



DISTRICT COURT OF WESTERN AUSTRALIA

NOTICE TO PRACTITIONERS

Subpoenas in Civil Actions – Rules Changes

Amendments to the District Court Rules 2005 (DCR), which came into effect this month, introduced some significant changes for subpoenas issued in civil proceedings.

Related Practice Directions (specifically, PDC 4) and Circulars to Practitioners (specifically, CPC 4) have also been amended and reissued.

Notable changes include that:

- The DCR amendments, along with changes to the ECMS functionality, now facilitate (in certain circumstances) compliance with subpoenas to produce documents or things by uploading electronic copies to the ECMS.
- Subpoenas generated by the ECMS on or after 15 January 2024 will have a document reference and will annex lodging instructions for this purpose.
- From a functional perspective, ECMS production will not be available in relation to subpoenas issued before 15 January 2024, or for certain file types and sizes.
- The DCR expressly contemplate that the Court may give directions in relation to compliance with a subpoena. PDC 4 contains directions that deal with compliance, and which respond to the functional constraints noted above.
- Any person who inspects or copies a subpoenaed document or thing:
 - is subject to an obligation under the DCR equivalent to the 'Harman obligation' attaching to discovered documents; and
 - must, as a condition of access, sign an acknowledgement to that effect.
- The DCR now clarify that restrictions regarding access to documents or things produced by a health practitioner apply only if the documents or things comprise the health information of the plaintiff.

Dated 29 January 2023



Her Honour Judge Julie Wager
Chief Judge of the District Court



Dr Brenda McGivern
Principal Registrar of the District Court