

**Version No. 003**  
**Magistrates' Court (Judicial Registrars)**  
**Rules 2005**

**S.R. No. 166/2005**

Version incorporating amendments as at 10 August 2007

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The Chief Magistrate together with 2 Deputy Chief Magistrates jointly make the following Rules:

**1 Object**

The object of these Rules is to—

- (a) prescribe proceedings that may be dealt with by the Court constituted by a judicial registrar; and
- (b) delegate to judicial registrars some of the powers of the Court; and
- (c) establish a procedure for the review by the Court of a hearing and determination of a proceeding by a judicial registrar.

**2 Authorising provisions**

These Rules are made under sections 16 and 16I of the **Magistrates' Court Act 1989**.

**3 Commencement**

These Rules come into operation on 1 January 2006.

**4 Proceedings that may be dealt with by a judicial registrar**

(1) A judicial registrar may deal with and exercise all or any powers of the Court in any of the following proceedings—

Rule 4(1)(a)  
substituted by  
S.R. No.  
86/2007  
rule 4(1).

(a) in a civil proceeding, the power to make orders, including final orders, with the consent of the parties to the proceeding (except for a proceeding under the **Crimes (Family Violence) Act 1987** or the Family Law Act 1975 of the Commonwealth); and

Rule 4(1)(ab)  
inserted by  
S.R. No.  
86/2007  
rule 4(1).

(ab) a proceeding for an order to remove a prisoner from a prison and to have the prisoner brought before the Court under regulation 19(1) of the Corrections Regulations 1998<sup>1</sup>; and

Rule 4(1)(ac)  
inserted by  
S.R. No.  
86/2007  
rule 4(1).

(ac) subject to subrule (1A), a proceeding under sections 5, 6 and 7 of the **Instruments Act 1958**; and

Rule 4(1)(ad)  
inserted by  
S.R. No.  
86/2007  
rule 4(1).

(ad) a proceeding under section 5(1), 6(7)(b), 8, 13, 14 or 18 of the **Judgment Debt Recovery Act 1984**; and

(b) subject to subrule (2), a proceeding dealing with any article, thing or material brought before the Court under a search warrant in accordance with section 78(1)(b)(ii) of the **Magistrates' Court Act 1989**; and

(c) a complaint referred to arbitration in accordance with Division 2 of Part 5 of the **Magistrates' Court Act 1989**, provided that the amount of monetary relief sought is less than \$5000; and

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- (ca) the power of a registrar in a proceeding under Division 3 of Part 4 of the **Magistrates' Court Act 1989**; and
- Rule 4(1)(ca) inserted by S.R. No. 86/2007 rule 4(2).
- (cb) subject to subrule (1A), a proceeding under sections 95, 110, 128(1), (3) and (4) of the **Magistrates' Court Act 1989**; and
- Rule 4(1)(cb) inserted by S.R. No. 86/2007 rule 4(2).
- (d) a civil proceeding or part of a civil proceeding that has been referred under section 107(1) of the **Magistrates' Court Act 1989** to a magistrate or a registrar for a pre-hearing conference; and
- (e) a proceeding—
- Rule 4(1)(e) substituted by S.R. No. 86/2007 rule 4(3).
- (i) for an offence which is an infringement offence or a lodgeable infringement offence within the meaning of the **Infringements Act 2006**, except for a proceeding under section 49 of the **Road Safety Act 1986**; or
- (ii) under the **Infringements Act 2006** that is not a proceeding of a kind referred to in subparagraph (i), except for a proceeding under section 87(2), 107, 127(1), 128(1), 133(1), 139, 143(2), 155, 156(4) or (5), 160(1), (3) or (4), 161A or 167 of that Act; and
- (f) a proceeding involving the exercise of any power under the Magistrates' Court Civil Procedure Rules 1999<sup>2</sup> that a magistrate may exercise except—
- (i) Rule 27.05, if the value of the property or proceeds is \$5000 or more; and
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Rule 4(1)(fa)  
inserted by  
S.R. No.  
86/2007  
rule 4(4).

(ii) Rules 32.05(1), 35.04 and 35.05, apart from the power in Rule 35.05 in relation to inspection; and

(fa) an application under section 8 or 15 of the **Private Agents Act 1966**; and

(g) a proceeding under sections 50(4) (including the power referred to in section 50(4D)), 50AAA(2), (3), (3A) and 50AAB(4) of the **Road Safety Act 1986**.

Rule 4(1A)  
inserted by  
S.R. No.  
86/2007  
rule 4(5).

(1A) Subject to this Rule, the powers of a judicial registrar in a proceeding under section 74 of the **Infringements Act 2006**, section 6 of the **Instruments Act 1958** or section 95 or 110 of the **Magistrates' Court Act 1989** do not include a power to re-hear the proceeding.

Rule 4(2)  
substituted by  
S.R. No.  
86/2007  
rule 4(6).

- (2) The powers of a judicial registrar—
- (a) subject to paragraph (b), include a power to deal with and exercise all or any of the powers of a registrar under the Magistrates' Court Act 1989 and any other Act or the rules; and
  - (b) in a proceeding referred to in subrule (1)(b), do not include any powers referred to in section 16I(b)(i) of the **Magistrates' Court Act 1989**.

## 5 Review of decision of judicial registrar

- (1) A request under section 16K of the **Magistrates' Court Act 1989** for the review of the hearing and determination of a proceeding by the Court constituted by a judicial registrar must be in Form 1.
  - (2) The request must be accompanied by an affidavit that must state the reasons for the request.
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- (3) The request and the affidavit must be filed within 14 days after the day on which the order was made.
- (4) The Court may extend time under paragraph (3) before or after the time expires, whether or not a request for the review is made before the time expires.
- (5) The request for the review must be determined by the Court—
  - (a) after consideration of the request and the accompanying affidavit; and
  - (b) unless the Court otherwise directs, without notice to any person.

## **6 Stay**

- (1) The filing of a request referred to in Rule 5 does not operate as a stay of any order made by the Court constituted by a judicial registrar.
- (2) A party making the request may apply to the Court for a stay of any order made by a judicial registrar in the proceeding.

## **7 Direction for review to operate as stay of order of judicial registrar**

If the Court directs that the hearing and determination of a proceeding by the Court constituted by a judicial registrar be reviewed, the direction operates as a stay on any order made by the judicial registrar in the proceeding, unless the Court otherwise orders.

## **8 Notification of direction for review**

A person who obtains from the Court a stay of an order made by a judicial registrar must notify all other parties of the stay.

**SCHEDULE**

Rule 5(1)

**FORM 1**

In the Magistrates' Court of Victoria at [venue of Court] No.

In the matter of a request for a direction under section 16K of the **Magistrates' Court Act 1989**.

BETWEEN [name of party] [title of party e.g. Plaintiff or Defendant or Informant]

AND [name of party] [title of party]

**REQUEST FOR DIRECTION**

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Date of document:

Filed on behalf of the: [title of party]

Prepared by: [insert details]

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TAKE NOTICE that the abovementioned [title of party] requests, under section 16K of the **Magistrates' Court Act 1989**, a direction that the hearing and determination of this proceeding constituted by [name of judicial registrar], a judicial registrar, on [insert date] be reviewed by the Court constituted by a magistrate.

\*The order made by the judicial registrar in the proceeding was that [insert details of order made].

OR

\*A copy of the order made by the judicial registrar in the proceeding is attached [attach copy of order].

Dated:

(Signed by the party making the request  
or the party's solicitors)

\*Delete if inapplicable

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Magistrates' Court (Judicial Registrars) Rules 2005

S.R. No. 166/2005

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Dated: 15 December 2005

IAN LESLIE GRAY,  
*Chief Magistrate*

PETER HENRY LAURITSEN,  
*Deputy Chief Magistrate*

PAUL DOUGLAS GRANT,  
*Deputy Chief Magistrate*

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## ENDNOTES

### 1. General Information

The Magistrates' Court (Judicial Registrars) Rules 2005, S.R. No. 166/2005 were made on 15 December 2005 by the Chief Magistrate together with 2 Deputy Chief Magistrates jointly under sections 16 and 16I of the **Magistrates' Court Act 1989**, No. 51/1989 and came into operation on 1 January 2006: rule 3.

The Magistrates' Court (Judicial Registrars) Rules 2005 will sunset 10 years after the day of making on 15 December 2015 (see section 5 of the **Subordinate Legislation Act 1994**).

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**2. Table of Amendments**

This Version incorporates amendments made to the Magistrates' Court (Judicial Registrars) Rules 2005 by statutory rules, subordinate instruments and Acts.

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Magistrates' Court (Judicial Registrars) (Amendment) Rules 2007, S.R. No. 86/2007

*Date of Making:* 31.7.07

*Date of Commencement:* 1.8.07: rule 3

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### 3. Explanatory Details

<sup>1</sup> Rule 4(1)(ab): S.R. No. 52/1998. As amended by S.R. No. 14/2006.

<sup>2</sup> Rule 4(1)(f): S.R. No. 58/1999. Reprint No. 3 incorporating amendments as at 1 March 2005. Reprinted to S.R. No. 5/2005. Subsequently amended by S.R. No. 15/2005.