



District Court Amendment (Judicial Registrar) Rule 2004

under the

District Court Act 1973

The District Court Rule Committee made the following rule of court under the *District Court Act 1973* on 17 August 2004.

A Grew
Secretary of the Rule Committee

Explanatory note

The object of this Rule is to insert a new Part 43A in the *District Court Rules 1973* to make provision with respect to the functions of the Judicial Registrar of the Court.

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Clause 1 District Court Amendment (Judicial Registrar) Rule 2004

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1 Name of Rule

This Rule is the *District Court Amendment (Judicial Registrar) Rule 2004*.

2 Amendment of District Court Rules 1973

The *District Court Rules 1973* are amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Part 43A

Insert after Part 43:

Part 43A Judicial Registrar

Division 1 General

1 Powers of the Judicial Registrar

- (1) For the purposes of section 18FB (1) of the Act, all of the powers of the Court are conferred on the Judicial Registrar other than:
 - (a) any of the powers of the Court in its criminal jurisdiction, or
 - (b) the power of the Court to deal with contempt of Court.
- (2) Subrule (1) (b) does not prevent the Judicial Registrar from reporting to the Court constituted by a Judge any allegation of contempt of the Court.

2 Reference of matter to the Court

The Judicial Registrar may, of his or her own motion or on application by a party, refer any proceedings before the Judicial Registrar to the Court constituted by a Judge.

3 Court may order removal of proceedings from Judicial Registrar

The Court constituted by a Judge may, before the conclusion of any proceedings before the Judicial Registrar (other than proceedings for an interlocutory order) and on application by a party, order that the proceedings be removed into the Court as so constituted.

4 Court may dispose of matter referred by or removed from Judicial Registrar

If proceedings are referred to the Court constituted by a Judge under rule 2 or removed into the Court under rule 3, the Court may:

- (a) hear and determine any matter in the proceedings that was before the Judicial Registrar, or

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Schedule 1 Amendment

- (b) determine any question arising in the proceedings and remit the proceedings to the Judicial Registrar with such directions as the Court thinks fit.

Division 2 Setting aside or varying judgments and orders of Judicial Registrar

5 Definitions

In this Division:

application means an application (other than a cross-application) made to the Court for an order under section 18FB (2) of the Act varying or setting aside a judgment given, or an order (other than an interlocutory order) made, by the Judicial Registrar.

cross-application means an application made under rule 11 (1).

6 Making of applications

- (1) An application for an order under section 18FB (2) of the Act is to be made by way of a notice of motion.
- (2) An application must be made within 28 days after the date on which the Judicial Registrar gave the judgment, or made the order, that is the subject of the application.

7 Contents of notice of motion

A notice of motion for the purposes of rule 6 (1) must state:

- (a) whether the application relates to the whole or part only, and what part, of the decision of the Judicial Registrar, and
- (b) briefly, but specifically, the grounds relied on in support of the application, and
- (c) what judgment or order the applicant seeks in place of the judgment or order of the Judicial Registrar.

8 Service of notice of motion

The applicant must, within 5 days after the date of filing of the notice of motion for the purposes of rule 6 (1), serve the notice of motion on each respondent.

9 Evidence

- (1) Oral evidence is not to be adduced on an application except by leave of the Court.

- (2) An applicant who seeks leave under subrule (1) must serve any affidavits on each respondent not more than 7 days after the making of the application containing such evidence.

10 Effect of application

- (1) An application does not:
 - (a) operate as a stay of execution or of proceedings under the decision of the Judicial Registrar, or
 - (b) invalidate any intermediate act or proceedings, except so far as the Court may direct or, subject to any direction of the Court, as the Judicial Registrar may direct.
- (2) If any step has been taken for the enforcement of a judgment or order of the Judicial Registrar and the Court sets aside or varies the judgment or order on an application, the Court may make such orders for reinstatement as the Court thinks fit.

11 Cross-applications

- (1) If a respondent to an application in respect of any judgment or order of a Judicial Registrar wishes to apply to set aside or vary the whole or any part of the judgment or order, the respondent must file a notice of motion.
- (2) A notice of motion by a respondent must be filed within 21 days after service of the notice of motion of the applicant on the respondent.
- (3) Subject to subrules (1), (2) and (4), the provisions of this Division relating to an application apply to a cross-application as if the cross-application were an application.
- (4) Rule 6 does not apply to a cross-application.

12 Notice of contention

If a respondent to an application wishes to contend that the judgment or order of the Judicial Registrar that is the subject of the application should be affirmed on grounds other than those relied on by the Judicial Registrar, but does not seek a discharge or variation of any part of the decision of the Judicial Registrar, the respondent need not file a notice of motion but must, within 28 days after service of the notice of motion of the applicant on the respondent, give written notice of that contention stating briefly, but specifically, the grounds relied on in support of the contention.