

# Supreme Court of Victoria

## Practice Note No. 7 of 1986

### New Rules of Court

The Chief Justice has authorised the issue of the following Practice Note:

The General Rules of Procedure in Civil Proceedings 1986 will come into operation on 1 January 1987.

Except to the extent made necessary by the new Rules the present organization of business in the Practice Court will in general continue. Bail applications will continue to be taken as the first business of the day in the Fifteenth Court every day of the week (including Thursdays), but all other business will be dealt with in the Sixteenth Court and allocated to the Fifteenth Court only when applications for bail have been completed. The present practice with regard to the ordering of business on Thursdays will continue; and on that day probate business, followed by applications under the Companies (Victoria) Code, will be taken in the Sixteenth Court as the first business of the day.

The Masters will continue to deal with applications for winding up orders on Wednesdays in the Seventh Court.

Accordingly all applications to the Practice Court under the new Rules should be made in the first instance in the Sixteenth Court.

In very urgent applications, where the Practice Court has risen for the day, the procedure laid down in the Practice Note of 15 March 1984 reported in [1984] VR 320, must be strictly followed.

The abolition of the distinction between court and chambers will not affect the practice as to robing established by the Practice Note of 27 September 1985, reported in [1986] VR 60.

The Judges and the Senior Master have in consultation determined that where an appearance is entered to an originating motion the practice under R45.04 of the new Rules shall be as follows:

1. Applications to a Master provided for by R45.04(2) shall be made to the Master sitting in the Fourteenth Court in accordance with and subject to the practice at the time obtaining with respect to applications to that Master.
2. An application considered by the Master appropriate for reference to a Judge for hearing and determination (as provided in R45.04(4)(c)) will be referred to the Judge sitting in the Sixteenth Court on the date of the reference or on a future date specified in the reference.
3. A reference will be in writing and will be placed by the Master or the secretary to the Master on the court file with respect to the proceeding.
4. Upon a reference to the Judge sitting in the Sixteenth Court on the date of the reference, the secretary to the Master will release the court file to the solicitor for one of the parties or, in the absence of any such solicitor, to counsel for one of the parties. It will be the duty of a practitioner to whom a file is so released forthwith to deliver it to the associate of the Judge sitting in the Sixteenth Court.
5. In a proceeding commenced by originating motion under O.53, the subject of R45.04(3):

- (a) The date specified in the originating motion as the date of application to the Master will be chosen in accordance with the directions contained in the Practice Note (which will be issued shortly) concerning applications to the Masters under the new Rules.
  - (b) The Master will refer the proceeding to the Judge sitting in the Sixteenth Court on the date of the reference unless, by reason of an application for an order under R5306 or otherwise, that course appears inappropriate.
6. On a reference by a Master pursuant to R45.04(4)(c), the Judge sitting in the Sixteenth Court may, as he thinks fit:
- (a) hear and determine the application;
  - (b) allocate the application for hearing and determination by the Judge sitting in the Fifteenth Court or another Judge;
  - (c) place the proceeding in the list of cases for trial and give any directions he considers necessary or appropriate;
  - (d) refer the application back to the Master with directions.

Important changes are made by the new Rules in relation to the drawing up of judgments and orders. At present, by O.54, R20(2) orders made by a Judge in Chambers or a Master may be signed either by the Judge or Master or by the Prothonotary, but by practice direction orders made by Masters have continued to be signed by them alone. In addition, at present, by O.62, judgments and orders of the Court in its equitable jurisdiction are settled by the Masters; other judgments and orders of the Court (except in company and probate cases) are settled by the Prothonotary. The result of the new Rules is that from 1 January 1987 the Prothonotary will, in general, draw up all judgments and orders, including orders made by Masters and judgments and orders of the Court in equitable matters.

Orders for the examination of a person within Victoria under R41.01 will in general appoint as examiner an associate to one of the Judges. The procedure laid down in the Practice Notes of 23 April 1980, reported in [1980] VR 448, and 5 March 1985, reported in [1985] VR 504, will continue to be followed.

Dated this 13th day of November 1986.

AR Traves Senior Associate to the Chief Justice