

SUPREME COURT OF TASMANIA

CIRCULAR

No. 8 of 2005

27 April 2005

SUBPOENAS – Rules 494-500F

These Rules were amended by Statutory Rule 56/2004. They came into force on the 21 July 2004. They are "harmonised rules" and have been adopted by most superior jurisdictions in Australia.

There are some changes to the procedures:

1. Rule 494 – Definitions. Subpoenas are now called "subpoena to give evidence" or "subpoena to produce". A subpoena can be issued to do both things.
2. Rule 495 – Issuing subpoena - Rule 495(3). If the subpoena is in order the officer receiving it is to file it, insert a date of filing and seal with the seal of the Court sufficient copies of the subpoena. It is issued when it is sealed.
3. Rule 496 – Form of subpoena. There is only one form of subpoena – Form 37. The form may be downloaded via the link:

http://www.courts.tas.gov.au/supreme/legislation/forms/form_37.htm.

Formal Requirements

1. A subpoena whether to attend or to give evidence or to produce must be in accordance with the Form:
 - It must identify the addressee (the person who the subpoena is issued to) by name or by description of office or position.
 - It must not be addressed to more than one person.
 - A subpoena to attend to give evidence must specify the date, time and place for attendance.
 - The place specified for production may be the Court itself.
2. Rule 496(6) provides "the date specified in the subpoena must be the date of trial or any other date as permitted by the Court". This enables the Court to set a return date other than the date of trial. If a party wishes to issue a subpoena on a date other than the date for trial, he/she will need to apply to a judge or the Associate Judge to get a date for return of documents.
3. Rule 500 – Production otherwise than upon attendance. This rule enables a person subpoenaed to produce to lodge the documents with the Court rather than attend at Court with them. This differs from the old procedure in that:
 - The "addressee" may request a receipt for the documents.
 - The Registrar may ask for a list of documents (if more than one document is provided).

4. Rule 500B – Inspection of documents. An important difference in the new provision is 500B(4), which provides that the Registrar can permit parties to inspect documents produced unless an objection has been made.

5. Rule 500C – Disposal of documents. This rule requires the Registrar to inform the party who issued the subpoena and give 14 days' notice of intention to return documents to the addressee on the subpoena.

Amended 1 March 2010 (changing references to “Master” to “Associate Judge”)