



Supreme Court of Victoria

Practice Note SC Gen 9

Notifications under the *Open Courts Act 2013*

1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following revised Practice Note.
- 1.2 This revised Practice Note revises and replaces the Practice Note issued on 30 January 2017.
- 1.3 The purpose of this Practice Note is to set out the procedures regarding notifications under the *Open Courts Act 2013*.

2. COMMENCEMENT

- 2.1 This Practice Note was issued on 22 March 2021 and commences on 22 March 2021 and will apply to all applications filed on or after that day.

3. DEFINITIONS

- 3.1 In this Practice Note:
Act means the *Open Courts Act 2013*
- 3.2 All terms have the same meaning as in the *Open Courts Act 2013*.

4. NOTICES UNDER THE *OPEN COURTS ACT 2013*

- 4.1 Section 10 of the *Open Courts Act 2013* provides that an applicant for a suppression order is required, generally, to give three business days' notice of the making of the application to the court or tribunal in which the application is to be made.
- 4.2 Rule 82.02(1) of the *Supreme Court (General Civil Procedure) Rules 2015* provides that, in a civil proceeding, a notice under section 10 of the Act must be generally in accordance with a prescribed form (Form 82A). Rule 16.02(1) of the *Supreme Court (Criminal Procedure) Rules 2017* provides that, in a criminal proceeding, such a notice must be generally in accordance with a similar prescribed form (Form 6-16A).
- 4.3 The Form 82A notice or the Form 6-16A notice (as the case may be) are required to be emailed to the Court at media@supcourt.vic.gov.au. The form should be

sent as an attachment to an email with the subject “Notice of application for suppression order under Open Courts Act”. The contents of the attachment should be copied and pasted into the body of the email.

4.4 The Rules also require that a copy of the notice be filed by the applicant as soon as practicable after the notice has been emailed to the Court.

4.5 The Form 82A notice or the Form 6-16A notice does not constitute the application for a suppression order. The application is a separate document that must be filed with the Court, as discussed below.

5. FORM OF APPLICATION

5.1 The relevant Rules of Court and this Practice Note proceed on the basis that the Act adds to, but does not displace or make redundant, any of the existing Rules or requirements of the Court as to the manner in which applications (especially interlocutory applications) may be made, or must be made, to the Court. Thus, in relation to civil proceedings, Rule 46.02(1) of Chapter I of the Rules requires that an interlocutory or other application made on notice to any person shall be by summons, unless the Court otherwise orders. See also Rule 4.02. In relation to criminal proceedings, Rule 1.18 of Chapter VI provides that if a party intends to make an application and there is no prescribed form, a general application in Form 6-1D may be used with such modification as is necessary.

5.2 It follows that, unless the Court otherwise orders, an application for a suppression order which is to be made on notice to any person should, in a civil proceeding, be made the subject of both a summons and a notice under section 10 of the Act and should, in a criminal proceeding, be made the subject of both a (written) application and a notice under section 10 of the Act.

6. NOTIFICATION BY THE COURT TO RELEVANT NEWS MEDIA

6.1 By virtue of subsection 11(1) of the Act, the Court is required, on receiving a notice under section 10, to take reasonable steps to ensure that “any relevant news media organisation” is notified of the application for a suppression order.

6.2 Under subsection 11(2) of the Act, the notification may be by electronic communication or any other means that the Court considers appropriate. Notices sent to the abovementioned email address will be received by the Court’s Media Advisers. Ordinarily, the Media Advisers will send the Form 82A notice or Form 6-16A notice to each relevant news media organisation by electronic means or such other means that the Court considers appropriate to fulfil the Court’s obligations under section 11 of the Act.

6.3 Applicants for suppression orders should be aware that the notices will ordinarily be treated by the Court as open, non-confidential documents. Accordingly, if the identity of an applicant or any other aspect of an application is sought to be kept confidential, the applicant will need to take such steps to that end as the applicant may be advised. It may be noted that, under the Rules, as indicated above, the notice need only be “generally in accordance with” the prescribed form.

6.4 Any news media organisation wishing to be notified under section 11 of the Act of applications for suppression orders or of the making of a suppression

- order must nominate an email address for receipt of notifications.
- 6.5 A news media organisation wishing to nominate an email address for receipt of notifications may contact the Court's Media Advisers at media@supcourt.vic.gov.au.
- 6.6 Any notifications by the Court under section 11 of the Act will ordinarily be given only to email addresses nominated pursuant to the paragraph above.
- 6.7 Any news media organisation that has previously nominated an email address and later wishes to be removed from the notification list may contact the Court's Media Advisers at media@supcourt.vic.gov.au.
- 6.8 Any news media organisation seeking further details regarding notices given under section 10 of the Act should direct their inquiries not to the Court but to the applicant or the applicant's legal representatives, in accordance with the details provided in the notice.

AMENDMENT HISTORY

22 March 2021: This revised Practice Note was issued on 22 March 2021 and replaced the earlier version of this Practice Note issued on 30 January 2017.

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22 March 2021