination**

### **174.1—Written applications**

- (1) This rule applies to physical written applications and remote written applications.
- (2) If the judicial officer determines to issue the order or warrant (as the case may be)—
  - (a) the judicial officer will sign and date the copies of the order or warrant;

- (b) the signing of the order or warrant is a sufficient record of the decision to issue the order or warrant without the need to make any other record;
- (c) if the application is a physical written application—the judicial officer will retain one copy of the order or warrant and give the other copies to the applicant; and
- (d) if the application is a remote written application—the judicial officer will retain the order or warrant and cause a copy to be transmitted by email or other electronic means to the applicant.

### 174.2—Remote oral applications

- (1) This rule applies to remote oral applications.
- (2) If the judicial officer determines to issue the order or warrant (as the case may be)—
  - (a) the judicial officer will sign and date the copies of the order or warrant;
  - (b) the signing of the order or warrant is a sufficient record of the decision to issue the order or warrant without the need to make any other record; and
  - (c) the judicial officer will retain the order or warrant and inform the applicant of its terms to enable the applicant to fill out and sign a duplicate order or warrant.
- (3) The applicant must forward to the judicial officer as soon as practicable—
  - (a) an originating application in compliance with the rule governing the particular application being made;
  - (b) an affidavit—
    - (i) verifying the information provided orally to the judicial officer about the matters referred to in rule 173.3(4)(b); and
    - (ii) identifying why it was impracticable in the circumstances to make a physical written application or remote written application; and
  - (c) a copy of the signed duplicate order or warrant.

## Part 2—Covert operative identity orders: Supreme Court

### Division 1—General

#### 176.1—Scope of Part

This Part applies to all applications for an order making or cancelling entries in the Register maintained under the *Births, Deaths and Marriages Registration Act 1996* under section 12 or 13 of the *Criminal Investigation (Covert Operations) Act 2009*.

#### 176.2—Definitions

In this Part—

*Act* means the *Criminal Investigation (Covert Operations) Act 2009*;

the ***BDM Registrar*** means the Registrar of Births, Deaths and Marriages under the Registration Act;

the ***Register*** means the Register maintained by the BDM Registrar under section 40 of the Registration Act;

the ***Registration Act*** means the *Births, Deaths and Marriages Registration Act 1996*.

## Division 2—Making entry

### 177.1—Application

- (1) An application under section 12 of the Act for an order that the BDM Registrar is to make an entry in the Register under the Registration Act in relation to the acquisition of an assumed identity under an authority or corresponding authority must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4 Originating Application Ex Parte

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) exhibit each authority or corresponding authority to acquire or use the assumed identity the subject of the application;
  - (b) depose to the facts forming the basis for the application;
  - (c) identify any previous applications in relation to the assumed identity the subject of the application and their outcome;
  - (d) address any other matter relevant to the exercise of the discretion to make the order; and
  - (e) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

### 177.2—Order

An order that the BDM Registrar make an entry in the Register under section 12 of the Act must be in the prescribed form.

**Prescribed form—**

Form 92 Order

## Division 3—Cancelling entry

### 178.1—Application

- (1) An application under section 13 of the Act for an order that the BDM Registrar cancel an entry in the Register under the Registration Act in relation to an assumed identity under an authority or corresponding authority must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4 Originating Application Ex Parte

Form 7 Affidavit

- (2) The supporting affidavit must—

- (a) depose to the facts forming the basis for the application;
  - (b) identify the previous application in relation to the assumed identity the subject of the application; and
  - (c) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

## 178.2—Order

An order that the BDM Registrar cancel an entry in the Register under section 13 of the Act must be in the prescribed form.

**Prescribed form—**

Form 92 Order

## Part 3— Monitoring, production and freezing orders

### Division 1—General

#### 181.1—Definitions

In this Part—

**freezing order** means a freezing order under section 17 of the *Criminal Assets Confiscation Act 2005* or section 15B of the *Proceeds of Crime Act 2002* (Cth);

**monitoring order** means a monitoring order under—

- (a) section 165 of the *Criminal Assets Confiscation Act 2005*; or
- (b) section 219 of the *Proceeds of Crime Act 2002* (Cth),

**production order** means a production order under—

- (a) section 150 of the *Criminal Assets Confiscation Act 2005*; or
- (b) section 202 of the *Proceeds of Crime Act 2002* (Cth),

including a production order applied for under section 34P of the *Mutual Assistance in Criminal Matters Act 1987* (Cth);

**unexplained wealth monitoring order** means a monitoring order under section 14 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

### Division 2—Monitoring orders: Supreme and District Court

**Notes—**

Jurisdiction is conferred by the legislation on a Judge (rather than upon the Court) to make a monitoring order.

Section 165 of the *Criminal Assets Confiscation Act 2005* provides that an application for a monitoring order under that section must be made to a District Court Judge.

#### 182.1—Application

The non-mandatory templates in respect of applications for a monitoring order are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 104AC Monitoring Order - Asset Confiscation Commonwealth

Form 104AS Monitoring Order - Asset Confiscation State

**182.2—deleted by No 3 Amending Rules 2024****Division 3—Production orders: Magistrates Court****Note—**

Jurisdiction is conferred by the legislation on a magistrate (rather than upon the Magistrates Court) to make a production order.

**183.1—Application**

The non-mandatory templates in respect of an application for a production order are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 92EC Order - Asset Confiscation Production Order Commonwealth

Form 92ES Order - Asset Confiscation Production Order State

**183.2—deleted by No 3 Amending Rules 2024****Division 4—Freezing orders: Magistrates Court****Note—**

Jurisdiction is conferred by the legislation on a magistrate (rather than upon the Magistrates Court) to make a freezing order.

**184.1—Application**

The non-mandatory templates in respect of an application for a freezing order are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 92AU Order – Asset Confiscation Freezing Order - Commonwealth

Form 92AT Order – Asset Confiscation Freezing Order – State

**184.2—deleted by No 3 Amending Rules 2024****Division 5—Unexplained wealth monitoring orders****185.1—Application monitoring order**

- (1) An application for an unexplained wealth monitoring order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**Form 4 Originating Application Ex ParteForm 7 Affidavit

- (2) The supporting affidavit must—
- (a) verify the grounds of the application;
  - (b) depose to the facts forming the basis for the application;
  - (c) identify any matter of which the deponent is aware that is relevant to the decision whether to make the order;
  - (d) identify the proposed expiration date of the order and why that date is proposed; and
  - (e) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by a draft order in the prescribed form.

**Prescribed form—**Form 104B Monitoring Order - Serious and Organised Crime (Unexplained Wealth) Act**185.2—Order**

An unexplained wealth monitoring order must be in the prescribed form.

**Prescribed form—**Form 104B Monitoring Order - Serious and Organised Crime (Unexplained Wealth) Act**Part 4—Search warrants****Note—**

Jurisdiction is usually conferred by the legislation on a judicial officer of the Court (rather than on the Court) to issue a warrant or make an ancillary order.

**Division 1—General****186.1—Scope of Part**

- (1) Subject to subrule (2), this Part applies to all proceedings in which the Court or a judicial officer is empowered to issue or authorise the issue of a search warrant.
- (2) Unless otherwise ordered, this Part does not apply to applications for search warrants governed by Chapter 6.

**186.2—Definitions**

In this Part—

***mandatory search*** means any of the following—

- (a) a search for a thing under power conferred by a search warrant or by a statutory provision;
- (b) seizure of a thing under power conferred by a search warrant or by a statutory provision;
- (c) production of a thing under power conferred by a search warrant or by a statutory provision.

*retention order* means a retention order issued under section 31(7)(c)(v) of the *Independent Commission Against Corruption Act 2012*;

*search warrant* or *warrant* means a warrant issued under a statutory provision authorising (with or without incidental or other powers such as entry to land, premises, a vehicle or other thing or requiring a person to provide information) any of the following—

- (a) search for a thing;
- (b) seizure of a thing; or
- (c) production of a thing.

## **Division 2—Search warrants**

### **187.1—Application**

The non-mandatory templates in respect of an application for a search warrant are as follows.

#### **Templates—**

Form 5G Originating Application Ex Parte – Search Warrant

Form 5H Originating Application Ex Parte – Search Warrant – Authorise Reasonable Force in Undertaking Search

Form 5I Originating Application Ex Parte – Search Warrant - Seize Motor Vehicle

Form 7PD Affidavit Persona Designata

See also rule 187.2

### **187.2—Issue of warrant**

The non-mandatory templates in respect of a search warrant are as follows.

#### **Templates—**

##### **Generic**

Form 101PD Search Warrant

##### **Specific State**

Form 101AA Search Warrant - Adelaide Dolphin Sanctuary Act

Form 101AB Search Warrant - Agricultural and Veterinary Products (Control of Use) Act

Form 101AC Search Warrant - Air Transport (Route Licensing - Passenger Services) Act

Form 101AD Search Warrant - Animal Welfare Act

Form 101AE Search Warrant - Architectural Practice Act

Form 101AF Search Warrant – Australian Crime Commission Act

Form 101AG Search Warrant - Authorised Betting Operations Act

Form 101AH Search Warrant - Burial and Cremation Act

Form 101AI Search Warrant - Children and Young People (Safety) Act

Form 101AJ Search Warrant - Collections for Charitable Purposes Act

Form 101AK Search Warrant - Controlled Substances Act

Form 101AL Search Warrant - Co-operatives National Law (South Australia) Act

Form 101AM Search Warrant - Criminal Assets Confiscation Act

Form 101AN Search Warrant - Criminal Investigation (Extraterritorial Offences) Act - made personally

- Form 101AO Search Warrant - Criminal Investigation (Extraterritorial Offences) Act - made by telephone
- Form 101AP Search Warrant – Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act
- Form 101AQ Search Warrant – Dangerous Substances Act
- Form 101AR Search Warrant - Education and Early Childhood Services (Registration and Standards) Act
- Form 101AS Search Warrant - Electoral Act
- Form 101AT Search Warrant - Electricity Act
- Form 101AU Search Warrant - Energy Products (Safety and Efficiency) Act
- Form 101AV Search Warrant - Environment Protection Act
- Form 101AW Search Warrant - Fire and Emergency Services Act
- Form 101AX Search Warrant - Firearms Act
- Form 101AY Search Warrant - First Home and Housing Construction Grants Act
- Form 101AZ Search Warrant - Fisheries Management Act
- Form 101BA Search Warrant - Food Act
- Form 101BB Search Warrant - Gas Act
- Form 101BC Search Warrant - Gene Technology Act
- Form 101BD Search Warrant - Health and Community Services Complaints Act
- Form 101BE Search Warrant - Health Practitioner Regulation National Law (South Australia) Act
- Form 101BF Search Warrant - Heavy Vehicle National Law (South Australia) Act
- Form 101BG Search Warrant - Heritage Places Act
- Form 101BH Search Warrant - Historic Shipwrecks Act
- Form 101BI Search Warrant - Housing Improvement Act
- Form 101BJ Search Warrant - Hydroponics Industry Control Act
- Form 101BK Search Warrant - Independent Commissioner Against Corruption Act
- Form 101BL Search Warrant - Independent Commissioner Against Corruption Act Inspector
- Form 101BM Search Warrant - Landscape South Australia Act
- Form 101BN Search Warrant - Legal Practitioners Act
- Form 101BO Search Warrant - Livestock Act
- Form 101BP Search Warrant - Local Government Act
- Form 101BQ Search Warrant – Local Nuisance and Litter Control Act
- Form 101BR Search Warrant – Lottery and Gaming Act
- Form 101BS Search Warrant – Marine Parks Act
- Form 101BT Search Warrant – Marine Safety (Domestic Commercial Vessel) National Law (Application) Act
- Form 101BU Search Warrant – Motor Vehicles Act
- Form 101BV Search Warrant – National Electricity (South Australia) Act
- Form 101BW Search Warrant – Offshore Minerals Act
- Form 101BX Search Warrant – Passenger Transport Act

- Form 101BY Search Warrant - Petroleum (Submerged Lands) Act
- Form 101BZ Search Warrant – Petroleum Products Regulation Act
- Form 101CA Search Warrant – Planning and Development Infrastructure Act
- Form 101CB Search Warrant – Primary Produce (Food Safety Schemes) Act
- Form 101CC Search Warrant – Prohibition of Human Cloning for Reproduction Act and Research Involving Human Embryos Act
- Form 101CD Search Warrant – Rail Safety National Law (South Australia) Act
- Form 101CE Search Warrant – River Murray Act
- Form 101CF Search Warrant – Road Traffic Act
- Form 101CG Search Warrant – Safe Drinking Water Act
- Form 101CH Search Warrant – Second-hand Dealers and Pawnbrokers Act
- Form 101CI Search Warrant – Serious and Organised Crime (Unexplained Wealth) Act
- Form 101CJ Search Warrant – South Australian Public Health Act
- Form 101CK Search Warrant – Tattooing Industry Control Act
- Form 101CL Search Warrant – Taxation Administration Act
- Form 101CM Search Warrant – Tobacco and E-Cigarette Products Act
- Form 101CN Search Warrant – Transplantation and Anatomy Regulations
- Form 101CO Search Warrant - Veterinary Practice Act
- Form 101CP Search Warrant - Water Industry Act
- Form 101CQ Search Warrant - Work Health and Safety Act

#### **Specific Commonwealth**

- Form 102AAI Investigation Warrant - Aged Care Act (Cth)
- Form 102AAM Monitoring Warrant - Aged Care Act (Cth)
- Form 102AB Search Warrant - Agricultural and Veterinary Chemicals (Administration) Act (Cth)
- Form 102AC Search Warrant - Agricultural and Veterinary Chemicals Code Act (Cth)
- Form 102AD Search Warrant - Airports Act (Cth)
- Form 102AE Search Warrant - Anti-money Laundering and Counter-terrorism Financing Act (Cth)
- Form 102AF Search Warrant - Anti-personnel Mines Convention Act (Cth)
- Form 102AG Search Warrant - Australian Crime Commission Act (Cth) - s 22
- Form 102AI Search Warrant - Australian Meat and Live-stock Industry Act (Cth)
- Form 102AJ Search Warrant - Australian Radiation Protection and Nuclear Safety Act (Cth)
- Form 102AK Search Warrant - Australian Securities and Investments Commission Act (Cth)
- Form 102AL Search Warrant - Automotive Transformation Scheme Act (Cth)
- Form 102AMAP Adjacent Premises Warrant - Biosecurity Act (Cth)
- Form 102AMCO Control Order Warrant - Biosecurity Act (Cth)
- Form 102AMCP Conveyance Possession Warrant - Biosecurity Act (Cth)
- Form 102AMI Investigation Warrant - Biosecurity Act (Cth)
- Form 102AMM Monitoring Warrant - Biosecurity Act (Cth)
- Form 102AMMZ Monitoring Zone Warrant- Biosecurity Act (Cth)

Form 102AMPP Premises Possession Warrant- Biosecurity Act (Cth)  
 Form 102AMRA Risk Assessment Warrant - Biosecurity Act (Cth)  
 Form 102AMRZ Response Zone Warrant- Biosecurity Act (Cth)  
 Form 102AN Search Warrant - Building Energy Efficiency Disclosure Act (Cth)  
 Form 102AO Search Warrant - Carbon Credits (Carbon Farming Initiative) Act (Cth)  
 Form 102AP Search Warrant - Chemical Weapons (Prohibition) Act (Cth)  
 Form 102AQ Search Warrant - Civil Aviation Act (Cth)  
 Form 102AR Search Warrant - Competition and Consumer Act (Cth)  
 Form 102AS Search Warrant - Crimes Act (Cth)  
 Form 102AT Search Warrant - Customs Act (Cth)  
 Form 102AUI Investigation Warrant - Education Services for Overseas Students Act (Cth)  
 Form 102AUM Monitoring Warrant - Education Services for Overseas Students Act (Cth)  
 Form 102AV Search Warrant - Environment Protection and Biodiversity Conservation Act (Cth)  
 Form 102AW Search Warrant - Excise Act (Cth)  
 Form 102AXAP Adjacent Premises Warrant - Export Control Act (Cth)  
 Form 102AXI Investigation Warrant - Export Control Act (Cth)  
 Form 102AXM Monitoring Warrant - Export Control Act (Cth)  
 Form 102AY Search Warrant - Extradition Act (Cth) - s 14(1)  
 Form 102AZ Search Warrant - Extradition Act (Cth) - s 31(1)  
 Form 102BA Search Warrant – Fisheries Management Act (Cth)  
 Form 102BB Search Warrant - Fuel Quality Standards Act (Cth)  
 Form 102BC Search Warrant – Gene Technology Act 2000 (Cth)  
 Form 102BD Search Warrant - Human Services (Medicare) Act (Cth)  
 Form 102BF Search Warrant - Migration Act (Cth)  
 Form 102BG Search Warrant - Mutual Assistance in Criminal Matters (Cth)  
 Form 102BH Search Warrant - National Vocational Education and Training Regulator Act (Cth)  
 Form 102BI Search Warrant - Ozone Protection and Synthetic Greenhouse Gas Management Act (Cth)  
 Form 102BJ Search Warrant - Proceeds of Crime Act (Cth)  
 Form 102BK Search Warrant - Protection of Movable Cultural Heritage Act (Cth)  
 Form 102BL Search Warrant - Radiocommunications Act (Cth)  
 Form 102BM Search Warrant - Renewable Energy (Electricity) Act (Cth)  
 Form 102BN Search Warrant - Seafarers Rehabilitation and Compensation Levy Collection Act (Cth)  
 Form 102BO Search Warrant - Therapeutic Goods Act (Cth)  
 Form 102BP Search Warrant - Water Efficiency Labelling and Standards Act (Cth)

## Division 3—Assist access to data: Magistrates Court

### 188.1—Application

#### Note—

Section 176 of the *Criminal Assets Confiscation Act 2005* and section 246 of the *Proceeds of Crime Act 2002* (Cth) empower a magistrate to make an order requiring a person to provide information or assistance to allow access to computer data obtained under a search warrant.

The non-mandatory templates in respect of an application for an order requiring a person to provide information or assistance to allow access to computer data obtained under a mandatory search are as follows.

#### Templates—

Form 4A Originating Application Ex Parte - Assets Confiscation - Assist Execution of Warrant

Form 7PD Affidavit Persona Designata

Form 92C Order - Asset Confiscation Assist Executing a Warrant

### 188.2—deleted by No 3 Amending Rules 2024

## Division 4— Extend period of retention of things seized

### 189.1—Extension of period of retention

#### Notes—

Section 32 of the *Independent Commission Against Corruption Act 2012* provides for retention of things for the “designated period”, being 2 years or such longer period as a Judge of the Supreme Court may, on application, allow.

Section 26 of the *National Electricity Law* (enacted by the *National Electricity (South Australia) Act 1996*) empowers a magistrate to extend how long the Australian Energy Regulator may retain a document or thing seized under a search warrant.

Section 40 of the *National Gas Law* (enacted by the *National Gas (South Australia) Act 2008*) empowers a magistrate to extend how long the Australian Energy Regulator may retain a document or thing seized under a search warrant.

The non-mandatory templates in respect of an application for an order extending the period of retention of a thing seized in undertaking a mandatory search or the subject of a retention order are as follows.

#### Templates—

Form 1AD Originating Application – Warrant - Extend Retention Period for Things Seized

Form 7PD Affidavit Persona Designata

Form 92PD Order Persona Designata

### 189.2—Order

- (1) A record of outcome extending the period of retention of a thing seized in undertaking a mandatory search or the subject of a retention order must be in the prescribed form.

#### Prescribed form—

Form 91 Record of Outcome

- (2) If the Court makes an order extending the period of retention of a thing seized in undertaking a mandatory search or the subject of a retention order, the Court will issue a formal order in the prescribed form.

#### Prescribed form—

## Part 5—Surveillance warrants: Supreme Court

### Division 1—General

#### 191.1—Scope of Part

This Part applies to all proceedings under Part 3 Division 2 or 3 of the *Surveillance Devices Act 2016*.

**Note—**

Jurisdiction is conferred by the legislation on a Judge (rather than upon the Supreme Court) to issue a warrant.

#### 191.2—Definitions

In this Part—

*Act* means the *Surveillance Devices Act 2016*;

*replacement warrant* means a surveillance device warrant issued in replacement of a confirmed and cancelled surveillance authority under section 23(1)(a)(ii) of the Act;

*surveillance authority* means a surveillance device (emergency) authority issued by the chief officer of an investigating agency under section 21 of the Act;

*surveillance warrant* or *warrant* means a surveillance device warrant within the meaning of the Act.

### Division 2—Issue of warrant

#### 192.1—Application

The non-mandatory templates in respect of an application for a surveillance warrant are as follows.

**Templates—**

Form 5J Originating Application Ex Parte – Surveillance Warrant

Form 7PD Affidavit Persona Designata

Form 103A Surveillance Warrant – Surveillance Devices Act

**Note—**

Section 19 of the *Surveillance Devices Act 2016* governs the content of surveillance warrants.

#### 192.2—deleted by No 3 Amending Rules 2024

### Division 3—Variation or renewal of warrant

#### 193.1—Scope of Division

This Division applies to all applications under section 17(2) of the Act for variation or renewal of a surveillance warrant.

#### 193.2—Application

The non-mandatory templates in respect of an application for variation or renewal of a surveillance warrant are as follows.

**Templates—**

Form 111PD Originating Application to Vary or Revoke Order Persona Designata

Form 7PD Affidavit Persona Designata

Form 103B Surveillance Warrant – Surveillance Devices Act - Varied or Extended

**Note—**

Section 19 governs the content of surveillance warrants.

### **193.3—Issue of warrant**

A varied or extended surveillance warrant must be in the prescribed form.

**Prescribed form**

Form 103B Surveillance Warrant – Surveillance Devices Act - Varied or Extended

**Note—**

Section 19 of the *Surveillance Devices Act 2016* governs the content of surveillance warrants

## **Division 4—Confirmation of surveillance authority**

### **194.1—Scope of Division**

This Division applies to all applications under section 23 of the Act for confirmation of a surveillance authority and issue of a replacement warrant in respect of the surveillance device the subject of the surveillance authority.

### **194.2—Application**

The non-mandatory templates in respect of an application for confirmation of a surveillance authority and, if applicable, issue of a replacement warrant are as follows.

**Templates—**

Form 5J Originating Application Ex Parte – Surveillance Warrant

Form 7PD Affidavit Persona Designata

Form 92PD Order Persona Designata

Form 103A Surveillance Warrant – Surveillance Devices Act

**Note—**

Section 19 governs the content of surveillance warrants.

### **194.3—deleted by No 3 Amending Rules 2024**

## **Part 6—Surveillance material disclosure authorisations: Supreme Court**

**Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make an authorisation order.

### **196.1—Scope of Part**

This Part applies to all proceedings under section 11 of the *Surveillance Devices Act 2016*.

### **196.2—Definitions**

In this Part—

*Act* means the *Surveillance Devices Act 2016*.

### 196.3—Application

The non-mandatory templates in respect of an application under section 11 of the Act for authorisation of the use, communication or publication of information or material derived from the use of a listening device or optical surveillance device are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 92PD Order Persona Designata

### 196.4—deleted by No 3 Amending Rules 2024

## Part 7—Telecommunications (Intercept and Access) Act warrants: Magistrates Court

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court appointed by the Commonwealth Attorney-General to issue a warrant under the Act (rather than upon the Court). (Jurisdiction is also conferred on certain Judges and tribunal members.)

### Division 1—General

#### 201.1—Scope of Part

This Part applies to all proceedings relating to the issue of warrants under Part 3-3 or Part 4-1 Division 4C of the *Telecommunications (Interception and Access) Act 1979* (Cth).

#### 201.2—Definitions

In this Part—

*Act* means the *Telecommunications (Interception and Access) Act 1979* (Cth);

*journalist information warrant* means a journalist information warrant within the meaning of the Act;

*stored communication warrant* means a stored communication warrant within the meaning of the Act.

### Division 2—Stored communication warrants

#### 202.1—Application

The non-mandatory templates in respect of an application for a stored communication warrant are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 107B Stored Communication Warrant – Domestic

Form 107C Stored Communication Warrant – International

**202.2—deleted by No 3 Amending Rules 2024****Division 3—Journalist information warrants****203.1—Application**

The non-mandatory templates in respect of an application for a journalist information warrant are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 107A Journalist Information Warrant

**203.2—deleted by No 3 Amending Rules 2024****Part 8—Terrorism investigative confirmations: Supreme Court and District Court****Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make a confirmation order.

**206.1—Scope of Part**

- (1) This Part applies to all applications for confirmation in relation to a special powers authorisation that is an investigative authorisation within the meaning of section 3(2) of the *Terrorism (Police Powers) Act 2005*.
- (2) All other applications under the *Terrorism (Police Powers) Act 2005* are governed by Chapter 3 Part 16 and not by this Part.

**206.2—Definitions**

In this Part—

*Act* means the *Terrorism (Police Powers) Act 2005*;

*investigative authorisation* means a special powers authorisation that is an investigative authorisation within the meaning of section 3(2) of the Act;

*investigative authorisation confirmation* means confirmation that a relevant authority has proper grounds for issuing an investigative authorisation under section 3(4) of the Act, or had proper grounds for issuing an investigative authorisation under section 3(5) of the Act;

*relevant authority* means the relevant authority within the meaning of section 3(3) of the Act.

**206.3—Application**

The non-mandatory templates in respect of an application under section 3(5) or (6) of the Act for an investigative authorisation confirmation are as follows.

**Templates—**

Form 4E Originating Application Ex Parte – Terrorism Police Powers Act - Special Powers Authorisation or Special Area Declaration Confirmation

Form 7PD Affidavit Persona Designata

Form 92PD Order Persona Designata

## 206.4—deleted by No 3 Amending Rules 2024

# Part 9— Witness protection program orders: Supreme Court

## Division 1—General

### 211.1—Scope of Part

- (1) This Part applies to all applications for orders relating to establishing a new identity of a participant or restoring a former identity of a former participant in a witness protection program under section 17 of the *Witness Protection Act 1996*.
- (2) This Part applies to all applications to authorise disclosure, communication or making a record of confidential information under section 21 of the *Witness Protection Act 1996*.
- (3) This Part applies to all disclosures to the Court by the Director of Public Prosecutions of confidential information required by section 24(5) of the *Witness Protection Act 1996*.

### 211.2—Definitions

In this Part—

*Act* means the *Witness Protection Act 1996*;

*memorandum of understanding* means a memorandum of understanding under section 10 of the Act or the corresponding provision of a complementary witness protection law;

*participant* means a person who is included in a witness protection program within the meaning of the Act;

*prospective witness* means a prospective witness within the meaning of the Act;

*witness protection program* means a witness protection program within the meaning of the Act.

## Division 2—Establishing new identity

### 212.1—Application

- (1) An application under section 17(2)(a) of the Act for an order in relation to the establishment of a new identity of a participant in a witness protection program must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4F Originating Application Ex Parte – Witness Protection Act Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) exhibit the memorandum of understanding with the participant;
  - (b) depose to the facts forming the basis for the application;
  - (c) identify any previous application in relation to the new identity the subject of the application and its outcome;

- (d) address any other matter relevant to the exercise of the discretion to make the order;
  - (e) identify how long the applicant proposes that the Court retain documents associated with the application before destruction; and
  - (f) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

## 212.2—Order

An order in relation to the establishment of a new identity of a participant in a witness protection program under section 17(2)(a) of the Act must be in the prescribed form.

**Prescribed form—**

Form 92 Order

## Division 3—Restoring former identity

### 213.1—Application

- (1) An application under section 17(2)(b) of the Act for an order in relation to the restoration of the former identity of a former participant in a witness protection program must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4F Originating Application Ex Parte – Witness Protection Act Order

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) depose to the facts forming the basis for the application;
  - (b) identify the previous application in relation to the identity the subject of the application; and
  - (c) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

### 213.2—Order

An order in relation to the restoration of the former identity of a former participant in a witness protection program under section 17(2)(b) of the Act must be in the prescribed form.

**Prescribed form—**

Form 92 Order

## Division 4—Authorising or requiring disclosure

### 214.1—Application to authorise disclosure

- (1) An application under section 21 of the Act for an order authorising disclosure, communication or recording of information the disclosure, communication or recording of which is otherwise prohibited must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 4F Originating Application Ex Parte – Witness Protection Act Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts forming the basis for the application;
  - (b) identify any previous application in relation to the disclosure, communication or recording of information in relation to the identity of the subject of the application and its outcome; and
  - (c) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

### 214.2—Application to consider disclosure and use

- (1) If the Director of Public Prosecutions is required by section 24(5) of the Act to disclose information in relation to a prospective witness, the Director must lodge, in accordance with rule 173.3—
  - (a) an application in the prescribed form seeking directions about disclosure or use of the information; and
  - (b) a supporting affidavit in the prescribed form.

**Prescribed forms—**

Form 4F Originating Application Ex Parte – Witness Protection Act Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the information provided to the Director of Public Prosecutions under section 24 of the Act;
  - (b) identify any other information within the knowledge of the Director relating to the prospective witness or their participation or possible participation in the witness protection program relevant to—
    - (i) their credibility as a witness in the relevant criminal proceeding; or
    - (ii) their safety and the integrity of the witness protection program;

- (c) identify any previous application in relation to disclosure, communication or recording of information relating to prospective witness the subject of the application and its outcome;
  - (d) address any other matter relevant to the exercise of the discretion to make orders relating to disclosure or use of the information; and
  - (e) identify how long the applicant proposes that the Court retain documents associated with the application before destruction.
- (3) The application must be accompanied by the requisite number of copies of a draft order in the prescribed form.

**Prescribed form—**

Form 92 Order

### **214.3—Order**

An order authorising disclosure, communication or making a record of information under section 21 of the Act must be in the prescribed form.

**Prescribed form—**

Form 92 Order

## **Part 10—Other Applications**

### **Division 1—Assistance in relation to Prescribed Offence Data**

**Note—**

Jurisdiction is conferred by the legislation on a Magistrate (rather than upon the Magistrates Court) to make an order.

#### **215.1—Application**

The non-mandatory templates in respect of an application for an order under section 74BR of the *Summary Offences Act 1953* requiring a specified person to provide information or assistance in respect of computer data are as follows.

**Templates—**

Form 4G Originating Application Ex Parte Order to Access Data

Form 7PD Affidavit Persona Designata

Form 92AP Order – Order to Provide Information or Assistance to Access Data

**Note—**

Section 74BR of the *Summary Offences Act 1953* empowers a magistrate to make an order requiring a specified person to provide information or assistance that is reasonable or necessary to allow a police officer to access, examine, copy or reproduce computer data.

#### **215.2—deleted by No 3 Amending Rules 2024**

## **Part 11—ICAC information disclosure applications: Supreme Court**

### **Division 1—General**

#### **216.1—Scope of Part**

This Part applies to all proceedings under section 39A of the Independent Commission Against Corruption Act 2012.

#### **216.2—Definitions**

In this Part—

**Act** means the Independent Commission Against Corruption Act 2012;

**Commission** means the Independent Commission Against Corruption;

**information disclosure order** means an order made under section 39A(4) of the Act authorising the withholding of information relating to the determination from a person who was the subject of an investigation.

### **Division 2—Application for information disclosure order**

#### **217.1—Application**

- (1) An application under section 39A(3) of the Act must:
  - (a) be made by originating application in the prescribed form that:
    - (i) specifies only that it is an application for an information disclosure order under section 39A(4) of the Act;
    - (ii) includes contact details for the applicant or their representative; and
    - (iii) refers to the supporting affidavit by deponent and date of the affidavit; and
  - (b) be supported by an affidavit containing the matters set out in subrule (2).
- (2) The supporting affidavit must set out:
  - (a) the nature of the investigation conducted by the Commission or law enforcement agency; and
  - (b) the information sought to be withheld from "the subject of the investigation"; and
  - (c) the grounds upon which the Commission or law enforcement agency believes that informing the person will:
    - (i) be likely to compromise another investigation by the Commission or by a law enforcement agency or public authority; or
    - (ii) give rise to an imminent risk to the safety of a person or persons; and
  - (d) the period for which the order is sought, or the specified event upon the happening of which disclosure may occur; and
  - (e) whether "the subject of the investigation" is aware of the determination.
- (3) The supporting affidavit must:
  - (a) be delivered in a sealed envelope to the Court at the date and time arranged with the relevant Chambers of a Supreme Court Judge; and

(b) have the assigned file number, name of deponent and date clearly marked on the envelope.

**Prescribed form—**

Form 4J Originating Application Ex Parte — Independent Commission Against Corruption Information Disclosure Order

Form 6 Affidavit

**Note—**

Section 39A of the Act governs the making of information disclosure orders. The supporting affidavit will be delivered physically to maintain confidentiality and will not be uploaded to the electronic case management system.

## **Division 3—Variation or revocation of information disclosure order**

### **218.1—Scope of division**

This Division applies to all applications under section 39A(6) of the Act for variation or revocation of an information disclosure order.

### **218.2—Application**

- (1) An application for variation or revocation of an information disclosure order must:
  - (a) be made by originating application that:
    - (i) references the original file number; and
    - (ii) includes contact details for the applicant; and
  - (b) be supported by an affidavit containing the matters set out in subrule (2).
- (2) The supporting affidavit must set out:
  - (a) the order sought to be varied or revoked; and
  - (b) the grounds upon which variation or revocation is sought; and
  - (c) any change in circumstances since the order was made; and
  - (d) in the case of variation, the specific variations sought.
- (3) The supporting affidavit must be delivered in accordance with the same security protocols as the original application.

**Prescribed form—**

Form 4J Originating Application Ex Parte — Independent Commission Against Corruption Information Disclosure Order

Form 6 Affidavit

**Note—**

Section 39A(6) of the Act governs applications for variation or revocation of information disclosure orders.

## Chapter 5—Other applications ancillary to investigations

### Part 1—General

#### 221.1—Scope of chapter

This Chapter applies to proceedings not ordinarily heard in private in which orders are sought authorising investigatory steps or actions or are otherwise ancillary to criminal or disciplinary investigations.

#### 221.2—Definitions

In this Chapter—

*judicial officer* means—

- (a) if the power is vested in the Court by the relevant statutory provision—a judicial officer of the Court;
- (b) if the power is vested by the relevant statutory provision in an individual judicial officer of the Court—a judicial officer who is eligible under the statutory provision to exercise the power.

#### 221.3—Form of application

- (1) Subject to subrules (2) and (3), in a proceeding governed by this Chapter—
  - (a) documents provided to the Court by a party must be filed in accordance with rule 32.1 of the Uniform Civil Rules;
  - (b) documents generated by the Court or a judicial officer will be issued in accordance with rule 35.1 of the Uniform Civil Rules; and
  - (c) all documents filed or issued will be treated as filed or issued on a party access basis.
- (2) On an oral application by the applicant, a judicial officer may order that some or all of the documents provided to the Court by a party or generated by the Court be dealt with under some or all of the provisions of Chapter 4 Part 1 Division 3 and hearings of proceeding be undertaken in accordance with Chapter 4 Part 1 Division 4 instead of under this Chapter.
- (3) On an oral application by a party, a judicial officer may order that some or all documents filed or issued not be treated as filed or issued on a party access basis.

## Part 2—Forensic procedures: Magistrates Court and Youth Court

### Division 1—Forensic procedure warrant

#### 222.1—Scope of Division

This Division applies to all proceedings under section 29(3) of the *Criminal Law (Forensic Procedures) Act 2007*.

#### 222.2—Definitions

In this Division—

*Act* means the *Criminal Law (Forensic Procedures) Act 2007*;

*forensic procedure* means a forensic procedure within the meaning of the Act;

*simple forensic procedure* means a simple forensic procedure within the meaning of the Act;

*subject* means the person in respect of whom a warrant is sought under section 29(3) of the Act.

### 222.3—Application

- (1) An application under section 29(3) of the Act for a warrant to have a person arrested and brought to a police station for the purpose of a forensic procedure being carried out on the person must be—

- (a) in the prescribed form; and  
 (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 5 Originating Application Ex Parte - Warrant

Form 7 Affidavit

- (2) The supporting affidavit must—

- (a) identify the forensic procedure to which the direction given under section 29(1) of the Act related;
- (b) if the procedure is a simple identity procedure authorised by section 20 of the Act—identify the ground for and depose to the facts giving rise to the application of section 20(2) of the Act;
- (c) if the procedure is authorised under section 14 of the Act—identify the serious offence of which the subject is suspected and depose to the facts giving rise to the suspicion;
- (d) if the procedure is not a simple forensic procedure—exhibit the application for an order made under section 14 and the written record of the order and reasons for the order made under section 19 of the Act and depose to the giving of the record of the order to the subject;
- (e) depose to the issue of directions to the subject under section 29(1) and exhibit the written record of the directions made under section 29(2) of the Act;
- (f) depose to the giving of a warning to the subject under section 29(2) of the Act that, if they fail to comply with the directions, a warrant may be issued for their arrest for the purpose of carrying out the forensic procedure;
- (g) depose to the failure to comply with the directions;
- (h) otherwise depose to the facts forming the basis for the application; and  
 (i) address any other matter relevant to the decision whether to issue a warrant.

- (3) The application must be accompanied by the requisite number of copies of a draft warrant in the prescribed form.

**Prescribed form—**

Form 105D Apprehension Warrant - Forensic Procedure

**222.4—Warrant**

A warrant issued under section 29(3) of the Act must be in the prescribed form.

**Prescribed form—**

Form 105D Apprehension Warrant - Forensic Procedure

**Division 2—Forensic procedure authorisation****223.1—Scope of Division**

This Division applies to all proceedings under section 81(4a)(b) of the *Summary Offences Act 1953*.

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court) to make an authorisation order.

**223.2—Definitions**

In this Division—

*Act* means the *Summary Offences Act 1953*;

*subject* means the person in respect of whom authorisation to undertake a forensic procedure is sought under section 81(4a)(b) of the Act.

**223.3—Application**

The non-mandatory templates in respect of an application under section 81(4a)(b) of the Act for authorisation to undertake a forensic procedure in respect of the subject are as follows.

**Templates—**

Form 4PD Originating Application Ex Parte Persona Designata

Form 7PD Affidavit Persona Designata

Form 92AI Order – Summary Offences Act - Authorisation to Undertake Forensic Activity

**223.4—deleted by No 3 Amending Rules 2024****Part 3—Investigative detention authorisations: Magistrates Court and Youth Court****Division 1—Extension of investigation period****226.1—Scope of Division**

This Division applies to all proceedings under Part IC Division 2 of the *Crimes Act 1914* (Cth).

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court) to make an extension order.

**226.2—Definitions**

In this Division—

*Act* means the *Crimes Act 1914* (Cth);

*investigation period* means the investigation period as defined by section 23C or 23DB (as the case may be) of the Act;

### **226.3—Application**

The non-mandatory templates in respect of an application under section 23D or 23DE of the Act for an extension of the investigation period are as follows.

**Templates—**

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

Form 92L Order - Crimes Act - Extend Period of Detention

### **226.4—deleted by No 3 Amending Rules 2024**

## **Division 2—Order for detention: Customs Act**

### **227.1—Scope of Division**

This Division applies to all proceedings under Part XII Division 1B Subdivision C of the *Customs Act 1901* (Cth).

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court) to make a detention order.

### **227.2—Definitions**

In this Division—

*Act* means the *Customs Act 1901* (Cth);

### **227.3—Application for detention**

The non-mandatory templates in respect of an application under section 219T of the Act for a detention order or under section 219U of the Act for a further detention order are as follows.

**Templates—**

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

Form 92M Order - Customs Act - Detention

Form 92N Order - Customs Act - Renewal of Detention

### **227.4—deleted by No 3 Amending Rules 2024**

## **Division 3—Order for detention: Summary Offences Act**

### **228.1—Scope of Division**

This Division applies to all proceedings under section 78 of the *Summary Offences Act 1953*.

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court) to make a detention order.

### **228.2—Definitions**

In this Division—

*Act* means the *Summary Offences Act 1953*;

**detention extension order** means an order authorising the detention of the subject for more than 4 hours under section 78(2)(a)(ii) or more than 2 hours under section 78(3a)(c) of the Act;

**temporary removal order** means an order authorising the removal of the subject under section 78(3) of the Act;

### 228.3—Application

The non-mandatory templates in respect of an application under section 78 of the Act for a detention extension order or a temporary removal order are as follows.

#### Templates—

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

Form 92AJ Order – Summary Offences Act - Extend Period of Detention Prior to Delivery to Police Station

Form 92AL Order – Summary Offences Act - Temporary Removal from Custody

### 228.4—deleted by No 3 Amending Rules 2024

## Part 4—Witness examinations

### Division 1—General

#### 231.1—Definitions

In this Part—

**Commonwealth ACC Act** means the *Australian Crime Commission Act 2002* (Cth);

**Commonwealth Anti-Corruption Act** means the *National Anti-Corruption Act 2022* (Cth);

**examination order** means an order under section 15 of the Unexplained Wealth Act requiring a person to do one or more of the following:

- (a) give evidence relevant to identifying, tracing, locating or valuing a person's wealth; or
- (b) produce documents or other materials relevant to identifying, tracing, locating or valuing a person's wealth.

**investigative function** means an investigative function within the meaning of the *Service and Execution of Process Act 1992* (Cth);

**State ACC Act** means the *Australian Crime Commission (South Australia) Act 2004*;

**State Anti-Corruption Act** means the *Independent Commission Against Corruption Act 2012*;

**subpoena** means a subpoena within the meaning of Part 4 of the *Service and Execution of Process Act 1992* (Cth);

**tribunal** means a tribunal within the meaning of the *Service and Execution of Process Act 1992* (Cth);

**Unexplained Wealth Act** means the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;

**witness** means—

- (a) in Division 3—a witness within the meaning of clause 18(1) of Schedule 2 to the State Anti-Corruption Act;
- (b) in Division 4—a witness within the meaning of clause 9 of Schedule 2 to the State Anti-Corruption Act or section 7 of the National Anti-Corruption Act a person referred to in paragraph (a), (b) or (c) of section 24(1) of the State ACC Act or paragraph (a), (b) or (c) of section 31(1) of the Commonwealth ACC Act as the case may be;
- (c) in Division 5—the person the subject of an application for evidence or production of documents or other materials under section 15 of the Unexplained Wealth Act.

## **Division 2—Leave to serve subpoena interstate: Supreme Court**

### **232.1—Application**

The non-mandatory templates in respect of an application under section 76 of the *Service and Execution of Process Act 1992* (Cth) for leave to serve outside South Australia a subpoena issued by a tribunal in connection with the performance of an investigative function by the tribunal are as follows.

#### **Templates—**

Form 4 Originating Application Ex Parte

Form 7 Affidavit

Form 92 Order

## **Division 3—Delivery of passport: Supreme Court**

#### **Note—**

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to make an order.

### **233.1—Application**

The non-mandatory templates in respect of an application by an examiner under clause 18(1) of Schedule 2 to the State Anti-Corruption Act for an order that a witness appear before a Judge to show cause why they should not be ordered to deliver their passport to the examiner are as follows.

#### **Templates—**

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

### **233.2—Application to revoke or extend order**

The non-mandatory templates in respect of an application under clause 18(3) of Schedule 2 to the State Anti-Corruption Act to extend time for retention of a passport or clause 18(4) of Schedule 2 to the State Anti-Corruption Act to revoke an order for retention of a passport are as follows.

#### **Templates—**

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

Form 92PD Order Persona Designata

## Division 4—Warrant of arrest: Supreme Court

### Note—

Jurisdiction is conferred by the legislation on a Judge of the Court (rather than upon the Court) to issue a warrant.

### 234.1—Application

The non-mandatory templates in respect of an application by an examiner under clause 9 of Schedule 2 to the State Anti-Corruption Act or section 90 of the Commonwealth Anti-Corruption Act or section 31(1) of the Commonwealth ACC Act or section 24(1) of the State ACC Act for a warrant of arrest of a witness are as follows.

#### Templates—

Form 5PD Originating Application Ex Parte - Warrant

Form 7PD Affidavit Persona Designata

Form 105ES Apprehension Warrant – State Anti-Corruption Act

Form 105EC Apprehension Warrant – Commonwealth Anti-Corruption Act

Form 105F Warrant of Apprehension – State ACC Act

Form 105G Warrant of Apprehension – Commonwealth ACC Act

### 234.2—Warrant

- (1) A warrant for the arrest of a witness issued under clause 9 of Schedule 2 to the ICAC Act must be in the prescribed form.

#### Prescribed form—

Form 105E Apprehension Warrant – ICAC Act

- (2) A warrant for the arrest of a witness issued under section 31(1) of the Commonwealth ACC Act must be in the prescribed form.

#### Prescribed form—

Form 105F Warrant of Apprehension – ACC Act

## Division 5— Examination orders

### 235.1—Application

- (1) An application for an examination order under section 15 of the Unexplained Wealth Act must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

#### Prescribed forms—

Form 1 Originating Application

Form 7 Affidavit

- (2) The application must be accompanied by a draft order in the prescribed form.

#### Prescribed form—

Form 92D Order – Asset Confiscation Examination and Production

- (3) The applicant must join the witness as the respondent.

**235.2—Order**

- (1) An examination order must be in the prescribed form.

**Prescribed form—**

Form 92D Order - Asset Confiscation Examination and Production

- (2) The applicant must serve the order on the respondent as soon as practicable.

**Division 6—Contempt: Supreme Court****236.1—Application for contempt**

An application by an examiner under clause 13 of Schedule 2 to the State Anti-Corruption Act or section 83 of the Commonwealth Anti-Corruption Act or section 26B of the State ACC Act or section 34B of the Commonwealth ACC Act for a person to be dealt with in relation to a contempt is governed by Chapter 17 Part 5 of the Uniform Civil Rules.

**Note—**

Clause 14(2) of Schedule 2 to the State Anti-Corruption Act, section 84 of the Commonwealth Anti-Corruption Act, section 26C of the State ACC Act and section 34C of the Commonwealth ACC Act provide that contempt proceedings are to be instituted, heard and determined in accordance with the laws (including rules of court) applicable to punishment of contempt of the Supreme Court. Those rules are contained in Chapter 17 Part 5 of the Uniform Civil Rules.

**236.2—deleted by No 3 Amending Rules 2024**

## Chapter 6—Applications ancillary to prosecutions

### Part 1—General

#### 251.1—Scope of chapter

This Chapter applies to proceedings ancillary to extant criminal proceedings.

**Note—**

Chapter 7 applies to proceedings ancillary to final orders made in criminal proceedings.

#### 251.2—Definitions

In this Chapter—

**judicial officer** means—

- (a) if the power is vested in the Court by the relevant statutory provision—a judicial officer of the Court;
- (b) if the power is vested by the relevant statutory provision in an individual judicial officer of the Court—a judicial officer who is eligible under the statutory provision to exercise the power.

## Part 2—Bail in respect of criminal proceedings in another court

### Division 1—General

#### 252.1—Scope of Part

- (1) Subject to subrule (2), this Part applies to all bail applications under the *Bail Act 1985* in respect of a criminal proceeding—
  - (a) in a court other than the Court;
  - (b) when the subject has been committed by the Court for trial or sentence to another court;
  - (c) when the charge is the subject of an order by the Court transferring the proceeding to another court; or
  - (d) when the charge is the subject of a remand of the subject by the Court to be dealt with by another court.

**Note—**

Chapter 2 Part 8 Division 1 of the Joint Criminal Rules identifies bail applications that are to be made under the Joint Criminal Rules.

- (2) This Part does not apply to applications for review of a bail decision, which are governed by Chapter 9 Part 3 of the Joint Criminal Rules.

#### 252.2—Definitions

In this Part—

**Act** means the *Bail Act 1985*;

**bail application** means an application relating to bail and includes—

- (a) an application for release on bail under sections 4 and 8 of the Act;
- (b) an application for a determination that a person is a serious and organised crime suspect under section 3A(1) of the Act;

- (c) an application to revoke a bail agreement or issue a warrant under section 6(4), 18(1) or 19A of the Act;
- (d) an application to vary a condition of a bail agreement under section 6(4) of the Act;
- (e) an application to vary or revoke a guarantee in respect of a bail agreement under section 7(4) of the Act;
- (f) an application for estreatment under section 19 of the Act; or
- (g) any other application under the Act except an application for review of a bail decision governed by Chapter 9 Part 3 of the Joint Criminal Rules;

**primary court** means the court in which the criminal proceeding against the subject is being prosecuted;

**subject** means the person against whom the criminal proceeding is being prosecuted who is the subject of the bail application.

## Division 2—Application

### 253.1—Applications requiring leave

#### *Supreme Court*

- (1) A bail application requires leave of the Court if it relates to a charge in an information—
  - (a) laid in the Magistrates Court or the Youth Court and—
    - (i) the subject has not been committed for trial or sentence in court; and
    - (ii) the charge is not the subject of an order transferring the proceeding to the Court or a remand of the subject to be dealt with by the Court for a breach of bond;
  - (b) laid in the District Court and the charge is not the subject of an order transferring the proceeding to the Court; or
  - (c) laid in a court and the subject has been committed for trial or sentence in the District Court.

#### *District Court*

- (2) A bail application requires leave of the Court if it relates to a charge in an information—
  - (a) laid in the Magistrates Court or the Youth Court and—
    - (i) the subject has not been committed for trial or sentence in court; and
    - (ii) the charge is not the subject of an order transferring the proceeding to the Court or a remand of the subject to be dealt with by the Court for a breach of bond;
  - (b) laid in the Supreme Court and the charge is not the subject of an order transferring the proceeding to the Court; or
  - (c) laid in a court and the subject has been committed for trial or sentence in the Supreme Court.

*Youth Court*

- (3) A bail application requires leave of the Court if it relates to a charge in an information—
- (a) laid in the Magistrates Court, District Court or Supreme Court; or
  - (b) laid in a court and the subject has been committed for trial or sentence in the District Court or Supreme Court.

*Magistrates Court*

- (4) A bail application requires leave of the Court if it relates to a charge in an information—
- (a) laid in the Youth Court, District Court or Supreme Court; or
  - (b) laid in a court and the subject has been committed for trial or sentence in the District Court or Supreme Court.

*All Courts*

- (5) If leave is required under this rule—
- (a) the application must be made in the ordinary way in accordance with rule 253.2;
  - (b) the originating application must seek the necessary leave; and
  - (c) the application for leave must be supported by an affidavit deposing to the grounds on which leave is sought.
- (6) The Court may determine the application for leave in chambers on the basis of the supporting affidavit or make orders for its determination.
- (7) If an application seeking leave is filed under this rule—
- (a) the originating application is conditional on leave being granted; and
  - (b) if leave is refused, the originating application lapses.

**Note—**

If a bail application requires leave to be made under these Rules, it can be made in another court under Chapter 2 Part 8 Division 1 of the Joint Criminal Rules.

**253.2—Bail application**

- (1) A bail application under section 8 of the Act must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1D Originating Application – Bail – Application

Form 7 Affidavit

- (2) An application to vary or revoke a bail agreement or a guarantee of bail must be—
- (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1E Originating Application – Bail - Vary or Revoke Bail

Form 1F Originating Application – Bail - Vary or Revoke Guarantee of Bail

Form 7 Affidavit

- (3) Any other bail application must be in the prescribed form supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (4) If the applicant is—
- (a) the subject—the applicant must join the prosecution and any guarantor of bail as respondents.
- (b) the prosecution—the applicant must join the subject and any guarantor of bail as respondents.
- (c) a guarantor—the applicant must join the prosecution and the subject as respondents.
- (5) The Court may in its discretion in cases of urgency grant leave to an applicant to make an oral bail application but in that event the applicant must undertake to file as soon as practicable an originating application and supporting affidavit in accordance with this rule.
- (6) The Court may request the registrar of the primary court to send to the Court such documents as the Court requires for the purpose of hearing and determining the bail application.

### **Division 3—Hearing and determination**

#### **254.1—Orders relating to bail**

- (1) A record of outcome containing orders relating to bail must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) A formal order containing orders relating to bail must be in the prescribed form.

**Prescribed form—**

Form 92F Order - Bail Grant

Form 92G Order - Bail Refusal

Form 92H Order - Bail Variation

- (3) If the Court makes an interim intervention order on a bail application under section 23A of the Act—

- (a) an interim intervention order must be issued in the prescribed form; and

**Prescribed form—**

Form 34E Order and Summons– Intervention Order and Summons (Interim)

- (b) unless the order is given to the subject in court, the prosecution is responsible for serving the interim intervention order on the subject.

- (4) If the prosecution applies for review of a decision by the Court to release the subject on bail and an order is made under section 16 of the Act that the release be deferred, the Principal Registrar must cause to be issued to the Sheriff and the Chief Executive a notice of stay of release on application for review in the prescribed form.

**Prescribed form—**

Form 97A Notice of Order – Bail Stay of Release on Application for Review

## **254.2—Bail agreements, variations and guarantees**

- (1) A bail agreement or bail variation must be in the prescribed form, subject to any modification ordered by the Court.

**Prescribed form—**

Form 94 Bail Agreement

Form 116 Bail Agreement Variation

- (2) A bail guarantee must be in the prescribed form, subject to any modification ordered by the Court.

**Prescribed form—**

Form 95 Guarantee of Bail

- (3) A bail agreement or bail guarantee must be witnessed by—
- (a) the judicial officer granting bail;
  - (b) a Registrar;
  - (c) a person referred to in section 6(3) of the Bail Act;
  - (d) a delegate of any of these persons; or
  - (e) any other person or class of persons specified by the Court.

## **Division 4—Warrant of apprehension**

### **255.1—Warrant of apprehension**

The Court may, if it appears that the subject released on bail under an order made by the Court under this Part has contravened or failed to comply with a term or condition of a bail agreement or for other sufficient reason, issue a warrant of apprehension in the prescribed form.

**Prescribed form—**

Form 126 Warrant of Apprehension of Subject

## **Part 3—Driver’s licence disqualifications**

### **Division 1—Road Traffic Act: Magistrates Court**

#### **261.1—Scope of Division**

This Division applies to all applications under section 45E or 47IAB of the *Road Traffic Act 1961* to lift or reduce the period of a licence disqualification or suspension.

#### **261.2—Definitions**

In this Division—

*Act* means the *Road Traffic Act 1961*.

### 261.3—Application

- (1) An application under section 45E or 47IAB of the Act to lift or reduce the period of a licence disqualification or suspension must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1Q Originating Application – Licence Disqualification or Suspension (Lift or reduce) s 45E or 47IAB Road Traffic Act

Form 7 Affidavit

- (2) If the applicant has been charged with an offence to which section 45D or section 47IAA (as the case may be) of the Act applies, the applicant must exhibit to the supporting affidavit any information and any facts of charge received from the prosecution.
- (3) The applicant must join the Commissioner of Police as the respondent.
- (4) The originating application and supporting affidavit must be served on the respondent by original service and, without limitation, may be served by email service at the email address maintained by the criminal justice section of SAPOL for the purpose of email communications with that section.

### 261.4—Responding affidavit

If the applicant has been charged with an offence to which section 45D or section 47IAA (as the case may be) applies and the applicant does not exhibit to the supporting affidavit the information or facts of charge, the respondent must file and serve an affidavit exhibiting the information and facts of charge.

### 261.5—Hearing and determination

- (1) The Court may in its discretion order that the hearing be conducted by audio visual link or audio link.
- (2) If no information or facts of charge is produced to the Court, the Court may take the failure by the respondent to provide an information or facts of charge into account in assessing the merits of the application.
- (3) If the Court makes an order lifting or reducing the period of a licence disqualification or suspension, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (4) Upon the final determination of the application, the Principal Registrar must cause to be sent a notice in the prescribed form together with a copy of the order—
  - (a) to the Commissioner of Police in accordance with section 45E(6) or 47IAB(5) (as the case may be) of the Act;
  - (b) to the Registrar of Motor Vehicles; and
  - (c) if the applicant does not appear at the hearing at which the determination is made—the applicant.

**Prescribed form—**

Form 97E Notice of Order – Lifting or Reduction of Licence Disqualification or Suspension

## Division 2—Criminal Law Consolidation Act

### 262.1—Scope of Division

This Division applies to all applications under section 19AE(6) or 19AF(6) of the *Criminal Law Consolidation Act 1935* to remove or end a period of licence disqualification or suspension.

### 262.2—Definitions

In this Division—

*Act* means the *Criminal Law Consolidation Act 1935*.

### 262.3—Application

- (1) An application under section 19AE(6) or 19AF(6) of the Act to remove or end a period of licence disqualification or suspension must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1R Originating Application – Licence disqualification or Suspension (Remove) – s 19AE or 19AF Criminal Law Consolidation Act

Form 7 Affidavit

- (2) If the applicant has been charged with an offence to which section 19AE(1) or section 19AF(1) of the Act applies (as the case may be), the applicant must exhibit to the supporting affidavit the information and facts of charge received from the prosecution.
- (3) The applicant must join the State of South Australia as the respondent.
- (4) The originating application and supporting affidavit must be served on the respondent by personal service or email service as soon as practicable and in any event within 2 business days of being filed.
- (5) Without limitation to subrule (4), the originating application and supporting affidavit may be served by email service—
  - (a) if the application is made in a Lower Court—at the email address maintained by the Commissioner of Police for the purpose of email communications in relation to such applications;
  - (b) if the application is made in a Higher Court—at the email address maintained by the Director of Public Prosecutions for the purpose of email communications in relation to such applications.

**Note—**

Ordinarily the application will be listed for hearing within 7 days of being filed.

- (6) The Court may in its discretion in cases of urgency grant leave to an applicant to make an oral application but in that event the applicant must undertake to file as soon as practicable an originating application and supporting affidavit in accordance with this rule.
- (7) The Principal Registrar must cause the Registrar of Motor Vehicles to be notified of the application as soon as practicable after it is filed.

- (8) The Registrar of Motor Vehicles must provide the applicant's Motor Registration Driver History Certificate to the Principal Registrar or a Registrar within 3 business days of notification of the application.

#### **262.4—Responding affidavit**

The respondent must file and serve an affidavit exhibiting the information and facts of charge within 4 business days of being served with the originating application and supporting affidavit if:

- (a) the applicant has been charged with an offence to which section 19E(1) or section 19F(1) of the Act applies; and
- (b) the applicant does not exhibit to the supporting affidavit the information or facts of charge.

#### **262.5—Hearing and determination**

- (1) The Court may in its discretion order that the hearing be conducted by audio visual link or audio link.
- (2) If no information or facts of charge is produced to the Court, the Court may take the failure by the respondent to provide an information or facts of charge into account in assessing the merits of the application.
- (3) If the Court makes an order removing or ending the period of a licence disqualification or suspension, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (4) Upon the final determination of the application, the Principal Registrar must cause to be sent a notice in the prescribed form together with a copy of the order—
  - (a) to the Commissioner of Police;
  - (b) to the Registrar of Motor Vehicles in accordance with section 19AE(9) or 19AF(9) of the Act (as the case may be); and
  - (c) if the applicant does not appear at the hearing at which the determination is made—the applicant.

**Prescribed form—**

Form 97E Notice of Order – Lifting or Reduction of Licence Disqualification or Suspension

## **Part 4—Extraditions international: Magistrates Court**

### **Division 1—General**

#### **266.1—Scope of Part**

This Part applies to all proceedings under Part II or Part III or section 49 of the *Extradition Act 1988* (Cth).

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court).

#### **266.2—Definitions**

In this Part—

*Act* means the *Extradition Act 1988* (Cth);

*Regulations* means the *Extradition Regulations 1988* (Cth).

### **266.3—Summons to give evidence or produce documents**

The non-mandatory templates in respect of an application for a summons requiring a person to attend to give evidence and produce documents or articles under regulation 4 of the Regulations are as follows.

**Templates—**

Form 71C Summons to Witness – Extradition International – Witness

Form 70A Warrant of Apprehension – Extradition International – Witness

### **266.4—Persons escaping from custody**

- (1) If a person is apprehended under section 49(1) of the Act, the person who apprehended them may give notice to a Magistrate of the apprehension and taking the person before a Magistrate under section 49(2) using the following template.

**Template—**

Form 2B Notice – Extradition International – Escape from Custody

- (2) It is not mandatory to use the template referred to in subrule (1) and notice may be given to a Magistrate in another form (including oral notice).
- (3) The non-mandatory template for a warrant authorising a police officer to return the person apprehended to previous custody under section 49(3) of the Act is as follows.

**Template—**

Form 70E Warrant to Return Person to Custody – Extradition International

## **Division 2—Extradition to an extradition country**

### **267.1—Arrest warrant**

The non-mandatory templates in respect of an application under section 12 of the Act for an arrest warrant are as follows.

**Templates—**

Form 5B Originating Application Ex Parte - Arrest Warrant Extradition International

Form 7PD Affidavit Persona Designata

Form 105A Arrest Warrant - Extradition International

### **267.2—Search warrant**

The non-mandatory templates in respect of an application under section 14 of the Act for a search warrant are as follows.

**Templates—**

Form 5PD Originating Application Ex Parte – Persona Designata (when an arrest warrant has not been issued by a Magistrate of the Court)

Form 61PD Interlocutory Application Persona Designata (when an arrest warrant has been issued by a Magistrate of the Court)

Form 7PD Affidavit Persona Designata

Form 102AY [Search Warrant – Extradition Act \(Cth\) - s 14\(1\)](#)

### 267.3—Remand

The non-mandatory templates in respect of remand under section 15 of the Act are as follows.

**Templates—**

Form 65 [Bail Agreement – Extradition \(Interim\)](#)

Form 66 [Guarantee of Bail – Extradition \(Interim\)](#)

Form 67 [Order – Bail - Grant of Bail \(Extradition\) \(Interim\)](#)

### 267.4—Remand to interstate magistrate or Judge

The non-mandatory template in respect of an order under section 15(4) of the Act under the direction by warrant of the Attorney-General for the release of a person into the custody of a police officer authorising the person to be taken in custody to appear before a magistrate or Judge in another State is as follows.

**Template—**

Form 92AR [Order – Extradition International - Transfer Interstate](#)

### 267.5—Release and discharge

The non-mandatory template in respect of an order under section 15B(4), 17(2A) or (3) or 19(10) of the Act that a person be released from custody or the recognisances on which bail was granted be discharged is as follows.

**Template—**

Form 92R [Order – Extradition International - Release and Discharge](#)

### 267.6—Waiver of extradition

The non-mandatory template in respect of a warrant under section 15A(4) of the Act that a person be committed to prison pending determination by the Attorney-General whether the person is to be surrendered is as follows.

**Template—**

Form 93A [Warrant of Commitment – Extradition International – To Await Surrender \(Section 15A\)](#)

### 267.7—Consent to surrender

(1) The non-mandatory template in respect of a warrant under section 18(2)(b) of the Act that a person be committed to prison pending determination by the Attorney-General whether the person is to be surrendered is as follows.

**Template—**

Form 93B [Warrant of Commitment – Extradition International – To Await Surrender \(Section 18\(2\)\)](#)

(2) The non-mandatory templates in respect of an order under section 18(2)(b) of the Act that a person be released on bail pending determination by the Attorney-General whether the person is to be surrendered are as follows.

**Templates—**

Form 92S [Order – Extradition International – Surrender by Consent and Bail](#)

Form 94A [Bail Agreement - Extradition International](#)

Form 95A [Guarantee of Bail - Extradition](#)

**267.8—Determination that eligible for surrender**

- (1) The non-mandatory template in respect of a warrant under section 19(9)(a) of the Act that a person be committed to prison pending determination by the Attorney-General whether the person is to be surrendered is as follows.

**Template—**

Form 93C Warrant of Commitment – Extradition International - To Await Surrender (Section 19)

- (2) The non-mandatory templates in respect of an order under section 19(9)(a) of the Act that a person be released on bail pending determination by the Attorney-General whether the person is to be surrendered are as follows.

**Templates—**

Form 92Q Order – Extradition International – Determination of Eligibility for Surrender

Form 94A Bail Agreement - Extradition International

Form 95A Guarantee of Bail - Extradition

**Division 3—Extradition to New Zealand****268.1—Arrest warrant**

The non-mandatory templates in respect of an application under section 29 of the Act for an arrest warrant or under section 28 of the Act for indorsement of a New Zealand warrant are as follows.

**Templates—**

Form 5C Application under Section 29 for Provisional Arrest Warrant

Form 5D Application under Section 28 for Indorsement of New Zealand Warrant

Form 7PD Affidavit Persona Designata

Form 105B Apprehension Warrant – Extradition – New Zealand

**268.2—Search warrant**

The non-mandatory templates in respect of an application under section 31 of the Act for a search warrant are as follows.

**Templates—**

Form 5G Originating Application Ex Parte – Search Warrant

Form 7PD Affidavit Persona Designata

Form 102AZ Warrant under subsection 31(1) in relation to Search and Seizure

**268.3—Remand**

The non-mandatory templates in respect of remand under section 32 of the Act are as follows.

**Templates—**

Form 65 Bail Agreement – Extradition (Interim)

Form 66 Guarantee of Bail – Extradition (Interim)

Form 67 Order – Bail - Grant of Bail (Extradition) (Interim)

## 268.4—Release and discharge

The non-mandatory template in respect of an order under section 33 or 34 of the Act that a person be released from custody or the recognisances on which bail was granted be discharged is as follows.

### Template—

Form 92AS Order – Extradition New Zealand- Release and Discharge

## 268.5—Consent to surrender

The non-mandatory templates in respect of warrants under section 33A(2)(b) of the Act that a person be surrendered to New Zealand and committed to prison pending execution of the surrender warrant are as follows.

### Templates—

Form 93EA Surrender Warrant under Subsection 33A(2)

Form 93EB Warrant of Committal under Subsection 33A(2)

## 268.6—Determination of surrender

The non-mandatory templates in respect of warrants under section 34(1) of the Act that a person be surrendered to New Zealand and committed to prison pending execution of the surrender warrant are as follows.

### Templates—

Form 93FA Surrender Warrant under Subsection 34(1)

Form 93FB Warrant of Committal under Subsection 34(1)

# Part 5—Extradition interstate: Magistrates Court and Youth Court

## Division 1—General

### 276.1—Scope of Part

This Part applies to all proceedings under Part 5 Division 1 or Division 3 of the *Service and Execution of Process Act 1992* (Cth) other than—

- (a) an application under section 86 for review of a bail decision, which is governed by Chapter 9 Part 3 of the Joint Criminal Rules; or
- (b) an appeal under sections 101 and 102 of the Act, which is governed by Chapter 9 of these Rules.

### Note—

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court).

### 276.2—Definitions

In this Part—

*Act* means the *Service and Execution of Process Act 1992* (Cth).

## Division 2—Arrest and adjournments

### 277.1—Notice

- (1) If a person is apprehended under section 82 of the Act, the person who apprehended them under section 82(3) may give notice to a Magistrate of the apprehension and taking the person before a Magistrate under section 83(1) using the following template.

**Template—**

Form 2D [Notice – Extradition Interstate](#)

- (2) It is not mandatory to use the template referred to in subrule (1) and notice may be given to a Magistrate in another form (including oral notice).

### 277.2—Adjournments

The non-mandatory templates in respect of adjournments under section 83 of the Act are as follows.

**Templates**

Form 72PD [Warrant of Remand or Mandate](#)

Form 61A [Interlocutory Application for Bail - Extradition](#)

Form 65 [Bail Agreement – Extradition \(Interim\)](#)

Form 66 [Guarantee of Bail – Extradition \(Interim\)](#)

Form 67 [Order – Grant of Bail – Extradition \(Interim\)](#)

Form 70B [Warrant of Apprehension – Extradition Interstate](#)

## Division 3—Hearing and determination

### 278.1—Orders

The non-mandatory templates in respect of final orders are as follows.

**Templates—**

Form 92U [Order – Extradition Interstate - Subject to be Taken in Custody to Another State](#)

Form 94A [Bail Agreement – Extradition](#)

Form 95A [Guarantee of Bail – Extradition](#)

Form 92T [Order – Extradition Interstate - Subject to be Remanded on Bail to Appear in Another State](#)

Form 92PD [Order Persona Designata](#)

## Part 6—Extraditions to or through Australia: Magistrates Court

### Division 1—General

#### 281.1—Scope of Part

This Part applies to all proceedings under Part IV and Part V of the *Extradition Act 1988* (Cth).

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court).

#### 281.2—Definitions

In this Part—

*Act* means the *Extradition Act 1988* (Cth).

## Division 2—Extradition to Australia

### 282.1—Taking evidence

The non-mandatory template in respect of a certificate in relation to the taking of evidence under section 43(2) of the Act is as follows.

Template—

Form 96A Certificate – Extradition International – Evidence taken in Australia

## Division 3—Extradition through Australia

### 283.1—Application for transport in custody

The non-mandatory template in respect of an application under section 48(1)(b)(iii) of the Act for a warrant ordering the holding of a person in custody to facilitate transporting them is as follows.

Template—

Form 5E Originating Application Ex Parte – Transport in custody

### 283.2—Warrant

The non-mandatory templates in respect of a warrant issued under section 48(1)(b)(iii) or (iv) of the Act are as follows.

Templates—

Form 93G Warrant of Commitment – Extradition International – For Transport Through Australia

Form 93H Warrant of Commitment – Extradition International - For Transport through Australia – Extension of Period”

## Part 7— Vehicle clamping and impounding: Magistrates and Youth Courts

### Division 1—General

#### 286.1—Scope of Part

This Part applies to all applications under section 7 or 21 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*.

#### 286.2—Definitions

In this Part—

*Act* means the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*;

*credit provider* means a person registered under the *Personal Property Securities Act 2009* (Cth) as a secured party in relation to a security interest for which the motor vehicle the subject of the proceeding is collateral.

### Division 2—Extension of clamping period

#### 287.1—Application

- (1) An application under section 7 of the Act to extend how long a motor vehicle is liable to remain clamped under Part 2 of the Act must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1AC Originating Application – Vehicle Clamping Act - Extension of Clamping, Credit Provider Relief

Form 7 Affidavit

- (2) The applicant must join as respondents—
  - (a) the registered owner of the vehicle;
  - (b) any credit provider in respect of the vehicle; and
  - (c) any other person who to the knowledge of the applicant has or claims ownership of the vehicle or is likely to suffer financial or physical hardship as a result of an extension.

### **287.2—Hearing and determination**

- (1) A record of outcome making an extension order under section 7 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an extension order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AO Order – Vehicle Clamping Act - Extension of Clamping / Credit Provider Relief

## **Division 3—Credit provider relief**

### **288.1—Application**

- (1) An application by a credit provider under section 21 of the Act for removal of clamps, release of a vehicle or payment of net proceeds of sale of a vehicle must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1AC Originating Application – Vehicle Clamping Act - Extension of Clamping, Credit Provider Relief

Form 7 Affidavit

- (2) The applicant must join as respondents—
  - (a) if the vehicle is clamped or impounded under Part 2 of the Act—the Commissioner of Police;
  - (b) if the vehicle is impounded or forfeited under Part 3 of the Act—the Sheriff;
  - (c) the registered owner of the vehicle;
  - (d) any other credit provider in respect of the vehicle; and
  - (e) any other person who to the knowledge of the applicant claims ownership of the vehicle.

## 288.2—Hearing and determination

- (1) A record of outcome making a relief order under section 21 of the Act must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a relief order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AO Order – Vehicle Clamping Act - Extension of Clamping, Credit Provider Relief

## Part 9— Interstate transfer of prisoners: Magistrates Courts

### Division 1—General

#### 290.1—Scope of Part

This Part applies to all applications under section 14(1) and section 15 of the *Prisoners (Interstate Transfer) Act 1982*.

#### 290.2—Definitions

In this Division—

*Act* means the *Prisoners (Interstate Transfer) Act 1982*;

*Attorney-General* means the Attorney-General of South Australia.

*Court* means the Magistrates Court of South Australia.

#### 290.3—Applications under Prisoners (Interstate Transfer) Act

- (1) An application made under section 14(1) of the Act for an order to bring a prisoner before the Court must be:

- (a) in the prescribed form;
- (b) supported by an affidavit in the prescribed form;
- (c) accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 4K Originating Application Ex Parte - Prisoners (Interstate Transfer) Act - Production of Prisoner

Form 7 Affidavit

Form 71D Order- Prisoners (Interstate Transfer) Act- Production of Prisoner

- (2) An application made under section 15 of the Act for the transfer of a prisoner to the participating State or Territory specified in the certificate issued in accordance with section 13(2) must be:

- (a) in the prescribed form;
- (b) supported by an affidavit in the prescribed form;
- (c) accompanied by a draft order in the prescribed form.

**Prescribed form—**

Form 1AE Originating Application - Prisoners (Interstate Transfer) Act – Interstate Transfer Order

Form 7 Affidavit

Form 92AQ Order- Prisoners (Interstate Transfer) Act- Interstate Transfer Order

**290.4 - Hearing and determination**

- (1) If the Court makes an order under section 14( 1) of the Act, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 71D Order - Prisoners (Interstate Transfer) Act - Production of Prisoner

- (2) The applicant must serve on Attorney-General and the respondent the formal order under section 14(1) of the Act as soon as practicable.
- (3) The respondent will appear by audio visual link during the hearing to determine whether an order for transfer under section 15 of the Act shall be issued, subject to subrule (4).
- (4) At the first hearing, the respondent may object to appearing by audio visual link and upon such an objection, the Court will adjourn the matter to a further hearing when the respondent can appear in person.
- (5) If the Court makes an order under section 15( a) of the Act, the Court will issue a formal order in the prescribed form.

**Prescribed form -**

Form 92AQ Order - Prisoners (Interstate Transfer) Act - Interstate Transfer Order

## Chapter 7—Applications ancillary to criminal penalties

### Part 1—Scope of chapter

#### 301.1—Scope of chapter

This Chapter applies to proceedings ancillary to final orders made in criminal proceedings.

### Part 2—Chief Recovery Officer enforcements: Magistrates and Youth Courts

#### Division 1—General

#### 302.1—Scope of Part

This Part applies to all applications under Part 4 and Part 7 of the *Fines Enforcement and Debt Recovery Act 2017*.

#### 302.2—Definitions

In this Part—

*Act* means the *Fines Enforcement and Debt Recovery Act 2017*;

*approved treatment program order* means an order under section 46 of the Act that the subject complete an approved treatment program in substitution for a monetary amount obligation;

*Chief Recovery Officer* means the Chief Recovery Officer under section 4 of the Act;

*community service order* means an order under section 46 of the Act that the subject undertake community service in substitution for a monetary amount obligation;

*enforcement determination* means an enforcement determination by the Chief Recovery Officer under section 22(3) of the Act;

*issuing authority* means the issuing authority within the meaning of the Act;

*monetary amount* means a monetary amount within the meaning of section 34 of the Act;

*subject* means—

- (a) in Division 2—the person the subject of an enforcement determination;
- (b) in Division 3, 4 or 5—the debtor or alleged offender referred to in section 46 of the Act;
- (c) in Division 6—the debtor or alleged offender referred to in section 36 or 42 (as the case may be) of the Act;

#### Division 2—Review of refusal to revoke enforcement determination

#### 303.1—Application

- (1) An application by the subject under section 23 of the Act to review a decision of the Chief Recovery Officer refusing to revoke an enforcement determination must be—
  - (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 6A Originating Application for Review – Fines Enforcement Act - Enforcement Determination Refusal to Revoke

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;
  - (c) exhibit the expiation notice the subject of the enforcement determination;
  - (d) exhibit the enforcement determination;
  - (e) exhibit the application to the Chief Recovery Officer for revocation of the enforcement determination; and
  - (f) exhibit the decision by the Chief Recovery Officer refusing the application for revocation.
- (3) The applicant must join as respondents—
- (a) the Chief Recovery Officer; and
  - (b) the issuing authority.

### **303.2—Response**

- (1) If a respondent wishes to oppose or make submissions about the application, they must, within 14 days after service of the originating application and supporting affidavit, file a response in the prescribed form setting out—
- (a) their response to facts alleged in support of the application;
  - (b) other facts that they contend are relevant to the application; and
  - (c) their response to the orders sought in the application.

**Prescribed form—**

Form 55 Response

- (2) If a respondent wishes to rely on any facts in addition to or contrary to those relied on by the applicant, they must, within 14 days after service of the originating application and supporting affidavit, file a responding affidavit in the prescribed form.

**Prescribed forms—**

Form 7 Affidavit

- (3) If the applicant does not exhibit the documents referred to in rule 303.1(2), the Chief Recovery Officer must exhibit them to a responding affidavit.

## **Division 3—Community service or approved treatment program order**

### **304.1—Application**

- (1) An application under section 46(1) (including as applied by section 10) of the Act for a community service order or approved treatment program order must be—
- (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1L Originating Application – Fines Enforcement - Community Service Order and or Approved Treatment Program

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;
  - (c) exhibit the enforcement determination; and
  - (d) exhibit an outline of the financial circumstances of the subject.
- (3) The applicant must join as the respondent—
- (a) if the applicant is the Chief Recovery Officer—the subject; or
  - (b) if the applicant is the subject—the Chief Recovery Officer.

### 304.2—Response

- (1) If the respondent wishes to oppose or make submissions about the application, they must, within 14 days after service of the originating application and supporting affidavit, file a response in the prescribed form setting out—
- (a) their response to facts alleged in support of the application;
  - (b) any other facts that they contend are relevant to the application; and
  - (c) their response to the orders sought in the application.

**Prescribed form—**

Form 55 Response

- (2) If the respondent wishes to rely on any facts in addition to, or contrary to, those relied on by the applicant, they must, within 14 days after service of the originating application and supporting affidavit, file a responding affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

### 304.3—Hearing and determination

- (1) The parties are required to attend the hearing.
- (2) A record of outcome making a community service order or approved treatment program order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (3) If the Court makes a community service order or approved treatment program order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92V Order – Fines Enforcement Act - Community Service Order and or Approved Treatment Program

## **Division 4—Revocation of community service or approved treatment program order**

### **305.4—Application**

- (1) An application by the Chief Recovery Officer under section 46(11) of the Act to revoke a community service order or approved treatment program order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 111B Originating Application to Vary or Revoke Order - Community Service Order or Approved Treatment Program Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;
  - (c) depose to the amount of the original monetary amount;
  - (d) depose to the amount of the monetary amount paid (if any);
  - (e) depose to the number of hours of community service performed and the reduction (if any) of the monetary amount thereby;
  - (f) depose to the amount of time spent in an approved treatment program and the reduction (if any) of the monetary amount thereby;
  - (g) depose to the amount of the monetary amount outstanding;
  - (h) exhibit the community service order or approved treatment program order; and
  - (i) exhibit an outline of the financial circumstances of the subject.
- (3) The applicant must join the subject as the respondent.

### **305.5—Response**

- (1) If the respondent wishes to oppose or make submissions about the application, they must, within 14 days after service of the originating application and supporting affidavit, file a response in the prescribed form setting out—
  - (a) their response to facts alleged in support of the application;
  - (b) any other facts that they contend are relevant to the application; and
  - (c) their response to the orders sought in the application.

**Prescribed form—**

Form 55 Response

- (2) If the respondent wishes to rely on any facts in addition to or contrary to those relied on by the applicant, they must within 14 days after service of the originating application and supporting affidavit file a responding affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

### 305.6—Hearing and determination

- (1) The parties are required to attend the hearing.
- (2) A record of outcome revoking a community service order or approved treatment program order must be in the prescribed form.

**Prescribed form—**

Form 114 Record of Outcome [Variation or Revocation]

- (3) If the Court revokes a community service order or approved treatment program order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 115C Order for Revocation – Revocation of Community Service Order or Approved Treatment Program Order and Restoration of Monetary Amount

## Division 5—Enforcement of community service or approved treatment program order

### 306.1—Application

- (1) An application by the Chief Recovery Officer under section 47(4) of the Act for an order for failure to comply with a community service order or approved treatment program order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) depose to the facts on which the applicant relies;
  - (b) exhibit the community service order or approved treatment program order allegedly breached;
  - (c) depose to the number of hours of community service performed and the reduction (if any) of the monetary amount thereby;
  - (d) depose to the amount of time spent in an approved treatment program and the reduction (if any) of the monetary amount thereby; and
  - (e) depose to the calculation of the term of imprisonment to be served under section 47(2) of the Act if the Court makes an order that a term of imprisonment be served.
- (3) The applicant must join the subject as the respondent.
- (4) The application will ordinarily be heard without notice.

### 306.2—Summons or warrant to show cause

- (1) A record of outcome making an order that a summons issue to the respondent to show cause why a warrant of commitment should not be issued against them for default under section 47(4)(a) of the Act must be in the prescribed form.

**Prescribed form—**

Form 32 Record of Outcome (Interim Order and Summons)

- (2) A summons to the respondent to show cause why a warrant of commitment should not be issued against them for default under section 47(4)(a) of the Act must be in the prescribed form.

**Prescribed form—**

Form 34C Order and Summons – Fines Enforcement Order and Summons (Show Cause)

- (3) The applicant must serve the originating application, supporting affidavit and a multilingual notice in the prescribed form with the summons on the respondent.

**Prescribed form—**

Form 36D Multilingual Notice – Show Cause Order

- (4) A warrant of apprehension issued under section 47(4)(a) of the Act must be in the prescribed form.

**Prescribed form—**

Form 70C Warrant of Apprehension - Fines Enforcement Debt Recovery Act

- (5) The originating application, supporting affidavit and a multilingual notice in the prescribed form must be served on the respondent at the time of execution of the warrant of apprehension.

**Prescribed form—**

Form 36D Multilingual Notice – Show Cause Order

### **306.3—Response**

If the respondent wishes to rely on any facts in addition to or contrary to those relied on by the applicant, they must within 14 days after service of the summons or execution of the warrant of apprehension file a responding affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

### **306.4—Hearing and determination**

- (1) A record of outcome of an enforcement application must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an enforcement or variation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (3) If the Court orders that the respondent be imprisoned, the Court will issue a warrant in the prescribed form.

**Prescribed form—**

Form 93L Warrant of Commitment – Fines Enforcement Act

## **Division 6—Seized property**

### **307.1—Application**

- (1) An application under section 36(15) or section 42(6) of the Act to release seized property or for payment of the proceeds of sale of seized property must be—
- (a) in the prescribed form; and

- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1M Originating Application – Fines Enforcement - Seizure and Sale of Assets  
Opposition and Release

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;
  - (c) if the application is made under section 36(15)—exhibit the written determination and notice listing the property seized issued under section 36(8) of the Act; and
  - (d) if the application is made under section 42(6)—exhibit the written determination issued under section 41(1) and notice of disposal issued under section 42(2) of the Act.
- (3) The applicant must join as respondents—
- (a) the Chief Recovery Officer;
  - (b) the subject (if the subject is not the applicant); and
  - (c) any other person who to the knowledge of the applicant has or claims ownership of the seized property.
- (4) Pending the hearing and determination of the application, the seized property the subject of the application must not be disposed of, but must be held at such place and in such a manner as the Chief Recovery Officer directs.

### **307.2—Response**

- (1) If a respondent wishes to oppose or make submissions about the originating application, they must, within 14 days after service of the originating application and supporting affidavit, file a response in the prescribed form setting out—
- (a) their response to facts alleged in support of the application;
  - (b) any other facts that they contend are relevant to the application; and
  - (c) their response to the orders sought in the application.

**Prescribed form—**

Form 55 Response

- (2) If a respondent wishes to rely on any facts in addition to or contrary to those relied on by the applicant, they must, within 14 days after service of the originating application and supporting affidavit, file a responding affidavit in the prescribed form.

**Prescribed form—**

Form 7 Affidavit

- (3) If the applicant does not exhibit the documents referred to in rule 307.1(2), the Chief Recovery Officer must exhibit them to a responding affidavit.

### **307.3—Hearing and determination**

- (1) Subject to subrule (2), the parties are required to attend the hearing.

- (2) If the applicant, when not the subject, is unable by the exercise of reasonable efforts to effect service on the subject, the Court may hear and determine the application despite non-service on the subject.
- (3) A record of outcome for release of seized property or payment of sale proceeds must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (4) If the Court makes an order for release of seized property or payment of sale proceeds, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92W Order – Fines Enforcement Act - Exclude Property from Sale or Direct Proceeds of Sale

## **Part 3—Drivers licence disqualification removals: Magistrates Court and Youth Court**

### **311.1—Scope of Part**

This Part applies to all applications under section 172 of the *Road Traffic Act 1961* to remove a driver’s licence disqualification operating until further order.

### **311.2—Definitions**

In this Part—

*Act* means the *Road Traffic Act 1961*.

### **311.3—Application**

- (1) An application under section 172 of the Act to remove a driver’s licence disqualification operating until further order must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1P Originating Application – Licence Disqualification (End) – s 172 Road Traffic Act

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) exhibit the order that the applicant be disqualified from holding or obtaining a driver’s licence until further order; and
  - (b) depose to the facts on which the applicant relies.
- (3) The applicant must join the Commissioner of Police as the respondent.

### **311.4—Order**

- (1) If the Court makes an order removing a driver’s licence disqualification, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92 Order

- (2) If the Court makes an order removing a driver's licence disqualification, the Principal Registrar must cause a notice in the prescribed form together with a copy of the order to be sent to the Registrar of Motor Vehicles.

**Prescribed form—**

Form 97E Notice of Order - Lifting or Reduction of Licence Disqualification or Suspension

## **Part 4—Interstate monetary penalties: Magistrates Court**

### **316.1—Scope of Part**

This Part applies to all applications under section 188 of the *Criminal Procedure Act 1921* for registration of an order for payment of a monetary sum made against a body corporate by a court of summary jurisdiction of another State.

### **316.2—Definitions**

In this Part—

*Act* means the *Criminal Procedure Act 1921*.

### **316.3—Application**

- (1) An application under section 188 of the Act for registration of an order for payment of a monetary sum made against a body corporate by a court of summary jurisdiction of another State must be—

- (a) in the prescribed form; and
- (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The supporting affidavit must—
- (a) exhibit the order for payment of the monetary sum made by the interstate court; and
  - (b) depose to the amount outstanding under the order.
- (3) The applicant must join the body corporate as the respondent.
- (4) The application need not be served on the respondent and the Principal Registrar or a Registrar may, if the application is in order, register the payment order without notice.

### **316.4—Enforcement**

An order registered under this Part may be enforced, in accordance with section 188(3) of the Act, under Chapter 17 Part 3 of the Uniform Civil Rules as if it were an order of the Magistrates Court.

## **Part 5—Parole breaches: Magistrates Court and Youth Court**

### **Division 1—General**

#### **321.1—Scope of Part**

This Part applies to—

- (a) all applications for a warrant under section 76 or 76A of the *Correctional Services Act 1982* or section 41C of the *Young Offenders Act 1993*; and
- (b) all notifications of arrest of a parolee under section 76B of the *Correctional Services Act 1982*.

### 321.2—Definitions

In this Part—

**Adult Act** means the *Correctional Services Act 1982*;

**judicial officer** means—

- (a) if the power is vested in the Court by the relevant statutory provision—a judicial officer of the Court; or
- (b) if the power is vested by the relevant statutory provision in an individual judicial officer of the Court—a judicial officer who is eligible under the statutory provision to exercise the power.

**subject** means—

- (a) in Division 2—the person the subject of an application for a warrant of arrest under section 76 or 76A of the Adult Act or section 41C of the Youth Act; or
- (b) in Division 3—the person arrested under section 76B of the Adult Act;

**Youth Act** means the *Young Offenders Act 1993*.

## Division 2—Warrant of Arrest

### 322.1—Application

- (1) An application under section 76 or 76A of the Adult Act or section 41C of the Youth Act for a warrant of arrest to bring the subject before the Parole Board or Training Centre Review Board must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 5A Originating Application Ex Parte– Apprehension Warrant

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the suspected breach of the parole or conditional release conditions; and
  - (b) depose to the facts on which the applicant relies.
- (3) The application must be accompanied by a draft warrant in the prescribed form.

**Prescribed form—**

Form 105 Apprehension Warrant

- (4) The applicant must join the subject as the respondent.

### 322.2—Warrant

A warrant issued under section 76 or 76A of the Adult Act or section 41C of the Youth Act must be in the prescribed form.

**Prescribed form—**

Form 105 Apprehension Warrant

## Division 3—Notification of Arrest: Magistrates Court

### 323.1—Application

- (1) If a subject is apprehended under section 76B of the Adult Act and the presiding member and deputy presiding member of the Parole Board are not available for the purpose, the apprehending officer must ensure that an originating application notice in the prescribed form is filed as soon as practicable notifying a Magistrate of the apprehension and seeking directions on the steps to be taken under section 76B(2)(c) of the Adult Act.

**Prescribed form—**

Form 2A Originating Application and Notice - Arrest of Parolee

- (2) The originating application must be supported by an affidavit in the prescribed form—
- (a) identifying the suspected breach of the parole conditions; and
  - (b) deposing to the facts on which the applicant relies.

**Prescribed form—**

Form 7 Affidavit

- (3) The application may be brought by the Commissioner of Police.
- (4) The applicant must join the subject as the respondent.

### 323.2—Hearing and determination

- (1) Unless the Magistrate otherwise determines, the Magistrate will determine the application in chambers on the basis of the supporting affidavit.
- (2) A record of outcome on an application governed by this Division must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (3) The Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92K Order – Correctional Services Act – Parolee Detention or Release

## Part 6—Spent convictions: Magistrates and Youth Courts

### Division 1—General

#### 326.1—Scope of Part

This Part applies to all applications under section 8A, 8B, 8C or 13A of the *Spent Convictions Act 2009*.

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court).

#### 326.2—Definitions

In this Part—

*Act* means the *Spent Convictions Act 2009*;

*subject* means the person whose conviction is the subject of an application under Division 2.

## **Division 2—Application**

### **327.1—Application for conviction to be spent**

- (1) An application under sections 8A, 8B or 8C of the Act for an order that a conviction is spent must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1Z Originating Application – Spent Convictions Act Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;
  - (c) exhibit a National Police Check processed within the 6 months preceding the application;
  - (d) identify any previous applications for a spent conviction order governed by this Part or its predecessor in respect of the offence the subject of the application and their outcome; and
  - (e) address the matters required by one or more of the following sections of the Act as applicable—
    - (i) section 8A(5) of the Act;
    - (ii) sections 8B(5) and (6) of the Act; or
    - (iii) sections 8C(6) and (8) of the Act.
- (3) The applicant must join as respondents—
  - (a) the Attorney-General; and
  - (b) the Commissioner of Police.

### **327.2—Application for exemption from exclusion**

- (1) An application under section 13A of the Act for an order that clause 7 or clause 8 of Schedule 1 not apply in relation to a spent conviction offence must be—
  - (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1Y Originating Application – Spent Convictions Act - Exemption Order

Form 7 Affidavit

- (2) The supporting affidavit must—
  - (a) identify the grounds of the application;
  - (b) depose to the facts on which the applicant relies;

- (c) exhibit a National Police Check processed within the 6 months preceding the application;
  - (d) identify any previous applications for an order governed by this Part or its predecessor in respect of the offence the subject of the application and their outcome; and
  - (e) address the matters set out in section 13A(6) of the Act.
- (3) The applicant must join as respondents—
- (a) the Attorney-General;
  - (b) the Commissioner of Police; and
  - (c) if the application seeks that clause 7 of Schedule 1 of the Act not apply—the Minister for Human Services.

### **327.3—Application by person other than subject**

- (1) If the application is made by a person other than the subject who can only apply if a qualified magistrate considers them to be an appropriate person to make the application in the circumstances of the particular case—
- (a) the application must be made in the ordinary way in accordance with rule 327.1 or rule 327.2;
  - (b) the originating application must seek an order that the applicant is an appropriate person to make the substantive application; and
  - (c) the application must be supported by an affidavit deposing to the grounds on which the applicant seeks an order that they are an appropriate person to make the substantive application.

**Note—**

Sections 8B(2)(b) and 8C(2)(b) and Schedule 2 clause 1A of the Act provide that, if the convicted person is dead or has a mental incapacity, an application under sections 8B or 8C may be made by certain persons as of right or by any other person if a qualified magistrate considers them to be an appropriate person to make an application in the circumstances of the particular case.

- (2) A Magistrate may determine the application in chambers on the basis of the supporting affidavit or make orders for its determination.
- (3) If an application is filed under this rule—
- (a) the originating application is conditional on the necessary order being made; and
  - (b) if the application is refused, the originating application lapses.

### **327.4—Response**

If a respondent wishes to be heard on the application, they must file and serve a response in the prescribed form within 14 days after service of the originating application and supporting affidavit.

**Prescribed form—**

Form 55 Response

## **Division 3—Hearing and determination**

### **328.1—Hearing**

- (1) The parties are not required to attend the hearing unless—

- (a) a respondent has filed a response; or
  - (b) the Court gives notice that the parties are required to attend.
- (2) A record of outcome making a spent conviction or exemption order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (3) If the Court makes a spent conviction or exemption order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form 92AH Order - Spent Conviction or Exemption Order

## **Part 7—Certificate for identity theft**

### **Division 1—State: Magistrates and Youth Courts**

#### **329.1—Scope of Division**

This Division applies to any applications under section 84 of the *Criminal Procedure Act 1921* that are not made in the relevant criminal proceeding under the Joint Criminal Rules.

#### **329.2—Definitions**

In this Part—

*Act* means the *Criminal Procedure Act 1921*.

#### **329.3—Application**

- (1) An application for a certificate for identity theft under section 84 of the Act must be—
- (a) in the prescribed form; and
  - (b) supported by an affidavit in the prescribed form.

**Prescribed forms—**

Form 1 Originating Application

Form 7 Affidavit

- (2) The supporting affidavit must:
- (a) identify the alleged offence or offences;
  - (b) if applicable, provide details of the conviction including the relevant case number;
  - (c) identify the relevant police report number (if applicable);
  - (d) if applicable, identify the manner in which the person's identity was assumed;
  - (e) if applicable, identify the relevant personal identification information and the manner in which it was used;
  - (f) identify how the assumption of the applicant's identity or use of the person's personal identification information was assumed or used in connection with the commission of the alleged offence or offences; and
  - (g) address the assumption of the applicant's identity or use of the applicant's personal identification information being without the applicant's consent.

- (h) any other matters that may be relevant.
- (3) The applicant must join as respondents—
  - (a) if applicable, the Commissioner of Police; and
  - (b) any other person if ordered by the Court after the institution of the proceeding.

### **329.4—Hearing and determination**

- (1) The Court may if it thinks fit determine the application without hearing the parties.
- (2) A certificate for identity theft must be in the prescribed form.

**Prescribed form—**

Form 96C Certificate for Victim of Identity Theft – State

## **Division 2—Commonwealth: Magistrates Court and Youth Court**

### **330.1—Scope of Division**

This Division applies to all applications under section 375 of the Criminal Code enacted by the *Criminal Code Act 1995* (Cth).

**Note—**

Jurisdiction is conferred by the legislation on a magistrate of the Court (rather than upon the Court).

### **330.2—Definitions**

In this Part—

**Code** means the Criminal Code enacted by the *Criminal Code Act 1995* (Cth);

### **330.3—Application**

The non-mandatory templates in respect of an application for a certificate for identity theft under section 375 of the Code are as follows.

**Templates—**

Form 1PD Originating Application Persona Designata

Form 7PD Affidavit Persona Designata

### **330.4—deleted by No 3 Amending Rules 2024**

## Chapter 8—Youth Court specialist jurisdiction

### Part 1—General

#### 341.1—Rules in this Chapter

If there is any inconsistency between a provision in this Chapter and a provision of general application in Chapter 1, the provision in this Chapter prevails.

#### 341.2—Practice directions

- (1) The Judge may issue, vary or revoke Practice Directions.
- (2) The practice and procedure of the Court must, subject to these Rules, be in conformity with the Practice Directions.
- (3) The Principal Registrar must cause to be maintained a register of all Practice Directions.

#### 341.3—Forms

- (1) It is sufficient compliance with these Rules, as to the form of any document, if the document is substantially in accordance with the form specified by these Rules.
- (2) Forms not provided for by these Rules may be prepared at the direction of the Court or by the Principal Registrar on behalf of the Court.
- (3) The party instituting a proceeding or process must prepare the requisite form and must provide such number of copies thereof as the Principal Registrar directs or requires.
- (4) Forms must comply with the requirements as set out in these Rules.

#### 341.4—Affidavit evidence

- (1) In any proceeding, a matter may be proved by affidavit without the necessity of calling oral evidence unless the other party objects or the Court orders otherwise.
- (2) A party intending to rely on an affidavit must serve the other party with a copy of the affidavit at least 21 days before the hearing together with a copy of this rule.
- (3) The party on whom an affidavit is served may, at least 10 days before the hearing, object by notice in writing (giving detailed reasons for the objection) to the party intending to rely on the affidavit. Service of an affidavit or notice may be effected by post on the party or on the party's law firm.
- (4) The Court may order costs against a party unreasonably objecting to the use of an affidavit.
- (5) The Court may, if it is not satisfied that a genuine dispute exists between the parties or that compliance with the rules of evidence might involve unreasonable expense or delay, direct that certain evidence be given by way of affidavit.
- (6) Where any proceeding before the Court or a Registrar may be dealt with without notice to another party, any matter may be proved by affidavit filed without service on the other party.

#### 341.5—Proof of service

- (1) If an application or other document is required to be served on another party, the Court may decline to consider the application or document until proof of service of the application has been filed in, or produced to, the Court.

- (2) Proof of service of an application or document may consist of an affidavit in the prescribed form made by the person who served the application or document setting out—
  - (a) the date, time and place of service;
  - (b) how the person to be served was identified; and
  - (c) how service was effected.
- (3) The Court may, however, require or permit oral evidence of service.
- (4) The Principal Registrar is not required to provide proof of service to the Court in relation to any application, order or other document served by the Court (but is to cause a record of service to be noted on the file).
- (5) An affidavit of proof of service must be in the prescribed form.

**Prescribed forms—**

Form 25 Affidavit of Proof of Service

### **341.6—Litigation guardian**

- (1) If the Court is satisfied that a party, other than a child the subject of the proceeding, is incapable by reason of disability of adequately conducting the proceeding, the Court may—
  - (a) seek to have a legal guardian or appropriate advocate appointed to conduct the proceeding on behalf of the party; or
  - (b) if necessary, appoint a litigation guardian under this rule to conduct the proceeding on behalf of the party.
- (2) A litigation guardian appointed under this rule is responsible for the conduct of the proceeding on behalf of the relevant party and may take any step in the proceeding that such party might have taken if of full capacity.
- (3) The Court may appoint a person as a litigation guardian if the person—
  - (a) is an adult;
  - (b) has no interest in the proceeding adverse to the interest of the party needing a litigation guardian, or has some lawful authority to manage or administer the party's affairs;
  - (c) can fairly and competently conduct the proceeding on behalf of the party; and
  - (d) has consented to act as litigation guardian.
- (4) The Court may require a litigation guardian seeking a consent order on behalf of the party needing a litigation guardian to satisfy the Court that the order is in the party's best interests.
- (5) A party who becomes aware that another party is a person to whom this rule may apply, and is not adequately represented, must inform the Court of that fact.
- (6) The Court may remove a litigation guardian on any reasonable ground, and may permit or appoint another person to be the litigation guardian.

### **341.7—Audio visual and other links**

- (1) In appropriate cases, the Court will facilitate the appearance of parties or counsel via an audio visual link, or by an audio link or other medium.

- (2) A party wishing to appear via a link or other medium must provide adequate notice and adequate information to the Court to enable the Court, if it considers it appropriate to do so, to arrange the link or to agree to the use of a particular medium.
- (3) In the ordinary course—
  - (a) an audio visual link will be from a courthouse, State Government office, or other appropriate facility; and
  - (b) an audio link will be via a landline (not a mobile telephone).

### **341.8—Payment of advisors, elders and experts**

The Court may appoint such cultural advisors, Aboriginal elders and experts within any field as it sees fit to advise it in the conduct of its work and pay them in accordance with rates determined by the Principal Registrar from time to time

### **341.9—Authority to enter and inspect**

An authority under section 20(2) of the *Youth Court Act 1993* to enter or inspect must be issued in the prescribed form at the direction of a Judge or Magistrate of the Court.

**Prescribed form—**

Form 31 Record of Outcome (Interim Order)

## **Part 2—Care and Protection**

### **Division 1—General**

#### **342.1—Definitions**

In this Part—

*Act* means the *Children and Young People (Safety) Act 2017*.

### **Division 2—Notification of urgent removals**

#### **343.1—Notification of urgent removals**

- (1) If a child protection officer removes a child or young person in the exercise of a power under section 41 of the Act, the Chief Executive must ensure that notice of the removal is given to the Court on the day on which the child or young person is removed or, if that is not reasonably practicable, by the end of the next business day.
- (2) The notice must be given by email addressed to the Court and sent to an email address provided by the Principal Registrar to the Chief Executive for the purposes of this rule, or in such other manner as the Principal Registrar may allow.
- (3) A notice need not be given under this rule if—
  - (a) the child or young person is, at the time of the removal, already under the guardianship, or in the custody, of the Chief Executive; and
  - (b) it is not anticipated by the Chief Executive that an application will be made to the Court in connection with the removal.

### **Division 3—Applications, supporting material and responses**

#### **344.1—Applications—general provision**

- (1) This rule applies to any application to the Court other than an interlocutory application.
- (2) An application must—

- (a) be in writing in the relevant prescribed form;
  - (b) state the orders that are sought;
  - (c) state the statutory provision under which each order might be made;
  - (d) state the grounds of the application; and
  - (e) include particulars of the factual allegations or circumstances relied on to make out the grounds of the application.
- (3) All statements and particulars in an application must be in plain language, and be set out and expressed clearly, specifically and succinctly.
  - (4) If multiple or alternative orders are sought in an application, the application must indicate this clearly and, for each order, link the grounds and supporting statements and particulars relevant to that order clearly and specifically to that order.

### **344.2—Forms**

- (1) Forms for use specifically in the care and protection jurisdiction must use numbering with the prefix *CP*.
- (2) The forms set out in Schedule 1 must be used for the purposes specified in Schedule 1 or these Rules.

### **344.3—Application for Care and Protection Order or for Variation, Revocation or Discharge**

- (1) An application for a care and protection order must be made in the prescribed form.

**Prescribed form—**

Form CP1 Originating Application – Care and Protection Order

- (2) An application to vary, revoke or discharge a Care and Protection Order must be made in the prescribed form.

**Prescribed form—**

Form CP2 Originating Application – Vary, Revoke or Discharge Care and Protection Order

### **344.4—Interested Persons**

If an interested person wishes to appear at trial and make submissions in respect of a child or young person pursuant to section 66 of the Act, an application must be made in the prescribed form.

**Prescribed form—**

Form CP5 Interlocutory Application – Interested Person to be Heard

### **344.5—Undertakings**

An undertaking entered into by a party in relation to an Application under this Part must be made in the prescribed form and signed by the person entering into the undertaking.

**Prescribed form—**

Form CP8 Undertaking

### **344.6—Case plans**

- (1) If an application relates to a prescribed child or young person, the application to the Court with respect to that child or young person must be accompanied by (or include)—

- (a) a case plan prepared under section 28 of the Act or, if a case plan has been varied or substituted, the latest version of the case plan; or
  - (b) if a case plan has not been completed—information about what is proposed for the case plan in accordance with the requirements under subrule (2).
- (2) The information required under this subrule is the following (insofar as is reasonably known to the applicant):
- (a) an outline of the proposed content of the case plan, taking into account the requirements of section 28(2) of the Act and any relevant regulations under that Act;
  - (b) without limiting paragraph (a), specific information about the approach intended to be adopted in relation to the care and protection of the child or young person, the steps to be taken in connection with the preparation of the case plan, and how the various parts of the case plan are to be achieved;
  - (c) information about when the first version of case plan is expected to be completed.
- (3) A party must also provide to the Court such information about the case plan (including information about steps that are being taken to further review or develop the case plan, and to give effect to the case plan) as the Court may from time to time require as part of the proceeding.
- (4) If a child or young person becomes a prescribed child or young person during the course of any proceeding, the applicant in the proceeding must provide—
- (a) as soon as is reasonably practicable—information about what is proposed for the case plan in accordance with the requirements of subrule (2); and
  - (b) as soon as it has been prepared—a copy of the case plan.

### **344.7—Material supporting applications—other requirements**

- (1) An application to the Court referred to in rule 344.6 must also be supported by material that sufficiently sets out the evidence on which the application is based.
- (2) In the case of an application seeking a care and protection order in respect of a child or young person in respect of whom there has been a previous care and protection order, the material in support of the order must include—
  - (a) a document reporting on the outcomes of any review meetings conducted during the operation of the previous order;
  - (b) in the case of a prescribed child or young person—an up-to-date copy of the case plan required under section 28 of the Act; and
  - (c) a document reporting the extent to which each party has complied with requirements or undertakings applicable to the party under the previous order.
- (3) Material in support of an application provided under this rule must be filed and, unless the Court directs otherwise, served on the other parties, at least 14 days before the pre-trial conference in relation to the application.
- (4) After the expiration of the period that applies under subrule (3), material in support of an application may only be filed with leave and on such terms or conditions as the Court directs.

- (5) Leave to file further material may be sought orally and at any stage of the proceeding and, unless the Court orders otherwise, must be served on the other parties at least 2 business days before the next date for the hearing of the proceeding.

### **344.8—Responses**

- (1) This rule applies to any application to the Court other than—
- (a) an interlocutory application; or
  - (b) an application of a kind excluded from the application of this rule by the Court.
- (2) A party to an application who opposes the application in whole or part must file a response, and serve the response on the other parties, at least 7 days before the pre-trial conference in relation to the application.
- (3) A response to an application must—
- (a) be in the prescribed form;
  - (b) state clearly the order or orders sought in the application that are opposed and any order that is not opposed;
  - (c) if an order is proposed as an alternative to an order sought in the application, indicate that clearly, and specify the proposed order and which order it would replace;
  - (d) in relation to each ground of the application, state whether the ground is—
    - (i) admitted;
    - (ii) disputed; or
    - (iii) not admitted, but not disputed for the purposes of the determination of the application;
  - (e) in relation to each separate particular of a factual allegation in the application, state whether the particular is—
    - (i) admitted;
    - (ii) disputed; or
    - (iii) not admitted, but not disputed for the purposes of the determination of the application; and
  - (f) if a ground or particular is disputed, state briefly the manner in which the ground or particular is disputed.

**Prescribed form—**

Form CP7 Response

- (4) A response must be supported by material that provides evidence of the respondent's version of events or of any matter relevant to the determination of the application.
- (5) Material in support of a response may be in the form of—
- (a) affidavits (including annexures);
  - (b) expert reports;
  - (c) chronologies of significant events; or
  - (d) subject to a direction of the Court, other documentary evidence.

- (6) Material in support of a response provided under this rule must be filed and, unless the Court orders otherwise, served on the other parties, at least 7 days before the pre-trial conference in relation to the application.
- (7) After the expiration of the period that applies under subrule (6), material in support of a response may only be filed with leave and on such terms or conditions as the Court directs.
- (8) Leave to file further material may be sought orally and at any stage of the proceeding and, unless the Court orders otherwise, must be served on the other parties at least 2 business days before the next date for the hearing of the proceeding.
- (9) The Court will make such determinations based on the contents of a response, or the failure to file a response, as the Court considers appropriate, and proceed accordingly, subject to the provisions of the Act.

### **344.9—Interlocutory applications**

- (1) This rule does not apply to an application of a kind excluded from the application of the rule by the Court.
- (2) An interlocutory application must be—
  - (a) in the prescribed form; and
  - (b) accompanied by an affidavit in the prescribed form evidencing the grounds on which the application is being made.

**Prescribed forms—**

Form CP6 Interlocutory Application

Form CP4 Affidavit

- (3) Nothing prevents an interlocutory application from being combined with an application for a final order of the Court.
- (4) The applicant must serve a copy of the application (and accompanying documents) on the other parties as soon as practicable after it is filed, but not later than 2 business days before the next date for the hearing of the proceeding.
- (5) However, service on another party is not required if the application does not affect the interests of the other party.
- (6) The Court may, on conditions the Court considers appropriate, dispense with a requirement of this rule—
  - (a) if the urgency of the case requires;
  - (b) by consent of the parties; or
  - (c) if for any other reason the Court considers it appropriate to do so.
- (7) The Court may determine an interlocutory application without hearing oral submissions from the parties if—
  - (a) the application is not contentious; or
  - (b) the Court decides on the application of a party to determine the application on the basis of written submissions.
- (8) On an interlocutory application, the Court may make orders relating to the proceeding irrespective of whether the applicant has asked for such orders in the application.

## Division 4—Conferences and the facilitation of trials

### 345.1—Pre-trial conferences

- (1) This rule applies to any application to the Court other than—
  - (a) an interlocutory application; or
  - (b) an application of a kind excluded from the application of this rule by the Court.
- (2) Defended applications will be listed for pre-trial conference with the goal that, so far as is practicable, each conference will be held within 8 weeks after the filing of the application.
- (3) If matters remain in dispute at the end of a pre-trial conference, the application concerned will be allocated a trial date and, if a status conference is to be held, a date for that conference will be allocated.
- (4) The judicial officer presiding over a pre-trial conference may, subject to section 65 of the Act, determine what matters are in dispute for the purpose of the trial and direct that the trial be limited to such matters.

### 345.2—Documents required for pre-trial conferences

A party to an application listed for a pre-trial conference must, at least 2 business days before the date fixed for the pre-trial conference, file, and serve on the other parties—

- (a) a list of all witnesses to be called by a party at the trial;
- (b) copies of reports of any proposed expert witness; and
- (c) a synopsis of the evidence of any other proposed witnesses.

### 345.3—Status conferences and facilitation of trials

- (1) A status conference may be held before the trial of a defended application.
- (2) A status conference will, if practicable, be presided over by the judicial officer who will hear the trial.
- (3) At a status conference, the Court may give one or more of the following directions:
  - (a) limiting the issues to be determined at the trial;
  - (b) appointing a party *dux litis* in relation to issues to be determined at the trial;
  - (c) requiring or relating to the discovery, inspection and copying of evidentiary material;
  - (d) enabling non-parties to be present or participate at the trial;
  - (e) arranging for the interviewing of a child or young person by the trial judicial officer;
  - (f) requiring the concurrent calling of expert witnesses;
  - (g) arranging for the taking of views;
  - (h) requiring any party to prepare a chronology of events relating to any matter or circumstance to be considered at the trial;
  - (i) arranging for the taking of evidence by audio visual link, audio link or other medium;
  - (j) any other direction that may facilitate the conduct of the trial.

- (4) Any such direction may, in any event, be given before or at the trial.

### **345.4—Listing of trials**

Defended applications (including on an amendment of an application) will be listed for trial with the goal that, so far as is practicable, the trial will be commenced within 12 weeks from the filing of the application.

### **345.5—Trial books**

- (1) Unless the Court directs otherwise, the Minister or the Chief Executive must prepare a trial book for the purposes of a trial.
- (2) A trial book—
  - (a) must contain the application and all material filed by the parties in the proceeding; and
  - (b) must be provided to the Court and other parties at least 2 business days before the trial.

## **Division 5—Trials and orders**

### **346.1—Trials**

A trial will be conducted, as far as practicable, on the basis that—

- (a) each party's case is substantially contained in documentary material filed in accordance with these Rules, and incorporated in the trial book; and
- (b) examination-in-chief of witnesses avoids undue repetition of matters contained in the filed material and is limited to necessary and reasonable explanation, correction or supplementation of the filed material and to eliciting responses to, or comments on, another party's case.

### **346.2—Draft orders**

- (1) This rule applies to any interim or final order made by the Court on an application, but does not apply to a purely procedural order.
- (2) Unless the Court otherwise orders, the Minister or the Chief Executive must prepare a draft order.
- (3) The draft order—
  - (a) must be provided to the Court at the hearing at which the order is made; or
  - (b) must be filed within 2 business days after the making of the order.

### **346.3—Orders**

- (1) A record of outcome of the hearing of an application for a care and protection order or a variation or revocation application must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a care and protection order or variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form CP10 Order – Care and Protection Order

## Division 6—Miscellaneous

### 347.1—Temporary instruments of guardianship and restraining notices

- (1) For the purposes of sections 45(4)(b) and 46(4)(b) of the Act, an instrument of guardianship or restraining notice (as the case may be) must be lodged with the Court in the prescribed form.

**Prescribed form—**

Form CP3 Notice – Lodgement of [Instrument of Guardianship or Restraining Notice or Interstate Order]

- (2) An application to the Court to vary arrangements for the care of a child or young person under section 45(6) of the Act must be made in the prescribed form.

**Prescribed form—**

Form CP2A Originating Application – Vary, Revoke, Extend or Discharge Instrument of Guardianship

- (3) An application to the Court to extend the guardianship period or a restraining notice period under section 47 of the Act must be made using the prescribed form.

**Prescribed form—**

Form CP2A Originating Application – Vary, Revoke, Extend or Discharge Instrument of Guardianship

Form CP2B Originating Application – Extend or Revoke Restraining Notice

- (4) A record of outcome of the hearing of an application governed by this rule must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (5) If the Court makes a care and protection order or variation or revocation order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form CP10 Order – Care and Protection Order

Form CP12 Order – Instrument of Guardianship or Restraining Notice or Interstate Order or Review of Transfer or Revocation of Registration or Transfer of Order or Proceedings

### 347.2—Interstate orders and transfers

- (1) This rule applies to applications and orders made under Chapter 10 of the Act.
- (2) An application for review of the transfer of a child protection order to a Participating State under section 126 of the Act must be made in the prescribed form.

**Prescribed form—**

Form CP14 Originating Application – Review of Transfer of Child Protection Order to a Participating State

- (3) An application for transfer of a child protection order or proceeding to a Participating State under section 127 or 131 of the Act must be made in the prescribed form.

**Prescribed form—**

Form CP15 Originating Application – Transfer of Child Protection Order or Proceeding to a Participating State

- (4) A record of outcome of the hearing of an application governed by this rule must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (5) If the Court makes a review or transfer order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form CP12 Order – Instrument of Guardianship or Restraining Notice or Interstate Order or Review of Transfer or Revocation of Registration or Transfer of Order or Proceedings

- (6) An application for the revocation of the registration of a child protection order or an order under interstate law to transfer a child protection proceeding from a Participating State under section 137 of the Act must be made in the prescribed form.

**Prescribed form—**

Form CP16 Originating Application – Revocation of Registration of Child Protection Order or Proceeding

## **Part 3—Adoptions**

### **Division 1—General**

#### **348.1—Definitions**

In this Part—

*Act* means the *Adoption Act 1988*.

### **Division 2—Adoption applications**

#### **349.1—Forms**

- (1) Forms for use specifically in the adoption jurisdiction must use numbering with the prefix *A*.
- (2) The forms set out in Schedule 1 must be used for the purposes specified in Schedule 1 or these Rules.

#### **349.2—Adoption application**

An application to the Court under section 8 of the Act must be made in the prescribed form.

**Prescribed form—**

Form A1 Originating Application – Adoption Order

#### **349.3—Service**

- (1) The application for an adoption order must be served personally—
  - (a) if the child who is the subject of the application is of or above the age of 10 years—on the child; and
  - (b) on each other party to the application.
- (2) The application served must include notification of the place, date and time for the hearing of the application.
- (3) If it is not reasonably practicable to serve an application personally on a party, or the whereabouts of such a party cannot, after reasonable enquiries, be ascertained, the application may be served on that person by—

- (a) posting it to the person at the person's last known place of residence or employment;
  - (b) sending it by email to an email address provided by the person (in which case the application will be taken to have been served at the time of sending); or
  - (c) in any other manner authorised by the Court.
- (4) The Court will not proceed to hear an application for an adoption order unless each party served with the application has had at least 7 days notice of the hearing.
- (5) The Court may dispense with service of an application on a child or other party under this rule if the Court considers that there is a proper reason to do so, including, for example—
- (a) if the party is a birth parent who resides outside Australia; or
  - (b) if the child or other party is too young to understand the purpose or implications of the application or accompanying documents, or it is otherwise inappropriate in the circumstances to serve the documents on them.

### **349.4—Application to dispense with consent**

An application under section 18 of the Act must be—

- (a) made in the prescribed form; and
- (b) accompanied by a supporting affidavit in the prescribed form.

**Prescribed forms—**

Form A8 Interlocutory Application – Order of the Court

Form A5 Affidavit

### **349.5—Application to dispense with or recognise the validity of consent before application for adoption order made**

An application by the Chief Executive under section 19(1) of the Act must be—

- (a) made in the prescribed form; and
- (b) accompanied by a supporting affidavit in the prescribed form.

**Prescribed forms—**

Form A7 Originating Application – Dispense with or Recognise the Validity of Consent

Form A5 Affidavit

## **Division 2—Discharge applications**

### **350.1—Discharge application**

- (1) An application for the discharge of an adoption order under section 14 of the Act must be made in the prescribed form.

**Prescribed form—**

Form A2 – Originating Application – Discharge Adoption Order

- (2) An application must—
- (a) state the orders that are sought;
  - (b) state the grounds of the application; and

- (c) include particulars of the factual allegations or circumstances relied on to make out the grounds of the application.
- (3) All statements and particulars in an application must be in plain language, and be set out and expressed clearly, specifically and succinctly.

### **350.2—Material supporting applications—other requirements**

- (1) An application referred to in [rule 350.1](#) must also be supported by an affidavit in the prescribed form that sufficiently sets out the evidence on which the application is based.

**Prescribed form—**

Form A5 [Affidavit](#)

- (2) Leave to file further material may be sought orally and at any stage of the proceeding and, unless the Court allows or directs otherwise, must be served on the other parties at least 7 before the next date for the hearing of the proceeding.

### **350.3—Service**

- (1) The Originating Application and supporting documents must be served on all other parties at least 7 days before the hearing.
- (2) If the Originating Application and supporting documents have not been served on all other parties at least 7 days before the hearing, the Court will not make a discharge order at the hearing and will adjourn the hearing to a future date.

### **350.4—Investigations**

- (1) If the Court directs that an investigation be conducted under section 14(2) of the Act, the Court will specify the particular circumstances to be investigated.
- (2) An investigation referred to in subrule (1) may only investigate the circumstances relating to the grounds on which a discharge order may be made as stated in the application for the discharge order.

## **Division 4—Miscellaneous**

### **351.1—Application for recognition of international adoption order**

An application to the Court under section 21(2) of the Act for the recognition of an international adoption order must be made in the prescribed form.

**Prescribed form—**

Form A3 [Originating Application – Recognition of an Adoption Order Made Outside Australia](#)

### **351.2—Other Applications**

Any other application, other than an interlocutory application, not specifically addressed by this Part, must be made in the prescribed form.

**Prescribed form—**

Form A8 [Originating Application – Order of the Court](#)

### **351.3—Notification of application**

- (1) The Court will give to the [Chief Executive](#) notice of any application—
  - (a) for an adoption order;
  - (b) for the discharge of an adoption order; or

- (c) for the recognition of an international adoption order.
- (2) The form of the notice will be determined by the Principal Registrar and will be given to the Chief Executive by email sent to an email address agreed between the Principal Registrar and the Chief Executive.

### **351.4—Representation of party under 18 years**

- (1) If the Court considers that it is in the best interests of a party in a proceeding under the Act who is less than 18 years of age to make an order under this rule, the Court may order that the party be represented by a legal practitioner.
- (2) If the Court makes an order under subrule (1) providing for representation by a legal practitioner employed or engaged by the Legal Services Commission, the Court will notify the Commission by email sent to an email address agreed between the Principal Registrar and the Commission.

### **351.5—Responses**

- (1) This rule applies to any application to the Court other than—
  - (a) an interlocutory application; or
  - (b) an application of a kind excluded from the application of this rule by the Court.
- (2) A party to an application who opposes the application in whole or part must file a response, and serve the response on the other parties, at least 7 days before the scheduled date for hearing in relation to the application.
- (3) A response to an application must—
  - (a) be in the prescribed form;
  - (b) state clearly the order or orders sought in the application that are opposed and any order that is not opposed;
  - (c) if an order is proposed as an alternative to an order sought in the application, indicate that clearly, and specify the proposed order and which order it would replace;
  - (d) in relation to each ground of the application, state whether the ground is—
    - (i) admitted;
    - (ii) disputed; or
    - (iii) not admitted, but not disputed for the purposes of the determination of the application;
  - (e) in relation to each separate particular of a factual allegation in the application, state whether the particular is—
    - (i) admitted;
    - (ii) disputed; or
    - (iii) not admitted, but not disputed for the purposes of the determination of the application; and
  - (f) if a ground or particular is disputed, state briefly the manner in which the ground or particular is disputed.

**Prescribed form—**

Form A6 Response

- (4) A response must be supported by material that provides evidence of the respondent's version of events or of any matter relevant to the determination of the application.
- (5) Material in support of a response may be in the form of—
  - (a) affidavits (including annexures);
  - (b) expert reports;
  - (c) chronologies of significant events; or
  - (d) subject to a direction of the Court, other documentary evidence.
- (6) Material in support of a response provided under this rule must be filed and, unless the Court orders otherwise, served on the other parties, at least 7 days before the first hearing in relation to the application.
- (7) After the expiration of the period that applies under subrule (6), material in support of a response may only be filed with leave and on such terms or conditions as the Court directs.
- (8) Leave to file further material may be sought orally and at any stage of the proceeding and, unless the Court orders otherwise, must be served on the other parties at least 2 business days before the next date for the hearing of the proceeding.
- (9) The Court will make such determinations based on the contents of a response, or the failure to file a response, as the Court considers appropriate, and proceed accordingly, subject to the provisions of the Act.

### **351.6—Interlocutory applications**

- (1) This rule does not apply to an application of a kind excluded from the application of the rule by the Court.
- (2) An interlocutory application must be—
  - (a) in the prescribed form; and
  - (b) accompanied by an affidavit in the prescribed form evidencing the grounds on which the application is made.

#### **Prescribed forms—**

Form A4 Interlocutory Application

Form A5 Affidavit

- (3) Nothing prevents an interlocutory application from being combined with an application for a final order of the Court.
- (4) The applicant must serve a copy of the application (and accompanying documents) on the other parties as soon as practicable after it is filed, and in any event not later than 2 business days before the next date for the hearing of the proceeding.
- (5) However, service on another party is not required if the application does not affect the interests of the other party.
- (6) The Court may, on conditions the Court considers appropriate, dispense with a requirement of this rule—
  - (a) if the urgency of the case requires;
  - (b) by consent of the parties; or
  - (c) if for any other reason the Court considers it appropriate to do so.

- (7) The Court may determine an interlocutory application without hearing oral submissions from the parties if—
  - (a) the application is not contentious; or
  - (b) the Court decides on the application of a party to determine the application on the basis of written submissions.
- (8) On an interlocutory application, the Court may give directions relating to the proceeding irrespective of whether the applicant has asked for such directions in the application.

### **351.7—Directions hearings**

- (1) This rule applies to any application to the Court for an adoption order or for the discharge of an adoption order.
- (2) An application will be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give one or more of the following directions:
  - (a) limiting the issues to be determined on the hearing of the application;
  - (b) requiring or relating to the discovery, inspection and copying of evidentiary material;
  - (c) arranging for the calling of any witnesses;
  - (d) arranging for the preparation, provision or production of any report;
  - (e) any other direction that may facilitate the hearing of the application before the Court.
- (4) Nothing in this rule limits any direction that may, in any event, be given before or at the hearing of an application.

### **351.8—Orders**

- (1) A record of outcome of the hearing of an application for an adoption order or discharge order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes an adoption or discharge order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form A10 Order – Adoption

- (3) Upon an adoption or discharge order being made, the Principal Registrar must cause a notice in the prescribed form to be sent to the Registrar of Births Deaths and Marriages.

**Prescribed form—**

Form A11 Notice to Births Deaths and Marriages

## Part 4—Surrogacy

### Division 1—General

#### 352.1—Definitions

In this Part—

*Act* means the *Surrogacy Act 2019*.

#### 352.2—Forms

- (1) Forms for use specifically in the surrogacy jurisdiction must use numbering with the prefix *S*.
- (2) The forms set out in Schedule 1 must be used for the purposes specified in Schedule 1 or these Rules.

### Division 2—Surrogacy applications

#### 353.1—Orders as to parentage of a child

- (1) An application to the Court under section 18 of the Act must be made in the prescribed form.

**Prescribed form—**

Form S1 Originating Application – Order as to Parentage of a Child Born Under a Recognised Surrogacy Agreement

- (2) An application for an order under section 18(1) of the Act must be accompanied by a copy of the lawful surrogacy agreement.
- (3) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

**Prescribed form—**

Form S4 Affidavit

- (4) If the information required for the purposes of section 18(3) of the Act is not provided to the Court as part of the application under subrule (1), the information must be filed at the Court, and served on any other party to the proceeding, at least 7 days before the next date set for the hearing of the proceeding (unless the Court orders otherwise).
- (5) Unless the applicant is seeking the Court’s consent to dispense with the requirement for the surrogate mother’s consent under section 18(5)(c) of the Act, an application under section 18(1) of the Act must also be accompanied by an affidavit of the surrogate mother in the prescribed form.

**Prescribed form—**

Form S4 Affidavit

- (6) Without limiting the requirements under subrules (3) and (5), the applicant or applicants for an order under section 18(1)(a) of the Act must ensure that each of the requirements of section 10 of the Act are addressed by affidavit filed (subject to any order of the Court under section 18(7) of that Act).

**Prescribed form—**

Form S4 Affidavit

**353.2—Court may dispense with consent of surrogate mother**

The Court may dispense with the requirement for the surrogate mother's consent under section 18(5)(c) of the Act on its own initiative if the Court is satisfied as to a matter under section 18(6) of the Act.

**353.3—Assessment by accredited counsellor**

- (1) An assessment by an accredited counsellor for the purposes of section 18(10) of the Act must be in writing.
- (2) The party required to provide the assessment must ensure that a copy of the assessment is filed at the Court, and served on any other party to the proceeding, at least 7 days before the next date set for the hearing of the proceeding (unless the Court orders otherwise).

**353.4—Application to revoke an order**

- (1) An application to the Court under section 19(1) of the Act must be made in the prescribed form.

**Prescribed form—**

Form S2 Originating Application – Discharge Order as to Parentage of a Child Born Under a Recognised Surrogacy Agreement

- (2) An application under subrule (1) must be supported by an affidavit in the prescribed form that sufficiently sets out the evidence on which the application is based.

**Prescribed form—**

Form S4 Affidavit

**Division 3—Miscellaneous****354.1—Application to intervene**

- (1) An application for leave to intervene in a proceeding under section 19(4) of the Act must be made in the prescribed form.

**Prescribed form—**

Form S5 Interlocutory Application – Leave to Intervene

- (2) An application under subrule (1) must be supported by an affidavit in the prescribed form that sufficiently sets out the evidence on which the application is based.

**Prescribed form—**

Form S4 Affidavit

**354.2—Response**

- (1) This rule applies to an application to the Court for an order under section 19 of the Act.
- (2) A party to an application who opposes the application in whole or part must file a response in the prescribed form.

**Prescribed form—**

Form S9 Response to Application to Revoke Order

- (3) A response—
  - (a) must state clearly the grounds of objection; and
  - (b) must be supported by material that provides evidence of any matter that is relevant to the ground or grounds of objection.

- (4) Material in support of a response may be in the form of—
  - (a) an affidavit (including annexures);
  - (b) expert reports; or
  - (c) subject to a direction of the Court, other documentary evidence.
- (5) The response, and material in support of the response, must be filed and served on the other parties, at least 7 days before the date set for the hearing of the proceeding (unless the Court orders otherwise).
- (6) Leave to file further material may be sought orally and at any stage of the proceeding and served on the other parties at least 2 business days before the date set for the hearing of the proceeding (unless the Court orders otherwise).

### **354.3—Supporting material—other requirements**

- (1) The Court may direct a party to file further particulars or materials to assist in the Court’s determination of the outcome that is in the best interests of the child or as to any other matter directed by the Court.
- (2) The Court may direct that any further particulars must be supported by an affidavit in the prescribed form.

**Prescribed form—**

Form S4 Affidavit

- (3) Material in support of an application under this rule must be filed and served on the other parties, at least 7 days before the next date set for the hearing of the proceeding (unless the Court orders otherwise).
- (4) After the expiration of the period that applies under subrule (3), material in support of an application may only be filed with leave and on such terms or conditions as the Court directs.
- (5) Leave to file further material may be sought orally and at any stage of the proceeding and served on the other parties at least 2 business days before the next date set for the hearing of the proceeding (unless the Court orders otherwise).

### **354.4—Interlocutory applications**

- (1) This rule does not apply to an application of a kind excluded by the Court.
- (2) An interlocutory application must be made in the prescribed form and supported by an affidavit in the prescribed form.

**Prescribed form—**

Form S3 Interlocutory Application

Form S4 Affidavit

- (3) Nothing prevents an interlocutory application from being combined with an application for a final order of the Court.
- (4) The applicant must serve a copy of the application (and accompanying documents) on the other parties as soon as practicable after it is filed, but not later than 2 business days before the next date set for the hearing of the proceeding (unless the Court orders otherwise).
- (5) The Court may, on conditions the Court considers appropriate, dispense with a requirement of this rule—

- (a) if the urgency of the case requires;
  - (b) by consent of the parties; or
  - (c) if for any other reason the Court considers it appropriate to do so.
- (6) The Court may determine an interlocutory application without hearing oral submissions from the parties if—
- (a) the urgency of the case requires;
  - (b) the application is not contentious; or
  - (c) the Court decides on the application of a party to determine the application on the basis of written submissions.
- (7) On an interlocutory application, the Court may make orders relating to the proceeding irrespective of whether the applicant has asked for such orders in the application.

### **354.5—Directions hearings**

- (1) This rule applies to an application under section 18(1) or 19(1) of the Act.
- (2) An application may be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give one or more of the following directions:
- (a) limiting the issues to be determined at the hearing of the application;
  - (b) requiring or relating to the discovery, inspection and copying of evidentiary material;
  - (c) arranging for the calling of witnesses;
  - (d) arranging for the preparation, provision or production of any report;
  - (e) any other direction that may facilitate the hearing of the application before the Court.
- (4) Nothing in this rule limits any directions that may, in any event, be given before or at the hearing of an application.

### **354.6—Orders**

- (1) A record of outcome of the hearing of an application for a surrogacy order or to discharge a surrogacy order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a surrogacy or discharge order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form S6 Order – Surrogacy

- (3) Upon a surrogacy or discharge order being made, the Principal Registrar must cause a notice in the prescribed form to be sent to the Registrar of Births Deaths and Marriages.

**Prescribed form—**

Form S7 Notice to Births Deaths and Marriages

## Part 5—Youth Treatment Orders

### Division 1—General

#### 355.1—Definitions

- (1) In this Part—

*Act* means the *Controlled Substances Act 1984*;

*assessment report* means a report prepared for the purposes of section 54B(1)(a)(ii) of the Act;

*relevant department* means an administrative unit of the Public Service responsible for assisting a Minister in the administration of any of the following Acts:

- (a) the Act;
- (b) the *Children and Young People (Safety) Act 2017*;
- (c) the *Youth Justice Administration Act 2016*;

*treatment report* means a report prepared for the purposes of section 54B(1)(b)(ii) of the Act;

*youth treatment order jurisdiction* of the Court means the jurisdiction of the Court under Part 7A of the Act.

- (2) A term used in these Rules that is defined in the *Youth Court Act 1993* or in or for the purposes of Part 7A of the Act has the same meaning in these Rules as it has in the particular Act or that Part, as the case may be (unless the contrary intention appears).

#### 355.2—Application of this Part

This Part applies to the youth treatment order jurisdiction of the Court.

#### 355.3—Proceedings to be initiated and conducted in Adelaide

A proceeding in connection with the youth treatment order jurisdiction of the Court must be initiated and conducted at the Court in Adelaide.

#### 355.4—Forms

- (1) All forms for use specifically in the youth treatment order jurisdiction must use numbering with the prefix *YTO*.
- (2) The forms set out in Schedule 1 must be used for the purposes specified in Schedule 1 or in these Rules.

### Division 2—Initiation of proceeding, initial orders and reviews

#### 356.1—Applications for orders

- (1) An application for an order under section 54B of the Act must be in the prescribed form.

**Prescribed form—**

Form YTO1 Originating Application – Youth Treatment or Assessment or Detention Order

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based

after taking into account the nature and effect of the order or orders that are being sought from the Court.

**Prescribed form—**

Form 7 Affidavit

- (3) An application filed under this rule must, at the time of service on the child, be accompanied by a copy of the statement that is required for the purposes of section 54G(3) of the Act.

**356.2—Procedure if Court initiates proposal for an order of its own motion**

- (1) If the Court is considering whether to make an order of its own motion under section 54C of the Act, the Court may—
- (a) adjourn the proceeding before the Court;
  - (b) direct the Principal Registrar to notify any person who is not appearing or represented in the proceeding before the Court, and who may have an interest in the matter, that an order under Part 7A of the Act is under consideration;
  - (c) take steps to have any necessary report, information or material prepared, or step taken, including by setting a time for a directions hearing; or
  - (d) take steps to have the proceeding reconvened at an appropriate time.
- (2) Subrule (1) does not apply to the extent that the Court can address or deal with any matter as part of the proceeding before the Court at the relevant time.

**356.3—Notification of proceeding**

For the purposes of section 54D(5) of the Act—

- (a) notice of a proceeding may be given to the Chief Executive of the Department for Child Protection using the Electronic System, or in any other way determined to be appropriate by the Court or the Principal Registrar; and
- (b) if the Chief Executive wishes to make submissions in the proceeding, the Chief Executive must inform the Court of the Chief Executive's intention to be appear and be represented in the proceeding at least 2 business days before the date set for hearing the proceeding (unless the Court orders otherwise) by an email sent to an email address provided by the Principal Registrar or in any other way determined or approved by the Court or by the Principal Registrar.

**356.4—Directions hearings**

- (1) This rule applies in relation to the initiation of a proceeding before the Court for an order under section 54B of the Act (including where the proceeding has been initiated by the Court of its own motion under section 54C of the Act).
- (2) The matter will be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give one or more of the following directions—
  - (a) limiting the issues to be determined at the hearing;
  - (b) requiring the preparation of a screening report by an appropriately qualified and experienced youth drug addiction health professional, nominated by the Court, to provide evidence as to the matters about which the Court is required to be satisfied for the purpose of section 54D of the Act;
  - (c) a direction relating to legal representation of the child;

- (d) arranging for the preparation, provision or production of any other assessment or report or the provision of any information;
  - (e) requiring or relating to the discovery, inspection and copying of evidentiary material;
  - (f) arranging for the attendance of the child;
  - (g) identifying the parties and other persons who may be heard on the matter;
  - (h) arranging for the calling of any witnesses;
  - (i) any other direction that may facilitate the hearing of the matter before the Court.
- (4) Nothing in this rule limits any direction that may, in any event, be given before or at the hearing of any proceeding.

### **356.5—Screening reports**

- (1) A screening report must be in the prescribed form.
- Prescribed form—**  
Form YTO8 Youth Treatment Orders Screening Template
- (2) A screening report must be filed at least 2 business days before the next hearing date.
- (3) The Registry must upload a screening report to the Electronic System and provide a copy of the screening report to the parties.
- (4) A screening report cannot be published or disclosed beyond the proceeding.

### **356.6—Assessment reports**

- (1) An assessment report must be in the prescribed form.
- Prescribed form—**  
Form YTO9 Youth Treatment Orders Assessment Report Template
- (2) An assessment report must be filed within 7 days following the making of the assessment order.

### **356.7—Treatment reports**

- (1) A treatment report must be in the prescribed form.
- Prescribed form—**  
Form YTO10 Youth Treatment Order Treatment Report Template
- (2) A treatment report must be filed within 7 days after the conclusion of the treatment.

### **356.8—Notification of detention order**

For the purposes of section 54D(6) of the Act, notification of the making of a detention order must be given to the Chief Executive of the Attorney-General's Department using the Electronic System, or in any other way determined to be appropriate by the Court or the Principal Registrar.

### **356.9—Review of detention orders**

- (1) For the purposes of section 54B(5) of the Act, the Court will specify how often a review is to be conducted when it makes a detention order and fix the date of the first review.
- (2) For the purposes of a review, the Court may require (from time to time) that one or more of the following occur—

- (a) a report from any assessment service or treatment service providing the assessment or treatment to the child be prepared and provided to the Court;
  - (b) the Chief Executive of a relevant department prepare and provide a report to the Court about any aspect of the health, wellbeing, care or treatment of the child;
  - (c) a party to the proceeding in which the detention order was issued take any step, or provide any report or other information, specified by the Court;
  - (d) any other action specified by the Court be taken.
- (3) A detention review report must be in the prescribed form.

**Prescribed form—**

Form YTO11 Detention Review Report Template

- (4) Any report or other material to be provided for the purpose of a review must be filed, and served on the parties to the review, at least 7 days before the next date set for the conduct of a review (unless the Court orders otherwise).

### **Division 3—Variation or revocation of orders**

#### **357.1—Applications for variation or revocation of orders**

- (1) An application for an order under section 54F of the Act, other than an application by a child, must be in the prescribed form.

**Prescribed form—**

Form YTO2 Originating Application – Vary or Revoke Order

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

**Prescribed form—**

Form 7 Affidavit

#### **357.2—Application by child**

- (1) An application for an order under section 54F of the Act by a child must be in the prescribed form.

**Prescribed form—**

Form YTO2A Originating Application – Vary or Revoke Order by a Child

- (2) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

**Prescribed form—**

Form 7 Affidavit

- (3) An application under this rule will not proceed until the leave of the Court has been granted under section 54F(2) of the Act.

#### **357.3—Procedures if Court initiates proposal for variation or revocation of order**

- (1) If the Court considers that it should make an order of its own motion under section 54F of the Act, the Court may—

- (a) adjourn the proceeding before the Court;
  - (b) direct the Principal Registrar to notify any person who is not appearing or represented in the proceeding before the Court, and who may have an interest in the matter, that the variation or revocation of the relevant order is under consideration;
  - (c) take steps to have any necessary report, assessment, information or material prepared, or step taken, including by setting a time for a directions hearing; and
  - (d) take steps to have the proceeding reconvened at an appropriate time.
- (2) Subrule (1) does not apply to the extent that the Court can address or deal with any matter as part of the proceeding before the Court at the relevant time.

### **357.4—Notice of proceeding**

For the purposes of section 54F(3) of the Act—

- (a) notice of the proceeding must be given to any person who was a party to the original proceeding; and
- (b) if a party who receives a notice under paragraph (a) wishes to be heard on the matter, the party must inform the Court of the party's intention to appear at least 2 business days before the date set for the hearing of the matter (unless the Court orders otherwise) in a manner determined or approved by the Court or by the Principal Registrar.

### **357.5—Directions hearings**

- (1) This rule applies in relation to the initiation of a proceeding before the Court for the variation or revocation of an order under section 54F of the Act (including where the proceeding has been initiated by the Court of its own motion under section 54F of the Act).
- (2) The matter will be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give one or more of the following directions:
  - (a) limiting the issues to be determined at the hearing;
  - (b) requiring the preparation of a report by an appropriately qualified and experienced addiction medicine professional, nominated by the Court, to provide evidence as to whether or not it would be appropriate to vary or revoke the order;
  - (c) arranging for the preparation, provision or production of any other report or the provision of any information;
  - (d) requiring or relating to the discovery, inspection and copying of evidentiary material;
  - (e) arranging for the attendance of the child;
  - (f) identifying the parties and other persons who may be heard on the matter;
  - (g) arranging for the calling of any witnesses;
  - (h) any other direction that may facilitate the hearing of the application before the Court.
- (4) Nothing in this rule limits any direction that may, in any event, be given before or at the hearing of any proceeding.

## **Division 4—Miscellaneous**

### **358.1—Reports must be current**

- (1) This rule applies in relation to a report of a medical practitioner for the purpose of—
  - (a) section 54D(2)(a) of the Act; or
  - (b) a review under section 54B(5) of the Act.
- (2) Unless otherwise ordered by the Court, an assessment by an appropriately qualified and experienced addiction medicine professional must have been undertaken no more than 14 days before the date of the relevant hearing or review proceeding.

### **358.2—Application for interlocutory order**

An application for an interlocutory order must be in the prescribed form.

**Prescribed form—**

Form YTO3 Interlocutory Application

### **358.3—Material supporting applications—other requirements**

- (1) This rule applies in addition to any requirement under these Rules to provide an affidavit or affidavits in support of an application.
- (2) Leave to file relevant further material may be given at any stage of the proceeding and, unless the Court orders otherwise, must be served on the other parties at least 2 business days before the next date for the hearing of the proceeding.

### **358.4—General rules about service**

- (1) An order or other document to be served on a child who is subject to detention in a training centre may be served personally on the child at Court or by the Sheriff's Office.
- (2) In addition, service of an application, order or other document on a person under these Rules may be undertaken by—
  - (a) personal service;
  - (b) posting it to the person at the person's last known place of residence or employment;
  - (c) sending it by email to an email address provided by the person (in which case the application will be taken to be served at the time of sending); or
  - (d) in any other manner authorised by the Court.
- (3) The Court will not hear an application to vary or discharge an order under Part 7A of the Act unless each party served with the application has had at least 7 days' notice of the hearing.
- (4) Subject to the requirements of the Act, the Court may dispense with service of an application, order or other document if the Court considers that there is a proper or sufficient reason to do so.

### 358.5—Orders

- (1) A record of outcome of the hearing of an application for a youth treatment order or to vary or revoke a youth treatment order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (2) If the Court makes a youth treatment order or varies or revokes a youth treatment order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form YTO5 Order – Youth Treatment Order or Vary or Revoke Order

- (3) A record of outcome of the hearing of an application for an interim youth treatment order must be in the prescribed form.

**Prescribed form—**

Form 91 Record of Outcome

- (4) If the Court makes an interim youth treatment order, the Court will issue a formal order in the prescribed form.

**Prescribed form—**

Form YTO7 Order – Interim Order and Summons

## Part 6—Appeals

### 359.1—Application of Part

- (1) This Part applies to appeals to the Judge against an interlocutory judgment given by a Magistrate under section 22(2)(b)(i) of the *Youth Court Act 1993*.

### 359.2—Time to appeal

- (1) An appeal must be instituted within 21 days after the date of the judgment, decision or order the subject of the appeal.
- (2) If an extension of time to appeal is required—
- (a) the appeal must be instituted in the ordinary way in accordance with rule 359.3;
  - (b) the notice of appeal must seek the necessary extension of time; and
  - (c) the application for an extension of time must be supported by an affidavit explaining why the appeal was not instituted earlier and within time.
- (3) The Court may order that the question of an extension of time to appeal be heard before the hearing of the appeal.
- (4) Unless an order is made under subrule (3), the application for an extension of time to appeal and the appeal will be heard at the same time.

### 359.3—Institution of appeal

- (1) An appeal must be instituted by filing a notice of appeal in the prescribed form

**Prescribed form—**

Form G6 Appeal from Interlocutory Judgment of Magistrate

- (2) Unless the Court otherwise orders, an appellant may not rely on grounds that are not stated in the notice of appeal.

- (3) If a notice of appeal seeking an extension of time to appeal is filed under this Part—
  - (a) the institution of the appeal is conditional on an extension of time to appeal being granted; and
  - (b) the appeal will lapse if an extension of time to appeal is refused.

### **359.4—Service of notice of appeal**

The appellant must serve the notice of appeal on each other party to the appellate proceeding as soon as practicable.

### **359.5—Hearing**

- (1) Subject to any statutory provision to the contrary—
  - (a) an appeal is to be by way of rehearing;
  - (b) the Court may draw inferences from evidence adduced in the proceeding at first instance; and
  - (c) the Court may hear further evidence in its discretion.
- (2) The Court may, if it considers that it is in the interests of justice to do so, determine an appellate proceeding on the merits notwithstanding a failure of a party to raise or properly state a contention in an appellate document or written submissions.

### **359.6—Determination**

Subject to any statutory provision to the contrary, on an appeal the Court may—

- (a) set aside or amend the judgment or order the subject of an appeal;
- (b) substitute the Court’s own judgment or order;
- (c) remit the matter for rehearing or reconsideration;
- (d) dismiss the appeal;
- (e) make orders for the costs of an appellate proceeding or costs at first instance; or
- (f) make such other or further order for the disposition of the appellate proceeding as it thinks fit.

## **Chapter 9—Appellate proceedings**

### **Part 1—General**

#### **371.1—Application of Uniform Civil Rules**

Subject to rule 371.2 and Chapter 8 Part 6, all appellate proceedings in respect of judgments, orders or decisions governed by these Rules are governed by Chapter 18 of the Uniform Civil Rules.

#### **371.2—Costs of appeals to single Judges: Supreme Court**

- (1) Costs in an appellate proceeding heard and determined by a single Judge of the Supreme Court when the Court has power to order costs are in the discretion of the Court.
- (2) The general rule is that costs follow the event and in the ordinary case costs fixed at \$750 plus the appeal filing fee will be awarded in favour of a successful appellant and costs fixed at \$750 will be awarded in favour of a successful respondent.

- (3) The general rule that costs follow the event is subject to the discretion of the Court.

**Examples—**

1. When the appellant succeeds on part of, or an issue on, the appellate proceeding but fails on another.
  2. When a party is guilty of misconduct in relation to the proceeding at first instance or the appellate proceeding.
  3. When a party adopts an unreasonable position on the appellate proceeding.
- (4) If a party intends to apply for costs in an amount other than that reflected in subrule (2), that party must make an application at the outset of the hearing of the appellate proceeding.
- (5) On an application under subrule (4), the Court may fix a different amount for the purpose of paragraph (2) that will generally apply regardless of which party is successful or may make any other order that the Court thinks fit.

**Examples—**

1. An application might be based on the complexity of the appellate proceeding requiring especially extensive preparation for the hearing.
  2. An application might be based on the appellate proceeding being listed for an especially lengthy hearing.
  3. An application might be based on the reasonable retention of senior counsel to argue the appellate proceeding.
- (6) The Court may, if it thinks fit, dispense with the requirement in subrule (4) that an application for costs in an amount other than that reflected in subrule (2) must be made at the outset of the hearing of the appellate proceeding.

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Form 72—Warrant of Remand or Mandate

Form 72PD—Warrant of Remand or Mandate – Persona Designata  
 Form 73A—Subpoena to Attend to Give Evidence (Supreme and District Courts)  
 Form 73B—Subpoena to Attend to Give Evidence (Magistrates and Youth Courts)  
 Form 74A—Subpoena to Produce Documents (Supreme and District Courts)  
 Form 74B—Subpoena to Produce Documents (Magistrates and Youth Courts)  
 Form 75A—Subpoena to Attend and Produce (Supreme and District Courts)  
 Form 75B—Subpoena to Attend and Produce (Magistrates and Youth Courts)  
 Form 76—List of Documents

## **6—Discontinuance**

Form 81—Notice of Discontinuance  
 Form 82—Withdrawal Notice – Fortification Removal Order  
 Form 83—Notice of Revocation of Police-Issued Interim Intervention Order

## **7—Final order**

Form 91—Record of Outcome  
 Form 91PD—Record of Outcome – Persona Designata  
 Form 92—Order  
 Form 92A—Order – Ageing and Adult Safeguarding Order  
 Form 92AA—Order – Intervention Order – Registration of Foreign Intervention Order  
 Form 92AB—Order – Intervention Order Problem Gambling Order Tenancy Order or Attachment Order  
 Form 92AC—Order – Intervention Orders Act – Extension of Detention  
 Form 92AD—Order – Mental Impairment Continuing Supervision Order  
 Form 92AE—Order – Non Association and or Place Restriction Order and Acknowledgment  
 Form 92AF—Order – Paedophile Restraining Order and Acknowledgment  
 Form 92AG—Order – Problem Gambling Family Protection Act Review  
 Form 92AH—Order – Spent Conviction or Exemption Order  
 Form 92AI—Order – Summary Offences Act – Authorisation to Undertake Forensic Activity  
 Form 92AJ—Order – Summary Offences Act – Extend Period of Detention Prior to Delivery to Police Station  
 Form 92AK—Order – Summary Offences Act – Fortification Removal Order  
 Form 92AL—Order – Summary Offences Act – Temporary Removal from Custody  
 Form 92AM—Order – Uncontrolled Sexual Instincts Detention Order  
 Form 92AN—Order – Uncontrolled Sexual Instincts Release on Licence or Discharge and Acknowledgment

- Form 92ANA—Order – Serious Child Sex Offender – Release on Licence or Extinguishment of Sentence and Acknowledgement
- Form 92AO—Order – Vehicle Clamping Act – Extension of Clamping, Credit Provider Relief
- Form 92AP—Order – To Provide Information or Assistance to Access Data
- Form 92AQ—Order – Prisoners (Interstate Transfer) Act – Interstate Transfer Order
- Form 92AR—Order—Extradition International – Transfer Interstate
- Form 92AS—Order—Extradition New Zealand – Release and Discharge
- Form 92AT—Order – Asset Confiscation Freezing Order – State
- Form 92AU—Order – Asset Confiscation Freezing Order – Commonwealth
- Form 92B—Order – Animal Welfare Act Disposal of Animal
- Form 92C—Order – Asset Confiscation Assist Executing a Warrant
- Form 92CD—Community Safety Detention Order
- Form 92CS—Community Safety Supervision Order
- Form 92D—Order – Asset Confiscation Examination and Production
- Form 92DSG—Order – Declared Street Gang
- Form 92EC—Order – Asset Confiscation Production Order Commonwealth
- Form 92ES—Order – Asset Confiscation Production Order State
- Form 92F—Order – Bail Grant
- Form 92G—Order – Bail Refusal
- Form 92H—Order – Bail Variation
- Form 92I—Order – Child Protection Restraining Order and Acknowledgment
- Form 92J—Order – Child Sex Registrable Offender Control Order
- Form 92K—Order – Correctional Services Act – Parolee Detention or Release
- Form 92L—Order – Crimes Act – Extend Period of Detention
- Form 92M—Order – Customs Act – Detention
- Form 92N—Order – Customs Act – Renewal of Detention
- Form 92O—Order – Extradition International – Commitment to Await Transfer (Section 33A)
- Form 92P—Order – Extradition International – Commitment to Await Transfer (Section 34)
- Form 92PD—Order – Persona Designata
- Form 92Q—Order – Extradition International – Determination of Eligibility for Surrender
- Form 92R—Order – Extradition International – Release and Discharge
- Form 92S—Order – Extradition International – Surrender by Consent and Bail
- Form 92SG—Order –Street Gang Control Order and Acknowledgement

- Form 92T—Order – Extradition Interstate – Subject to be Remanded on Bail to Appear in Another State
- Form 92U—Order – Extradition Interstate – Subject to be Taken in Custody to Another State
- Form 92V—Order – Fines Enforcement Act – Community Service Order and or Approved Treatment Program
- Form 92W—Order – Fines Enforcement Act – Exclude Property from Sale or Direct Proceeds of Sale
- Form 92Y—Order – Firearms Order
- Form 92Z—Order – High Risk Offenders – Extended Supervision Order
- Form 93A—Warrant of Commitment – Extradition International – To Await Surrender (Section 15A)
- Form 93B—Warrant of Commitment – Extradition International – To Await Surrender (Section 18(2))
- Form 93C—Warrant of Commitment – Extradition International – To Await Surrender (Section 19)
- Form 93EA—Surrender Warrant under Subsection 33A(2)
- Form 93D—deleted by No 3 Amending Rules 2024
- Form 93E— deleted by No 3 Amending Rules 2024
- Form 93F—Warrant of Commitment – Extradition – New Zealand – To Await Transfer (Section 34)
- Form 93FA—Surrender Warrant under Subsection 34(1)
- Form 93FB—Warrant of Committal under Subsection 33A(2)
- Form 93G—Warrant of Commitment – Extradition International – For Transport Through Australia
- Form 93H—Warrant of Commitment – Extradition International – For Transport Through Australia – Extension of Period
- Form 93I—Warrant of Commitment – Mental Impairment Continuing Supervision Order Detention
- Form 93J—Warrant of Commitment – Uncontrolled Sexual Instincts Extended Detention
- Form 93K—deleted by No 3 Amending Rules 2024
- Form 93L—Warrant of Commitment – Fines Enforcement Act
- Form 94—Bail Agreement
- Form 94A—Bail Agreement – Extradition
- Form 94B—Bail Agreement – Extradition Interstate
- Form 95—Guarantee of Bail
- Form 95A—Guarantee of Bail – Extradition
- Form 96A—Certificate – Extradition International – Evidence taken in Australia
- Form 96B—Certificate of Proper Notification – Intervention Orders Act

- Form 96C—Certificate for Victim of Identity Theft – State
- Form 96D—Certificate for Victim of Identity Theft – Cth
- Form 97A—Notice of Order – Bail Stay of Release on Application for Review
- Form 97B—Notice of Order – Intervention Orders Act Order
- Form 97C—Notice of Order – Intervention Orders Act – Nationally Recognised Domestic Violence Order
- Form 97D—Notice of Order – Intervention Orders Act – Registration of Foreign Intervention Order
- Form 97E—Notice of Order – Lifting or Reduction of Licence Disqualification or Suspension

## **8—Warrant as Final Order**

- Form 101—Search Warrant – SA
- Form 101AA—Search Warrant – Adelaide Dolphin Sanctuary Act
- Form 101AB—Search Warrant – Agricultural and Veterinary Products (Control of Use) Act
- Form 101AC—Search Warrant – Air Transport (Route Licensing – Passenger Services) Act
- Form 101AD—Search Warrant – Animal Welfare Act
- Form 101AE—Search Warrant – Architectural Practice Act
- Form 101AF—Search Warrant – Australian Crime Commission Act
- Form 101AG—Search Warrant – Authorised Betting Operations Act
- Form 101AH—Search Warrant – Burial and Cremation Act
- Form 101AI—Search Warrant – Children and Young People (Safety) Act
- Form 101AJ—Search Warrant – Collections for Charitable Purposes Act
- Form 101AK—Search Warrant – Controlled Substances Act
- Form 101AL—Search Warrant – Co-operatives National Law (South Australia) Act
- Form 101AM—Search Warrant – Criminal Assets Confiscation Act
- Form 101AN—Search Warrant – Criminal Investigation (Extraterritorial Offences) Act – made personally
- Form 101AO—Search Warrant – Criminal Investigation (Extraterritorial Offences) – made by telephone
- Form 101AP—Search Warrant – Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act
- Form 101AQ—Search Warrant – Dangerous Substances Act
- Form 101AR—Search Warrant – Education and Early Childhood Services (Registration and Standards) Act
- Form 101AS—Search Warrant – Electoral Act
- Form 101AT—Search Warrant – Electricity Act
- Form 101AU—Search Warrant – Energy Products (Safety and Efficiency) Act

- Form 101AV—Search Warrant – Environment Protection Act
- Form 101AW—Search Warrant – Fire and Emergency Services Act
- Form 101AX—Search Warrant – Firearms Act
- Form 101AY—Search Warrant – First Home and Housing Construction Grants Act
- Form 101AZ—Search Warrant – Fisheries Management Act
- Form 101BA—Search Warrant – Food Act
- Form 101BB—Search Warrant – Gas Act
- Form 101BC—Search Warrant – Gene Technology Act
- Form 101BD—Search Warrant – Health and Community Services Complaints Act
- Form 101BE—Search Warrant – Health Practitioner Regulation National Law (South Australia) Act
- Form 101BF—Search Warrant – Heavy Vehicle National Law (South Australia) Act
- Form 101BG—Search Warrant – Heritage Places Act
- Form 101BH—Search Warrant – Historic Shipwrecks Act
- Form 101BI—Search Warrant – Housing Improvement Act
- Form 101BJ—Search Warrant – Hydroponics Industry Control Act
- Form 101BK—Search – Independent Commissioner Against Corruption Act
- Form 101BL—Search Warrant – Independent Commissioner Against Corruption Act Inspector
- Form 101BM—Search Warrant – Landscape South Australia Act
- Form 101BN—Search Warrant – Legal Practitioners Act
- Form 101BO—Search Warrant – Livestock Act
- Form 101BP—Search Warrant – Local Government Act
- Form 101BQ—Search Warrant – Local Nuisance and Litter Control Act
- Form 101BR—Search Warrant – Lottery and Gaming Act
- Form 101BS—Search Warrant – Marine Parks Act
- Form 101BT—Search Warrant – Marine Safety (Domestic Commercial Vessel) National Law (Application) Act
- Form 101BU—Search Warrant – Motor Vehicles Act
- Form 101BV—Search Warrant – National Electricity (South Australia) Act
- Form 101BW—Search Warrant – Offshore Minerals Act
- Form 101BX—Search Warrant – Passenger Transport Act
- Form 101BY—Search Warrant – Petroleum (Submerged Lands) Act
- Form 101BZ—Search Warrant – Petroleum Products Regulation Act
- Form 101CA—Search Warrant – Planning and Development Infrastructure Act
- Form 101CB—Search Warrant – Primary Produce (Food Safety Schemes) Act

- Form 101CC—Search Warrant – Prohibition of Human Cloning for Reproduction Act and Research Involving Human Embryos Act
- Form 101CD—Search Warrant – Rail Safety National Law (South Australia) Act
- Form 101CE—Search Warrant – River Murray Act
- Form 101CF—Search Warrant – Road Traffic Act
- Form 101CG—Search Warrant – Safe Drinking Water Act
- Form 101CH—Search Warrant – Second-hand Dealers and Pawnbrokers Act
- Form 101CI—Search Warrant – Serious and Organised Crime (Unexplained Wealth) Act
- Form 101CJ—Search Warrant – South Australian Public Health Act
- Form 101CK—Search Warrant – Tattooing Industry Control Act
- Form 101CL—Search Warrant – Taxation Administration Act
- Form 101CM—Search Warrant – Tobacco and E-Cigarette Products Act
- Form 101CN—Search Warrant – Transplantation and Anatomy Regulations
- Form 101CO—Search Warrant – Veterinary Practice Act
- Form 101CP—Search Warrant – Water Industry Act
- Form 101CQ—Search Warrant – Work Health and Safety Act
- Form 101PD—Search Warrant – Persona Designata
- Form 102—Search Warrant – Cth
- Form 102AAI Investigation Warrant - Aged Care Act (Cth)
- Form 102AAM Monitoring Warrant - Aged Care Act (Cth)
- Form 102AB—Search Warrant – Agricultural and Veterinary Chemicals (Administration) Act (Cth)
- Form 102AC—Search Warrant – Agricultural and Veterinary Chemicals Code Act (Cth)
- Form 102AD—Search Warrant – Airports Act (Cth)
- Form 102AE—Search Warrant – Anti-money Laundering and Counter-terrorism Financing Act (Cth)
- Form 102AF—Search Warrant – Anti-personnel Mines Convention Act (Cth)
- Form 102AG—Search Warrant – Australian Crime Commission Act (Cth) – s 22
- Form 102AH—deleted by No 3 Amending Rules 2024
- Form 102AI—Search Warrant – Australian Meat and Live-stock Industry Act (Cth)
- Form 102AJ—Search Warrant – Australian Radiation Protection and Nuclear Safety Act (Cth)
- Form 102AK—Search Warrant – Australian Securities and Investments Commission Act (Cth)
- Form 102AL—Search Warrant – Automotive Transformation Scheme Act (Cth)
- Form 102AMAP Adjacent Premises Warrant - Biosecurity Act (Cth)

- Form 102AMCO Control Order Warrant - Biosecurity Act (Cth)
- Form 102AMCP Conveyance Possession Warrant - Biosecurity Act (Cth)
- Form 102AMI Investigation Warrant - Biosecurity Act (Cth)
- Form 102AMM Monitoring Warrant - Biosecurity Act (Cth)
- Form 102AMMZ Monitoring Zone Warrant- Biosecurity Act (Cth)
- Form 102AMPP Premises Possession Warrant- Biosecurity Act (Cth)
- Form 102AMRA Risk Assessment Warrant - Biosecurity Act (Cth)
- Form 102AMRZ Response Zone Warrant- Biosecurity Act (Cth)
- Form 102AN—Search Warrant – Building Energy Efficiency Disclosure Act (Cth)
- Form 102AO—Search Warrant – Carbon Credits (Carbon Farming Initiative) Act (Cth)
- Form 102AP—Search Warrant – Chemical Weapons (Prohibition) Act (Cth)
- Form 102AQ—Search Warrant – Civil Aviation Act (Cth)
- Form 102AR—Search Warrant – Competition and Consumer Act (Cth)
- Form 102AS—Search Warrant – Crimes Act (Cth)
- Form 102AT—Search Warrant – Customs Act (Cth)
- Form 102AUI Investigation Warrant - Education Services for Overseas Students Act (Cth)
- Form 102AUM Monitoring Warrant - Education Services for Overseas Students Act (Cth)
- Form 102AV—Search Warrant – Environment Protection and Biodiversity Conservation Act (Cth)
- Form 102AW—Search Warrant – Excise Act (Cth)
- Form 102AXAP Adjacent Premises Warrant - Export Control Act (Cth)
- Form 102AXI Investigation Warrant - Export Control Act (Cth)
- Form 102AXM Monitoring Warrant - Export Control Act (Cth)
- Form 102AY—Search Warrant – Extradition Act (Cth) – s 14(1)
- Form 102AZ—Search Warrant – Extradition Act (Cth) – s 31(1)
- Form 102BA—Search Warrant – Fisheries Management Act (Cth)
- Form 102BB—Search Warrant – Fuel Quality Standards Act (Cth)
- Form 102BC—Search Warrant – Gene Technology Act 2000 (Cth)
- Form 102BD—Search Warrant – Human Services (Medicare) Act (Cth)
- Form 102BE—deleted by No 3 Amending Rules 2024
- Form 102BF—Search Warrant – Migration Act (Cth)
- Form 102BG—Search Warrant – Mutual Assistance in Criminal Matters (Cth)
- Form 102BH—Search Warrant – National Vocational Education and Training Regulator Act (Cth)

- Form 102BI—Search Warrant – Ozone Protection and Synthetic Greenhouse Gas Management Act (Cth)
- Form 102BJ—Search Warrant – Proceeds of Crime Act (Cth)
- Form 102BK—Search Warrant – Protection of Movable Cultural Heritage Act (Cth)
- Form 102BL—deleted by No 3 Amending Rules 2024
- Form 102BM—Search Warrant – Renewable Energy (Electricity) Act (Cth)
- Form 102BN—Search Warrant – Seafarers Rehabilitation and Compensation Levy Collection Act (Cth)
- Form 102BO—Search Warrant – Therapeutic Goods Act (Cth)
- Form 102BP—Search Warrant – Water Efficiency Labelling and Standards Act (Cth)
- Form 102BQ—Investigation Warrant – Radiocommunications Act (Cth)
- Form 102BR—Monitoring Warrant – Radiocommunications Act (Cth)
- Form 102BS—Transmitter Access Warrant – Radiocommunications Act (Cth)
- Form 103A—Surveillance Warrant – Surveillance Devices Act
- Form 103B—Surveillance Warrant – Surveillance Devices Act – Varied or Extended
- Form 104A—Monitoring Order – Asset Confiscation
- Form 104AC—Monitoring Order – Asset Confiscation Commonwealth
- Form 104AS—Monitoring Order – Asset Confiscation State
- Form 104B—Monitoring Order – Serious and Organised Crime (Unexplained Wealth) Act
- Form 105—Apprehension Warrant
- Form 105A—Apprehension Warrant – Extradition International
- Form 105B—Apprehension Warrant – Extradition – New Zealand
- Form 105C—deleted by No 3 Amending Rules 2024
- Form 105D—Apprehension Warrant – Forensic Procedure
- Form 105EC—Apprehension Warrant – —Apprehension Warrant – Commonwealth Anti-Corruption Act
- Form 105ES—Apprehension Warrant—State Anti-Corruption Act
- Form 105F—Apprehension Warrant – ACC Act
- Form 105G—Apprehension Warrant – Commonwealth ACC Act
- Form 106—Warrant – Animal Welfare Act Destruction or Disposal
- Form 107A—Journalist Information Warrant
- Form 107B—Stored Communication Warrant – Domestic
- Form 107C—Stored Communication Warrant – International
- Form 108—Miscellaneous Warrant

## **9—Variation**

- Form 111—Originating Application to Vary or Revoke Order

- Form 111A—Originating Application to Vary or Revoke Order – Child Sex Registrable Offender Control Order
- Form 111B—Originating Application to Vary or Revoke Order – Community Service Order or Approved Treatment Program Order
- Form 111C—Originating Application to Vary or Revoke Order – High Risk Offenders Continuing Detention Order
- Form 111D—Originating Application to Vary or Revoke Order – High Risk Offenders Extended Supervision Order
- Form 111D—Originating Application to Vary or Revoke Order – High Risk Offenders Extended Supervision Order
- Form 111—Originating Application to Vary or Revoke Order
- Form 111E—Originating Application to Vary or Revoke Order – Non-Association Order and or Place Restriction Order
- Form 111E—Originating Application to Vary or Revoke Order – Non-Association Order and or Place Restriction Order
- Form 111F—Originating Application to Vary or Revoke Order – Restraining Order
- Form 111F—Originating Application to Vary or Revoke Order – Restraining Order
- Form 111RD—Originating Application To Revoke Declaration
- Form 111SG—Originating Application To Vary or Revoke Order
- Form 112A—Interlocutory Application to Vary or Revoke Order – Intervention Order
- Form 112B—Affidavit of Person other than Protected Person – Support Application to Vary or Revoke Intervention Order
- Form 112C—Affidavit of Person other than Protected Person – Support Application to Vary of Revoke Intervention Order
- Form 112D— Interlocutory Application to Vary or Revoke Order - Interim Supervision Order
- Form 113A—Multilingual Notice – Variation or Revocation of Order
- Form 113B—Multilingual Notice – Variation or Revocation of Intervention Order
- Form 114—Record of Outcome [Variation or Revocation]
- Form 114AA—Record of Outcome [Revocation of Interim Variation of Intervention Order]
- Form 114B—Record of Outcome [Variation or Revocation of Intervention Order]
- Form 115—Order for Variation or Revocation
- Form 115A—Order for Interim Variation of Intervention Order
- Form 115AA—Order for Revocation of Interim Variation of Final Intervention Order
- Form 115B—Order for Final Variation or Revocation of Intervention or Problem Gambling Order
- Form 115C—Order for Revocation – Revocation of Community Service Order or Approved Treatment Program Order and Restoration of Monetary Amount

Form 115D—Order for Variation or Revocation of Child Sex Registrable Offender Control Order

Form 115E—Order for Variation or Revocation of Continuing Detention Order

Form 115F—Order for Variation or Revocation of Extended Supervision Order

Form 115G—Order for Variation or Revocation of Non-Association Order and Place Restriction Order

Form 115H—Order for Variation or Revocation of Restraining Order

Form 115RD—Order – Revoke Declaration

Form 115SG—Order For Variation or Revocation – Street Gang Control Order

Form 116—Bail Agreement Variation

Form 116SG—Order For Interim Variation – Street Gang Control Order

## **10—Enforcement**

Form 121—Originating Application for Enforcement

Form 122—Originating Application and Notice of Referral – High Risk Offenders – Continuing Detention

Form 123 Record of Outcome

Form 124A—Order – High Risk Offenders Act – Interim Detention

Form 124B—Order – High Risk Offenders – Continuing Detention

Form 125A—Warrant of Interim Detention – High Risk Offenders

Form 125B—Warrant of Detention – High Risk Offenders

Form 126—Warrant of Apprehension of Subject

## **11—Youth Court—Care and Protection**

Form CP1—Originating Application – Care and Protection Order

Form CP2—Originating Application – Vary, Revoke or Discharge Care and Protection Order

Form CP2A—Originating Application – Vary, Revoke, Extend or Discharge Instrument of Guardianship

Form CP2B—Originating Application – Extend or Revoke Restraining Notice

Form CP3—Notice – Lodgement of [Instrument of Guardianship or Restraining Notice or Interstate Order]

Form CP4—Affidavit

Form CP5—Interlocutory Application – Interested Person to be Heard

Form CP6—Interlocutory Application

Form CP7—Response

Form CP8—Undertaking

Form CP9—Affidavit of Service

Form CP10—Order – Care and Protection Order

Form CP12—Order – Instrument of Guardianship or Restraining Notice or Interstate Order or Review of Transfer or Revocation of Registration or Transfer of Order or Proceedings

Form CP14—Originating Application – Review of Transfer of Child Protection Order to a Participating State

Form CP15—Originating Application – Transfer of Child Protection Order or Proceeding to a Participating State

Form CP16—Originating Application – Revocation of Registration of Child Protection Order or Proceeding

Form CP17—List of Documents

Form G6—Appeal from Interlocutory Judgment of Magistrate or Special Justice

## **12—Youth Court—Adoption**

Form A1—Originating Application

Form A2—Originating Application – Discharge Adoption Order

Form A3—Originating Application – Recognition of an Adoption Order Made Outside Australia

Form A4—Interlocutory Application

Form A5—Affidavit

Form A6—Response

Form A7—Originating Application – Dispense with or Recognise the Validity of Consent

Form A8—Interlocutory Application – Order of the Court

Form A10—Order – Adoption

Form A11—Notice to Births Deaths and Marriages

Form G6—Appeal from Interlocutory Judgment of Magistrate or Special Justice

## **13—Youth Court—Surrogacy**

Form S1—Originating Application – Order as to Parentage of a Child Born Under a Recognised Surrogacy Agreement

Form S2—Originating Application – Discharge Order as to Parentage of a Child Born Under a Recognised Surrogacy Agreement

Form S3—Interlocutory Application

Form S4—Affidavit

Form S5—Interlocutory Application – Leave to Intervene

Form S6—Order – Surrogacy

Form S7—Notice to Births Deaths and Marriages

Form S9—Response to Application to Revoke Order

Form G6—Appeal from Interlocutory Judgment of Magistrate or Special Justice

## **14—Youth Court—Youth Treatment Orders**

- Form YTO1— Originating Application – Youth Treatment or Assessment or Detention Order
- Form YTO2—Originating Application – Vary or Revoke Order
- Form YTO2A—Originating Application – Vary or Revoke Order by a Child
- Form YTO3—Interlocutory Application
- Form YTO5—Order – Youth Treatment Order or Vary Revoke Order
- Form YTO7—Order – Interim Order and Summons
- Form YTO8—Youth Treatment Orders Screening Template
- Form YTO9—Youth Treatment Order Assessment Report Template
- Form YTO10—Youth Treatment Order Report Template
- Form YTO11—Detention Review Report Template
- Form G6—Appeal from Interlocutory Judgment of Magistrate or Special Justice

## **15—Miscellaneous**

- Form 131—Generic
- Form 132—Formal Offer
- Form 133—Withdrawal of Formal Offer
- Form 134—Acceptance of Formal Offer
- Form 135—Response to Formal Offer
- Form 136—Claim for Costs
- Form 137—Response to Claim for Costs