

NORTHERN TERRITORY OF AUSTRALIA

MOTOR ACCIDENTS (COMPENSATION) APPEAL TRIBUNAL RULES

As in force at 1 January 2015

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 2015

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 Definitions

In these Rules:

Master means the Master of the Supreme Court.

party means a party to a reference, and includes the Commission.

reference means a matter referred to the Tribunal under section 28D or 28E of the Act.

Registrar means the Registrar of the Tribunal.

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 must keep a register of each reference containing the following information:
 - (a) the name of the person making the reference;
 - (b) the other parties to the reference;
 - (c) the date the reference is lodged;
 - (d) the date of the Tribunal hearing;

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- (e) the date of the Tribunal's decision;
 - (f) the nature of the decision;
 - (g) the other information the Registrar considers appropriate.
- (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 the approved form; 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 the party.
- (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 the party 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 the approved form; and
 - (b) a copy of all relevant documents in the possession of the party making the answer.

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- (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 the party.
 - (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 (National Uniform Legislation) Act*, 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, Affidavits and Declarations 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 the person to produce the document or thing to the Registrar not later than the day before the first date on which the person's 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 the person 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 the person 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.

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.
- (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 (National Uniform Legislation) Act*, 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 Approved forms

The Registrar may approve forms for use under these Rules.

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 = Gazette	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 G26</i> , 27 June 2007, p 3); rem: 17 May 2007

Territory Insurance Office and Other Legislation Amendment Act 2010 (Act No. 35, 2010)

Assent date	18 November 2010
Commenced	pt 4: 1 January 2011; rem: 18 November 2010 (s 2)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 <i>Oaths, Affidavits and Declarations Act 2010</i> (Act No. 39, 2010) and <i>Gaz G7</i> , 16 February 2011, p 4)

Motor Accidents (Compensation) Appeal Tribunal Amendment (Evidence) Rules (SL No. 6, 2013)

Notified	1 May 2013
Commenced	1 May 2013 (r 2)

Territory Insurance Office (Sale) Act 2014 (Act No. 41, 2014)

Assent date 28 November 2014
Commenced pt 6, divs 1 and 2: nc (exp without commencing);
pt 6, div 3: 00:01hrs 1 January 2015 (*Gaz S131*,
19 December 2014, p 8); rem: 28 November 2014 (s 2)

3 LIST OF AMENDMENTS

r 3 amd No. 14, 1998, r 2
sub Act No. 35, 2010, s 41
amd Act No. 41, 2014, s 53
r 4 amd No. 14, 1998, r 3; Act No. 35, 2010, s 42
r 4A ins No. 14, 1998, r 4
r 5 amd No. 14, 1998, r 5; Act No. 7, 2007, s 16; Act No. 35, 2010, ss 43 and 48
r 6 amd No. 14, 1998, r 6; Act No. 7, 2007, s 16; Act No. 35, 2010, ss 44 and 48
r 7 amd No. 6, 2013, r 4
r 8 amd Act No. 40, 2010, s 202
r 9 amd Act No. 35, 2010, s 48
r 10 rep Act No. 35, 2010, s 45
r 11 amd No. 14, 1998, r 7
r 12 amd No. 6, 2013, r 5
r 16 sub Act No. 35, 2010, s 46
sch amd Act No. 7, 2007, s 16
rep Act No. 35, 2010, s 47