

NORTHERN TERRITORY OF AUSTRALIA

**NORTHERN TERRITORY CIVIL AND ADMINISTRATIVE
TRIBUNAL RULES 2016**

As in force at 30 September 2020

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 30 September 2020

NORTHERN TERRITORY CIVIL AND ADMINISTRATIVE TRIBUNAL RULES 2016

Rules under the *Northern Territory Civil and Administrative Tribunal Act 2014*

1 Preliminary matters

- (1) These Rules may be cited as the *Northern Territory Civil and Administrative Tribunal Rules 2016* and commence on the date they are notified in the *Gazette*.
- (2) These Rules apply to all proceedings, whether commenced before or after the commencement of these Rules.
- (3) These Rules must be applied so as to give effect to the objectives of the Tribunal set out in section 10 of the Act.
- (4) In these Rules:

applicant, see rule 5(2).

approved form means a form approved by the rules committee under section 138(3)(b) of the Act and published on the Tribunal's website.

evidence summons, see rule 9(1).

initiating application, see rule 5(1).

ordinary application, see rule 8(1).

respondent, see rule 6(1).

response, see rule 6(1).

2 Dispensation

The Tribunal may at any time dispense with a requirement of these Rules.

3 Service of documents

- (1) This rule applies if the Act, another rule, or a direction by the Tribunal requires a person to serve a document in a proceeding on another person.
- (3) The Tribunal may endorse a document with a direction that it is to be served no later than a particular time.
- (4) The Tribunal may require a person to provide evidence of the steps taken to serve a document.
- (5) For the Act and these Rules, a document is served on a person if the person required to serve it:
 - (a) brings the document to the person's attention; or
 - (b) serves the document in a way allowed by section 25 of the *Interpretation Act 1978* or section 109X of the Corporations Act 2001 (Cth); or
 - (c) serves the document in a way directed by the Tribunal.
- (6) The Tribunal may refuse to take action in a proceeding if it is not satisfied that a person has been served with a document in accordance with this rule.
- (7) A person must advise the Tribunal without delay if the person is unable, despite reasonable efforts, to serve a document in accordance with this rule.

4 Form of documents

- (1) This rule applies if an Act or regulation, or another rule, requires a party to file or serve a document in a proceeding.
- (2) If there is no approved form for the document:
 - (a) the Tribunal may accept a document that contains the substance of the matters required by the relevant Act, regulation or rule; or
 - (b) the Tribunal may make a direction regarding the form the document is to take.

5 Commencing a proceeding – initiating application

- (1) This rule applies to an application commencing a proceeding in the Tribunal's original jurisdiction or review jurisdiction (an ***initiating application***).

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- (2) A person wishing to commence a proceeding (the **applicant**) must file an initiating application in the approved form with the Tribunal.

Note for subrule (2)

The current approved form for an initiating application is Form 1.

6 Response to an initiating application

- (1) A person served with an initiating application who wishes to oppose it or who otherwise wishes to be heard in relation to it (the **respondent**) must:

- (a) file a response in the approved form with the Tribunal; and
- (b) serve a copy of the response on each other party named in the initiating application.

Note for subrule (1)(a)

The current approved form for a response is Form 2.

- (2) Subject to subrule (3), a person may include in a response a claim for relief against the applicant.
- (3) A claim mentioned in subrule (2) may only concern a matter over which the Tribunal has jurisdiction.
- (4) The Tribunal may disallow a claim mentioned in subrule (2) if the Tribunal is of the opinion that the claim is not sufficiently connected to the matters raised by the initiating application that it should be dealt with in the same proceeding.
- (6) The Tribunal may order in a particular proceeding that a party need not file a response.

8 Ordinary applications

- (1) This rule applies in relation to an application (an **ordinary application**) in a proceeding other than:

- (a) an initiating application; or
- (b) an application for an evidence summons.

- (2) A person wishing to make an ordinary application must file with the Tribunal an ordinary application in the approved form.

Note for subrule (2)

The current approved form for an ordinary application is Form 3.

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- (7) The Tribunal may conduct the hearing of an ordinary application despite the absence of a party served with a copy of the sealed application.
 - (8) This rule does not prevent the Tribunal:
 - (a) hearing an ordinary application made otherwise than in compliance with this rule, including one made orally; or
 - (b) dealing, in an appropriate case, with an ordinary application without a hearing.

9 Evidence summonses

- (1) This rule applies when a party applies under section 89 of the Act for the issue of a summons requiring a person to appear before the Tribunal to give evidence or to produce evidentiary material (an **evidence summons**).
- (2) The party must file with the Tribunal:
 - (a) an application for an evidence summons in the approved form; and
 - (b) a draft evidence summons in the approved form.

Note for subrule (2)

The current approved form for an application for an evidence summons is Form 4 and for an evidence summons is Form 5.
- (3) The Tribunal may do any one or more of the following:
 - (a) issue the evidence summons in the form applied for;
 - (b) issue the evidence summons in a form amended by the Tribunal;
 - (c) issue the evidence summons on conditions, including conditions regarding payment of the recipient's costs of complying with the evidence summons;
 - (d) request the party applying for the evidence summons to provide further information in support of the application for the issue of the evidence summons;
 - (e) refuse to issue the evidence summons.
- (6) Despite rule 3, the evidence summons must be served on the person required to comply with it by giving it to:
 - (a) if the recipient is an individual – the individual; or

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- (b) if the recipient is a body – an executive officer of the body; or
 - (c) a person authorised to accept service of documents on behalf of the recipient.
- (7) A person may apply to the Tribunal for an order:
- (a) setting aside an evidence summons; or
 - (b) allowing extra time to comply with an evidence summons; or
 - (c) limiting the scope of evidentiary material required to be produced under an evidence summons; or
 - (d) requiring the party who applied for the evidence summons to pay all or part of the costs of complying with the evidence summons (whether or not the summons was issued on a condition regarding costs).
- (8) An application under subrule (7) is an ordinary application.

10 Costs

- (1) This rule applies to costs orders under Part 4, Division 6 of the Act.
- (2) For section 132(2)(d) of the Act, in deciding whether to make a costs order for a proceeding or part of a proceeding, the Tribunal must take into account the extent to which a failure by a party to comply with these Rules or a direction by the Tribunal has resulted in a waste of money or time.
- (3) A person seeking a costs order for a proceeding or part of a proceeding:
- (a) may do so by making an ordinary application; and
 - (b) must include in the evidence in support of the application an itemisation of the costs and disbursements in respect of which the order is sought.

11 Matters in which Registrar may constitute Tribunal

For section 22 of the Act, the following matters or classes of matters are specified as ones in which the President may provide for the Registrar to constitute the Tribunal:

- (a) matters that come within the Tribunal's original jurisdiction;
- (b) directions hearings and compulsory conferences in matters that come within the Tribunal's review jurisdiction.

12 Order that decision maker provide reasons

An application made under section 36(1) of the Act for an order that a decision maker provide reasons must be made by way of an initiating application and must be served on the decision maker in accordance with rule 3.

13 Extension of time

For section 68(1) of the Act, the Tribunal may on its own initiative, or on an ordinary application by a party, extend or shorten a time limit imposed by the Act, another Act or these Rules, for doing something in relation to a proceeding.

14 Intervention

For section 129(3)(a) of the Act, the Tribunal may grant a person leave to intervene in a proceeding or part of a proceeding on any of the following grounds:

- (a) that participation by the person is likely to assist the Tribunal in reaching a decision on a matter, or the matters, in issue;
- (b) that participation by the person will not substantially delay the proceeding or add substantially to the cost to any party of the proceeding;
- (c) if the person could instead be joined as a party to the proceeding under section 128 of the Act, that a grant of leave to intervene is preferable.

15 Reopening of proceeding

- (1) This rule applies to applications under section 80 of the Act to reopen a proceeding.
- (2) A party may apply to reopen a proceeding by an ordinary application filed with the Registrar no later than 4:30 pm 28 days after the date of the relevant proceeding.
- (3) The time specified in subrule (2) may be extended under rule 13 only in exceptional circumstances.

16 Electronic communications

Steps or actions under these Rules may be taken by electronic means, unless doing so would cause inconvenience or hardship to a party.

17 Repeal of rules

All Rules made under section 138(3)(a) of the Act and in force immediately before the commencement of these Rules are repealed.

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***Northern Territory Civil and Administrative Tribunal Rules (SL No. 11, 2016)***

Notified	31 May 2016
Commenced	31 May 2016

Northern Territory Civil and Administrative Tribunal Amendment Rules 2016 (SL No. 42, 2016)

Notified	23 November 2016
Commenced	23 November 2016

Northern Territory Civil and Administrative Tribunal Amendment Rules 2020 (SL No. 29, 2020)

Notified	30 September 2020
Commenced	30 September 2020

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 3 and 10.

4 LIST OF AMENDMENTS

r 3	amd No. 29, 2020, r 4
r 5	amd No. 29, 2020, r 5
r 6	amd No. 29, 2020, r 6
r 7	rep No. 29, 2020, r 7
r 8	amd No. 29, 2020, r 8
r 9	amd No. 29, 2020, r 9
r 10	sub No. 42, 2016, s 3 amd No. 29, 2020, 10
r 12	amd No. 29, 2020, r 11