

4E. Subpoena notice and declaration — documents or things (r. 48AG)

<b>District Court of Western Australia</b>		<b>Action No:</b>
<b>Held at Perth <sup>1</sup></b>		<b>SUBPOENA NOTICE — DOCUMENTS OR THINGS</b>
<b>Parties</b>	<b>Plaintiff</b>	
	<b>Defendant</b>	
<b>NOTICE TO ADDRESSEE</b>		
(Other than a health professional, hospital or person that manages the records of a health professional)		
<b>Contempt of court — arrest</b>		
<ol style="list-style-type: none"> <li>Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to produce documents (or things) as described to the Court on or before the date indicated (the return date). Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.</li> <li>Note 1 does not limit any power of the Court, under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.</li> </ol>		
<b>Attached declaration in relation to copies</b>		
<ol style="list-style-type: none"> <li>At the same time as complying with the subpoena, you are also required to complete the declaration at the end of this notice and attach it to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena.</li> </ol>		
<b>Last day for service</b>		
<ol style="list-style-type: none"> <li>You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.</li> </ol>		
<b>Informal service</b>		
<ol style="list-style-type: none"> <li>Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.</li> </ol>		
<b>Addressee a corporation</b>		
<ol style="list-style-type: none"> <li>If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.</li> </ol>		
<b>Production of subpoena or copy of it and documents or things by delivery or post</b>		
<ol style="list-style-type: none"> <li>Instead of attending to produce the subpoena or a copy of it and the documents or things, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the documents or things to the registrar at the address specified in the subpoena for the purpose, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.</li> </ol>		

**Production of copy instead of original**

8. Unless the subpoena specifically requires production of the original of a document, you may comply with the subpoena by producing a copy of the document.
9. The copy of a document may be —
  - (a) a photocopy; or
  - (b) in PDF format on a CD-ROM or DVD.

**Production of a number of documents or things**

10. If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

**Inspection and copying**

11. Unless the Court otherwise orders (for example, if an objection is made), the following will apply to the documents and things produced —
  - (a) all parties to the action are permitted to inspect the documents and things immediately upon production; and
  - (b) all parties to the action are permitted, with the approval of a registrar, to copy the documents.
12. Each party who copies the documents produced must give an undertaking to the Court not to use the document otherwise than for the purpose of the action.

**Objections**

13. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Principal Registrar in writing of your objection and of the grounds of your objection.
14. If your objection relates to timeframes and/or access, any dispute may be resolved by way of correspondence with a registrar.
15. If your objection raises substantive issues concerning the ambit of the subpoena, for example claims of privilege, these will be referred for determination by the Court.
16. You have the right to apply to the Court —
  - (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing to which the subpoena applies.

## Notes to Form 4E —

1. If not held at Perth, state the location of the relevant registry.
2. If *District Court Rules 2005* rule 48AH(2) does not apply because the Court has ordered, or the issuing party and the addressee have agreed, otherwise, item 17 must be amended to reflect the order or agreement.

**Losses or expenses incurred in compliance<sup>2</sup>**

17. When you were served with the subpoena, you also received the amount of \$80 for your reasonable losses or expenses incurred in complying with the subpoena. The receipt of this amount does not affect your right to apply to the Court for a higher amount to be fixed. If you wish to claim that your reasonable costs of compliance are higher than \$80, you should make a claim in writing to the issuing party. If you are not able to resolve your claim with the issuing party, you should send a copy of your claim and any other relevant correspondence to the Principal Registrar. The Principal Registrar will make arrangements for your claim to be assessed by the Court.

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<b>District Court of Western Australia</b>	<b>Action No:</b>
<b>Held at Perth <sup>1</sup></b>	<b>SUBPOENA DECLARATION</b>
<b>Parties</b>	<b>Plaintiff</b>
	<b>Defendant</b>
<b>DECLARATION BY ADDRESSEE</b>	
<p>You are required to:</p> <ul style="list-style-type: none"> <li>• Tick the relevant option below.</li> <li>• If originals are to be returned, provide your address as appropriate.</li> <li>• Sign and date the declaration.</li> <li>• Attach the declaration to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena.</li> </ul> <p>If you declare that the material you produce is copies of documents, the Court may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.</p> <p>If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the declaration below. Unless the Court otherwise directs, these documents will be returned to you at the expiry of 28 days from the date on which production is due under the subpoena.</p> <p>π     <b>All</b> of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court may destroy the copies once they are no longer required, without further notice to me.</p> <p>π     <b>Some or all</b> of the material I am providing to the Court in compliance with the attached subpoena is an <b>original</b> document. Once the material is no longer required, all of the material should be returned to me at the following address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>[<i>Signature of addressee</i>]</p> <p>.....</p> <p>[<i>Name of addressee</i>]</p> <p>.....</p> <p>[<i>Date</i>]</p>	

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