

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

No. 2 of 2019

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This practice direction is published by the direction of the Chief Justice, the Honourable Justice Alan Blow AO.

REPRESENTATIVE PROCEEDINGS

Part VII of the *Supreme Court Civil Procedure Act* 1932 will commence on 9 September 2019.

By the introduction of the Part a person is permitted to commence proceedings on behalf of a class of persons where the claims of members of the represented class arise out of the same, similar or related circumstances and give rise to substantial common questions of law or fact. At the same time procedural rules contained in Division 5 of Part 10 of the *Supreme Court Rules* 2000 and amendments to the *Supreme Court Forms Rules* 2000 came into effect.

Representative proceedings will generally be managed by a docket judge.

At an appropriate time soon after filing, the representative proceedings will be allocated to a docket judge to conduct a trial of the proceeding. In appropriate cases, a designated case management judge or the associate judge may also be assigned to the proceeding.

The role of the docket judge is to preside over the trial of the proceeding, deal with pre-trial issues and where a case management judge or the associate judge is not so assigned, to case manage the proceeding and hear all interlocutory applications therein.

At the first case management hearing the plaintiff/applicant is to be in a position to disclose to the judge, but not necessarily to the defendant/respondent, the details of any litigation funding agreement. Further, the parties should be in a position to address the following:

- (a) any issues regarding the description of class members;
- (b) whether the defendant/respondent proposes to seek an order for security for costs;
- (c) the types of relevant documents held by or likely to be held by the parties;
- (d) an appropriate timetable for the progress of the proceeding; and
- (e) a suitable date to be allocated for the resumption of the hearing to address matters such as the setting of an opt out date.

It is to be noted that the existing case management rules contained in Division 1 of Part 14 apply, and also that, pursuant to the Act, s 89C, the Court of its own motion or on the application of a party or group members, may make any order that the Court thinks appropriate or necessary to ensure that justice is done in the proceeding.

J A Connolly
Registrar