

## Further particulars and declarations

### Requests for further particulars

#### General overview

Further particulars for the purpose of pleadings are no longer permitted in the High Court or Magistrates' Courts.<sup>204</sup> To compensate for the abolition of further particulars at the pleadings stage, the scope of High Court rule 18 (relating to pleadings generally) was expanded and Magistrates' Courts rule 6 transformed to resemble closely High Court rule 18. Rule 18(4) provides that, from the outset, all pleadings must contain 'sufficient particularity to enable the opposite party to reply thereto'.

The Magistrates' Courts rule 6(4) has exactly the same provision. In theory at least, this together with the other provisions of rules 18 and 6 discussed earlier, removes the need for further particulars at the pleadings stage.<sup>205</sup> Failure to observe rule 18 or rule 6 is deemed to be an irregular step in terms of rule 30 or rule 60A of the High Court and Magistrates' Courts Rules, respectively, a remedy which is explained in more detail later.

### High Court rule 35(12) and Magistrates' Courts rule 23(13).

Usually, access to documents, computer disks, tape recordings and so on, that are relevant to the case and in the possession of the opposing party, may only be obtained after close of pleadings, as part of a discovery procedure, which is discussed later as part of the pre-trial procedures. Rule 35(12) of the High Court Rules and 23(13) of the Magistrates' Courts Rules, however, allow for the inspection and copying of documents or 'tape recordings' (which has been interpreted to include anything on which information may be recorded)<sup>208</sup> that have been referred to in the other party's pleadings (or affidavits in the case of an application).

It is not necessary to wait until the close of pleadings to demand inspection of documents or 'tape recordings' (hereafter taken to refer to its extended meaning) which the other party has mentioned in his pleadings or affidavits. From the time a

# Further Particulars

**L Reisser**



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