

MAGISTRATES' COURT GENERAL CIVIL PROCEDURE RULES 2010

Rule 8.03(1), 10.04(7), 11.07(5)

FORM 8A

**NOTICE OF DEFENCE**

IN THE MAGISTRATES' COURT Court Number: \_\_\_\_\_  
OF VICTORIA AT \_\_\_\_\_

BETWEEN \_\_\_\_\_ Plaintiff

OF \_\_\_\_\_

And \_\_\_\_\_ Defendant

OF \_\_\_\_\_

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Date of Document:

Filed on behalf of:

Australian lawyer

name:

Address:

Code:

Telephone:

Reference:

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TO THE PLAINTIFF

AND TO THE REGISTRAR OF THE MAGISTRATES' COURT AT \_\_\_\_\_

TAKE NOTICE that the defendant intends to defend this complaint.

AND TAKE NOTICE that the defendant's defence is as follows

*(Set out the defence of the defendant in paragraphs numbered consecutively with each fact or matter stated so far as practicable in a separate paragraph)*

## Notes

1. A defence
  - (a) must state which of the facts in the statement of claim are admitted, denied or not admitted – see Rule 13.02(1); and
  - (b) if the proceeding is referred to arbitration, must state with particularity the date, place, circumstances, facts or other matters relied on in defence of the claim.
2. A defendant who in the defence does not state whether a fact stated in the statement of claim is admitted, denied or not admitted, will be taken to admit the fact – see Rule 13.02(2).
3. A defendant who states that a fact stated in the statement of claim is denied must –
  - a) give the reason for denying the fact; and
  - b) if the defendant intends to prove a fact different from that stated in the statement of claim, state with necessary particulars the fact that the defendant intends to prove – see Rule 13.02(3).
4. Save with the leave of the Court, a defendant who states that a fact stated in the statement of claim is not admitted must not except in cross-examination adduce any evidence with respect to that fact at the hearing of the proceeding – see Rule 13.02(4).
5. The defendant must state specifically with particulars any fact or matter which -
  - a) makes the claim of the plaintiff not maintainable; or
  - b) if not stated specifically, might take the plaintiff by surprise; or
  - c) raise questions of fact not arising out of the statement of claim – see Rule 13.02(5).
6. If the defence arises by or under any Act, the defence must identify the specific provision relied on – see Rule 13.02(6).

FILED: \_\_\_\_\_  
(Date of filing)

\_\_\_\_\_  
(To be signed by the Defendant or the  
Defendant's Australian lawyer)

### 1. This notice was signed -

- \* by the defendant in person;
- \* for the defendant corporation by *(name of person)*  
of *(address)*

who holds the position of

*(director, secretary or other person authorised in writing by the defendant corporation)*

- \* for the defendant by *(name or firm of Australian lawyer)*

Australian lawyer(s), of *(business address of Australian lawyer)*

### 2. The address of the defendant is –

### 3. The address for service of the defendant is –

*[\* If the Service and Execution of Process Act 1992 of the Commonwealth applies]*

The address for service of the defendant within Australia is

*[\* If the Trans-Tasman Proceedings Act 2010 of the Commonwealth applies]* The address for service of the defendant in Australia or New Zealand is

*[\* If neither of those Acts applies and the defendant appears in person]* The address for service of the defendant within Victoria is *(insert address of the defendant within Victoria, not being a post office box)*

*[\* If neither of those Acts applies and the defendant defends by an Australian lawyer]* The name or firm and the business address within Victoria of the Australian lawyer for the defendant is *(insert name or firm)*

at *(insert business address)*

*[\* If neither of those Acts applies and the Australian lawyer is an agent of another]* The name or firm and business address of the principal is *(insert name or firm)*

at *(insert business address)*