

Authorised Version

**Magistrates' Court Criminal Procedure
(Amendment No. 9) Rules 2018**

S.R. No. 29/2018

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Authorised Version

STATUTORY RULES 2018

S.R. No. 29/2018

Magistrates' Court Act 1989

Magistrates' Court Criminal Procedure (Amendment No. 9) Rules 2018

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

1 Object

The object of these Rules is to amend the Magistrates' Court Criminal Procedure Rules 2009 as a consequence of the commencement of the **Sex Offenders Registration Amendment (Miscellaneous) Act 2017** and the **Fines Reform Act 2014** and to make other minor amendments.

2 Authorising provisions

These Rules are made under section 16 of the **Magistrates' Court Act 1989** and all other enabling powers.

3 Commencement

These Rules come into operation on 13 March 2018.

4 Principal Rules

In these Rules, the Magistrates' Court Criminal Procedure Rules 2009¹ are called the Principal Rules.

5 Definitions

In Rule 6 of the Principal Rules, the definition of ***Infringements Court*** is **revoked**.

6 New Rule 30A inserted

After Rule 30 of the Principal Rules **insert—**

"30A Registration exemption orders

- (1) An application under section 11A of the Act must be in Form 56.
- (2) For the purposes of section 11D(1)(b) of the Act, the prescribed information is the information set out in Form 56.
- (3) An application under section 11A of the Act must be accompanied by an affidavit stating—
 - (a) the age of the applicant during the commission of the specified offence to which the application relates;
 - (b) the date on which the applicant first received notice of the applicant's reporting obligations;
 - (c) whether the applicant is—
 - (i) a registrable offender for any other registrable offence in Victoria;
 - (ii) a corresponding registrable offender; or
 - (iii) a New South Wales registrable offender; and
 - (d) to the best of the applicant's own knowledge—
 - (i) the age of any victim of the specified offence to which the application relates at the time of the commission of the specified offence;

- (ii) the age of any victim depicted or described in any material to which the specified offence relates; and
 - (iii) whether the specified offence was committed against more than one victim.
- (4) An application under section 11A of the Act must also be accompanied by a copy of the registration order if the application relates to a specified offence for which the applicant was sentenced by a court in a foreign jurisdiction.
- (5) In this Rule—
- corresponding registrable offender* has the same meaning as in the Act;
 - foreign jurisdiction* has the same meaning as in the Act;
 - New South Wales registrable offender* has the same meaning as in the Act;
 - registrable offence* has the same meaning as in the Act;
 - registrable offender* has the same meaning as in the Act;
 - reporting obligations* has the same meaning as in the Act;
 - the Act* means the **Sex Offenders Registration Act 2004**."

7 Order 10—Fines

In the heading to Order 10 of the Principal Rules omit "**INFRINGEMENTS COURT AND**".

8 Revocation of Part 1 of Order 10

Part 1 of Order 10 of the Principal Rules is **revoked**.

9 Revocation of heading to Part 2 of Order 10

The heading to Part 2 of Order 10 of the Principal Rules is **revoked**.

10 Definitions—Order 10

(1) In Rule 96 of the Principal Rules, for "In this Part" **substitute** "In this Order".

(2) In Rule 96 of the Principal Rules **insert** the following definition—

"declared director has the same meaning as in the **Fines Reform Act 2014**, and includes a director of a body corporate who was the subject of a declaration under section 91 of the **Infringements Act 2006** immediately before the repeal of Part 6 of that Act by section 240 of the **Fines Reform Act 2014**;"

(3) In Rule 96 of the Principal Rules, for the definition of *person in default* **substitute**—

"person in default means a person who has failed to pay a fine or an instalment order and includes a declared director;"

11 Form 1—Charge-sheet

In Form 1 of the Principal Rules, before
"Are there more charges?" (where twice
occurring) **insert**—

"Is this an
infringement
offence?"

Yes

No—See below

Enforcement
review

Enforcement
review—special
circumstances

**Infringements
Act 2006**
section 40

Other—specify".

12 Form 2—Continuation of charges

In Form 2 of the Principal Rules, before
"Are there more charge(s)?" **insert**—

"Is this an
infringement
offence?"

Yes

No—See below

Enforcement
review

Enforcement
review—special
circumstances

**Infringements
Act 2006**
section 40

Other—specify".

13 Form 3—Charge-sheet and summons

In Form 3 of the Principal Rules, before
"Are there more charges?" **insert**—

- "Is this an infringement offence?"
- | | |
|---|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No—See below |
| <input type="checkbox"/> Enforcement review | <input type="checkbox"/> Enforcement review—special circumstances |
| <input type="checkbox"/> Infringements Act 2006 section 40 | <input type="checkbox"/> Other—specify |

Date of service by the Director, Fines Victoria".

14 Form 4—Charge-sheet and summons (corporate accused)

In Form 4 of the Principal Rules, before
"Are there more charges?" **insert**—

- "Is this an infringement offence?"
- | | |
|---|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No—See below |
| <input type="checkbox"/> Enforcement review | <input type="checkbox"/> Enforcement review—special circumstances |
| <input type="checkbox"/> Infringements Act 2006 section 40 | <input type="checkbox"/> Other—specify". |

15 Form 46—Notice of application for direction that accused appear before court by audio visual link

In Form 46 of the Principal Rules, before "Date:"
insert—

"7. Have any previous applications been made?".

16 New Form 56 inserted

After Form 55 of the Principal Rules **insert**—

"FORM 56

Rule 30A

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

In the matter of:

APPLICATION FOR REGISTRATION EXEMPTION ORDER

TO: the Registrar of the Magistrates' Court

AND TO the Respondent: the Chief Commissioner of Police

Name of Applicant:

Address:

Date of birth:

Telephone number:

Email:

This application is in respect of the following offence: [*details of specified offence to which the application relates*]

The court reference in respect of the offence is: [*court reference number*]

The informant in respect of the offence was: [*name of informant*]

The offence was committed on: [*date*]

The sentence for that offence was imposed by [*Magistrate*] on [*date*] at [*place*]

This application is made on the grounds that: [*insert grounds*]

The acts, facts, matters and circumstances set out in the affidavit made on [*date of affidavit*] are relied on in support of this application.

The following other documents are attached in support of this application: [*list the documents; attach list if insufficient space*]

Signature of Applicant:

Date:

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This application is listed for hearing before the Magistrates' Court at [*place*]
at [*time*] *a.m./*p.m. on [*date*].

Date:

Registrar:

*delete if not applicable".

Dated: 9 March 2018

PETER LAURITSEN,
Chief Magistrate

JELENA POPOVIC,
Deputy Chief Magistrate

FRANZ HOLZER
Deputy Chief Magistrate

Endnotes

- ¹ Rule 4: S.R. No. 181/2009. Reprint No. 1 as at 4 December 2014.
Reprinted to S.R. No. 203/2014. Subsequently amended by
S.R. Nos 113/2015, 45/2016, 115/2016, 82/2017 and 9/2018.