



Supreme Court of Victoria

Practice Note No.3 of 2009

ASSOCIATE JUDGES

1. The Chief Justice has authorised the issue of the following Practice Note.

Authority of Associate Judges

2. On 17 December 2008 amendments to the Supreme Court Rules commenced to reflect the commencement of the office of associate judge.
3. On 4 May 2009, further amendments to the rules expanding the jurisdiction of Associate Judges commenced. In accordance with r 77.03(1) the following matters are to be brought before an Associate Judge:
 - Proceedings under section 84 and Part IV of the *Property Law Act 1958*;
 - Part 3.2 and Part 3.3 of Chapter 3 of the *Relationships Act 2008*;
 - Matters arising under ss 6, 7 or 13(1) of the *Instruments Act 1958* (summary proceedings on bills of exchange);
 - Proceedings for the recovery of land under Order 53 of the Rules; and
 - The trial of an undefended civil proceeding.
4. The 2008 amendments also provided for Associate Judges to hear matters on referral from a Judge of the Court (r 77.05):

If a matter before a Judge of the Court, which matter would not otherwise be within the authority of an Associate Judge, appears to the Judge to be proper for the determination of an Associate Judge, the Judge of the Court, by order, may refer the matter to an Associate Judge.

5. The provision is in general terms and referrals may be made in a range of matters, however as an indication, referral to an Associate Judge will be routinely considered in the following matters:
 - Proceedings under Part IV of the *Administration and Probate Act 1958*;
 - Applications for removal of caveats over real property and compensation under ss 90 and 118 of the *Transfer of Land Act 1958*;
 - Applications under the *Corporations Act 2001* (Cth);
 - Some applications for interim or interlocutory injunctions; and
 - Costs disputes where all other issues in the proceeding have been resolved.

Appeals

6. The Rules have been amended to provide that an appeal lies to the Court of Appeal from the Trial Division constituted by an Associate Judge from any judgment or order made at the trial of a proceeding:
 - in respect of a matter not otherwise within their authority which is referred to an Associate Judge;
 - under Part 3.2 or Part 3.3 of Chapter 3 of the *Relationships Act 2008*; or
 - under section 84 or Part IV of the *Property Law Act 1958*; or
 - for the recovery of land under Order 53. (r 77.07)
7. All other appeals lie to a Judge of the Trial Division. Appeals will generally be heard by the Judge in the Practice Court.

Commercial Court

8. This Practice Note is subject to Notice to the Profession No 2 of 2009 in relation to the Commercial Court.

Vivienne Macgillivray
Executive Associate to the Chief Justice

9 September 2009