

Delegation to Registrars under section 13 of the *Civil Procedure Act 2005*

Civil Procedure Act 2005

Pursuant to section 13 of the *Civil Procedure Act 2005*, I direct with effect from 7 May 2020 that a registrar of the Land and Environment Court (including a person acting as the registrar or as a deputy to the registrar) may exercise the functions of the Land and Environment Court as stated in Parts 1 to 3 of the schedule to this direction; and I revoke all earlier instruments made pursuant to section 13.

Dated: 7 May 2020

Brian J Preston SC
Chief Judge, Land and Environment Court

SCHEDULE

Part 1

The functions of the Court as provided for in Column 1 but subject to the restriction (if any) mentioned in Column 3.

The matter in column 2 is inserted for convenience of reference only and does not affect the operation of the direction.

Civil Procedure Act 2005

Column 1 Section	Column 2 Description	Column 3 Restriction
Section 14	Dispense with rules in particular cases	Restricted to those matters which a registrar may deal with
Section 26(1)	Referral to mediation	
Section 38(1)	Referral to arbitration	
Section 43	Order for rehearing of arbitration	
Section 45	Discontinuance of rehearing	
Section 61(1), (2), and (3)(f) and (g)	Directions as to practice and procedure	
Section 64	Amendment of documents	
Section 65	Amendment of originating process expiration of limitations period	
Section 66	Adjournment of proceedings	
Section 67	Stay of proceedings	Restricted to those

Section 68 Section 86	Attendance and production Orders and terms	matters which a registrar may deal with Restricted to those matters which a registrar may deal with
Section 93(2) Section 98	Judgment for Detention of Goods Costs	Restricted to default judgments Restricted to those matters which a registrar may deal with
Section 100	Interest up to judgment	In respect of a judgment given or entered under Part 16 of the Rules
Section 101	Interest after judgment	In respect of a judgment given or entered under Part 16 of the Rules
Section 107	Deferral of payments and payments by instalments	
Section 108	Order for examination of judgment debtor	
Section 134	Extension of period of enforcement of stale judgment	
Section 135(2)(b)	Prohibit Sheriff from acting on writ of execution	Restricted to a writ of execution issued pursuant to a judgment given by default

Uniform Civil Procedure Rules 2005

Column 1 Section	Column 2 Description	Column 3 Restriction
Rule 1.12	Extension and abridgment of time	Excluding abridging time for service of a summons
Rule 1.13 Part 2	Fixing time Case management generally	Except a direction or order the subject of a restriction elsewhere in this direction.
Rule 4.10(4) Rule 4.13 Part 5 Rule 6.1	Rejection of documents Place for filing Preliminary discovery Leave to take step without filing appearance	
Rule 6.5	Continuation of proceedings wrongly commenced by Statement of Claim	
Rule 6.6	Continuation of proceedings	

	wrongly commenced by Summons	
Rule 6.16	Postpone return day in summons	
Rule 6.18	Leave to join causes of action	
Rule 6.19	Leave to join parties in proceedings involving common question	
Rule 6.20	Leave to join parties having joint entitlement	
Rule 6.21	Stay proceedings until jointly liable persons added as defendants	
Rule 6.22	Order separate trials or other order to avoid inconvenient joinder	
Rule 6.24	Order addition of parties	
Rule 6.27 and 6.28	Join third party and determine date of commencement of proceedings relating to them	
Rule 6.29	Order removal of party	
Rules 6.30 and 6.31	Effect of change of party in proceedings	
Rule 6.32	Future conduct of proceedings	
Rule 7.3	Leave to an unrepresented litigant to issue subpoena	
Rule 7.15(5)	Leave to replace tutor in proceedings	
Rule 7.18	Appointment and removal of tutor	
Rule 7.21	Striking out appearance of person sued in a business name	
Rule 7.22	Leave to proceed before amendment made	
Rule 7.29	Withdrawal of solicitor	
Rule 9.8(a)	Leave to separately determine cross-claims	
Rule 9.9	Leave for proceedings to continue together	
Rule 10.1	Service of filed documents	
Rule 10.2	Service of affidavits	Restricted to those matters which a registrar may deal with
Rule 10.7	Orders as to the giving of notice by the Court	
Rule 10.14	Substituted and informal service	
Rule 10.15	Possession of land; service by affixing copy of originating process	
Rule 10.16	Service on person in default by	

	filing	
Rule 11.4	Leave to proceed when originating process served outside Australia	
Rule 11.5	Leave to serve documents outside Australia and confirmation thereof	
Rule 11.8AA	Leave to proceed when no appearance	
Rule 12.1 and 12.3	Leave to discontinue	
Rule 12.4	Stay of further proceedings to secure costs of discontinuance of proceedings	
Rule 12.5	Leave to withdraw an appearance	
Rule 12.7(1)	Dismiss proceedings for want of due despatch by plaintiff	Provided at least one month's notice of the proposal to make such an order has been given to the plaintiff
Rule 12.8	Other grounds for dismissal	
Rule 12.10	Stay to secure costs after dismissal	
Rule 13.6	Dismiss for non appearance of plaintiff	
Rule 14.2	Dispense with further pleadings	
Rule 14.3	Time for filing defence	
Rule 14.5	Further pleadings	
Rules 14.22 - 14.24	Verification of pleadings	
Part 15	Particulars	Except for an order to dismiss the proceedings under UCPR 15.16
Part 16	Default judgment	
Part 18	Motions	Restricted to those matters which a registrar may deal with
Part 19	Amendment	
Rules 20.2 and 20.3	Directions about mediation	
Rules 20.9 - 20.12	Arbitration	
Rule 20.34	Acknowledgement of a liquidated claim	
Part 21	Discovery/Inspection/Production	
Part 22	Interrogatories	
Rule 23.4	Order for medical examination	
Rule 23.7	Order for rehabilitation test	
Rule 23.8	Inspection of property	
Rule 23.9	Default in compliance under Part	Except for an order that

judgment be given, a defence be struck out or that the proceedings, or any part of the relief claimed in the proceedings be dismissed.

Rules 24.3,6,9, and 14	Taking evidence otherwise than at trial	Except where the order is made under section 7 or section 10 of the Foreign Evidence Act.
Rules 26.3, 4, 5 and 8	Receivers	
Rule 28.5	Consolidation, etc	
Rule 29.3	Time and place of trial	
Rule 31.4	Service of witness statements	
Rule 31.5	Notice under s 67 or s 99 of the Evidence Act	
Rule 31.19	Directions before calling expert witness	
Rule 31.20(2)(a)	Service of experts' reports	
Rule 31.32(3)	Abridge time for service of subpoena on medical witness	
Part 33	Subpoenas	
Part 34	Notice to produce at hearing	
Rule 35.1	Using irregular affidavit	
Rule 35.2	Cross examination of Deponent	Restricted to those matters which a registrar may deal with
Rule 35.9	Filing of affidavit	
Rule 36.1A	Consent Orders	Restricted to those matters which a registrar may deal with
Rule 36.11	Entry of judgment or orders	Unless the Court directs entry to be effected in a specific manner
Rule 36.14	Service of Judgment or Order	Restricted to those matters which a registrar may deal with
Rule 36.16	Setting aside default judgment	
Rule 36.17	"Slip rule"	
Rule 36.18	Variation of judgment or order against party operating under unregistered business name	
Rule 37.4	Instalment Orders	
Rule 37.6	Variation of Instalment Orders	
Rules 38.1 - 38.5	Examination of judgment debtor	
Rule 38.7	Application of Part to persons that are corporations	
Part 39	Enforcement of judgments	

Rule 41.8(2)	Payment of interest accruing on money paid into Court	
Rule 41.9	Non-attendance of parties following notice by Court	
Part 42	Order for costs	Restricted to proceedings in which the registrar has a function under an Act or the Rules, or in which the function has been delegated by this direction, or in which a matter has been referred to the registrar by a Judge.
Rule 42.19	Costs of Discontinued Proceedings	
Rule 42.21	Security for costs	
Rule 42.28	Costs on Instalment Orders	
Part 46	Accounts and Enquiries	Except UCPR 46.12(4)(b)

Part 2

The functions of the Court are provided for in Column 1 but subject to the restrictions (if any) mentioned in column 3.

The matter in column 2 is inserted for convenience of reference only and does not affect the operation of the direction

Land and Environment Court Act 1979

Column 1 Part and/or section	Column 2 Description	Column 3 Restriction
Section 31 Section 34(1)	Irregularity of proceedings Arranging and notifying conciliation conference	
Section 34AA	All powers of the Court under section 34AA	
Section 35(3) Section 38 (2)	Furnishing copy of report Directions for the Court to inform itself on any matter in such manner as it thinks appropriate and as the proper consideration of the matters before the Court permits	
Section 38(4)	Direction as to the procedure to be followed re matter not dealt with by Act or Rules	

Land and Environment Court Rules 2007

Column 1 Part and/or section	Column 2 Description	Column 3 Restriction
Rule 3.5	Orders and directions re particulars	
Rule 4.3(a) and (c)	Orders in proceedings for review of public authority's decision	
Rule 6.2(2)	Referral to neutral evaluation	
Rule 6.2(5)	Costs of neutral evaluation	
Rule 7.3	Extension or abridgment of time	Excluding abridging time for service of originating process
Rule 7.4	Fixing times	

Part 3 General

1 Orders under the following legislation as provided -

Environmental Planning and Assessment Act 1979

section 8.15(2) (joinder of persons in certain appeals)

section 8.15(3) (costs thrown away if leave is granted to amend a development application)

Evidence Act 1995

section 50 (proof of voluminous or complex documents)

section 168(2), (4) or (7) (time limits for making certain requests)

section 169(1) (a), (b) or (d) (failure or refusal to comply with requests)

Making a finding as to:

- (a) whether a reasonable request has been made under section 167 of the Evidence Act within the time prescribed by section 168(1), (3), (5) or (6) of that Act, and
- (b) whether a party has, without reasonable cause, failed or refused to comply with such a request

section 177(3) Certificates of expert evidence

section 193(1) Additional powers

Trans-Tasman Proceedings Act 2010 (Commonwealth)

section 38 (issuing of a certificate about non-compliance with subpoena)

Evidence on Commission Act 1995

- section 6 (ordering evidence to be taken abroad)
- section 7 (directions on procedure about overseas evidence)
- section 20 (ordering evidence to be taken outside NSW)
- section 21 (directions on procedure about interstate evidence)

Foreign Judgments Act 1991 (Commonwealth)

- section 6 (ordering that a foreign judgment be registered) where a request has been added under Part 59A rule 2(3) SCR
- section 15(1) (issue of a certificate with respect to an action)

Service and Execution of Process Act 1992 (Commonwealth)

- section 29 (granting leave to serve a subpoena or summons outside NSW)
- section 30(1) (shortening time for service of a subpoena)
- section 35(3) (receipt of expenses of complying with a subpoena)
- section 45(3) (receipt of expenses of complying with an order to produce)

Trees (Disputes Between Neighbours) Act 2006

- section 8(2) (directing notice of an application be given)
- section 8(3) (waiving requirement to give notice or varying the period of notice)

- 2 Any judgment by consent and any order by consent.
- 3 Accepting an undertaking given to the Court for the payment of a sum of money within a time specified in the undertaking.
- 4 Certifying a copy of a document to be a true copy where the registrar is authorised under any Act or Commonwealth Act or under the rules to issue or furnish a certificate or office copy of the document.
- 5 Order for costs where it is unlikely in the opinion of the registrar that the costs will exceed \$50,000.
- 6 Any matter which a Judge may conduct or deal with and is referred to a registrar by order of a Judge.
- 7 Accepting an undertaking, or the continuation of an undertaking, given to the Court.

- 8 A registrar may exercise the functions of the Court for the purposes of, and in respect of all matters incidental to, the exercise of the registrar's powers under any Act, under any other provision of the rules, or under this direction.
- 9 Issuing subpoena.
- 10 Order to set aside a notice to produce issued under Part 21 or Part 34 of the *Uniform Civil Procedure Rules 2005*