

SUPREME COURT OF TASMANIA
CIRCULAR TO PRACTITIONERS

No. 9 of 2011

19 May 2011

PREROGATIVE WRITS

Supreme Court Amendment (Prerogative Writs) Rules 2011 (SR 26/2011)
Supreme Court Amendment Forms Amendment Rules 2011 (SR 27/2011)

Amendments to the *Supreme Court Rules 2000* rules and forms were gazetted on 20 April 2011 and came into effect on the day of gazettal. The amendments relate to Part 26 of the *Supreme Court Rules* which deals with prerogative writs.

Section 43 of the *Judicial Review Act 2000* ("JR Act") provides that

"The prerogative writs of *mandamus*, prohibition, *certiorari*, *quo warranto* and *scire facias* are no longer to be issued by the Court."

Part 26 can not be deleted as there are situations where a person may be entitled to relief in the nature of *prohibition*, *mandamus* and *certiorari*:

- Where the relief sought relates to where the decision was before the JR Act;
- Where the decision is not a decision under an enactment to which the JR act applies;
- On the ground of jurisdictional error (refer *Kirk v Industrial Relations Commission*; *Kirk Group Holdings Pty Ltd v WorkCover Authority of New South Wales (Inspector Childs)* (2010) 239 CLR 531).

The procedure used for the application would be the general order to show cause procedure.

Elizabeth Knight
REGISTRAR