

NORTHERN TERRITORY OF AUSTRALIA

WORK HEALTH COURT RULES

As in force at 1 June 1994

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 June 1994

WORK HEALTH COURT RULES

Rules under the *Work Health Court Act*

Part I Preliminary

1 Citation

These Rules may be cited as the *Work Health Court Rules*.

2 Application

These Rules apply to and in relation to all applications to and proceedings before the Court, including proceedings for the recovery of compensation commenced by virtue of subsection 189(2) of the Act.

3 Interpretation

(1) In these Rules, unless the contrary intention appears:

Court includes a magistrate.

Court list means a list kept under section 105 of the Act.

file means to file in a Registry.

Registrar includes a relevant Assistant Registrar.

Registry means the office of the Registrar or an Assistant Registrar.

seal means the seal of the Court.

(2) In these Rules a person who commences or has commenced a proceeding in the Court, including a person who is a dependant of a deceased worker:

(a) being an application under section 104 of the Act for compensation, is referred to as a worker and a person against whom the proceeding is or was commenced is referred to as an employer; or

- (b) being an application to the Court under section 62, 74, 111, 132 or 167 of the Act, is referred to as an applicant and a person against whom the proceeding is or was commenced is referred to as a respondent.

4 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 or the practice directions (if any) under section 95(1) of the Act in respect of a document required by or under the Act or these Rules, the form of the document shall be adapted from the most relevant form in the Schedule or those practice directions 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 a magistrate may in such a case make such amendments or give such directions, as to costs or otherwise, as the circumstances require.

5 Persons under 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 affairs in relation to a proceeding in the Court.
- (2) Except where otherwise provided by or under an Act, a person under a disability shall commence or defend a proceeding by his litigation guardian.
- (3) Except where otherwise provided by these Rules, anything in a proceeding that is required or permitted by these Rules to be done by a party shall or may, if the party is a person under a disability, be done by the party's litigation guardian.
- (4) A person may be a litigation guardian of a person under a disability if he is not himself a person under a disability and he has no interest in the proceeding adverse to that of the person under a disability.
- (5) Where after a proceeding is commenced a party to the proceeding becomes a person under a disability, the Court shall appoint a litigation guardian of that party.
- (6) Where the Court appoints a litigation guardian in accordance with subrule (5), it may review the conduct of the proceedings in the application before the appointment and make such orders and do

such things in relation thereto as it thinks necessary to ensure that justice between the parties is done.

- (7) Where the interests of a party who is a person under a disability so require, the Court may remove a litigation guardian or substitute another person as litigation guardian of the party.
- (8) Where a party has a litigation guardian in a proceeding, no other person shall act as litigation guardian unless the Court otherwise orders.
- (9) Except where a litigation guardian has been appointed by the Court, the name of a person shall not be used in a proceeding as the litigation guardian of a person under a disability unless there is first filed in the Registry the written consent of the person to be the litigation guardian which includes a statement detailing the reason why the proposed party is a person under a disability and a declaration that the proposed litigation guardian has no interest in the proceeding adverse to that of the person under a disability.
- (10) Where a party who is a person under a disability does not file a notice of address for service or an answer when so required by an order of the Court or these Rules, the Court, before proceeding to determination, may order the appointment of a litigation guardian to defend the proceedings.
- (11) A person under a disability shall not be taken to admit the truth of an allegation of fact made in a pleading of the opposing party unless in his pleading the person states that the allegation is admitted.
- (12) A party shall be entitled to have discovery of a person under a disability given by the person under a disability or his litigation guardian, whichever is appropriate.

Part II Rules applying to applications for compensation

6 Commencement of proceedings

- (1) Proceedings by a worker for the recovery of compensation shall be commenced under section 104 of the Act by filing an application to the Court in accordance with Form 1.
- (2) An application filed under subrule (1) shall:
 - (a) bear the date on which it is filed;

- (b) be signed and sealed by the Registrar of the Registry from which it is issued;
- (c) specify the date and time it is to be heard by the Court or a magistrate in a preliminary conference;
- (d) include sufficient copies of a blank Form 2 for filing and service in accordance with rule 8;
- (e) specify the nature and amount of compensation sought;
- (f) specify the applicant's address for service in accordance with rule 18; and
- (g) include a statement of claim stating concise details of the facts giving rise to the claim, which shall be signed by the applicant or a legal practitioner on behalf of the applicant.

7 Time for service of application

An application by a worker shall be served on an employer as soon as practicable but in any case not later than:

- (a) where the place of service is within the Territory – 14 days;
- (b) where the place of service is within the Commonwealth other than the Territory – 21 days;
- (c) where the place of service is within New Zealand or the Independent State of Papua New Guinea – 28 days; or
- (d) in any other case – 42 days,

before the date set for the preliminary conference.

8 Notice of address for service

- (1) An employer served with an application under section 104 of the Act for the recovery of compensation shall, within 7 days after the date of service, file a notice of address for service in accordance with Form 2 and attach to it a legible copy of the written advice of reasons for the employer's decision to dispute liability required under section 85(9) of the Act to be supplied.
- (2) A notice of address for service shall state:
 - (a) the employer's address for service;
 - (b) the employer's name and place of business; and

- (c) the name and address of the employer's legal practitioner (if any).
- (3) An employer who has filed a notice of address for service shall serve a copy of the notice on the worker as soon as practicable, but in any case not later than 7 days, after the date of filing of the notice.
- (4) Filing of a document under subrule (1) may be by post.

9 Preliminary conference

- (1) At a preliminary conference under section 106 of the Act the Court or magistrate shall:
 - (a) as far as practicable define the issues in genuine dispute; and
 - (b) counsel and promote an agreement between the parties.
- (2) Before proceeding under section 107(2)(a) of the Act to determine the matter and questions at issue, the Court or magistrate shall:
 - (a) be satisfied that the questions at issue have been adequately canvassed and that all parties understand what are the remaining issues to be determined;
 - (b) explain to the parties that, with their agreement, the Court may proceed to determine the matter or questions at issue and the consequences (including the parties' right to appeal) of such a determination; and
 - (c) be satisfied that, where a worker is not represented, the worker has been given an opportunity to take such legal or other advice as appears necessary and has been placed under no undue pressure in agreeing to the making of the determination.
- (3) Evidence of anything said, or of an admission made, in the course of a preliminary conference is not admissible in proceedings for a formal determination or other proceeding of the Court.

10 Formal determination

- (1) When a date for formal determination has been fixed, the Registrar shall give notice of the hearing to the parties.
- (2) A notice of hearing shall be in accordance with Form 6.

- (3) A magistrate may disqualify himself from presiding at the formal determination of an application if he previously presided at the preliminary conference in the same application and is of the view that his earlier involvement in the matter may prejudice its outcome.
- (4) Where an application is called on for hearing and the worker appears but the employer does not, the worker may prove his claim so far as the burden of proof lies on him.
- (5) Where an application is called on for hearing and the employer appears but the worker does not, the employer may apply for an order dismissing the application.
- (6) Where an application is called on for hearing and neither the worker nor the employer appears, the Court, of its own motion or otherwise, may order that the application be struck out on such terms, as to costs or otherwise, as it thinks fit.
- (7) Where the Court makes an order or determines a matter under subrule (4), (5) or (6), it may set aside the order or determination, on such terms, as to costs or otherwise, as it thinks fit, on an application filed within 14 days or such longer time as the Court allows after the order or determination is made.
- (8) An application under subrule (7) shall be in such form and be made in such manner as the Court or the Registrar approves.
- (9) The Court may adjourn the hearing of an application for such time and on such terms, as to costs or otherwise, as it thinks fit.

11 Joinder of prior employer

- (1) Where under section 55 of the Act an employer desires to join another employer as a party to a proceeding, he shall file 4 copies of a notice in accordance with Form 7 and 3 copies of Forms 8 and 9 for signing and sealing by the Registrar.
- (2) On receipt of a notice referred to in subrule (1), the Registrar shall make an order joining that other employer as an employer in the proceeding and may, if necessary, relist the hearing of the application either:
 - (a) as a preliminary conference or adjourned preliminary conference; or
 - (b) if a date for formal determination has previously been fixed, then for formal determination.

- (3) Where an employer is joined as a party to a proceeding, the original employer shall serve:
 - (a) on the worker – a sealed copy of the Form 7 notice pursuant to which that employer was joined, together with a notice of an order in accordance with Form 8; and
 - (b) on the joined employer – a sealed copy of the Form 7 notice pursuant to which the joined employer was joined, together with a notice in accordance with Form 9, a copy of the application served on the original employer and a copy of the original employer's notice of address for service.
- (4) The provisions of these Rules relating to employers shall also apply to a joined employer, from the date of service on him of the documents under subrule (3)(b), as if he had originally been made an employer.
- (5) At the formal determination of an application, the Court:
 - (a) shall decide all questions between the worker and the original and joined employers;
 - (b) may make such a determination as is necessary to adjudicate on and settle all the questions involved in the application; and
 - (c) may make such orders as to costs between the employers as it thinks fit.

12 Recording agreements

- (1) Where an agreement referred to in section 108 of the Act is made, the employer or worker shall file a memorandum of agreement (in this rule called the "Memorandum") in accordance with Form 10.
- (2) Attached to each Memorandum shall be a copy of:
 - (a) all medical reports obtained by the worker and the employer in respect of the injury or disease to which the agreement relates and on which they rely;
 - (b) the agreement;
 - (c) a statement of particulars showing, by the use of subtotals, how the amount of any payment under the agreement is made up; and
 - (d) all other documents on which the parties relied in reaching their agreement.

- (3) The notice required to be given by the Registrar pursuant to section 108(2)(b) of the Act shall be in accordance with Form 11 and may be given by post.
- (4) A party to an application in respect of which another party has filed a Memorandum may, within 21 days after the date on which he received or shall be deemed to have received the notice referred to in subrule (3), lodge an objection to the agreement in accordance with Form 12.
- (5) Where a party to an agreement has lodged an objection in accordance with subrule (4), the Court shall direct the Registrar not to record the Memorandum.
- (6) The Registrar shall, on receipt of a Memorandum, make such inquiries and obtain such information (including copies of documents) as he thinks fit to satisfy himself as to whether an agreed amount, or the information on which the agreement is based, is adequate in the circumstances of the case.
- (7) The parties to an agreement shall answer all questions relating to the agreement asked by the Registrar and provide all information requested pursuant to subrule (6).
- (8) The Registrar shall make a report to the Court stating in relation to an agreement the information he has obtained and the grounds on which it appears to him that an amount is adequate or inadequate.
- (9) Where the Registrar considers that an amount in an agreement is inadequate, he shall inform the parties of:
 - (a) his decision and the grounds for it; and
 - (b) the time when and place where the Court is to consider the agreement.
- (10) The Court, in proceeding in accordance with section 108(3) and (4) of the Act, shall consider:
 - (a) the Memorandum and its attachments; and
 - (b) the Registrar's report on the agreement.
- (11) Subject to subrule (12), and except where the Registrar informs the parties to an agreement that, in his opinion, an amount is inadequate, it is not necessary for the parties to attend before the Court when it is considering a Memorandum.

- (12) The Court, in considering a Memorandum for recording, may:
- (a) direct the Registrar to request the parties to the agreement or their legal practitioners or other persons entitled under section 98 of the Act to appear for them, to appear before it to provide such further information (including copies of documents) as the Court thinks fit;
 - (b) require the hearing of oral evidence; or
 - (c) on its own motion summon a person to appear before it to give evidence.
- (13) Where the Court directs the Registrar not to record a Memorandum or to record it on terms pursuant to section 108(3)(b) of the Act, the Registrar shall give written notification of this, in accordance with Form 13 to the parties to the agreement.
- (14) On the Registrar recording a Memorandum, he shall advise the parties to the agreement by posting to each or to their legal practitioners, or other persons appearing in pursuance of section 98 of the Act for them, a notice in accordance with Form 14.
- (15) Notwithstanding any other provision in these Rules, an Agreement to which this rule relates may include an agreement for the apportionment of a death benefit under section 62 of the Act.

Part III Rules applying to other applications

13 Commencement of proceedings

- (1) An application to the Court under section 62, 74, 111, 132 or 167 of the Act shall be commenced by filing an application in accordance with Form 3.
- (2) Subject to subrule (3), an application filed under subrule (1) shall conform to the requirements of rule 6(2)(a), (b), (f) and (g).
- (3) An application filed under subrule (1) shall:
- (a) specify the date and time it is to be heard by the Court;
 - (b) specify the type of application; and
 - (c) include sufficient copies of a blank Form 4 for filing and service in accordance with rule 14.

- (4) For the purposes of section 91(2) of the Act, the prescribed time is 14 days after the date on which the worker is reasonably required to submit to the examination.
- (5) An application under section 62 of the Act shall list on the statement of claim to the application the names and addresses (where known) of all persons who, to the best of the applicant's knowledge, were dependants of the deceased worker at the time of his death.
- (6) A person who claims to be a dependant of a deceased worker shall, not later than 7 days after filing an application under subrule (5), serve a copy of the application on each of the dependants listed on the statement of claim to the application.
- (7) The Court shall not determine an application under subrule (5) unless it is satisfied that all the dependants listed on the statement of claim to the application have been served with a copy of the application or that all reasonable steps have been taken by the applicant to ensure such service.

14 Answer

- (1) A respondent shall, within 7 days after being served with an application, file an answer in accordance with Form 4.
- (2) An answer shall state:
 - (a) the respondent's name and address;
 - (b) the name and address of the respondent's legal practitioner (if any);
 - (c) the respondent's address for service;
 - (d) the grounds and extent to which the respondent opposes the application (if applicable);
 - (e) the facts alleged by the applicant which are inaccurate or incomplete (if applicable); and
 - (f) concisely the facts, and identify the documents which the respondent desires to bring to the attention of the Court or on which reliance is placed (if applicable).
- (3) A respondent who has filed an answer shall serve a copy on the applicant as soon as practicable, but in any case not later than 7 days, after the date of filing.
- (4) Filing and service of an answer may be by post.

- (5) Where a respondent does not file an answer within the time limited in subrule (1), the applicant may apply for a determination of the application against the respondent.
- (6) A determination of an application shall not be given in pursuance of subrule (5) in favour of the applicant unless affidavits proving:
 - (a) service of the application on the respondent; and
 - (b) the default by the respondent,are filed.
- (7) On applying under subrule (5) for a determination, an applicant may also apply for an order for costs.
- (8) The Authority, in filing an answer to an appeal under section 58(4) of the Act, shall include in that answer a copy of the written notification and reasons for its refusal to grant an exemption, required under section 58(3) of the Act to be supplied.
- (9) In an application under section 74 of the Act:
 - (a) where the applicant is an employer, the person to whom regular payments of compensation are payable; or
 - (b) where the applicant is the person to whom regular payments of compensation are payable, the employer,shall be the respondent to the application and as such is subject to these Rules.

15 Determination of death benefit

- (1) A person (other than the applicant) who claims to be a dependant in respect of an application under section 62 of the Act shall file an answer.
- (2) A person who files an answer under subrule (1) shall be a respondent to the application.
- (3) The Court, before determining an application under section 62 of the Act, shall be satisfied that all persons who are or may be entitled to claim as dependants have come to its attention.

16 Determination of application in default of appearance

- (1) Where at the time specified in the application for the hearing of the application the applicant appears but the respondent does not, the applicant may present his case in the absence of the respondent or the respondent's representative.
- (2) Where at the time specified in the application for the hearing of the application the respondent appears but the applicant does not, the respondent may apply for an order dismissing the application.
- (3) Where at the time specified in the application for the hearing of the application neither the applicant nor the respondent appears, the Court, of its own motion or otherwise, may order that the application be struck out on such terms, as to costs or otherwise, as it thinks fit.

17 Setting aside of determinations and orders

- (1) A determination as the result of an application under rule 14(5), or an order for costs as the result of an application under rule 14(7), or an order referred to in rule 16, may be set aside by the Court, on such terms as to costs or otherwise as it thinks fit, on an application filed within 14 days or such longer time as the Court allows after the determination, order or other decision on the application is made.
- (2) An application under subrule (1) shall be in such form, and be made in such manner, as the Registrar or the Court approves.

Part IV Rules applying to applications generally**18 Address for service on parties**

- (1) The address for service on a party to an application shall be an address in the Territory marked on the application or notice of address for service, as the case may be.
- (2) Where party is represented by a legal practitioner, the business address of that legal practitioner in the Territory shall be marked on the application, notice of address for service or answer.

19 Documents

- (1) Subject to rules 8(4) and 14(4), where after an application has been filed in a matter a document is to be filed with the Registrar by a party in connection with that matter, it shall be filed by delivering it at the same office of the Registrar as that at which the application was filed.

- (2) All documents and copies shall be legibly printed, typed or written on durable paper of the size known as International Paper Size A4, bear the number of, and the names of parties to, the matter and a short heading indicating the nature of the document.
- (3) No document shall be filed with a backsheet.
- (4) Where a document is under these Rules to be sent to a person by the Registrar, that document may be sent by post.

20 Service of documents

- (1) A copy of an application to the Court shall, subject to this rule, be served personally:
 - (a) in the case of a claim for compensation commenced under rule 6 – on the employer; and
 - (b) in the case of an application to which rule 13 refers – on the respondent (if any) to the application.
- (2) A document required or permitted to be served in a proceeding may be served personally but, unless personal service is required by these Rules or by order of the Court, need not be served personally.
- (3) Personal service of a document is effected by leaving a copy of the document with the person to be served or, if he does not accept the copy, by putting the copy down in the person's presence.
- (4) In the case of an application, the copy of a document for service shall be sealed by the Registrar of the Registry from which the application is issued.
- (5) To effect personal service it shall not be necessary to show the original document.
- (6) Where personal service of a document is not required, the document may be served:
 - (a) by leaving it at the proper address of the person to be served;
 - (b) by properly addressing and posting it to the person to be served; or
 - (c) where the person is represented in the matter by a legal practitioner who has a Court Box in which documents may be placed, by placing it in that Court Box.

- (7) For the purpose of subrule (6), 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 that person has no address for service, the proper address is:
- (a) in the case of an individual – his usual or last known place of residence or business;
 - (b) in the case of individuals applying or responding in the name of a firm – the principal or last known place of business of the firm; and
 - (c) in the case of a body corporate – subject to subrule (8), its registered or principal office in the Territory or, where it has no such office in the Territory, its registered office in the place in which it was incorporated.
- (8) The person to be served is:
- (a) in the case of a municipal or community government council within the meaning of the *Local Government Act*, the clerk of the council;
 - (c) in the case of the Northern Territory – the Commissioner as defined in the *Public Sector Employment and Management Act*;
 - (d) in the case of a statutory corporation of the Northern Territory – the Commissioner, Chairman, President, Manager, Chief Executive Officer or other officer of the statutory corporation;
 - (e) in the case of the Authority – the Chief Executive Officer; and
 - (f) in the case of an infant – the infant (unless the Court dispenses with the requirement that the infant be served) and a parent or guardian of the infant or, if there is no parent or guardian, the person with whom the infant resides or in whose care the infant is.
- (9) Where it is impracticable to serve an application in the manner required by these Rules, the Court may order that, instead of service, such steps be taken as it specifies for the purpose of bringing the document to the notice of the person to be served.
- (10) Where the Court makes an order under subrule (9), it may order that the document be taken to have been served on the happening of a specified event or on the expiration of a specified time.

- (11) The Court may make an order under subrule (9) notwithstanding that the person to be served is out of the Territory.
- (12) An application for an order under subrule (9) may be made to the Registrar and shall be supported by an affidavit disclosing:
 - (a) that unsuccessful attempts at service have been made or the reason personal service is impracticable;
 - (b) the mode of service proposed; and
 - (c) how the proposed mode of service will bring the document to the notice of the person to be served.
- (13) Notwithstanding any other provision of this rule, the Court may order, in the case of an application by a worker, that service on the employer's insurer be sufficient service on the employer
- (14) Subject to subrule (16), a person who serves an application shall file with the Registrar, before the day fixed by the Court for the hearing of the application, a copy of the application, endorsed with an affidavit in accordance with Form 5, stating that the document was served in accordance with this rule and providing details of service.
- (15) Where an affidavit of service is not filed in accordance with subrule (14), the application may either be struck out or allowed to proceed for hearing on such terms as the Court orders.
- (16) Where, having been served with an application, the person served files a notice of address for service or an answer with the Registrar, an affidavit of service of the application is not required.
- (17) Where the parties to a proceeding have agreed that the application in the proceeding may be served on a party or on a person on behalf of a party in a manner or at a place (whether within or outside the Territory) specified in the agreement, service in accordance with the agreement is sufficient service.
- (18) Where an application is required to be served on a person and a legal practitioner makes on a copy of the application a note that he accepts service of the application on behalf of the person to be served, the application shall, unless the legal practitioner is shown not to have had authority to accept service, be taken to have been duly served on that person on the day on which the legal practitioner makes the note or on such other day as is proved.
- (19) Where for any reason an application has not been served in the manner required by or under a law or by these Rules but steps have been taken for the purposes of bringing, or which may have a

tendency to bring, the application to the notice of that person, the Court may, by order, direct that the application be taken to have been served on that person on a date specified in the order.

- (20) An application which is to be served out of the Territory need not be served personally as long as it is served in accordance with the law of the place in which service is effected.
- (21) Where no notice of address for service or answer is filed by a party served with an application out of the Territory, the Court, if satisfied that the application was duly served on that party, may order that the worker or applicant shall be at liberty to proceed.
- (22) A party who serves a pleading on another party shall forthwith after service file a copy of the pleading.
- (23) No document shall be served on Christmas Day or Good Friday.

21 Affidavits

- (1) An affidavit shall be expressed in the first person.
- (2) Unless the Court otherwise orders, an affidavit shall state the place of residence of the deponent and his occupation or, if he has none, his description, and that he is a party to the proceeding or employed by a party, if such be the case.
- (3) Notwithstanding subrule (2), where a deponent makes an affidavit in a professional or other occupational capacity, the affidavit may, instead of stating his place of residence, state the address of his place of business, the position he holds and the name of his firm or employer, if any.
- (4) An affidavit shall be divided into paragraphs numbered consecutively, each paragraph being, as far as possible, confined to a distinct portion of the subject.
- (5) Every affidavit shall be signed by the deponent, except as provided by subrule (8), and the jurat shall be completed and signed by the person before whom it is sworn.
- (6) Each page of an affidavit shall be signed by the person before whom it is sworn.
- (7) The first page of an affidavit shall be headed, immediately beneath the title of the proceeding, with the name of the deponent and the date of swearing.

- (8) Where it appears to the person before whom an affidavit is sworn that the deponent is illiterate or blind, he shall certify in or below the jurat that:
- (a) the affidavit was read in the person's presence to the deponent;
 - (b) the deponent seemed perfectly to understand it; and
 - (c) the deponent made his signature or mark in the person's presence.
- (9) Where an affidavit is made by an illiterate or blind deponent and a certificate in accordance with subrule (8) does not appear on the affidavit, it may not be used in evidence unless the Court is satisfied that it was read to the deponent and that he seemed perfectly to understand it.
- (10) Except where otherwise provided by or under these Rules, an affidavit shall be confined to facts which the deponent is able to state of his own knowledge.
- (11) On an interlocutory application, an affidavit may contain a statement of fact based on information and belief if the grounds are set out.
- (12) Where an affidavit is made by 2 or more deponents jointly, their names shall be inserted in the jurat, except that, if the affidavit is sworn by both or all the deponents at one time before the same person, it shall be sufficient to state that it was sworn by "each of the above named" deponents.
- (13) Notwithstanding an interlineation, erasure or other alteration in its jurat or body, an affidavit:
- (a) may, unless the Court otherwise orders, be filed; but
 - (b) may not be used without the leave of the Court unless the person before whom it is sworn has initialled the alteration.
- (14) By leave of the Court, an affidavit may be used in a proceeding notwithstanding that it was sworn before the commencement of the proceeding.
- (15) Notwithstanding an irregularity in its form, an affidavit may:
- (a) unless the Court otherwise orders, be filed; and
 - (b) with the leave of the Court, be used in evidence.

- (16) Unless the Court otherwise orders, an affidavit which has not been filed shall not be used.
- (17) An affidavit may be sworn before a person before whom, under Part III of the *Oaths Act*, an affidavit may be given or by whom an affidavit may be taken.
- (18) An affidavit sworn before the party on whose behalf it is to be used or before an employee of that party shall not be used in evidence without the leave of the Court.
- (19) Subject to subrule (17), where the Territory (including the Authority) is a party on whose behalf the affidavit is to be used, the affidavit may be sworn before an employee of the Territory.

22 Evidence

- (1) Evidence shall be given orally except:
 - (a) where otherwise provided by the Act or these Rules;
 - (b) where the parties agree that it or any of it may be given by affidavit;
 - (c) in an interlocutory application, where it may be given by affidavit; or
 - (d) where the Court so orders.
- (2) Where an affidavit is filed in an application or interlocutory application, the Court may order that the deponent be examined before the Court and may order that he attend for that purpose at such time and place as it directs.
- (3) Unless the Court otherwise orders, a party to an application on whose behalf an affidavit is filed shall cause the deponent to attend at the Court to be examined if notice that such attendance is required is served on the party by another party a reasonable time before the commencement of the relevant hearing or preliminary conference.
- (4) Where a deponent in respect of whom an order is made under subrule (2) or a notice is served under subrule (3) does not attend for examination, the Court may order that the affidavit be not received in evidence.

- (5) Subject to rule 23, a party who intends to adduce oral or affidavit evidence of a person as an expert witness before the Court shall, not later than 10 days before the date fixed for the relevant hearing or preliminary conference, serve on every other party a statement:
- (a) giving the name and address of the witness;
 - (b) describing his qualifications to give evidence it is proposed to adduce from him as an expert; and
 - (c) giving the substance of the evidence it is proposed to adduce from him as an expert.
- (6) Subject to rule 23, except with the leave of the Court or by consent of the parties, or in cross-examination, a party shall not adduce at a hearing or preliminary conference evidence from a witness as an expert unless that party has served a statement under subrule (5).
- (7) Notwithstanding anything in this rule, the Court may order that evidence of a particular fact shall be given in proceedings in such manner as it directs.
- (8) Without limiting subrule (7), the Court may order that evidence of a particular fact be given by:
- (a) statement on oath of information and belief;
 - (b) the production of documents or entries in books;
 - (c) the production of copies of documents, including photocopies and facsimile transmission copies, or entries in books; or
 - (d) the use of telephone or video conference facilities.

23 Medical examinations and evidence

- (1) In this rule, unless the contrary intention appears:

examination means an examination for medical, dental, psychological, therapeutic, rehabilitative, ergonomic, vocational or other purposes as the case requires.

hospital report means a statement in writing concerning the plaintiff made by or on behalf of a hospital, rehabilitation centre or other institution.

medical expert means a person lawfully practising in a branch of medicine, dentistry, pharmacology, occupational therapy, physiotherapy, rehabilitation, ergonomics or a related field.

medical matters includes matters referred to by a medical expert within the medical expert's field of expertise.

medical report:

- (a) means a statement in writing by a medical expert concerning a worker; and
 - (b) includes a document which the medical expert intends should be read with the statement, whether the document was in existence at the time the statement was made or was a document which he obtained or caused to be brought into existence subsequently.
- (2) The employer may, in writing, request the worker to submit to appropriate examinations by a medical expert or experts at specified times and places.
 - (3) Where a worker refuses or neglects without reasonable cause to comply with a request under subrule (2), the Court may, if the request was on reasonable terms, strike out the application.
 - (4) The costs of and incidental to the examination shall be costs in the proceeding.
 - (5) Without limiting subrule (4), the employer shall, on request by the worker whether before or after the worker is examined, pay to the worker a reasonable amount to meet the worker's travelling and other expenses of and incidental to the examination.
 - (6) An employer for whom a worker is examined under subrule (2) shall, as soon as practicable after the examination, obtain from the medical expert conducting the examination a medical report.
 - (7) For the purposes of subrule (9):
 - (a) a worker shall serve on each other party a copy of a medical report in his possession, custody or power which he intends to tender, or the substance of which he intends to adduce in evidence, at the preliminary conference or hearing; and
 - (b) an employer shall serve or the worker a copy of a medical report in the employer's possession, custody or power (other than a medical report served on or supplied to the employer by the worker).
 - (8) Where a worker obtains possession, custody or power of a hospital report which he intends to tender or the maker of which he intends to call, this rule shall, with the necessary changes, apply as if the report were a medical report.

- (9) A medical report shall be served as soon as practicable after it comes into the possession of the party obliged under subrule (7) to serve it.
- (10) Where an employer who has served on a worker a copy of a medical report of an examination of the worker made under subrule (2) obtains from the medical expert who made the examination a further report of the examination, the employer shall forthwith:
 - (a) where the further report is in writing – serve a copy on the worker; and
 - (b) where the further report is oral – give the worker notice in writing of its substance.
- (11) Except with the leave of the Court or by consent of the parties, a party shall not, except in cross examination, adduce evidence from a medical expert on medical matters unless that evidence is disclosed by a copy of a medical report served in accordance with these Rules.
- (12) The worker shall file a copy of each hospital report and medical report known to have been served under this rule.
- (13) The copies shall be filed by delivering them to the Registrar in a sealed envelope bearing the title of the proceeding.
- (14) Where a copy of a medical report is served in accordance with subrule (9), the report is admissible as evidence of the medical expert's opinion and, where the medical expert's oral evidence of a fact on which the opinion was based would be admissible, as evidence of that fact.
- (15) Unless the Court otherwise orders, the party on whose behalf a copy of a medical report is served shall cause the medical expert to attend the Court to be cross examined if notice that such attendance is required is served on the party by another party not later than 14 days before the commencement of the preliminary conference or the hearing of the application, as the case may be.
- (16) Where a medical expert in respect of whom a notice is served under subrule (15) does not attend for cross examination, the Court may order that the medical report be not received into evidence.

24 Pleadings

(1) Where a magistrate in a preliminary conference or otherwise does not dispense with:

- (a) the requirement and delivery of further pleadings;
- (b) the making of discovery and inspection of documents; or
- (c) delivery of interrogatories,

a party may, in accordance with this rule, require an opposing party to respond to a request for that action.

(2) The Rules of the Supreme Court relating to:

- (a) pleadings; and
- (b) discovery and inspection, including pre-trial and non-party discovery and inspection,

with the necessary changes, apply to and in relation to matters in the Court so far as they:

- (a) are capable of applying to those matters;
- (b) are not inconsistent with these Rules;
- (c) can be applied without injustice to a party; and
- (d) can be applied without unduly prejudicing the expeditious determination of the matter.

25 Amendment

The Court may, at any stage of a proceeding, allow a party to alter or amend his 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.

26 Change of legal practitioner

(1) Where a legal practitioner acts for a party in a proceeding and the party changes his legal practitioner, the party shall forthwith file notice of the change and serve a copy of the notice on the other parties and, where practicable, his former legal practitioner.

- (2) Where a party who has no legal practitioner in a proceeding appoints a legal practitioner to act for the party in the proceeding, the legal practitioner shall forthwith file notice of the appointment and serve a copy of the notice on the other parties.
- (3) Where a legal practitioner ceases to act for a party in a proceeding, unless a notice of change is filed and served under subrule (1), the legal practitioner shall forthwith file notice that he has ceased to act and serve a copy on all parties.
- (4) A notice under subrule (3) shall state the address of the party last known to the legal practitioner.
- (5) Except by leave of the Court, a legal practitioner shall not file a notice under subrule (3):
 - (a) where the address of the party in the notice is outside the Territory; or
 - (b) after a matter has been set down for formal determination.
- (6) Where a legal practitioner who has acted for a party in a proceeding has died or become bankrupt, or cannot be found, or has ceased to have the right of practising in the Court, or for any other reason has ceased to practise, and the party has not given notice under subrule (1) or the legal practitioner has not given notice under subrule (3), the Court may, on interlocutory application made by any other party to the proceeding, by order, declare that the legal practitioner has ceased to be the legal practitioner acting for the first mentioned party in the proceeding.
- (7) An interlocutory application under subrule (6) shall be supported by affidavit stating the facts on which the application is made and, unless the Court otherwise orders, the affidavit shall be served on the party to whose legal practitioner the application relates.
- (8) Where an order is made under subrule (6), the party on whose application it was made shall forthwith serve a copy of the order on every other party to the proceeding and file an affidavit of service.
- (9) The address for service of a party:
 - (a) who changes his legal practitioner and files and serves notice under subrule (1), is the business address of the new legal practitioner;
 - (b) who appoints a legal practitioner in the circumstances referred to in subrule (2), is the business address of the legal practitioner; or

- (c) for whom a legal practitioner has ceased to act, where notice is filed and served under subrule (3) by the legal practitioner without leave, is the address stated in the notice.
- (10) Where the Court, under:
- (a) subrule (5)(a), gives a legal practitioner leave to file notice that he has ceased to act; or
 - (b) subrule (6), by order, declares that a legal practitioner has ceased to act,
- it may, by order, direct what address shall be the address for service of the party for whom the legal practitioner has ceased to act.
- (11) Where the Court makes no order under subrule (10), a document in the proceeding which is not required to be served personally may be served on the party for whom the legal practitioner has ceased to act by filing it.

27 Discontinuance

- (1) A worker or applicant may, any time before formal determination or other hearing, discontinue by giving notice of discontinuance to the Registrar and to all other parties and the employer or respondent shall be entitled only to such costs as were incurred up to the receipt of the notice, unless the Court otherwise orders.
- (2) The costs referred to in subrule (1) may be recovered as an award of the Court.
- (3) Where an application has been discontinued, the worker or applicant shall not begin a similar application for the same cause except by leave of the Court or by consent of the employer or respondent.
- (4) The leave referred to in subrule (3) may be obtained on an ex parte application.

28 Summonses to give evidence

- (1) A summons commanding the attendance of a person for the purpose of being examined, or for the purpose of producing any writing or other document, shall be in accordance with Form 15 and signed by the Registrar.

- (2) A summons, other than a summons to produce documents, may contain any number of names, and names of witnesses may be inserted after the issue of the summons without the summons having to be resigned by the Registrar.
- (3) It shall not be necessary to obtain the leave of the Court for the issue of a summons to be served within the jurisdiction.
- (4) A party may lodge a summons, together with such copies as he shall require, at the office of the Registrar who shall cause it to be duly issued.
- (5) A summons to be served outside the Territory shall only be served with the leave of the Court and subject to such conditions (if any) as the Court orders.
- (6) A summons shall be served by delivering a copy of it and at the same time producing the original summons or a sealed copy of it.

29 Costs and witnesses' fees

- (1) The Court may in a proceeding exercise its power and discretion in relation to costs at any stage of the proceeding or after the conclusion of the proceeding.
- (2) Subject to subrule (3), a legal practitioner acting for a party to whom costs are payable shall be entitled to charge and be allowed the relevant fees set out in the Rules of the Supreme Court.
- (3) The Court in ordering costs under subrule (2), whether on making a determination, in a preliminary conference or at an interlocutory stage, may order that a specified percentage (being not more than 100%) of the fees set out in the Rules of the Supreme Court be paid.
- (4) The amount of witnesses' expenses shall be at the same rates and subject to the same conditions as the witnesses' expenses payable under the *Local Courts Act* to witnesses before a Local Court.
- (5) Where the Court makes an order as to costs, the parties may agree to settle the amount of costs payable pursuant to the order.

30 Taxing of costs

- (1) In the absence of an agreement under rule 29(5) the party awarded costs may apply to the Registrar for a taxation by filing a bill of costs in taxable form (in this rule called a **bill**).
- (2) In a bill the professional charges shall be listed in a separate column from the disbursements.

- (3) The last page of a bill shall bear a blank Certificate of Taxation in accordance with Form 16.
- (4) The Registrar shall, if a bill is in taxable form, mark on it the time and date of an appointment for taxation.
- (5) The party awarded costs shall, not later than 14 days before the date for the taxation of costs, serve on the party against whom costs were awarded a bill bearing the appointed time and date marked by the Registrar.
- (6) The Registrar shall not proceed to tax costs if the party against whom costs were awarded is not present or represented unless the party awarded costs or his representative can satisfy the Registrar that a copy of the bill was served on the party not present.
- (7) The Registrar may:
 - (a) adjourn a taxation of costs to enable the party against whom costs were awarded or his representative to be present at an adjourned appointment; or
 - (b) make his own inquiries into whether the party against whom costs were awarded has been served with the bill.
- (8) The Registrar may, on the taxation of a bill, disallow in whole or in part fees, disbursements or charges that, in his opinion, were incurred or increased:
 - (a) by a payment of unusually high fees to counsel or unusually high charges or expenses to witnesses or other persons;
 - (b) improperly, unreasonably, negligently or unnecessarily; or
 - (c) in any other unusual manner.
- (9) Where the same legal practitioner acts in a proceeding for 2 or more parties in the same matter, the Registrar may, on the taxation of the bill of the legal practitioner, disallow so much of the costs as he considers were unnecessarily incurred by the delivery or service of separate papers or the institution of separate proceedings.
- (10) Where, in the opinion of the Registrar, 2 or more documents could have been served at the same time, he may, on the taxation of a bill, allow only one fee in respect of the service of those documents.
- (11) Such reasonable charges and expenses as appear to have been properly incurred in procuring evidence and the attendance of witnesses shall be allowed in the taxing of a bill.

- (12) For the purposes of the taxation of a bill, a folio comprises 72 words, and a figure representing a total amount shall be counted as one word.
- (13) Where, in a document, reference is made to:
- (a) a date and the ordinal number of the day of the month or the year and it is not written in figures; or
 - (b) an amount of money and the amount is not written in figures and symbols,
- the words in the reference shall be reckoned as figures or figures and symbols, as the case may be, for the purpose of calculating the number of folios in the document.
- (14) Where the amount of a fee or allowance is discretionary, the Registrar, in the exercise of his discretion, shall take into consideration:
- (a) the other fees and allowances of the legal practitioner and counsel (if any) in respect of the work to which such a fee or allowance applies;
 - (b) the nature and importance of the proceeding;
 - (c) the amount involved;
 - (d) the interest of the parties;
 - (e) the general conduct and costs of the proceeding; and
 - (f) the other circumstances of the particular case.
- (15) Notwithstanding any other provision of these Rules, where the Registrar is of the opinion that the amount that would otherwise be allowed in respect of an item in a bill is, in the circumstances of the particular case, inadequate having regard to the nature or amount of the work performed to which the item relates, he may allow such larger amount, not exceeding 100% of the Supreme Court scale for that item, as he considers reasonable.
- (16) For work and labour performed and not specifically provided for by these Rules but which, in the opinion of the Registrar, was necessarily and properly performed, the Registrar shall allow an amount which he, in his discretion, considers reasonable.
- (17) Where it was necessary for a legal practitioner to travel from his place of business in connection with a matter for which a fee is allowed on taxation of the legal practitioner's bill, the Registrar may,

if no other allowance has been made, allow such additional amount as he considers reasonable in respect of the expense incurred by the legal practitioner in so travelling and of his residential accommodation (if any) while living away from his home residence, together with such further amount as compensation for his absence from his place of business in respect of each day that he is so absent.

- (18) Where a bill has been taxed, the Registrar shall, if the person by whom the bill was filed furnishes to him a certificate of taxation in accordance with Form 17 relating to the bill, sign and seal the certificate and return it to that person.
- (19) A person who lodges a bill for taxation shall, on the issue to him of a certificate of taxation in relation to the bill, serve the certificate of taxation on the person liable to pay the costs or charges.
- (20) Subject to these Rules, a party whose bill is being taxed is entitled to have allowed by the Registrar all disbursements that, in the opinion of the Registrar, have been properly incurred.
- (21) For the purposes of subrule (20), the Registrar may decline to allow a disbursement unless payment is proved by the production of vouchers or receipts in respect of the payment or is otherwise proved to the satisfaction of the Registrar.
- (22) Subject to subrules (20) and (21), the Registrar may, on the taxation of a bill of costs, allow such amounts in respect of fees paid to counsel as he considers reasonable in the circumstances.
- (23) Where a hearing, whether or not at which witnesses are examined or cross examined, extends beyond the day on which the hearing began, the Registrar may allow such refresher fees as he considers reasonable in the circumstances in respect of each 5 hours or part thereof, including any luncheon adjournment, of the hearing that occurs:
- (a) on a day subsequent to the day on which the hearing began; and
 - (b) subsequent to the expiration of the first 5 hours, including any luncheon adjournment, beyond which the hearing is extended without being concluded.
- (24) Where a legal practitioner acts in the capacities of both counsel and solicitor, or in the capacity of counsel instructed by his partner acting as solicitor, the Registrar shall, in cases where a fee would have been allowed to independent counsel, allow to that legal practitioner in respect of:

- (a) the drawing or settling of a document; or
 - (b) his appearance as counsel at the hearing,
- the full fee which would have been allowed to independent counsel.
- (25) The cost of counsel attending otherwise at a hearing for a formal determination of issues between parties shall not be allowed unless the Court certifies it to be a proper case for counsel to attend.
 - (26) Where, on a taxation of a bill, the amount of the professional charges contained in the bill is reduced by 20%, costs shall not be allowed for the legal practitioner leaving the bill for taxation for drawing, engrossing and copying it or for attending the taxation and the Registrar may award the costs of and incidental to the taxation to the party or parties appearing at the taxation.
 - (27) Each party shall bear their own costs in an interlocutory application in a proceeding unless the Court otherwise orders or these Rules otherwise provide.
 - (28) An appeal from a decision of the Registrar in respect of the taxation of a bill may be instituted within 21 days after the day on which the Registrar signs a certificate of taxation in relation to that bill by filing an interlocutory application seeking an appointment with a magistrate to review the taxation of the bill .
 - (29) A person who appeals against the allowing or disallowing of an item in a bill shall specify that item in the application by which he institutes the appeal.
 - (30) An application appealing against the taxation of a bill shall be heard and determined by a magistrate.
 - (31) Where a legal practitioner for a party, whether personally or through a servant or agent, has caused costs to be incurred improperly or without reasonable cause or to be wasted by undue delay or negligence or by any other misconduct or default, the Court may, on the interlocutory application of a party or of its own motion, make an order that:
 - (a) all or any of the costs between the legal practitioner and the client be disallowed or that the legal practitioner repay to the client the whole or part of any money paid on account of costs;
 - (b) the legal practitioner pay to his client all or any of the costs which the client has been ordered to pay to a party; or
 - (c) the legal practitioner pay all or any of the costs payable by a party other than the client.

- (32) Without limiting subrule (31), a legal practitioner is in default for the purpose of that subrule where an application cannot conveniently be heard or proceed, or fails or is adjourned without any useful progress being made, by reason of the failure of the legal practitioner to:
- (a) attend in person or by a proper representative;
 - (b) file a document which ought to have been filed;
 - (c) lodge or deliver a document for the use of the Court which ought to have been lodged or delivered;
 - (d) be prepared with proper evidence or an account; or
 - (e) otherwise proceed.
- (33) The Court shall not make an order under subrule (31) without giving the legal practitioner a reasonable opportunity to be heard.
- (34) The Court may, before making an order under subrule (31), refer the matter to the Registrar for inquiry and report.
- (35) The Court may order that notice of a proceeding or order against a legal practitioner under this rule be given to the client in such manner as it directs.

31 Decisions

- (1) All decisions of the Court on an application, whether they are final or otherwise, shall be settled by the Registrar and shall be signed by the magistrate who made the decision, or the Registrar, and shall be sealed and filed and a copy forwarded to each of the parties.
- (2) The Court has power at any time to correct a clerical mistake or error in a decision arising from an accidental slip or omission.

32 Decision by consent

- (1) If the parties to an application are legally represented and they express their agreement before the Court and consent to the Court making a decision in accordance with agreed terms, the Court may proceed to decide the application 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 hearing of the application concerned.

33 Procedure for which no other provision made

Where a matter or thing relating to the conduct of the Court is not provided for by or under these Rules, the Chief Magistrate may give such directions in relation to that matter or thing as are considered appropriate.

34 Time

- (1) Where the Court expands or abridges a time under section 94(2) of the Act, notice thereof shall be given as soon as practicable to a party concerned, by endorsement on a document to be served or filed or otherwise as the Court directs.
- (2) The time for delivering, amending, or filing a document may be enlarged by consent in writing between the parties without application to the Court.
- (3) Service which is effected:
- (a) after 4 p.m. on a working day;
 - (b) after 12 noon on a Saturday; or
 - (c) at any time on a Sunday,

shall be deemed to have been effected on the next day on which the Registry is open.

35 Registry hours

The hours of the Registry are those of the Local Court at Darwin.

36 Registry seal

- (1) Each Registry shall have a seal approved by the Chief Magistrate and kept by the Registrar of the Registry.
- (2) The seal shall be used by the Registrar or Assistant Registrar, or at his direction, to stamp all documents filed in or issued out of the relevant Registry in an application.

Schedule Forms

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 1

rule 6

APPLICATION TO THE WORK HEALTH COURT FOR COMPENSATION

In the Work Health Court at No.

between

.....
(full name and address of worker) POSTCODE

and

.....
(full name and address of employer) POSTCODE

NOTICE TO EMPLOYER

Application is made to the Work Health Court by the above named worker for a decision of the liability and/or the amount of compensation payable by the employer to the worker. A statement of claim is attached giving full details.

A preliminary conference is listed to take place at
(location of Court)

on, 19... at am/pm.
(date) (time)

If you dispute the worker's claim you must:

- (a) within 7 days of being served with this Application file at the Registry of the Work Health Court a Notice of Address for Service on Form 2 and attach to it a photocopy of the advice of reasons supplied to the worker when you originally disputed this claim. You must then serve a copy of the Notice of Address for Service on the worker; and
- (b) attend the preliminary conference personally, by your legal practitioner or by another person acting on your behalf and at your request.

If you do not file a Notice of Address for Service and appear before the Court, as required above, the Court may proceed to hear the Application in your absence.

Filing date, 19.....

Registrar

STATEMENT OF CLAIM

NOTE 1 A statement of claim should state concise details of the facts giving rise to the claim including the following where applicable:

- (a) date or dates disability was suffered on;
- (b) workplace where disability was suffered;
- (c) occupation of worker;
- (d) nature of disability suffered;
- (e) manner in which disability arose;
- (f) if a disease caused or is causing the disability, how the disease was contracted;
- (g) the period or periods for which compensation payments are claimed (with dates);
- (h) any sum claimed for permanent impairment and nature of permanent impairment;
- (i) any sum claimed for hospital, medical, surgical, rehabilitation treatment and the nature of treatment.

NOTE 2 Do not quote sections of the Work Health Act or any other law. Just state the facts.

Signed
(Applicant or Applicant's legal practitioner)

The address for service of the Applicant shall be
.....
POSTCODE.....

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 2

rule 8

NOTICE OF ADDRESS FOR SERVICE

TO: The Registrar

No.

AND TO:
(full name and address of worker) POSTCODE

Note that the employer's address for service of documents is:
.....POSTCODE....

Attached to this notice is a photocopy of the written advice of reasons for my decision to dispute liability which was previously supplied to the worker under subsection 85(9) of the *Work Health Act 1986*.

Date, 19....

Signed
(Employer or employer's legal practitioner)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 3

rule 13

APPLICATION TO THE WORK HEALTH COURT

(other Applications)

In the Work Health Court at No.

between
(full name and address of applicant) POSTCODE

and
(full name and address of respondent) POSTCODE

NOTICE TO RESPONDENT

Application is made to the Work Health Court by way of: (tick the appropriate box)

- (a) review a determination of the Work Health Authority to disclose information (s.15)
- (b) appeal against the taking of possession of plant, substance or thing (s.37)
- (c) appeal against an improvement or prohibition notice (s.43)
- (d) appeal against the refusal of the Work Health Authority to grant an exemption (s.58)
- (e) determination of dependants' proportions of a death benefit (s.62)
- (f) ruling as to whether a requirement to undergo treatment or training is reasonable (s.67)
- (g) authorize the commutation of Workers Compensation Benefits (s.74)
- (h) review of employers' requirements that the worker submit to a medical examination (s.91)
- (i) other (please specify)

This application is listed for hearing by the Court at
(location of Court)

on 19... at am/pm.
(date) (time)

If you wish to contest this Application you must:

- (a) within 7 days of being served with this Application file at the Registry of the Work Health Court an Answer on Form 4 and serve a copy of the Application on each applicant; and
- (b) attend the hearing of the Court personally or by your legal practitioner or by another person acting on your behalf and at your request.

If you do not file an Answer within the time and do not appear before the Court as provided above, the Court may proceed to hear the Application in your absence.

Filing date, 19.....

Registrar

STATEMENT OF CLAIM

NOTE 1 State clearly and concisely dates, locations, names of officers and employees, workplaces, nature of plant and goods, circumstances, grounds of appeal and other relevant facts that give rise to this Application.

NOTE 2 Do not quote sections of the *Work Health Act* or any other Law. Just state the facts.

NOTE 3 If this is an application under Section 62 of the Act the facts stated below must include a list of all persons (other than the applicant) and their addresses, who to the best of the applicant's knowledge, were dependants of the deceased worker.

Signed
(Applicant or Applicant's legal practitioner)

The address for service of the Applicant shall be:
..... POSTCODE.....

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 4

rule 14

ANSWER

In the Work Health Court at No.

TO: The Registrar

AND TO:

(name and address of applicant) POSTCODE

In answer to the Application dated, 19... I state as follows:

NOTE 1 State clearly and concisely:

- (a) any grounds and extent to which the respondent opposes the Application;
- (b) any facts alleged by the applicant which are inaccurate or incomplete;
- (c) any fact and identify any document which the employer desires to bring to the attention of the Court or upon which reliance is placed.

FROM:

(name and address of respondent) POSTCODE

Note that the Respondent's address for service of documents is
.....POSTCODE.....

Date, 19....

Signed

(Respondent or respondent's legal practitioner)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 5

rule 20

AFFIDAVIT OF SERVICE

No.

I,
(full name)

.....
(occupation)

of POSTCODE
(address of deponent)

make oath and say on, 19.... at am/pm
(date) (time)

I served
(name of person or company served)

with the attached
(Application or other document)

by
(set out how this was done)

(complete 1 or 2 as appropriate)

1. (I identified the person I served
(.....
(set out how person identified)

OR

2. (I identified the office of the company served where I
(left/posted)

a true copy of the..... as the registered
(Application or other document)

or principal office of that company by.....
.....
(set out how office identified)

Sworn or affirmed at
(place where sworn/affirmed)

by the above named
(full name of deponent)

This day of, 19...

Before me:
(name of person taking the oath)

.....
(title of person taking the oath)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 6

rule 10

NOTICE OF HEARING

(formal determination)

In the Work Health Court at No.

To:
(full name and address of party to whom notice given) POSTCODE

Please note that the Court will proceed with the formal determination of this matter at on, 19... at am/pm.
(location of Court) (date) (time)

where you are required to be present with your witnesses. If you do not attend either in person or by your legal practitioner or other representative at the time and place indicated above the Court may proceed in your absence to make such orders as it thinks fit.

Date, 19.....

.....
Registrar

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 7

rule 11

NOTICE OF ADDITION OF ANOTHER EMPLOYER

In the Work Health Court at No.

To: The Registrar

Please note that
(*name of employer*)

alleges that the disease mentioned in the worker's statement of claim filed in
this matter was contracted while the worker was in the employment of

.....
.....
(*name and address of other employer*) POSTCODE

Date, 19.....

.....
(*Signature of employer or employer's legal practitioner*)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 8

rule 11

NOTICE OF ORDER ADDING ANOTHER EMPLOYER

In the Work Health Court at No.

To:
(*name of worker or worker's legal practitioner*)

Please note that by order dated, 19.....
(*date of order*)

it was ordered on the

Application of
(*name of employer*)

that
(*name and address of added employer*) POSTCODE

be added as an employer to this Application.

A sealed copy of the Application to have the added employer joined is attached to this notice.

A..... hearing has been
(*preliminary conference or formal determination*) (*set down or adjourned*)

to take place at on, 19... at am/pm.
(*location of Court*) (*date*) (*time*)

Date, 19....

.....
(*Registrar's signature*)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 9

rule 11

NOTICE TO ADDED EMPLOYER

In the Work Health Court at No.

To:
(*name of added employer*)

Please note that by order dated, 19... it was ordered on the
(*date*)

Application of
(*name and address of employer*) POSTCODE

you were added as an employer in the Application of
.....
(*name and address of worker*) POSTCODE

A..... has been
(*preliminary conference or formal determination*) (*set down or adjourned*)

to take place at on, 19... at am/pm.
(*location of Court*) (*date*) (*time*)

If you dispute the claim of the employer who seeks to join you as an employer in this application that the disease was contracted while the worker was in your employ you must:

- (a) within 7 days of being served with this notice file at the Registry of the Work Health Court a Notice of Address for Service on Form 2 and serve a copy on the worker; and
- (b) attend the preliminary conference or formal determination personally, by your legal practitioner or by another person acting on your behalf and at your request.

If you do not file a Notice of Address for Service and appear before the Court, as required above, the Court may proceed to hear the Application in your absence.

A sealed copy of the Application to have you joined, the Notice of Address for Service of the employer against whom the worker claims and the Notice of Hearing are attached.

Date, 19...

.....
Registrar

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 10

rule 12

MEMORANDUM OF AGREEMENT

In the Work Health Court at No.

To: The Registrar

In respect of the compensation claim made by

.....
(full name and address of worker)

POSTCODE

against

.....
(full name and address of employer)

POSTCODE

the worker and employer have entered into an agreement, a copy of which is annexed hereto.

Please note that the parties request the Court to record the agreement.

Particulars of the worker's claim are as follows:

PARTICULARS OF CLAIM

NOTE 1: Include the following particulars in the case of injury or disease to the worker:

- (a) Worker's full name, address, occupation and date of birth.
- (b) Employer's full name and address.
- (c) Date of injury or contraction of disease.
- (d) Brief statement of injury or disease that occurred to worker.
- (e)
 - (i) Worker's normal weekly earnings (as defined in Section 49 of the Act) as at the date of the injury or contraction of disease.
 - (ii) Name of award, if any, under which the worker was employed at the date of the injury or contraction of disease.
 - (iii) Amount of sick leave benefit payable under that award as at the date of the injury or contraction of disease.

- (f) Period or periods of incapacity.
- (g) Details of the actual earnings of the worker during the period, or periods, of incapacity up to the date of this Memorandum giving dates on which variations of earnings occurred.
- (h) Amount per week the worker is able to earn.
- (i)
 - (i) Full name of any dependent spouse.
 - (ii) Full names and dates of birth of any dependent children.
 - (iii) If dependent child is over 16 and attending school, college or university, the name of the institution.
- (j) Amounts of payments previously made for:
 - (i) weekly payments:
 - (ii) hospital, medical, rehabilitation treatment or training expenses (provide list showing sub totals).
- (k) Amount of medical, hospital, rehabilitation or other expenses for which compensation is claimed (provide list showing sub totals).

NOTE 2: Insert the following details in the case of a deceased worker:

- (a) Information required by (a), (b) and (c) in Note 1.
- (b) Date of death.
- (c) Name and relationship of each dependant wholly or partially dependent on deceased worker.
- (d) Amount of funeral expenses.
- (e) Number and ages of prescribed children.
- (f) Method of apportionment of lump sum amount.

NOTE 3: Insert the following details in the case of a worker who suffers a compensable permanent impairment:

- (a) Information required by (a), (b), (c) and (d) in Note 1.
- (b) Percentage of permanent impairment assessed under Section 72 of the Act.

NOTE 4: Attached to this Memorandum:

- (a) A copy of all medical reports obtained by the worker and the employer in respect of the injury or disease to which the agreement relates and on which they rely;
- (b) a copy of the agreement;
- (c) a copy of a Statement of Particulars showing by the use of sub totals how the amount of the payment is made up;
- (d) a copy of all other relevant documents upon which the parties relied in reaching their agreement.

.....
(signed worker or worker's
legal practitioner)

.....
(signed employer or
employer's legal practitioner)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 11

rule 12

NOTICE OF MEMORANDUM HAVING BEEN RECEIVED

In the Work Health Court at No.

To:
(*name of person having an interest in the agreement*)

Please note that a Memorandum of Agreement between
(*worker*)

and has been sent to me for recording.
(*employer*)

This agreement appears to affect you.

If you wish to dispute the said agreement by reason of its inaccuracy, or the inadequacy of the amount or by reason of the agreement been obtained by fraud, undue influence or other improper means, you must, as soon as possible, lodge an objection in writing setting out your grounds of objection. I will then inform you of a hearing at which the Court will consider the agreement and your objections to it, and at which you must appear in person or by your legal practitioner or other person. If you do not inform me within 21 days of the date of this notice that you wish to dispute the agreement, the Court shall consider the Memorandum of Agreement in your absence and may direct me to record it.

A copy of the said agreement is available for inspection at the Registry of the Work Health Court.

Filing Date, 19...

.....
(*Signed Registrar*)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 12

rule 12

**NOTICE OF OBJECTION TO RECORDING A MEMORANDUM
OF AGREEMENT**

In the Work Health Court at No.

To: The Registrar

Please note that
(name of person giving notice)

disputes the Memorandum of Agreement sent to you for recording in this matter.

The objections and grounds of those objections are as follows:

(set out details here)

Date, 19...

.....
(Signed by the person giving notice or by that person's legal practitioner)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 13

rule 12

**NOTICE OF DIRECTION BY COURT NOT TO RECORD A
MEMORANDUM OF AGREEMENT OR TO RECORD IT UPON TERMS**

In the Work Health Court at No.

To:
(name of person having an interest in the agreement)

Please note that on, 19...
(date of Court's direction)

the Court directed me
(not to record the agreement or to record it upon terms)

a memorandum of agreement dated, 19...

between and
(worker) (employer)

The grounds upon which I have been directed.....
(not to record the agreement or to record it upon terms)

are as follows:

(set out details here)

Date, 19.....

.....
(Signed Registrar)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 14

rule 12

NOTICE OF RECORDING OF MEMORANDUM OF AGREEMENT

In the Work Health Court at No.

To:
(names of parties or their legal practitioners)

Please note that I have today recorded an Agreement dated, 19...

Between
(worker)

and
(employer)

in respect of
(an injury occurring or a disease contracted)

on, 19...
*(date of injury or
contraction of disease)*

Date, 19.....

.....
(Signed Registrar)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 15

rule 28

SUMMONS TO WITNESS

In the Work Health Court at No.

To:
(name of witness)

Please note that you are required to attend at the Work Health Court
at on at am/pm
(location of Court) (date) (time)

to give evidence on behalf of
(name of party requiring attendance)

and to continue attending on following days until the end of proceedings.

NOTE: If the witness is required to produce documents or other things add:

You are also required to bring with you and produce at the time and place indicated above

(documents and things to be brought and produced)

Date, 19.....

.....
(Signed Registrar)

NORTHERN TERRITORY OF AUSTRALIA

Work Health Act 1986

FORM 16

rule 30

CERTIFICATE OF TAXATION

In the Work Health Court at No.

Please note that I have today taxed the costs of.....
(party whose costs have been taxed)

and have allowed the sum of \$..... :

..... dollars and cents.
(amount in words)

Date, 19.....

.....
(Signed Registrar)

ENDNOTES
1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION***Work Health Court Rules 1987 (SL No. 18, 1987)***

| | |
|-----------|------------|
| Notified | 5 May 1987 |
| Commenced | 5 May 1987 |

Amendment of Work Health Court Rules 1990 (SL No. 7, 1990)

| | |
|-----------|-------------|
| Notified | 23 May 1990 |
| Commenced | 23 May 1990 |

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

| | |
|-------------|---|
| Assent date | 30 June 1993 |
| Commenced | 1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and Gaz S53, 29 June 1993) |

Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)

| | |
|-------------|---|
| Assent date | 31 December 1993 |
| Commenced | 1 June 1994 (s 2, s 2 <i>Local Government Act 1993</i> (Act No. 83, 1993) and Gaz S35, 20 May 1994) |

3 LIST OF AMENDMENTS

| | |
|------|---------------------------|
| r 8 | amd Act No. 28, 1993, s 3 |
| r 13 | ins No. 7, 1990 |
| r 20 | amd Act No. 84, 1993, s 6 |