

SUPREME COURT OF TASMANIA

CIRCULAR TO PRACTITIONERS

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CHANGES TO THE JURISDICTION OF THE MASTER

In order to give to the Court greater flexibility in the allocation of its business the *Supreme Court Civil Procedure Act* 1932 was amended by Act No 30 of 2004. The Act, s197(1)(f), was amended to remove a number of the restrictions which had previously applied to the judges' power to make rules conferring jurisdiction on the Master. The Rule which concerns the jurisdiction of the Master, namely r962, was substantially amended on 31 August 2005. Most chamber matters are now within the jurisdiction of the Master. In cases where the parties agree or the circumstances justify it there is now an opportunity upon request to have non-jury trials and other proceedings in court conducted before the Master. Provision is made in the amended Form 42, Certificate of Readiness, for such agreements or applications. Appeals, reviews, disciplinary proceedings and some other matters specified in r962 remain beyond the jurisdiction of the Master.

It was considered that with an expanded jurisdiction it was no longer appropriate for appeals from decisions of the Master to be by way of a *hearing de novo*. Appeals to the Full Court are specified in the Act, s46, to be "by way of *rehearing*". The nature of an appeal from a decision of the Master is now the same, as the new s191B(3) specifies that such an appeal "is to be an appeal by way of *rehearing*". (For an explanation as to the nature of an appeal by way of *rehearing* see *Harris v Caladine* (1991) 172 CLR 84 at 124–125.) In recognition of the change rules have been introduced extending the time limit which previously applied for appeals from decisions of the Master and setting down a procedure for such appeals, which is substantially in line with appeals to the Full Court, notwithstanding that such an appeal will be dealt with by a single judge sitting in chambers or in court as the case requires. The appeal rules are set out in the new r680A.

Although the Act and the Rules now enable the Master to sit in court the practice that robes are not to be worn when appearing before the Master is retained.

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REGISTRAR