

# NORTHERN TERRITORY OF AUSTRALIA

## SMALL CLAIMS RULES

As in force at 18 March 1993

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 18 March 1993

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## SMALL CLAIMS RULES

### Rules under the *Small Claims Act*

#### 1.01A Citation

These Rules may be cited as the *Small Claims Rules*.

### Order 1 Preliminary

#### 1.01 Definitions

In these Rules:

**Act** means the *Small Claims Act*.

**corporation** means a body corporate, whether formed within or out of the Territory.

**Court** means the Local Court and includes a Registrar exercising the jurisdiction of the Court under these Rules.

**file** means file in the office of the Court where a proceeding is commenced, or of the Court to which the proceeding has been transferred under Order 4 or adjourned under Order 19.

**jurisdictional limit** means limit specified in section 5 of the Act.

**officer**, in relation to a corporation, includes a director, secretary, receiver, receiver and manager, official manager, liquidator and trustee administering a compromise or arrangement made between the corporation and another person.

**order** means an order made by the Court at the trial of a proceeding or on the hearing of an application in a proceeding, and includes a judgment.

**proceeding** means a claim in the Small Claims Division.

**Proper Officer** means the officer of the Local Court authorized to do the relevant act.

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***Small Claims Division*** means the Court exercising the jurisdiction conferred on it by the Act.

## **1.02 Application**

These Rules apply to all proceedings commenced or continued in the Small Claims Division on or after 5 June 1989, unless the Court otherwise orders.

## **1.03 Procedure wanting or in doubt**

(1) Where the manner or form of the procedure:

- (a) for a step in a proceeding; or
- (b) dealing with the jurisdiction of the Court,

is not prescribed by these Rules, the Act or a direction given under section 50(1) of the Act by the Chief Magistrate or there is doubt as to the procedure, the Court shall determine what procedure is to be adopted.

(2) An act done in accordance with a determination under subrule (1) is regular and sufficient.

## **1.04 Exercise of power**

(1) In exercising a power under these Rules the Court:

- (a) shall endeavour to ensure that all questions in the proceeding are effectively, completely, promptly and economically determined; and
- (b) may impose any term or condition it thinks fit.

(2) The Court may exercise a power of its own motion or on the application of a party or of a person who has a sufficient interest.

## **1.05 Time**

(1) The time for doing an act or delivering, amending, serving or filing a document may be enlarged by consent in writing between the parties without application to the Court and a copy of the consent shall be filed as soon as possible after it is given.

(2) The Court may, at any time, extend the time for the doing of an act that is fixed by the Rules.

### **1.06 Jurisdiction of registrars**

In accordance with the Act and these Rules, a Registrar may exercise the jurisdiction of the Court other than the jurisdiction to:

- (a) make an order or give a direction under rule 19.04 (Transfer of Claim to Local Court); or
- (b) consider an application under rule 22.01 (Application for Re-hearing).

## **Order 2 Non-Compliance with Rules**

### **2.01 Effect of non-compliance**

- (1) A failure to comply with these Rules is an irregularity and does not render a proceeding or any part of it a nullity.
- (2) Where there has been a failure to comply with a Rule, the Court may:
  - (a) set aside the proceeding, in whole or part;
  - (b) set aside a step taken in the proceeding or a document, judgment or order in the proceeding; or
  - (c) allow an amendment or make an order dealing with the proceeding generally.

### **2.02 Dispensing with compliance**

The Court may dispense with compliance with a requirement of a Rule, either before or after the occasion for compliance arises.

## **Order 3 Parties**

### **3.01 Infants**

A person who has not attained the age of 18 years may commence a proceeding as if the person were an adult.

### **3.02 Person under a disability**

- (1) In this rule ***person under a disability*** means an infant or a person who is incapable by reason of age, injury, disease, senility, illness or physical or mental infirmity of managing his or her affairs in relation to a proceeding in the Court.

- (2) Except as provided by rule 3.01, a person under a disability cannot be a party to a proceeding.

### **3.03 Executors, administrators and trustees**

A person may commence or defend a proceeding in the capacity of an executor, administrator or trustee:

- (a) a partnership, or
- (b) a person trading under a business name,  
in the name of the firm.

### **3.05 Corporations**

- (1) A corporation may commence or defend a proceeding.
- (2) Where the Court makes an order that a corporation do an act, it may order that the act be done by the corporation by its appropriate officer.

### **3.06 Representation**

- (1) A person not being a corporation may appear in person, or by a legal practitioner, employee or unpaid agent.
- (2) A firm or corporation may appear by a legal practitioner, officer or employee.
- (3) An act or thing which is required or permitted to be done by a party may be done by the party's agent or representative.

### **3.07 Address for service on parties**

- (1) The address for service of a party shall be the address marked on the statement of claim or other document, as the case may be.
- (2) Where a party is represented by a legal practitioner, the business address of that legal practitioner shall be marked on the application or other document.

### **3.08 Names of parties**

A person who commences a proceeding is called the plaintiff and a person against whom a proceeding is commenced is called the defendant.



**Order 4            Venue****4.01            Venue of Court**

For the purpose of exercising its jurisdiction under the Act, a Court may sit anywhere.

**4.02            Transfer to another Small Claims Division**

If the Court considers it appropriate in all the circumstances, it may order that a proceeding be tried or otherwise dealt with in another Small Claims Division.

**Order 5            Claim****5.01            Claim to be filed and served**

A proceeding is commenced by the plaintiff filing a statement of claim in an office of the Court and serving, in accordance with Order 25, the statement of claim, together with Form 6A, on the defendant within one year after the filing date.

**5.02            Form of claim**

A statement of claim shall:

- (a) state the full name of the plaintiff, an address for service of documents on the plaintiff and, if the plaintiff sues in a representative capacity, the capacity in which the plaintiff sues;
- (b) state the name and address of the defendant;
- (c) where the plaintiff sues by a legal practitioner, the name or firm and business address and telephone number within the Northern Territory of the practitioner and also, if the legal practitioner is the agent of another, the name and firm and the business address of the principal;
- (d) contain:
  - (i) a concise statement of the nature and particulars of the claim;
  - (ii) the approximate date and place the claim arose; and
  - (iii) a statement of the amount, or remedy sought; and

(da) if the claim arises from a motor vehicle collision, have attached to it an itemised quotation of the damages sought; and

(e) be in accordance with Form 5A, 5B or 5C.

### **5.03 Claim not to be divided**

- (1) A plaintiff shall not divide a cause of action for the purpose of making 2 or more claims.
- (2) A plaintiff who has a claim for more than the jurisdictional limit who abandons the excess shall do so by so stating in the particulars of the claim.

## **Order 6 Defence**

### **6.01 Defence**

- (1) A defendant may file a notice of defence at any time before judgment is entered.
- (2) A notice of defence shall:
  - (a) state the name and address for service of the defendant;
  - (b) contain a statement of the defendant's intention to defend the claim;
  - (c) state particulars of the defence; and
  - (d) be in accordance with Form 6A.

## **Order 7 Payment of money**

### **7.01 Payment to plaintiff in satisfaction of claim**

- (1) A plaintiff may, at any time, accept in full satisfaction of the plaintiff's claim an amount of money.
- (2) On receipt of the money, the plaintiff shall sign a receipt in accordance with Form 7A and return the receipt to the defendant or person paying the money to the plaintiff.
- (3) A defendant shall file the receipt within 28 days after the plaintiff signs it.
- (4) On receipt of a completed Form 7A, the Registrar shall discontinue the action.

**7.02 Payment into court of whole claim**

- (1) A defendant may, at any time, pay into court in full satisfaction of the claim, the amount of money claimed.
- (2) On receipt of money paid into court under subrule (1), the Registrar shall:
  - (a) issue a receipt for the money;
  - (b) pay out the money to the person for whose benefit it has been paid; and
  - (c) discontinue the action.

**7.03 Payment into court of part of claim**

- (1) A person may, at any time, pay into court in full satisfaction of the claim, an amount of money less than the amount claimed.
- (2) On receipt of money paid into court under subrule (1), the Registrar shall:
  - (a) issue a receipt for the money;
  - (b) advise the person for whose benefit the money has been paid of the payment, in accordance with Form 7B;
  - (c) pay out the money:
    - (i) to the person for whose benefit it has been paid, if that person accepts it in full settlement of his claim by filing a completed Form 7B;
    - (ii) to the person who paid the money in, if that person so requests and if the money has not been paid under subparagraph (i) to the plaintiff; and
    - (iii) in any case other than a case referred to in subparagraphs (i) or (ii), pursuant to an order of the Court; and
  - (d) discontinue the action on receipt of a completed Form 7B accepting the payment into court.

## **Order 8            Counterclaim**

### **8.01            When counterclaim allowed**

- (1) Subject to subrule (2), a defendant who has a claim against the plaintiff which operates:
  - (a) to reduce the claim against the defendant; or
  - (b) as an independent claim,may counterclaim in the proceeding at any time before:
  - (c) the date of hearing fixed under Order 19.01; or
  - (d) the making of an order for default judgment.
- (2) A defendant may only file a counterclaim if the defendant has already filed:
  - (a) a notice of defence; or
  - (b) a notice of admission.
- (3) The Rules and directions made under section 50 of the Act, as appropriate, shall apply to and in relation to a counterclaim as if the plaintiff were the defendant and the defendant were the plaintiff.
- (4) The Court may disallow a counterclaim.

### **8.02            Form of counterclaim**

A counterclaim shall:

- (a) contain:
  - (i) a concise statement of the nature of the claim;
  - (ii) the approximate date and place the claim arose;
  - (iii) particulars of the defendant's claim; and
  - (iv) a statement of the amount, or remedy sought; and
- (b) be in accordance with Form 6A or 8A.

### **8.03            Trial of counterclaim**

A counterclaim shall be tried at the trial of the original proceeding unless the Court otherwise orders.

**8.04 Counterclaim on stay, &c., of original proceeding**

A counterclaim may be continued notwithstanding that judgment is given for the plaintiff in the original proceeding or that the original proceeding is stayed, discontinued or dismissed.

**Order 9 Default judgment****9.01 Plaintiff may apply for default judgment**

If a defendant does not file a notice of defence or notice of admission within 28 days after being served with the claim, the plaintiff may apply for default judgment.

**9.02 Affidavit or statutory declaration required**

An application under rule 9.01 shall be filed with the Court, shall be in accordance with Form 12A and be accompanied by:

- (a) in the case where a claim is for a debt or liquidated demand, to perform work, for relief from payment or to return goods or to replace goods – a statutory declaration of the extent to which the claim is still unsatisfied made at the time of filing or within 7 days before filing the application; and
- (b) in any other case:
  - (i) a statutory declaration of the extent to which the claim is still unsatisfied made within 7 days before filing the application, and
  - (ii) an affidavit verifying the claim and the nature and extent of the injury loss or damage suffered by the plaintiff sworn within 28 days before filing the application.

**9.03 Registrar may make order or refer to Court**

- (1) If the Registrar is satisfied that the order should be made, the Registrar may make an order for default judgment and for the assessment of damages or value (if appropriate), and enter judgment for the plaintiff to the extent of the order made.
- (2) If the Registrar is not satisfied that an order should be made, the Registrar shall refer the matter to the Court for decision.
- (3) Where the Registrar refers an application to the Court, the Court may:
  - (a) make the order sought in the application;

- (b) make an order that judgment, as to liability only, be entered in favour of the plaintiff, and order that damages or the value of goods be assessed;
  - (c) direct that a further affidavit or declaration be filed; or
  - (d) give directions as to the application.
- (4) Where the Court, under paragraph 3(c), directs that a further affidavit be filed, on the filing of the affidavit the Registrar may make an order.

## **Order 10 Joinder of claims and parties**

### **10.01 Joinder of claims permitted**

Unless the Court otherwise orders, a plaintiff may join any number of claims against a defendant whether the plaintiff makes the claims in the same or in different capacities and whether the claims are made against the defendant in the same or in different capacities, provided the jurisdictional limit is not exceeded.

### **10.02 Joinder of parties permitted**

Two or more persons may be joined as plaintiffs or defendants in a proceeding unless the Court otherwise orders.

### **10.03 Addition, removal, substitution of party**

At any stage of a proceeding the Court may order that:

- (a) a person cease to be a party; or
- (b) any person be added as a party.

### **10.04 Consolidation or trial together**

Where 2 or more proceedings are pending in the Court and:

- (a) a common question of law or fact arises in both or all of them;
- (b) the rights to relief claimed in the proceedings are in respect of or arise out of the same transaction or series of transactions;  
or
- (c) for any other reason it is desirable to make an order under this rule,

the Court may order that the proceedings be consolidated, or be tried at the same time or one immediately after the other, or may order that any of them to be stayed until after the determination of any other of them.

## **Order 12 Applications**

### **12.01 Application**

- (1) A party may, in accordance with Form 12A, file an application for an order and copies of any document in support of the application.
- (2) A party shall file sufficient copies for each person against whom the order is sought.

### **12.02 Absence of party**

- (1) If the person to whom an application is addressed fails to attend, the Court may hear the application if satisfied that it was duly served.
- (2) If the applicant fails to attend, the Court may dismiss the application or make such other orders as it thinks fit.

### **12.03 Consent application**

- (1) A party may consent to an application for an order made by another party by:
  - (a) filing and serving a Notice of Consent in accordance with Form 12B; or
  - (b) endorsing that party's consent on the application that is filed, in the following manner:

"This application is consented to by the plaintiff/defendant

.....  
Signature of plaintiff/defendant".

- (2) If all parties consent to an application for an order, a Registrar may forthwith make an order in terms of the order applied for or, if not satisfied that the order should be made, shall refer the application to the Court.
- (3) If only some parties consent to an application for an order, a Registrar may forthwith make an order in terms of the order applied for against those parties or, if not satisfied that the order should be made, shall refer the application to the Court.

- (4) An order under subrule (2) or (3) takes effect as provided in Order 21.

## **Order 13 Admissions and offer to pay**

### **13.01 Voluntary admission of facts/offer to pay**

- (1) A party may, by filing a notice in accordance with Form 6A or 13A, admit in favour of the other party, for the purpose of the proceeding only:
  - (a) the facts specified in the notice; or
  - (b) liability to the claim whether or not the party disputes the amount claimed,and/or may offer to pay an amount of money in full or by instalments in accordance with Form 6A or 13B.
- (2) A party may, by leave of the Court, withdraw an admission made in accordance with subrule (1).
- (3) Where a party files a notice of admission in accordance with Form 6A, the party shall be taken to deny any particular of the claim that is not admitted.

### **13.02 Notice for admission of facts**

- (1) A party may serve on another party a notice in accordance with Form 13C requesting that party, within the time specified in the notice (which shall not be earlier than 14 days after service), to admit a fact specified in the notice.
- (2) A party who admits a fact in response to a notice under subrule (1) shall be taken to admit the fact for the purpose of the proceeding only.

### **13.03 Judgment on admissions or offer**

- (1) A party may apply for judgment on the basis of admissions made by the other party.
- (2) Where a defendant has admitted the full claim, but not paid money into court, the Registrar shall enter judgment for the plaintiff.
- (3) Where a defendant has made an offer to pay that has been accepted by the plaintiff, the Registrar may enter judgment for the plaintiff to the extent of the defendant's offer.



## **Order 14 Amendment or discontinuance**

### **14.01 Amendment**

The Court may, at any stage of a proceeding, allow a party to alter or amend the party's pleadings in such manner and on such terms as it thinks fit and all amendments shall be made as are necessary for the purpose of determining the real questions at issue between the parties.

### **14.02 Discontinuance**

- (1) A party may at any time discontinue by giving notice of discontinuance to the Registrar and to all other parties in accordance with Form 14A.
- (2) Where an application has been discontinued, that party shall not begin a similar proceeding for the same claim except by leave of the Court or by consent of the defendant.
- (3) The leave referred to in subrule (2) may be obtained on an ex parte application.

## **Order 15 Affidavit/declaration**

### **15.01 When affidavit/declaration may be used**

An affidavit or declaration may be used in any proceeding.

### **15.02 Form**

- (1) An affidavit shall be in a form which complies with the *Local Court Rules*.
- (2) A declaration shall be in a form which complies with the *Oaths Act*.

## **Order 16 Evidence**

### **16.01 Evidence of witness**

Unless the Court otherwise orders, or the Rules otherwise provide or the parties otherwise agree, evidence at the trial of a proceeding, or on any other application, may be given orally or by statutory declaration or affidavit.

### **16.02 View**

The Court may inspect a place, process or thing.

**Order 17      Witnesses****17.01      Attendance by subpoena**

- (1) The Court or a Registrar may, by subpoena, order that a person named attend at a proceeding for the purpose of giving evidence or of producing a document or thing for evidence, or for both purposes, if the Court or the Registrar, as the case may be, considers it is reasonably necessary to the proper determination of the proceeding.
- (2) A subpoena shall be in accordance with Form 17A, 17B, 17C or 17D, whichever is appropriate.
- (3) An order under subrule (1) shall not operate to require the person against whom the order is made to producing a document which the person could properly object to producing on the ground of privilege.

**17.02      Producing documents**

A person who receives a subpoena requiring him or her only to produce a document, may, instead, produce that document to the Registrar at least 2 working days before the date fixed for the trial or date of production specified in the subpoena.

**17.03      Filing subpoena**

- (1) An order by subpoena for the attendance of a person in a proceeding shall be taken to be made on the filing of the subpoena by a party.
- (2) On the filing of a subpoena the Proper Officer, on the request of the party filing it, shall seal with the seal of the Court a sufficient number of copies for service and proof of service.
- (3) A subpoena to give evidence may be addressed to any number of persons.
- (4) Where a subpoena to give evidence is addressed to a person or to a number of persons "and others", the name of an additional person to whom it is to be addressed may be inserted in a sealed copy without resealing.

**17.04      Service**

A subpoena shall be served in accordance with Order 25.

### **17.05 Conduct money**

A person to whom a witness subpoena is addressed shall be excused from complying with it unless conduct money, sufficient to meet the person's reasonable expenses of complying, is given or tendered to that person at the time of service of the witness or a reasonable time before the day on which the witness is required by the subpoena to attend.

## **Order 18 Pre-hearing conference**

### **18.01 Pre-hearing conference**

- (1) The Registrar shall fix a date for the prehearing of the claim, unless the Court otherwise orders:
  - (a) on the filing of:
    - (i) a notice of defence (without offer to pay);
    - (ii) a counterclaim; or
    - (iii) a notice rejecting money paid into court or an offer to pay;
  - (b) 14 days after the issue of a notice of payment into court in accordance with Form 7B, if the plaintiff does not file a completed Form 7B accepting money paid into court; or
  - (c) 14 days after the filing of a notice of admission (without offer to pay) in accordance with Form 6A,whichever first occurs.
- (2) Where, at the time a defence is filed, an application under rule 9.01 has been made but no order has been made under rule 9.03, the Court shall deal with the application and the defence at the same time.
- (3) The Court may, at any stage of a proceeding, with or without the presence of parties, order that a prehearing conference be held.
- (4) Where a prehearing conference is fixed, a notice in accordance with Form 18A shall be sent to each party not present when the date is fixed.

**18.02 Procedure**

- (1) If a prehearing conference is to be held (whether after application by a party or on the motion of the Court), all parties shall attend.
- (2) If a party does not attend a prehearing conference after being given notice to attend, the Court may:
  - (a) in the case of failure by a plaintiff, dismiss the claim; or
  - (b) in the case of failure by a defendant, make an order against that party permitting the plaintiff to proceed as if a notice of defence had not been filed.
- (3) The person conducting the prehearing conference may conduct it by way of:
  - (a) preliminary conference to clarify issues in dispute;
  - (b) mediation; or
  - (c) arbitration in accordance with rule 18.04,and must conduct it in accordance with any practice directions issued by the Chief Magistrate.

**18.03 Decision by consent**

- (1) If the parties at a prehearing conference express their agreement and consent to the Court making a decision in accordance with agreed terms, the Court may decide the proceeding on the terms as agreed.
- (2) A decision made by the Court under this rule:
  - (a) shall be expressed to be a decision by consent; and
  - (b) shall have the same force and effect as if it had been made after the trial of the proceeding concerned.

**18.04 Decision by arbitration**

- (1) If the parties at a prehearing conference consent, the Court may arbitrate the dispute.
- (2) A decision made by the Court under this rule:
  - (a) shall be expressed to be pursuant to an arbitration by consent; and

- 
- (b) shall have the same force and effect as if it had been made after the trial of the proceeding concerned.

### **18.05 Confidentiality**

The proceedings of a prehearing conference shall be confidential and no answers given or admissions made at a prehearing conference shall be used or referred to at the hearing, or be disclosed to the Court at the trial, without the consent of all parties.

## **Order 19 Hearing**

### **19.01 Fixing hearing**

The Court may fix a date for the trial of a claim at any stage of a proceeding and shall serve a copy of a notice in accordance with Form 19A on each party who is not present when the date for the trial was fixed.

### **19.02 Where party does not appear**

- (1) If the defendant, or person to whom an application is addressed fails to attend, the Court may hear the claim or application if satisfied that it was duly served.
- (2) If the plaintiff, or the applicant fails to attend, the Court may dismiss the claim or application or make such other orders as it thinks fit.
- (3) If neither party attends, the Court may make such order as it thinks fit.

### **19.03 Directions**

At any stage of a proceeding the Court may direct that the proceeding be conducted in a certain way.

### **19.04 Transfer of claim to Local Court**

Pursuant to section 23 of the Act, the Court may order the proceeding be transferred to a Local Court and give such other directions and make such other orders as it thinks fit.

### **19.05 Adjournment**

At any stage of a proceeding the Court may adjourn the proceeding to another Small Claims Division or to a time and place:

- (a) that is fixed; or
- (b) that is to be fixed by the Court or Registrar,

or may adjourn the proceeding indefinitely.

#### **19.06      Financial resources**

At any stage of a proceeding after judgment, admission of liability or finding of liability the Court may examine a party on the party's ability to pay money or otherwise satisfy a claim or counterclaim.

### **Order 20      Assessment of damages or value**

#### **20.01      Mode of assessment**

- (1) The Court may order damages to be assessed at any stage of a proceeding.
- (2) The Registrar may order damages to be assessed:
  - (a) on the filing of an application for default judgment under Order 9;
  - (b) on a consent application under rule 12.03; or
  - (c) on an admission as to liability under Order 13.
- (3) Subject to rule 20.05, damages under an order for damages to be assessed shall be assessed by the Registrar unless the Court otherwise directs.

#### **20.02      Notice to other party**

- (1) The party against whom damages are to be assessed may take part in the assessment.
- (2) Unless the parties are present when an order under rule 20.01 is made, the Court shall, not later than 14 days before the assessment is due, serve on each party notice, in accordance with Form 20A, of the day, time and place of the assessment.
- (3) Notice under subrule (2) may be served at the address for service but, if there is no address for service, it shall be served personally, unless the Court otherwise orders.
- (4) Subrule (2) does not apply to an assessment ordered on the filing of an application for default judgment.

#### **20.03      Procedure on assessment**

The attendance of witnesses and production of documents may be compelled by subpoena in accordance with Order 17.

**20.04 Order for damages**

Where damages are assessed by the Registrar, the Registrar shall, by order, state the amount at which they are assessed.

**20.05 Default judgment against some defendants**

Where an order for damages to be assessed is given in default of defence and the proceeding is continued against other defendants, the damages shall be assessed at the trial, unless the Court otherwise orders.

**20.06 Value of goods**

This Order, with the necessary changes, also applies to an order for the value of goods to be assessed.

**Order 21 Judgments and orders****21.01 General relief**

The Court may, at any stage of a proceeding, on the application of a party, give such judgment or make such order under section 30A of the Act as the case requires, notwithstanding that the judgment or order had not been sought in the proceeding.

**21.02 Date of effect**

An order shall bear the date of and take effect on and from the day it is made, unless the Court otherwise orders.

**21.03 Time for compliance**

- (1) An order which requires a person to do an act shall provide, unless the Court otherwise orders, that the act be done within 14 days after service of a copy of the order on the person.
- (2) Where an order requires a person to do an act within a fixed time, the Court may, by order, fix another time.
- (3) Where an order requires a person to do an act but does not fix a time within which it is required to be done, the Court may, by order, fix a time.
- (4) Where the Court fixes a time under subrule (3), it may, by subsequent order, fix another time.

**21.04      Instalment order**

- (1) The Court may order that a defendant pay the amount of a judgment debt by instalments.
- (2) An instalment order may be made:
  - (a) by the Court of its own motion; or
  - (b) on the application of a party.
- (3) While an instalment order is being complied with, it operates as a stay of enforcement of the judgment concerned.
- (4) Failure to comply with an instalment order does not terminate the stay of enforcement referred to in subsection (3) until the failure has continued for 14 days.

**21.05      How judgment entered**

A judgment or order shall be entered in accordance with the Practice Direction (if any) of the Chief Magistrate.

**21.06      Certain orders to be served**

- (1) Notice of an order made in the absence of a party shall be served on that party, unless the court otherwise orders or the Rules otherwise provide.
- (2) A Notice shall be in accordance with Form 21A.

**Order 22      Re-hearing**

**22.01      Application for re-hearing**

- (1) A party:
  - (a) not present at the time the claim was heard; or
  - (b) against whom an order for default judgment was made,may file an application for re-hearing.
- (2) A copy of the application shall be served on the other party or parties personally.



**22.02 Form of application**

An application shall be in accordance with Form 22A and state (if appropriate) why:

- (a) the applicant did not appear on the hearing of the statement of claim or counterclaim; and
- (b) notice of defence was not given.

**22.03 Re-hearing date**

Where the Court sets aside an order, the claim shall be re-heard on a date fixed by the Registrar.

**22.04 Re-hearing**

- (1) The Court, on sufficient cause being shown, may by order set aside any judgment or order in a proceeding.
- (2) An order under subrule (1) may be made on such terms as the Court thinks fit.

**22.05 Limit on applications for re-hearing**

- (1) Where an application for re-hearing has been dealt with, the party who made the application shall not file a similar application in the same proceeding except by leave of the Court or by consent of the other party.
- (2) The leave referred to in subrule (1) may be obtained on an ex parte basis.

**Order 23 Interest****23.01 Interest on judgment**

Subject to rule 23.03, every judgment debt carries interest from the date of judgment at the rate fixed in accordance with rule 59.02 of the *Supreme Court Rules* unless the Court otherwise orders.

**23.03 No interest payable on instalment order**

While an instalment order is being complied with, no interest is payable on the judgment.

**Order 24          Enforcement****24.01          Enforcement as order of Local Court**

A judgment or order of the Court in respect of a proceeding shall be enforced as an order of the Local Court under the *Local Courts Act*.

**Order 25          Service****25.01          Documents to be served**

All documents filed shall be served on the other parties to a proceeding.

**25.02          Who may serve**

A document may be served by:

- (a) the party preparing or filing the document;
- (b) a bailiff or other officer of the Court;
- (c) a private bailiff or licensed process server;
- (d) a legal practitioner or person employed in the office of a legal practitioner; or
- (e) a person in the employ of the party.

**25.03          Service generally**

- (1) Subject to rule 25.02, the Registrar shall, within 2 working days after the date of filing, arrange for the service of a document on behalf of the party filing it.
- (2) Where:
  - (a) a document must be served personally; or
  - (b) the Registrar is unable to effect ordinary service or, in the Registrar's opinion, such service is unlikely to be effective,  
  
the Registrar shall either:
    - (c) arrange for personal service of the document on payment of the bailiff's fee for service (for each party to be served) by the party filing it; or
    - (d) permit that party to arrange personal service.

- (3) The Registrar may waive the fee in the case of an apparently impecunious plaintiff

#### **25.04 Mode of service**

- (1) A party may agree to accept service in any manner.
- (2) An application for re-hearing shall be served personally, unless the parties otherwise agree or the Court otherwise orders.
- (3) A Statement of Claim shall be served by certified mail.
- (4) Any other document may be served by ordinary service.
- (5) Where the Court considers it impracticable for a document to be served as provided in subrule (2), (3) or (4), it may make an order for such steps to be taken as it considers appropriate to bring the document to the attention of a party.

#### **25.05 How personal service effected on natural person**

- (1) Personal service of a document is effected on a natural person by leaving a copy of the document with the person to be served or, if the person does not accept the copy, by putting the copy down in the person's presence and telling the person the nature of the document.
- (2) To effect personal service it shall not be necessary to show the original document.

#### **25.06 How personal service effected on firm or corporation**

- (1) Personal service may be effected on a firm by effecting service on an officer of the firm in accordance with rule 25.05.
- (2) Personal service may be effected on a corporation by leaving a copy of the document at the registered office or the principal place of business or the principal office of the corporation with some person apparently an officer of, or in the service of, the corporation and apparently of or above the age of 16 years.
- (3) If a person refuses to accept service of a document, personal service may be effected on the person by putting the document down in his or her presence and telling him or her its nature.
- (4) It shall not be necessary in order to effect personal service that the original document be shown.
- (5) In spite of subrule (2), where a liquidator, receiver or manager has been appointed, personal service may be effected:

- (a) on a company, as defined in section 9 of the *Corporations Act 1989* of the Commonwealth or corresponding legislation of a State or Territory (***the Corporations Law***), in any manner permitted by section 220 of the Corporations Law;
  - (b) on the liquidator of a company, in the manner permitted by subsection 220(5) of the Corporations Law; and
  - (c) on an official manager of a company, in the manner permitted by subsection 220(6) of the Corporations Law.
- (6) For the purposes of subrule (5), a document served by sending it by prepaid post addressed to:
- (a) a company at the registered office of the company;
  - (b) a liquidator at the last address of the office of the liquidator notice of which has been lodged; or
  - (c) an official manager at the last address of the office of the official manager notice of which has been lodged,
- is taken to be served on the seventh day after posting.

#### **25.07 How ordinary service effected**

- (1) A document may be served:
- (a) by leaving it at the proper address of the person or firm to be served;
  - (b) by sending it by pre-paid post to the person to be served at the person's proper address; or
  - (c) personally in accordance with rule 25.05 or 25.06.
- (2) For the purpose of subrule (1), the proper address of a person is the address for service of that person in the proceeding but if, at the time service is to be effected, the person has no address for service, the proper address is:
- (a) in the case of an individual – the person's usual or last known place of residence or of business;
  - (b) in the case of a firm – the principal or last known place of business of the firm; and
  - (c) in the case of a corporation – the registered or principal office of the corporation.

**25.08 Declaration of service**

- (1) A person serving a statement of claim or application for re-hearing shall complete and file a declaration of service in accordance with Form 25A within 28 days after serving the document.
- (2) A person serving any other document may file a declaration of service in accordance with Form 25B at any time.
- (3) An officer of the Court effecting ordinary service may file a declaration of service relating to more than one proceeding in accordance with the Practice Direction (if any) of the Chief Magistrate.

**Order 26 Form of Court document****26.01 Forms**

- (1) In these Rules a reference to a form by number is a reference to a form so numbered in the Schedule.
- (2) Where no form is prescribed in these Rules, the form of the document shall be adapted from the most relevant form and be acceptable to the Registrar.
- (3) Want of accuracy in the completion of a form, or the use of a wrong form, shall not invalidate a proceeding in the Court but the Court may in such a case make such amendments or give such directions as the circumstances require.

**26.02 Conformity with Rules**

Except to the extent that the nature of the document renders compliance impracticable, a document prepared by a party for use in the Court shall substantially comply with the Rules.

**26.03 Proper Officer refusing to seal or accept document**

- (1) The Proper Officer may refuse to seal a document without the direction of the Court where the Proper Officer considers that the form or contents of the document shows that were the document to be sealed or the proceeding so commenced it would be irregular or an abuse of the process of the Court.
- (2) Where a document for use in the Court is not prepared in accordance with the Rules or an order of the Court:
  - (a) the Proper Officer may refuse to accept it for filing, without the direction of the Court; or

- (b) the Court may order that the party responsible shall not be entitled to rely on it in any manner in the proceeding until a document which is duly prepared is made available.
- (3) The Court may direct the Proper Officer to seal an originating process or accept a document for filing.

**26.04 Scandalous matter**

Where a document for use in the Court contains scandalous, irrelevant or otherwise oppressive matter, the Court may order:

- (a) that the matter be struck out; or
- (b) if the document has been filed, that it be taken off the file.

---

**Schedule**

FORM 5A

rule 26.01

Local Court  
at Darwin

*Small Claims Act*

STATEMENT OF CLAIM

Claim no.

Between  
the plaintiff:  
(person claiming  
money)

.....

name

.....

address  
for service

.....

and  
the defendant:  
(person claimed  
against)

.....

name

.....

address

.....

TO THE DEFENDANT

The plaintiff claims that you owe the plaintiff the amount of \$  
following grounds:

on the

.....  
Signature of plaintiff

Approximate date claim arose:  
Place claim arose:

Registrar  
Filed:

Is interest claimed under a written agreement?      Yes/No  
If yes, at what rate:

Plaintiff's solicitor (if any):

---

NOTES FOR PLAINTIFF – SEE BACK OF DOCUMENT

---

---

**NOTES FOR DEFENDANT – PLEASE READ CAREFULLY**

If you wish to settle the claim, contact the plaintiff.

If you wish to pay the amount you consider you owe contact the Court or plaintiff.

You may defend the claim or admit to all or part of the claim: see the attached Notice in Form 6A.

If you do not do one of the above within 28 days from the date this document was served on you, then judgment may be given against you in your absence and enforced by the plaintiff against your property.

If there is no written agreement providing for interest on the claim a successful plaintiff is entitled by law to interest:

(a) at 12% p.a. commencing 28 days after the claim was served on you until judgment, then

(b) at 15% p.a. commencing from the date of judgment,

unless the Court otherwise orders.

[back of Form 5A and 5B]

---

**NOTES FOR PLAINTIFF**

Normally the Court will arrange service of the Statement of Claim and Notice in Form 6A. If personal service is required, you can pay a fee to the Court, a private bailiff or licensed process server who will arrange service for you.

The documents must be served within one year of the filing date. If you feel you cannot serve the defendant in this period contact court staff for advice.

If you wish to serve the document outside the Northern Territory contact court staff for advice.

The person serving these documents must also return one copy to the Court with a completed Declaration of Service within 28 days after the date of service.



---

DECLARATION OF SERVICE

FORM 25A

I,  
declare that at \_\_\_\_\_ on \_\_\_\_\_ I served a copy of this document  
[time] [date]  
together with a notice in Form 6A on the defendant at \_\_\_\_\_  
[place]

by + handing them to \_\_\_\_\_, or  
+ putting them down in the presence of \_\_\_\_\_ and  
telling that person the nature of the documents

that person being  
+ the defendant, or  
+ an officer of the defendant firm or corporation  
or by

+ posting the documents by certified mail to  
at the defendant's last known place of + residence/business or +  
registered/principal office, and annexed hereto and marked A and B  
respectively are a duly completed certified mail posting receipt, and an  
acknowledgement of delivery of the postal article both issued pursuant to  
the Postal By-laws made under the *Postal Services Act 1975* of the  
Commonwealth.

and that this declaration is true in every particular  
Declared at \_\_\_\_\_ on \_\_\_\_\_  
[place] [date]

.....  
Signature of declarant

**NO WITNESS IS REQUIRED FOR THIS DECLARATION**

+ delete if inappropriate

---

**A person wilfully making a false statement in a declaration is liable to a  
penalty of \$2,000 or imprisonment for 12 months, or both**

---

FORM 5B

Local Court  
at Darwin

*Small Claims Act*

STATEMENT OF CLAIM

Claim no.

Between  
the plaintiff:  
(person claiming  
Work order)

.....

name

.....

address  
for service

.....

and  
the defendant:  
(person claimed  
against)

.....

name

.....

address

.....

TO THE DEFENDANT

The plaintiff claims against you an order that you on the following grounds:

.....  
Signature of plaintiff

Approximate date claim arose:  
Place claim arose:

Registrar

Filed:

Plaintiff's solicitor (if any):

NOTES FOR PLAINTIFF – SEE BACK OF DOCUMENT

**NOTES FOR DEFENDANT – PLEASE READ CAREFULLY**

If you wish to settle the claim, contact the plaintiff.

You may defend the claim or admit to all or part of the claim:  
see the attached Notice in Form 6A.

If you do not do one of the above within 28 days from the date this document  
was served on you, then judgment may be given against you in your absence  
and enforced by the plaintiff against your property.

FORM 5C

rule 5.02(e)

Local Court  
at Darwin

*Small Claims Act*

STATEMENT OF CLAIM

Claim no.

Between  
the plaintiff:  
(person claiming  
money)

.....  
.....  
.....

name  
address  
for service

and  
the defendant:  
(person claimed  
against)

.....  
.....  
.....

name  
address

TO THE DEFENDANT

The plaintiff claims that you owe the plaintiff the amount of \$

on the

.....  
Signature of plaintiff

Registrar  
Filed:

WHAT IS THE NATURE OF YOUR CLAIM? (e.g. cost of repairs to motor vehicle; cost of repairs to damaged fence.)

WHERE DID YOUR CLAIM ARISE? (Give the location of a collision, and in the space below draw a sketch plan of the collision with names of roads, &c., identify your vehicle as "1", the vehicle driven by the defendant as "2" and any other vehicles involved as "3", "4", "5", &c.)

WHEN DID YOUR CLAIM ARISE?

HOW DID THE COLLISION HAPPEN? (You must set out here in as much detail as you can how the collision happened and why you believe the defendant is at fault. If the space is insufficient you may attach other sheets.)

\*HOW MUCH ARE YOU CLAIMING?

---

Plaintiff's solicitor (if any):

---

NOTES FOR PLAINTIFF – SEE BACK OF DOCUMENT

---

**NOTES FOR DEFENDANT – PLEASE READ CAREFULLY**

If you wish to settle the claim, contact the plaintiff.

If you wish to pay the amount you consider you owe contact the Court or plaintiff.

You may defend the claim or admit to all or part of the claim: see the attached Notice in Form 6A.

If you do not do one of the above within 28 days from the date this document was served on you, then judgment may be given against you in your absence and enforced by the plaintiff against your property.

If there is no written agreement providing for interest on the claim a successful plaintiff is entitled by law to interest:

- (a) at 12% p.a. commencing 28 days after the claim was served on you until judgment, then
- (b) at 15% p.a. commencing from the date of judgment,

unless the Court otherwise orders.

[back of Form 5C]

---

**NOTES FOR PLAINTIFF**

Normally the Court will arrange service of the Statement of Claim and Notice in Form 6A. If personal service is required, you can pay a fee to the Court, a private bailiff or licensed process server who will arrange service for you.

The documents must be served within one year of the filing date. If you feel you cannot serve the defendant in this period contact court staff for advice.

If you wish to serve the document outside the Northern Territory contact court staff for advice.

The person serving these documents must also return one copy to the Court with a completed Declaration of Service within 28 days after the date of service.

---

---

DECLARATION OF SERVICE

FORM 25A

I,  
declare that at \_\_\_\_\_ on \_\_\_\_\_ I served a copy of this document  
[time] [date]  
together with a notice in Form 6A on the defendant at \_\_\_\_\_  
[place]

by + handing them to \_\_\_\_\_, or  
+ putting them down in the presence of \_\_\_\_\_ and  
telling that person the nature of the documents

that person being  
+ the defendant, or  
+ an officer of the defendant firm or corporation

or by  
+ posting the documents by certified mail to  
at the defendant's last known place of + residence/business or +  
registered/principal office, and annexed hereto and marked A and B  
respectively are a duly completed certified mail posting receipt, and an  
acknowledgement of delivery of the postal article both issued pursuant to  
the Postal By-laws made under the *Postal Services Act 1975* of the  
Commonwealth.

and that this declaration is true in every particular

Declared at \_\_\_\_\_ on \_\_\_\_\_  
[place] [date]

.....  
Signature of declarant

**NO WITNESS IS REQUIRED FOR THIS DECLARATION**

+ delete if inappropriate

---

**A person wilfully making a false statement in a declaration is liable to a  
penalty of \$2,000 or imprisonment for 12 months, or both**

---

---

FORM 6A

Local Court  
at Darwin

*Small Claims Act*

STATEMENT OF CLAIM

Claim no.

Between  
the plaintiff:

.....

name

.....

address  
for service

.....

And  
the defendant:

.....

name

.....

address

.....

---

**INSTRUCTIONS FOR DEFENDANT – PLEASE READ CAREFULLY**

1. If you wish to defend the claim, complete part A and return this document to the Court.
2. If you wish to admit all or part of the claim, or make an offer to pay, complete Part B and return this document to the Court. If you make an offer to pay less than the full claim, you should also defend the remainder of the claim.
3. If you have a claim against the plaintiff, you must complete Part C and either Part A or Part B and return this document to the Court.
4. If you have to go to Court, a notice will be sent to your address for service.
5. If you are uncertain about what you can do, contact the Court. A Guide to Small Claims is available free from the Court to assist you.

---

---

PART A

---

NOTICE OF DEFENCE

**(You must include the relevant details of your defence)**

I intend to defend the claim against me on the following grounds:

.....  
Signature of Defendant

Name: .....

Address for service: .....

.....  
(Please print legibly)

Defendant's solicitor (if any):

Registrar

Filed:

[back of Form 6A]

---

---

PART B

---

NOTICE OF ADMISSION

tick as appropriate

- I admit the plaintiff's entire claim against me;
- or
- I admit the plaintiff's claim to the following extent:

and/or OFFER TO PAY (you do not have to make an offer to pay) I offer to pay the plaintiff the amount of \$ \_\_\_\_\_ in satisfaction of the claim. I offer to pay this amount

tick as appropriate

- in full; or
- in instalments of \$ \_\_\_\_\_ per [amount] [period]

.....  
Defendant's signature  
Name .....

.....  
Witness's signature  
Name .....

Address for service:  
.....  
.....

Contact address or telephone no.  
.....  
.....

**If you complete any part of Part B, your signature must be witnessed before a person who is 18 or over.**



---

---

PART C

---

COUNTERCLAIM

I claim against the plaintiff:

tick as  the amount of \$  or  
appropriate  an order that

on the following grounds:

.....  
Signature of Defendant

Approximate date claim arose:

Place claim arose:

---

FORM 7A

*Small Claims Act*

Claim No:

RECEIPT OF MONEY

I acknowledge receiving from .....  
the amount of \$                      in full settlement of my claim.

Plaintiff's signature:

Name printed legibly:

Date of signing:

.....

Filed by:

Person's signature:

Name printed legibly:

If you are not the defendant, specify your relationship to the defendant:

NOTE TO THE DEFENDANT

You must file this receipt within 28 days of the date it was signed by the plaintiff.

---

FORM 7B

*Small Claims Act*

Local Court at [Place] NOTICE OF PAYMENT INTO COURT Claim No.

TO THE PLAINTIFF

The defendant has paid the amount of \$ \_\_\_\_\_ into court in full satisfaction of the claim you have made.

If you wish to accept this amount, you must complete Part A and file it in this Court.

If you do not wish to accept this payment in satisfaction of your claim, complete Part B and file it in this Court.

If the defendant withdraws the payment, you will be notified.

If the payment is not withdrawn, and if you do not accept this payment in 14 days from the date stamped below, the claim will be listed for hearing. You can still accept this payment after 14 days if the defendant has not withdrawn it.

Registrar

Issued:

---

PART A

---

NOTICE ACCEPTING MONEY  
PAID INTO COURT

TO THE REGISTRAR

I accept in full satisfaction of the claim I have made against the defendant the amount paid into Court.

Plaintiff's signature

Name:

Address:

Schedule

---

---

PART B

---

NOTICE REJECTING MONEY  
PAID INTO COURT

TO THE REGISTRAR

I do not accept the amount paid into Court in satisfaction of my claim.

Plaintiff's signature

Name:

Address:

---

---

FORM 8A

*Small Claims Act*

Local Court at  
[Place]

COUNTERCLAIM

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF

The defendant claims against you

(a) + the amount of \$

or

(b) + an order for

on the following grounds:

.....  
Signature of defendant

Approximate date claim arose:

Place claim arose:

Registrar

Filed:

---

FORM 12A

*Small Claims Act*

Local Court at  
[Place]

APPLICATION

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF/DEFENDANT +

The applicant applies to the Court for an order that:

.....  
Signature of applicant  
plaintiff/defendant +

The Registrar has fixed [time] on [date] as the hearing time for  
this application.

.....  
Registrar

+ Delete if inappropriate

---

FORM 12B

*Small Claims Act*

CONSENT  
APPLICATION

Claim No.

Local Court at  
[Place]

Between

plaintiff

and

defendant

TO THE REGISTRAR

The plaintiff/defendant consents to the Court making an order that:

.....  
Signature of applicant  
plaintiff/defendant +

+ Delete if inappropriate

---

FORM 13A

*Small Claims Act*

Local Court at  
[Place]

NOTICE OF ADMISSION

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF/DEFENDANT +

I admit the following facts:

I offer to pay the amount of \$  
plaintiff's claim in full or in instalments of \$

in full satisfaction of the

[amount]

per .

.....  
Signature of applicant  
plaintiff/defendant +

+ Delete if inappropriate



---

FORM 13B

*Small Claims Act*

Local Court at  
[Place]

Claim No.

plaintiff

and

defendant

---

PART A

---

NOTICE ACCEPTING OFFER TO PAY

TO THE REGISTRAR

I agree to accept in full satisfaction of the claim I have made against the defendant the amount offered by the defendant, on the terms specified in that order.

Plaintiff's signature

Name:

Address:

---

PART B

---

NOTICE REJECTING OFFER TO PAY

TO THE REGISTRAR

I do not accept in satisfaction of the claim I have made against the defendant the defendant's offer.

Plaintiff's signature

Name:

Address:

---

FORM 13C

*Small Claims Act*

Local Court at  
[Place]

NOTICE REQUESTING ADMISSION

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF/DEFENDANT +

I request that you admit the following facts:

.....  
Signature of defendant/plaintiff +

+ Delete if inappropriate

---

FORM 14A

*Small Claims Act*

Local Court at  
[Place]

NOTICE OF DISCONTINUANCE

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF/DEFENDANT +

I discontinue my claim/counterclaim +

.....  
Signature of defendant/plaintiff +

+ Delete if inappropriate

Registrar

Filed:

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FORM 17A

*Small Claims Act*

Local Court at  
[Place]

WITNESS SUBPOENA  
TO GIVE EVIDENCE

Claim No.

Between

plaintiff

and

defendant

TO

[name]

of

[address]

THE COURT ORDERS that you attend for the purpose of giving evidence -

- (a) before the Court;
- (b) at [address of Court] ;
- (c) at 10.00 a.m. [or as the case requires] on [date] and  
until you are excused from further attending.

Registrar

Filed:

Filed by the

[plaintiff/defendant]

NOTE that:

- (1) if you do not comply with this subpoena, you may be arrested;
- (2) any question concerning this subpoena should be addressed not to the Court but to the party who filed the subpoena.

---

FORM 17B

*Small Claims Act*

Local Court at  
[Place]

WITNESS SUBPOENA  
TO PRODUCE DOCUMENTS

Claim No.

Between

plaintiff

and

defendant

TO

[name]

of

[address]

THE COURT ORDERS that you attend and produce this subpoena and the documents described in the Schedule -

- (a) before the Court;
- (b) at [address of Court] ;
- (c) at 10.00 a.m. [or as the case requires] on [date] and  
until you are excused from further attending.

Registrar

Filed:

Instead of so attending you may produce this subpoena and the documents and things described in the Schedule to the Registrar of the Local Court at [venue] by hand or by post, in either case

so that the Registrar receives them not later than 2 days (excluding Saturdays, Sundays or other holidays) before the date on which you are required to attend.

Filed by the

[plaintiff/defendant]

NOTE that:

- (1) if you do not comply with this subpoena, you may be arrested;
  - (2) documents and things produced by you in accordance with this subpoena may be returned by post to you at your address shown on this subpoena, but you may in writing on or attached to this subpoena request that they be posted to you at another address given by you or that you be informed when they are available to be collected by you;
  - (3) any question concerning this subpoena should be addressed not to the Court but to the party who filed the subpoena.
- 

[back of Form 17B]

SCHEDULE

(describe documents)

---

FORM 17C

*Small Claims Act*

Local Court at  
[Place]

WITNESS SUBPOENA  
TO PRODUCE DOCUMENTS  
AND GIVE EVIDENCE

Claim No.

Between

plaintiff

and

defendant

TO

[name]

of

[address]

THE COURT ORDERS that you attend and produce this subpoena and the documents described in the Schedule and attend to give evidence:

- (a) before the Court;
- (b) at [address of Court] ;
- (c) at 10.00 a.m. [or as the case requires] on [date] and until you are excused from further attending.

Registrar

Filed:

Instead of so attending you may produce this subpoena and the documents and things described in the Schedule to the Registrar of the Local Court at [venue] by hand or by post, in either case

so that the Registrar receives them not later than 2 days (excluding Saturdays, Sundays or other holidays) before the date on which you are required to attend.

Filed by the

[plaintiff/defendant]

NOTE that:

- (1) if you do not comply with this subpoena, you may be arrested;
  - (2) documents and things produced by you in accordance with this subpoena may be returned by post to you at your address shown on this subpoena, but you may in writing on or attached to this subpoena request that they be posted to you at another address given by you or that you be informed when they are available to be collected by you;
  - (3) any question concerning this subpoena should be addressed not to the Court but to the party who filed the subpoena.
- 

[back of Form 17C]

SCHEDULE

(describe documents)





NOTE that:

- (1) if you do not comply with this subpoena, you may be arrested;
  - (2) documents and things produced by you in accordance with this subpoena may be returned by post to you at your address shown on this subpoena, but you may in writing on or attached to this subpoena request that they be posted to you at another address given by you or that you be informed when they are available to be collected by you;
  - (3) any question concerning this subpoena should be addressed not to the Court but to the party who filed the subpoena.
- 

[back of Form 17D]

SCHEDULE

(describe documents)

---

FORM 18A

*Small Claims Act*

Local Court at  
[Place]

ORDER FOR PRE-HEARING  
CONFERENCE

Claim No.

Between

plaintiff

and

defendant

TO ALL PARTIES

The Court has ordered that a pre-hearing conference in this proceeding be held before the Court/Registrar.

The Registrar has fixed [time] on [date] as the hearing time for this matter.

.....  
Registrar

Issued:

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FORM 19A

*Small Claims Act*

Local Court at  
[Place]

NOTICE OF HEARING

Claim No.

Between

plaintiff

and

defendant

TO ALL PARTIES

The Registrar has fixed  
this matter.

[time] on [date]

as the hearing time for

.....  
Registrar

Issued:



---

FORM 21A

*Small Claims Act*

Local Court at  
[Place]

NOTICE OF ORDER

Claim No.

Between

plaintiff

and

defendant

TO ALL PARTIES

The Court has made the following orders:

.....  
Registrar

---

FORM 22A

*Small Claims Act*

Local Court at  
[Place]

APPLICATION FOR RE-HEARING

Claim No.

Between

plaintiff

and

defendant

TO THE PLAINTIFF/DEFENDANT +

The applicant applies to the Court for an order that judgment in this proceeding be set aside and the proceeding be re-heard on the following grounds:

The applicant did not appear on the hearing of the statement of claim or counterclaim/give notice of defence + because:

.....  
Signature of applicant

The Registrar has fixed \_\_\_\_\_ on \_\_\_\_\_ as the hearing time for  
[time] [date]  
this application.

.....  
Registrar

Filed:

+ Delete if inappropriate

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FORM 25A

*Small Claims Act*

DECLARATION OF SERVICE Claim No.

I,  
declare that at \_\_\_\_\_ on \_\_\_\_\_ I served a copy of this document  
[time] [date]  
together with a notice in Form 6A on the defendant at \_\_\_\_\_  
[place]

by + handing them to \_\_\_\_\_, or  
+ putting them down in the presence of \_\_\_\_\_ and  
telling that person the nature of the documents  
that person being  
+ the defendant, or  
+ an officer of the defendant firm or corporation  
or by

+ posting the documents by certified mail to  
at the defendant's last known place of + residence/business or +  
registered/principal office, and annexed hereto and marked A and B  
respectively are a duly completed certified mail posting receipt, and an  
acknowledgement of delivery of the postal article both issued pursuant to  
the Postal By-laws made under the *Postal Services Act 1975* of the  
Commonwealth.

and that this declaration is true in every particular

Declared at \_\_\_\_\_ on \_\_\_\_\_  
[place] [date]

.....  
Signature of declarant

**NO WITNESS IS REQUIRED FOR THIS DECLARATION**

+ delete if inappropriate

---

**A person wilfully making a false statement in a declaration is liable to a  
penalty of \$2,000 or imprisonment for 12 months, or both**

---



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FORM 25B

*Small Claims Act*

DECLARATION OF SERVICE Claim No.

I,  
declare that at \_\_\_\_\_ on \_\_\_\_\_ I served a copy of: [specify  
[time] [date]  
document] on \_\_\_\_\_ at \_\_\_\_\_  
[name of person] [place]

- + handing them to \_\_\_\_\_, or
- + putting them down in the presence of \_\_\_\_\_ and \_\_\_\_\_  
telling that person the nature of the documents

that person being

- + the defendant, or
- + an officer of the defendant firm or corporation or by
- + posting the documents by certified mail to \_\_\_\_\_  
at the defendant's last known place of + residence/business or +  
registered/principal office, and annexed hereto and marked A and B  
respectively are a duly completed certified mail posting receipt, and an  
acknowledgement of delivery of the postal article both issued pursuant to  
the Postal By-laws made under the *Postal Services Act 1975* of the  
Commonwealth.

and that this declaration is true in every particular

Declared at \_\_\_\_\_ on \_\_\_\_\_  
[place] [date]

.....  
Signature of declarant

**NO WITNESS IS REQUIRED FOR THIS DECLARATION**

+ delete if inappropriate

---

**A person wilfully making a false statement in a declaration is liable to a  
penalty of \$2,000 or imprisonment for 12 months, or both**

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

**2 LIST OF LEGISLATION*****Small Claims Rules (SL No. 12, 1989)***

Notified	12 July 1989
Commenced	12 July 1989

***Amendments of Small Claims Rules (SL No. 49, 1992)***

Notified	2 October 1992
Commenced	4 October 1992 (r 2)

***Statute Law Revision Act 1993 (Act No. 6, 1993)***

Assent date	18 March 1993
Commenced	18 March 1993

**3 LIST OF AMENDMENTS**

r 1.01A	ins Act No. 6, 1993, s 7
r 1.01	amd No. 49, 1992, r 3
r 1.06	ins No. 49, 1992, r 4
r 5.02	amd No. 49, 1992, r 5
r 5.03	amd No. 49, 1992, r 6
rr 18.01 –	
18.04	sub No. 49, 1992, r 7
r 18.05	ins No. 49, 1992, r 7
r 19.01	sub No. 49, 1992, r 8
r 23.01	sub No. 49, 1992, r 9
r 23.02	rep No. 49, 1992, r 9
r 25.03	amd No. 49, 1992, r 10
r 25.06	sub No. 49, 1992, r 11
sch	amd No. 49, 1992, r 12