

Authorised Version No. 009C
Magistrates' Court (Judicial Registrars)
Rules 2005

S.R. No. 166/2005

Authorised Version incorporating amendments as at
18 May 2015

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S.R. No. 166/2005

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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—

Magistrates' Court (Judicial Registrars) Rules 2005
S.R. No. 166/2005

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),
amended by
S.R. No.
119/2012
rule 5(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 20(1) of the Corrections Regulations 2009¹; 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),
amended by
S.R. No.
119/2012
rule 5(2).

(ad) a proceeding under section 5(1), 6(7)(b), 8, 13, 14, 17(2) or 18 of the **Judgment Debt Recovery Act 1984**; and

Rule 4(1)(b)
amended by
S.R. Nos
6/2010
rule 4(1)(b),
150/2011
rule 6(1).

(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

Rule 4(1)(c)
amended by
S.R. No.
119/2012
rule 5(3).

(c) a complaint referred to arbitration in accordance with Division 2 of Part 5 of the **Magistrates' Court Act 1989**; and

Rule 4(1)(ca)
inserted by
S.R. No.
86/2007
rule 4(2).

(ca) the power of a registrar in a proceeding under Division 3 of Part 4 of the **Magistrates' Court Act 1989**; and

(cb) subject to subrule (1A), a proceeding under sections 110, 128(1), (3) and (4) of the **Magistrates' Court Act 1989** and section 94(1) of the **Criminal Procedure Act 2009**; and

Rule 4(1)(cb)
inserted by
S.R. No.
86/2007
rule 4(2),
amended by
S.R. Nos
6/2010
rule 4(1)(a),
150/2011
rule 6(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 of the Court under the Magistrates' Court General Civil Procedure Rules 2010 other than a power of the Court under—

Rule 4(1)(f)
substituted by
S.R. No.
123/2011
rule 4.

(i) Rules 12.02 and 12.07, if the value of the property or proceeds is \$5000 or more; and

(ii) Rule 15.08(1); and

- (iii) Rule 37.01, other than the power in relation to the inspection of property; and
 - (iv) Rule 37.02; and
 - (v) Order 37A; and
 - (vi) Order 37B; and
 - (vii) Order 38; and
- Rule 4(1)(fa) inserted by S.R. No. 86/2007 rule 4(4), substituted by S.R. No. 119/2012 rule 5(4).
- (fa) an application for the grant of an indemnity certificate under section 17 of the **Appeal Costs Act 1998**, if the proceeding relates to the adjournment of a criminal proceeding by the Court constituted by that judicial registrar; and
- Rule 4(1)(fb) inserted by S.R. No. 119/2012 rule 5(4).
- (fb) an application for summary judgment under section 63 of the **Civil Procedure Act 2010**; and
- Rule 4(1)(fc) inserted by S.R. No. 179/2014 rule 4.
- (fc) a proceeding commenced by a Council for the recovery of a rate or charge under section 180 of the **Local Government Act 1989**; and
- Rule 4(1)(fd) inserted by S.R. No. 179/2014 rule 4.
- (fd) a proceeding under the **Fences Act 1968** if the amount claimed, or the value of the relief sought, is less than \$10 000; and
- Rule 4(1)(g) substituted by S.R. No. 120/2013 rule 4.
- (g) an application—
 - (i) under section 31B of the **Road Safety Act 1986** for a licence eligibility order, including the powers referred to in sections 31D, 31G and 31H and the power to give an alcohol interlock condition direction under section 50AAA(2) or (3) of that Act; and

(ia) under section 50AAAC(3) of the **Road Safety Act 1986** for a direction that the applicant was not responsible for a failed attempt to start a motor vehicle that failed because the alcohol interlock prevented the motor vehicle from being started as a result of it detecting alcohol; and

Rule 4(1)(g)(ia)
inserted by
S.R. No.
32/2015 rule 4.

(ii) under section 50AAB(4) of the **Road Safety Act 1986** for an alcohol interlock condition removal order.

(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**, section 94(1) of the **Criminal Procedure Act 2009** or section 110 of the **Magistrates' Court Act 1989** do not include a power to re-hear the proceeding.

Rule 4(1A)
inserted by
S.R. No.
86/2007
rule 4(5),
amended by
S.R. No.
6/2010
rule 4(2).

(2) The powers of a judicial registrar—

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

(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**.

(3) A judicial registrar may exercise all or any powers of the Court under section 59 of the **Criminal Procedure Act 2009** in a criminal proceeding for a summary offence or an indictable offence triable summarily.

Rule 4(3)
inserted by
S.R. No.
34/2009 rule 4,
amended by
S.R. No.
6/2010
rule 4(3).

Rule 4(4)
inserted by
S.R. No.
119/2012
rule 5(5).

(4) A judicial registrar may exercise all or any powers of the Court under the following provisions, if the exercise of the power is incidental to the exercise by a judicial registrar of the Court's powers referred to in paragraph (3)—

(a) Division 1 of Part 3 and Part 10 of the **Confiscation Act 1997**;

(b) section 151 of the **Firearms Act 1996**.

Rule 4(5)
inserted by
S.R. No.
119/2012
rule 5(5).

(5) A judicial registrar may exercise all or any powers of the Court under section 83AT of the **Sentencing Act 1991** in relation to a contravention of section 83AC of that Act, if the contravention under section 83AC relates to an order made by a judicial registrar under section 72 or 75 of the **Sentencing Act 1991**.

Rule 4(5A)
inserted by
S.R. No.
28/2014
rule 4(1).

(5A) A judicial registrar may exercise all or any powers of the Court in a proceeding under the **Personal Safety Intervention Orders Act 2010**, other than the powers under Part 8 of that Act.

Rule 4(6)
inserted by
S.R. No.
119/2012
rule 5(5).

(6) A judicial registrar may exercise all or any powers of the Court on an application referred to in Rule 6(2).

Rule 4(7)
inserted by
S.R. No.
28/2014
rule 4(2).

(7) In hearing and determining any proceeding to which this Rule applies—

(a) the judicial registrar constitutes the Court for that purpose; and

(b) the same powers that the Court has in hearing and determining the proceeding are delegated to the judicial registrar.

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.
- (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.

Magistrates' Court (Judicial Registrars) Rules 2005
S.R. No. 166/2005
Schedule

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

Date of document:

Filed on behalf of the: [title of party]

Prepared by: [insert details]

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

Magistrates' Court (Judicial Registrars) Rules 2005
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Schedule

Dated: 15 December 2005

IAN LESLIE GRAY,
Chief Magistrate

PETER HENRY LAURITSEN,
Deputy Chief Magistrate

PAUL DOUGLAS GRANT,
Deputy Chief Magistrate

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative 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**).

Magistrates' Court (Judicial Registrars) Rules 2005
S.R. No. 166/2005
Endnotes

2 Table of Amendments

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

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

Magistrates' Court (Judicial Registrars) Amendment Rules 2009, S.R. No. 34/2009

Date of Making: 15.4.09

Date of Commencement: 20.4.09: rule 3

Magistrates' Court (Judicial Registrars) Amendment Rules 2010, S.R. No. 6/2010

Date of Making: 2.2.10

Date of Commencement: 3.2.10: rule 3

Magistrates' Court (Reference Amendment) Rules 2011, S.R. No. 123/2011

Date of Making: 3.11.11

Date of Commencement: Rule 4 on 3.11.11

Magistrates' Court Miscellaneous Amendment Rules 2011, S.R. No. 150/2011

Date of Making: 6.12.11

Date of Commencement: 8.12.11: rule 3

Magistrates' Court (Judicial Registrars) Amendment Rules 2012, S.R. No. 119/2012

Date of Making: 23.10.12

Date of Commencement: 26.10.12: rule 3

Magistrates' Court (Judicial Registrars) Amendment Rules 2013, S.R. No. 120/2013

Date of Making: 27.9.13

Date of Commencement: 30.9.13: rule 3

Magistrates' Court (Judicial Registrars) (Personal Safety Intervention Orders Amendment) Rules 2014, S.R. No. 28/2014

Date of Making: 6.5.14

Date of Commencement: 12.5.14: rule 3

Magistrates' Court (Judicial Registrars) Amendment Rules 2014, S.R. No. 179/2014

Date of Making: 23.10.14

Date of Commencement: 1.11.14: rule 3

Magistrates' Court (Judicial Registrars) Amendment Rules 2015, S.R. No. 32/2015

Date of Making: 11.5.15

Date of Commencement: 18.5.15: rule 3

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Rule 4(1)(ab): S.R. No. 40/2009 as amended by S.R. No. 135/2009.