

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  
OF VICTORIA AT

Court Number:

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)***

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

9.

10.

## 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)*

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*(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)* .