

NORTHERN TERRITORY OF AUSTRALIA

MOTOR ACCIDENTS (COMPENSATION) APPEAL TRIBUNAL RULES

As in force at 17 May 2007

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 17 May 2007

MOTOR ACCIDENTS (COMPENSATION) APPEAL TRIBUNAL RULES

Rules under the *Motor Accidents (Compensation) Act*

1 Citation

These Rules may be cited as the *Motor Accidents (Compensation) Appeal Tribunal Rules*.

2 Commencement

These Rules shall come into operation at the expiration of 14 days from the date on which the making of the Rules is notified in the *Gazette*.

3 Interpretation

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

Master means the Master of the Supreme Court appointed under the *Supreme Court Act*.

party means a party to a reference and includes the Board.

reference means a matter referred to the Tribunal under section 29 of the Act.

Registrar means the Registrar of the Tribunal. and

Supreme Court means the Supreme Court of the Northern Territory of Australia established by the *Supreme Court Act*.

(2) In these Rules, a reference to a form by number is a reference to the form so numbered in the Schedule.

4 Procedural

(1) A Registrar or an acting Registrar of the Supreme Court appointed under the *Supreme Court Act* shall be the Registrar of the Tribunal.

(2) The Registrar shall keep a register in accordance with Form 1 of all references and of all determinations of the Tribunal in relation to such references.

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- (3) The Tribunal may, if it thinks fit, dispense with compliance with a requirement of these Rules either before or after the occasion for compliance arises.

4A Powers of Master

The Master may exercise all the powers of the Tribunal under these Rules other than the power to conduct the hearing of a reference.

5 Institution of reference to Tribunal

- (1) A reference shall be instituted by giving to the Registrar:
- (a) notice, in writing, in accordance with Form 2 or Form 3 as the case requires; and
 - (b) a copy of all relevant documents in the possession of the party instituting the reference.
- (2) A notice under subrule (1) shall be signed by the party instituting the reference or a legal practitioner acting for that party and shall contain an address for service not more than 15 kilometres from the office of the Registrar where an answer, documents and written communications may be left for him.
- (3) A copy of a notice referred to in subrule (1) shall be served on the other parties by the party instituting the reference within 7 days after the date on which the notice is given to the Registrar or within such further period as the Tribunal may, on an application to it made before or after the expiration of the 7 days, allow.

6 Answer

- (1) A party may, where he thinks it necessary, within 7 days from the date of service of a notice referred to in rule 5, give the Registrar:
- (a) an answer, in writing, in accordance with Form 4; and
 - (b) a copy of all relevant documents in the possession of the party making the answer.
- (2) An answer under subrule (1)(a) shall be signed by the party making the answer or a legal practitioner acting for that party and shall contain an address for service not more than 15 kilometres from the office of the Registrar where documents and written communications may be left for him.
- (3) A copy of an answer referred to in subrule (1)(a) shall be served on the other parties by the party making the answer within 7 days notice of the date so fixed.

7 Mention before Tribunal

- (1) After the expiration of the time for giving an answer under rule 6, the Registrar shall fix a date for the mention of the reference before the Tribunal and shall give the parties not less than 7 days notice of the date so fixed.
- (2) At a mention before the Tribunal referred to in subrule (1), the Tribunal may give such directions as in its opinion are expedient for the speedy and inexpensive determination of the reference including, but not limited to any or all of the following:
 - (a) dispensing with compliance, either in whole or in part, with the provisions of the *Evidence Act* and the rules of evidence at common law;
 - (b) requiring further particulars of the reference or answer to be provided;
 - (c) ordering the delivery of an answer in accordance with rule 6 to the reference;
 - (d) ordering mutual discoveries and inspection within a specified time;
 - (e) settling the issues for the hearing of the reference;
 - (f) requiring a party who is injured as the result of an accident to submit himself for a medical examination;
 - (g) fixing a date for further mention of the reference before the Tribunal;
 - (h) ordering that the hearing of the reference be by way of affidavit or oral evidence; or
 - (j) fixing a date for hearing of the reference.

8 Evidence by affidavit

- (1) Where, pursuant to rule 7, the Tribunal directs that the hearing of a reference be by affidavit, then, unless a notice, in writing, requiring cross-examination of a person making an affidavit is served on the party relying on the affidavit by the other party not less than 7 days before the date set down for the hearing of the reference, the affidavit shall be admissible as evidence for the purposes of the reference.
- (2) Unless the Tribunal otherwise directs, the *Oaths Act* applies to and in relation to an affidavit to be used in the hearing of a reference.

9 Subpoenas

- (1) On the application of a party, the Registrar may issue a subpoena requiring the attendance of a witness or the production of a document or thing at the hearing of a reference.
- (2) Where a person named in a subpoena for the production of a document or thing, being a subpoena requiring attendance before the Tribunal, is not a party, the subpoena shall, unless the Tribunal otherwise orders, permit him to produce the document or thing to the Registrar not later than the day before the first date on which his attendance is required, instead of attending and producing the document or thing as required by the subpoena.
- (3) Subrule (2) shall not apply to so much of a subpoena that requires the person named to attend to testify at the hearing of the reference.
- (4) Where a person named in a subpoena is not a party and he incurs substantial expense or loss in complying with the subpoena, the Tribunal may order that the party who requested the issue of the subpoena pay to the person an amount which is sufficient to compensate him for such expense or loss as is reasonably incurred or lost by that person in complying with the subpoena.
- (5) The Tribunal may, on the application of a person named in a subpoena, set aside the subpoena in whole or in part.
- (6) A notice of an application under subrule (5) shall be filed with the Registrar and the person making the application shall serve a copy of the notice on the party at whose request the subpoena was issued.

10 Services of notices

A document or notice required by these Rules to be served on or given to a person may be so served or given in the case of:

- (a) the Board:
 - (i) by delivering it personally to the Secretary of the Board;
 - (ii) by leaving it addressed to the Board at the office of the Secretary of the Board with a person apparently employed there and who has apparently attained the age of 18 years;
 - (iii) by sending it by certified mail addressed to the Secretary of the Board; or

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- (iv) by sending by certified mail to, or leaving it as, the address as notified under these Rules as the address for service of the Board; or
 - (b) a person, other than the Board:
 - (i) by delivering it to him personally;
 - (ii) by leaving it addressed to him at his usual or last known place of residence or business with some other person apparently resident or employed there and who has apparently attained the age of 18 years;
 - (iii) by sending it by certified mail addressed to him at his usual or last-known place of residence or business; or
 - (iv) by sending it by certified mail to, or leaving it at, the address as notified under these Rules as his address for service.

11 Costs

- (1) Subject to these Rules and the Act, the costs of and incidental to a reference to and a proceeding before the Tribunal shall be at the discretion of the Tribunal.
- (2) Costs shall follow the event, unless the Tribunal otherwise orders.
- (3) In making an order as to costs, the Tribunal may make such further orders as are necessary to give effect to its order, including, but not limited to, an order:
 - (a) that costs be taxed before the Registrar and the procedures to be followed in taxing costs;
 - (b) specifying the scale of costs to apply;
 - (c) fixing a lump sum amount of costs; or
 - (d) that a party pay the costs of a witness required to attend before the Tribunal.
- (4) Where it appears to the Tribunal that costs have been improperly, or without reasonable cause, incurred, or there has been a failure, without reasonable excuse, to comply with these Rules or an order of the Tribunal made pursuant to these Rules, the Tribunal may penalize the party at fault by making such order as to costs as it thinks fit.

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- (5) Where the Tribunal orders a party to pay costs to another party, that other party may recover those costs as if the order were a judgment for the payment of money given by the Supreme Court.

12 Rules of evidence

Subject to the Act and these Rules and a direction of the Tribunal made in pursuance of rule 7(2)(a), the *Evidence Act* and the rules of evidence at common law shall apply to a hearing of a reference.

13 Administration of oath

A person who gives evidence before the Tribunal shall, unless the Tribunal otherwise orders, do so under oath.

14 Enforcement of orders

- (1) Subject to these Rules, and without limiting any other means of enforcement which may be available, the Tribunal may enforce an order made by it in the same manner as if the order had been made by the Supreme Court and the Tribunal shall for the purposes of enforcing such an order have the same powers as those of the Supreme Court.
- (2) A party interested in the execution or enforcement of an order made by the Tribunal, *ex parte*, for directions as to the execution or enforcement of the order.
- (3) The Tribunal may, if it thinks fit, stay execution of an order made by it.

15 Issue of practice directions

Subject to the Act and these Rules, the Tribunal may for the purpose of regulating its practices and procedures, issue, from time to time, such practice directions as it thinks fit.

16 Transitional

- (1) Where a matter referred to the Tribunal under section 29 of the Act before the commencement of these Rules has not been determined by the Tribunal on the commencement of these Rules, the matter shall continue under, and be subject to, these Rules but any originating process issued or other step taken before the commencement of these Rules shall be deemed to comply with the relevant provision, if any, of these Rules.

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- (2) Subject to these Rules, a document filed after the commencement of these Rules relating to a matter referred to the Tribunal under section 29 of the Act before the commencement of these Rules shall comply with these Rules.

FORM 1

rule 4

REGISTER OF REFERENCES TO AND DETERMINATIONS BY THE TRIBUNAL

No.	Name of person making reference	Name of other party to reference	Date lodged	Date of hearing	Date of determination	Nature of determination	Remarks
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FORM 2

rule 5

REFERENCE TO TRIBUNAL (SECTION 29(1))

IN THE MOTOR ACCIDENTS)
(COMPENSATION) APPEAL TRIBUNAL) No. of
Registry

Between

of Applicant

and

of Respondent

TAKE NOTICE that being a person who is
aggrieved by

* a determination of the Board of the day
of , 19 whereby the Board

[here set out particulars of the Board's determination]

* the failure of the Board to make a determination within the 60 days
referred to in section 27(3) of the *Motor Accidents (Compensation) Act*,

hereby refers the matter to the Tribunal upon the following grounds:

- 1.
- 2.
- 3.
- 4.

[here state concisely the material facts on which you rely as entitling
you to some benefit under the Act]

Dated this day of , 19 .

.....
*Signature of applicant or
Legal practitioner for applicant

*This reference was taken out by the Applicant in person whose address for
service is

*This reference was taken out by the applicant by his legal practitioner whose
address for service is

*Strike out if inapplicable

To: The Motor Accidents (Compensation) Appeal Tribunal
And to: The Territory Insurance Office Board

FORM 3

rule 5

REFERENCE TO TRIBUNAL

IN THE MOTOR ACCIDENTS)
(COMPENSATION) APPEAL TRIBUNAL) No. of
Registry

Between the Territory Insurance Office Board "the Board"

Applicant

and

of Respondent

TAKE NOTICE that the Board hereby refers the following matters to the Tribunal pursuant to section 29(2) of the *Motor Accidents (Compensation) Act*:

- 1.
- 2.
- 3.

[here set out matters for reference to the Tribunal]

Dated this day of , 19 .

.....
*Signature of Secretary/Chairman
of the Board or
Legal practitioner for applicant

*This reference was taken out by the Board whose address for service is

*This reference was taken out by the Board by its legal practitioner whose address for service is

*Strike out if inapplicable

To: The Motor Accidents (Compensation) Appeal Tribunal

And to: (each other party)

FORM 4

rule 6

ANSWER

IN THE MOTOR ACCIDENTS)
(COMPENSATION) APPEAL TRIBUNAL)

No. of

Registry

Between

of

Applicant

and

of

Respondent

TAKE NOTICE that the Respondent to the
within reference states the following with respect to the notice of reference

- 1.
- 2.
- 3.
- 4.

[here set out relevant points]

Dated this day of , 19 .

.....
*Signature of Respondent or
Legal practitioner for Respondent

*This answer was given out by the Respondent in person whose address for service is

*This answer was given out by the Respondent by his legal practitioner whose address for service is

*Strike out if inapplicable

To: The Motor Accidents (Compensation) Appeal Tribunal

And to: (the other party)

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***Motor Accidents (Compensation) Appeal Tribunal Rules (SL No. 5, 1986)***

Notified	12 March 1986
Commenced	27 March 1986 (r 2)

Amendments of Motor Accidents (Compensation) Appeal Tribunal Rules (SL No. 14, 1998)

Notified	1 July 1998
Commenced	1 July 1998

Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (<i>Gaz</i> G26, 27 June 2007, p 3); rem: 17 May 2007

3 LIST OF AMENDMENTS

r 3	amd No. 14, 1998, r 2
r 4	amd No. 14, 1998, r 3
r 4A	ins No. 14, 1998, r 4
r 5	amd No. 14, 1998, r 5; Act No. 7, 2007, s 16
r 6	amd No. 14, 1998, r 6; Act No. 7, 2007, s 16
r 11	amd No. 14, 1998, r 7
sch	amd Act No. 7, 2007, s 16