NORTHERN TERRITORY OF AUSTRALIA

SUPREME COURT RULES 1987

As in force at 23 December 2022

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 23 December 2022

SUPREME COURT RULES 1987

Rules under the *Supreme Court Act 1979*

Chapter 1 General rules of procedure in civil proceedings

Order 1 Preliminary

Part 1 Application of Chapter

1.01A Citation

These Rules may be cited as the *Supreme Court Rules 1987*.

1.01 Definitions

In this Part:

commencement date means the date on which these Rules come into operation.

former Rules means the Rules of the Supreme Court as in force immediately before the commencement date.

pending proceeding means a civil proceeding in the Court to which, immediately before the commencement date, the former Rules applied.

1.02 Application

(1) Subject to subrule (3), this Chapter applies to every civil proceeding commenced in the Court on or after the commencement date.

(2) Subject to this Part, this Chapter, with the necessary changes, applies to a pending proceeding, and anything required or permitted to be done under this Chapter with respect to a proceeding commenced on or after the commencement date shall or may be done in a pending proceeding.

(3) This Chapter does not apply to a civil proceeding commenced in the Court on or after the commencement date to which any other Rules of the Supreme Court apply except as those other Rules provide.

(3A) This Chapter applies to any matter respecting an appeal, whether civil or criminal, only to the extent provided in rule 82.03.

(4) The repeal of the former Rules does not affect anything done or omitted to be done in a pending proceeding before the commencement date and, except as provided in this Part, anything so done or omitted to be done before the commencement date shall be taken to have been done or omitted under this Chapter.

(5) Where the time for entering an appearance in a pending proceeding is limited by the originating process in the proceeding and, before the commencement date, a defendant had not entered an appearance in the proceeding, the time limited for the purpose of the filing by the defendant of an appearance under this Chapter is the time limited in the originating process.

(6) If before the commencement date an originating process issued in a pending proceeding for service on a defendant out of the Territory had not been served on that defendant, the former Rules continue to apply with respect to the service of the originating process on the defendant out of the Territory as if this Chapter had not been made and, in particular:

(a) the Court may make an order authorizing service of the originating process on the defendant out of the Territory;

(b) nothing in this Chapter affects an order authorizing such service made before the commencement date; and

(c) if the defendant is served out of the Territory in accordance with an order of the Court and does not file an appearance within the time limited, the plaintiff is entitled to enter or apply for judgment, and Order 21, with the necessary changes, applies as if the proceeding had been commenced by writ after the commencement date and the writ had been served on the defendant within the Territory.

(6.1) Where originating process issued in a pending proceeding has not been served on a defendant who is out of the Territory, the former Rules continue to apply with respect to the service of the originating process on the defendant out of the Territory as if these Rules had not been made.

(7) If an endorsement of claim on a writ of summons in a pending proceeding did not stand in place of or otherwise constitute a statement of claim under the former Rules, then, in respect of a defendant to whom the plaintiff had not delivered a statement of claim before the commencement date, the plaintiff shall serve a statement of claim on that defendant:

(a) if the defendant entered an appearance before the commencement date – within 14 days after the commencement date; or

(b) if the defendant files an appearance after the commencement date – within 14 days after appearance.

(8) An endorsement of claim on a writ of summons in a pending proceeding which stood in place of or otherwise constituted a statement of claim under the former Rules shall be taken to be a statement of claim for the purposes of these Rules.

1.03 Jurisdiction not affected

Nothing in this Chapter limits the jurisdiction, power or authority which the Court had immediately before the commencement date.

1.04 Proceedings in another Court

(1) Except as the Court otherwise orders, these Rules, with the necessary changes, apply to proceedings commenced in another court and remitted or transferred to or removed into the Court on or after the commencement date as if they were a proceeding commenced in the Court on the day they were remitted, transferred or removed.

(2) For the purpose of this Part, a proceeding commenced in another court and remitted or transferred to or removed into the Court before the commencement date shall be taken to be a pending proceeding.

1.05 Judgment in pending proceeding

(1) In this rule a reference to a judgment entered or given includes a reference to an order made.

(2) Except as provided in this rule, this Chapter applies to a judgment entered or given in a pending proceeding as if it had been entered or given in a proceeding commenced after the commencement date.

(3) A judgment entered or given in a pending proceeding before the commencement date may be enforced in accordance with this Chapter but otherwise has the same force and effect as if this Chapter had not been made.

(4) Without limiting subrule (3):

(a) no appeal may be brought, application to set aside or vary made or other proceeding taken in respect of a judgment entered or given before the commencement date which could not have been brought, made or taken in respect of that judgment under the former Rules immediately before the commencement date; and

(b) process commenced under the former Rules to enforce a judgment entered or given before the commencement date may be continued or carried out and aided in accordance with the former Rules.

1.06 Payment into Court

(1) In this rule ***payment into court***, in relation to a pending proceeding, means the payment into court of an amount of money in satisfaction of the claim in the manner provided by the former Rules, and includes the lodging with an Associate Judge of a notice offering to consent to judgment.

(2) Where a payment into court was made in a pending proceeding before the commencement date, the former Rules shall continue to apply with respect to the payment as if this Chapter had not been made.

(3) Without limiting subrule (2), a second or further payment into court may be made in accordance with the former Rules or this Chapter.

(4) In a pending proceeding a plaintiff may serve an offer of compromise in accordance with this Chapter on a defendant whether or not the defendant has made a payment into court.

(5) In a pending proceeding a defendant, whether or not he has made a payment into Court, may serve an offer of compromise on the plaintiff under Order 26.

1.07 Amendment

Rule 36.01(6) and (8) does not apply to a pending proceeding.

1.08 Costs

(1) In this rule ***relevant date*** means the date declared under Rules amending this Chapter to be the relevant date for the purposes of this rule.

(2) The amount of costs for work done in a pending proceeding before the relevant date shall be determined in accordance with the former Rules, with the necessary changes, and the amount of costs for work done in the proceeding on or after that date shall be determined in accordance with this Chapter.

(3) For the purpose of this rule, work done in a pending proceeding on or after the relevant date in accordance with the former Rules shall, so far as practicable, be taken to have been done in accordance with this Chapter.

Part 2 Interpretation

1.09 Interpretation

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

Act includes an Act of the Commonwealth.

bodily injury includes an impairment of mental condition and a disease.

Convention means a Convention (other than the Hague Convention) with a foreign country, made with or made and extended to the Commonwealth or the Territory, with respect to legal proceedings in civil or criminal matters.

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

document includes a video tape, audio tape, disc, film or other means of recording.

discovery means discovery and inspection of documents or discovery by written interrogatories or oral examination.

Hague Convention means the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* done at the Hague on 15 November 1965.

Hague Convention country means a country, other than Australia, that is a party to the Hague Convention.

judgment given means a judgment given by the Court at the trial of a proceeding or on the hearing of an application in a proceeding.

legal practitioner means:

(a) an Australian legal practitioner as defined in section 6(a) of the *Legal Profession Act 2006*;

(b) the Secretary within the meaning of section 8 of the *Law Officers Act 1978*;

(c) the Secretary to the Attorney-General's Department of the Commonwealth;

(d) the Commonwealth Director of Public Prosecutions; or

(e) an AGS lawyer within the meaning of section 55I of the *Judiciary Act 1903* of the Commonwealth.

make discovery of documents means make an affidavit of documents complying with the requirements of this Chapter, file the affidavit and serve a copy on the party or person entitled to the discovery.

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

order made means an order made by the Court at the trial of a proceeding or on the hearing of an application in a proceeding.

originating process means process by which a proceeding is commenced, and includes a third party notice and, where a counterclaim is made against a person not previously a party to the proceeding in which the counterclaim is made, the counterclaim.

pleading includes an endorsement of claim on a writ which constitutes a statement of claim, and includes particulars of a pleading.

Proper Officer means an officer of the Court in charge of the Registry or an officer of the Court appointed by the Chief Justice in relation to the exercise of a power or the performance of a duty under this Chapter.

question means a question, issue or matter for determination by the Court, whether of fact or law or of fact and law, raised by the pleadings or otherwise at any stage of a proceeding by the Court, by a party or by a person, not a party, who has a sufficient interest.

Registrar includes an Associate Judge.

Registry means the Office of the Court at Darwin or Alice Springs.

solicitor means an Australian legal practitioner as defined in section 6(a) of the *Legal Profession Act 2006*, other than a barrister as defined in that Act.

Taxing Master means the officer of the Court whose duty it is to tax costs in the Court.

(2) In this Chapter, unless the contrary intention appears, a reference to:

(a) a Judge is a reference to the Court constituted by a Judge; and

(b) a proceeding commenced by writ includes a proceeding in respect of which an order has been made under rule 4.07.

Part 2A Associate Judge's jurisdiction

1.09A Direction that Registrar may exercise Master's jurisdiction

(1) Where under these Rules:

(a) the jurisdiction of the Court is exercisable by an Associate Judge; or

(b) a power or function is conferred on an Associate Judge;

the Associate Judge may direct that the Registrar may exercise the whole or a specified part of that jurisdiction, power or function.

(2) An Associate Judge must not make a direction under subrule (1) without the prior approval of the Chief Justice.

Part 3 Miscellaneous

1.10 Exercise of power

(1) In exercising a power under this Chapter the Court:

(a) shall endeavour to ensure that all questions in the proceeding are effectively, completely, promptly and economically determined; and

(b) may give any direction or impose any term or condition it thinks fit.

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

1.11 Procedure wanting or in doubt

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

(a) for commencing or for taking a step in a proceeding; or

(b) by which the jurisdiction, power or authority of the Court is exercisable,

is not prescribed by this Chapter, a direction under section 72 of the Act or by or under any other Act, or for any other reason there is doubt as to the manner or form of that procedure, the Court shall determine what procedure is to be adopted and may give directions.

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

(3) An application for directions under this rule with respect to the commencement of a proceeding shall be made by originating motion in which no person is named as the defendant and an application for directions with respect to a proceeding already commenced shall be made by summons.

1.12 Act by corporation

Where the Court makes an order that a corporation do an act, it may order that the act be done by the corporation by its appropriate officer.

1.13 Corporation a party

Except where otherwise provided by or under an Act or this Chapter, a corporation, whether or not a party, shall not take a step in a proceeding except by a solicitor.

1.14 Power to act by solicitor

Unless the contrary intention appears, an act, matter or thing which under the Act or this Chapter or otherwise by law is required or permitted to be done by a party may be done by the party's solicitor.

1.15 Signature of solicitor

(1) Where a signature by a solicitor is required or permitted for the purpose of a proceeding, the signature of that solicitor:

(a) by a partner of the solicitor; or

(b) by a solicitor who is an agent of the solicitor; or

(c) by a partner of that agent; or

(d) by a legal practitioner in the employ of that solicitor or that agent,

shall be as sufficient for that purpose as the signature of that solicitor, except in the case of an oath.

(2) A signature made in pursuance of subrule (1) shall be accompanied by an indication of the capacity in which the signature is made.

Order 2 Non-compliance with Chapter

2.01 Effect of non-compliance

(1) A failure to comply with this Chapter is an irregularity and does not render a proceeding or step taken, or a document, judgment or order, in the proceeding a nullity.

(2) Subject to rules 2.02 and 2.03, where there has been a failure to comply with this Chapter, the Court may:

(a) set aside the proceeding, either wholly or in part;

(b) set aside a step taken in the proceeding or a document, judgment or order in the proceeding; or

(c) exercise its powers under this Chapter to allow amendments and to make orders dealing with the proceeding generally.

2.02 Originating process

The Court shall not wholly set aside a proceeding or the originating process by which a proceeding was commenced on the ground that the proceeding was commenced by the wrong process.

2.03 Application to set aside for irregularity

The Court shall not set aside a proceeding or a step taken in a proceeding, or a document, judgment or order in a proceeding, on the ground of a failure to which rule 2.01 applies on the application of a party unless the application is made within a reasonable time, and before the applicant has taken a fresh step, after becoming aware of the irregularity.

2.04 Dispensing with compliance

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

Order 3 Time, vacations and Court office

Part 1 Time

3.01 Calculating time

(1) A period of time fixed by this Chapter or by a judgment or order, or by a document, in a proceeding shall be calculated in accordance with this rule.

(2) Where a period of one day or longer is to begin on, or to be calculated from, a day or event, the day or the day of the event shall be excluded.

(3) Where a period of one day or longer is to end on, or to be calculated to, a day or event, the day or the day of the event shall be included.

(4) Where a period of 5 days or less would include a day on which the Registry is closed, that day shall be excluded.

(5) Where the last day for doing an act at the Registry of the Court is a day on which the Registry is closed, the act may be done on the next day the Registry is open.

3.02 Extension and abridgement

(1) The Court may extend or abridge a time fixed by this Chapter or by an order fixing, extending or abridging time.

(2) The Court may extend time under subrule (1) before or after the time expires, whether or not an application for the extension is made before the time expires.

(3) A time fixed by this Chapter or by an order fixing, extending or abridging time may be extended by consent without an order of the Court.

3.03 Fixing time

Where no time is fixed by this Chapter or by a judgment or order for doing an act in a proceeding, the Court may fix a time.

3.04 Process in vacation

(1) In calculating the time fixed by these Rules or by a judgment or order fixing, extending or abridging time, the period from 24 December to 9 January next following shall be excluded, unless the Court otherwise orders.

(2) Where the Court makes an order under subrule (1), the party on whose application the order was made shall serve a copy of the order:

(a) in the case of an order with respect to the time for appearance to originating process – with the originating process; and

(b) in any other case – on every other party forthwith.

3.05 Proceedings after a year

Where a year or longer has elapsed since a party has taken a step in a proceeding, a party desiring the proceeding to continue shall give to every other party not less than one month's notice in writing of his desire.

Part 2 Sitting and vacation

3.06 Vacations

(1) In this rule ***vacation*** means a period declared by the Chief Justice to be a vacation of the Court.

(2) A hearing or trial shall not be held in vacation unless the Chief Justice otherwise directs.

(3) Nothing in this rule prevents:

(a) the Court or a Judge from sitting during vacation to dispose of urgent business; or

(b) the Chief Justice from appointing a Judge from time to time to be available to deal with urgent business arising during vacation.

Part 3 Court office

3.07 Registry

(1) The Registry is to be open on every day of the year except Saturdays, Sundays, and public holidays under the *Public Holidays Act 1981*.

(2) The hours of the Registry are to be from 9.00 am until 4.00 pm unless the Chief Justice directs otherwise.

(3) A Judge, an Associate Judge or the Registrar may open the Registry at any time on the request of a person if it is necessary to do so to avoid injustice.

Order 4 Process in the Court

4.01 How proceeding commenced

Except where otherwise provided by or under an Act or this Chapter, a proceeding shall be commenced by writ or by originating motion.

4.02 Interlocutory application

An interlocutory or other application in a proceeding made on notice to a person shall be by summons.

4.03 Names of parties

(1) Subject to this rule, a person who commences a proceeding shall be called a plaintiff and a person against whom a proceeding is commenced shall be called a defendant.

(2) A person who commences a proceeding under rule 32.03, 32.05, 37.02 or 75.06(3) shall be called an applicant and the person against whom the proceeding is commenced shall be called a respondent.

4.04 When writ required

Except as provided by rules 4.05 and 4.06, a proceeding shall be commenced by writ.

4.05 When originating motion required

A proceeding shall be commenced by originating motion:

(a) where there is no defendant to the proceeding;

(b) where by or under an Act an application is authorized to be made to the Court; or

(c) where required by this Chapter.

4.06 Optional commencement by originating motion

A proceeding may be commenced by originating motion where:

(a) it is unlikely that there will be a substantial dispute of fact; and

(b) for that reason it is appropriate that there be no pleadings or discovery.

4.07 Continuance as writ of proceeding by originating motion

Where a proceeding in which there is a defendant is commenced by originating motion but ought by or under an Act or this Chapter to have been commenced by writ, or might in the opinion of the Court more conveniently continue as if commenced by writ:

(a) the Court may order that the proceeding continue as if it had been commenced by writ and may, in particular, order that any affidavit already filed in the proceeding shall stand as pleadings, with or without liberty to a party to add to those pleadings or to apply for particulars of the pleadings or that pleadings be served between the parties, and that the parties have discovery of each other; and

(b) by virtue of that order, the proceeding shall be taken to have been duly commenced for all purposes on the day the originating motion was filed.

4.08 Urgent case

In an urgent case the Court may, on the application of a person who intends to commence a proceeding and on his undertaking to commence the proceeding within such time as the Court directs, make an order which it might make if the applicant had commenced the proceeding and the application were made in the proceeding.

Order 5 Content, filing and duration of originating process

5.01 Definitions

In this Order:

originating process means a writ, originating motion or other process by which a proceeding is commenced.

writ does not include a writ of habeas corpus.

5.02 Form of originating process

(1) A writ shall be in Form 5A.

(2) An originating motion shall be in Form 5B, 5C, 5D, or 5E, whichever is appropriate.

5.03 Appearance

(1) A writ and, unless there is no defendant, an originating motion shall be endorsed with a statement to the effect that, if the defendant does not file an appearance within the time stated in the originating process, the plaintiff may obtain judgment against the defendant without further notice.

(2) Except as provided in subrule (3), the time for appearance to be stated in the originating process shall be as provided by rule 8.04.

(3) An originating motion under Order 53 which names a defendant shall state that the defendant may file an appearance on or before the day specified in the originating motion for application to an Associate Judge.

5.04 Endorsement of claim on writ

(1) A writ shall contain an endorsement of claim.

(2) The endorsement of claim shall be:

(a) a statement of claim; or

(b) a statement sufficient to give, with reasonable particularity, notice of the nature of the claim and the cause of the claim and of the relief or remedy sought in the proceeding.

(3) An endorsement of claim on a writ shall constitute a statement of claim if, but only if, it is headed "Statement of Claim".

5.05 Endorsement of claim on motion

An originating motion shall specify the relief or remedy sought and the Act, if any, under which the claim is made and, where it includes a question to be answered, the question shall be stated.

5.06 Endorsement as to capacity

Where a party sues or is sued in a representative capacity, the originating process shall be endorsed with a statement showing that capacity.

5.07 Address of parties

(1) An originating process shall be endorsed with:

(a) the address of the plaintiff and, where the plaintiff sues in person and that address is outside the Territory, also an address within the Territory, or an email address, for service in accordance with rule 6.05;

(b) the address of all defendants; and

(c) where the plaintiff sues by a solicitor, the name or firm and the business address within the Territory of the solicitor and also, if the solicitor is the agent of another, the name or firm and the business address of the principal.

(2) Where a solicitor shown in an endorsement under subrule (1) is a firm or body corporate, the endorsement shall also show the member of the firm or body corporate having responsibility for the conduct of the matter.

(3) Where an originating process is endorsed with the name of a solicitor:

(a) the solicitor shall, on request in writing by a defendant, declare in writing whether the originating process was filed by the solicitor; and

(b) if the solicitor declares in writing that the originating process was not filed by him, the Court may stay the proceeding.

5.08 Place of trial

(1) A writ shall be endorsed with a statement of the place of trial desired.

(2) If the writ is not endorsed with a statement as to the place or trial, the plaintiff shall be taken to desire trial in Darwin.

(3) The plaintiff may endorse an originating motion with a statement of the place of trial desired and, if the originating motion is not so endorsed, the plaintiff shall be taken to desire trial in Darwin.

5.09 Stay on payment of costs

(1) Where in a proceeding commenced by writ the plaintiff claims a debt only, the writ shall be endorsed with a statement of the amount of the debt and the amount claimed for costs and a statement that the proceeding will come to an end if, within the time limited for filing an appearance, the defendant pays the amounts so claimed to the plaintiff, if the plaintiff sues in person, or his solicitor if the plaintiff sues by a solicitor.

(2) Where a writ is endorsed in accordance with subrule (1) and the defendant pays the amounts claimed within the time limited for filing an appearance, then, except as provided by subrule (3), the proceeding shall come to an end.

(3) The defendant may, notwithstanding the payment, have the costs taxed and, if more than 20% is disallowed, the plaintiff's solicitor shall pay the costs of taxation.

5.10 Petition

A petition shall include at the end the name of the person intended to be served, if any, or, if no person is intended to be served, a statement to that effect.

5.11 Filing of originating process

(1) A proceeding shall be commenced by filing the originating process in the Registry.

(2) The originating process filed shall be signed by the solicitor for the plaintiff or by the plaintiff where the plaintiff sues in person.

(3) On an originating process being filed or at a later time, the Proper Officer, on the request of the plaintiff, shall seal a sufficient number of copies of the originating process for service and proof of service.

(4) In a proceeding commenced by originating motion, where the relief or remedy sought includes the construction of an instrument other than an Act, a copy of the instrument or, where it exceeds 25 pages, of the relevant parts, shall be lodged with the Proper Officer at the time the originating motion is filed.

(5) If the Registry is closed and the plaintiff produces an originating process to the Court and undertakes that the originating process will be lodged in the Registry on the day it is next open, the Court may initial the originating process and such number of copies as are required for services or proof of service and, on being so initialled, the originating process shall be taken to have been filed.

5.12 Duration and renewal of originating process

(1) A writ or an originating motion shall be valid for service for one year after the day it is filed.

(2) Where a writ or originating motion has not been served on a defendant, the Court may from time to time, by order, extend the period of validity for such period, being not more than 12 months from the date of the order, as it thinks fit.

(3) An order may be made under subrule (2) before or after expiry of the writ or originating motion.

(4) The plaintiff may apply under subrule (2) without notice to the defendant but, if the Court considers that the defendant ought to be heard, the Court shall adjourn the further hearing and direct the plaintiff to give notice to the defendant by summons or otherwise.

(5) Where an order is made under subrule (2), the Proper Officer shall stamp any sealed copy of the originating process for service with the date of the order and the extended date of validity.

Order 6 Service

6.001 Application to companies

Notwithstanding anything in this Order, a document served on a company within the meaning of the Corporations Act 2001 shall be effectively served for the purposes of these Rules if it is served as provided by section 109X of the Corporations Act 2001.

6.01 When personal service necessary

A document required or permitted to be served in a proceeding may be served personally but, unless personal service is required by this Chapter or by order, need not be served personally.

6.02 Personal service of originating process

(1) Except where otherwise provided by or under an Act or this Chapter, originating process shall be served personally on each defendant.

(2) Where a defendant to an originating process files an unconditional appearance, the originating process shall be taken to have been served on the defendant personally on the day on which the appearance is filed or on such earlier day as is proved.

6.03 How personal service effected

(1) 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 his presence and telling him the nature of the document.

(2) In the case of originating process, the copy for service shall be sealed in accordance with rule 5.11(3).

(3) To effect personal service it shall not be necessary to show the original document.

6.04 Service on particular defendants

Personal service of a document may be effected by serving the document in accordance with rule 6.03:

(a) in the case of a corporation – on the mayor, chairman, president or other officer of the corporation, or on the town clerk, clerk, treasurer, manager, secretary or other similar officer of the corporation;

(b) in the case of an infant – on a parent or guardian of the infant, and, if there is none, on the person with whom the infant resides or in whose care he is;

(c) in the case of a person under a disability as defined in rule 15.01:

(i) on the person who, in accordance with rule 15.03(2), would be entitled to be litigation guardian in a proceeding to which the person under a disability was party; or

(ii) if there is no such person – on the person with whom the person under a disability resides or in whose care he is;

(d) in the case of the Commonwealth of Australia or the Crown in right of the Commonwealth – on the Attorney-General for the Commonwealth; or

(e) in the case of the Territory or the Crown in right of the Territory – on the Attorney-General or on the Solicitor for the Northern Territory.

6.05 Address for service

(1) The address for service of a plaintiff is:

(a) where the plaintiff sues by a solicitor:

(i) the business address of the solicitor endorsed on the originating process, being an address in the Northern Territory; or

(ii) the email address of the solicitor endorsed on the originating process; or

(b) where the plaintiff sues in person:

(i) an address within 30 km of the Registry in which the originating process is issued endorsed on the originating process; or

(ii) the email address of the plaintiff endorsed on the originating process.

(2) The address for service of a defendant is:

(a) where the defendant appears by a solicitor:

(i) the business address of the solicitor stated in the notice of appearance, being an address in the Northern Territory; or

(ii) the email address of the solicitor stated in the notice of appearance; or

(b) where the defendant appears in person:

(i) an address within 30 km of the Registry in which the originating process is issued stated in the notice of appearance; or

(ii) the email address of the defendant stated in the notice of appearance.

6.06 How ordinary service effected

(1) 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; or

(b) by sending it by prepaid post to the person to be served at his proper address; or

(c) where provision is made by or under an Act for service of a document on a corporation (other than a company within the meaning of the Corporations Act 2001), by serving it in accordance with that provision; or

(ca) if the person to be served sues by a solicitor or appears by a solicitor and the solicitor has endorsed or stated an email address under rule 6.05 – by sending the document to the solicitor's email address; or

(cb) if the person to be served sues in person or appears in person and has endorsed or stated an email address under rule 6.05 – by sending the document to the email address; or

(d) where the solicitor for a party has facilities for the reception of documents in a document exchange – by delivering it into those facilities.

(2) For the purpose of subrule (1), the proper address of a person is the address for service of that person in the proceeding but if, at the time service is to be effected, the person has no address for service, the proper address is:

(a) in the case of an individual – the person's usual or last known place of residence or of business;

(b) in the case of individuals suing or being sued in the name of a firm – the principal or last known place of business of the firm; and

(c) in the case of a corporation:

(i) where the corporation is a company within the meaning of the Corporations Act 2001 – the registered office of the company situated as indicated in section 109X of the Corporations Act 2001; and

(ii) where the corporation is not a company – the registered or principal office of the corporation.

(3) Where no person can be found at the address for service of a plaintiff who sues or a defendant who has appeared in person, a document in the proceeding may be served on that plaintiff or defendant by filing it.

(3.1) A party who serves a document by filing in accordance with subrule (3) shall endorse on a backsheet or on the back of the last sheet a statement that it is filed as such service.

(4) The day of service of a document, where it is delivered into the facilities of a document exchange in accordance with subrule (1)(d), shall be taken to be:

(a) the day following the day on which it was so delivered; or

(b) where it was delivered on a Friday, the following Monday.

(5) In this rule ***document exchange*** means a document exchange for the time being approved by the Chief Justice on the recommendation of the Law Society Northern Territory.

6.07 Identity of person served

For the purposes of proof of service, evidence of a statement by a person of his identity or that he holds some office is evidence of his identity or that he holds that office.

6.08 Acceptance of service by solicitor

Where in a proceeding a document is required or permitted to be served on a person and a solicitor makes on a copy of the document a note that the solicitor accepts service of the document on behalf of the person to be served, the document shall, unless the solicitor 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 solicitor made the note or on such other day as is proved.

6.09 Substituted service

(1) Where for any reason it is impracticable to serve a document in the manner required by this Chapter, 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.

(2) Where the Court makes an order under subrule (1), it may order that the document be taken to have been served on the happening of a specified event or on the expiry of a specified time.

(3) The Court may make an order under subrule (1) notwithstanding that the person to be served is out of the Territory or was out of the Territory when the proceeding commenced.

6.10 Confirmation of informal service

Where for any reason a document has not been served in the manner required by or under a law in force in the Territory or by these Rules but steps have been taken for the purpose of bringing, or which may have a tendency to bring, the document to the notice of the person to be served, the Court may, by order, direct that the document be taken to have been served on the person on a date specified in the order.

6.11 Service by filing

(1) Where the service of a document on a party to a proceeding is required or permitted but personal service is not required, and that party is in default of appearance or has no address for service in the proceeding, the filing of the document shall, unless the Court otherwise orders, have effect as service of the document on that party.

(2) A party who serves a document by filing in accordance with subrule (1) shall endorse on a backsheet or on the back of the last sheet a statement that it is filed as such service.

6.12 Service on agent

(1) Where a contract has been entered into in the Territory by or through an agent residing or carrying on business in the Territory on behalf of a principal residing or carrying on business out of the Territory, originating process in a proceeding relating to or arising out of the contract may, by leave of the Court given before the determination of the agent's authority or of his business relations with the principal, be served on the agent.

(2) Where an order giving leave is made under subrule (1):

(a) the order shall limit a time within which the defendant shall file an appearance; and

(b) a copy of the order and of the originating process shall without delay be sent by pre-paid post to the defendant at his proper address out of the Territory.

6.13 Service under agreement

Where the parties to a proceeding have, before or after the commencement of the proceeding, agreed that originating process or any other document 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 in or out of the Territory) specified in the agreement, service in accordance with the agreement is sufficient service.

6.14 Recovery of vacant land

(1) In a proceeding for the recovery of land, the Court may:

(a) if it is satisfied that no person appears to be in possession of the land and that service of originating process cannot be otherwise effected on a defendant without undue delay or expense, authorize service on the defendant to be effected by affixing a copy of the originating process to a conspicuous part of the land; or

(b) if it is satisfied that no person appears to be in possession of the land and that service could not otherwise have been effected on a defendant without undue delay or expense, order that service already effected by affixing a copy of the originating process to a conspicuous part of the land shall be taken to be good service on the defendant.

(2) This rule has effect notwithstanding that the defendant is out of the Territory at the time of affixing the copy of the originating process.

6.15 Service of notice by the Court

Where under this Chapter or under an order of the Court a notice or other document is to be given to or served on a person by the Court, the notice or document shall, unless this Chapter otherwise provides or the Court otherwise orders, be sufficiently given or served in a manner in which a document not requiring to be served personally may be served under this Order.

6.16 Affidavit of service

(1) In the case of personal service of a document, an affidavit of its service shall state by whom it was served, the hour of the day, day of the week and date on which it was served, the place of service and the manner of identification of the person served.

(2) In any other case of service of a document, an affidavit of its service shall state, with relevant dates, the facts constituting service.

Order 7 Service outside Australia

Part 1 General

7.01 Originating process that may be served outside Australia

(1) Subject to rule 7.02, an originating process may be served on a person in a foreign country in a proceeding if:

(a) the whole subject matter of the proceeding is land (with or without rents or profits) situated in the Territory or the perpetuation of testimony relating to land situated in the Territory; or

(b) an act, deed, will, contract, obligation or liability affecting land situated in the Territory is sought to be construed, rectified, set aside or enforced in the proceeding; or

(c) relief is sought against a person domiciled or ordinarily resident in the Territory; or

(d) the proceeding is for the administration of the estate of a person who died domiciled in the Territory or a relief or remedy which might be obtained in such a proceeding; or

(e) the proceeding is for the execution, as to property situated in the Territory, of the trusts of a written instrument of which the person to be served is a trustee and which ought to be executed according to the law of the Territory; or

(f) the proceeding is brought to enforce, rescind, dissolve, rectify, annul or otherwise affect a contract, or to recover damages or other relief in respect of the breach of a contract, and the contract:

(i) was made in the Territory; or

(ii) was made by or through an agent carrying on business or residing in the Territory on behalf of a principal carrying on business or residing out of the Territory; or

(iii) is governed by the law of the Territory; or

(g) the proceeding is brought in respect of a breach committed in the Territory of a contract, wherever made, even though the breach was preceded or accompanied by a breach out of the Territory that rendered impossible the performance of that part of the contract which ought to have been performed in the Territory; or

(h) the proceeding is founded on a contract the parties to which have agreed that the Court will have jurisdiction to entertain a proceeding in respect of the contract; or

(i) the proceeding is founded on a tort committed in the Territory; or

(j) the proceeding is brought in respect of damage suffered wholly or partly in the Territory and caused by a tortious act or omission, wherever occurring; or

(k) an injunction is sought ordering the defendant to do or refrain from doing anything in the Territory, whether or not damages are also claimed in respect of a failure to do, or the doing of, the thing; or

(l) the proceeding is properly brought against a person duly served in or out of the Territory and another person in a foreign country is a necessary or proper party to the proceeding; or

(m) the proceeding:

(i) is brought by a mortgagee of property (other than land) situated in the Territory; and

(ii) seeks the sale of the property, foreclosure of the mortgage or delivery by the mortgagor of possession of the property; and

(iii) unless permitted by another paragraph of this subrule, does not seek a personal judgment or order for the payment of moneys due under the mortgage; or

(n) the proceeding:

(i) is brought by a mortgagor of property (other than land) situated in the Territory; and

(ii) seeks redemption of the mortgage, reconveyance of the property or delivery by the mortgagee of possession of the property; and

(iii) unless permitted by another paragraph of this subrule, does not seek a personal judgment or order for the payment of moneys due under the mortgage; or

(o) the proceeding is brought under the *Civil Aviation (Carriers' Liability) Act 1959* (Cth).

(2) In this rule:

mortgage includes a charge or lien.

mortgagee means a person entitled to, or with an interest in, a mortgage.

mortgagor means a person entitled to, or with an interest in, property subject to a mortgage.

7.02 Application for leave to serve originating process outside Australia

(1) Service of an originating process on a person in a foreign country is effective for the purpose of a proceeding only if:

(a) the Court has given leave under subrule (2) before the originating process is served; or

(b) the Court confirms the service under subrule (5); or

(c) the person served waives any objection to the service by filing an appearance in the proceeding.

(2) The Court may give leave to a person to serve an originating process on a person in a foreign country under a Convention, the Hague Convention, or the law of the foreign country, on the terms and conditions it considers appropriate, if the Court is satisfied:

(a) the Court has jurisdiction in the proceeding; and

(b) the proceeding is of a kind mentioned in rule 7.01; and

(c) the person seeking leave has a prima facie case for the relief claimed by the person in the proceeding.

Notes for subrule (2)

1 The law of a foreign country may permit service through the diplomatic channel or service by a private agent.

2 Order 7A, Part 2, deals with service of local judicial documents in a Hague Convention country.

(3) The evidence on an application for leave under subrule (2) must include the following:

(a) the name of the foreign country where the person to be served is or is likely to be;

(b) the proposed method of service;

(c) a statement that the proposed method of service is permitted by:

(i) if a Convention applies – the Convention; or

(ii) if the Hague Convention applies – the Hague Convention; or

(iii) in any other case – the law of the foreign country.

(4) Nothing in this rule prevents the Court from giving leave to a person to give notice, in a foreign country, of a proceeding in the Court on the basis that giving the notice takes the place of serving the originating process in the proceeding.

(5) If an originating process was served on a person in a foreign country without the leave of the Court, the Court may, by order, confirm the service if satisfied:

(a) subrule (2)(a), (b) and (c) apply in relation to the proceeding; and

(b) the service was permitted by:

(i) if a Convention applies – the Convention; or

(ii) if the Hague Convention applies – the Hague Convention; or

(iii) in any other case – the law of the foreign country; and

(c) the failure to apply for leave is sufficiently explained.

7.03 Service of other documents

(1) The Court may give leave to a person to serve a document (other than an originating process) issued by the Court on a person in a foreign country under a Convention, the Hague Convention, or the law of the foreign country, on the terms and conditions it considers appropriate.

Notes for subrule (1)

1 The law of a foreign country may permit service through the diplomatic channel or service by a private agent.

2 Order 7A, Part 2, deals with service of local judicial documents in a Hague Convention country.

(2) The evidence on an application for leave under subrule (1) must include the information mentioned in rule 7.02(3)(a) to (c).

(3) If a document (other than an originating process) was served on a person in a foreign country without the leave of the Court, the Court may, by order, confirm the service if satisfied:

(a) the service was permitted by:

(i) if a Convention applies – the Convention; or

(ii) if the Hague Convention applies – the Hague Convention; or

(iii) in any other case – the law of the foreign country; and

(b) the failure to apply for leave is sufficiently explained.

7.04 Application of other Orders

The other Orders of these Rules apply to service of a document on a person in a foreign country in the same way as they apply to service on a person in Australia, so far as they are:

(a) relevant and not inconsistent with this Order; and

(b) not inconsistent with:

(i) if a Convention applies – the Convention; or

(ii) if the Hague Convention applies – the Hague Convention; or

(iii) in any other case – the law of the foreign country.

7.05 Method of service

A document that is to be served on a person in a foreign country need not be served personally if it is served on the person under the law of the foreign country.

7.06 Substituted service

(1) This rule applies if an official certificate or declaration (whether made on oath or otherwise) is sent to the Court by the government or a court of a foreign country stating that attempts to serve a document on a person in the foreign country, under a Convention or the Hague Convention, or through the diplomatic channel, have not been successful.

(2) On application by the person seeking service, the Court may order that specified steps be taken to bring the document to the notice of the person to be served.

(3) If the Court makes an order under subrule (2), the Court may order that a document is taken to have been served when a specified event happens or on the expiry of a specified time.

7.07 Proof of service

(1) This rule does not apply in relation to a document served under the Hague Convention.

Note for subrule (1)

Order 7A, Part 2, deals with service of local judicial documents in a Hague Convention country.

(2) An official certificate or declaration (whether made on oath or otherwise) stating that a document has been personally served on a person in a foreign country, or served on the person in another way under the law of the foreign country, is sufficient proof of the service of the document.

(3) If filed, the certificate or declaration:

(a) is taken to be a record of the service of the document; and

(b) has effect as if it were an affidavit of service.

Part 2 Service through the diplomatic channel or under Convention

7.08 Documents to be filed with Court

(1) This rule applies if a person has been given leave to serve a document on a person in a foreign country:

(a) through the diplomatic channel; or

(b) by transmission to a foreign government under a Convention (the ***relevant convention***).

Note for subrule (1)

This rule does not apply if a person has been given leave to serve a document on a person in a Hague Convention country. Service in a Hague Convention country is dealt with in Order 7A, Part 2.

(2) The person given leave must file in the Registry:

(a) a request for service in Form 7A; and

(b) a request for transmission in Form 7B; and

(c) a written undertaking by the person, or the person's legal practitioner, to pay to a Registrar the amount of the expenses incurred by the Court in giving effect to the person's request; and

(d) 2 copies (or such other number of copies required by the relevant convention) of each document to be served; and

(e) if necessary, a translation into an official language of the foreign country (including a statement by the translator attesting to the accuracy of the translation) of the following:

(i) the request for transmission mentioned in paragraph (b);

(ii) each document to be served.

7.09 Order for payment of expenses

(1) This rule applies if:

(a) a person files an undertaking under rule 7.08(2)(c) in relation to a request for service on a person in a foreign country through the diplomatic channel or under a Convention; and

(b) the person does not, within 14 days after being sent an account for expenses incurred in relation to the request, pay to a Registrar the amount of the expenses.

(2) On application by a Registrar, the Court may:

(a) order the person to pay the amount of the expenses to a Registrar; and

(b) stay the proceeding, so far as it concerns the whole or any part of a claim for relief by the person, until the amount of the expenses is paid.

Order 7A Service under Hague Convention

Part 1 Preliminary

Notes for Part 1

1 This Order forms part of a scheme to implement Australia's obligations under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Under the Hague Convention, the Attorney-General's Department of the Commonwealth is designated as the Central Authority (under Article 2 of the Convention) and certain courts and government departments are, for certain purposes, designated as "other" or "additional" authorities (under Article 18 of the Convention).

2 This Order provides, in Part 2, for service in overseas Hague Convention countries of local judicial documents (documents that relate to proceedings in the Court) and, in Part 3, for default judgment in proceedings in the Court after service overseas of such a document. Part 4 deals with service by the Court or arranged by the Court in its role as an other or additional authority, of judicial documents emanating from overseas Hague Convention countries.

3 The Attorney-General's Department of the Commonwealth maintains a copy of the Hague Convention, a list of all Hague Convention countries, details of declarations and objections made under the Hague Convention by each of those countries and the names and addresses of the Central and other authorities of each of those countries. A copy of the Hague Convention can be found at http://www.hcch.net.

7A.01 Definitions

In this Order:

additional authority, for a Hague Convention country, means an authority that is:

(a) for the time being designated by the country, under Article 18 of the Hague Convention, to be an authority (other than the Central Authority) for the country; and

(b) competent to receive requests for service abroad emanating from Australia.

applicant, for a request for service abroad or a request for service in this jurisdiction, means the person on whose behalf service is requested.

Note

*The term **applicant** may have a different meaning in other provisions of these Rules.*

Central Authority, for a Hague Convention country, means an authority that is for the time being designated by that country, under Article 2 of the Hague Convention, to be the Central Authority for that country.

certificate of service means a certificate of service that has been completed for the purposes of Article 6 of the Hague Convention.

certifying authority, for a Hague Convention country, means the Central Authority for the country or some other authority that is for the time being designated by the country, under Article 6 of the Hague Convention, to complete certificates of service in the form annexed to the Hague Convention.

civil proceedings means any judicial proceedings in relation to civil or commercial matters.

defendant, for a request for service abroad of an initiating process, means the person on whom the initiating process is requested to be served.

Note

*The term **defendant** may have a different meaning in other provisions of these Rules.*

foreign judicial document means a judicial document that originates in a Hague Convention country and relates to civil proceedings in a court of that country.

forwarding authority means:

(a) for a request for service of a foreign judicial document in this jurisdiction – the authority or judicial officer of the Hague Convention country in which the document originates that forwards the request (being an authority or judicial officer that is competent under the law of that country to forward a request for service under Article 3 of the Hague Convention); or

(b) for a request for service of a local judicial document in a Hague Convention country – a Registrar.

initiating process means originating process.

local judicial document means a judicial document that relates to civil proceedings in the Court.

request for service abroad means a request for service in a Hague Convention country of a local judicial document mentioned in rule 7A.04(1).

request for service in this jurisdiction means a request for service in this jurisdiction of a foreign judicial document mentioned in rule 7A.13(1).

this jurisdiction means the Territory.

7A.02 Provisions of this Order to prevail

The provisions of this Order prevail to the extent of any inconsistency between those provisions and any other provisions of these Rules.

Part 2 Service abroad of local judicial documents

7A.03 Application of Part

(1) Subject to subrule (2), this Part applies to service in a Hague Convention country of a local judicial document.

(2) This Part does not apply if service of the document is effected, without application of any compulsion, by an Australian diplomatic or consular agent mentioned in Article 8 of the Hague Convention.

7A.04 Application for request for service abroad

(1) A person may apply to a Registrar, in the Registrar's capacity as a forwarding authority, for a request for service in a Hague Convention country of a local judicial document.

(2) The application must be accompanied by 3 copies of each of the following documents:

(a) a draft request for service abroad, which must be in accordance with Part 1 of Form 7A-A;

(b) the document to be served;

(c) a summary of the document to be served, which must be in accordance with Form 7A-B;

(d) if, under Article 5 of the Hague Convention, the Central Authority or any additional authority of the country to which the request is addressed requires the document to be served to be written in, or translated into, the official language or one of the official languages of that country, a translation into that language of both the document to be served and the summary of the document to be served.

(3) The application must contain a written undertaking to the Court, signed by the legal practitioner on the record for the applicant in the proceedings to which the local judicial document relates or, if there is no legal practitioner on the record for the applicant in the proceedings, by the applicant:

(a) to be personally liable for all costs that are incurred:

(i) by the employment of a person to serve the documents to be served, being a person who is qualified to do so under the law of the Hague Convention country in which the documents are to be served; or

(ii) by the use of any particular method of service that has been requested by the applicant for the service of the documents to be served; and

(b) to pay the amount of those costs to a Registrar within 28 days after receipt from a Registrar of a notice specifying the amount of those costs under rule 7A.06(3); and

(c) to give such security for those costs as a Registrar may require.

(4) The draft request for service abroad:

(a) must be completed (except for signature) by the applicant; and

(b) must state whether, if the time fixed for filing an appearance in the proceedings to which the local judicial document relates expires before service is effected, the applicant wants service to be attempted after the expiry of that time; and

(c) must be addressed to the Central Authority, or to an additional authority, for the Hague Convention country in which the person is to be served; and

(d) may state that the applicant requires a certificate of service that is completed by an additional authority to be countersigned by the Central Authority.

(5) Any translation required under subrule (2)(d) must bear a certificate (in both English and the language used in the translation), signed by the translator, stating:

(a) that the translation is an accurate translation of the documents to be served; and

(b) the translator's full name and address and his or her qualifications for making the translation.

7A.05 How application to be dealt with

(1) If satisfied that the application and its accompanying documents comply with rule 7A.04, the Registrar:

(a) must sign the request for service abroad; and

(b) must forward 2 copies of the relevant documents:

(i) if the applicant has asked for the request to be forwarded to a nominated additional authority for the Hague Convention country in which service of the document is to be effected – to the nominated additional authority; or

(ii) in any other case – to the Central Authority for the Hague Convention country in which service of the document is to be effected.

(2) The relevant documents mentioned in subrule (1)(b) are the following:

(a) the request for service abroad (duly signed);

(b) the document to be served;

(c) the summary of the document to be served;

(d) if required under rule 7A.04(2)(d) – a translation into the relevant language of each of the documents mentioned in paragraphs (b) and (c).

(3) If not satisfied that the application or any of its accompanying documents complies with rule 7A.04, the Registrar must inform the applicant of the respects in which the application or document fails to comply.

7A.06 Procedure on receipt of certificate of service

(1) Subject to subrule (5), on receipt of a certificate of service in due form in relation to a local judicial document to which a request for service abroad relates, a Registrar:

(a) must arrange for the original certificate to be filed in the proceedings to which the document relates; and

(b) must send a copy of the certificate to:

(i) the legal practitioner on the record for the applicant in the proceedings; or

(ii) if there is no legal practitioner on the record for the applicant in the proceedings – the applicant.

(2) For the purposes of subrule (1), a certificate of service is in due form if:

(a) it is in accordance with Part 2 of Form 7A-A; and

(b) it has been completed by a certifying authority for the Hague Convention country in which service was requested; and

(c) if the applicant requires a certificate of service that is completed by an additional authority to be countersigned by the Central Authority, it has been so countersigned.

(3) On receipt of a statement of costs in due form in relation to the service of a local judicial document mentioned in subrule (1), a Registrar must send to the legal practitioner or applicant who gave the undertaking mentioned in rule 7A.04(3) a notice specifying the amount of those costs.

(4) For the purposes of subrule (3), a statement of costs is in due form if:

(a) it relates only to costs of a kind mentioned in rule 7A.04(3)(a); and

(b) it has been completed by a certifying authority for the Hague Convention country in which service was requested.

(5) Subrule (1) does not apply unless:

(a) adequate security to cover the costs mentioned in subrule (3) has been given under rule 7A.04(3)(c); or

(b) to the extent to which the security so given is inadequate to cover those costs, an amount equal to the amount by which those costs exceed the security so given has been paid to a Registrar.

7A.07 Payment of costs

(1) On receipt of a notice under rule 7A.06(3) in relation to the costs of service, the legal practitioner or applicant, as the case may be, must pay to a Registrar the amount specified in the notice as the amount of the costs.

(2) If the legal practitioner or applicant fails to pay that amount within 28 days after receiving the notice:

(a) except by leave of the Court, the applicant may not take any further step in the proceedings to which the local judicial document relates until the costs are paid to a Registrar; and

(b) a Registrar may take such steps as are appropriate to enforce the undertaking for payment of the costs.

7A.08 Evidence of service

A certificate of service in relation to a local judicial document (being a certificate in due form within the meaning of rule 7A.06(2)) that certifies that service of the document was effected on a specified date is, in the absence of any evidence to the contrary, sufficient proof that:

(a) service of the document was effected by the method specified in the certificate on that date; and

(b) if that method of service was requested by the applicant, that method is compatible with the law in force in the Hague Convention country in which service was effected.

Part 3 Default judgment following service abroad of initiating process

7A.09 Application of Part

This Part applies to civil proceedings for which an initiating process has been forwarded, following a request for service abroad, to the Central Authority (or to an additional authority) for a Hague Convention country.

7A.10 Restriction on power to enter default judgment if certificate of service filed

(1) This rule applies if:

(a) a certificate of service of initiating process has been filed in the proceedings, being a certificate in due form (within the meaning of rule 7A.06(2)) that states that service has been duly effected; and

(b) the defendant has not appeared or filed a notice of address for service.

(2) In circumstances to which this rule applies, default judgment may not be given against the defendant unless the Court is satisfied that:

(a) the initiating process was served on the defendant:

(i) by a method of service prescribed by the internal law of the Hague Convention country for the service of documents in domestic proceedings on persons who are within its territory; or

(ii) if the applicant requested a particular method of service (being a method under which the document was actually delivered to the defendant or to his or her residence) and that method is compatible with the law in force in the country – by that method; or

(iii) if the applicant did not request a particular method of service – in circumstances where the defendant accepted the document voluntarily; and

(b) the initiating process was served in sufficient time to enable the defendant to file an appearance in the proceedings.

(3) In subrule (2)(b):

sufficient time means:

(a) 42 days from the date specified in the certificate of service in relation to the initiating process as the date on which service of the process was effected; or

(b) such lesser time as the Court considers, in the circumstances, to be a sufficient time to enable the defendant to file an appearance in the proceedings.

7A.11 Restriction on power to enter default judgment if certificate of service not filed

(1) This rule applies if:

(a) a certificate of service of initiating process has not been filed in the proceedings; or

(b) a certificate of service of initiating process has been filed in the proceedings (being a certificate in due form within the meaning of rule 7A.06(2)) that states that service has not been effected;

and the defendant has not appeared or filed a notice of address for service.

(2) If this rule applies, default judgment may not be given against the defendant unless the Court is satisfied that:

(a) the initiating process was forwarded to the Central Authority, or to an additional authority, for the Hague Convention country in which service of the initiating process was requested; and

(b) a period that is adequate in the circumstances (being a period of not less than 6 months) has elapsed since the date on which the initiating process was so forwarded; and

(c) every reasonable effort has been made:

(i) to obtain a certificate of service from the relevant certifying authority; or

(ii) to effect service of the initiating process;

as the case requires.

7A.12 Setting aside judgment in default of appearance

(1) This rule applies if default judgment has been entered against the defendant in proceedings to which this Part applies.

(2) If this rule applies, the Court may set aside the judgment on the application of the defendant if it is satisfied that the defendant:

(a) without any fault on the defendant's part, did not have knowledge of the initiating process in sufficient time to defend the proceedings; and

(b) has a prima facie defence to the proceedings on the merits.

(3) An application to have a judgment set aside under this rule may be filed:

(a) at any time within 12 months after the date on which the judgment was given; or

(b) after the expiry of that 12 month period, within such time after the defendant acquires knowledge of the judgment as the Court considers reasonable in the circumstances.

(4) Nothing in this rule affects any other power of the Court to set aside or vary a judgment.

Part 4 Local service of foreign judicial documents

7A.13 Application of Part

(1) This Part applies to service in this jurisdiction of a foreign judicial document in relation to which a due form of request for service has been forwarded to the Court:

(a) by the Attorney-General's Department of the Commonwealth, whether in the first instance or following a referral under rule 7A.14; or

(b) by a forwarding authority.

(2) Subject to subrule (3), a request for service in this jurisdiction is in due form if it is in accordance with Part 1 of Form 7A-A and is accompanied by the following documents:

(a) the document to be served;

(b) a summary of the document to be served, which must be in accordance with Form 7A-B;

(c) a copy of the request and of each of the documents mentioned in paragraphs (a) and (b);

(d) if either of the documents mentioned in paragraphs (a) and (b) is not in the English language, an English translation of the document.

(3) Any translation required under subrule (2)(d) must bear a certificate (in English) signed by the translator stating:

(a) that the translation is an accurate translation of the document; and

(b) the translator's full name and address and his or her qualifications for making the translation.

7A.14 Certain documents to be referred back to Attorney-General's Department of Commonwealth

If, after receiving a request for service in this jurisdiction, a Registrar is of the opinion:

(a) that the request does not comply with rule 7A.13; or

(b) that the document to which the request relates is not a foreign judicial document; or

(c) that compliance with the request may infringe Australia's sovereignty or security;

the Registrar must refer the request to the Attorney-General's Department of the Commonwealth together with a statement of his or her opinion.

Note for rule 7A.14

The Attorney-General's Department of the Commonwealth will deal with misdirected and non-compliant requests, make arrangements for the service of extrajudicial documents and assess and decide questions concerning Australia's sovereignty and security.

7A.15 Service

(1) Subject to rule 7A.14, on receipt of a request for service in this jurisdiction, the Court must arrange for the service of the relevant documents in accordance with the request.

(2) The relevant documents mentioned in subrule (1) are the following:

(a) the document to be served;

(b) a summary of the document to be served;

(c) a copy of the request for service in this jurisdiction;

(d) if either of the documents mentioned in paragraphs (a) and (b) is not in the English language, an English translation of the document.

(3) Service of the relevant documents may be effected by any of the following methods of service:

(a) by a method of service prescribed by the law in force in this jurisdiction:

(i) for the service of a document of a kind corresponding to the document to be served; or

(ii) if there is no such corresponding kind of document – for the service of initiating process in proceedings in the Court;

(b) if the applicant has requested a particular method of service and that method is compatible with the law in force in this jurisdiction – by that method;

(c) if the applicant has not requested a particular method of service and the person requested to be served accepts the document voluntarily – by delivery of the document to the person requested to be served.

7A.16 Affidavit as to service

(1) If service of a document has been effected pursuant to a request for service in this jurisdiction, the person by whom service has been effected must file with the Court an affidavit specifying:

(a) the time, day of the week and date on which the document was served; and

(b) the place where the document was served; and

(c) the method of service; and

(d) the person on whom the document was served; and

(e) the way in which that person was identified.

(2) If attempts to serve a document pursuant to a request for service in this jurisdiction have failed, the person by whom service has been attempted must file with the Court an affidavit specifying:

(a) details of the attempts made to serve the document; and

(b) the reasons that have prevented service.

(3) When an affidavit as to service of a document has been filed in accordance with this rule, a Registrar:

(a) must complete a certificate of service, sealed with the seal of the Court, on the reverse side of, or attached to, the request for service in this jurisdiction; and

(b) must forward the certificate of service, together with a statement as to the costs incurred in relation to the service or attempted service of the document, directly to the forwarding authority from which the request was received.

(4) A certificate of service must be:

(a) in accordance with Part 2 of Form 7A-A; or

(b) if a form or certificate that substantially corresponds to Part 2 of Form 7A-A accompanies the request for service – in that accompanying form.

Order 8 Appearance

8.01 Application

This Order applies to a proceeding commenced by writ or originating motion.

8.02 Appearance before taking step

Except as provided by rule 8.08 or 8.09 or by leave of the Court, a defendant shall not take a step in a proceeding unless he has first filed an appearance.

8.03 Who to file appearance

(1) Except as provided in rule 15.02, a defendant may file an appearance by a solicitor or in person.

(2) A corporation may file an appearance by a person duly authorized by it to so act.

8.04 Time for appearance

Unless the Court otherwise orders, the time stated in the writ or originating motion for the defendant to file an appearance shall be:

(a) where the originating process to be served in the Territory:

(i) is filed in the Darwin Registry and the place of service is within 200 Kilometres from Darwin – not less than 7 days after service;

(ii) is filed in the Alice Springs Registry and the place of service is within 200 Kilometres from Alice Springs – not less than 7 days after service; or

(iii) is filed in the Darwin or Alice Springs Registry and place of service is not within 200 Kilometres from the filing Registry – not less than 14 days after service;

(b) where the originating process is to be served elsewhere within the Commonwealth – not less than 21 days after service;

(c) where the originating process is to be served in New Zealand or in Papua New Guinea – not less than 28 days after service; and

(d) in any other case – not less than 42 days after service.

8.05 Mode of filing appearance

(1) An appearance shall be filed by filing a notice of appearance in the Registry in which the originating process is filed and, on the same or the next working day, serving on the plaintiff a copy of the notice sealed in accordance with subrule (3).

(2) A notice of appearance shall be in Form 8A.

(3) On the filing of a notice of appearance the Proper officer shall seal with the seal of the Court a sufficient number of copies for service.

(4) A sealed copy of the notice of appearance shall be taken to have been duly served on the plaintiff if on the day the notice is filed, or on the next working day, the defendant takes an appropriate step in accordance with rule 6.06(1) to serve the copy on the plaintiff.

8.06 Content of notice of appearance

(1) A notice of appearance shall state:

(a) where the defendant appears in person – the address of the defendant and, if that address is out of the Territory, an address of the defendant in the Territory for service; or

(b) where the defendant appears by a solicitor – the address of the defendant and the name or firm and the business address in the Territory of the solicitor and also, if the solicitor is an agent of another, the name or firm and the business address of the principal.

(2) Where a solicitor shown in a notice of appearance is a firm or body corporate, the notice shall also show the member of the firm or body corporate having responsibility for the conduct of the matter.

(3) Where the address of a defendant shown in a notice of appearance is not genuine, the Court may set aside the appearance and allow the plaintiff to continue the proceeding as if the appearance had not been filed.

8.07 Late appearance

(1) A defendant may file an appearance at any time, but after judgment an appearance shall not be filed without the leave of the Court.

(2) Where a defendant files an appearance after the time for appearance stated in the writ or originating motion, the time he has within which to serve a defence or for any other purpose, unless the Court otherwise orders, shall be calculated from the last day for appearance according to the writ or originating motion.

8.08 Conditional appearance

(1) A defendant may file a conditional appearance.

(2) A notice of conditional appearance shall be in Form 8B.

(3) A conditional appearance shall have effect for all purposes as an unconditional appearance unless, on application by the defendant, the Court otherwise orders.

(4) An application under subrule (3) shall be made by summons within 14 days after the day the conditional appearance is filed.

8.09 Setting aside writ or originating motion

Notwithstanding rule 8.08, the Court may exercise its jurisdiction to:

(a) set aside a writ or originating motion or its service;

(b) make an order under rule 46.08; or

(c) stay a proceeding,

on application made by the defendant before filing an appearance, whether conditional or not.

Order 9 Joinder of claims and parties

9.01 Joinder of claims

A plaintiff may join any number of claims against a defendant whether the plaintiff makes the claims in the same or in different capacities and whether the claims are made against the defendant in the same or in different capacities.

9.02 Permissive joinder of parties

(1) Two or more persons may be joined as plaintiffs or defendants in a proceeding:

(a) where:

(i) if separate proceedings were brought by or against each of them, a common question of law or fact would arise in all the proceedings; and

(ii) all rights to relief claimed in the proceeding (whether they are joint, several or alternative) are in respect of or arise out of the same transaction or series of transactions; or

(b) subject to subrule (2), where the Court, before or after the joinder, gives leave to do so.

(2) The Court shall not give leave under subrule (1)(b) unless it is satisfied that the joinder:

(a) will not embarrass or delay the trial of the proceeding;

(b) will not prejudice a party; or

(c) is not otherwise inconvenient.

9.03 Joinder of necessary parties

(1) Except by order of the Court or as provided by or under an Act, where the plaintiff claims relief to which any other person is entitled jointly with him, all persons so entitled shall be parties to the proceeding, and a person who does not consent to being joined as a plaintiff shall be made a defendant.

(2) Where the plaintiff claims relief against a defendant who is liable jointly with another person and also liable severally, that other person need not be made a defendant to the proceeding.

(3) Where persons are liable jointly, but not severally, under a contract and the plaintiff in respect of that contract claims against some but not all of those persons, the Court may stay the proceeding until the other persons so liable are added as defendants.

(4) The Court may make an order under subrule (1) before or after the non-joinder.

9.04 Joinder inconvenient

Notwithstanding rules 9.01 and 9.02, where a joinder of claims or parties may embarrass or delay the trial of the proceeding or cause prejudice to a party or is otherwise inconvenient, the Court may order that:

(a) there be separate trials;

(b) a claim be excluded;

(c) a party be compensated by an award of costs or otherwise for being required to attend, or be relieved from attending, any part of a trial in which he has no interest; or

(d) a person made a party cease to be a party on condition that the person be bound by the determination of the questions in the proceeding or without any such condition.

9.05 Effect of misjoinder or non-joinder of party

A proceeding shall not be defeated by reason of the misjoinder or non-joinder of a party or person and the Court may determine all questions in the proceedings so far as they affect the rights and interests of the parties.

9.06 Additional, removal, substitution of party

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

(a) a person who is not a proper or necessary party, whether or not he was one originally, cease to be a party;

(b) any of the following persons be added as a party:

(i) a person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all questions in the proceeding are effectually and completely determined and adjudicated on; or

(ii) a person between whom and a party to the proceeding there may exist a question arising out of, or relating to or connected with, a claim in the proceeding which it is just and convenient to determine as between that person and that party as well as between the parties to the proceeding; or

(c) a person to whom paragraph (b) applies be substituted for one to whom paragraph (a) applies.

9.07 Procedure for addition of party

(1) A person shall not be added as a plaintiff without his consent signified in writing or in such other manner as the Court orders.

(2) An application by a person for an order adding him as a party shall, unless the Court otherwise orders, be supported by an affidavit showing his interest in the questions in the proceeding or the question to be determined as between him and a party to the proceeding.

(3) Without limiting rule 9.06(b), where a person not a party to a proceeding for the recovery of land is in possession by himself or by a tenant of the whole or a part of the land, the Court may order that he be added as a defendant.

9.08 Defendant deceased at commencement of proceeding

(1) Where a cause of action survives against the estate of a deceased person, a person wishing to obtain a judgment in respect of that cause of action may, if no grant of representation has been made, bring a proceeding against the estate of the deceased.

(2) Without limiting subrule (1), a proceeding brought against "the estate of A.B. deceased" shall be taken to have been brought against "A.B's" estate in accordance with that subrule.

(3) A proceeding commenced naming as defendant a person who was dead when the proceeding commenced shall, if the cause of action survives and no grant of representation had been made at the time the proceeding commenced, be taken to have been commenced against the estate of the deceased in accordance with subrule (1).

(4) A proceeding naming as defendant a person who was dead when the proceeding commenced shall, if the cause of action survives and a grant of representation had been made at the time the proceeding commenced, be taken to have been commenced against the personal representative of the deceased as representing the estate of the deceased.

(5) In a proceeding within subrule (1) or (3), the Court may appoint a person to represent the estate of the deceased for the purpose of the proceeding or, if a grant of representation has been made since the commencement of the proceeding, order that the personal representative of the deceased be made a party to the proceeding, and order that the proceeding be carried on against the person so appointed or against the personal representative, as if he had been substituted for the estate.

(6) In a proceeding within subrule (4), the Court may order that the personal representative of the deceased be made a party and that the proceeding be carried on against the personal representative as representing the estate of the deceased.

(7) An application for an order under subrule (5) or (6) shall be made during the period of validity for service of the writ or other originating process, unless the Court otherwise orders.

(8) Before making an order under subrule (5), the Court may require notice to be given to an insurer of the deceased who has an interest in the proceeding and to a person having an interest in the estate.

(9) Where no grant of representation has been made, a judgment or order given or made in the proceeding shall bind the estate of the deceased to the same extent as it would have been bound if a grant had been made and a personal representative of the deceased had been a party to the proceeding.

(10) In this rule ***grant of representation*** means a grant of probate or administration in the Territory or the resealing of a foreign grant in the Territory.

9.09 Change of party on death, bankruptcy

(1) Where a party to a proceeding dies but the cause of action survives, or where a party becomes bankrupt, the proceeding shall not abate by reason of the death or bankruptcy but may be carried on in accordance with subrule (2).

(2) Where at any stage of a proceeding the interest or liability of a party is assigned or transmitted to or devolves on another person, the Court may order that the other person be added as a party to the proceeding or made a party in substitution for the original party and that the proceeding be carried on as so constituted.

(3) Unless the Court otherwise directs, the person on whose application an order is made under subrule (2) shall serve the order on every party to the proceeding and on every person who ceases to be a party or becomes a party as plaintiff by virtue of the order and, in the case of a person who becomes a defendant, shall serve that person personally with the order and with the writ or other originating process sealed in accordance with rule 5.11.

(4) A person on whom originating process is served in accordance with subrule (3) shall file an appearance in the proceeding within such time as the Court directs.

(5) Where an order is made without notice to a person on whom it is served, an application by the person to set aside or vary the order shall be made within 14 days after service.

9.10 Failure to proceed after death of party

(1) Where a party dies and a cause of action in the proceeding survives but no order is made under rule 9.09(2) substituting a personal representative of the deceased party as party, the Court may, on application by a party or by a person to whom liability on the cause of action survives on the death, order that, unless an order for substitution is made within a specified time, the proceeding be dismissed so far as concerns relief on the cause of action for or against the person to whom the cause of action or the liability or the cause of action survives on the death.

(2) On making an order under subrule (1), the Court may, whether or not a grant of representation within the meaning of rule 9.08(10) has been made, direct that, if the proceeding is dismissed by virtue of the order, costs of the proceeding be awarded:

(a) where the plaintiff dies – to the defendant against the personal representative of the deceased out of the estate of the deceased; and

(b) where the defendant dies – to the personal representative of the deceased against the plaintiff.

(3) Where the plaintiff dies, the Court shall not make an order under subrule (1) unless due notice of the application for it has been given to the personal representative, if any, of the deceased and to all other persons having an interest in the estate of the deceased who, in the opinion of the Court, should be notified.

(4) Where a defendant serves a counterclaim, this rule, with the necessary changes, applies as if the plaintiff were the defendant and the defendant were the plaintiff.

9.11 Amendment of proceedings after change of party

(1) Where an order is made under rule 9.06 or 9.08, the writ or other originating process filed in the Court shall be amended accordingly within the time specified in the order or, where no time is specified, within 14 days after the making of the order, and a reference to the order, the date of the order and the date on which the amendment is made shall be endorsed on the originating process.

(2) The filing of a copy of the originating process amended and endorsed as required by subrule (1) is a sufficient compliance with that subrule.

(3) Where an order is made under rule 9.06 or 9.08 adding or substituting a person as defendant:

(a) the proceeding against the new defendant commences on the amendment of the filed originating process in accordance with subrule (1) or (2);

(b) the plaintiff shall serve the amended originating process on that defendant within such time as the Court directs and, unless the Court otherwise orders, it shall be served personally; and

(c) unless the Court otherwise orders:

(i) where the new defendant is an added defendant – the proceeding shall be continued as if the new defendant were an original defendant; and

(ii) where the new defendant is a substituted defendant – all things done in the course of the proceeding before it was commenced against the new defendant shall have effect in relation to the new defendant as they had in relation to the old defendant, except that the filing of an appearance by the old defendant shall not dispense with the filing of an appearance by the new.

9.12 Consolidation or trial together

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

(a) a common question of law or fact arises in both or all of them;

(b) the rights to relief claimed in the proceedings are in respect of or arise out of the same transaction or series of transactions; or

(c) for any other reason it is desirable to make an order under this rule,

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

(2) An order for the trial together of 2 or more proceedings or for the trial of one immediately after the other, shall be subject to the discretion of the trial Judge.

9.13 Conduct of proceeding

The Court may give the conduct of the whole or a part of a proceeding to such person as it thinks fit.

Order 10 Counterclaim

10.01 Application of order

This Order applies only to a proceeding commenced by writ and to a proceeding in respect of which an order has been made under rule 4.07(a).

10.02 When counterclaim allowed

(1) A defendant who has a claim against the plaintiff may counterclaim in the proceeding.

(2) Rule 9.01 applies to a counterclaim as if the plaintiff were the defendant and the defendant were the plaintiff.

(3) A defendant who counterclaims shall plead his defence and the counterclaim in one document called a defence and counterclaim.

10.03 Counterclaim against plaintiff and another person

A defendant may join with the plaintiff as defendant to the counterclaim another, whether a party to the proceeding or not, who, if the defendant were to bring a separate proceeding, could be properly joined with the plaintiff as a party in accordance with rule 9.02.

10.04 Procedure after counterclaim against another person

(1) Where a defendant joins a person as a defendant to the counterclaim under rule 10.03, the defence and counterclaim shall contain a second title of the proceeding showing who is the plaintiff to the counterclaim and who are the defendants to it.

(2) The defendant shall serve on the person joined as a defendant to the counterclaim a copy of the defence and counterclaim and:

(a) where the person so joined is already a party to the proceeding – the copy shall be served within the time fixed by rule 14.04 for serving a defence; and

(b) where the person joined is not already a party – the copy shall be served personally and, unless the Court otherwise orders, shall be served within 14 days after the expiration of the time fixed by rule 14.04 for serving a defence.

(3) The person joined as a defendant to the counterclaim shall, on service of a copy of the defence and counterclaim, if not already a party, become a party and be in the same position as if he had been sued as defendant in the ordinary way by the defendant making the counterclaim.

(4) Without limiting subrule (3), where the person joined as defendant to the counterclaim is not already a party to the proceeding, Orders 8, 11, 14 and 21 apply as if the counterclaim were a writ the endorsement of claim on which constituted a statement of claim in accordance with rule 5.04, the defendant making the counterclaim were a plaintiff and the person joined were a defendant in the

proceeding.

(5) A counterclaim served on a defendant to the counterclaim who is not already a party shall commence with a notice in Form 10A.

(6) A notice of appearance by a defendant to a counterclaim who is not already a party shall be in Form 10B.

10.05 Trial of counterclaim

A counterclaim shall be tried at the trial of the claim of the plaintiff unless the Court otherwise orders.

10.06 Counterclaim inconvenient

Notwithstanding rules 10.02, 10.03 and 10.05, where a counterclaim may embarrass or delay the trial of the claim of the plaintiff or cause prejudice to a party or otherwise cannot conveniently be tried with that claim, the Court may:

(a) order separate trials of the counterclaim and the claim of the plaintiff;

(b) order that a claim included in the counterclaim be excluded;

(c) strike out the counterclaim without prejudice to the right of the defendant to assert the claim in a separate proceeding; or

(d) order that a person joined as a defendant to the counterclaim cease to be a party to it.

10.07 Stay of claim

Where the defendant by his defence admits the claim of the plaintiff and counterclaims, the Court may stay the original proceeding until the counterclaim is disposed of.

10.08 Counterclaim on stay, etc., of original proceeding

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

10.09 Judgment for balance

Where the plaintiff succeeds on the claim and the defendant succeeds on the counterclaim and a balance in favour of one of them results, the Court may give judgment for the balance.

Order 11 Third party procedure

11.01 Claim by third party notice

Where a defendant claims as against a person not already a party to the proceeding (in this Order called ***the third party***):

(a) a contribution or indemnity;

(b) relief or a remedy relating to or connected with the original subject-matter of the proceeding and substantially the same as some relief or remedy claimed by the plaintiff; or

(c) that a question relating to or connected with the original subject-matter of the proceeding should be determined not only as between the plaintiff and the defendant but also as between either or both of them and the third party,

the defendant may join the third party as a party to the proceeding, and make the claim against the third party, by filing and serving a third party notice.

11.02 Statement of claim on third party notice

A third party notice shall be in Form 11A, and shall be endorsed with a statement of claim.

11.03 Time for appearance

(1) A third party notice shall state a time within which the third party may file an appearance in the proceeding.

(2) The time under subrule (1) shall be:

(a) where the notice is to be served in the Territory – within the time limited by rule 8.04(a); and

(b) where the notice is to be served out of the Territory –

(i) within the time limited by rule 8.04(b), (c), or (d) in the case of appearance by a defendant to a writ, whichever is appropriate; or

(ii) within the time limited by an order of the Court authorizing service of the notice.

11.04 Filing and service of third party notice

(1) A claim by third party notice shall be commenced by filing the notice in the Court, whereupon the third party becomes a party to the proceeding.

(2) A third party notice shall be filed and served on the third party in the same manner as originating process is filed and served on a defendant.

11.05 Time for third party notice

(1) In a proceeding commenced by writ or in respect of which an order has been made under rule 4.07(a), a defendant may not file a third party notice until he has first served a defence.

(2) A defendant may file a third party notice:

(a) within 28 days after the time limited for the service of a defence; or

(b) at any time with the leave of the Court or the consent in writing of the plaintiff and all other parties who have appeared.

11.06 Leave to file third party notice

An application for leave to file a third party notice shall be made on notice to the plaintiff but the Court may direct notice to be given to any other party who has appeared.

11.07 Period of service

(1) A third party notice shall be served on the third party within 60 days after it is filed.

(2) Notwithstanding subrule (1), the Court may fix another period for the service of a third party notice either before the notice is filed or at the time it grants leave under rule 11.05(2) to file the notice.

(3) Where a third party notice has not been served on the third party, the Court, from time to time by order, may extend the period for service of the notice for such further period as it thinks fit.

(4) An order may be made under subrule (3) before or after expiry of the period for service.

(5) At the time of service of a third party notice on a third party there shall also be served a copy of:

(a) an order or consent under rule 11.05(2)(b);

(b) an order under subrule (2) made before the third party notice was filed fixing a period for service of the notice;

(c) an order under subrule (3);

(d) the writ or other originating process; and

(e) any pleadings or affidavits filed and served in the proceeding.

(6) Within the period for service of the third party notice on the third party, a copy of the notice shall be served on the plaintiff and on all other parties who have appeared.

(7) If a copy of the third party notice is not served in accordance with subrule (6), the Court may, on application by the plaintiff or the third party, order that the questions between the plaintiff and the defendant be tried before and separately from the questions between the defendant and the third party.

11.08 Appearance by third party

(1) A third party may file an appearance within the time limited for appearance or within such further time as the Court allows.

(2) A third party who files an appearance shall, on the same day, serve a sealed copy of the notice of appearance on the plaintiff.

(3) Rule 8.05, with the necessary changes, applies to an appearance by a third party under this rule.

11.09 Defence of third party

(1) A third party who files an appearance shall serve a defence to the statement of claim endorsed on the third party notice, within 14 days after filing the appearance.

(2) The third party may, on a ground not raised by the defendant in his defence, serve a defence to the statement of claim of the plaintiff by which he disputes the liability to the plaintiff of the defendant by whom the third party was joined.

(3) Rule 14.09 applies to a claim by a third party notice as if the claim were a proceeding commenced by writ.

(4) Where a third party files an appearance, the defendant by whom he was joined shall serve on the third party a copy of all pleadings that may from time to time be served between the plaintiff and that defendant.

11.10 Counterclaim by third party

(1) A third party who has a claim against the defendant may assert the claim in the proceeding by way of counterclaim and rule 10.02 applies as if the claim by the third party notice were a proceeding commenced by writ.

(2) A third party who counterclaims may join the plaintiff as defendant to the counterclaim along with the defendant if the plaintiff and defendant could be joined properly as defendants in accordance with rule 9.02 in a separate proceeding brought against them by the third party.

11.11 Default by third party

(1) Where at the time a judgment is entered or given for the plaintiff against the defendant by whom the third party was joined the third party has not filed an appearance or after appearance has not served a defence and the time limited for filing an appearance or serving a defence has expired:

(a) the third party shall be taken to admit the claims stated in the third party notice and shall be bound by the judgment between the plaintiff and the defendant insofar as it is relevant to the claim or question stated in the notice; and

(b) the defendant may at any time after satisfaction of the judgment or, with the leave of the Court, before satisfaction, enter judgment against the third party for a contribution or indemnity claimed in the notice and, with the leave of the Court, for any other relief or remedy claimed.

(2) If a third party or the defendant by whom he was joined fails to serve a pleading within the time limited, the Court may give such judgment for the party not in default or make such orders as it thinks fit.

(3) The Court may set aside or vary a judgment or order made or given under subrule (1)(b) or (2).

11.12 Discovery and trial

Where the third party files an appearance:

(a) the third party and the defendant by whom he was joined may have discovery of one another; and

(b) unless the Court otherwise orders:

(i) the third party may attend and take part at the trial of the proceeding;

(ii) at the trial the questions between the defendant and the third party shall be tried concurrently with the questions between the plaintiff and the defendant; and

(iii) the third party shall be bound by the result of the trial.

11.13 Third party directions

(1) Where the third party files an appearance, the Court may:

(a) where the liability of the third party to the defendant by whom he was joined as third party is established – give judgment for that defendant against the third party;

(b) order that a claim or question stated in the third party notice be tried in such manner as it directs;

(c) give the third party leave to defend the proceeding, either alone or jointly with a defendant, or to attend and take part at the trial; and

(d) generally make such orders and give such directions as are necessary to ensure that all questions in the proceeding are effectually and completely determined and adjudicated on and as to the extent to which the third party is to be bound by a judgment or decision in the proceeding.

(2) The Court may make an order or give a direction under subrule (1) either before or after a judgment in the proceeding has been entered or given for the plaintiff against the defendant and may, at any time, vary or rescind such an order or direction.

11.14 Judgment between defendant and third party

(1) Where a third party has been joined under this Order, the Court may, at or after the trial of the proceeding or on its determination otherwise than by trial, give judgment for the defendant by whom the third party was joined against the third party or for the third party against that defendant.

(2) Where judgment is given for the plaintiff against the defendant and judgment is given for that defendant against a third party, unless the Court otherwise orders, the judgment against the third party shall not be enforced until the judgment against the defendant has been satisfied.

11.15 Claim against another party

(1) Where a party claims as against another party a relief of the kind described in rule 11.01, the party may make the claim against the other party by filing and serving a notice in accordance with this rule.

(2) Subrule (1) does not apply where the claim could be made by counterclaim in the proceeding.

(3) No appearance to a notice under subrule (1) is necessary if the party on whom it is served has filed an appearance in the proceeding or is a plaintiff, but otherwise this Order, with the necessary changes, applies as if the defendant had filed and served a third party notice under rule 11.01 and the party on whom the notice was served were a third party joined under that rule.

(4) Except as provided by subrule (5), a notice under subrule (1) shall, with the necessary changes, be in accordance with Form 11A and be endorsed with a statement of claim.

(5) Where a party claims against another party contribution pursuant to section 12 of the *Law Reform (Miscellaneous Provisions) Act 1956*, a notice under subrule (1) shall be in accordance with Form 11B.

11.16 Fourth and subsequent parties

(1) Where a third party has filed an appearance this Order, with the necessary changes, applies as if the third party were a defendant.

(2) Where a person joined under this Order as a party by a third party has filed an appearance, this Order as applied by this rule has effect as regards such further person and any other person or persons so joined and so on successively.

(3) A third or subsequent party may not make a claim against another person (whether that person is a party to the proceeding or not) by notice under this Order without the leave of the Court.

11.17 Counterclaim

Where a defendant has served a counterclaim, this Order, with the necessary changes, applies as if the defendant were the plaintiff and the plaintiff were the defendant.

Order 12 Interpleader

12.01 Definitions

In this Order, unless the contrary intention appears:

claimant means a person making a claim to or in respect of property in dispute.

execution creditor means a person for whom a warrant is issued.

property in dispute means a debt or other property which is the subject of proceedings under this Order.

sheriff includes a person to whom a warrant of execution is directed.

stakeholder means an applicant under rule 12.02.

warrant means a warrant of execution under this Chapter.

12.02 Stakeholder's interpleader

(1) Where:

(a) a person is under a liability (otherwise than as a sheriff) in respect of a debt or other personal property; and

(b) he is sued or expects to be sued in a court for or in respect of the debt or property by 2 or more persons making adverse claims to or in respect of the debt or property,

the Court may, on application by him, grant relief by way of interpleader.

(2) Where a stakeholder is sued in a proceeding in the Court for or in respect of the property in dispute, an application under subrule (1) shall be made by summons in the proceeding.

(3) A summons under subrule (2) shall be served on each party to the proceeding who is a claimant and shall be served personally on each claimant who is not a party.

(4) Where subrule (2) does not apply, an application under subrule (1) shall be commenced by originating motion in which all claimants are joined as defendants.

12.03 Sheriff's interpleader

(1) Where a sheriff takes or intends to take personal property under a warrant, a person making a claim to or in respect of the property or the proceeds or value of the property may give notice in writing of his claim to the sheriff.

(2) A notice of claim under subrule (1) shall:

(a) state the name and address of the claimant, which address shall be the address for service;

(b) identify each item of personal property the subject of the claim; and

(c) state the grounds of the claim.

12.04 Sheriff's summons to state claim

(1) Where a person who is entitled to give notice under rule 12.03 does not, within a reasonable time after having knowledge of the facts, give notice under that rule, the Court may, on application by the sheriff, restrain the commencement or stay or restrain the continuance by the person of a proceeding in a court against the sheriff for or in respect of anything done by the sheriff in execution of the warrant after the time when the person might reasonably have given notice under that rule.

(2) A sheriff may apply for an order under subrule (1) by summons in the proceeding in which the warrant is issued and, if he so applies, he shall serve the summons personally on the person against whom the order is sought.

12.05 Notice to execution creditor

(1) A sheriff shall on being given a notice of claim under rule 12.03, without delay, serve a copy of the notice, and also a notice in accordance with Form 12A, on the execution creditor.

(2) The execution creditor may serve on the sheriff notice in writing that he admits or disputes the claim.

12.06 Admission of claim

Where an execution creditor admits a claim by notice under rule 12.05(2):

(a) he shall not be liable for any fees or expenses incurred by the sheriff under the warrant after the notice is given;

(b) the sheriff shall withdraw from possession of the property claimed; and

(c) the Court may, on application by the sheriff, restrain the commencement or stay or restrain the continuance by the person whose claim is admitted of proceedings in a court against the sheriff or in respect of anything done by the sheriff in execution of the warrant.

12.07 Interpleader summons

(1) Where under rule 12.05 a sheriff has served a notice of claim and a notice in accordance with Form 12A on the execution creditor, the sheriff may, by summons in the proceeding in which the warrant is issued, apply to the Court for relief by way of interpleader if the execution creditor:

(a) does not within 7 days after the service of the notices under rule 12.05 serve on the sheriff notice in writing that he admits the claim; or

(b) within that period of 7 days serves on the sheriff notice in writing that he disputes the claim,

and the Court may, if the claim has not been withdrawn, grant that relief.

(2) A summons under subrule (1) shall be served on each party to the proceeding who claims an interest in the property in dispute and shall be served personally on each claimant who is not a party.

12.08 Powers of Court

On application for relief by way of interpleader, the Court may:

(a) where a proceeding in the Court is pending in which the applicant is sued for or in respect of any of the property in dispute – order that a claimant be added as a defendant in the proceeding in addition to or in substitution for the applicant, or order that the proceeding be stayed or dismissed;

(b) order that a question between the claimants be stated and tried and direct which of the claimants is to be plaintiff and which defendant;

(c) where proceedings in another court are pending in which the applicant is sued for or in respect of any of the property in dispute restrain the further continuance of those proceedings;

(d) order the applicant to pay or transfer any of the property in dispute into court or otherwise to dispose of it;

(e) where a claimant claims to be entitled by way of security for debt to any of the property in dispute – make orders for the sale of any of the property and for the application of the proceeds of sale;

(f) summarily determine a question of fact or law arising on the application; and

(g) make such order or give such judgment as it thinks fit.

12.09 Default by claimant

(1) Where a claimant:

(a) has been given due notice of the hearing of an application for relief by way of interpleader and does not attend on the hearing; or

(b) does not comply with an order made on such an application,

the Court may order that the claim and all persons claiming under the claimant be barred from prosecuting the claimant's claim against the applicant and all persons claiming under the applicant.

(2) An order under subrule (1) does not affect the rights of the claimants as between themselves.

12.10 Neutrality of applicant

(1) Where a stakeholder applies for relief by way of interpleader, the Court may dismiss the application or give judgment against the applicant, unless it is satisfied that the applicant:

(a) claims no interest in the property in dispute except for charges or costs; and

(b) does not collude with a claimant.

(2) Where a sheriff applies for relief by way of interpleader, the Court may require him to satisfy it on the matters mentioned in subrule (1) and it may, if not satisfied on those matters, dismiss the application.

(3) Nothing in this rule affects the power of the Court in other cases to dismiss the application or give judgment against the applicant.

12.11 Order in several proceedings

(1) Where an application for relief by way of interpleader is made and several proceedings are pending in the Court for or in respect of any of the property in dispute, the Court may make an order in any 2 or more of those proceedings.

(2) An order made under subrule (1) shall be entitled in all the proceedings in which it is made and is binding on all the parties to them.

12.12 Trial of interpleader question

(1) Order 49, with the necessary changes, applies to the trial of an interpleader question.

(2) On the trial of an interpleader question the Court may finally determine all question arising on the application for relief by way of interpleader.

(3) An interpleader question, including any other question arising on the application for relief, may, with the consent of all parties, be tried by an Associate Judger.

Order 13 Pleadings

13.01 Formal requirements

(1) A pleading shall:

(a) specify the name of the legal practitioner, if any, who has the conduct of the proceeding on behalf of the party filing the pleading;

(b) be signed and dated by that legal practitioner or, where there is no such legal practitioner, by the party;

(c) contain a description of the pleading; and

(d) be divided into paragraphs numbered consecutively and each allegation, so far as practicable, shall be contained in a separate paragraph.

(2) Where a pleading has been settled by counsel or a legal practitioner other than the legal practitioner referred to in subrule (1)(a), the name of counsel or that other legal practitioner and the fact that it was so settled shall be noted on the pleading.

(3) A pleading shall be signed by the legal practitioner who settled it or, where the pleading was not settled by a legal practitioner, by the party.

13.02 Content of pleading

(1) A pleading shall:

(a) contain in a summary form a statement of all the material facts on which the party relies but not the evidence by which those facts are to be proved;

(b) where a claim, defence or answer of the party arises by or under an Act identify the specific provision relied on; and

(c) state specifically the relief or remedy, if any, claimed.

(2) A party may, by his pleading:

(a) raise a point of law; and

(b) plead a conclusion of law if the material facts supporting the conclusion are pleaded.

13.03 Document or conversation

The effect of a document or the purport of a conversation, if material, shall be pleaded as briefly as possible and the precise words of the document or conversation shall not be pleaded unless those words are themselves material.

13.04 Fact presumed true

A party need not plead a fact if it is presumed by law to be true or the burden of disproving it lies on the opposite party, unless the other party has specifically denied it in his pleading.

13.05 Condition precedent

An allegation of the performance or occurrence of a condition precedent necessary for the claim or defence of a party shall be implied in the party's pleading.

13.06 Implied contract or relation

Where it is alleged that a contract or relation between persons is to be implied from a series of letters or conversations or other circumstances, it shall be sufficient to allege the contract or relation as a fact and to refer generally to the letters, conversations or circumstances without setting them out in detail.

13.07 Matter which must be pleaded

(1) A party shall, in a pleading subsequent to a statement of claim, plead specifically a fact or matter which:

(a) the party alleges makes a claim or defence of the opposite party not maintainable;

(b) if not pleaded specifically, might take the opposite party by surprise; or

(c) raises a question of fact not arising out of the preceeding pleading.

(2) In a proceeding for the recovery of land:

(a) the endorsement of a claim on the writ or, if that endorsement does not constitute a statement of claim, the statement of claim, shall describe the land so that it is physically identifiable; and

(b) the defendant shall plead specifically every ground of defence on which he relies and a plea that he is in possession of the land by himself or his tenant is not sufficient.

(3) A claim for exemplary damages shall be specifically pleaded together with the facts on which the party pleading relies.

13.08 Subsequent fact

A party may plead a fact or matter which has arisen at any time, whether before or since the commencement of the proceeding.

13.09 Inconsistent pleading

(1) A party may in a pleading make inconsistent allegations of fact if the pleading makes it clear that the allegations are pleaded in the alternative.

(2) A party shall not in a pleading make an allegation of fact, or raise a new claim, inconsistent with an allegation made or claim raised in a previous pleading by him.

(3) Subrule (2) does not affect the right of a party to amend, or apply for leave to amend, his previous pleading so as to plead the allegations or claims in the alternative.

13.10 Particulars of pleading

(1) A pleading shall contain the necessary particulars of a fact or matter pleaded.

(2) Without limiting subrule (1), particulars shall be given if they are necessary to enable the opposite party to plead or to define the questions for trial or to avoid surprise at the trial.

(3) Without limiting subrule (1), a pleading shall contain particulars of any:

(a) misrepresentation, fraud, breach of trust, wilful default or undue influence; or

(b) disorder or disability of the mind, malice, fraudulent intention or other condition of the mind, including knowledge or notice,

which is alleged.

(4) The pleading of a party who claims damages for bodily injury shall state:

(a) particulars, with dates and amounts, of all earnings lost in consequence of the injury complained of;

(b) particulars of loss of earning capacity, if any, resulting from the injury;

(c) the date of the party's birth; and

(d) the name and address of each of the party's employers commencing from the day being 12 months before he sustained the injury, the time of commencement and the duration of each employment and the total net amount, after deduction of tax, that was earned in each employment.

(5) In a proceeding for libel the endorsement of a claim on the writ or, if that endorsement does not constitute a statement of claim, the statement of claim, shall state sufficient particulars to identify the publication in respect of which the proceeding is commenced.

(6) Particulars of a debt, damages or expenses which exceed a page shall be set out in a separate document referred to in the pleading and the pleading shall state whether the document has already been served (and, if so, when) or is to be served with the pleading.

13.11 Order for particulars

(1) The Court may order a party to serve on another party particulars or further and better particulars of a fact or matter stated in the party's pleading or in an affidavit filed on his behalf ordered to stand as a pleading.

(2) The Court shall not make an order under subrule (1) before service of the defence, unless the order is necessary or desirable to enable the defendant to plead or for some other special reason.

(3) The Court may refuse to make an order under subrule (1) if the party applying for the order did not first apply by letter for the particulars he requires.

13.12 Admission and denials

(1) Except as provided in subrule (4), every allegation of fact in a pleading shall be taken to be admitted unless it is denied specifically or by necessary implication or is stated to be not admitted in the pleading of the opposite party, or unless a joinder of issue under rule 13.13 operates as a denial of it, and a general denial of the allegations, or a general statement that they are not admitted, shall not be sufficient.

(3) Where the party pleading intends to prove facts which are different from those pleaded by the opposite party, it is not sufficient for the party merely to deny or not to admit the facts so pleaded but the party shall plead the facts he intends to prove.

(4) An allegation that a party has suffered damage, and an allegation as to the amount of damages, shall be taken to be denied unless specifically admitted.

13.13 Denial by joinder of issue

(1) No reply or subsequent pleading merely joining issue shall be served.

(2) At the close of pleadings a joinder of issue on the pleading last served shall be implied.

(3) No joinder of issue, express or implied, shall be made on a statement of claim or counterclaim.

(4) A joinder of issue operates as a denial of every material allegation of fact made in the pleading on which issue is joined unless, in the case of an express joinder of issue, such an allegation is excepted from the joinder and is stated to be admitted, in which case the joinder of issue operates as a denial of every other allegation.

13.14 Money claim as defence

Where a defendant has a claim against a plaintiff for the recovery of a debt or damages, the claim may be relied on as a defence to the whole or part of a claim made by the plaintiff for the recovery of a debt or damages and may be included in the defence and set off against the plaintiff's claim, whether or not the defendant also counterclaims for that debt or those damages.

13.15 Counterclaim

This Order, with the necessary changes, applies to a counterclaim as if it were a statement of claim, and to a defence to counterclaim as if it were a defence.

Order 14 Service of pleadings

14.01 Statement of claim endorsed on writ

Where the endorsement of a claim on a writ constitutes a statement of claim in accordance with rule 5.04, no statement of claim shall be served.

14.02 Statement of claim not endorsed on writ

Where the endorsement of a claim on a writ does not constitute a statement of claim in accordance with rule 5.04 and a defendant files an appearance, the plaintiff shall serve a statement of claim on that defendant within 14 days after his appearance, unless the Court otherwise orders.

14.03 Alteration of claim as endorsed on writ

(1) Where a statement of claim is served in a proceeding commenced by writ, the plaintiff may in the statement alter, modify or extend the claim as endorsed on the writ without amendment of the endorsement.

(2) The Court may, by order, allow the plaintiff to serve a statement of claim the effect of which will be to add a new cause of action to, or substitute a new cause of action for, a cause of action disclosed in the writ.

(3) Where the Court makes an order under subrule (2), it may further order that the plaintiff amend the endorsement of claim on the writ to make it conform to the statement of claim.

14.04 Service of defence

In a proceeding commenced by writ, a defendant who files an appearance shall serve a defence:

(a) where the endorsement of claim on the writ constitutes a statement of claim in accordance with rule 5.04 – within 14 days after filing the appearance;

(b) where the plaintiff serves a statement of claim – within 14 days after service of the statement of claim; or

(c) within such time as the Court directs.

14.05 Reply

Where the plaintiff is required to serve a reply, it shall be served within 14 days after service of the defence, unless the Court otherwise orders.

14.06 Pleading after reply

No pleading subsequent to a reply shall be served without an order of the Court.

14.07 Defence to counterclaim

Where the defendant sets up a counterclaim in the defence, the plaintiff or a person joined as a defendant to the counterclaim who is already a party to the proceeding shall serve a reply and defence to the counterclaim or a defence to the counterclaim within 14 days after service of the defence and counterclaim, unless the Court otherwise orders.

14.08 Close of pleadings

Unless the Court otherwise orders, pleadings shall be closed:

(a) where no pleading beyond a defence is ordered or served – at the expiration of 14 days after service of the defence; and

(b) where pleadings beyond a defence are ordered or served – at the expiration of 14 days after service of the last of those pleadings.

14.09 Order as to pleadings

Notwithstanding anything contained in this Order, in a proceeding commenced by writ the Court may order that:

(a) a party serve a pleading;

(b) the service of a pleading be dispensed with; or

(c) the proceeding be tried without pleadings.

14.10 Filing of pleadings

A party who serves a pleading on another party shall, without delay after service, file a copy of the pleading.

Order 15 Person under disability

15.01 Interpretation

In this Order ***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 the proceeding.

15.02 Litigation guardian of person under disability

(1) Except where otherwise provided by or under an Act, a person under a disability shall commence or defend a proceeding by his litigation guardian.

(2) Except where otherwise provided by this Chapter, anything in a proceeding that is required or permitted by this Chapter to be done by a party shall or may, if the party is a person under a disability, be done by his litigation guardian.

(3) A litigation guardian of a person under a disability shall act by a solicitor.

15.03 Appointment of litigation guardian

(1) 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.

(2) Where a person is authorized by or under an Act to conduct legal proceedings in the name of or on behalf of a person under a disability, he shall, unless the Court otherwise orders, be entitled to be the litigation guardian of the person under a disability in a proceeding to which his authority extends.

(3) 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.

(4) Where the interests of a party who is a person under a disability so require, the Court may appoint or remove a litigation guardian or substitute another person as the litigation guardian.

(5) Where a party has a litigation guardian in a proceeding, no other person shall act as the litigation guardian, unless the Court otherwise orders.

(6) 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.

(7) A consent under subrule (6) shall include a statement detailing the circumstances that constitute the proposed litigant to be a person under a disability and a certificate by the proposed litigation guardian that he has no interest in the proceeding adverse to that of the person under a disability.

15.04 No appearance by person under disability

Where a defendant who is a person under a disability does not file an appearance within the time limited, the plaintiff shall not continue the proceeding unless a person is made the litigation guardian of the defendant in accordance with rule 15.03 or is appointed the litigation guardian by order of the Court.

15.05 Application to discharge or vary certain orders

An application to the Court on behalf of a person under a disability served with an order made without notice under rule 9.09 for the discharge or variation of the order shall be made:

(a) if a litigation guardian is acting for that person in the proceeding in which the order is made – within 14 days after the service of the order on that person; or

(b) if no litigation guardian is acting for that person in that proceeding – within 14 days after the appointment of a litigation guardian to act for him.

15.06 Pleading admission by person under disability

Notwithstanding anything in rule 13.12(1), a person under a disability shall not be taken to admit the truth of an allegation of fact made in the pleading of the opposite party unless in his pleading the person states that the allegation is admitted.

15.07 Discovery

(1) Subject to subrule (2), a party shall be entitled to have discovery of a person under a disability as if that person were not under a disability.

(2) The discovery shall be given by the person under a disability or his litigation guardian, whichever is appropriate.

15.08 Compromise of claim by person under disability

(1) Where in a proceeding a claim is made by or on behalf of or against a person under a disability, no compromise, payment of money into Court, acceptance of money paid into Court or acceptance of an offer of compromise under Order 26, whenever entered into or made, so far as it relates to that claim, is valid without the approval of the Court.

(2) Application for approval shall be by summons filed not later than 14 days after the compromise, payment or acceptance.

(2.1) A copy of an affidavit in support of the application shall not be served.

(3) The Court may dispense with the requirement of a summons where an application for approval is made at the trial of the proceeding.

(4) On the application evidence shall be given of the date of the compromise, payment or acceptance and the date of birth of the person under a disability and the dates shall be stated in an order approving the compromise, payment or acceptance.

(5) Where the acceptance of an offer of compromise is approved, the person under a disability shall be taken to have made or accepted the offer at the time of approval.

(6) Where an order is made approving a compromise by which money is to be paid to a person under a disability, the forms of order in Form 15A and 15B shall, where appropriate, be used.

15.09 Execution against money in Court

(1) This rule applies where:

(a) a person under a disability is required by a judgment to pay money;

(b) money stands in court to the credit of that person or he has a beneficial interest in money or funds in court; and

(c) under this Chapter the Court, on the application of the person entitled to enforce the judgment:

(i) may, order that the money in court, or so much of the money as is sufficient to satisfy the judgment, be paid to that person or, as the case may be; or

(ii) make an order imposing a charge on the beneficial interest of the person under a disability in the money or funds in court to secure the payment of the sum due under the judgment.

(2) In determining whether to make an order for payment or an order imposing a charge, as the case may be, the Court shall have regard to the fact that the person liable under the judgment is a person under a disability, the purpose for which payment of the money or funds into court was made and the purpose for which the money or funds are held.

15.10 Counterclaim and claim by third party notice

This Order, with the necessary changes, applies to a counterclaim against a person under a disability who is joined as a defendant to the counterclaim under rule 10.03 and to a claim by a third party notice by or on behalf of or against a person under a disability.

Order 16 Executors, administrators and trustees

16.01 Representation of unascertained persons

(1) This rule applies to a proceeding relating to:

(a) the administration of the estate of a deceased person;

(b) property subject to a trust; or

(c) the construction of an Act or an instrument.

(2) The Court may appoint one or more persons to represent a person (including an unborn person) who or class which is or may be interested (whether presently or for a future, contingent or unascertained interest) in, or affected by, the proceeding where:

(a) the person, the class or a member of the class cannot be ascertained or cannot readily be ascertained;

(b) the person, class or a member of the class, although ascertained, cannot be found; or

(c) although the person or the class and its members can be ascertained and found, it appears to the Court having regard to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined, it is expedient to make the order for the purpose of saving expense.

(3) Where the Court makes an order under subrule (2), a judgment or order in the proceeding shall bind the person or members of the class represented as if he or they were parties.

(4) Where a compromise of a proceeding is proposed and some of the persons who are interested in, or who may be affected by, the compromise are not parties (including unborn or unascertained persons) but:

(a) there is a party in the same interest who assents to the compromise or on whose behalf the Court sanctions the compromise; or

(b) the absent persons are represented by a person appointed under subrule (2) and he so assents,

the Court, if satisfied that the compromise is for the benefit of the absent persons, may approve the compromise and order that it shall be binding on the absent persons, and they shall be bound accordingly except where the order is obtained by fraud or non-disclosure of a material fact.

16.02 Beneficiaries

(1) Where a party sues or is sued as executor, administrator or trustee:

(a) it shall not be necessary to join as a party a person having a beneficial interest in the estate or under the trust; and

(b) a judgment or order in the proceeding shall bind all such persons as it does the executor, administrator or trustee.

(2) Subrule (1) does not limit the power of the Court to order the addition of a party under rule 9.06 or to make an order under rule 16.01(2).

16.03 Deceased person

(1) Where a deceased person was interested, or the estate of a deceased person is interested, in a question in a proceeding and the deceased person has no personal representative, the Court may:

(a) proceed in the absence of a person to represent the estate of the deceased; or

(b) by order (with the consent of the person appointed) appoint a person to represent the estate for the purpose of the proceeding.

(2) An order under subrule (1), and a judgment or order subsequently given or made in the proceeding, binds the estate of the deceased person as it would had a personal representative of the deceased been a party.

(3) Before making an order under this rule, the Court may require notice of the application for the order to be given to a person having an interest in the estate.

Order 17 Partners and sole proprietors

17.01 Partners

(1) Where 2 or more persons carry on business as partners in the Territory, a proceeding may be commenced by or against them in the name of the firm (if any) of which they were partners when the cause of action accrued.

(2) Subrule (1) applies where partners sue or are sued by:

(a) a partner of the same firm; or

(b) partners of another firm, and a partner of the one firm is a partner of the other.

17.02 Disclosure of partners

(1) Where a proceeding is commenced by or against partners in the firm name under rule 17.01, another party may, by notice served at the address for service of the partners in the proceeding, require the partners to disclose in writing, within 14 days after service, the name and address of the usual or last known place of residence or of business of each person constituting the firm at the time when the cause of action accrued and whether since that time there has been any and if so what change in the membership of the firm.

(2) Where partners fail to comply with a notice under subrule (1), the Court may:

(a) where the partners are plaintiffs – order that the proceeding be dismissed;

(b) where the partners are defendants order that their defence be struck out; or

(c) in either case, make such other orders as it thinks fit.

17.03 Service of originating process

(1) Originating process in a proceeding commenced against partners in the firm name under rule 17.01 may be served on:

(a) any one or more of the partners; or

(b) a person at the principal place of business of the partnership within the Territory who appears to have control or management of the partnership business there.

(2) Originating process served under subrule (1) shall be taken to have been duly served on the partners whether or not a partner is out of the Territory.

(3) Where a partnership has to the knowledge of the plaintiff been dissolved before the proceeding against the partners has commenced, the originating process shall be served on every person sought to be made liable in the proceeding.

(4) Every person on whom originating process is served under subrule (1) shall be informed by notice in writing given at the time of service whether he is served as a partner or as a person having the control or management of the partnership business or in both characters and, in default of such notice, the person served shall be taken to be served as a partner.

17.04 Appearance by partners

Partners sued in the name of their firm shall appear individually in their own names but the proceeding shall, nevertheless, continue in the name of the firm.

17.05 No appearance except by partners

A person served with originating process as a person having the control or management of the partnership business shall not file an appearance unless he is a partner.

17.06 Appearance under objection of person sued as partner

(1) A person served with originating process as a partner may file an appearance stating that he does so as a person served as a partner and that he denies that he was a partner at a material time or is liable as such.

(2) An appearance filed under subrule (1) shall not preclude the plaintiff from otherwise serving the partners and, if no party has filed an appearance in the ordinary form, from obtaining judgment against the partners in the name of the firm in default of appearance.

(3) Where an appearance is filed under subrule (1):

(a) the plaintiff may either apply to set it aside on the ground that the person filing it was a partner or is liable as a partner or leave that question to be determined at a later stage of the proceeding;

(b) the person filing the appearance may either apply to set aside the service on him on the ground that he was not a partner at a material time or liable as such or at the proper time serve a defence on the plaintiff denying in respect of the plaintiff's claim either his liability as a partner or the liability of the partners or both; and

(c) the Court may give directions as to the mode and time of trial of the question of the liability of the person who filed the appearance or of the liability of the partners.

(4) Rule 8.08 does not apply to an appearance filed under this rule.

17.07 Enforcement of judgment

(1) A judgment given or order made against partners suing or sued in the name of their firm may, subject to subrule (2) and rule 17.08, be enforced against:

(a) property of the partnership; and

(b) a person who:

(i) filed an appearance as a partner;

(ii) having been served as a partner with originating process, failed to file an appearance;

(iii) admitted in his pleading that he is a partner; or

(iv) was served with originating process as a partner and was adjudged to be a partner.

(2) Where a party who has obtained a judgment or order against partners suing or sued in the name of their firm claims that a person is liable to satisfy the judgment or order as a partner and subrule (1) does not apply in relation to that person, the Court:

(a) where liability is not disputed – may order that the judgment or order be enforced against that person; or

(b) where the liability is disputed – may give directions for the trial of the question of liability.

(3) An application under subrule (2) shall be made by summons served personally on the person against whom enforcement of the judgment or order is sought.

17.08 Enforcement between partners

A judgment given or order made against partners suing or being sued in the name of their firm in a proceeding of the kind referred to in rule 17.01(2)(a) or (b) shall not be enforced without the leave of the Court and, on application for leave, the Court may make an order that necessary accounts and inquiries be taken and made.

17.09 Attachment of debts

(1) A debt due or accruing due from partners may be attached under this Chapter notwithstanding that a partner is resident out of the Territory if a partner or a person apparently having the control or management of the partnership business in the Territory is served with the garnishee summons.

(2) The attendance of a partner before the Court on the hearing of a garnishee summons is a sufficient attendance by the partners.

17.10 Person using the business name

A person carrying on business in the Territory in a name or style other than his own may be sued in that name or style as if it were the name of a firm and rules 17.02 to 17.09, with the necessary changes, apply as if he were a partner and the name in which he carries on business were the name of his firm.

17.11 Charge on partner's interest

(1) An application to the Court by a judgment creditor of a partner for an order charging his interest in the partnership property and profits under section 27 of the *Partnership Act 1997* and for such other orders as are by that Act authorized to be made, and every application to the Court by a partner of a judgment debtor made in consequence of the first mentioned application, shall be made by summons.

(2) A summons filed by the judgment creditor under this rule and an order made on the summons, shall be served on the judgment debtor and on such of his partners as are in the Territory.

(3) A summons filed by a partner of a judgment debtor under this rule, and an order made on the summons, shall be served on:

(a) the judgment creditor;

(b) the judgment debtor; and

(c) such of the other partners of the judgment debtor as do not join in the application and are in the Territory.

(4) A summons or order served under this rule on some only of the partners of the judgment debtor shall be taken to have been served on all of the partners.

Order 18 Representative proceeding

18.01 Application

This Order applies where numerous persons have the same interest in a proceeding, but does not apply to a proceeding concerning:

(a) the administration of the estate of a deceased person; or

(b) property subject to a trust.

18.02 Proceeding by or against representative

A proceeding may be commenced and, unless the Court otherwise orders, continued by or against one or more persons having the same interest as representing some or all of them.

18.03 Order for representation by defendant

(1) At any stage of a proceeding under rule 18.02 against one or more persons having the same interest, the Court may appoint one or more of:

(a) the defendants; or

(b) the persons as representing whom the defendants are sued, to represent some or all of those persons in the proceeding.

(2) Where the Court appoints a person who is not a defendant, it shall make an order under rule 9.06 adding the person as a defendant.

18.04 Effect of judgment

(1) A judgment given or order made in a proceeding to which this Order applies binds the parties and all persons as representing whom the parties sue or are sued, as the case may be.

(2) The judgment or order shall not be enforced against a person who is not a party, except by leave of the Court.

(3) An application for leave shall be made by summons served personally on the person against whom enforcement of the judgment or order is sought.

Order 19 Notice of constitutional matter

19.01 Definitions

In this Order:

the Act means the *Judiciary Act 1903* of the Commonwealth.

State has the meaning ascribed in section 78AA of the Act.

19.02 Notice

(1) Where a proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of section 78B of the Act, the party whose case raises the matter shall, unless the Court directs another party to do so, without delay file a notice of a constitutional matter.

(2) A notice under subrule (1) shall state:

(a) specifically the nature of the matter; and

(b) the facts showing that the matter is one to which subrule (1) applies.

(3) The notice shall be in Form 19A.

19.03 Filing and service

(1) Subject to subrule (3), the party required or directed under rule 19.02 to file the notice shall serve a copy on:

(a) every other party; and

(b) (i) the Attorney-General for the Commonwealth, if he or the Commonwealth is not a party; and

(ii) the Attorney-General of each State, if he or that State is not a party.

(2) Unless the Court otherwise orders, the copy shall be served without delay after the notice is filed.

(3) Service of a copy of the notice need not be effected on an Attorney-General if steps have been taken that could reasonably be expected to cause the matters to be notified to be brought to the attention of that Attorney-General.

(4) The party serving a copy of the notice shall, without delay, file an affidavit of service.

Order 20 Change of solicitor

20.01 Notice of change

Where a solicitor acts for a party in a proceeding and the party changes his solicitor, the party shall, without delay, file notice of the change and serve a copy of the notice on the other parties and, where practicable, his former solicitor.

20.02 Party appointing solicitor

Where a party who has no solicitor in a proceeding appoints a solicitor to act for him in the proceeding, the solicitor shall, without delay, file notice of the appointment and serve a copy of the notice on the other parties.

20.03 Solicitor ceasing to act

(1) Where a solicitor ceases to act for a party in a proceeding, unless a notice of change is filed and served under rule 20.01, the solicitor shall, without delay, file notice that he has ceased to act and serve a copy on all the parties.

(2) A notice under subrule (1) shall state the party's address last known to the solicitor.

(3) Except by leave of the Court, a solicitor shall not file a notice under subrule (1):

(a) where the address of the party in the notice is not within 30 kilometres of the Registry in which the originating process was filed; or

(b) after a proceeding has been set down for trial.

20.04 Removal of solicitor from record

(1) Where a solicitor who has acted for a party in a proceeding has died, become bankrupt, cannot be found, has ceased to have the right of practising in the Court or for any reason has ceased to practise, and the party has not given notice under rule 20.01 or the solicitor has not given notice under rule 20.03, the Court may, on application made by another party to the proceeding, by order, declare that the solicitor has ceased to be the solicitor acting for the first-mentioned party in the proceeding.

(2) An application under subrule (1) shall be made by summons supported by an affidavit stating the facts on which the application is made and, unless the Court otherwise orders, the summons and a copy of the affidavit shall be served on the party to whose solicitor the application relates.

(3) Where an order is made under subrule (1), the party on whose application it was made shall, without delay, serve a copy of the order on every other party to the proceeding and file an affidavit of service.

20.05 Address for service

(1) The address for service of a party:

(a) who changes his solicitor and files and serves notice under rule 20.01, shall be the business address of the new solicitor;

(b) who appoints a solicitor in the circumstances referred to in rule 20.02, shall be the business address of the solicitor; or

(c) for whom a solicitor has ceased to act, where notice is filed and served by the solicitor under rule 20.03 without leave, shall be the address stated in the notice.

(2) Where the Court under:

(a) rule 20.03(3)(a) gives a solicitor leave to file notice that he has ceased to act; or

(b) rule 20.04(1), by order, declares that a solicitor has ceased to act,

the Court may, by order, direct what address shall be the address for service of the party for whom the solicitor has ceased to act.

(3) Where the Court makes no order under subrule (2), a document in the proceeding which is not required to be served personally may be served on the party for whom the solicitor has ceased to act by filing it.

(3.1) A party who serves a document by filing in accordance with subrule (3) shall endorse on a backsheet or on the back of the last sheet a statement that it is filed as such service.

Order 21 Judgment in default of appearance or pleading

21.01 Default of appearance

(1) This rule applies only to a proceeding commenced by writ.

(2) Where a defendant does not file an appearance within the time limited, the plaintiff may enter or apply for judgment against that defendant in accordance with this Order.

(3) Judgment shall not be entered or given for the plaintiff unless there is filed:

(a) an affidavit proving service of the writ on the defendant; and

(b) where the plaintiff applies for judgment in accordance with rule 21.04 and the endorsement of claim on the writ does not constitute a statement of claim in accordance with rule 5.04, a statement of claim.

21.02 Default of defence

(1) Where a defendant, being required to serve a defence, does not do so within the time limited, the plaintiff may enter or apply for judgment against the defendant in accordance with this Order.

(2) Judgment shall not be entered or given for the plaintiff unless an affidavit proving the default is filed.

(3) Subrules (1) and (2), with the necessary changes, apply where the defendant has served a defence and by or under an order of the Court the defence is struck out.

21.03 Judgment for recovery of debt, damages or property

(1) Where a claim is made for the recovery of a debt, damages or property, whether or not another claim is also made in the proceeding, and the plaintiff is entitled to judgment on that claim against a defendant in accordance with rule 21.01 or rule 21.02, the plaintiff may:

(a) for the recovery of a debt – enter final judgment against the defendant for an amount not exceeding the amount claimed in the writ or, if the plaintiff has served a statement of claim, the amount claimed in the statement of claim, together with interest from the commencement of the proceeding to the date of the judgment:

(i) on any debt which carries interest – at the rate it carries; and

(ii) on any other debt – at the rates payable on judgment debts during that time;

(b) for the recovery of damages – enter interlocutory judgment against the defendant for the damages to be assessed;

(c) for the recovery of land – enter judgment for possession of the land against the defendant;

(d) for the detention of goods – enter interlocutory judgment against that defendant:

(i) either for the delivery of goods or their value to be assessed or for the value of the goods to be assessed; and

(ii) if a claim is made for the recovery of damages for the detention of the goods, for the damages to be assessed.

(2) On entering judgment under subrule (1) the plaintiff may also enter judgment for costs.

(3) Where under subrule (1) damages or the value of goods are to be assessed, the assessment shall unless the Court otherwise orders, be made by an Associate Judge in accordance with Order 51.

21.04 Judgment other than for recovery of debt, damages or property

(1) Where a claim is made other than for the recovery of a debt, damages or property, whether or not a claim for such recovery is also made in the proceeding, and the plaintiff is entitled to judgment on the claim against a defendant in accordance with rule 21.01 or 21.02, the Court may give judgment for the plaintiff on the statement of claim.

(2) An application for judgment under subrule (1) may be made without notice to the defendant.

21.05 Proceeding continued against other defendants

A plaintiff who enters or obtains judgment against a defendant in accordance with this Order may enforce the judgment and continue the proceeding against another defendant but, in a proceeding for the recovery of land against more than one defendant, a judgment for possession of the land shall not be enforced against a defendant unless judgment for possession has been entered or given against all the defendants.

21.06 Default of defence to counterclaim

Where a defendant serves a counterclaim, rule 21.02 applies as if the defendant were the plaintiff, the defence were the defence to the counterclaim and the plaintiff were the defendant.

21.07 Setting aside judgment

The Court may set aside or vary a judgment entered or given in accordance with this Order.

Order 22 Summary judgment

22.01 Summary judgment

(1) The Court may give judgment for one party against another in relation to the whole or any part of a proceeding if:

(a) the first party is prosecuting the proceeding or that part of the proceeding; and

(b) the Court is satisfied that the other party has no reasonable prospect of successfully defending the proceeding or that part of the proceeding.

(2) The Court may give judgment for one party against another in relation to the whole or any part of a proceeding if:

(a) the first party is defending the proceeding or that part of the proceeding; and

(b) the Court is satisfied that the other party has no reasonable prospect of successfully prosecuting the proceeding or that part of the proceeding.

(3) For this rule, a defence of a proceeding or part of a proceeding need not be hopeless or bound to fail for it to have no reasonable prospect of success.

(4) The powers under this rule may be exercised at any stage in a proceeding.

(5) This rule does not limit any powers that the Court has apart from this rule.

22.03 Affidavit in support

(1) An application for judgment shall be made by summons supported by an affidavit verifying the facts on which the claim or the part of the claim to which the application relates is based and stating that, in the belief of the deponent, there is no defence to that claim or part or no defence except as to the amount claimed.

(2) Where a statement in a document tends to establish a fact within subrule (1) and at the trial of the proceeding the document would be admissible by or under the *Evidence (National Uniform Legislation) Act 2011*, the *Evidence Act 1939* or any other Act to verify the fact, the affidavit under subrule (1) may set forth the statement.

(3) An affidavit under subrule (1) may contain a statement of fact based on information and belief if the grounds are set out and, having regard to all the circumstances, the Court considers that the statement ought to be permitted.

(4) The applicant must serve the summons and a copy of the affidavit or affidavits in support and of any exhibit referred to in it on the respondent not later than 7 days before the day for hearing named in the summons.

22.04 Respondent to show cause

(1) The respondent may, by affidavit or otherwise to the satisfaction of the Court, show cause against the application.

(2) An affidavit under subrule (1) may contain a statement of fact based on information and belief if the grounds are set out.

(3) Unless the Court otherwise orders, the respondent must serve a copy of an affidavit and of an exhibit referred to in the affidavit on the applicant not later than 3 days before the day for the hearing named in the summons.

22.05 Affidavit in reply

If the respondent serves an affidavit under rule 22.04, the Court may, by order, allow the applicant to rely on an affidavit in reply.

22.06 Hearing of application

(1) On the hearing of the application the Court may:

(a) dismiss the application;

(b) give such judgment for the applicant against the respondent on the claim or the part of the claim to which the application relates as is appropriate having regard to the nature of the relief or remedy claimed, unless the respondent satisfies the Court that in respect of that claim or part a question ought to be tried or that there ought for some other reason be a trial of that claim or part;

(c) give the respondent leave to defend with respect to the claim or the part of the claim to which the application relates either unconditionally or on terms as to giving security, paying money into court, time, the mode of trial or otherwise; or

(d) with the consent of all parties, and notwithstanding rule 77.03(1), dispose of the proceeding finally in a summary manner.

(2) The Court may stay the execution of a judgment given under subrule (1)(b) until after the trial of a counterclaim made by the respondent in the proceeding.

22.07 Cross-examination on affidavit

(1) The Court may order a party or the maker of an affidavit to attend and be examined and cross-examined or to produce any papers, books or documents, or copies of or extracts from them.

(2) Where a party is a corporation, the Court may make an order under subrule (1) in respect of a director, manager, secretary or other similar officer of the corporation or a person purporting to act in such capacity.

22.09 Assessment of damages

Where judgment is given under this Order for damages or the value of goods to be assessed, the assessment shall be made in accordance with Order 51.

22.10 Judgment where debt amount unascertained

Where on an application under this Order for judgment on a claim for a debt the amount is not established to the satisfaction of the Court, and where if the amount were established the Court would give judgment on the claim, the Court may make a declaration as to liability for the debt and order that its amount be ascertained in such manner as it directs, and give leave to enter judgment for the debt once the amount is ascertained.

22.15 Setting aside judgment

The Court may set aside or vary a judgment given against a party who does not attend on the hearing of an application under rule 22.01.

Order 23 Summary stay or dismissal of claim and striking out pleading

23.01 Stay or judgment in proceeding

(1) Where a proceeding generally or a claim in a proceeding:

(b) is scandalous, frivolous or vexatious; or

(c) is an abuse of the process of the Court;

the Court may stay the proceeding generally or in relation to a claim or give judgment in the proceeding generally or in relation to a claim.

(2) Where the defence to a claim in a proceeding:

(b) is scandalous, frivolous or vexatious; or

(c) is an abuse of the process of the Court;

the Court may give judgment in the proceeding generally or in relation to the claim.

(3) In this Rule a claim in a proceeding includes a claim by counterclaim and a claim by third party notice and a defence includes a defence to a counterclaim and a defence to a claim by third party notice.

23.02 Striking out pleading

Where an endorsement of claim on a writ or originating motion or a pleading or a part of an endorsement of claim or pleading:

(a) does not disclose a cause of action or defence;

(b) is scandalous, frivolous or vexatious;

(c) may prejudice, embarrass or delay the fair trial of the proceeding; or

(d) is otherwise an abuse of the process of the Court,

the Court may order that the whole or part of the endorsement or pleading be struck out or amended.

23.04 Affidavit evidence

(1) On an application under rule 23.01 evidence shall be admissible for a party by affidavit or, if the Court thinks fit, orally.

(2) On an application under rule 23.02 no evidence shall be admissible on the question whether an endorsement of claim or pleading offends against that rule.

(3) Rule 22.07 applies to an affidavit under subrule (1).

23.05 Declaratory judgment

No proceeding is open to objection on the ground that only a declaratory judgment or order is sought in the proceeding, and the Court may make binding declarations of right whether or not a consequential relief is or could be claimed.

Order 24 Judgment on failure to prosecute or obey order for particulars or discovery

24.01 Want of prosecution

Where the plaintiff, being required to serve a statement of claim, fails to do so within the time limited, the Court may order that the proceeding be dismissed for want of prosecution.

24.02 Failure to obey order

(1) Where a party fails to comply with an order to give particulars of a pleading or with an order for the discovery or inspection of documents or for answers to interrogatories, the Court may order:

(a) where the party is the plaintiff – that the proceeding be dismissed; or

(b) where the party is a defendant – that his defence, if any, be struck out.

(2) A defendant whose defence is struck out in accordance with subrule (1)(b) shall, for the purpose of rule 21.02(1), be taken to be a defendant who, being required to serve a defence, does not do so within the time limited for that purpose.

24.03 Stay on non-payment of costs

Where a proceeding is dismissed for want of prosecution and the plaintiff is liable to pay the costs of the defendant of the proceeding and the plaintiff, before paying those costs, commences another proceeding for the same or substantially the same cause of action, the Court may by order stay the proceeding until those costs are paid.

24.04 Counterclaim and third party claim

This Order, with the necessary changes, applies to a counterclaim and to a claim by a third party notice as if the counterclaim or the third party claim were a proceeding.

24.05 Inherent jurisdiction

Nothing in this Order affects the inherent power of the Court:

(a) to dismiss a proceeding for want of prosecution; or

(b) to order that, on the failure of a party:

(i) to do an act or take a step which, under these Rules, he is required to do or take; or

(ii) to comply with an order that he do such an act or take such a step,

the proceeding be dismissed or the defence struck out and that judgment be entered or there be judgment accordingly.

24.06 Setting aside judgment

The Court may set aside or vary:

(a) an order that a proceeding be dismissed for want of prosecution; or

(b) a judgment entered or given on the failure of a party to do an act or take a step which under this Chapter the party is required to do or take or to comply with an order that he do such an act or take such a step.

Order 25 Discontinuance and withdrawal

25.01A Application of order

This Order applies subject to rule 97.02.

25.01 Withdrawal of appearance

A party who has filed an appearance in a proceeding may withdraw the appearance at any time with the leave of the Court.

25.02 Discontinuance or withdrawal of proceeding or claim

(1) This Rule applies only to a proceeding commenced by writ.

(2) A plaintiff may discontinue a proceeding or withdraw a part of it:

(a) before the close of pleadings; or

(b) at any time, by leave of the Court or with the consent of all other parties.

(3) A defendant may discontinue a counterclaim or withdraw a part of it:

(a) before the close of pleadings; or

(b) at any time, by leave of the Court or with the consent of all other parties to the counterclaim.

(4) At any time the plaintiff may withdraw a defence to a counterclaim or a part of it and a defendant may withdraw his defence or a part of it.

(5) Subrule (5) does not enable a party to withdraw an admission, or any other matter operating for the benefit of another party, without the consent of that party or the leave of the Court.

(6) A defendant who has joined a third party may discontinue the claim made against the third party by the third party notice, or withdraw a part of the claim, at any time by leave of the Court or with the consent of the third party.

25.03 Proceeding not commenced by writ

A proceeding not commenced by writ may be discontinued, and a part of a proceeding not commenced by writ may be withdrawn, at any time by leave of the Court or with the consent of all other parties.

25.04 Notice of discontinuance or withdrawal

(1) A discontinuance or withdrawal under rule 25.02 without the leave of the Court shall be made by filing a notice stating the extent of the discontinuance or withdrawal.

(2) When the discontinuance or withdrawal is with the consent of other parties, the notice under subrule (1) shall be endorsed with the consent of each party who consents.

(3) On the day the notice is filed or the next working day a copy shall be served on each other party.

25.05 Costs

Where a proceeding, counterclaim or claim by a third party notice is discontinued, or where part of a proceeding, counterclaim or a third party notice is withdrawn, liability for costs shall be determined in accordance with the relevant rules relating to costs.

25.06 Discontinuance or withdrawal no defence

The discontinuance of a proceeding, counterclaim or claim by a third party notice, or the withdrawal of a part of a proceeding, counterclaim or claim by a third party notice, shall not be a defence to a subsequent proceeding for the same, or substantially the same, cause of action, unless the Court otherwise provides by an order granting leave to discontinue or withdraw.

25.07 Stay on non-payment of costs

Where by reason of a discontinuance or a withdrawal under this Order a party is liable to pay the costs of another party and the party, before paying those costs, commences another proceeding for the same, or substantially the same, cause of action, the Court may, by order, stay the proceeding until those costs are paid.

Order 26 Offer of compromise

26.01 Definitions

In this Order:

applicant means a party claiming relief, other than a party claiming relief in a cross-claim.

claim includes a counterclaim and a claim made in accordance with Order 11.

respondent means a party against whom relief is claimed, other than a party against whom relief is claimed in a cross-claim.

26.02 Offers of compromise generally

(1) A party (the ***offeror***) may make an offer to compromise by serving a notice on another party (the ***offeree***) to settle some or all issues in the proceeding.

(2) The notice must:

(a) be in writing and prepared in accordance with rules 27.02, 27.03 and 27.04; and

(b) state whether:

(i) the offer is inclusive of costs; or

(ii) costs are in addition to the offer.

(3) If the offer is of a sum of money, the notice may separately specify the amount that represents:

(a) the offer in respect to the claim; and

(b) interest (if any).

(4) Unless the notice specifies otherwise, an offer is taken to have been made without prejudice save as to costs.

(5) An offer to pay a sum of money is, unless the notice provides otherwise, taken to be an offer that the sum will be paid within 28 days after acceptance.

26.03 Timing of offer

(1) An offer may be made at any time before judgment is given (including before proceedings have commenced).

(2) A party may make more than one offer.

(3) An offer may be limited in time for which it is open to be accepted, however the time for acceptance must be:

(a) reasonable in the circumstances; and

(b) in any case not less than 14 days after the offer is made.

(4) An offer of compromise must not be withdrawn during the time it is open to be accepted, unless the Court orders otherwise.

26.04 No communication to Court of offer

(1) A pleading or affidavit must not contain a statement that an offer has been made.

(2) No communication about the existence or terms of an offer made without prejudice is to be made to the Court until:

(a) the offer is accepted; or

(b) judgment is given; or

(c) an application is made under rule 26.05.

26.05 Failure to comply with offer

If, after acceptance of an offer by an offeree, an offeror fails to comply with the offer's terms, the offeree may apply to the Court for an order:

(a) giving effect to the accepted offer; or

(b) staying or dismissing the proceeding if the applicant is in default; or

(c) striking out the respondent's defence if the respondent is in default; or

(d) that a cross-claim, not the subject of the offer, proceed.

26.06 Multiple respondents

(1) Rule 26.05 does not apply if:

(a) 2 or more respondents are alleged to be jointly, or jointly and severally, liable to the applicant for a debt or damages; and

(b) rights of contribution or indemnity appear to exist between the respondents.

(2) However, rule 26.05 applies if:

(a) for an offer made by the applicant – the offer:

(i) is made to all respondents; and

(ii) is an offer to compromise the claim against all of them; or

(b) for an offer made to the applicant:

(i) the offer is to compromise the claim against all respondents; and

(ii) if the offer is made by 2 or more respondents – those respondents offer to be jointly, or jointly and severally, liable to the applicant for the whole amount of the offer.

26.07 Costs where offer not accepted

If an offer is made by an offeror but not accepted within a reasonable time by an offeree and the offeror obtains judgment against the offeree more favourable to the offeror than the terms of the offer, the Court shall take this into account when considering:

(a) the exercise of its discretion as to costs under rule 63.03; and

(b) the exercise of its discretion as to interest under section 84 of the Act.

26.08 Taxation of costs where offer accepted

If an offer does not include the offeree's costs of the proceeding and the offeree accepts the offer, the offeree may tax costs on a standard basis against the offeror up to and including 14 days after the offer was made.

26.09 Contributor parties

(1) If 2 or more parties (the ***contributor parties***) may be held liable to contribute towards an amount of debt or damages that may be recovered from the contributor parties, any of those contributor parties, without prejudice to that contributor party's defence, may make an offer to another contributor party to contribute, to a specified extent, to the amount of the debt or damages.

(2) If an offer is made by a contributor party (the ***first contributor party***) and not accepted by another contributor party, and the first contributor party obtains a judgment against the other contributor party more favourable than the terms of the offer, the Court shall take this into account when considering:

(a) the exercise of its discretion as to costs under rule 63.03; and

(b) the exercise of its discretion as to interest under section 84 of the Act.

Order 27 Content and form of Court documents

27.01 Conformity with Rules

Except to the extent that the nature of the document renders compliance impracticable, a document prepared by a party for use in the Court shall be prepared in accordance with this Chapter.

27.02 Content of document

(1) A document shall be headed "In the Supreme Court of the Northern Territory of Australia at", stating in which Registry of the Court the proceeding commenced, and shall show an identifying number assigned by the Court to the proceeding.

(2) Where a proceeding is commenced by originating motion and the claim of the plaintiff arises under an Act, the heading of a document shall also state "In the matter of", identifying the specific provision relied on.

(3) A document in a proceeding between parties shall be entitled between the parties, naming them.

(4) Except where otherwise provided by this Chapter, a document in a proceeding in which there is no defendant shall be entitled "The application of", naming the plaintiff.

(5) Notwithstanding subrules (3) and (4), except in the case of originating process, a judgment authenticated in accordance with order 60 or process of execution, it shall be sufficient where there is more than one plaintiff to state the full name of the first plaintiff followed by the words "and another" or "and others", and similarly with respect to defendants.

27.03 Form of document

(1) A document shall be of durable white paper 297 millimetres by 210 millimetres, the size known as International Paper Size A4, and be capable of receiving writing in ink.

(2) Except in the case of a form published by the authority of the Law Society Northern Territory, one side only of the paper shall be used, with double spacing between the lines and a left-hand margin of not less than 40 millimetres.

(3) The text of a document shall be printed or typewritten and shall be clear, sharp, legible and permanent.

(4) A document shall not bear an erasure or alteration that causes material disfigurement.

(5) A document shall be endorsed on a backsheet or on the back of the last sheet with the title of the proceeding and an identifying number, a short description of the document and the name and address and telephone number of the solicitor preparing it or, where the party acts without a solicitor, the name and address and telephone number of the party.

(6) The Court may require a document in a proceeding to be prepared in any manner it thinks fit.

(7) A document which is required to be signed before filing shall be signed by the party or by the party's solicitor in his own name and not in the name of his firm, or by counsel.

27.04 Numbers

Dates, amounts and other numbers shall be expressed in figures and not in words, except for months which may be expressed by words.

27.05 Copies on request

(1) A party who prepares a document for use in the Court shall, at the request of another party entitled to a copy of the document, supply that other party with a copy of the document.

(2) A person against whom an order is made without notice shall be entitled to a copy of a document used in support of the application for the order.

(3) Unless the Court otherwise directs, whenever a party files a document other than a document relating to an ex parte application, that party shall on that or the next working day serve a copy of the document on every other party to the proceeding who then has an address for service.

27.06 Proper officer refusing to seal or accept document

(1) The Proper Officer may refuse to seal an originating process without the direction of the Court where he considers that the form or contents of the document show that were the document to be sealed the proceeding so commenced would be irregular or an abuse of the process of the Court.

(2) Where a document for use in the Court is not prepared in accordance with this Chapter or an order of the Court:

(a) the Proper Officer may refuse to accept it for filing without the direction of the Court; or

(b) the Court may order that the party responsible shall not be entitled to rely on it in any manner in the proceeding until a document which is duly prepared is made available.

(3) The Court may direct the Proper Officer to seal an originating process or accept a document for filing.

27.07 Scandalous matter

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

(a) that the matter be struck out; or

(b) if the document has been filed, that it be taken off the file.

Order 28 Filing and sealing of Court documents

28.01 How document is filed

A document in a proceeding is filed by filing it:

(a) in the Registry where the proceeding commenced; or

(b) with the Proper Officer in Court.

28.02 Place of filing

(1) In respect of a proceeding for trial in Darwin, documents shall be presented in the Registry at Darwin for filing.

(2) In respect of a proceeding for trial in Alice Springs, documents shall be presented in the Registry at Alice Springs for filing.

(3) A document received in a registry for filing is not filed until it is accepted by a Proper Officer.

(4) Notwithstanding subrules (1) and (2), where an urgent application is made in a proceeding, a document may be filed in connection with that application at the Registry at the place where the application is made.

28.03 Date of filing

The Registrar or Proper Officer, as the case requires, shall endorse the date and time of filing on every document filed.

28.04 Seal of Court

(1) An Associate Judge, a Registrar, the Sheriff and a Proper Officer shall each have in his custody a stamp of a design approved by the Chief Justice.

(2) A Registrar, a Deputy Sheriff and a Proper Officer at Alice Springs Registry shall have in their custody a stamp of a design approved by the Chief Justice with or without the additional words "Alice Springs Registry".

(3) Marking of a document or a copy of a document with the Seal of the Supreme Court of the Northern Territory of Australia or with a Stamp of a design approved by the Chief Justice is sufficient compliance with a requirement of this Chapter or an order of the Court that the document or a copy be sealed with the Seal of the Court.

28.05 Inspection of documents

(1) When the Registry of the Court is open, a person may, on payment of the proper fee, inspect and obtain a copy of a document filed in a proceeding.

(2) Notwithstanding subrule (1):

(a) no person may inspect or obtain a copy of a document which the Court has ordered remain confidential; and

(b) a person not a party may not without leave of the Court inspect or obtain a copy of a document which in the opinion of a Registrar ought to remain confidential to the parties.

Order 29 Discovery and inspection of documents

29.01 Application and definition

(1) Except where it otherwise provides, this Order applies only to a proceeding commenced by writ and to a proceeding in respect of which an order has been made under rule 4.07.

(2) In this Order ***possession*** means possession, custody or power.

29.02 Discovery

(1) When the pleadings between the parties to a proceeding have closed, there is to be discovery by the parties of all documents that are or have been in their possession relating to a question raised by the pleadings.

(2) Nothing in this Order is to be taken to prevent the parties from agreeing to dispense with or limit the discovery of documents that, but for the agreement, they would be required to make to each other.

(3) Except where a pleading contains allegations of a kind referred to in rule 13.10(3), unless the Court orders otherwise, a party is not required to discover a document that is relevant only because it may lead to a train of enquiry.

29.03 List of documents

(1) Subject to this rule, the parties to a proceeding between whom pleadings are closed shall make discovery by exchanging lists of documents.

(2) In compliance with subrule (1), each party shall, within 21 days after the pleadings are closed as between him and any other party or within such other time as the Court allows, make and deliver to that other party a list of the documents which are or have been in his possession relating to a matter in question between them in the proceeding.

(3) Without prejudice to any directions given by the Court under rule 11.13, this subrule does not apply in a third party proceeding, including a proceeding under Order 11 involving fourth or subsequent parties.

(4) Subrule (2) also applies to and in relation to a counterclaim.

(5) A party to whom discovery of documents is required to be made under this rule may serve on the party required to make discovery a notice requiring him to make an affidavit verifying the list he is required to make under subrule (1).

(6) A party on whom a notice under subrule (5) is served shall, within 14 days after service of the notice, make and file an affidavit in compliance with the notice and deliver a copy of the affidavit to the party by whom the notice was served.

(7) A copy of every list of documents or affidavit of documents exchanged or served pursuant to this rule shall be filed within 7 days after the day on which it was exchanged or served, as the case may be.

29.04 Form of list of documents

A list of documents for the purpose of rule 29.03(1) shall be in Form 29A and shall:

(a) identify the documents which are or have been in the possession of the party making the list;

(b) enumerate the documents in convenient order and describe each document or, in the case of a group of documents of the same nature, describe the group, sufficiently to enable the document or group to be identified;

(c) distinguish those documents which are in the possession of the party making the list from those that have been but are no longer in his possession and shall, as to a document which has been but is no longer in the possession of the party, state when he parted with the document and his belief as to what has become of it; and

(d) where the party making the list claims that a document in his possession is privileged from production, state sufficiently the grounds of the privilege.

29.05 Order limiting discovery

In order to prevent unnecessary discovery the Court may, before or after a party is required to make discovery by virtue of rule 29.02, order that discovery by a party shall not be required or shall be limited to such documents or classes of document, or to such of the questions in the proceeding, as are specified in the order.

29.06 Co-defendants and third party

(1) A defendant who has pleaded is entitled to obtain from the party making discovery a copy of a list or, where an affidavit verifying a list has been served, an affidavit served:

(a) on the plaintiff by another defendant to the proceeding; or

(b) on the plaintiff by that defendant.

(2) Where the defendant has served a counterclaim joining another person with the plaintiff as defendant to the counterclaim in accordance with rule 10.03, subrule (1), with the necessary changes, applies as if the defendant were the plaintiff and the plaintiff and the other person were the defendants.

(3) A third party who has pleaded is entitled to obtain from the party making discovery a copy of a list exchanged or, where an affidavit verifying a list has been served, an affidavit served, in accordance with this Order:

(a) by the plaintiff on the defendant by whom he was joined; or

(b) on the plaintiff by that defendant.

(4) A party required by this rule to supply a copy of a list of documents or an affidavit verifying such a list shall supply it free of charge on a written request of the party entitled to it.

29.07 Order for discovery

(1) Notwithstanding that the pleadings between parties are not closed, the Court may order that any of those parties make discovery of documents to any other of those parties.

(2) In a proceeding:

(a) commenced by writ; or

(b) in respect of which an order under rule 4.07 has been made,

the Court may at any stage order a party to make discovery of documents.

(3) An order under subrules (1) or (2) may be limited to such documents or classes of document, or to such questions in the proceeding, as the Court thinks fit.

29.08 Order for particular discovery

(1A) This rule applies to all proceedings in the Court.

(1) Where at any stage of a proceeding, it appears to the Court from evidence or from the nature or circumstances of the case, or from a document filed in the proceeding, that there are grounds for a belief that a document or class of documents relating to a question in the proceeding may be or may have been in the possession of a party, the Court may order that party to make and serve on any other party an affidavit stating whether the document or any and if so what document or documents of that class is or has been in his possession and, if it has been but is no longer in his possession, when he parted with it and his belief as to what has become of it.

(2) An order may be made against a party under subrule (1) notwithstanding that he has already made or been required to make a list of documents or an affidavit verifying such a list.

29.09 Inspection of documents referred to in list of documents or affidavit

(1) A party:

(a) on whom, under rule 29.03 or 29.07, a list or affidavit of documents is served;

(b) on whom, under rule 29.08 an affidavit of documents is served; or

(c) to whom, under rule 29.06, a list or affidavit of documents is supplied,

may, by notice to produce in Form 29B served on the party making the list or affidavit, require the party to produce the documents in his possession referred to in the list or affidavit (other than a document which he objects to produce) for inspection.

(2) A party on whom a notice to produce is served in accordance with subrule (1) shall, within 7 days after that service, serve on the party requiring production a notice appointing a time within 7 days after service of the notice under this subrule when, and a place where, the documents may be inspected.

(3) The place for inspection under subrule (2) must be within 30 kilometres of the Registry in which the originating process is filed, unless it is otherwise agreed by the parties or the Court otherwise orders.

(4) A party to whom documents are produced for inspection under this rule may take copies of the documents.

(5) For the purpose of subrule (4), taking a copy of a document includes photocopying the document and, if the party to whom a document is produced states that he wishes to have it photocopied, the party producing the document shall at his option either allow the other party to photocopy the document at such place as the parties agree or supply the other party with a photocopy of the document.

(6) Unless the Court otherwise orders, the cost of a photocopy of a document supplied to a party in accordance with subrule (5) shall:

(a) be borne by that party in the first instance and be ultimately a cost in the proceeding; and

(b) be in the amount allowed in the Scale of Costs for copy documents.

29.10 Inspection of documents referred to in pleadings and affidavits

(1) This Rule applies to all proceedings.

(2) Where in the originating process filed by a party, or in a pleading, in interrogatories or answers, in an affidavit or in a notice filed by a party, reference is made to a document, another party may, by notice to produce served on that party, require him to produce the document for inspection.

(3) Except as provided by subrule (4), rule 29.09, with the necessary changes, applies to the production and inspection of a document under this rule.

(4) A party on whom a notice to produce is served under subrule (2) is not required to produce a document for inspection where:

(a) he claims that the document is privileged from production and he makes and serves on the other party an affidavit in which he makes that claim and states sufficiently the grounds of the privilege; or

(b) the document is not in his possession and he makes and serves on the other party an affidavit in which he states that fact and states to the best of his knowledge, information and belief where the document is and in whose possession it is and, where the document has been but is no longer in his possession, when he parted with it and his belief as to what has become of it.

(5) A notice to produce under subrule (2) shall be in Form 29B.

29.11 Order for discovery

Where a party:

(a) fails to make discovery of documents in accordance with rules 29.03 and 29.04;

(b) fails to serve a notice appointing a time for inspection of documents as required by rule 29.09 or 29.10;

(c) objects to produce a document for inspection;

(d) offers inspection unreasonable as to time or place; or

(e) objects to allow a document to be photocopied or to supply a photocopy of the document,

the Court may order the party to do such act as the case requires.

29.12 Direction as to documents

(1) Where a party is entitled under this Order to inspect a document which consists of:

(a) a device such as video tape, audio tape, disc, film or other means of recording, the Court may give directions for the screening or playing of that device and for the making by or supply to the party of a transcript of the recording (in so far as it can be transcribed) or a copy of the recording; or

(b) information which has been processed by or is stored in a computer, the Court may give directions for making the information available.

(2) On an application under subrule (1) the Court may make an order for the costs and expenses of the party against whom an order giving directions is sought.

(3) The Court may make an order giving directions on condition that the party applying give security for the costs and expenses of the party against whom the order is made.

29.13 Inspection of document by Court

Where an application is made for an order under rule 29.11 and a claim is made that the document is privileged from production or objection to production is made on any other ground, the Court may inspect the document for the purpose of deciding the validity of the claim or objection.

29.14 Default on discovery

(1) Without limiting Rule 24.02, a party who within the time limited does not comply with an order under rule 29.08(2) or 29.11, or an order under rule 29.12(1) giving directions, is liable to committal.

(2) Service on the solicitor for a party of an order for discovery or production of documents made against that party is sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(3) A solicitor on whom such an order made against his client is served and who fails without reasonable excuse to give notice of the order to his client is liable to committal.

29.15 Copy list or affidavit to be filed

A copy of a list of documents or affidavit of documents served or exchanged pursuant to this Order shall be filed within 7 days after the day on which it is served or exchanged, as the case may be.

29.16 Discovery a continuing obligation

A party who has made discovery is under a continuing obligation to make discovery of documents with respect to documents which the party obtains after discovery has been made.

Order 30 Interrogatories

30.01 Definitions

In this Order, unless the contrary intention appears:

interrogating party means a party who serves interrogatories.

party interrogated means a party on whom interrogatories are served.

servant or agent, in relation to a corporation, includes officer and member.

30.02 Service of interrogatories

A party may serve interrogatories on another party relating to a question between them in the proceeding only with leave of the Court.

30.03 Statement as to who to answer

Where interrogatories are to be answered by 2 or more parties, the interrogating party shall state in the document containing the interrogatories which of them each party is required to answer.

30.04 Filing interrogatories and time for answers

Where interrogatories are served:

(a) the interrogating party shall without delay file a copy; and

(b) the party interrogated shall, within 28 days after service, answer by affidavit, file it and serve a copy on the interrogating party.

30.05 Source for answers to interrogatories

(1) A party interrogated shall answer each interrogatory, insofar as it is not objectionable, in accordance with the following:

(a) the party shall answer from his own knowledge of the fact or matter which is enquired after by the interrogatory and, if he has no such knowledge, from a belief he has as to the fact or matter;

(b) a party who has no knowledge of the fact or matter inquired after shall be taken not to have a belief as to the fact or matter where he has no information relating to it on which to form a belief or where, if he has such information, for reasonable cause he has no belief that the information is true;

(c) except as provided by paragraph (d), the party shall answer from a belief he has as to the fact or matter inquired after irrespective of the source of the information on which the belief is formed;

(d) the party shall not be required to answer from his belief as to a fact or matter where the belief is formed on information that was given to him in a communication the contents of which he could not, on the ground of privilege, be compelled to disclose;

(e) where the party has no knowledge himself of the fact or matter inquired after, he shall, for the purpose of enabling himself to form a belief as to the fact or matter (so far as he can), make all reasonable enquiries to determine:

(i) whether a person has knowledge of the fact or matter which was acquired by that person in the capacity of his servant or agent; and

(ii) if that is the case, what that knowledge is;

(f) the party shall make the inquiries referred to in paragraph (e) notwithstanding that at the time he is required to answer the interrogatory a person having the relevant knowledge has ceased to be his servant or agent; and

(g) where the party is a corporation, this rule with the necessary changes, applies as if the person who answers the interrogatories on behalf of the corporation were the party and, in particular, as if the reference in paragraph (e) to a servant or agent of the party were a reference to a servant or agent of the corporation.

(2) Where an interrogatory relates to a fact or matter alleged in the pleading of the party interrogated, nothing in subrule (1)(d) affects the right of the interrogating party to obtain information as to that fact or matter pursuant to an application of the kind referred to in rule 13.11.

30.06 How interrogatories to be answered

(1) A party interrogated shall answer each interrogatory specifically by answering the substance of the interrogatory without evasion, except in so far as it is objectionable on any of the grounds referred to in rule 30.07.

(2) Where the party objects to answer an interrogatory, he shall state briefly the ground of objection and the facts, if any, on which it is based.

30.07 Ground of objection to answer

(1) A party interrogated shall answer each interrogatory except to the extent that it may be objected to:

(a) because it does not relate to a question between him and the interrogating party;

(b) because it is unclear or vague or is too wide;

(c) because it is oppressive;

(d) because it requires him to express an opinion which he is not qualified to give;

(e) on the grounds of privilege; or

(f) on any other ground on which objection may be taken.

(2) Without limiting subrule (1)(a), an interrogatory that does not relate to a question includes an interrogatory the sole purpose of which is to:

(a) impeach the credit of the party interrogated;

(b) enable the interrogating party to ascertain whether he has a claim or defence other than that which he has raised in the proceeding; or

(c) enable the interrogating party to ascertain the evidence by which the party interrogated intends to prove his case, including the identity of witnesses.

(3) A party may not object to answer an interrogatory on the ground that he cannot answer without going to a place which is not his usual place of residence or business if the interrogating party undertakes to pay the reasonable cost of his going there, unless the Court otherwise orders.

30.08 Who to answer interrogatories

(1) Interrogatories shall be answered:

(a) where the party interrogated is:

(i) a natural person – by the party;

(ii) a person under a disability – by that person or his litigation guardian, whichever is appropriate; or

(iii) a corporation – by an officer of the corporation or by a person duly authorized by it to answer; or

(b) by such person as the Court directs.

(2) The answers of a person made in accordance with a direction given under subrule (1)(b) shall be as effective and binding in all respects as if made by the party interrogated.

30.09 Failure to answer interrogatories

Where a party interrogated fails to answer the interrogatories within the time limited or does not answer the interrogatories sufficiently, the Court may order that he answer or answer further, as the case may be, within such time as it directs.

30.10 Non-compliance with order

(1) Without limiting rule 24.02, a party who does not within the time limited comply with an order made under rule 30.09 is liable to committal.

(2) Service on the solicitor for a party of an order made against that party under rule 30.09 is sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that he had no notice or knowledge of the order.

(3) A solicitor on whom such an order made against his client is served who fails without reasonable excuse to give notice of the order to his client is liable to committal.

30.11 Answers as evidence

(1) On an application in or at the trial of a proceeding, a party may tender as evidence:

(a) one or more answers to interrogatories given by another party without tendering the other; or

(b) part of an answer to an interrogatory without tendering the whole of the answer.

(2) On the tender of the whole or part of an answer to an interrogatory, the Court may look at the whole of the answers and if any other answer or any part of an answer is so connected with the matter tendered that the matter tendered ought not to be used without the other answer or part, the Court may reject the tender unless that other answer or part is also tendered.

(3) Where the answer of a party interrogated is stated to be given on the basis of belief and the answer is received into evidence, the Judge or the jury, as the case may be, shall give the answer such weight as the circumstances require.

Order 31 Discovery by oral examination

31.01 Definitions

In this Order, unless the contrary intention appears:

examiner, in relation to an oral examination, means the examiner who under this Order is presiding, or is to preside, over the examination.

examining party means a party who orally examines, or is to orally examine, another party under this Order.

party examined means a party orally examined, or to be orally examined, by another party under this Order and, where the party examined is a corporation, includes an officer of the corporation or other person examined or to be examined under rule 31.05(2).

31.02 When is examination available

(1) Where a party might, with the leave of the Court under rule 30.02, serve interrogatories on another party relating to a question between them in a proceeding, subject to this rule, the party may instead orally examine the other party on oath in relation to the question.

(2) A party must not orally examine another party unless:

(a) the other party has consented in accordance with rule 31.03 to being examined; or

(b) the Court has made an order under rule 31.03(9) requiring the other party to be examined.

31.03 Application for and consent to examination

(1) A party seeking to orally examine another party in accordance with this Order must serve on that other party a request in writing that the party served consent to be orally examined.

(2) A notice under subrule (1) may nominate an examiner for the purpose of the examination.

(3) A party served with a notice under subrule (1) may, by notice in writing served on the party seeking the examination:

(a) consent to be examined before the examiner nominated;

(b) consent to be examined but not before the examiner nominated; or

(c) refuse to be examined.

(4) Where subrule (3)(b) applies, the party consenting to be examined may state in the notice the name of an examiner before whom the party consents to be examined.

(5) Where subrule (4) applies, the party seeking the examination may, by notice in writing given to the party consenting to be examined, agree to the appointment of the examiner named in the notice under subrule (4).

(6) Where the parties do not agree on an examiner, the party sought to be examined is to be taken to have refused to be examined.

(7) Where:

(a) the party sought to be examined has consented under subrule (3)(a) or (b); and

(b) in the case of consent under subrule (3)(b) – the party seeking the examination has agreed to the appointment of an examiner under subrule (5),

the party seeking the examination must file a Memorandum of Agreement that is to be one document consisting of a copy of each of the notices that together constitute the consent and (if applicable) the agreement.

(8) If a party:

(a) refuses under subrule (3)(c) to be examined; or

(b) is to be taken under subrule (6) to have refused to be examined,

the party seeking the examination may apply to the Court for an order requiring the party to be orally examined in accordance with this Order.

(9) The Court may make an order requiring a party to be orally examined if satisfied that:

(a) the Court would have granted the party seeking the examination leave to serve written interrogatories on the party; and

(b) one or more of the following apply:

(i) it is likely that an oral examination will be less costly to the parties than preparing and answering written interrogatories in relation to the question in respect of which the examination is sought;

(ii) there is some other advantage to the parties that warrants the making of the order;

(iii) the party sought to be examined was taken to have refused to be examined only by virtue of subrule (6).

(10) If the parties cannot agree on an examiner, the Court may appoint a suitably experienced legal practitioner to be the examiner.

31.04 Effect of consent or order

(1) Where, under rule 31.03, a party consents to being orally examined or the Court makes an order requiring a party to be orally examined, the following apply:

(a) the party is required to be orally examined in accordance with this Order;

(b) if the party fails to comply with an order of the Court to attend the examination or fails to answer a question asked at the examination, rule 24.02 applies (with the necessary changes) as if the failure were a failure of a kind referred to in that rule;

(c) at the trial of the proceeding or on the hearing of an application in the proceeding, the examining party may tender as evidence any of the answers given at the examination by the party examined and rule 30.11 applies (with the necessary changes) as if those answers were answers to written interrogatories served by the examining party.

31.05 Examination of corporations

(1) A corporation may be orally examined under this Order.

(2) Where the party examined is a corporation:

(a) one of the following persons may be examined:

(i) an officer of the corporation;

(ii) if the party examined and the examining party agree – a person who is not an officer of the corporation; and

(b) an answer given by the officer or other person is to be taken to be the answer of the corporation.

(3) Unless the party examined and the examining party agree otherwise or the Court orders otherwise, nothing in subrule (2) authorises the examination of more than one person.

31.06 Examiner

(1) An examination is to be held before an examiner:

(a) in respect of whom there has been consent under rule 31.03(3)(a) or agreement under rule 31.03(5) or who has been appointed by the Court under rule 31.03(10); and

(b) who consents to being appointed.

(2) The consent of the examiner is to be in writing and filed.

31.07 Attendance on examination

(1) The time and place of the examination is to be determined by the examiner.

(2) The party examined must attend to be examined by the examining party.

(3) Counsel and the solicitor for each party may attend the examination.

(4) If the party examined fails to attend the examination, the Court may order that the party attend to be examined in accordance with this Order at the time and place the Court directs.

31.08 Powers of examiner

The examiner:

(a) may, for the purpose of the examination, administer an oath; and

(b) may adjourn the examination from time to time and from place to place.

31.09 Record of examination

(1) A deposition of the examination of the party examined is to be made.

(2) Where objection is taken to a question, proceedings before the examiner with respect to the objection are to be recorded in the deposition.

(3) The deposition is to be authenticated by the signature of the examiner and, without delay after signing the deposition, the examiner must give notice in writing of the authentication to the party examined and the examining party.

31.10 How party to be examined

(1) At the examination, the party examined may be questioned by or on behalf of the examining party but no questions may be asked of the party examined by that party's own counsel or solicitor.

(2) The examination is to be in the nature of an examination in chief of the party examined by the examining party.

(3) Subject to subrule (4), the party examined must answer each question asked of the party.

(4) The party examined may object to a question as if it were a written interrogatory and rule 30.07 applies (with the necessary changes) accordingly.

(5) The party examined is not required to answer a question to which the party objects unless the Court orders otherwise.

(6) Where the party examined answers a question, rules 30.05 and 30.06(1) apply (with the necessary changes) as if the answer to the question were the answer to a written interrogatory.

(7) A question may be answered by counsel or the solicitor for the party examined and the answer is to be taken to be the answer of the party.

(8) Where rule 30.05(1)(e) applies, the examiner may adjourn the examination to enable the party examined to conduct the enquiries referred to in that rule.

31.11 Order to answer question

(1) Where the party examined objects to a question under rule 31.10(4), the examining party may apply by summons to an Associate Judge for an order that the party examined is required to answer the question.

(2) The application is to identify each question to which it relates.

(3) The Associate Judge may order that the party examined is required to answer a question to which the application relates.

(4) If an order is made under subrule (3), unless the Associate Judge orders otherwise, the party examined must answer the question before the examiner and the Associate Judge may direct that the examining party be at liberty to ask further questions of the party examined as the case requires.

(5) The Associate Judge may order that the party examined answer the question in writing and may direct whether that written answer is to be given on oath.

31.12 Costs of examination

(1) Subject to this Order, as between the parties, the costs of and incidental to attending an oral examination are to be costs in the proceeding unless the Court orders otherwise.

(2) The party seeking the examination must pay the costs of the examiner in the first instance.

(3) The Court may fix the examiner's costs and, on the application of a party or the examiner, may order that those costs be paid in accordance with subrule (2).

Order 32 Preliminary discovery and discovery from non-party

32.01 Definitions

In this Order, unless the contrary intention appears:

applicant means applicant for an order under this Order.

description includes the name, place of residence, place of business, occupation and sex of the person against whom the applicant desires to bring a proceeding and whether that person is an individual or a corporation.

possession means possession, custody or power.

32.02 Privilege

An order made under this Order does not operate to require the person against whom the order is made to produce a document which, on the ground of privilege, he could not be required to produce:

(a) in the case of an order under rule 32.03 or 32.05 – if the applicant had commenced a proceeding against him;

(b) in the case of an order under rule 32.04 or 32.06 – if the applicant had made him a party to the proceeding; or

(c) in the case of an order under rule 32.07 – if he had been served with a subpoena for production of the document at the trial of the proceeding.

32.03 Discovery to identify a defendant

(1) Where an applicant, having made reasonable inquiries, is unable to ascertain the description of a person sufficiently for the purpose of commencing a proceeding in the Court against that person (in this rule called ***the person concerned***) and it appears that a person has or is likely to have knowledge of facts, or has or is likely to have or has had or is likely to have had in his possession a document or thing, tending to assist in the ascertainment of the description, the Court may order that the person, and in the case of a corporation, the corporation by an appropriate officer, shall:

(a) attend before the Court to be orally examined in relation to the description of the person concerned; or

(b) make discovery to the applicant of all documents which are or have been in his or its possession relating to the description of the person concerned.

(2) Where the Court makes an order under subrule (1)(a), it may:

(a) order that the person or corporation against whom or which the order is made produce to the Court on the examination any document or thing in his or its possession relating to the description of the person concerned; or

(b) direct that the examination be held before an Associate Judge.

32.04 Party an applicant

Rule 32.03, with the necessary changes, applies where the applicant is a party to a proceeding and wishes to make in the proceeding against a person who is not a party a claim which he could properly have made in the proceeding had the person been a party.

32.05 Discovery from prospective defendant

Where:

(a) there is reasonable cause to believe that the applicant has or may have the right to obtain relief in the Court from a person whose description he has ascertained;

(b) after making all reasonable inquiries, the applicant has not sufficient information to enable him to decide whether to commence a proceeding in the Court to obtain that relief; and

(c) there is reasonable cause to believe that the person has or is likely to have or has had or is likely to have had in his possession a document relating to the question whether the applicant has the right to obtain the relief and that inspection of the document by the applicant would assist him to make the decision,

the Court may order that the person shall make discovery to the applicant of a document of the kind described in paragraph (c).

32.06 Party an applicant

Rule 32.05, with the necessary changes, applies where the applicant is a party to a proceeding and there is reasonable cause to believe that he has or may have the right to obtain against a person who is not a party relief which he could properly have claimed in the proceeding had the person been a party.

32.07 Discovery from non-party

On the application of a party to a proceeding the Court may order that a person who is not a party and in respect of whom it appears that he has or is likely to have or has had or is likely to have had in his possession a document which relates to a question in the proceeding shall make discovery to the applicant of any such document.

32.08 Procedure

(1) An application under rule 32.03 or 32.05 shall be made by originating motion to which the person against whom the order is sought shall be made respondent.

(2) An application under rule 32.04, 32.06 or 32.07 shall be made by summons served on every party to the proceeding and served personally on the person against whom the order is sought.

(4) An originating motion under subrule (1) or a summons under subrule (2) shall be supported by an affidavit:

(a) stating the facts on which the application is made; and

(b) specifying or describing the document or class of documents in respect of which the order is sought.

(5) A copy of the supporting affidavit shall be served on every person on whom the originating motion or the summons is served.

32.09 Inspection of documents

Rule 29.09, with the necessary changes, applies to the inspection of the documents referred to in an affidavit of documents made and served in accordance with this Order as if the affidavit were an affidavit of documents as mentioned in rule 29.09(1).

32.10 Directions as to documents

Rule 29.12, with the necessary changes, applies to the inspection of a document under this Order.

32.11 Costs

(1) On an application under this Order the Court may make an order for the costs and expenses of the applicant, of the person against whom the order is made or sought and of a party to the proceeding, including the costs of making and serving an affidavit of documents, of producing a document for inspection in accordance with rule 32.09 or of complying with a direction given under rule 32.10.

(2) The Court may make an order under this Order on condition that the applicant give security for the costs and expenses of the person against whom the order is made.

Order 33 Medical examination and service of hospital and medical reports

33.01 Application

This Order applies to a proceeding in which the plaintiff claims damages for bodily injury.

33.02 Counterclaim

This Order, with the necessary changes, applies to a counterclaim by which the defendant makes a claim of the kind referred to in rule 33.10.

33.03 Definitions

In this Order, unless the contrary intention appears:

examination means an examination by a medical expert for the purpose of producing a medical report.

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

medical expert means a person who is, under the law of a State or Territory of the Commonwealth, entitled by reason of the professional qualifications or special skills or knowledge of the person to practice in the field of expertise of medicine, dentistry, occupational therapy, pharmacology, physiotherapy, psychology, rehabilitation, ergonomics or any other related field.

medical matters means matters that are about or relevant to or relate to the fields of medicine, dentistry, occupational therapy, pharmacology, physiotherapy, psychology, rehabilitation, ergonomics or any other related field.

medical report:

(a) means a written statement of a medical expert in which the medical expert records information or facts, or expresses opinions, that are within the medical expert's field of expertise and relevant to the plaintiff;

(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.

33.04 Notice for examination

(1) The defendant may, in writing, request the plaintiff to submit to an appropriate examination by a medical expert at a specified time and place.

(2) Where a plaintiff refuses or neglects without reasonable cause to comply with a request under subrule (1), the Court may, if the request was on reasonable terms, stay the proceeding.

33.05 Expenses

(1) The costs of and incidental to the examination shall be costs in the proceeding.

(2) Without limiting subrule (1), the defendant shall, on request by the plaintiff whether before or after the plaintiff is examined, pay to the plaintiff a reasonable sum to meet his travelling and other expenses of and incidental to the examination.

33.06 Report of examination

A defendant for whom a plaintiff is examined under rule 33.04 must, as soon as practicable after the examination:

(a) obtain a medical report from the medical expert; and

(b) on obtaining the medical report – serve a copy of the medical report on the plaintiff.

33.07 Service of reports

(1) For the purpose of rule 33.08:

(a) a plaintiff shall serve a copy of a medical report in his or her possession, custody or power which he or she intends to tender or the substance of which he or she intends to adduce in evidence at the trial; and

(b) subject to rule 33.06, a defendant shall serve a copy of a medical report in his or her possession, custody or power (other than a medical report served on or supplied to him or her by the plaintiff) which the defendant intends to tender or the substance of which the defendant intends to adduce in evidence at the trial.

(2) Where a plaintiff obtains possession, custody or power of a hospital report which he or she intends to tender or the maker of which he or she intends to call at the trial, this rule with the necessary changes, applies as if the report were a medical report.

33.08 Time for service

(1) A party must serve copies of all medical reports that the party is required to serve in accordance with these Rules at the time or times as directed by a Judge, an Associate Judge or the Registrar.

(3) Unless the Court otherwise orders, a party who, after the day on which he served medical reports under subrule (1) or (2), obtains possession, custody or power of a medical report a copy of which he is required to serve in accordance with rule 33.07 shall serve a copy of the report on each other party who has an address for service within 14 days after obtaining the report and not later than 42 days before the day fixed for trial or, where the place of trial is a place other than Darwin, not later than 42 days before the commencement of the sittings at that place during which the proceeding has been set down for trial.

(4) Where a defendant who has served on the plaintiff a copy of a medical report of an examination of the plaintiff made under rule 33.04 obtains from the medical expert who made the examination a further report of the examination, the defendant shall without delay:

(a) if the further report was in writing – serve a copy on the plaintiff; and

(b) if the further report was oral – give the plaintiff notice in writing of its substance.

(5) 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 the evidence is disclosed by a copy of a medical report served in accordance with this Order.

33.09 Proceeding against medical expert

(1) This rule applies to a proceeding in which the plaintiff claims damages for bodily injury sustained as a result of medical or the like treatment or advice given in respect of a physical or mental condition of the plaintiff.

(2) Unless the Court otherwise orders, a party who is required to serve a copy of a hospital report or medical report under rule 33.08 may exclude from the copy served an expression of opinion in the original report on the question of liability.

33.10 Material for Court

(1) This rule applies only to a proceeding which is to be tried by a Judge without a jury.

(2) If for the purpose of evidence at the trial a party intends to:

(a) use; or

(b) call the maker of,

a medical report or a hospital report a copy of which was served under rule 33.08, the party shall deliver a copy of the report for the use of the Court.

(3) Copies of reports shall be delivered by delivering them in a sealed envelope bearing the title of the proceeding and stating "Reports delivered by [identify party] pursuant to rule 33.10":

(a) where Darwin is the place of trial – to an Associate Judge; and

(b) where the place of trial is other than Darwin – to a Proper Officer,

not later than 14 days before the date set down for the trial.

33.11 Medical report admissible

(1) This rule does not apply in the case of the trial of a proceeding before a Judge with a jury.

(2) A medical report a copy of which was served under this Order is admissible as evidence of the opinion of the medical expert who gave the report and, where the medical expert's oral evidence of a fact upon which the opinion was based would be admissible, as evidence of that fact.

(3) Subject to subrules (4), (5) and (6), a medical report may be used in evidence by the party who served a copy of the report or by a party on whom the copy was served.

(4) If a medical report is tendered by the party who served a copy of the report pursuant to rule 33.08(1) or (2), that party shall cause the medical expert who gave the report to attend at the trial of the proceeding to be cross-examined if notice that such attendance is required is served on the party by any other party not later than 42 days before the commencement of the trial, and if the medical expert does not attend for cross-examination the Court may order that the medical report be not received in evidence.

(5) Where a medical report is served later than 42 days before:

(a) where the place of trial is Darwin – the commencement of the trial; or

(b) where the place of trial is a place other than Darwin – the commencement of the sittings at that place during which the proceeding has been set down for trial,

the medical expert who gave the report shall, unless the Court otherwise orders, attend for cross-examination at the trial, and if the medical expert does not attend for cross-examination the Court may order that the medical report be not received in evidence.

(6) If a medical report is tendered by a party on whom a copy of the report was served:

(a) that party shall cause the medical expert who gave the report to attend at the trial of the proceeding to be cross-examined, and if the medical expert does not attend the Court may order that the medical report be not received in evidence;

(b) if the report is received in evidence and the medical expert is cross-examined by a party against whom the report is received, at the conclusion of the cross-examination the party who tendered the report may examine the expert as if by re-examination.

33.12 No evidence unless disclosed in report

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 concerning the plaintiff unless that evidence is disclosed by a medical report served in accordance with this Order.

33.13 Medical report generally not admissible unless this Order complied with

(1) Subject to subrule (2), a medical report is not admissible as evidence unless it has been served in accordance with this Order.

(2) Subrule (1) does not apply if:

(a) the parties agree to dispense with or limit service of copies of a medical report as required by this Order; or

(b) the Court makes an order that a medical report that has not been served in accordance with this Order is admissible as evidence.

(3) This rule applies in addition to the *Evidence (Business Records) Interim Arrangements Act 1984* and any other law in force in the Territory relating to the admissibility of evidence.

Order 34 Directions

34.01 Powers of Court

(1) At any stage of a proceeding, the Court may give directions for the conduct of the proceeding which it thinks conducive to its effective, complete, prompt and economical determination.

(2) A party may apply for directions on the hearing either of a summons filed for the purpose or of a summons for other relief.

34.03 Admissions and agreements

(1) On an application for directions the Court may take steps with a view to securing that the parties make all admissions and all agreements as to the conduct of the proceeding which ought reasonably to be made by them and may, by order, record an admission or agreement so made.

(2) The Court may, by order, record a refusal to make an admission or an agreement as to the conduct of the proceeding so that the refusal may later, if the Court thinks fit, be taken into account on a question of costs.

34.04 Duty to obtain directions

Where a party applies for directions, any other party who attends on the application may apply at the same time for directions which he requires and which may be given before trial.

Order 35 Admissions

35.01 Definition

In this Order ***authenticity of a document*** means that a document:

(a) is what it purports to be;

(b) if an original or described as such, is an original document and was printed, written, signed or executed as it purports to have been; or

(c) if a copy or described as such, is a true copy.

35.02 Voluntary admission of facts

(1) A party may, by notice served on another party, admit, in favour of the other party, for the purpose of the proceeding only, the facts specified in the notice.

(2) A party may, by leave of the Court, withdraw an admission made in accordance with subrule (1).

35.03 Notice for admission of facts

(1) A party may serve on another party a notice stating that unless that party, within a time to be expressed in the notice (which shall not be earlier than 14 days after service), disputes a fact specified in the notice, he shall, for the purpose of the proceeding only, be taken to admit the fact.

(2) If the party served with the notice does not dispute a fact specified by serving notice that he disputes the fact within the time allowed for that purpose, he shall, for the purpose of the proceeding only, be taken to admit the fact.

(3) A party may, by leave of the Court, withdraw an admission which is taken to have been made under subrule (2).

(4) A notice under subrule (1) shall be in Form 35A, and a notice under subrule (2) shall be in Form 35B.

35.04 Judgment on admissions

(1) Where a party makes admissions of fact in a proceeding, whether by his pleading or otherwise, the Court may, on the application of another party, give the judgment or make the order to which the applicant is entitled on those admissions.

(2) The Court may exercise its powers under subrule (1) without waiting for the determination of any other question in the proceeding.

35.05 Notice for admission of documents

(1) A party may serve on another party a notice stating that unless that party, within a time to be expressed in the notice (which shall not be earlier than 14 days after service), disputes the authenticity of a document mentioned in the notice, he shall, for the purpose of the proceeding only, be taken to admit the authenticity of the document.

(2) If the party served with the notice does not dispute the authenticity of a document mentioned by serving notice that he disputes its authenticity within the time allowed for that purpose, he shall, for the purpose of the proceeding only, be taken to admit its authenticity.

(3) A party may, by leave of the Court, withdraw an admission which is taken to have been made under subrule (2).

(4) A notice under subrule (1) shall be in Form 35A, and a notice under subrule (2) shall be in Form 35B.

35.07 Restrictive effect of admission

An admission made by a party under this Order is for the purpose of the pending proceeding only and shall not be used against him as an admission in another proceeding.

35.08 Notice to produce documents

(1) A party to a proceeding may serve on another party a notice requiring him to produce the documents mentioned in the notice on an application in or at the trial of the proceeding.

(2) Unless the Court otherwise orders, the party on whom the notice is served shall produce on the application or at the trial such of the documents mentioned in the notice as are in his possession, custody or power and which he does not object to produce on the ground of privilege.

(3) Where the party on whom the notice is served fails to comply with the notice, the Court may order that the party produce the document or give such directions for the proof of a matter in relation to the document, including the contents of the document and its making, delivery or receipt, as it thinks fit.

Order 36 Amendment

36.01 General

(1) For the purpose of determining the real question in controversy between the parties to a proceeding or of correcting a defect or error in a proceeding or of avoiding multiplicity of proceedings, the Court may at any stage order that a document in the proceeding be amended or that a party have leave to amend a document in the proceeding.

(2) In this Order ***document*** includes originating process, an endorsement of claim on originating process and a pleading.

(3) An endorsement of claim or pleading may be amended under subrule (1) notwithstanding that the effect is to add or substitute a cause of action arising after the commencement of the proceeding.

(4) A mistake in the name of a party may be corrected under subrule (1) whether or not the effect is to substitute another person as a party.

(5) Where an order to correct a mistake in the name of a party has the effect of substituting another person as a party, the proceeding shall be taken to have commenced with respect to that person on the day the proceeding commenced.

(6) The Court may, notwithstanding the expiration of a relevant limitation period after the day a proceeding is commenced, make an order under subrule (1) where it is satisfied that any other party to the proceeding would not by reason of the order be prejudiced in the conduct of his claim or defence in a way that could not be fairly met by an adjournment, an award of costs or otherwise.

(7) For the purpose of subrule (6) ***any other party to the proceeding*** includes a person who is substituted as a party by virtue of an order made to correct a mistake in the name of a party.

(8) Subrule (6), with the necessary changes, also applies to an application under rule 14.03(2).

(9) Subrule (1) does not apply to the amendment of a judgment or order.

36.02 Failure to amend within time limited

An order giving a party leave to amend a document ceases to have effect if the party has not amended the document in accordance with the order at the expiration of the time limited by the order making the amendment or, if no time was limited, of 14 days after the date of the order.

36.03 Amendment of pleading

A party may amend a pleading served by him:

(a) once before the close of pleadings; or

(b) at any time, by leave of the Court or with the consent of all other parties.

36.04 Disallowance of pleading amendment

Where a party amends a pleading in accordance with rule 36.03(a), the Court may, on application by another party made within 14 days after service of the amended pleading on that party, disallow the amendment or allow it either wholly or in part.

36.05 How pleading amendment made

(1) Unless the Court otherwise orders, an amendment to a pleading shall be made by:

(a) amending the copy of the pleading filed in the Court or filing a copy of the pleading as amended; and

(b) serving a copy of the amended pleading on all parties.

(2) A party who files an amended copy of a pleading in accordance with subrule (1) shall endorse the copy pleading previously filed with a statement to the effect that the amended copy has been substituted.

(3) Where either of the requirements of subrule (1)(a) is complied with, a Registrar shall, as the case requires, endorse the copy of the pleading filed in the Court with the date it is amended or the copy of the pleading as amended with the date it is filed.

(4) Each amendment to a pleading shall be made in such a way as to distinguish the amendment from the original pleading and from a previous amendment to the original.

36.06 Pleading to an amended pleading

(1) A party shall plead to an amended pleading within 14 days after it is served on him.

(2) Where a party has pleaded to a pleading which is subsequently amended, he shall be taken to rely on his original pleading in answer to the amended pleading, unless he pleads to it within the time limited for so doing.

36.07 Amendment of judgment or order

The Court may at any time correct a clerical mistake in a judgment or order or an error arising in a judgment or order from an accidental slip or omission.

Order 37 Inspection, detention and preservation of property

37.01 Inspection, detention, etc., of property

(1) In a proceeding the Court may make an order for the inspection, detention, custody or preservation of a property, whether or not in the possession, custody or power of a party.

(2) An order under subrule (1) may authorize a person to:

(a) enter land or do any other thing for the purpose of obtaining access to the property;

(b) take samples of the property;

(c) make observations (including the photographing) of the property;

(d) conduct an experiment on or with the property; or

(e) observe a process.

(3) On an application under subrule (1) the Court may make an order for the costs and expenses of a person not being a party where:

(a) the person attends on the hearing of the application pursuant to a summons served under rule 37.03(1); or

(b) it makes an order under subrule (1) which will affect the person.

(4) The Court may make an order under this rule on condition that the party applying for the order give security for the costs and expenses of a person, whether or not a party, who will be affected by the order.

37.02 Inspection from prospective defendant

(1) This rule applies to property not being a document.

(2) In this rule ***applicant*** means an applicant for an order under the rule.

(3) Where:

(a) there is reasonable cause to believe that the applicant has or may have the right to obtain relief in the Court from an identified person;

(b) after making all reasonable enquiries, the applicant has not sufficient information to enable him to decide whether to commence a proceeding in the Court to obtain that relief; and

(c) there is reasonable cause to believe that the person has or is likely to have in his possession, custody or power property relating to the question whether the applicant has the right to obtain the relief and that inspection of the property by the applicant would assist him to make the decision,

the Court may make an order for the inspection, detention, custody or preservation of the property.

(4) An order under subrule (3) may authorize a person to do any of the things referred to in rule 37.01(2).

(5) On an application under this rule the Court may make an order for the costs and expenses of the applicant and the person against whom the order is sought.

(6) The Court may make an order under this rule on condition that the applicant give security for the costs and expenses of the person against whom the order is made.

37.03 Procedure

(1) An application for an order under rule 37.01 shall be made by summons served on all parties to the proceeding and served personally on each person who would be affected by the order if made.

(2) The Court may make an order under rule 37.01 notwithstanding that a person, not being a party, who will be affected by the order has not been served with the summons personally or at all.

(3) An application under rule 37.02 shall be made by originating motion to which the person against whom the order is sought shall be made respondent.

(4) An order shall not be made under rule 37.02 except by a Judge.

(5) A summons under subrule (1) or an originating motion under subrule (3) shall be supported by an affidavit:

(a) stating the facts on which the application is made; and

(b) specifying or describing the property in respect of which the order is sought.

(6) A copy of the supporting affidavit shall be served on every person on whom the summons or originating motion is served.

37.04 Disposal of perishable property

Where in a proceeding concerning property (other than land) or in a proceeding in which a question may arise as to property (other than land) the property is of a perishable nature or is likely to deteriorate or diminish in value if kept, the Court may make an order for the sale or other disposal of the whole or a part of the property.

37.05 Payment into Court in discharge of lien

(1) Where in a proceeding the plaintiff claims the recovery of specific property (other than land) and it appears from the pleadings or otherwise that the defendant does not dispute the title of the plaintiff but claims to be entitled to retain the property by virtue of a lien or otherwise as security for an amount of money, the Court may order that the plaintiff be at liberty to pay into court, to abide the event of the proceeding, the amount of money in respect of which the security is claimed and such further amount, if any, for interest and costs as the Court directs and that, on the making of those payments, the property claimed be given up to the plaintiff.

(2) This rule, with the necessary changes, also applies to a counterclaim.

37.06 Interim distribution of property or income

Where in a proceeding concerning property the property will be more than sufficient to answer the claims on the property for which provision ought to be made in the proceeding, the Court may, by order, allow the whole or part of the annual income of the property or of a part of the property to be paid, during such period as it determines, to all or any of the persons having an interest in the income, or may direct that a part of the property be conveyed, transferred or delivered to a person having an interest in the property.

37.07 Jurisdiction of Court not affected

This Order does not affect the exercise by the Court of a power to make orders with respect to the inspection, detention, custody or preservation of property which is exercisable apart from those provisions.

Order 37A Freezing orders

37A.01 Definitions

In this Order:

ancillary order, see rule 37A.03.

another court means a court outside Australia or a court in Australia other than the Court.

applicant means a person who applies for a freezing order or an ancillary order.

freezing order, see rule 37A.02.

judgment includes an order.

respondent means a person against whom a freezing order or an ancillary order is sought or made.

37A.02 Freezing order

(1) The Court may make an order (a ***freezing order***), upon or without notice to a respondent, for the purpose of preventing the frustration or inhibition of the Court's process by seeking to meet a danger that a judgment or prospective judgment of the Court will be wholly or partly unsatisfied.

(2) A freezing order may be an order restraining a respondent from removing any assets located in or outside Australia or from disposing of, dealing with, or diminishing the value of, the assets.

37A.03 Ancillary order

(1) The Court may make an order (an ***ancillary order***) ancillary to a freezing order or prospective freezing order as the Court considers appropriate.

(2) Without limiting the generality of subrule (1), an ancillary order may be made for either or both of the following purposes:

(a) eliciting information relating to assets relevant to the freezing order or prospective freezing order;

(b) determining whether the freezing order should be made.

37A.04 Respondent need not be party to proceeding

The Court may make a freezing order or an ancillary order against a respondent even if the respondent is not a party to a proceeding in which substantive relief is sought against the respondent.

37A.05 Order against judgment debtor, prospective judgment debtor or third party

(1) This rule applies if:

(a) judgment has been given in favour of an applicant by:

(i) the Court; or

(ii) in the case of a judgment to which subrule (2) applies – another court; or

(b) an applicant has a good arguable case on an accrued or prospective cause of action that is justiciable in:

(i) the Court; or

(ii) in the case of a cause of action to which subrule (3) applies – another court.

(2) This subrule applies to a judgment if there is a sufficient prospect that the judgment will be registered in or enforced by the Court.

(3) This subrule applies to a cause of action if:

(a) there is a sufficient prospect that the other court will give judgment in favour of the applicant; and

(b) there is a sufficient prospect that the judgment will be registered in or enforced by the Court.

(4) The Court may make a freezing order, an ancillary order or both against a judgment debtor or prospective judgment debtor if the Court is satisfied, having regard to all the circumstances, there is a danger a judgment or prospective judgment will be wholly or partly unsatisfied because any of the following might occur:

(a) the judgment debtor, prospective judgment debtor or another person absconds; or

(b) the assets of the judgment debtor, prospective judgment debtor or another person are:

(i) removed from Australia or from a place inside or outside Australia; or

(ii) disposed of, dealt with or diminished in value.

(5) The Court may make a freezing order or an ancillary order or both against a person other than a judgment debtor or prospective judgment debtor (a ***third party***) if the Court is satisfied, having regard to all the circumstances:

(a) there is a danger a judgment or prospective judgment will be wholly or partly unsatisfied because:

(i) the third party holds, is using, has exercised or is exercising, a power of disposition over assets (including claims and expectancies) of the judgment debtor or prospective judgment debtor; or

(ii) the third party is in possession of, or in a position of control or influence concerning, assets (including claims and expectancies) of the judgment debtor or prospective judgment debtor; or

(b) a process in the Court is, or may ultimately be, available to the applicant as a result of a judgment or prospective judgment, under which process the third party may be obliged to disgorge assets or contribute toward satisfying the judgment or prospective judgment.

(6) Nothing in this rule affects the power of the Court to make a freezing order or ancillary order if the Court considers it is in the interests of justice to do so.

37A.06 Jurisdiction

Nothing in this Order diminishes the inherent, implied or statutory jurisdiction of the Court to make a freezing order or ancillary order.

37A.07 Service outside Australia of application for freezing order or ancillary order

An application for a freezing order or an ancillary order may be served on a person who is outside Australia (whether or not the person is domiciled or resident in Australia) if any assets to which the order relates are within the jurisdiction of the Court.

37A.08 Costs

(1) The Court may make any order as to costs it considers appropriate in relation to an order made under this Order.

(2) Without limiting the generality of subrule (1), an order as to costs includes an order as to the costs of any person affected by a freezing order or ancillary order.

Order 37B Search orders

37B.01 Definitions

In this Order:

applicant means an applicant for a search order.

described includes described generally whether by reference to a class or otherwise.

premises includes a vehicle or vessel of any kind.

respondent means a person against whom a search order is sought or made.

search order, see rule 37B.02.

37B.02 Search order

The Court may make an order (a ***search order***) in any proceeding or in anticipation of any proceeding in the Court, with or without notice to the respondent, for the purpose of securing or preserving evidence and requiring a respondent to permit persons to enter premises for the purpose of securing the preservation of evidence which is or may be relevant to an issue in the proceeding or anticipated proceeding.

37B.03 Requirements for grant of search order

The Court may make a search order if satisfied:

(a) an applicant seeking the order has a strong prima facie case on an accrued cause of action; and

(b) the potential or actual loss or damage to the applicant will be serious if the search order is not made; and

(c) there is sufficient evidence in relation to a respondent that:

(i) the respondent possesses important evidentiary material; and

(ii) there is a real possibility the respondent might destroy the material or cause it to be unavailable for use in evidence in a proceeding or anticipated proceeding before the Court.

37B.04 Jurisdiction

Nothing in this Order diminishes the inherent, implied or statutory jurisdiction of the Court to make a search order.

37B.05 Terms of search order

(1) A search order may direct each person who is named or described in the order:

(a) to permit, or arrange to permit, other persons named or described in the order:

(i) to enter premises specified in the order; and

(ii) to take any steps in accordance with the terms of the order; and

(b) to provide, or arrange to provide, other persons named or described in the order with any information, thing or service described in the order; and

(c) to allow other persons named or described in the order to take and retain in their custody any thing described in the order; and

(d) not to disclose any information about the order, for up to 3 days after the date on which the order was served, except for the purposes of obtaining legal advice or legal representation; and

(e) to do or refrain from doing any act as the Court considers appropriate.

(2) Without limiting the generality of subparagraph (1)(a)(ii), the steps that may be taken in relation to a thing specified in a search order include:

(a) searching for, inspecting or removing the thing; and

(b) making or obtaining a record of the thing or any information it contains.

(3) A search order may contain other provisions the Court considers appropriate.

(4) In this rule:

record includes a copy, photograph, film or sample.

37B.06 Independent solicitors

(1) If the Court makes a search order, the Court must appoint one or more solicitors, each of whom is independent of the applicant's solicitors, (the ***independent solicitors***) to supervise the execution of the order and to do anything else in relation to the order the Court considers appropriate.

(2) The Court may appoint an independent solicitor to supervise execution of the order at any one or more premises, and a different independent solicitor or solicitors to supervise execution of the order at other premises, with each independent solicitor having power to do anything else in relation to the order the Court considers appropriate.

37B.07 Costs

(1) The Court may make any order as to costs it considers appropriate in relation to an order made under this Order.

(2) Without limiting the generality of subrule (1), an order as to costs includes an order as to the costs of any person affected by a search order.

Order 38 Injunctions

38.01 When Court may grant

The Court may grant an injunction at any stage of a proceeding or, in the circumstances referred to in rule 4.08, before the commencement of a proceeding.

38.02 Application before trial

(1) In an urgent case, the Court may grant an injunction on application made without notice.

(2) Where a plaintiff applies for an injunction against a defendant, service of notice of the application on that defendant may be made at the time of service of the originating process in the proceeding.

38.03 Costs and expenses of non-party

(1) This rule applies where an application for an injunction is made before the trial of a proceeding.

(2) The Court may grant an injunction on condition that the party applying for the injunction give security for the costs and expenses of a person who might be affected.

(3) The Court may make such order as it thinks fit for the payment, either in the first instance or finally, of the costs and expenses of a person, not being a party, who might be affected by the grant of an injunction.

38.04 Ouster of office

(1) Informations in the nature of quo warranto are abolished.

(2) Where a person acts in an office in which he is not entitled to act and an information in the nature of quo warranto would, but for subrule (1), lie against him, the Court may grant an injunction restraining him from so acting and may, if the case so requires, declare the office to be vacant.

Order 39 Receivers

39.01 Application and definitions

(1) This Order applies to and in relation to the appointment of a receiver by the Court.

(2) In this Order:

insurer means a body corporate authorized under the *Insurance Act 1973* of the Commonwealth to carry on insurance business or an underwriting member of Lloyd's so authorized.

Lloyd's means the society of that name incorporated by the Imperial Act known as *Lloyd's Act 1871*.

receiver means a receiver or receiver and manager.

39.02 Appointment of receiver

(1) The Court may appoint a receiver at any stage of a proceeding or, in the circumstances referred to in rule 4.08, before the commencement of a proceeding.

(2) In an urgent case, the Court may appoint a receiver on application made without notice.

39.03 Service of order

The party obtaining the appointment of a receiver, or such other party as the Court directs, shall serve a copy of the order on the receiver.

39.04 Consent of receiver

Before a person is appointed a receiver his written consent to the appointment shall, unless the Court otherwise orders, be filed.

39.05 Security by receiver

Unless the Court otherwise orders:

(a) a receiver shall give security approved by the Court that he will account for what he receives as receiver and deal with it as the Court directs;

(b) the security shall be given by guarantee in Form 39A and filed; and

(c) the guarantee shall be given by an ADI or an insurer.

39.06 Remuneration of receiver

The Court may provide for the remuneration of a receiver.

39.07 Receiver's accounts

(1) Unless the Court otherwise orders, a receiver shall submit accounts in accordance with this rule.

(2) A receiver shall submit accounts to such parties and at such intervals or on such dates as the Court directs.

(3) A party to whom a receiver is required to submit accounts may, on giving reasonable notice to the receiver, inspect, either personally or by an agent, the documents or things on which the accounts are based.

(4) A party who objects to the accounts may serve notice in writing on the receiver specifying the items to which objection is taken and requiring the receiver within not less than 14 days to lodge his accounts with the Court and on such service the party shall file a copy of the notice.

(5) The Court may examine the items to which objection is taken.

(6) The Court shall by order declare what is the result of an examination under subrule (5) and may make an order for the costs and expenses of a party or the receiver.

39.08 Default by receiver

(1) Where a receiver fails to submit an account, provide access to any books or papers or do any other thing which as receiver he ought to do, or fails to attend for the examination of an account of his, he and a party to the proceeding in which he was appointed may be required to attend before the Court to show cause for the failure and the Court may give such directions as it thinks fit, including, if necessary, directions for the discharge of the receiver and the appointment of another and the payment of costs.

(2) Without limiting subrule (1), where a receiver fails to submit an account or fails to attend for the examination of an account of his, or fails to pay into court on the date fixed by the Court an amount required to be so paid, the Court may disallow any remuneration claimed by the receiver and may, where he has failed to pay that amount into court, charge him with interest at the rate currently payable in respect of judgment debts in the Court on that amount while in his possession as receiver.

39.09 Directions to receivers

(1) A receiver may apply to the Court for directions by summons stating the matters on which directions are required.

(2) Unless the Court otherwise orders, the receiver shall serve a copy of the summons and of any affidavit in support on all persons who may be affected.

Order 40 Evidence generally

40.01 Definition

In this Order, unless the contrary intention appears ***a proceeding commenced by writ*** includes:

(a) a proceeding in respect to which an order has been made under rule 4.07(1);

(b) a trial or inquiry under Order 50; and

(c) an assessment of damages or value under Order 51.

40.02 Evidence of witness

Except where otherwise provided by an Act or this Chapter, and subject to an agreement between the parties, evidence shall be given:

(a) on an interlocutory or other application in a proceeding, by affidavit;

(b) at the trial of a proceeding commenced by writ, orally; or

(c) at the trial of a proceeding commenced by originating motion, by affidavit.

40.03 Contrary direction as to evidence

(1) Notwithstanding rule 40.02, the Court may order that evidence be given:

(a) orally on the hearing of an interlocutory or other application in a proceeding or at the trial of a proceeding commenced by originating motion;

(b) by affidavit at the trial of a proceeding commenced by writ.

(2) Where the Court makes an order under subrule (1)(a), it may direct that the party on whose application the order is made give such notice as it thinks fit to the other parties of the oral evidence the party proposes to adduce.

40.04 Examination on affidavit

(1) Where an affidavit is filed in a proceeding, 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.

(2) Unless the Court otherwise orders, a party to a proceeding commenced by originating motion on whose behalf an affidavit is filed in the proceeding shall have the deponent attend at the trial of the proceeding to be examined, if notice that the attendance is required is served on the party by another party a reasonable time before the commencement of the trial.

(3) Where a deponent in respect of whom an order is made under subrule (1) or a notice is served under subrule (2) does not attend for examination, the Court may order that the affidavit be not received in evidence.

40.05 Evidence of particular facts

(1) The Court may order that evidence of a particular fact be given at the trial or at any stage of a proceeding, in such manner as it directs.

(2) Without limiting subrule (1), the Court may order that evidence of a particular fact be given:

(a) by statement on oath of information and belief;

(b) by the production of documents or entries in books; or

(c) by the production of copies of documents or entries in books.

40.06 Revocation or variation of order

The Court may, at or before the trial of a proceeding, revoke or vary an order made under rules 40.03 to 40.05 inclusive.

40.07 Deposition as evidence

(1) No deposition taken in a proceeding is admissible as evidence at the trial of the proceeding unless:

(a) the deposition was taken pursuant to an order under rule 41.01(1)(a) or (b);

(b) either the person against whom the evidence is offered consents or the deponent:

(i) is dead or is unfit by reason of his bodily or mental condition to attend the trial and testify as a witness;

(ii) is out of the Territory and it is not reasonably practicable to secure his attendance; or

(iii) cannot with reasonable diligence be found; and

(c) the party who applies to have the deposition received in evidence has given reasonable notice of the application to the other party.

(2) A deposition purporting to be signed by the person before whom it was taken is receivable in evidence without proof of the signature of the person.

(3) Unless the Court otherwise orders:

(a) evidence of facts within subrule (1)(b) may be given by affidavit; and

(b) the affidavit may be made from belief as to those facts, if the grounds for the belief are given.

40.08 Proof of Court documents

(1) A document purporting to be sealed with the seal of the Court is admissible in evidence without further proof.

(2) An office copy of a document filed in or issued out of the Court is admissible in evidence in a proceeding between all parties to the same extent as the original would be admissible.

(3) A document purporting to be sealed with the seal of the Court and to be a copy of a document filed in or issued out of the Court is admissible as an office copy of the latter document without further proof.

40.09 Evidence of consent

The consent of a person to act in a particular capacity, whether as trustee, receiver or otherwise, or to be added as a plaintiff is sufficiently evidenced by a written consent signed by him, dated and verified by the endorsed certificate of a solicitor.

40.10 Defamation

A defendant in a proceeding for defamation who has not by his defence alleged the truth of the statement complained of shall not, except by leave of the Court at the trial, give evidence in chief at the trial with respect to mitigation of damages, the circumstances of publication or the character of the plaintiff unless he gives particulars of the evidence to the plaintiff by notice served not later than 7 days before the trial.

40.11 Subsequent use of evidence at trial

The Court may order that evidence that has been taken at the trial of a proceeding may be used at a subsequent stage of the proceeding.

40.12 Attendance and production

(1) The Court may in a proceeding make an order for:

(a) the attendance of a person for the purpose of being examined;

(b) the attendance of a person and production by him of a document or thing specified or described in the order; or

(c) the production by a corporation of a document or thing specified or described in the order.

(2) An order under subrule (1) may be made for attendance before or production to the Court or an officer of the Court, examiner, special referee, arbitrator or other person authorized to take evidence.

(3) An order under subrule (1) shall not operate to require the person against whom the order is made to produce a document which he could properly object to produce on the ground of privilege.

40.13 View

The Court may inspect or, on a trial with a jury, may authorize the jury to inspect, a place, process or thing.

40.14 Preservation of exhibits

(1) The Court may make orders or give directions for the production, custody or disposal of an exhibit or other item tendered in evidence.

(2) The Court must keep a record of an order made or direction given under subrule (1).

(3) Subject to an order or direction under subrule (1), an exhibit or other item must be retained by the Registrar until:

(a) if an appeal is lodged – 6 months after the conclusion of the appeal; or

(b) if no appeal is lodged – 6 months after the appeal period expires.

(4) Subrule (3) does not apply to a document or thing to which rule 42.10 applies.

Order 41 Evidence by deposition

41.01 Order for witness examination

(1) The Court may, for the purposes of a proceeding, make an order for:

(a) the examination of a person before a Judge or an Associate Judge, or such other person as the Court appoints as examiner, at any place whether within or out of the Territory; or

(b) the sending of a letter of request to the judicial authorities of another country to take, or have the evidence of a person taken.

(2) An order under subrule (1)(a) shall be in Form 41A or 41B, as the case requires.

(3) An order under subrule (1)(b) shall be in Form 41C.

41.02 Documents for examiner

The party obtaining an order for examination under rule 41.01(1)(a) shall furnish the examiner with copies of such of the documents in the proceeding as are necessary to inform the examiner of the question in the proceeding to which the examination is to relate.

41.03 Appointment for examination

(1) The examiner shall appoint a place and time for the examination.

(2) The time appointed shall be as soon as practicable after the making of the order.

(3) The examiner shall give notice of an appointment under this rule to the party obtaining the order not later than 7 days before the time of the appointment and that party shall without delay serve notice of the appointment on each other party.

41.04 Conduct of examination

(1) The examiner shall permit each party and his legal practitioner to attend the examination.

(2) Unless the Court otherwise orders, the person examined shall be examined, cross-examined and re-examined in like manner as at trial.

(3) The examiner may put a question to the person examined as to the meaning of an answer given by that person or as to a matter arising in the course of the examination.

(4) The examiner may adjourn the examination from time to time and from place to place.

41.05 Examination of additional persons

(1) Where the examiner is a Judge or an Associate Judge, the examiner may, on the application of a party to the proceeding, take the examination of a person not named or described in the order for examination.

(2) Where the examiner is not a Judge or an Associate Judge, the examiner may, with the consent in writing of each party to the proceeding, take the examination of a person not named or described in the order for examination and, if the Associate Judge does so, the Associate Judge shall annex to the deposition of that person the consent of each of the parties.

41.06 Objection

Where a person being examined before an examiner, not being a Judge or an Associate Judge, objects to answer a question put to the person or to produce a document or thing, or objection is taken to any such question or production, the following provisions apply:

(a) where the objection is taken to a question:

(i) unless the question is objected to on the ground of privilege, the person being examined shall answer the question; and

(ii) the question, the ground for the objection and the answer, if any, shall be set out in the deposition;

(b) where the objection is taken to the production of a document or thing, the ground for the objection shall be set out in the deposition and, where the objection is to the production of a document, unless production is objected to on the ground of privilege, the document or a copy shall be attached to the deposition;

(c) the validity of the objection shall be decided by the Court; and

(d) if the Court disallows the objection, it may order that the costs occasioned by the objection be paid by the person being examined or the party taking the objection, or by both of them, as the case requires.

41.07 Taking of depositions

(1) The deposition of a person examined before an examiner shall be:

(a) taken down by the examiner;

(b) taken down by a shorthand writer or some other person in the presence of the examiner; or

(c) recorded by mechanical means in the presence of the examiner, if the place for the examination is equipped with sound recording apparatus that is operative at the commencement of the examination, and the examiner ensures that a transcript of the record of depositions is prepared.

(2) Subject to subrule (3) and rule 41.06(a), the deposition need not set out every question and answer if it contains as nearly as may be the statement of the person examined.

(3) The examiner may direct that the words of a question and the answer to the question be set out in the deposition.

41.08 Authentication and filing

(1) Except where the deposition is taken down by a shorthand writer or is recorded by mechanical means, the examiner shall, if a party so requests, ask the person examined to sign the person's deposition.

(2) The examiner shall authenticate and sign the deposition.

(3) The examiner shall endorse on the deposition a statement signed by the examiner of the time occupied in taking the examination and the fees received by the examiner in respect of the examination.

(4) The examiner shall send the deposition to a Registrar and the Registrar shall file it in the proceeding.

(5) The examiner shall, unless the Court otherwise orders, send all exhibits to the Registrar and the Registrar shall deal with them as the Court directs.

(6) Subrules (3), (4) and (5) do not apply where the examiner is a Judge or an Associate Judge.

41.09 Report of examiner

(1) The examiner may make to the Court a report on the examination before him or with regard to the absence of a person from the examination.

(2) The Court may direct such proceedings to be taken, or make such order, on the report as it thinks fit.

41.10 Default of witness

(1) Where a person has been required by subpoena to attend before an examiner not being a Judge or an Associate Judge and the person fails or refuses to attend or the person refuses to take an oath for the purposes of the examination or to answer a lawful question or to produce a document or thing or to sign the person's deposition if requested under rule 48.08(1), the examiner shall, at the request of a party, give to the party a certificate, signed by the examiner, of the failure or refusal.

(2) On the filing of the certificate the Court may order the person:

(a) to attend before the examiner or to take an oath or to answer the question or to produce the document or thing, as the case may be; and

(b) to pay the costs occasioned by the person's failure or refusal.

(3) An application for an order under subrule (2) shall be made with notice to the person against whom the order is sought, unless the Court otherwise orders.

41.11 Witness allowance

A person required to attend before an examiner shall be entitled to payment for expenses and loss of time as on attendance at trial.

41.12 Perpetuation of testimony

(1) A witness shall not be examined to perpetuate testimony unless a proceeding has been commenced for that purpose.

(2) A person who would, in the circumstances alleged by him to exist, become entitled, on the happening of a future event, to a property the right or claim to which cannot be brought to trial by him before the happening of the future event, may commence a proceeding to perpetuate a testimony which may be material for establishing the right or claim.

(3) A proceeding to perpetuate the testimony of a witness shall not be set down for trial.

41.13 Letter of request

(1) Where an order is made under rule 41.01(1)(b) for the sending of a letter of request, the party obtaining the order (in this Order called ***the applicant***) shall, when the letter of request has been signed:

(a) lodge with a Registrar:

(i) the letter of request;

(ii) all interrogatories and cross-interrogatories to accompany the letter of request; and

(iii) a translation of each of the documents mentioned in this paragraph in accordance with rule 41.14, unless an Associate Judge has given a general direction in relation to the place to whose judicial authorities the letter of request is to be sent that no translation need be provided or the official language or one of the official languages of that place is English;

(b) file:

(i) a copy of each of the documents mentioned in paragraph (a); and

(ii) an undertaking in accordance with rule 41.15; and

(c) unless the Court otherwise orders, serve a copy of each of the documents mentioned in paragraph (a) on all other parties.

(2) A letter of request shall be in Form 41D.

41.14 Translation

A translation of a document lodged under rule 41.13 shall:

(a) be a translation into an official language of the country to whose judicial authorities the letter of request is to be sent; and

(b) bear a certificate of the translator, in that language, stating that it is an accurate translation of the document.

41.15 Undertaking

(1) An undertaking filed under rule 41.13 shall consist of an undertaking by the solicitor for the applicant or, where there is no solicitor, by the applicant, to pay to a Registrar an amount equal to the expenses incurred in consequence of the letter of request.

(2) A Registrar may require the applicant or his solicitor to give security to the Registrar's satisfaction for the expenses referred to in subrule (1).

41.16 Order for payment of expenses

Where a person has given an undertaking in accordance with rule 41.13 and 41.15 and does not, within 14 days after service on him of an account of expenses incurred in consequence of the letter of request, pay to the Registrar the amount of the expenses, the Court may, on application by the Registrar:

(a) order the applicant or his solicitor (where the undertaking was given by the solicitor), or both of them, to pay the amount of the expenses to the Registrar; and

(b) where:

(i) the applicant is a plaintiff, stay the proceeding until payment so far as concerns the whole or a part of a claim for relief by the applicant; and

(ii) the applicant is defendant, make such order as it thinks fit, including an order that, until payment, the defendant be taken not to have filed an appearance or be not permitted to use in evidence a deposition of a witness obtained pursuant to the letter of request.

Order 42 Subpoenas

42.01 Interpretation

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

addressee means the person who is the subject of the order expressed in a subpoena.

issuing officer means an officer empowered to issue a subpoena on behalf of the Court.

issuing party means the party at whose request a subpoena is issued.

subpoena means an order in writing requiring the addressee.

(a) to attend to give evidence; or

(b) to produce the subpoena or a copy of it and a document or thing; or

(c) to do both of those things.

(2) To the extent that a subpoena requires the addressee to attend to give evidence, it is called a subpoena to attend to give evidence.

(3) To the extent that a subpoena requires the addressee to produce the subpoena or a copy of it and a document or thing, it is called a subpoena to produce.

42.02 Issuing of subpoena

(1) The Court may, in any proceeding, by subpoena order the addressee:

(a) to attend to give evidence as directed by the subpoena; or

(b) to produce the subpoena or a copy of it and any document or thing as directed by the subpoena; or

(c) to do both of those things.

(2) An issuing officer must not issue a subpoena:

(a) if the Court has made an order, or there is a rule of the Court, having the effect of requiring that the proposed subpoena:

(i) not be issued; or

(ii) not be issued without the leave of the Court and that leave has not been given; or

(b) requiring the production of a document or thing in the custody of the Court or another court.

(3) The issuing officer must seal with the seal of the Court, or otherwise authenticate, a sufficient number of copies of the subpoena for service and proof of service.

(4) A subpoena is taken to have been issued on its being sealed or otherwise authenticated in accordance with subrule (3).

42.03 Form of subpoena

(1) A subpoena must be in accordance with Form 42A.

(2) A subpoena must not be addressed to more than one person.

(3) Unless the Court otherwise orders, a subpoena must identify the addressee by name or by description of office or position.

(4) A subpoena to produce must:

(a) identify the document or thing to be produced; and

(b) specify the date, time and place for production.

(5) A subpoena to attend to give evidence must specify the date, time and place for attendance.

(6) The date specified in a subpoena must be the date of trial or any other date as permitted by the Court.

(7) The place specified for production may be the Court or the address of any person authorised to take evidence in the proceeding as permitted by the Court.

(8) The last date for service of a subpoena:

(a) is the date falling 5 days before the earliest date on which an addressee is required to comply with the subpoena or an earlier or later date fixed by the Court; and

(b) must be specified in the subpoena.

(9) If the addressee is a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

42.03A Alteration of date or time for attendance or production

(1) The issuing party for a subpoena may give notice to the addressee of a date or time later than the date or time specified in the subpoena as the date or time for attendance, production or both.

(2) If notice of a later date or time is given to the addressee, the subpoena has effect as if the later date or time were specified in the subpoena.

42.04 Setting aside or other relief

(1) The Court may, on the application of a party or any person having a sufficient interest, set aside a subpoena in whole or in part or grant other relief in respect of it.

(2) An application under subrule (1) must be made on notice to the issuing party.

(3) The Court may order that the applicant give notice of the application to any other party or to any other person having a sufficient interest.

42.05 Service

(1) A subpoena must be served personally on the addressee.

(1A) The issuing party must attach to the front of a subpoena to produce to be served on the addressee a notice and declaration in accordance with Form 42B.

(2) The issuing party must serve a copy of a subpoena to produce on each other party as soon as practicable after the subpoena has been served on the addressee.

42.06 Compliance with subpoena

(1) An addressee need not comply with the requirements of a subpoena to attend to give evidence unless the person has been provided with a reasonable sum of money for his or her costs, as mentioned in section 194(1)(c) of the *Evidence (National Uniform Legislation) Act 2011*.

(2) An addressee need not comply with the requirements of a subpoena unless it is served on or before the date specified in the subpoena as the last date for service of the subpoena.

(3) Despite rule 42.05(1), an addressee must comply with the requirements of a subpoena even if it has not been served personally on that addressee if the addressee has, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

(4) The addressee of a subpoena to produce must comply with the subpoena:

(a) by attending at the date, time and place specified for production or, if the addressee has received notice of a later date or time from the issuing party, at the later date or time, and producing the subpoena or a copy of it and the document or thing to the Court or to the person authorised to take evidence in the proceeding as permitted by the Court; or

(b) by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified for the purpose in the subpoena, so they are received not less than 2 clear days before the date specified in the subpoena for

attendance and production or, if the addressee has received notice of a later date from the issuing party, before the later date.

(4A) The addressee must also complete the notice and declaration mentioned in rule 42.05(1A) and attach it to the subpoena or copy of the subpoena that accompanies the document or thing produced to the Court under the subpoena.

(4B) Unless a subpoena to produce specifically requires production of the original, the addressee may produce a copy of any document required to be produced by the subpoena.

(4C) A copy of a document may be:

(a) a photocopy; or

(b) a PDF file on a CD-ROM.

(5) If a subpoena is both a subpoena to attend to give evidence and a subpoena to produce, production of the subpoena or a copy of it and of the document or thing in any of the ways permitted by subrule (4) does not discharge the addressee from the obligation to attend to give evidence.

42.07 Production otherwise than upon attendance

(1) This rule applies if an addressee produces a document or thing in accordance with rule 42.06(4)(b).

(2) The Registrar must, if requested by the addressee, give a receipt for the document or thing to the addressee.

(3) If the addressee produces more than one document or thing, the addressee must, if requested by the Registrar, provide a list of the documents or things produced.

42.08 Removal, return, inspection, copying and disposal of documents and things

The Court may give directions in relation to the removal from and return to the Court, and the inspection, copying and disposal, of any document or thing that has been produced to the Court in response to a subpoena.

42.09 Inspection of, and dealing with, documents and things produced otherwise than on attendance

(1) This rule applies if an addressee produces a document or thing in accordance with rule 42.06(4)(b).

(2) On the request in writing of a party, the Registrar must inform the party whether production in response to a subpoena has occurred, and, if so, include a description, in general terms, of the documents and things produced.

(3) Subject to this rule, no person may inspect a document or thing produced unless the Court has granted leave and the inspection is in accordance with that leave.

(4) Unless the Court otherwise orders, the Registrar may permit the parties to inspect at the Registry any document or thing produced unless the addressee, a party or any person having sufficient interest objects to the inspection under this rule.

(5) If the addressee objects to a document or thing being inspected by any party to the proceeding, the addressee must, at the time of production, notify the Registrar in writing of the objection and of the grounds of the objection.

(6) If a party or person having a sufficient interest objects to a document or thing being inspected by a party to the proceeding, the objector may notify the Registrar in writing of the objection and of the grounds of the objection.

(7) On receiving notice of an objection under this rule, the Registrar:

(a) must not permit any, or any further, inspection of the document or thing the subject of the objection; and

(b) must refer the objection to the Court for hearing and determination.

(8) The Registrar must notify the issuing party of the objection and of the date, time and place at which the objection will be heard, and the issuing party must notify the addressee, the objector and each other party accordingly.

(9) The Registrar must not permit any document or thing produced to be removed from the Registry except on application in writing signed by the solicitor for a party.

(10) A solicitor who signs an application under subrule (9), and removes a document or thing from the Registry, undertakes to the Court by force of this rule that:

(a) the document or thing will be kept in the personal custody of the solicitor or a barrister briefed by the solicitor in the proceeding; and

(b) the document or thing will be returned to the Registry in the same condition, order and packaging in which it was removed, as and when directed by the Registrar.

(11) The Registrar may, in the Registrar's discretion, grant an application under subrule (9) subject to conditions or refuse to grant the application.

42.10 Disposal of documents and things produced

(1) Unless the Court otherwise orders, the Registrar may, in the Registrar's discretion, return to the addressee any document or thing produced in response to the subpoena.

(2) Unless the Court otherwise orders, the Registrar must not return any document or thing under subrule (1) unless the Registrar has given to the issuing party at least 14 days notice of the intention to do so and that period has expired.

(3) Subject to subrule (4), the Registrar may, 4 months after the conclusion of the proceeding, destroy all documents that were:

(a) produced in the proceeding in compliance with a subpoena; and

(b) declared by the addressee under rule 42.06(4A) to be copies.

(4) The Registrar may, when they are no longer required in connection with the proceeding, including on any appeal, destroy those documents that:

(a) have become exhibits in the proceeding; and

(b) were declared by the addressee under rule 42.06(4A) to be copies.

42.11 Costs and expenses of compliance

(1) The Court may order the issuing party to pay the amount of any reasonable loss or expense incurred in complying with the subpoena.

(2) If an order is made under subrule (1), the Court must fix the amount or direct that it be fixed in accordance with the Court's usual procedure in relation to costs.

(3) An amount fixed under this rule is in addition to:

(a) an amount payable for costs as mentioned in section 194(1)(c) of the *Evidence (National Uniform Legislation) Act 2011*; and

(b) any witness expenses payable to the addressee.

42.12 Failure to comply with subpoena – contempt of court

(1) Failure to comply with a subpoena without lawful excuse is a contempt of court and the addressee may be dealt with accordingly.

(2) Despite rule 42.05(1), if a subpoena has not been served personally on the addressee, the addressee may be dealt with for contempt of court as if the addressee had been so served if it is proved that the addressee had, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

(3) Subrules (1) and (2) are without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

42.13 Documents and things in the custody of a court

(1) A party who seeks production of a document or thing in the custody of the Court or of another court may inform the Registrar in writing accordingly, identifying the document or thing.

(2) If the document or thing is in the custody of the Court, the Registrar must produce the document or thing:

(a) in Court or to any person authorised to take evidence in the proceeding, as required by the party; or

(b) as the Court directs.

(3) If the document or thing is in the custody of another court, the Registrar must, unless the Court has otherwise ordered:

(a) request the other court to send the document or thing to the Registrar; and

(b) after receiving it, produce the document or thing:

(i) in Court or to any person authorised to take evidence in the proceeding as required by the party; or

(ii) as the Court directs.

Order 43 Affidavits

43.01 Form of affidavit

(1) An affidavit shall be made 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 that 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 the deponent's 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.

(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 on which the affidavit is made.

(8) An affidavit shall on the outside identify the party on whose behalf it is filed and state the name of the deponent and the date on which the affidavit is made.

Note for rule 43.01

An affidavit must also comply with the requirements of the Part 3 of the Oaths, Affidavits and Declarations Act 2010.

43.02 Affidavit by illiterate or blind person

(1) Where it appears to the person witnessing an affidavit that the deponent is illiterate or blind, he shall certify in or below the jurat that:

(a) the affidavit was read in his presence to the deponent; and

(b) the deponent seemed to him perfectly to understand it; and

(c) the deponent made his signature or mark in the person's presence.

(2) Where an affidavit is made by an illiterate or blind deponent and a certificate in accordance with subrule (1) does not appear on the affidavit, it may not be used in evidence unless the Court is satisfied that the affidavit was read to the deponent and that he seemed

perfectly to understand it.

43.03 Content of affidavit

(1) Except where otherwise provided by or under this Chapter, an affidavit shall be confined to facts which the deponent is able to state of his own knowledge.

(2) On an interlocutory application an affidavit may contain a statement of fact based on information and belief if the grounds are set out.

43.04 Affidavit by 2 or more deponents

Where an affidavit is made by 2 or more deponents, the names of the persons making the affidavit shall be inserted in the jurat, except that, if the affidavit is made by both or all the deponents at one time and is witnessed by the same person, it shall be sufficient to state that it was made by "each of the abovenamed" deponents.

43.05 Alterations

(1) Notwithstanding an interlineation, erasure or other alteration in the jurat or body, an affidavit:

(a) may be filed, unless the Court otherwise orders; but

(b) may not be used without the leave of the Court unless the person who witnessed the affidavit has initialled the alteration.

(2) Subrule (1) also applies to an account verified by affidavit as if the account were part of the affidavit.

43.06 Annexures and exhibits

(1) A document to be used in conjunction with an affidavit shall, where convenient, be annexed to the affidavit.

(2) Where annexure is inconvenient, the document may be made an exhibit to the affidavit.

(3) Instead of making a document an annexure or an exhibit to an affidavit, the relevant portion of the document may be included in the body of the affidavit and the party filing the affidavit shall in that case produce the document whenever the affidavit is used.

(4) An annexure or exhibit to an affidavit shall be identified by a separate certificate annexed to it bearing the same title as the affidavit and signed by the person witnessing the affidavit.

43.07 Time for making affidavit

By leave of the Court an affidavit may be used in a proceeding notwithstanding that it was made before the commencement of the proceeding.

43.08 Irregularity

Notwithstanding an irregularity in form, an affidavit may be used in evidence.

43.09 Filing

(1) Unless the Court otherwise orders, an affidavit which has not been:

(a) filed; or

(b) served or filed in compliance with an order in respect of its service or filing,

shall not be used by the party by or on whose behalf it was made.

(2) An affidavit may be filed with the Registry or with the proper officer in court.

43.10 Affidavit witnessed by party

(1) An affidavit witnessed by 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.

(2) Subrule (1) does not apply where the Crown is the party on whose behalf the affidavit is to be used and the affidavit is witnessed by an employee of the Crown.

Order 44 Expert evidence

44.01 Definition

(1) In this Order, unless the contrary intention appears, ***a proceeding commenced by writ*** includes:

(a) a proceeding in respect of which an order has been made under rule 4.07;

(b) a trial or inquiry under Order 50; and

(c) an assessment of damages or value under Order 51.

(2) In this Order ***evidence*** means the substance of all of the material evidence to be given by the expert witness in evidence in chief if called as a witness for a party, including, where applicable, the facts, assumptions and reasoning on which the evidence to be given is based and any reports, works, learned writings or other information on which the expert witness has relied or intends to rely for the expression of his opinion.

44.02 Application

(1) Subject to subrule (2), this Order applies to a proceeding commenced by writ.

(2) In a proceeding in which the plaintiff claims damages for bodily injury, the evidence of a person as an expert witness, if not subject to Order 33, is subject to this Order.

(3) However, rule 44.05 applies in relation to the evidence of expert witnesses given in a proceeding mentioned in subrule (2) regardless of whether the evidence is also subject to Order 33.

44.03 Service of statement of expert evidence

(1) A party who intends at a trial to adduce the evidence of a person as an expert witness shall:

(a) not later than the time fixed by a Judge, an Associate Judge or a Registrar at a listing hearing or directions hearing held under Order 48; or

(b) where no such time is fixed:

(i) 6 weeks before the day fixed for the trial; or

(ii) before a directions hearing under rule 48.34 to ensure that a proceeding is ready to proceed to trial,

whichever is the earlier,

serve on every other party a statement in accordance with subrule (2).

(2) The statement shall:

(a) give the name and address of the witness;

(b) describe the witness' qualifications to give evidence as an expert; and

(c) be a statement of such of the evidence as it is proposed to adduce from the witness as an expert.

(2A) In a proceeding in which the plaintiff claims damages in respect of death resulting from medical or the like treatment or advice given in respect of a physical or mental condition of the deceased, then, unless the Court otherwise orders, a party who is required to serve a statement under subrule (1) may exclude from the statement:

(a) any expression of opinion on the question of liability; and

(b) any statement in respect of a fact on which the opinion is based and which relates only to the question of liability.

(3) Except with the leave of the Court or by consent of the parties, a party shall not, except in cross-examination, adduce at the trial of a proceeding evidence from a witness as an expert unless the evidence of the witness is contained in a statement served under this Order by the party.

44.04 Making statement of other party evidence

A party may put in evidence a statement served on him by another party in accordance with rule 44.03.

44.05 Expert witnesses giving evidence on same or similar question

(1) This rule applies if 2 or more parties to a proceeding call, or intend to call, expert witnesses to give evidence about the same, or a similar, question.

(2) The Court may direct:

(a) that the expert witnesses confer; or

(b) that the expert witnesses produce for use by the Court a document identifying:

(i) the matters and issues about which their opinions are in agreement; and

(ii) the matters and issues about which their opinions differ; or

(c) that:

(i) the expert witnesses give evidence at trial after all or certain factual evidence relevant to the question has been led; and

(ii) each party intending to call 1 or more expert witnesses close that party's case in relation to the question, subject only to adducing the evidence of the expert witnesses later in the trial; or

(d) that, after all or certain factual evidence has been led, each expert witness file and serve an affidavit or statement indicating:

(i) whether the expert witness adheres to any opinion earlier given; or

(ii) whether, in the light of factual evidence led at trial, the expert witness wishes to modify any opinion earlier given; or

(e) that:

(i) each expert witness take the oath as a witness one immediately after another; and

(ii) when giving evidence, an expert witness occupy a position in the courtroom (not necessarily in the witness box) that is appropriate to the giving of evidence; or

(f) that each expert witness give an oral exposition of his or her opinion, or opinions, on the question; or

(g) that each expert witness give his or her opinion about the opinion, or opinions, given by another expert witness; or

(h) that the expert witnesses be cross-examined in a certain manner or sequence; or

(i) that cross-examination or re-examination of the expert witnesses be conducted:

(i) by completing the cross-examination or re-examination of an expert witness before starting the cross-examination or re-examination of another; or

(ii) by putting to each expert witness, in turn, each question relevant to 1 subject or issue at a time, until the cross-examination or re-examination of all the witnesses is completed.

Order 45 Originating motion

45.01 Definition

In this Order ***proceeding*** means proceeding commenced by originating motion.

45.02 Evidence by affidavit

(1) Except where otherwise provided by an Act or this Chapter, and subject to subrule (2), evidence at the trial of a proceeding shall be given by affidavit.

(2) By agreement of the parties or by order of the Court, evidence at the trial of the proceeding may be given orally.

45.03 Judgment where no appearance

(1) Where a defendant fails to file an appearance within the time limited, the Court may, on application made by the plaintiff without notice to the defendant, and on proof of service of the originating motion and of the failure, give judgment against the defendant for the relief or remedy sought in the originating motion.

(2) For the purpose of this Chapter, the hearing of the application is the trial of the proceeding.

(3) Except for the purpose of proof of service of the originating motion and where the defendant has failed to appear, the plaintiff shall not, unless the Court otherwise orders, use in evidence on the application an affidavit made by him or on his behalf and not served on the defendant with the originating motion.

45.04 Proceedings after appearance

(1) Where a defendant has filed an appearance, no judgment shall be given for the relief or remedy sought except on application by the plaintiff in accordance with this rule.

(2) Except as provided in subrule (3), an application shall be made to the Court by summons in Form 45A served on the defendant.

(3) In a proceeding commenced by originating motion under Order 53 the plaintiff may apply for judgment on the day specified in the originating motion for application to the Court.

(4) On an application under subrule (2) or (3) an Associate Judge may, as appropriate:

(a) hear and determine the application if it lies within his authority under Order 77;

(b) by consent of the defendant, give the judgment;

(c) refer the application to a Judge for hearing and determination; or

(d) place the proceeding in the list of cases for trial and give directions for the filing and service of affidavits or otherwise.

45.05 Special procedure

(1) In this rule ***plaintiff*** includes a person who proposes to commence a proceeding by originating motion.

(2) The Court may, by order:

(a) dispense with the requirements of rules 5.03(1) and 8.02; and

(b) authorise the plaintiff to commence a proceeding by originating motion in Form 5C.

(3) Without limiting subrule (2), an order may be made:

(a) in an urgent case; or

(b) to save time and expense for the parties; or

(c) where the defendant consents.

(4) An order may be made on application by the plaintiff before or after the proceeding is commenced and, except where the originating motion has been served on the defendant, application may be made without notice to the defendant.

(5) An application made before the proceeding is commenced shall not constitute a proceeding for the purpose of this Chapter with respect to originating process.

(6) Where an order has been made under subrule (2), judgment shall not be given for the plaintiff for the relief or remedy sought in the originating motion or otherwise, except on application made to the Court in accordance with Form 45A.

(7) On application to the Court under subrule (6), if the application is heard before an Associate Judge, the Associate Judge may, as appropriate:

(a) where the Associate Judge has authority to give the judgment sought by the plaintiff, hear and determine the application; or

(b) by consent of the defendant, give the judgment; or

(c) refer the application to a Judge for hearing and determination; or

(d) place the proceeding in the list of cases for trial and give directions for the filing and service of affidavits or otherwise.

Order 46 Applications

46.01 Application

This Order applies to an interlocutory or other application in a proceeding.

46.02 Application by summons

(1) An application made on notice to a person shall be by summons, unless the Court otherwise orders.

(2) An application made before the proceeding is commenced does not constitute a proceeding for the purpose of a requirement of this Chapter with respect to an originating process.

(3) An application not by summons is made when it comes on for hearing.

46.03 Notice of application

On the hearing of an application the Court may order that the person making it give notice of it to a person having a sufficient interest.

46.04 Form and filing of summons

(1) A summons shall be in Form 46A.

(2) A summons shall state:

(a) the Order and rule; or

(b) such other legislative enactment,

by virtue of which the application is made.

(3) A summons shall be filed in the Registry in which the originating process was filed whether the application is made to a Judge, an Associate Judge or a Taxing Master for costs to be taxed.

(4) On the filing of a summons, or at a later time on the request of the applicant, a sufficient number of copies of the summons for service and proof of service shall be sealed with the seal of the Court.

(5) The copies shall be sealed by a Registrar or other proper officer in the Registry.

46.05 Service

(1) The applicant shall serve a sealed copy of a summons and, except where these Rules otherwise provide, a copy of an affidavit in support on every person to whom notice of the application is to be given.

(2) Service under subrule (1) shall be made within a reasonable time before the day for hearing named in the summons and in no case later than 2.00 p.m. on the previous day or, where the Registry was closed on the day before the day for hearing, not later than 2.00 p.m. on the day the office was last open.

(3) A plaintiff may serve a summons on a defendant personally before appearance.

(4) The Court may dispense with compliance with this rule.

46.05.1 Day for hearing

(1) A summons which has not been served may, at the request of the party who filed it, be amended on or before the day for hearing named in the summons to name another day.

(2) The summons may be amended:

(a) if the summons is to be heard by the Court constituted by a Judge:

(i) by an Associate Judge; or

(ii) by a Judge's Associate; or

(b) if the summons is to be heard by the Court constituted by an Associate Judge:

(i) by a Registrar; or

(ii) by the Associate Judge's Secretary.

(3) A summons shall not be amended under this rule more than once.

(4) This rule does not limit the power of the Court under rule 36.01.

46.06 Adjournment

(1) The Court may adjourn the hearing of an application on such terms as it thinks fit.

(2) The Associate of the Judge or, where an application is to be heard by an Associate Judge, a Registrar or the Associate Judge's secretary, may by consent adjourn the hearing of an application to a particular date or for a particular time or generally, and shall record the adjournment by endorsement on the court file.

(3) An adjournment in pursuance of subrule (2) shall be granted no later than 3pm on the day before the day for hearing named in the summons or, where the Registry was closed on the day before the day for hearing, no later than 3 pm on the day on which the office was last open.

(4) On a hearing adjourned under subrule (2) the Court may make such order for the costs of or occasioned by the adjournment as it thinks fit.

46.07 Absence of party to summons

(1) Where a person to whom a summons is addressed fails to attend, the Court may hear the application if satisfied that the summons was duly served.

(2) Where on an application by summons the applicant fails to attend, the Court may dismiss the application or make such other order as it thinks fit.

46.08 Setting aside

The Court may set aside or vary an order which affects a person where the application for the order:

(a) was made on notice to the person, but he did not attend the hearing of the application; or

(b) was not made on notice to the person.

Order 47 Place and mode of trial

47.01 Place of trial

Unless the Court otherwise orders, the place of trial of a proceeding shall be determined in accordance with rule 5.08.

47.02 Mode of trial

(1) All proceedings shall be tried without a jury, unless the Court orders otherwise in accordance with section 7 of the *Juries Act 1962*.

(2) Trial with a jury shall be with a jury of 4.

47.03 Jury procedure

The Court may, if it thinks fit, order that a proceeding or a question of fact in a proceeding be tried by the Court with a jury pursuant to the *Juries Act 1962*.

47.04 Separate trial of question

The Court may order that:

(a) a question in a proceeding be tried before, at or after the trial of the proceeding and may state the question or give directions as to the manner in which it shall be stated; and

(b) different questions be tried at different times or places or by different modes of trial.

47.05 Judgment after determination of preliminary question

If the determination of a question in a proceeding and tried separately from the proceeding substantially disposes of the proceeding or renders the trial of the proceeding unnecessary, the Court may dismiss the proceeding or make such other order, or give such judgment, as it thinks fit.

Order 48 Case flow management and setting down for trial

Part 1 Preliminary

48.01 Definitions

In this Order, unless the contrary intention appears:

Associate Judge includes the Registrar.

directions hearing means a directions hearing under Part 2 and, in relation to a proceeding, includes:

(a) the initial directions hearing and each further directions hearing (if any) in the proceeding; and

(b) if a directions hearing referred to in paragraph (a) is adjourned – the adjourned directions hearing.

hearing time, in relation to a proceeding, means the time taken for the trial of the proceeding.

listing hearing means a directions hearing at which a proceeding is ordered to be listed for trial under rule 48.17.

mediation means a mediation under rule 48.13 and, in relation to a proceeding, includes:

(a) each mediation (if any) in the proceeding; and

(b) if a mediation referred to in paragraph (a) is adjourned – the adjourned mediation.

mediator, in relation to a mediation, means the mediator or mediators before whom the mediation is or is to be held under rule 48.13.

settlement means:

(a) a final disposition by agreement between the parties to a proceeding of all the issues in the proceeding; or

(b) a resolution by agreement between the parties to a proceeding of those issues in the proceeding that will or are likely to reduce the hearing time of the proceeding,

whether or not the agreement is subject to a contingency.

settlement conference means a settlement conference under rule 48.12 and, in relation to a proceeding, includes:

(a) each settlement conference (if any) in the proceeding; and

(b) if a settlement conference is adjourned – the adjourned settlement conference.

trial Judge, in relation to a proceeding, means the Judge allocated the trial of the proceeding.

trial list means a list kept under rule 48.20 of proceedings that have been ordered under rule 48.17 to be listed for trial.

48.02 Application

(1) This Order applies to:

(a) all proceedings in the Court commenced by writ; and

(b) all proceedings in respect of which an order has been made under rule 4.07.

(2) Where in a proceeding commenced by originating motion:

(a) it is proposed to call oral evidence under rule 45.02(2); or

(b) for any other reason that appears desirable,

a Judge or an Associate Judge may order that this Order applies to the proceeding.

48.03 Directions by Registrar

Where:

(a) a directions hearing is convened by or held before the Registrar; and

(b) the Registrar gives a direction for the conduct of the proceeding in accordance with this Order,

Order 34 applies (with the necessary changes) to that direction.

Part 2 Case flow management

48.04 Convening initial directions hearing

(1) Where no appearance has been entered to an originating proceeding, within 2 months after the originating process was filed, an Associate Judge must:

(a) fix a time, date and place for the holding of an initial directions hearing; or

(b) hold an initial directions hearing.

(2) Where an appearance has been entered to an originating proceeding, within 21 days after the appearance was filed, an Associate Judge must:

(a) fix a time, date and place for the holding of an initial directions hearing; or

(b) hold an initial directions hearing.

(3) An Associate Judge may hold an initial directions hearing under subrule (1) or (2) by telephone without notice of the hearing to a party.

48.05 Notice of initial directions hearing

(1) Subject to rule 48.04(3), an Associate Judge must give each party at least 2 days notice of the initial directions hearing in a proceeding.

(2) A notice under subrule (1) may be given to a party:

(a) by sending it by pre-paid post to the party's address for service; or

(b) where the party appears by a solicitor – in accordance with rule 6.06(1)(d).

(3) The Associate Judge must file a copy of the notice given under subrule (1).

(4) The copy of the notice filed in accordance with subrule (3) is to be endorsed with the date the notice was given and is to be signed by the Associate Judge.

(5) A copy of a notice duly filed, endorsed and signed in accordance with this rule is, for the purposes of this Part, evidence that the notice was given.

48.06 Categorising proceedings

(1) The purposes of the initial directions hearing include the following:

(a) to determine whether the proceeding is still current or has been settled or is to be discontinued;

(b) if the originating process has not been served – to make appropriate orders (if necessary) to enable or require (whether or not the plaintiff consents) prompt service of the originating process to take place;

(c) if the originating process has been served but no appearance has been entered – to facilitate (where appropriate) the entry of an interlocutory or final judgment in the proceeding in accordance with these Rules;

(d) if the originating process has been served and an appearance has been entered:

(i) to determine which of the categories specified in subrule (2) it is appropriate to designate the proceedings; and

(ii) to consider and, as necessary, make orders in accordance subrules (4) and (5).

(2) At the initial directions hearing, an Associate Judge must designate the proceeding to be in one of the following categories:

(a) if the hearing time is likely to be 1 to 2 days – Category A;

(b) if the proceeding is an ordinary matter requiring the supervision of an Associate Judge – Category B;

(c) if the proceeding is a complex matter requiring the supervision of a Judge – Category C;

(d) if the proceeding is an urgent matter requiring the supervision of a Judge – Category D;

(e) if the proceeding involves local witnesses only or no witnesses and, when ready for trial, is likely to be capable of being brought on for trial on less than 2 days' notice – Category E.

(3) The category to which a proceeding belongs may be altered by a Judge or an Associate Judge if there is a good reason for doing so.

(4) At the initial directions hearing, the Associate Judge must:

(a) consider whether it is appropriate to refer the matter to mediation in accordance with this Order and, if so, make the appropriate orders;

(b) consider whether it is appropriate to refer the matter to a settlement conference in accordance with this Order and, if so, make the appropriate orders; and

(c) if it is appropriate, fix a target date by which the matter is to be ready for trial and fix a timetable for the completion of all interlocutory steps so that the matter will be ready for trial by that date.

(5) At the initial directions hearing, the Associate Judge may:

(a) make the orders and give the directions under these Rules the Associate Judge thinks fit;

(b) refer the making of an order or the giving of a direction to a Judge;

(c) adjourn the initial direction hearing and fix a time, date and place for the adjourned hearing; or

(d) convene a further directions hearing and fix a time, date and place for the further hearing.

48.07 Category C and D proceedings

(1) If at a directions hearing a proceeding is designated as a Category C or D proceeding, the Associate Judge must refer the proceeding to the Chief Justice who must then allocate it to a Judge.

(2) A Judge to whom a proceeding is allocated by the Chief Justice under subrule (1) has charge of the proceeding and must make the orders and give the directions the Judge thinks fit for the proceeding to be promptly, completely, effectively and economically determined.

(3) For the purpose of achieving the objectives specified in subrule (2), a Judge may do one or more of the following:

(a) make the orders and give the directions under these Rules the Judge thinks fit;

(b) convene the directions hearings the Judge thinks fit;

(c) adjourn a directions hearing convened under paragraph (b) and fix a time, date and place for the adjourned hearing.

48.08 Category A, B and E proceedings

(1) The Associate Judge has charge of all proceedings designated as Category A, B or E proceedings and must make the orders and give the directions the Associate Judge thinks fit for the proceeding to be promptly, completely, effectively and economically determined.

(2) For the purpose of achieving the objectives specified in subrule (1), the Associate Judge may do one or more of the following:

(a) make the orders and give the directions under these Rules the Associate Judge thinks fit;

(b) refer the proceeding to a Judge for the making of the orders or the giving of the directions the Judge thinks fit;

(c) convene the further directions hearings the Associate Judge thinks fit;

(d) adjourn a directions hearing convened under paragraph (c) and fix a time, date and place for the adjourned hearing.

(3) A Judge may exercise the powers of the Associate Judge conferred by this rule as the Judge thinks fit.

48.09 Notice of adjourned or further directions hearings

(1) A Judge must give each party notice of the first directions hearing convened by the Judge in a proceeding under rule 48.07(3)(b) and rule 48.05 applies (with the necessary changes) accordingly.

(2) Where a party attended a directions hearing at which a Judge or an Associate Judge:

(a) adjourned the directions hearing or convened a further directions hearing; and

(b) fixed a time, date and place for the adjourned or further hearing;

the party is taken to have been given notice of that time, date and place.

(3) Where a party did not attend a directions hearing at which a Judge or an Associate Judge:

(a) adjourned the directions hearing or convened a further directions hearing; and

(b) fixed a time, date and place for the adjourned or further hearing;

the Judge or Associate Judge must give the party notice of the adjourned or further hearing and rule 48.05 applies (with the necessary changes) accordingly.

48.10 Party to attend directions hearing

A party must attend a directions hearing of which the party has had notice in accordance with rule 48.05 or 48.09 in person or by counsel or the party's solicitor.

48.11 Non-attendance at directions hearing

(1) If a party fails to attend a directions hearing of which notice has been duly given, a Judge or an Associate Judge may do one or both of the following:

(a) make the orders the Judge or Associate Judge considers appropriate for the expeditious hearing of the matter;

(b) give the party who failed to attend notice of a time, date and place when the party is to attend before the Judge or Associate Judge and show cause why:

(i) if the party is a plaintiff – the party's claim should not be dismissed for want of prosecution; or

(ii) if the party is a defendant – the party's appearance, defence or counterclaim should not be struck out.

(2) At the time, date and place specified in the notice under subrule (1)(b) or at an adjourned time, date and place, the Judge or Associate Judge may:

(a) if the party required to show cause is a plaintiff – dismiss the party's claim for want of prosecution;

(b) if the party required to show cause is a defendant – strike out the party's appearance, defence or counterclaim;

(c) in the case of an initial directions hearing – proceed in accordance with rule 48.06; or

(d) adjourn the hearing.

(3) In acting under subrule (2), the Judge or Associate Judge may award costs against the party required to show cause or that party's solicitor.

(4) Rule 48.27(5), (6) and (7) applies (with the necessary changes) to a claim, appearance or pleading dismissed or struck out under this rule.

48.12 Settlement conference

(1) If a Judge or an Associate Judge is of the opinion that a proceeding is capable of settlement or ought to be settled, the Judge or Associate Judge may direct that the matter be set down for a settlement conference for the purpose of exploring the possibility of settlement.

(2) A settlement conference is to be held before an Associate Judge.

(3) The Judge or Associate Judge must give the parties notice of the settlement conference and rule 48.05 applies (with the necessary changes) accordingly.

(4) The Judge or Associate Judge:

(a) may direct that the parties attend the settlement conference in person; and

(b) if a party is a corporation – may order that the settlement conference be attended by an agent of the corporation who is familiar with the substance of the issues in the proceeding and has unqualified authority either to settle the proceeding or to make recommendations to the corporation that are likely to result in the settlement of the proceeding.

(5) The Judge or Associate Judge may direct that a party attend the settlement conference by a videoconference or teleconference facility.

(6) A direction under subrule (4):

(a) may be given to a party:

(i) orally either in person or by the party's solicitor;

(ii) in writing sent by pre-paid post to the party's address for service; or

(iii) where the party appears by a solicitor – in accordance with rule 6.06(1)(d); and

(b) may be given either by the Judge or Associate Judgeor an officer of the Court authorised by the Judge or Associate Judge.

(7) The attendance of a party in person at a settlement conference (whether in response to a direction under subrule (4) or otherwise) does not prevent the party being represented at the conference by counsel or the party's solicitor or both.

(8) Except to prove that a settlement was reached between the parties and the terms of the settlement, evidence of things said or admissions made at a settlement conference is not admissible in either the proceeding or a court without the consent of those parties.

(9) If a party (***the party at fault***):

(a) fails to attend a settlement conference after having been notified of the conference under subrule (3); or

(b) having attended a settlement conference:

(i) refuses to participate in the settlement conference; or

(ii) applies (other than with the consent of the other parties) to adjourn or further adjourn the settlement conference and the adjournment is granted by an Associate Judge;

the party at fault must pay the costs of the other parties thrown away as a result, which costs may (despite rule 63.04(3)) be taxed immediately by the Taxing Master.

(10) A settlement conference may be adjourned by an Associate Judge if the parties consider that further negotiations may lead to a settlement.

(11) A Judge or an Associate Judge may order each party to prepare a precis of the party's case to be given to an Associate Judge at the settlement conference.

(12) Despite subrule (8), if an offer of settlement is made before an Associate Judge at a settlement conference:

(a) the Associate Judge must record the offer and place that record in a sealed envelope on the Court file; and

(b) the offer may be taken into consideration by the Court in exercising its discretion to award costs once final judgment in the proceeding is given.

48.13 Mediation

(1) If a Judge or an Associate Judge is of the opinion that a proceeding is capable of settlement or ought to be settled, the Judge or Associate Judge may direct that the matter be set down for mediation for the purpose of exploring the possibility of settlement.

(2) The mediator may be a Judge or an Associate Judge or a person from the list kept under subrule (9), and may be appointed by:

(a) if the parties agree on a person from the list kept under subrule (9) – the parties; or

(b) a Judge or an Associate Judge.

(3) Under subrule (2), 2 mediators may be appointed to mediate jointly.

(4) The Judge or Associate Judge must give the parties notice of the mediation and rule 48.05 applies (with the necessary changes) accordingly.

(5) The Judge or Associate Judge:

(a) may direct that the parties attend the mediation in person; and

(b) if a party is a corporation – may order that the mediation be attended by an agent of the corporation who is familiar with the substance of the issues in the proceeding and has unqualified authority either to settle the proceeding or to make recommendations to the corporation that are likely to result in the settlement of the proceeding.

(6) A direction under subrule (5):

(a) may be given to a party:

(i) orally either in person or by the party's solicitor;

(ii) in writing sent by pre-paid post to the party's address for service; or

(iii) where the party appears by a solicitor – in accordance with rule 6.06(1)(d); and

(b) may be given either by the Judge or Associate Judge or an officer of the Court authorised by the Judge or Associate Judge.

(7) The attendance of a party in person at a mediation (whether in response to a direction under subrule (5) or otherwise) does not prevent the party being represented at the mediation by counsel or the party's solicitor or both.

(8) Except to prove that a settlement was reached between the parties and the terms of the settlement, evidence of things said or admissions made at a mediation is not admissible in either the proceeding or a court without the consent of those parties.

(9) The Associate Judges must keep a list of persons who, in the opinion of a Judge or an Associate Judge, are suitably qualified and willing to act as mediators.

(10) The list kept under subrule (9) is to include details of the following:

(a) the qualifications and experience of each mediator listed;

(b) the kinds of matters each mediator listed is willing to mediate.

(11) The costs and expenses of a mediator:

(a) may be fixed by a Judge or an Associate Judge; and

(b) are to be met equally by all parties to the mediation.

(12) A Judge or an Associate Judge may make the orders necessary to secure or enforce payment of a mediator's costs and expenses under this rule.

(13) If a party (***the party at fault***):

(a) fails to attend a mediation after having been notified of the mediation under subrule (4); or

(b) having attended a mediation:

(i) refuses to participate in the mediation; or

(ii) applies (other than with the consent of the other parties) to adjourn or further adjourn the mediation and the adjournment is granted by the mediator,

the party at fault must pay the costs of the mediator and the other parties thrown away as a result, which costs may (despite rule 63.04(3)) be taxed immediately by the Taxing Master.

(14) Subject to subrules (8) and (16) but despite any other law of the Territory, a mediator must not disclose and is not to be required to disclose information of which the mediator becomes aware in the course of or for the purposes of the mediation.

(15) A mediation may be adjourned by the mediator if the parties consider that further negotiations may lead to a settlement.

(16) Within 7 days of the conclusion of a mediation, the mediator:

(a) must file a report signed by the mediator indicating one of the following:

(i) that the proceeding has been finally resolved;

(ii) that certain issues, that are identified in the report, have not been resolved but that all other issues between the parties have been resolved;

(iii) that no issues between the parties have been resolved; and

(b) must give each party a copy of the report.

48.14 Costs of directions hearings, settlement conferences and mediations

Subject to this Order, as between the parties, the costs of and incidental to attending a directions hearing, settlement conference or mediation are to be costs in the proceeding unless the Court orders otherwise.

Part 3 Setting down for trial

48.15 Papers for trial Judge

The plaintiff or applicant in a proceeding must, within 14 days after the pleadings in the proceeding have closed in accordance with rule 14.08, file a copy of all of the pleadings, including any request for particulars of those pleadings and all particulars given in response to that request but not including the writ or notice of appearance.

48.16 Listing hearing

Subject to these Rules, unless a Judge or an Associate Judge orders otherwise, a proceeding is not to be listed for trial unless a listing hearing has been held.

48.17 Listing for trial

At a directions hearing, if a Judge or an Associate Judge is satisfied that a proceeding:

(a) is ready for trial; or

(b) should, in the interests of justice, proceed to trial;

the Judge or Associate Judge may order that the proceeding be placed on a list of proceedings ready for trial.

48.18 Matters to be considered before listing for trial

(1) Before making an order under rule 48.17, the Judge or Associate Judge must give consideration to the following matters:

(a) the possibility of the claim being settled by compromise and the desirability of a settlement conference or mediation;

(b) further simplification of the issues;

(c) the necessity or desirability of amendments to the pleadings;

(d) obtaining further admissions of facts and of documents that will avoid unnecessary proof, including questions of medical examinations and reports under Order 33;

(e) limiting the number of witnesses or the issues to be covered by evidence from witnesses;

(f) submissions by the parties to the trial Judge of written arguments on issues of law or issues that are a mixture of law and fact;

(g) the necessity to refer the proceeding to a Judge to secure appropriate directions or orders to ensure the proceeding is ready for and will proceed to trial;

(h) the estimated duration of the trial;

(j) whether a witness's evidence will be heard by means of a videoconference in accordance with these Rules;

(k) whether advice on evidence has been obtained;

(m) other matters that might facilitate the disposal of the proceeding.

(2) Except in special circumstances, the Judge or Associate Judge must not make an order under rule 48.17 unless:

(a) each party is represented at the listing hearing by the personal attendance (including by videoconference or teleconference under Part 4) at the hearing of:

(i) counsel who is briefed in the proceeding;

(ii) a solicitor who is a partner in the firm representing the party; or

(iii) if the party is represented by a solicitor who is not in private practice – a legal practitioner who holds an unrestricted practising certificate; and

(b) in the case of paragraph (a)(ii) or (iii) – the party has filed a certificate by counsel in accordance with subrule (3).

(3) The certificate by counsel is to state the following:

(a) that the proceeding is ready for trial;

(b) that no amendment to the pleadings is required;

(c) the anticipated length of the case of the party counsel is representing, including opening and closing addresses;

(d) the dates (if any) during the proposed sittings when counsel or a witness will not be available;

(e) whether or not counsel has discussed the proceeding with counsel representing the other parties;

(f) whether or not there are outstanding pre-trial matters yet to be resolved or finalised and, if so, full details of those matters;

(g) the prospects of the proceeding being settled before the trial.

(4) For the purposes of subrule (2)(a), an unrepresented party who appears at a listing hearing is to be treated as if the party were a legal practitioner holding an unrestricted practising certificate.

(5) In considering whether or not the special circumstances referred to in subrule (2) exist, the Judge or Associate Judge may have regard to:

(a) the extent to which, in the opinion of the Judge or Associate Judge, a party or a party's counsel or solicitor has failed to expeditiously prosecute or defend the proceeding or otherwise prepare for trial; and

(b) the interests of the other parties to have the proceeding brought to trial.

48.19 Cost of listing hearing

Subject to this Order, as between the parties, the costs of and incidental to attending a listing hearing are to be costs in the proceeding unless a Judge or an Associate Judge orders otherwise.

48.20 Trial lists

There are to be kept in the Darwin Registry and in the Alice Springs Registry the following lists of proceedings that have been ordered under rule 48.17 to be placed on a list for trial:

(a) a list (to be known as ***the A list***) of all Category A and B proceedings;

(b) a list (to be known as ***the B list***) of all Category C and D proceedings;

(c) a list (to be known as ***the C list***) of all Category E proceedings.

48.21 Fixing hearing dates

(1) Once a proceeding has been ordered under rule 48.17 to be listed for trial, the Registrar must allocate to it the earliest available hearing dates.

(2) In determining the earliest available hearing dates, the Registrar must have regard to the following:

(a) the trial list the proceeding has been placed on;

(b) the urgency of the proceeding;

(c) the order in which the proceeding was placed on the trial list;

(d) representations by the parties as to dates that are or are not suitable and the reasons for that;

(e) the length of time the trial of the proceeding is expected to take;

(f) relevant practice directions made by the Chief Justice;

(g) other relevant considerations.

48.22 Pre-trial directions hearing before trial Judge

(1) The trial Judge in a proceeding that has been given hearing dates may, at the time, date and place determined by the Judge, hold a directions hearing to ensure that the proceeding is ready to proceed to trial.

(2) Where the trial of a proceeding is listed to be held in Alice Springs, the directions hearing referred to in subrule (1) may be held by means of a videoconference or teleconference.

(3) At a directions hearing referred to in subrule (1), the Judge may make the orders he or she thinks necessary, including an order that no further amendments to the pleadings will be permitted.

Part 4 Directions hearings or listing hearings by videoconference or teleconference

48.23 Proceedings commenced in Alice Springs

(1) Subject to this Order, where a proceeding has been filed in the Alice Springs Registry, a Judge or an Associate Judge may conduct a directions hearing or listing hearing in respect of the proceeding by means of a videoconference or teleconference.

(2) Where a directions hearing or listing hearing is held under subrule (1), the following apply in relation to the hearing:

(a) the Court must provide and meet the expenses of the facilities necessary to enable the hearing to be held by videoconference or teleconference;

(b) the Court must notify the parties or their solicitors of the place where they may attend the hearing by use of those facilities;

(c) the Court file must be sent by the Alice Springs Registry to the Darwin Registry in time for the hearing;

(d) a party seeking to rely at the hearing on an affidavit or other document that was not filed before the Court file was sent to the Darwin Registry may:

(i) file the document in the Alice Springs Registry; and

(ii) request that a copy of the document so filed be faxed by the Alice Springs Registry to the Darwin Registry;

(e) where a request is made under paragraph (d)(ii), the Alice Springs Registry must fax the copy to the Darwin Registry as soon as possible after payment by the person who made the request of the fee (if any) determined by the Chief Justice by practice direction;

(f) a copy of a document faxed under paragraph (e) is to be treated as if it were the original document duly filed;

(g) a Judge or an Associate Judge may take evidence from witnesses who have taken the oath as witnesses at the hearing and may exercise the same powers in relation to the parties and the witnesses as if the parties and the witnesses were physically in the presence of the Judge or an Associate Judge.

48.24 Other proceedings

(1) Subject to this Order, with the permission of a Judge or an Associate Judge, a party may attend a directions hearing or listing hearing by videoconference or teleconference wherever the hearing is to take place.

(2) A Judge or an Associate Judge may take evidence from witnesses who take the oath as witnesses at a directions hearing or listing hearing attended by a party under subrule (1) and may exercise the same powers in relation to the parties and the witnesses as if the parties and the witnesses were physically in the presence of the Judge or Associate Judge.

(3) A party intending to attend a directions hearing or listing hearing under subrule (1) must, at least 24 hours before the time set for the hearing, seek the permission of the Judge or Associate Judge required by that subrule.

(4) Permission to attend a directions hearing or listing hearing under subrule (1) may be granted without formality by telephone and without notice to the other parties.

(5) A party who has been granted permission to attend a directions hearing or listing hearing under subrule (1):

(a) must give notice to the other parties of the party's intention to attend the hearing under subrule (1) as a Judge or an Associate Judge directs; and

(b) unless a Judge or an Associate Judge directs otherwise, must provide and meet the expenses of the facilities necessary to enable the hearing to be held by videoconference or teleconference.

(6) A Judge or an Associate Judge may:

(a) on the Judge or Associate Judge's own motion, conduct a directions hearing or listing hearing by videoconference or teleconference; and

(b) for that purpose, give the directions the Judge or Associate Judge thinks fit.

Part 5 Miscellaneous

48.25 Witness statements

(1) At a directions hearing or listing hearing, the Judge or Associate Judge may:

(a) order that the parties exchange, or that a party deliver to another party, witness statements; and

(b) give the directions the Judge or Associate Judge thinks necessary to give effect to the order or give directions about the use to which the statements may be put.

(2) A witness statement:

(a) is to be signed by the witness before it is exchanged or delivered in pursuance of an order under subrule (1); and

(b) is to be filed.

(3) Where a witness statement is exchanged or delivered in pursuance of an order under subrule (1), the witness must confine the witness' evidence in chief at the trial to the matters dealt with in the statement.

(4) At a directions hearing or listing hearing at which it is proposed to make an order under subrule (1), a party must be represented by counsel or the solicitor who has actual charge of the proceeding for the party.

(5) In this rule, ***witness statement*** means a written statement of the evidence in chief of a witness proposed to be adduced from the witness at the trial.

48.26 Evidence at trial by videoconference

(1) If a party intends to adduce evidence at the trial of a proceeding by means of a videoconference, not later than 4 weeks before the date fixed for the trial, the party must:

(a) give to the other parties notice of that intention;

(b) file a copy of the notice; and

(c) deliver a copy of the notice to the trial Judge's associate.

(2) A notice under subrule (1) is to:

(a) state the name of the witness;

(b) state the proposed time of the videoconference; and

(c) be accompanied by a copy of a statement of the witness's evidence in chief signed by the witness.

(3) Within 7 days after receiving a notice under subrule (1), a party may object to the proposal contained in the notice.

(4) An objection under subrule (3) is to be dealt with by the trial Judge.

(5) If, within the period referred to in subrule (3), no objection to the proposal has been made, all parties to the proceeding are to be taken to have consented to the proposal.

(6) If an objection made in accordance with subrule (3) is upheld, the trial Judge may order that, regardless of the outcome of the proceeding, the party objecting pay as costs to the party who proposed the videoconference the difference between the costs of adducing the evidence by means of a videoconference and the costs of bringing the witness into the physical presence of the Court to adduce the evidence.

(7) At a videoconference under this rule, the evidence in chief of the witness is to be confined to the evidence in chief in the witness's statement referred to in subrule (2)(c).

(8) The party proposing to adduce evidence by a videoconference under this rule must arrange and meet the expenses of the facilities necessary for the witness to give the evidence and for the trial Judge and the other parties to see and hear that evidence as it is given.

48.27 Self-executing orders

(1) A Judge or an Associate Judge may make a self-executing order:

(a) dismissing a proceeding; or

(b) striking out a pleading in a proceeding;

for a party's failure to comply with these Rules or an order of the Court.

(2) An order under subrule (1) may be made:

(a) despite that the default was that of the party's solicitor; and

(b) despite that the default by the party or the party's solicitor was not contumelious.

(3) An order under subrule (1) is of no effect unless:

(a) it is made in the presence of the parties; or

(b) it is served personally on the party at fault within the time fixed by the Judge or Associate Judge for service of the order; or

(c) it is served on the party at fault in accordance with an order for substituted service made by the Court.

(4) For the purpose of enabling an order under subrule (1) to be served in accordance with subrule (3), the solicitor for the party at fault must provide to the solicitor for the party in whose favour the order is made with the address of the party at fault that is last known to the solicitor.

(5) On an application by interlocutory summons in the matter made within one month after the making of an order under subrule (1), a Judge may reinstate the proceeding dismissed or the pleading struck out despite that judgment may have been entered in the matter.

(6) Despite subrule (5), on a motion filed at any time with the special leave of a Judge, a Judge may reinstate a proceeding dismissed, or a pleading struck out, under subrule (1).

(7) A Judge who reinstates a proceeding or pleading under subrule (5) or (6):

(a) may reinstate the proceeding or pleading on the terms as to costs the Judge thinks fit, including a term that the costs thrown away be paid before the proceeding or pleading is reinstated; and

(b) may require the party at fault to lodge with the Court security for future costs in the proceeding.

48.28 Experimental rules

(1) For the purpose of considering the practicality of changing this Order, the Chief Justice may by practice direction substitute the whole or any part of this Order (other than this rule) with a new procedure.

(2) A practice direction made under subrule (1) is to:

(a) state whether the new procedure is to apply to matters generally or only to a specified class of matters; and

(b) specify the period (not exceeding 12 months) during which the practice direction is to apply.

(3) The Chief Justice may by practice direction renew (with or without alteration) a practice direction made under subrule (1) for the specified period (not exceeding 12 months) commencing when the practice direction being renewed expires.

(4) A practice direction made or renewed under this rule has effect as if it were a rule under this Order and, to the extent of an inconsistency between it and another rule under this Order, is to prevail.

Order 49 Trial

49.01 Order of evidence and addresses

(1) The Court may give directions as to the order of evidence and addresses and generally as to the conduct of the trial.

(2) Subject to a direction given under subrule (1), where the burden of proof:

(a) on a question lies on the plaintiff, the plaintiff shall begin;

(b) on all the questions lies on the defendant, the defendant shall begin.

(3) Subject to a direction given under subrule (1):

(a) where the only parties are one plaintiff and one defendant and there is no counterclaim, the order of evidence and addresses shall be as provided by the following subrules; and

(b) in any other case, the order of evidence and addresses shall be as provided by those subrules with such changes as the nature of the case requires.

(4) The party who begins may make an address opening his case and may then adduce his evidence.

(5) Where in the course of the case for the party who begins no document or thing is admitted in evidence on tender by the opposite party and at the conclusion of that case:

(a) the opposite party adduces evidence, he may first make an opening address and after adducing his evidence he may make a closing address and thereafter the party who began may make a closing address; or

(b) the opposite party does not adduce evidence, the party who began may make a closing address and then the opposite party may make an address.

(6) Where in the course of the case for the party who begins a document or thing is admitted in evidence on tender by the opposite party and at the conclusion of the case:

(a) the opposite party adduces evidence, the order of proceedings shall be as provided by subrule (5)(a); or

(b) the opposite party does not adduce evidence, he may make an address and then the party who began may make a closing address.

49.02 Absence of party

(1) If when the trial of a proceeding is called on a party is absent, the Court may:

(a) order that the trial be not had unless the proceeding is again set down for trial or unless such other steps are taken as the Court directs;

(b) proceed with the trial generally or so far as concerns a claim for relief in the proceeding;

(c) adjourn the trial; or

(d) where the party absent:

(i) is the plaintiff – dismiss the plaintiff's claim; or

(ii) is the defendant:

(A) and the claim is one for which default judgment may be entered under these Rules – strike out the defendant's defence and enter judgment accordingly; or

(B) give summary relief where, in the Court's opinion, such relief may be or ought to be given.

(1A) In exercising a power under subrule (1)(b) or (1)(d), the Court may direct that the proceeding continue before an Associate Judge and may make such orders as shall be necessary to give effect to that direction.

(2) The Court may set aside or vary a judgment, order or verdict obtained where a party is absent at the trial.

(3) An application under subrule (2) shall be made within 14 days after the trial.

49.03 Adjournment of trial

The Court may adjourn a trial on such terms as it thinks fit.

49.04 Death before judgment

(1) Where a party to a proceeding dies after the verdict or finding on the questions of fact, the Court may give judgment notwithstanding the death.

(2) Subrule (1) does not affect the power of the Court under rules 9.08 and 9.09.

49.05 Certificate of Associate

At the conclusion of the trial of a proceeding the Associate at the trial shall by certificate certify:

(a) the times at which the trial commenced and concluded on each day;

(b) every finding of fact by the jury, where the trial was with a jury;

(c) the judgment of the Court; and

(d) the order, if any, as to costs.

Order 50 Special referee

50.01 Reference to referee

Where an order referring a question is made under section 26(1) of the Act, the Court:

(a) shall state the question referred; and

(b) shall direct that the Associate Judge or referee make a report in writing to the Court on the question referred to the Associate Judge or referee stating, with reasons, the Associate Judge's or referee's decision or opinion; and

(c) may direct that the Associate Judge or referee give such further information in the Associate Judge's or referee's report as it thinks fit.

50.02 Directions as to procedure

(1) Where an order referring a question is made under section 26(1) of the Act, an Associate Judge or the Court may order that the referee hold a trial or make an inquiry that may be necessary to enable the referee to decide the question referred or give the referee's opinion, as the case may be, and may give directions for the conduct of the trial or inquiry.

(2) Where an order is made under subrule (1) that the referee hold a trial, without limiting the power of the Court to give directions for the conduct of the trial, the Court may direct that:

(a) the referee have the same authority with respect to discovery of documents and interrogatories as the Court; or

(b) the referee may adjourn the trial on such terms as the referee thinks fit; or

(c) evidence be taken at the trial, and the attendance of witnesses and the production of documents compelled by subpoena, and the trial conducted in the same manner as nearly as circumstances will permit, as a trial is conducted before the Court.

50.03 Report on reference

(1) The referee may in his report submit a question arising on the reference for the decision of the Court or make a statement of facts found by him from which the Court may draw such inferences as it thinks fit.

(2) On the receipt of the referee's report the Court:

(a) shall give notice thereof to the parties; and

(b) may by order:

(i) require the referee to provide a further report explaining a matter mentioned or not mentioned in the report;

(ii) remit the whole or a part of the question originally referred to the referee for further consideration by him or another referee; or

(iii) vary the report.

(3) An application by a party for an order under subrule (2)(b) shall be made on not less than 3 days' notice to the other party or parties.

50.05 Committal

Nothing in this Order authorises a referee or an Associate Judge to make an order of committal.

50.06 Remuneration of referee

(1) The Court may determine the remuneration of a referee and by what party or parties and in what proportion the remuneration is to be paid either in the first instance or finally.

(2) The Court may order a party to give security for the remuneration of a referee.

(3) The Court may order that the proceeding be stayed until an order made under subrule (2) is complied with.

(4) This rule, with the necessary changes, also applies to a reference under an Act.

Order 51 Assessment of damages or value

51.01 Mode of assessment

Subject to rule 51.05, damages under a judgment or order for damages to be assessed shall, unless the Court otherwise orders, be assessed by an Associate Judge.

51.02 Notice to other party

(1) The party against whom the damages are to be assessed may take part in the assessment.

(2) The party for whom the damages are to be assessed shall, not later than 14 days before the assessment is due, serve notice of the day, time and place of the assessment on the other party to the assessment.

(3) Notice under subrule (2) may be served at the address for service but, if there is no address for service, it shall be served personally, unless the Court otherwise orders.

51.03 Procedure on assessment

The attendance of witnesses and production of documents may be compelled by subpoena in accordance with Order 42, and Order 49, with the necessary changes, applies as if the assessment were a trial of the proceeding.

51.04 Order for damages

Where damages are assessed by an Associate Judge, the Associate Judge shall, by order, state the amount at which they are assessed.

51.05 Default judgment against some defendants

Where judgment for damages to be assessed is entered or given in default of appearance or pleading and the proceeding is continued against other defendants, the damages shall be assessed at the trial, unless the Court otherwise orders.

51.06 Continuing cause of action

Where damages are assessed, whether under this Order or otherwise, in respect of a continuing cause of action, they shall be assessed down to the time of assessment.

51.07 Value of goods

This Order, with the necessary changes, also applies to a judgment or order for the value of goods to be assessed, with or without damages to be assessed.

Order 52 Accounts and inquiries

52.01 Account or inquiry at any stage

(1) Except as provided in subrule (3), the Court may at any stage of a proceeding make an order for the taking of an account or the making of an inquiry.

(2) Where the Court makes an order for the taking of an account, it may order payment of an amount found to be due on taking the account.

(3) The Court shall not order that an account be taken:

(a) as against a defendant who has not filed an appearance, unless he is in default of appearance; or

(b) if it appears that there is a preliminary question to be tried.

52.02 Directions for account

Where the Court makes an order for the taking of an account, it may, by the same or later order:

(a) give directions concerning the manner of taking or verifying the account; and

(b) without limiting paragraph (a), direct that in taking the account the relevant books of account are evidence of the matters contained in them with liberty to the parties interested to take objections to those matters.

52.03 Form and verification of account

(1) The items on each side of an account shall be numbered consecutively.

(2) Unless the Court otherwise orders, an accounting party shall verify his account by affidavit and the account shall be made an exhibit to the affidavit.

52.04 Filing and service of account

An accounting party shall, unless the Court otherwise orders:

(a) file his account and verifying affidavit; and

(b) without delay, serve a copy of the account and affidavit on each other party.

52.05 Notice of charge, error in account

(1) A party who seeks to charge an accounting party with an amount beyond what the accounting party by his account admits receiving shall give to the accounting party notice of the charge, with brief particulars, stating, so far as he is able, the amount which he seeks to charge.

(2) A party who alleges that an item in the account of an accounting party is erroneous in amount or otherwise shall give to the accounting party notice of the allegation, stating the grounds.

52.06 Allowances

In taking an account under a judgment or order, all just allowances shall be made.

52.07 Delay

Where there is delay in the prosecution of an account, inquiry or other matter under a judgment or order, the Court may make orders for staying or expediting the proceeding, or for the conduct of the proceeding, as it thinks fit.

52.08 Fund distribution before all entitled ascertained

Where some of the persons entitled to share in a fund are ascertained and the ascertainment of the other persons so entitled may be delayed, the Court may, by order, allow immediate payment of their shares to the persons ascertained without reserving any part of those shares to meet the subsequent costs of ascertaining those other persons.

Order 53 Summary proceeding for recovery of land

53.01 Application

(1) Subject to subrule (2), this Order applies where the plaintiff claims the recovery of land which is occupied solely by a person who entered into occupation or, having been a licensee, remained in occupation without the plaintiff's licence or consent or that of a predecessor in title of the plaintiff.

(2) This Order does not apply where the land is occupied by a mortgagor or successor in title and the claim is made by the mortgagee or successor in title or in respect of premises to which Part 13 of the *Business Tenancies (Fair Dealings) Act 2003* applies.

53.02 Originating process

(1) The plaintiff may make the claim in a proceeding in accordance with this Order.

(2) The proceeding shall be commenced by originating motion.

(3) The originating motion shall be in Form 5E.

53.03 Who to be defendant

(1) Each person in occupation of the land whose name the plaintiff knows shall be a defendant.

(2) If the plaintiff does not know the name of a person in occupation, the proceeding may be commenced without naming a person as defendant.

53.04 Affidavit in support

At the time the proceeding is commenced an affidavit shall be filed stating:

(a) the interest of the plaintiff in the land and that the land does not include premises to which Part 13 of the *Business Tenancies (Fair Dealings) Act 2003* applies;

(b) the circumstances in which the land has been occupied without licence or consent and in which the claim for recovery of the land arises; and

(c) that the plaintiff does not know the name of any person occupying the land who is not a defendant.

53.05 Service

(1) The originating motion and a copy of the affidavit and of an exhibit referred to in the affidavit shall be served on each defendant, if any, and on any person occupying the land who is not a defendant.

(2) Service on a defendant shall be personal.

(3) Service on a person occupying the land who is not a defendant shall be effected:

(a) by:

(i) affixing a copy of the originating motion and a copy of the affidavit to some conspicuous part of the land; and

(ii) if practicable, leaving in the letter-box or other receptacle for mail on the land a copy of the originating motion and a copy of the affidavit enclosed in a sealed envelope addressed to "The Occupiers"; or

(b) in such other manner as the Court directs.

53.06 Occupier made a party

The Court may order that a person occupying the land who is not a defendant be made defendant or added as a defendant, as the case requires, and that he file an appearance.

53.07 Judgment for possession

In a proceeding under this Order, a judgment for possession must be in Form 53A.

53.08 Warrant of possession

(1) In relation to a proceeding under this Order, a person may issue a warrant of possession to enforce a judgment for possession only if:

(a) 3 months have elapsed since the judgment for possession took effect; and

(b) the leave of the Court has been obtained.

(2) An application for leave under subrule (1) may be made without notice to any person, unless the Court otherwise orders.

(3) A warrant of possession to enforce a judgment for possession in a proceeding under this Order shall be in Form 53B.

Order 54 Administration of estates and execution of trusts

54.01 Definitions

In this Order:

administration proceeding means a proceeding for the administration of an estate or the execution of a trust under the direction of the Court.

estate means the estate of a deceased person.

54.02 Relief without general administration

(1) A proceeding may be brought for any relief which could be granted in an administration proceeding and a claim need not be made for the administration or execution under the direction of the Court of the estate or trust in respect of which the relief is sought.

(2) Without limiting subrule (1), a proceeding may be brought for:

(a) the determination of a question which could be determined in an administration proceeding, including a question:

(i) arising in the administration of an estate or in the execution of a trust;

(ii) as to the composition of a class of persons having a claim against an estate or a beneficial interest in an estate or in property subject to a trust; or

(iii) as to the rights or interests of a person claiming to be a creditor of an estate or to be entitled under the will or on the intestacy of a deceased person or to be beneficially entitled under a trust;

(b) an order directing an executor, administrator or trustee to:

(i) furnish and, if necessary, verify accounts;

(ii) pay funds of the estate or trust into court; or

(iii) do or abstain from doing an act; or

(c) an order:

(i) approving a sale, purchase, compromise or other transaction by an executor, administrator or trustee; or

(ii) directing an act to be done in the administration of an estate or in the execution of a trust which the Court could order to be done if the estate or trust were being administered or executed under the direction of the Court.

54.03 Parties

In an administration proceeding or a proceeding within rule 54.02:

(a) all the executors of the will of the deceased or administrators of the estate or trustees of the trust, as the case may be, are parties;

(b) where the proceeding is brought by executors, administrators or trustees, any of them who does not consent to being joined as a plaintiff shall be made a defendant;

(c) notwithstanding anything in rule 9.03(1), and without limiting the powers of the Court under Order 9, all persons having a beneficial interest in or claim against the estate or having a beneficial interest under the trust, as the case may be, need not be parties and the plaintiff may make such of those persons parties as he thinks fit; and

(d) where in the taking of an account of debts or liabilities under a judgment or order in the proceeding a person not a party makes a claim:

(i) a party other than the executors or administrators or trustees shall not be entitled to attend before the Court in relation to that claim, except by leave of the Court; and

(ii) the Court may direct or allow a party to attend before the Court either in addition to or in substitution for the executors, administrators or trustees.

54.04 Notice of proceeding and judgment

(1) In an administration proceeding or a proceeding within rule 54.02, notwithstanding anything in rule 54.03, the Court may order that a person not a party be given notice of the proceeding and of a judgment in the proceeding.

(2) On the application of a person given notice under subrule (1), the Court may, in accordance with rule 9.06(b), order that the person be added as a party.

54.05 Relief in proceeding by originating motion

(1) In an administration proceeding or a proceeding within rule 54.02, the Court may make an order and grant a relief to which the plaintiff is entitled by reason of breach of trust, wilful default or other misconduct of the defendant, notwithstanding that the proceeding was commenced by originating motion.

(2) Subrule (1) does not limit the powers of the Court under rule 4.07.

54.06 Judgment in administration proceeding

(1) The Court need not give judgment or make an order for the administration of an estate or the execution of a trust under the direction of the Court unless the judgment or order is necessary for the determination of the questions arising between the parties.

(2) Where an administration proceeding is brought by a creditor of the estate or by a person claiming to be entitled under the will or on the intestacy of the deceased or to be beneficially entitled under the trust, the Court may:

(a) if it is alleged that no or no sufficient accounts have been furnished by the executors, administrators or trustees, order that the proceeding be stayed for a period specified in the order and that the executors, administrators or trustees shall, within that period, furnish the plaintiff with proper accounts; and

(b) if necessary to prevent proceedings by other creditors or by other persons claiming to be entitled, give judgment or make an order for the administration of the estate or the execution of the trust under the direction of the Court and order that no steps be taken under the judgment or order, or under an account or inquiry directed, without the leave of the Court.

54.07 Conduct of sale

Where the Court makes an order for the sale of property comprised in an estate, or trust property, the executors or administrators, or the trustees, as the case requires, shall, unless the Court otherwise orders, have the conduct of the sale.

Order 55 Sale of land by order of Court

55.01 Definition

In this Order ***land*** includes an interest in or right over land.

55.02 Power to order sale

In a proceeding relating to land, where it is necessary or expedient for the purposes of the proceeding, the Court at any stage of the proceeding may order that the whole or a part of the land be sold and may further order that a party in receipt of the rents or profits of the land or otherwise in possession of the land deliver possession to such person as the Court directs.

55.03 Notice of application

(1) Except for special reason, an order under rule 55.02 for the sale of land shall not be made unless notice in writing has been given to every person interested in the land, whether or not a party.

(2) An order for sale shall state whether notice has been given to every person interested in the land and, if it has not, shall state what special reason exists for making the order notwithstanding.

55.04 Manner of sale

(1) This rule applies where the Court makes an order under rule 55.02 that land be sold.

(2) The Court may appoint a party or other person to have the conduct of the sale.

(3) The Court may permit the person having the conduct of the sale to sell the land in such manner as he thinks fit.

(4) The Court may direct a party to join in the sale and conveyance or transfer or in any other matter relating to the sale.

(5) The Court may give further directions for the purpose of the sale, including directions:

(a) fixing the manner of sale, whether by contract conditional on approval of the Court, private treaty, public auction or tender or otherwise;

(b) fixing a reserve or minimum price;

(c) requiring payment of the purchase money into court or to a trustee or other person;

(d) for settling the particulars and conditions of sale;

(e) for obtaining evidence of value; or

(f) fixing the remuneration to be allowed to an auctioneer, estate agent or other person.

55.05 Certifying result of sale

(1) Where the Court has directed payment of the purchase money into court or the Court so orders, the result of a sale by order of the Court shall be certified:

(a) in the case of a sale by public auction – by the auctioneer who conducted the sale; and

(b) in any other case – by the person having the conduct of the sale or his solicitor,

and the Court may require that the certificate be verified by affidavit.

(2) The person having the conduct of the sale shall file the certificate and affidavit.

(3) Unless the Court otherwise orders, the certificate and affidavit shall be filed within 21 days after the sale.

55.06 Mortgage, exchange or partition

This Order, with the necessary changes, also applies to the mortgage, exchange or partition of land under an order of the Court.

Order 55A Application for appointment as public notary

55A.01 Publication of notice of proposed application

(1) Notice of a proposed application under section 4(1) of the *Public Notaries Act 1992* for appointment as a public notary must be published in a newspaper circulating generally throughout the Territory at least 14 days before the application is filed.

(2) The notice must be in Form 55A-A.

55A.02 Application

(1) An application under section 4(1) of the *Public Notaries Act 1992* for appointment as a public notary must be made by originating motion in Form 5D.

(2) The application must be supported by an affidavit by the applicant that sets out:

(a) evidence of the matters of which the Court must be satisfied under section 4(2) of the *Public Notaries Act 1992*; and

(b) evidence that rule 55A.01 has been complied with.

(3) Without limiting subrule (2)(a), a criminal history report for the applicant that was issued not more than 30 days before the date of the application must be annexed to the affidavit.

(4) The application and affidavit must be served on the Law Society Northern Territory within 14 days after the date on which the application is filed.

Order 56 Judicial review

56.01 Judgment or order instead of writ

(1) Subject to any Act, the jurisdiction of the Court to grant relief or a remedy in the nature of certiorari, mandamus, prohibition or quo warranto shall be exercised only by way of judgment or order (including interlocutory order) and in a proceeding commenced in accordance with this Chapter.

(2) The proceeding shall be commenced by originating motion.

56.02 Time for commencement of proceeding

(1) A proceeding under this Order shall be commenced within 60 days after the date when grounds for the grant of the relief or remedy claimed first arose.

(2) Where the relief or remedy claimed is in respect of a judgment, order, conviction, determination or proceeding, the date when the grounds for the grant of the relief or remedy first arose shall be taken to be the date of the judgment, order, conviction, determination or proceeding.

(3) The Court shall not extend the time fixed by subrule (1) except in special circumstances.

Order 57 Habeas corpus

57.01 Definition

In this Order ***writ*** means a writ of habeas corpus.

57.02 Application for writ

(1) A writ shall not issue except by order of the Court.

(2) An application for a writ shall be made to a Judge.

(3) The person making the application, whether or not he is the person restrained, shall be the plaintiff and the person against whom the issue of the writ is sought shall be the defendant in the proceeding.

(4) The application shall be made on notice to the defendant.

(5) Notice shall be by summons and, subject to rule 57.05, service of the summons shall be personal.

(6) The application shall be supported by an affidavit by the person restrained showing that it is made at his instance and stating the nature of the restraint.

(7) Where the person restrained is unable for any reason to make the affidavit referred to in subrule (6), the affidavit may be made by another person and it shall show that the person restrained is unable to make the affidavit.

(8) In an urgent case, the Court may dispense with compliance with a requirement of subrules (4) to (7) inclusive.

(9) Order 46, with the necessary changes, applies to an application under this rule.

57.03 Order on application

(1) On an application under rule 57.02 the Court may:

(a) order that a writ shall issue; or

(b) order that the person restrained be released.

(2) Where an order is made under subrule (1)(a), the Court shall give directions as to the Judge before whom, and the date on which, the writ is returnable.

(3) A writ shall be in Form 57A.

(4) Subject to rule 57.05, a writ shall be served personally on each defendant.

(5) An order that the person restrained be released shall be a sufficient warrant to the Director of Correctional Services, a Prison Officer in charge of a prison, a member of the Police Force or other person for the release of the person from restraint.

(6) The Court may make an order under subrule (1) notwithstanding that the application is not made on notice to the defendant.

57.04 Further application for writ

Where an order for a writ is refused, an application for a writ shall not be made again in respect of the same person on the same grounds, whether to the same Judge or to another Judge, unless fresh evidence is adduced.

57.05 Service

Where the Director of Correctional Services, a member of the Police Force or other public official is a defendant, in an urgent case, the summons or writ may be served on that defendant by leaving it for him at his office or other place of employment with a person apparently employed there and who apparently has attained the age of 18 years.

57.06 Disobedience

(1) A writ may be enforced by:

(a) committal of the defendant;

(b) sequestration of the property of the defendant;

(c) where the defendant is a corporation, without limiting paragraph (b):

(i) committal of an officer of the corporation;

(ii) sequestration of the property of an officer of the corporation,

or by any combination of those means.

(2) Nothing in subrule (1) affects the power of the Court to punish for contempt.

57.07 Return to the writ

(1) The defendant shall make a return to the writ by filing a notice stating the grounds of detention of the person restrained and serving a copy on the plaintiff at or before the time the writ is returnable.

(2) By leave of the Court the defendant may amend the notice or file and serve another notice in substitution for the notice.

57.08 Person detained before Court

Where a person detained is brought before the Court pursuant to a writ, the Court shall make such order concerning his custody as it thinks fit.

57.09 Production of person in confinement, to testify

(1) An application for the issue of a writ of habeas corpus for an order for the production of a person in confinement to give evidence in a proceeding, civil or criminal, before a court or tribunal shall be made to a Judge by summons.

(2) Order 46, with the necessary changes, applies to an application under this rule.

(3) Nothing in subrule (1) limits the power of the Court under any Act to make an order otherwise than on application by summons that an accused person committed to prison be brought before the Court.

Order 59 Judgments and orders

59.01 General relief

The Court may, at any stage of a proceeding, on the application of a party, give such judgment or make such order as the case requires, notwithstanding that the judgment or order had not been sought in the originating process or other document of the party in the proceeding.

59.02 Date of effect

(1) A judgment given or order made by the Court shall bear the date of and take effect on and from the day it is given or made, unless the Court otherwise orders.

(2) Any other judgment shall bear the date of and shall take effect on and from the day it is authenticated in accordance with Order 60.

(3) Subject to subrule (4), a judgment debt carries interest from the date of judgment at the rate per annum fixed for section 52(2)(a) of the *Federal Court of Australia Act 1976* (Cth) from time to time.

(4) Where immediately before 1 September 1987 a judgment debt carried interest, the rate of interest per annum payable on that judgment debt on and from that date until 1 July 1988 is the rate of interest applying to Ten Year Commonwealth Bonds on 1 July 1987.

(5) For the purposes of this rule, the rate of interest applying to Ten Year Commonwealth Bonds on a particular date is the rate advised by the Northern Territory Treasury as applying on that date.

59.03 Time for compliance

(1) Subject to subrule (3), a judgment or order which requires a person to do an act shall provide, unless the Court otherwise orders, that the act be done within 7 days after service of a copy of the judgment or order on him.

(2) Where a judgment or order requires a person to do an act within a fixed time, the Court may, by order, fix another time.

(3) Subrule (1) does not apply to:

(a) so much of a judgment as requires a person to pay money otherwise than into court;

(b) a judgment for possession of land; or

(c) a judgment for the delivery of goods.

(4) Where a judgment or order requires a person to do an act but does not fix a time within which it is required to be done, the Court may, by order, fix a time.

(5) Where the Court fixes a time under subrule (4), it may, by subsequent order, fix another time.

59.04 Statement of reasons for judgment

Where the Court gives a judgment or makes an order the reasons for which have been reduced to writing, it shall be sufficient to state the result orally without reasons, but the written reasons shall then be published by delivery to the Associate or, where an Associate Judge gives the judgment or makes the order, to the Associate Judge's secretary.

59.05 Notice of judgment to non-party

(1) This rule applies where the Court gives judgment or makes an order for:

(a) the administration of the estate of a deceased person;

(b) the execution of a trust; or

(c) the sale of property.

(2) Where the judgment or order:

(a) affects the rights of a person not a party; or

(b) directs the taking of an account or the making of an inquiry,

the Court may by the judgment or order, or by subsequent order, direct that notice of the judgment be served on a person interested.

(3) The Court may direct that notice under subrule (2) be served personally or in some other manner and, where it appears that service is impracticable, may dispense with service.

(4) A notice of judgment served under subrule (2) shall be endorsed in accordance with Form 59A.

(5) Where under this Rule notice of a judgment is served on a person, or the Court dispenses with service of notice of judgment on a person:

(a) subject to subrule (6), the person shall be bound by the judgment to the same extent as if he were a party at the time the judgment or order was given or made, except where the judgment or order has been obtained by fraud or non-disclosure of material facts; and

(b) he may, after filing an appearance, attend on the taking of the account or the making of the inquiry under the judgment or order.

(6) The Court may set aside or vary the judgment or order on the application of a person referred to in subrule (2).

(7) An application under subrule (6) shall be made by summons, which shall be filed:

(a) if notice of the judgment or order has been served on the applicant – within 14 days after service; or

(b) if the Court has dispensed with service of notice – within 14 days after the day the order dispensing with service was made.

59.06 Consent orders

(1) This rule does not apply if one or more of the parties to a proceeding is a person who is under a disability.

(2) Subject to subrule (3), if the parties to a proceeding consent to the making of a judgment or order in the proceeding, each of the parties (or their solicitors) may sign and file a written consent to the making of the judgment or order.

(3) When written consent to a judgment or order is filed under subrule (2), the Registrar may bring the matter before a Judge who may, without any further application made to or further hearing by, the Judge, direct the Registrar to draw up the judgment or order in accordance with the terms of the consent and sign and seal the judgment or order.

(4) A judgment or order referred to in subrule (3) is to state that it is made by consent.

(5) A judgment or order referred to in subrule (3) has the same force and validity as if it were made after a hearing by the Judge.

(6) This rule does not limit or otherwise affect the powers of an Associate Judge under rule 77.01(2).

Order 60 Authentication and filing of judgments and orders

60.01 When authentication required

(1) Unless the Court otherwise orders, a judgment or an order shall not be enforced under this Chapter and an appeal which has been instituted from a judgment or an order shall not be heard until the judgment or order has been authenticated in accordance with this Order and filed.

(2) Except where the Court otherwise orders, no judgment:

(a) shall be entered or step taken; or

(b) shall be given,

pursuant to an order or in consequence of the failure of a party to comply with an order unless, before being so entered, taken or given, the order is authenticated in accordance with this Order and filed.

60.02 Mode of authentication

(1) A judgment is authenticated when a form of the judgment, drawn up and settled in accordance with this Order, is sealed by a Registrar with the seal of the Court.

(2) An order is authenticated when a form of the order, drawn up and settled in accordance with this Order is sealed by a Registrar with the seal of the Court or, in the case of an order to which rule 60.04 applies, is signed by a Judge or an Associate Judge.

60.03 Drawing up of judgment or order

(1) The form of a judgment or order shall be drawn up by the party requiring it to be authenticated and lodged by the party with a Registrar to be settled.

(2) Notwithstanding subrule (1), a party may lodge with the Court a minute of a judgment or order in a particular form and when the minute is initialled by a Judge or the an Associate Judge, as the case may be, it has the effect of a settled draft and it is not necessary for the party to lodge a form of a draft of judgment or order for settlement by a Registrar.

(3) A Registrar may, on the request of a party, draw up and settle the form of a judgment or order.

60.04 Order signed by Judge or Associate Judge

(1) Notwithstanding anything in this Order, where the Judge or Associate Judge by whom the order was made so directs, an order may be drawn up by a party and signed by the Judge or Associate Judger.

(2) Where that Judge or Associate Judge is unable for sufficient cause to sign the order, it may be signed by another Judge or Associate Judge.

60.05 Recitals in judgments and orders

(1) A judgment or order shall not include by way of recital a matter not provided for in subrule (2).

(2) A judgment or order shall, by way of recital, specify:

(a) the originating or other process on which it was obtained;

(b) whether a party who was entitled to appear on the hearing of the application to which the judgment or order relates did or did not appear and, if he did, whether in person or by legal practitioner;

(c) a finding by the Court of fact essential to ground jurisdiction;

(d) the terms of an undertaking given by a party; and

(e) such other matters as the Court directs.

(3) Where the Court so orders or a party so requires, a judgment or order shall, by way of annexure, identify the evidence before the Court.

60.06 Drawing up and settling

(1) Where a Registrar is requested to draw up or settle the form of a judgment or order, he may appoint a time and place for the attendance of a party to settle the draft.

(2) Where a draft form of a judgment or order is lodged by a party with a Registrar to be settled, the Registrar may:

(a) settle the draft without an appointment for the attendance of a party; or

(b) appoint a time and place for the attendance of a party to settle the draft.

(3) Where a Registrar makes an appointment to settle the draft of a judgment or order, he shall give notice of the appointment to the party requesting that the form of the judgment or order be drawn up or settled or to the party lodging a draft form of the judgment or order to be settled, as the case may be.

(4) That party shall serve notice of the appointment on the other party, unless the Registrar otherwise directs.

(5) The notice shall be served not later than 2 days before the appointed day.

(6) On the appointment to settle, the Registrar may proceed in the absence of a party.

(7) The Registrar shall, on or after the appointment, settle the draft.

60.07 Copy of judgment or order

A Registrar shall, on the request of a party, seal a reasonable number of copies of a judgment or order.

60.08 Form of judgment or order

The forms of judgments and orders in Forms 60A to 60L shall, where appropriate, be used.

Order 62 Security for costs

62.01 Definitions

In this Order, unless the contrary intention appears:

defendant includes a person against whom a claim is made in a proceeding.

defence includes a defence to a counterclaim and defence to a statement of a third party claim.

plaintiff includes a person who makes a claim in a proceeding.

62.02 When to give security

(1) Where:

(a) the plaintiff is ordinarily resident out of the Territory;

(b) the plaintiff is a corporation or (not being a plaintiff who sues in a representative capacity) sues not for his own benefit but for the benefit of another person and there is reason to believe that the plaintiff has insufficient assets in the Territory to pay the costs of the defendant if ordered to do so;

(c) a proceeding by the plaintiff in another court for the same claim is pending;

(d) subject to subrule (2), the address of the plaintiff is not stated or is not stated correctly in his originating process;

(e) the plaintiff has changed his address after the commencement of the proceeding in order to avoid the consequences of the proceeding; or

(f) under an Act or the Corporations Act 2001 the Court may require security for costs,

the Court may, on the application of a defendant, order that the plaintiff give security for the costs of the defendant of the proceeding and that the proceeding as against the defendant be stayed until the security is given.

(2) The Court shall not require a plaintiff to give security by reason only of subrule (1)(d) if in failing to state his address or to state his correct address the plaintiff acted innocently and without intention to deceive.

62.03 Manner of giving security

Where an order is made requiring the plaintiff to give security for costs, security shall be given in the manner and at the time the Court directs.

62.04 Failure to give security

Where a plaintiff fails to give the security required by an order, the Court may dismiss his claim.

62.05 Variation or setting aside

The Court may set aside or vary an order requiring a plaintiff to give security for costs.

Order 63 Costs

Part 1 Preliminary

63.01 Interpretation

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

administrative assistant means a person other than a solicitor, law clerk, graduate clerk or legal secretary.

Appendix means the appendix to this Order.

bill means a bill of costs, an account, or a statement of charges.

clerk means an administrative assistant, graduate clerk, law clerk or legal secretary.

costs includes disbursements.

graduate clerk means a person who holds a law degree but is not admitted to the legal profession.

indemnity basis, in relation to the taxing of costs, is the basis on which costs are taxed in accordance with rule 63.27.

law clerk means a person who does not hold a law degree but has sufficient experience to be able to conduct legal matters with minimal supervision by a solicitor.

legal secretary means a person who has particular experience and skills in legal secretarial work and is capable of preparing and formatting legal documents on the instructions of a solicitor.

party includes:

(a) a person, not a party to the proceeding, by or to whom costs in respect of a proceeding are payable by or under an Act, these Rules or an order of the Court; or

(b) in the case of a proceeding in another court or before a tribunal or an arbitration, a person, whether or not a party to the proceeding or arbitration, by or to whom costs in respect of the proceeding or arbitration are payable where by or under

an Act, these Rules or an order of the Court the costs are to be taxed in the Court.

standard basis, in relation to the taxing of costs, is the basis on which costs are taxed in accordance with rule 63.26.

taxed costs means costs taxed in accordance with this Order.

Taxing Master means the Associate Judge or the Registrar, or another officer of the Court so directed under subrule (3) by the Taxing Master, conducting a taxation of costs under this Order.

trustee includes an executor of a will and an administrator of the estate of a deceased person.

(2) In this Order, unless the contrary intention appears:

(a) a reference to a fund, being a fund out of which costs are to be paid, or being a fund held by a trustee, includes a reference to property held for the benefit of a person or class of persons (including the assets of a company in liquidation) or held on trust for any purpose; and

(b) a reference to a fund held by a trustee includes a reference to other property to which the trustee is entitled as trustee, whether alone or together with another person and whether or not the property is for the time being in the possession of the trustee.

(3) The Associate Judge may direct an officer of the Court to conduct a taxation of costs under this Order but an officer so directed shall not conduct such a taxation if a party to the taxation, or a party's solicitor, objects to the officer conducting the taxation.

63.02 Application

(1) This Order applies to costs payable or to be taxed under these Rules or an order of the Court and to costs to be taxed by the Taxing Master under any Act.

(2) When used in an order for costs, but subject to rule 63.03, the following words have the following effect indicated opposite to them:

Costs Where this order is made in an application in a proceeding, the party in whose favour it is made:

(a) is entitled to his costs in respect of that application whatever the outcome of the proceeding; and

(b) is entitled to have his costs taxed.

Costs here and below The party in whose favour this order is made is entitled not only to his costs in respect of the proceeding in which it is made, but also to his costs of the same proceeding in a lower court or tribunal.

Costs in any event This order has the same effect as an order for costs made in an application in a proceeding.

Costs in the proceeding The party who is successful in the proceeding is entitled to the party's costs of the application, or part of the proceeding, in respect of which this order is made.

Costs reserved Subject to Rule 63.20, the party in whose favour an order for costs is made at the conclusion of a proceeding is entitled to the costs of any application in that proceeding in respect of which the order is made.

Costs of the day Includes all costs thrown away, including an allowance for work actually done by counsel on the day but not the fee payable to counsel on brief.

Costs thrown away Where an application or a proceeding, or part of it, has been ineffective or has been subsequently set aside, the party in whose favour this order is made is entitled to his costs of that proceeding or part (as the case may be) in respect of which it is made.

No order as to costs This order means that each party pays his own costs.

Plaintiff's costs in the proceeding or ***Defendant's costs in the proceeding*** The plaintiff or defendant (as the case may be) is entitled to his costs of the application in a proceeding in respect of which such an order is made, if judgment is given in his favour in the proceeding, but he is not liable to pay the costs of a party in respect of that application if judgment is given in favour of another party in the proceeding.

63.03 General rule

(1) Subject to these Rules and any other law in force in the Territory, the costs of a proceeding are in the discretion of the Court.

(2) Where in the opinion of the Taxing Master or the Court the strict application of this Order (other than this subrule) would result in an anomaly, the Taxing Master or the Court may tax costs, or make such order in relation to costs, as he or it thinks equitable in the circumstances and the costs so taxed or ordered are payable and may be enforced under this Order accordingly.

63.04 Time for order for costs, taxation and payment

(1) The Court may exercise its power and discretion as to costs at any stage of a proceeding or after the conclusion of the proceeding.

(2) Subject to this rule, the costs a party is required to pay under these Rules or an order of the Court shall be paid immediately.

(3) Subject to subrule (4), where:

(a) the Court makes an interlocutory order for costs; or

(b) costs are payable by virtue of these Rules without an order for costs,

those costs shall not be taxed until the conclusion of the proceeding to which they relate.

(4) If it appears to the Court when making an interlocutory order for costs or at a later time that all or a part of the costs ought to be taxed at an earlier stage, it may order accordingly.

(5) In the case of an appeal, the costs of the proceeding giving rise to the appeal, as well as the costs of the appeal, may be dealt with by the Court hearing the appeal.

63.05 Costs of question or part of proceeding

The Court may make an order for costs in relation to a particular question in, or a particular part of, a proceeding.

63.06 By whom costs to be taxed

Unless the Court otherwise orders, costs taxed in accordance with this Order shall be taxed by the Taxing Master.

63.07 Other orders for payment of costs

Where the Court orders that costs be paid to a party, it may then or at a later time order that, as to the whole or a part of the costs specified in the order, that party is entitled to:

(a) a portion (specified in the order) of taxed costs;

(b) taxed costs from or up to a stage of the proceeding specified in the order; or

(c) a gross amount specified in the order instead of taxed costs.

63.08 Cost on writ and on default judgment

(1) For the purpose of rule 5.09, a plaintiff may claim for costs in a writ an amount in accordance with item 1 in the scale in Part 4 of the Appendix and, if the plaintiff so claims, rule 5.09(3) does not apply.

(2) Where judgment is entered for costs under rule 21.03(2), unless the Court otherwise orders, the costs shall not be taxed but shall be in accordance with the appropriate item in the scale in Part 4 of the Appendix.

63.09 Costs in Local Court, &c.

Where proceedings in the Local Court or before a tribunal are remitted or transferred to or removed into the Court, or an appeal to the Court is brought from another court or a tribunal, and the Court makes an order as to the costs of proceedings in that court or before that tribunal, the Court may:

(a) specify the amount of the costs to be allowed;

(b) order that the costs be taxed in the Court in accordance with this Order; or

(c) order that the amount of the costs be determined in the court or tribunal in such manner as that court or tribunal directs.

63.10 No order for taxation required in certain cases

Where:

(a) the Court makes an order for the payment of costs;

(b) a proceeding is dismissed with costs;

(c) an application in a proceeding is refused with costs;

(d) a party is otherwise liable under these Rules to pay the costs of another party;

(e) a party may tax costs under these Rules; or

(f) the parties have agreed in writing that costs payable by one party to another may be taxed and the agreement is filed,

the costs may be taxed without an order for taxation.

63.11 No order for costs required in certain cases

(1) Where an application is made to set aside a pleading on the ground of irregularity and that application is dismissed, the party who made the application shall pay the costs of every other party to the application.

(2) Where a plaintiff, by notice in writing in accordance with these Rules, accepts money paid into court in satisfaction of his claim or accepts money paid in satisfaction of one or more of his claims and gives notice that he abandons the others, he is entitled to his costs of the action incurred up to the time of giving notice of acceptance and the costs of obtaining payment out of court of the money.

(3) Where, in a proceeding for defamation against several defendants sued jointly, a plaintiff, by notice in writing, accepts money paid into court by one of the defendants, the plaintiff is entitled to his costs of the proceeding against that defendant incurred up to the time of giving notice of acceptance and the costs of obtaining payment out of court of the money.

(4) A defendant who has counterclaimed is entitled to the costs of the counterclaim if:

(a) he pays money into Court and his notice of payment in states that he has taken into account and satisfied the claims in respect of which he counterclaims; and

(b) the plaintiff accepts the money paid in,

but the costs of that counterclaim are limited to those incurred up to the time when the defendant received notice of acceptance by the plaintiff of the money paid into court.

(5) Where a party applies for an extension or abridgement of a time fixed by these Rules or by an order fixing, extending or abridging time, he shall pay the costs of and occasioned by the application.

(6) A party who discontinues a proceeding or with-draws part of a proceeding, counterclaim or claim by third party notice shall pay the costs of the party to whom the discontinuance or withdrawal relates to the time of the discontinuance or withdrawal.

(7) A party who amends:

(a) a pleading without leave of the Court; or

(b) a pleading or other document by leave,

shall pay the costs of and occasioned by the amendment and the costs thrown away because of the amendment.

(8) The costs of and occasioned by an adjournment made necessary by the default of a party shall be borne by that party.

(9) This rule is subject to such other order as the Court makes.

63.12 Enforcement of order of Taxing Master

(1) Where costs are taxed otherwise than under a judgment or order for costs, an order of the Taxing Master for payment of an amount found to be due may be enforced in the same manner as a judgment for the payment of money.

(2) Subrule (1) extends to an interim order for payment of an item in a bill of costs made under rule 63.54(3).

63.13 Costs in account

Where the Court orders that an account be taken and the account consists in part of costs, the Court may, then or at a later date, direct that those costs be fixed or be taxed in accordance with this Order.

Part 2 Entitlement to costs

63.14 Order for payment

Subject to these Rules, a party to a proceeding is not entitled to recover any costs of the proceeding from another party except by order of the Court.

63.15 Offer of compromise

Where an offer of compromise is served and the offer has not been accepted at the time of verdict or judgment, liability for costs shall be determined in accordance with rule 26.08.

63.16 Non-admission of fact or document

Where a party serves a notice:

(a) under rule 35.03(2) disputing a fact and afterwards the fact is proved in the proceeding; or

(b) under rule 35.05(2) disputing the authenticity of a document and afterwards the authenticity of the document is proved in the proceeding,

that party shall pay the costs of proof, unless the Court otherwise orders.

63.17 Interlocutory injunction

Where the Court grants an interlocutory injunction and afterwards grants a further interlocutory injunction continuing the first injunction with or without modification, an order as to the costs of the further injunction shall, unless the Court otherwise orders, include the costs of the first injunction.

63.18 Interlocutory application

The costs of an interlocutory or other application in a proceeding, whether made on or without notice, are to be costs in the proceeding unless the Court otherwise orders.

63.19 Inquiry as to ownership of property

The costs of an inquiry to ascertain the person entitled to a legacy, money, share or other property shall be paid out of the property, unless the Court otherwise orders.

63.20 Costs reserved

(1) Where, by order of the Court, the costs of an interlocutory or other application or of a step in a proceeding are reserved, the Court may direct by and to whom those costs are to be paid.

(2) Where the Court makes no direction under subrule (1), a party may, within 21 days after the conclusion of the proceeding, apply to the Court for a direction as to the payment of costs reserved.

63.21 Costs liability of legal practitioner

(1) Where a solicitor 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 other misconduct or default, the Court may order that:

(a) all or any of the costs between the solicitor and the client be disallowed; or

(b) the solicitor repay to the client the whole or part of money paid on account of costs; or

(c) the solicitor pay to the client all or any of the costs which the client has been ordered to pay to a party; or

(d) the solicitor pay all or any of the costs payable by a party other than his client.

(2) Without limiting subrule (1), a solicitor is in default for the purpose of this rule where an application in or trial of a proceeding cannot conveniently be heard or proceed, or fails or is adjourned without useful progress being made, by reason of the failure of the solicitor to:

(a) attend in person or by a proper representative; or

(b) file a document which ought to have been filed; or

(c) lodge or deliver a document for the use of the Court which ought to have been lodged or delivered; or

(d) be prepared with proper evidence or account; or

(e) otherwise proceed.

(3) The Court shall not make an order under subrule (1) without giving the solicitor a reasonable opportunity to be heard.

(4) The Court may, before making an order under subrule (1), refer the matter to an Associate Judge for inquiry and report.

(5) Order 50, with the necessary changes, applies to a reference to an Associate Judge for inquiry and report made under subrule (4).

(6) The Court may order that notice of a proceeding or order against a solicitor under this rule be given to the solicitor's client in such manner as it directs.

(7) This rule, with the necessary changes, applies to a barrister as it applies to a solicitor.

63.22 Money claim in wrong Court, &c.

(1) Subject to subrule (2), where in a proceeding:

(a) a plaintiff recovers (or but for a set off under rule 13.14 against his claim would be entitled to recover) an amount which is an amount within the jurisdiction of the Local Court; and

(b) the Court makes an order that the defendant pay the plaintiff's costs of the proceeding,

the plaintiff is not entitled to recover from the defendant an amount for costs which exceeds that which he would have recovered in the Local Court, unless the Court is satisfied that he had good reason to commence the proceeding in the Court.

(2) Where in a proceeding a plaintiff recovers (or but for a set off under rule 13.14 against his claim would be entitled to recover) no more than $2,000, he is not entitled to costs.

63.23 Trustee or mortgagee

A party who sues as trustee or mortgagee, unless the Court otherwise orders, is entitled to the costs of the proceeding out of the fund held by the trustee, or out of the mortgaged property, to the extent that the costs are not paid by any other person.

Part 3 Costs of party in a proceeding

63.24 Application

This Part applies to costs in a proceeding which by or under an Act, these Rules or an order of the Court are to be paid to a party to the proceeding either by another party or out of a fund.

63.25 Bases of taxation

Subject to this Part, costs in a proceeding which are to be taxed shall be taxed on:

(a) the standard basis; or

(b) the indemnity basis.

63.26 Standard basis

On a taxation of costs on the standard basis, there shall be allowed a reasonable amount in respect of all costs reasonably incurred, and any doubts which the Taxing Master has as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party.

63.27 Indemnity basis

On a taxation of costs on the indemnity basis, all costs shall be allowed except to the extent that they are of an unreasonable amount or have been unreasonably incurred, and any doubts which the Taxing Master has as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party.

63.28 General basis

(1) Except as provided by these Rules or an order of the Court, costs shall be taxed on the standard basis.

(2) Where the Court makes an order for costs:

(a) without indicating the basis of taxation; or

(b) to be taxed on a basis other than the standard basis or the indemnity basis;

the costs shall be taxed on the standard basis.

63.29 Where indemnity basis applicable

(1) Subject to this Order, the Court may order that costs be taxed on the indemnity basis.

(2) Where the Court makes an order for:

(a) the payment to a party of costs out of a fund; or

(b) the payment of costs to a party who sues or is sued as trustee,

subject to rule 63.30, the costs shall be taxed on the indemnity basis.

63.30 Party as trustee

Where a party who sues or is sued as trustee is entitled to be paid costs out of a fund which he holds in that capacity, the costs shall, unless the Court otherwise orders, be taxed on the indemnity basis.

63.31 Costs payable to solicitor where money claimed by or on behalf of person under disability

(1) This rule applies to a proceeding (including a proceeding in the Court of Appeal) in which:

(a) money is claimed or recovered by or on behalf of, or adjudged, ordered, or agreed to be paid to or for the benefit of, a person under a disability; or

(b) money paid into court is accepted on behalf of a person under a disability.

(2) The costs of a proceeding to which this rule applies which are payable by a plaintiff to his solicitor shall, unless the Court otherwise orders, be taxed on the indemnity basis.

(3) On a taxation under subrule (2), the Taxing Master shall also tax the costs payable to that plaintiff in those proceedings and shall certify:

(a) the amount allowed on the taxation of the solicitor's bill to his own client;

(b) the amount allowed on the taxation of costs payable to that plaintiff in that proceeding;

(c) the amount (if any) by which the amount referred to in paragraph (a) exceeds the amount referred to in paragraph (b); and

(d) where necessary, the proportion of the amount of that excess payable by, or out of money belonging to, respectively, any claimant who is a person under a disability and any other party.

(4) Subrules (2) and (3) apply to and in relation to a proceeding in the Court of Appeal as if for a reference to the plaintiff there were substituted a reference to the party, whether appellant or respondent, who was the plaintiff in the proceeding which gave rise to the appeal proceeding.

(5) Nothing in this rule prejudices a solicitor's lien for costs.

(6) This rule also applies to and in relation to a counterclaim by or on behalf of a person under a disability as if for a reference to a plaintiff there were substituted a reference to a defendant.

63.32 Ascertaining costs on a taxation

(1) Subject to these Rules, the scales of costs contained in Parts 2 and 3 of the Appendix, together with the notes and provisions contained in Parts 1 and 3 of the Appendix, apply in relation to the taxation of all costs for work done after the commencement of this Order.

(2) On the taxation of costs payable to a solicitor by his own client or of costs payable by a person who is or has been a party to a proceeding in the capacity of trustee who is entitled to be paid out of the fund which he holds in that capacity, and in other cases which, in the opinion of the Taxing Master, warrant his so allowing, costs may, in the discretion of the Taxing Master, be allowed:

(a) in relation to items not mentioned in the scales in the Appendix; or

(b) of an amount higher than that prescribed in the scales in the Appendix.

(3) There shall be allowed to a witness attending at Court to give evidence such fees as are reasonable having regard to the occupation of the witness and those fees shall include:

(a) the actual expenses reasonably incurred by the witness for travel to and from the place of trial or hearing;

(b) the actual expense reasonably incurred by the witness for accommodation and sustenance;

(c) loss of salary, wages or other remuneration of any kind reasonably caused by the attendance; and

(d) any other necessary expense reasonably incurred by the witness because of the attendance.

(4) Subrule (3) applies to a person required to attend at Court to act as an interpreter as if that person were a witness.

Part 4 Taxing Master

63.33 Powers of Taxing Master

On a taxation of costs under this Order, the Taxing Master, in addition to powers conferred by the Act, has all the power which under the Act or these Rules an Associate Judge has on a hearing of an application in a proceeding.

63.34 Costs of taxation

(1) Costs to be taxed under these Rules include the costs of the taxation.

(2) Costs to be taxed under a judgment, unless the judgment otherwise provides, include the costs of the taxation.

(3) After service of a summons under rule 63.36 for the taxation of costs, the party entitled to costs and the party liable for them may serve on each other an offer of compromise in respect of the amount of the costs to be taxed.

(4) Subject to this rule and to an order of the Court, the Taxing Master may make orders for the costs of a taxation.

(5) On the taxation of a bill of costs the Taxing Master may refuse to allow to the solicitor who filed the bill the amount, or any part of the amount, claimed in the bill in respect of the taxation if:

(a) the amount of professional charges contained in the bill is reduced by 20% or more on the taxation; or

(b) a reasonable offer of compromise was made under this rule but not accepted; or

(c) the Master otherwise thinks it equitable in the circumstances.

(6) In addition, if on the taxation of a bill of costs the amount of professional charges contained in the bill is reduced by 20% or more, the Taxing Master may direct the solicitor who filed the bill to personally pay the costs of attending the taxation incurred by a party who:

(a) appeared on the taxation; and

(b) in the opinion of the Taxing Master, had a right to appear.

Part 5 Procedure on taxation on standard basis

63.35 Application

(1) This Part applies to:

(a) the costs of a proceeding in the Court, including:

(i) the costs of an application to or proceeding before the Full Court under Division 3 of Part II of the Act; and

(ii) the costs of a proceeding in pursuance of Division 4 of Part II of the Act; and

(iii) the costs of an appeal or an application for leave to appeal, under Part III of the Act, or an application for an extension of time to appeal or to apply for leave to appeal; and

(iv) in the case of an appeal to the Court from another court or tribunal – the costs of proceedings in that court or before that tribunal; and

(v) in the case of proceedings in another court or tribunal that are remitted or transferred to or removed into the Court – the costs of the whole of the proceeding, both before and after the remission, transfer or removal which by or under these Rules or an order of the Court are to

be paid to a party by another party or out of a fund; and

(b) the costs of an arbitration or other proceedings which by or under an Act are to be taxed in the Court.

(2) Subject to Part 6, this Part extends to the taxation of costs payable to a solicitor by his client.

63.36 Summons for taxation

(1) An application to the Taxing Master for costs to be taxed shall be made by summons filed in the office of the Taxing Master.

(2) Where the taxation is pursuant to a judgment, the judgment shall be authenticated before the summons is filed.

(3) A summons under this rule shall be in accordance with Form 63A.

(4) Unless the Taxing Master otherwise directs, the summons shall be served not later than 21 days before the day for hearing named in the summons.

(5) Except as provided in subrules (1) to (4) inclusive, Order 46, with the necessary changes, applies to an application under this rule.

63.37 Filing of bill

(1) A party who applies for costs to be taxed shall file a bill in respect of the costs with the Taxing Master at the time the summons under rule 63.36 is filed.

(2) The bill of costs shall be prepared in accordance with rule 63.40.

(3) The Taxing Master may direct the party entitled to costs to lodge, before the day for hearing named in the summons, any documents in his possession, custody or power that will be required for the purpose of evidence on the taxation.

63.38 Service of bill

Subject to rule 63.39, the Taxing Master shall not tax costs unless the party entitled to costs serves a copy of the bill of costs on the party liable for the costs before or at the time of service of the summons under rule 63.36.

63.39 Defendant not appearing

Service of a summons and copy bill of costs on a defendant who has not filed an appearance in the proceeding the subject of the application for costs is not necessary.

63.40 Content of bill

(2) A bill shall commence with a short narrative succinctly indicating the issues involved in the proceeding.

(6) A bill shall be divided into 7 columns:

(a) the first column of which shall be for numbering consecutively each item in the bill;

(b) the second column of which shall be for setting out chronologically the relevant dates on which the work was done in respect of each item in the bill;

(c) the third column of which shall contain succinct details of each item and any claim in respect of that item for professional costs and, where claimable, for waiting time;

(d) the fourth column of which shall contain the amount of such disbursements as are claimed in connection with an item in the bill;

(e) the fifth column of which shall contain the total amount claimed for professional costs and waiting time for all the items that make up each relevant part of the bill; and

(f) the last 2 columns of which shall be respectively for amounts disallowed as disbursements and professional costs claimed in the bill and shall be respectively headed "Disbursements taxed off" and "Costs taxed off".

(7) A bill filed under rule 63.37 shall comply with the requirements of rule 13.01(1) as though it were a pleading.

(8) An item in which travelling time is claimed must state the actual time for which the claim is made.

(9) The Taxing Master may disallow multiple items claimed as one item in a bill.

63.41 Disbursement or fee not paid

(1) A disbursement may be included in a bill, notwithstanding that it has not been paid, if the bill states that fact.

(2) On the taxation the disbursement may be allowed if it is paid before the taxation of that disbursement takes place.

63.42 Charge of lawyer out of Territory

(1) Where a bill includes a charge for work done by a lawyer practising in a place out of the Territory:

(a) the charge shall be shown as a disbursement; and

(b) so far as practicable, the charge shall, if allowed, be allowed in an amount appropriate to the place where the lawyer practices.

(2) Where subrule (1) applies, a bill in taxable form of that lawyer's fees shall be attached to the bill of the party claiming the disbursement.

63.43 Amendment of bill

The Court or the Taxing Master may, at any stage:

(a) give leave to a party to amend or withdraw a bill; or

(b) order that a party file another bill.

63.44 Agreement as to part of bill

Where the parties agree in writing that part of the costs to be taxed may be allowed at a specified amount and the agreement is subscribed to the bill or filed with it:

(a) rule 63.40 does not apply to what is agreed, unless the Taxing Master otherwise directs; and

(b) rules 63.42 and 63.43 apply to the agreement as they apply to a bill.

63.45 Objection to bill

(1) A party on whom a summons under rule 63.36 and a bill is served may, by notice, object to an item in the bill.

(2) A notice to which subrule (1) refers shall:

(a) be filed within 14 days after the service of the summons and bill;

(b) identify by a list each item in the bill to which the party objects; and

(c) state specifically and concisely the grounds of objection to each item.

(3) The notice under subrule (1), shall, on the same day as it is filed, be served on the party filing the bill and on all other parties to whom the summons for the taxation is addressed.

(4) A party entitled to object to an item in accordance with this rule who fails to do so within the time limited in subrule (2)(a) or such other time as the Taxing Master allows, shall be taken to have admitted that item.

(5) Notwithstanding subrule (4), the Taxing Master may, on taxation, for good and proper reasons, deal with an item to which no objection was raised in accordance with this rule and may exercise all his powers under this Order in relation to that item.

(6) An application for an extension of time may be made informally before or after the expiration of the time referred to in subrule (2)(a).

(7) A taxation shall not proceed unless the party filing the bill proves by affidavit service of a copy of the bill on all relevant parties.

(8) Where, in the opinion of the Taxing Master, a solicitor indiscriminately objects to an item in a bill and by so doing increases the costs of the taxation of the bill, the Taxing Master may order the solicitor to pay the increased costs which, in the opinion of the Taxing Master, are attributable to the solicitor's action.

(9) For the purposes of subrule (8), and without limiting the discretion of the Taxing Master under that subrule, an objection is indiscriminate if it constitutes no more than a blanket objection to items in the bill or if it forms part of such an objection.

63.46 Discretionary costs

(1) Except where these Rules or an order of the Court otherwise provides:

(a) the fees; and

(b) the allowances,

which are referred to in the Appendix, and are there expressed to be discretionary, shall be allowed at the discretion of the Taxing Master.

(2) In exercising a discretion under subrule (1), the Taxing Master shall have regard to:

(a) the complexity of the item or of the proceeding in which it arose and the difficulty or novelty of the questions involved;

(b) the nature and importance of the proceeding;

(c) the skill, specialized knowledge and responsibility involved;

(d) the number and importance of the documents prepared or perused, without regard to length;

(e) the place where and the circumstances in which the business involved was transacted;

(f) the labour involved and the time spent by the solicitor or counsel;

(g) the amount or value of money or property involved;

(h) other fees and allowances payable to the solicitor or counsel in respect of other items in the bill; and

(j) any other relevant circumstances.

63.47 Taxation where no objection

Where no objection to a bill is made in accordance with rule 63.45, the Taxing Master may tax the bill and allow or disallow the amount of the costs in it in whole or in part.

63.48 Attendance of parties

(1) The Taxing Master may give directions relating to the parties:

(a) to whom a summons under rule 63.36 shall be addressed; and

(b) who should attend or be represented on a taxation.

(2) The Taxing Master may disallow the costs of attendance on a taxation of a party whose attendance is unnecessary.

(3) Notwithstanding subrules (1) and (2), a party interested may attend a taxation before the Taxing Master.

63.49 Reference to Judge

The Taxing Master may refer to a Judge for directions a question arising on a taxation.

63.50 Notice to person interested in fund

(1) Where costs are payable out of a fund, the Taxing Master may:

(a) adjourn the taxation to a specified day; and

(b) order that the party to whom the costs are payable serve on a person interested in the fund, without charge to that person, a copy of the whole or a part of the bill and a notice in accordance with subrule (2).

(2) A notice under subrule (1)(b) shall state:

(a) that the costs are payable out of the fund, identifying it, and that the bill is being taxed;

(b) the day to which the taxation is adjourned; and

(c) such other information as the Taxing Master directs.

(3) Unless the Taxing Master otherwise orders, service referred to in subrule (1)(b) shall be personal.

63.51 Application by person liable to pay

(1) Where a party who is entitled to costs and to have the costs taxed under this Part does not apply to have them taxed within 30 days after service on him of a request in writing to do so by a party liable for the costs, the Taxing Master may order that the party entitled file and serve a summons under rule 63.36 and the Taxing Master may fix a time for compliance.

(2) Where a party in respect of whom an order is made under subrule (1) fails to comply with the order, the Taxing Master may:

(a) disallow the costs of the party or allow a nominal or other amount for costs; or

(b) order him to pay the costs of any other party occasioned by the failure to comply with the order.

63.52 Solicitor at fault

(1) This rule applies where:

(a) a party fails to apply to have costs taxed within a time fixed under rule 63.51(1) and the failure is occasioned by the neglect or delay of his solicitor; or

(b) in a proceeding before the Taxing Master the solicitor for a party:

(i) is guilty of neglect or delay; or

(ii) causes any other party unnecessary expense.

(2) In a case to which this rule applies the Taxing Master may:

(a) order the solicitor to pay costs to a party in respect of the proceeding before the Taxing Master; or

(b) refuse to allow the fees to which the solicitor would otherwise be entitled for or incidental to taxing the bill.

63.53 Cross costs

(1) Where a party entitled to be paid costs is also liable to pay costs, the Taxing Master may:

(a) tax the costs which the party is liable to pay and set off the amount allowed against the amount the party is entitled to be paid and, by order, state the amount of the balance and the parties by whom and to whom the balance is payable; or

(b) decline to make an order as to the costs which the party is entitled to be paid until the party has paid or tendered the amount he is liable to pay.

(2) Costs may be set off under paragraph (1)(a) notwithstanding that a solicitor for a party has a lien for costs in the proceeding.

63.54 Order on taxation

(1) Where the Taxing Master taxes a bill, otherwise fixes or assesses an amount for costs, or makes an order under or in pursuance of rules 63.51(2) or 63.52(2), he shall state the result in the form of an order.

(2) The Taxing Master may, after the conclusion of the taxation of a bill, make a final order in respect of the amount at which he allows the costs or of his disallowance of the costs.

(3) In the course of the taxation, the Taxing Master may make separate and interim orders in respect of any item in a bill.

(4) Where, after an application has been made under rule 63.36 and a bill filed, the parties agree to the amount of costs payable under the bill, the Taxing Master may make an order for payment of those costs by consent.

(5) An order under this rule shall be authenticated and filed in accordance with Order 60.

(6) The Taxing Master may at any time correct a clerical mistake in an order made under this rule.

(7) In subrules (5) and (6) ***order*** means a final or interim order.

63.55 Objection, reconsideration and review

(1) Where a Taxing Master decides to allow or disallow, wholly or in part, an item in a bill or to allow some amount in respect of an item, a party to the taxation proceeding who objects to the decision may apply to have the Taxing Master reconsider the decision.

(2) An application under subrule (1) shall be made by written notice to the Taxing Master.

(3) The notice must be filed within 14 days after the date of the order on taxation that contains the decision.

(4) The applicant shall file with or subscribe to a notice under subrule (2) a statement of his objections.

(5) A statement of objections referred to in subrule (4) shall specify, by a list, the items as to which the applicant objects to the decision of the Taxing Master and shall state briefly but specifically the nature and grounds of each objection.

(6) An applicant under subrule (1) shall, on the date of filing the notice and statement of objections, serve a copy of the notice and statement on each party interested.

(7) A party on whom a copy of the notice and statement is served under subrule (6) may, within 14 days after the service of the copy on him or such longer period as is fixed by the Taxing Master, deliver to the Taxing Master answers in writing to the objections stating concisely the grounds on which the party will oppose the objections and shall, at the same time serve a copy of the answers on the party applying for reconsideration and on each other interested party.

(8) On a notice and statement of objections being filed under this rule, the Taxing Master shall reconsider the decision to which objection is made and, subject to subrule (14), give to the parties his written reasons for his decision on reconsideration.

(9) On a reconsideration under subrule (8), a party shall not, unless the Taxing Master otherwise directs, raise a ground of objection not stated in a statement of objections.

(10) On the Taxing Master giving written reasons in accordance with subrule (8), he shall be deemed to have made an order under rule 63.54.

(11) Where a party interested objects to an order of the Taxing Master made following a reconsideration allowing or disallowing, wholly or in part, an item in a bill or allowing an amount in respect of an item, the Court may, on the application of that party, review the order of the Taxing Master.

(12) An application under subrule (11) shall be made by Notice to Review.

(13) An application under subrule (11), shall be made to a Judge.

(14) A Judge may at any time, by order, dispense with the need for a Taxing Master to give reasons under subrule (8) and may give directions as to the conduct of the review.

(15) A Notice to Review referred to in subrule (12) shall state, by a list, each item in the bill in respect of which the party objects to the order of the Taxing Master and shall also state specifically and concisely the grounds of objection to that order and the order sought in its place.

(16) A Notice to Review referred to in subrule (12) shall be filed, a copy lodged with the Taxing Master and a copy served on each party interested, within 14 days after the order of the Taxing Master is made following the relevant reconsideration.

(17) On a review under subrule (11), the Court may:

(a) exercise all the powers and discretions of the Taxing Master in respect of the subject-matter of the review;

(b) set aside or vary the order of the Taxing Master;

(c) remit an item in the bill to the Taxing Master; or

(d) make such other order as it thinks fit.

(18) Except so far as a Judge or the Taxing Master otherwise orders, a review under this rule does not operate as a stay of execution or of proceedings under the order of the Taxing Master to which the review relates.

Part 6 Costs of solicitor

63.56 Application

This Part applies where:

(a) costs are payable to a solicitor by his client, whether or not in respect of a proceeding in the Court, and by or under an Act, these Rules or an order of the Court or an agreement between the solicitor and the client the costs are required or permitted to be taxed in the Court; or

(b) a person not the client of a solicitor is liable to pay or, having been so liable, has paid costs which are or were chargeable by the solicitor to the client, whether or not in respect of a proceeding in the Court, and by or under an Act, these Rules or an order of the Court or an agreement between the person and the client the costs are required or permitted to be taxed in the Court,

but applies to the extent only that it does not conflict with Part 3.3 of the *Legal Profession Act 2006* or any other law in force in the Territory.

63.57 Basis of taxation of costs payable by client

(1) Costs to which this Part applies payable to a solicitor by his client shall, subject to any Act, an order of the Court or an agreement between the solicitor and the client, be taxed on a solicitor and client basis.

(2) The solicitor and client basis of taxation is as provided by rule 63.59.

63.58 Basis of taxation of costs payable otherwise than by client

Costs to which this Part applies payable to a solicitor by a person other than the client shall, subject to any Act, an order of the Court or an agreement between that person and the client, be taxed on the standard basis.

63.59 Costs payable to solicitor by his own client

(1) This rule applies to a taxation of a solicitor's bill to his client.

(2) On a taxation to which this rule applies costs shall be taxed on the indemnity basis but shall be presumed:

(a) to have been reasonably incurred if they were incurred with the express or implied approval of the client;

(b) to have been reasonable in amount if the amount was expressly or impliedly approved by the client; and

(c) to have been unreasonably incurred if in the circumstances of the case they are of an unusual nature, unless the solicitor satisfies the Taxing Master that before the costs were incurred, the solicitor informed his client that they might not be allowed on a taxation on the standard basis.

(3) A taxation to which this rule applies shall be carried out only by the Associate Judge.

63.60 Contentious business

(1) This rule applies to the taxation of the costs payable to a solicitor by his client for work done in a contentious matter where at the time the work was completed no proceeding had been commenced by or against the client in respect of the matter in a court or before a tribunal.

(2) Costs for work in a matter to which this rule applies shall be allowed in accordance with the scale of costs of the court or tribunal in or before which, in the opinion of the Taxing Master, it would be appropriate to commence a proceeding in respect of the matter or, if that court or tribunal has no scale of costs, in accordance with the Appendix.

63.60.1 Costs in grant of probate or administration

(1) Costs allowable to a solicitor for professional services rendered in connection with obtaining a grant of probate or administration of an estate of a deceased person shall be calculated in accordance with the relevant scale in these Rules.

(2) In addition to the costs a solicitor is entitled to receive under subrule (1), the solicitor may recover such reasonable disbursements as are incurred by him in obtaining the grant.

(3) Where an executor or administrator seeks the payment of commission to him in respect of the administration of the estate, such costs and disbursements as have been paid or are payable by him to his solicitor in relation to obtaining the grant, or to any matter in connection with the estate, shall be taxed by the Taxing Master in accordance with rule 63.59 or 63.60, as the case requires.

(4) All costs and fees allowable in accordance with these Rules shall be paid out of the estate.

(5) Where a bill of costs is taxed under these Rules and the amount of the bill (exclusive of the costs of submitting it to taxation) and all amounts referred to in subrule (2) do not, after taxation, equal or exceed the amount which would otherwise have been allowed under subrule (1), the costs of submitting the bill for taxation shall be paid by the solicitor.

63.61 Procedure on taxation

(1) Subject to rules 63.62 to 63.72 inclusive and to any Act or an order of the Court, costs under this Part shall be taxed as provided by Part 5 and that Part, with the necessary changes, applies to the taxation accordingly.

(2) A reference in subrule (1) to the application of Part 5 to the taxation of costs under this Part includes a reference to a review of an order of the Taxing Master on the taxation under rule 63.55.

63.62 Appointment to tax

(1) This rule applies where by an Act a bill in respect of costs to which this Part applies may be taxed by the Taxing Master on an appointment obtained as of course and without an order of the Court on application by the client or other person liable to pay the costs.

(2) An application to the Taxing Master to tax a bill to which this rule applies shall be made by summons in accordance with rule 63.36.

63.63 Reference for taxation

(1) This rule applies where the Court, by order, whether or not made by or under an Act, refers a bill of costs to the Taxing Master for taxation or directs that a bill of costs be taxed.

(2) A taxation to which this rule applies shall be brought before the Taxing Master on application by summons in accordance with rule 63.36.

(3) Unless the Court otherwise orders, the summons referred to in subrule (2) shall be filed within 14 days after the day the order is made.

63.63A Taxation under settlement agreement

(1) This rule applies if, under an agreement:

(a) costs are payable by one party to the other; and

(b) the costs are to be taxed.

(2) The party whose costs are to be paid may apply to the Court by originating motion in Form 5B for the costs to be taxed.

63.64 Failure to serve bill or tax

(1) Where a solicitor who is entitled to be paid costs fails or refuses to serve on his client a bill for the costs, the Taxing Master may:

(a) disallow the costs of the solicitor or allow a nominal or other amount for costs; or

(b) order him to pay any costs of the client occasioned by the failure or refusal.

(2) Where a person who is entitled to have a bill of costs taxed fails or refuses to do so and a person interested in the taxation is prejudiced by the failure or refusal, the Taxing Master may:

(a) disallow any costs which might otherwise be payable to the person entitled to have the bill taxed or allow a nominal or other amount for costs; or

(b) order him to pay any costs of the person interested occasioned by the failure or refusal.

(3) For the purpose of this rule:

(a) a solicitor shall be taken to have failed or refused to serve a bill of costs if, within 60 days after service on him of a request in writing by the client that he serve a bill, the solicitor does not do so; or

(b) a person shall be taken to have failed or refused to have a bill of costs taxed if, within 60 days after service on him of a request in writing by a person interested that the bill be taxed, he does not apply in accordance with rule 63.36 for the taxation of the bill.

Part 7 Allowances or disallowances on taxation generally

63.65 Application

This Part applies to all taxation of costs in the Court.

63.66 Increased allowance

The Taxing Master may, in relation to a particular taxation of costs, increase or decrease the amount or value of an allowance or expense in the Appendix as the Master thinks fit.

63.67 Service of several documents

Two or more documents in the same proceeding, which can be served together, shall be so served and a fee for the service of one only shall be allowed.

63.68 Inclusion in bill of disbursement not made

Where a solicitor acts as agent for a lawyer practising in a place out of the Territory, the professional fees of that lawyer shall not constitute a disbursement of the solicitor for the purpose of rule 63.41 so as to require payment of those fees before the commencement of the taxation.

63.69 Defendants with same solicitor

Where 2 or more defendants are represented by the same solicitor and the solicitor does work for one or some of them separately which could have been done for some or all of them together, on taxation of the solicitor's bill, whether between party and party or between solicitor and client, the Taxing Master may disallow costs for the unnecessary work.

63.70 Certain cost to be included in witnesses allowance

In a taxation of costs the attendance of a witness includes an attendance at a conference with counsel before trial and, in the case of an expert witness, includes qualifying to give evidence as an expert.

63.71 Negotiations

Costs reasonably incurred in respect of negotiations for compromise shall be allowed, whether or not the negotiations were successful.

63.72 Counsel's fees

(1) A retaining fee to counsel shall not be allowed on taxation on the standard basis.

(2) Subject to rule 63.72A, the allowance of counsel's fees is in the discretion of the Taxing Master.

(3) In assessing fees on brief and other fees for counsel the Taxing Master shall have regard to:

(a) the complexity of the question of law or of fact involved;

(b) the amount involved;

(c) any interlocutory application or other work which has reduced the work otherwise necessary in relation to the brief;

(d) the possibility that counsel might be called on to argue on behalf of a party not represented at the hearing;

(e) the fees reasonably charged by counsel in matters of a similar kind; and

(f) the standing of counsel.

(4) Costs reasonably incurred in respect of:

(a) the advice of counsel on the pleadings, evidence or other matter in a proceeding; or

(b) counsel drawing or settling a pleading or other document in a proceeding which is reasonable to be drawn or settled by counsel,

shall be allowed.

(5) Where affidavits or interrogatories which are reasonable to be drawn or settled by counsel are or could have been drawn or settled at the same time, only one fee shall be allowed.

(8) Costs in respect of the preparation and delivery of a brief to counsel for a hearing or trial which did not take place shall not be allowed if the costs were incurred prematurely.

(9) No fee shall be allowed:

(a) for counsel attending on an interlocutory application, unless the Court otherwise certifies; and

(b) for more than one counsel, unless the Court certifies that the retainer of more than one counsel was warranted.

(10) A solicitor may charge and be allowed a fee for an attendance on counsel to obtain or give some information in respect of which counsel does not charge a fee.

63.72A Cancellation fees for counsel

(1) This rule applies if:

(a) a proceeding was listed for trial and allocated hearing dates; but

(b) the trial did not take place because the proceeding was settled.

(2) A cancellation fee for counsel of an amount equal to 60% of counsel's daily fee for each day allocated for the trial will be allowed for:

(a) an ordinary proceeding that was settled 2 weeks or less before the trial was due to start; or

(b) a large proceeding that was settled 4 weeks or less before the trial was due to start.

(3) For any other proceeding, no cancellation fee for counsel will be allowed.

(4) However, if the Taxing Master considers it appropriate for a particular proceeding, the Master may allow a cancellation fee or a different cancellation fee.

(5) In this rule:

large proceeding means a proceeding that, in the opinion of the Taxing Master, can be characterised as a large proceeding by reason of length, complexity or otherwise.

ordinary proceeding means a proceeding that is not a large proceeding.

63.73 Barrister and solicitor

(1) This rule applies where a legal practitioner acts in both capacities as a barrister and solicitor, or appears as a barrister instructed by a partner, employee, fellow employee or employer.

(2) An allowance in accordance with rule 63.40(5)(e) shall be allowed to a legal practitioner to whom subrule (1) of this rule refers and who appears as counsel.

(3) The allowance for counsel's fees in a case to which subrule (2) refers shall, subject to subrule (4):

(a) in the case of a legal practitioner who briefs himself as counsel – be three-quarters; and

(b) in the case where a partner, employee, fellow employee or employer is briefed – be five-sixths,

of what would otherwise be allowed to counsel.

(4) An Associate Judge may allow a legal practitioner who appears as counsel and to whom subrule (3) applies a larger fee for so appearing and, in doing so, shall have regard to the matters referred to in rule 63.72(3) as far as they are applicable.

(5) A legal practitioner to whom subrule (3) refers is entitled, for each refresher in a trial, to a fee equal to what would have been allowed to an independent counsel in the same circumstances.

63.73A Increase in costs allowed if offer of compromise not accepted

(1) This rule applies if:

(a) a party entitled to costs makes an offer to compromise under rule 63.34; and

(b) the offer is not accepted; and

(c) on the taxation of the costs, the party is allowed an amount greater than the amount the party offered.

(2) The Taxing Master may increase the costs allowed, including costs taxed on an indemnity basis, by up to 20%.

63.74 Interest on costs

Despite rule 59.02(3), at the conclusion of the taxing of a bill, the Taxing Master may, in the Master's discretion, fix a rate of interest payable in respect of the taxed costs and the date, not earlier than the date of commencement of this Order, from which that interest shall run.

63.75 GST

(1) In taxing a bill, the Taxing Master may allow a reasonable amount for GST paid or payable on other taxed costs in the bill.

(2) For subrule (1), GST has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

APPENDIX

PART 1

1. Subject to this Part, solicitors are entitled to charge and be allowed the fees set out in Parts 2 and 3 of this Appendix.

2. For the purposes of Parts 2 and 3 of this Appendix, a unit is one-tenth of an hour.

3. The rate per unit, until varied in accordance with paragraph 4 of this Part is as follows:

(a) for a solicitor who has held an Australian practising certificate (as defined in section 4 of the *Legal Profession Act 2006*) for:

(i) at least 10 years – $35.64; or

(ii) at least 5 years but less than 10 years – $32.08; or

(iii) at least 2 years but less than 5 years – $27.54; or

(iv) less than 2 years – $24.00;

(b) for a law clerk – $18.00;

(c) for a legal secretary – $14.40;

(d) for a graduate clerk – $12.00;

(e) for an administrative assistant – $7.20.

4. The rate per unit shall be that from time to time declared by the Chief Justice by practice directions after considering the recommendation of an Associate Judge who shall, not later than 1 January in each year, calculate and recommend any adjustment to the rate for that year on the following basis:

(a) as to 37% of the rate – calculated by multiplying the existing rate by the Consumer Price Index for Darwin; and

(b) as to 50% of the rate – calculated by multiplying the existing rate by the Average Weekly Earnings (ordinary time) for Darwin,

where the Consumer Price Index and Average Weekly Earnings are the latest available yearly percentage variations published by the Australian Bureau of Statistics with the resulting rates (rounded off to 2 decimal places for the purposes of recalculating the rate for the following year) rounded off to the nearest dollar.

5. Except for disbursements, all claims made or allowed in a bill shall be made and if allowed calculated to the nearest dollar.

6. Letters include making necessary copies and also perusing and considering incoming letters, and no separate charge shall be allowed for the perusal of incoming letters.

7. The cost of postage, outgoing telephone calls, facsimile messages and other similar outgoings must not be allowed by the Taxing Master except where incurred in unusual circumstances or where the cost is unusually heavy.

8. The preparation of a document includes all necessary copies.

9. The fees recoverable under Parts 3 and 4 of this Appendix, when the rate per unit is adjusted in accordance with paragraph 4, shall be increased by the same proportion as the difference between the adjusted rate per unit under this Part and the previous rate per unit bears to the previous rate per unit, rounded off to the nearest dollar.

PART 2 – BASIC SCALE

1.	Time spent by a solicitor on work requiring the application of legal skill, other than where otherwise provided.	Minimum 1 unit
2.	Time spent by a solicitor or clerk on work not requiring the application of legal skill, other than where otherwise provided.	Minimum 1 unit
3.	Travelling and waiting time to apply to charges under item 1 where waiting or travelling time is reasonably incurred.	Minimum 1 unit

PART 3 – NOTES

1. In this Part:

clerk's time, in relation to work, means the time a clerk reasonably spent, or would reasonably be expected to spend, in carrying out that work.

circular letter means a letter other than an ordinary letter or a special letter that, in the opinion of the Taxing Master, is capable of being composed and prepared by a clerk, and includes clerk's time.

composition includes signing and the perusal of relevant incoming letters.

drawing and engrossing means drawing and engrossing a document of 1 or 2 pages in length and includes:

(a) if item 2(a)(i) applies:

(i) the time (up to 4 units) spent by a solicitor in drawing the document; and

(ii) clerk's time (up to 2 units) in engrossing it; and

(b) if item 2(a)(ii) applies:

(i) the time (up to 2 units) spent by a solicitor in drawing the document; and

(ii) clerk's time (up to 2 units) in engrossing it; and

(c) if item 2(b)(i) applies:

(i) the time (up to 1 unit) spent by a solicitor in drawing the document; and

(ii) clerk's time (up to 1 unit) in engrossing it; and

(d) if item 2(b)(ii) applies – clerk's time (up to 2 units) in drawing and engrossing the document.

item means an item in the Composite Scale in this Part.

letter includes a facsimile, email and any other form of written communication.

ordinary letter means a letter that does not exceed one page in the composition of which, in the opinion of the Taxing Master, little or no exercise of the skill of a solicitor is required and includes:

(a) the time (up to 2 units) spent by a solicitor or clerk in the composition of the letter; and

(b) clerk's time (up to 3 units) in preparing it.

page means a page of not less than international paper size A4, with wording reasonably spaced.

preparation includes typing, making copies and dispatching.

special letter means a letter that is between 1 and 2 pages in length and, in the opinion of the Taxing Master, the composition of which requires the exercise of the skill of a solicitor, and includes:

(a) the time (up to 3 units) spent by the solicitor in composition of the letter; and

(c) clerk's time (up to 3 units) in preparing it.

2. For work actually done by a solicitor that is of a kind covered in the aggregate by a composite fee mentioned in the composite scale, the solicitor may charge and be allowed for the work:

(a) a fee equal to the composite fee; or

(b) a fee calculated in accordance with Part 2 of this Appendix.

3. However, if the Taxing Master considers it equitable to do so, the Master may decide to allow for the work:

(a) only a fee calculated in accordance with Part 2 of this Appendix; or

(b) only a fee equal to the appropriate composite fee.

5. A composite fee to which items 7 to 15 relates means a lump sum fee in respect of all allowances for time spent in carrying out work that, in the Taxing Master's opinion, is or should be included in that composite fee.

6. Without limiting the meaning of paragraph 5:

(1) items 7 and 8 include all time taken in carrying out work in respect of all aspects of a proceeding from and including the dispatch or receipt of a letter of demand and the filing of originating process to and including the setting down of a proceeding for trial in accordance with rule 48.02 and time taken in carrying out work with respect to a request for particulars of a pleading, but does not include work in respect of an application to the Court in the proceeding;

(2) item 9 includes all time taken in carrying out work in and incidental to an application to the Court in a proceeding and in particular an application under Order 46.

(3) items 10 and 11 include all time taken in carrying out work in respect of the giving or obtaining of discovery and the inspection of documents in accordance with Order 29, but do not include work done in or incidental to an application to the Court in which discovery or inspection is sought; and

(4) items 12 and 13 include all time taken in carrying out work in respect of the seeking of answers to interrogatories and the providing of answers to interrogatories under Order 30, but does not include work done in or incidental to an application to the Court in respect of interrogatories.

7. A composite fee to which this Part refers does not include a reasonable disbursement which a solicitor is obliged to pay in the course of carrying out a part of the work included, or which ought to be included, in that fee and such a disbursement, including counsel's fees, where reasonable and reasonably incurred, may be claimed in the bill and shall be allowed by the Taxing Master.

8. Items 5 and 6, where appropriate, shall be allowed as a part of a unit but, if so allowed, the charge shall be rounded off to the nearest dollar.

Composite Scale

Item	Matter in respect of which charge is made	Charge ($)
1	Letters:	
	(a) special	138
	(b) ordinary	99
	(c) circular	15
2	Drawing and engrossing:	
	(a) court document	
	(i) requiring skill	154
	(ii) using form or standard document or in case of a standard form of judgment, order or the like	84
	(b) other	
	(i) requiring skill	43
	(ii) not requiring skill	28
3	Engrossing a document drawn by someone other than solicitor making the charge – per unit	15
4	Telephone calls:	
	(a) requiring skill – per unit	27
	(b) not requiring skill – per unit	15
5	Marking annexures, exhibits, enclosing notices of appointment and the like – per unit	15
6	Copying – per unit	15

7	Instructions to sue to notice of trial	1 908
8	Instructions to defend to notice of trial	1 381
9	Application in a proceeding:	
	(a) contested	1 222
	(b) uncontested	977
10	Requiring discovery and inspection	733
11	Providing discovery and inspection	549
12	Seeking answers to interrogatories	843
13	Furnishing answers to interrogatories	893
14	Attendance at listing hearing or other directions hearing	300
15	Attendance at settlement conference	500

PART 4 – FIXED COSTS

Basic Costs

Item	Matter in respect of which charge is made	Charge ($)
1	Costs to be claimed on writ	733
	In addition, stamp duty paid on filing the writ and on relevant copies or fees payable under the *Supreme Court Regulations 1985*, Schedule, Part 2, item 1.	
2	Costs on judgment in default of appearance:	
	(a) where writ served by post	977
	(b) where writ served by solicitor's clerk	1 092
	(c) where writ served by person other than solicitor's clerk	977
	In addition:	
	(d) where more than one defendant – for each	27
	(e) the cost of stamp duty paid on filing the writ and on relevant copies or fees payable under the *Supreme Court Regulations 1985*, Schedule, Part 2, item 1	
	(f) where paragraph (c) applies, a reasonable	

amount paid for service.

Additional Costs

Item	Matter in respect of which charge is made	Charge ($)
3	In addition to costs payable under item 2:	
	(a) costs in default of defence	124
	(b) where service out of the jurisdiction is ordered and effected:	
	(i) in the case of service in the Commonwealth	369
	(ii) in the case of service overseas	489
	(c) where substituted service is ordered and effected:	
	(i) on only defendant	977
	(ii) where more than one defendant so served – in respect of each defendant served	124
	and in addition:	
	(iii) the reasonable fees incurred for any advertising required under an order for substituted service; and	
	(d) where a judgment is registered under the *Service and Execution of Process Act 1992* (Cth) – for costs of registration	244
	(e) where leave to proceed is given under the *Service and Execution of Process Act 1992* (Cth) – on entry of judgment	733

63.76 Further provision as to costs and interest on costs

(1) The Court will take into account whether a party has complied with the party's duties under these Rules when considering:

(a) the exercise of its discretion as to costs under rule 63.03; and

(b) the exercise of its discretion as to interest under section 84 of the Act.

(2) Despite rule 63.74, if the Court decides that a party has failed to comply with the party's duties under these Rules, the Court may award interest on costs at a rate not exceeding the rate fixed from time to time in accordance with rule 59.02, plus an additional 8%.

(3) The Court may order costs in addition to interest under subrule (2) against a practitioner, if it is established that the practitioner has failed to take reasonable steps to ensure that the client has complied with the client's duties under these Rules.

(4) For the avoidance of doubt and for the purposes of this Order, the costs of a proceeding include the costs of complying with these Rules.

Order 64 Stated case, reference to Full Court

64.01 Definitions

In this Order:

authority means a Local Court Judge, justice of the peace, court, tribunal or other person or body empowered under an Act to reserve a question of law for the consideration, opinion or decision of the Court.

stated case means the case or special case stated by an authority in which the question of law is reserved.

64.02 Application

(1) This Order applies where, under an Act, an authority reserves a question of law for the consideration, opinion or decision of the Court, but does not apply to a reference to the Full Court.

(2) A Judge may give directions as to the procedure to apply under this Part.

64.03 Party having carriage of proceeding

(1) For the purposes of this Part, the party having the carriage of the proceeding shall be:

(a) where the question of law is reserved by the authority at the request of a party – that party; or

(b) where the question of law is reserved by the authority of its own motion – such party as the authority appoints for that purpose.

(2) The party having the carriage of the proceeding shall be called the applicant and the other party concerned shall be called the respondent.

64.04 Draft of the case

(1) Within 28 days after an authority reserves a question of law, the applicant, after consultation with the respondent shall serve a draft of the stated case on the authority and on the other party.

(2) A copy of a record of evidence need not be annexed to the draft case.

64.05 Form and contents

A stated case shall:

(a) be divided into paragraphs numbered consecutively;

(b) state concisely the facts and documents necessary to enable the Court to hear and determine the proceeding on the stated case;

(c) state the questions and matters to be decided or determined;

(d) contain an address for service of each of the parties concerned; and

(e) be in accordance with Form 64A.

64.06 Settling the case

The authority shall, in writing, appoint a time and place at which it will settle the draft case.

64.07 Objections

A respondent who wishes to object to the draft case shall, no later than 7 days before the date appointed to settle it, give notice of his objection to the applicant, the authority and all other respondents, if any.

64.08 Signing the case

Within 14 days after being notified in writing by the authority that the draft case has been settled, the applicant shall obtain it from the authority, engross it and shall serve the settled case as engrossed, together with sufficient copies for each of the parties, on the authority for signing by the authority.

64.09 Stating the case

Within 7 days after signing the settled case, the authority shall transmit the case to the Registry and copies to each of the parties.

64.10 Extension of time

At any time before the stated case is transmitted to the Registry, the authority may, on such terms and conditions (if any) as it thinks fit, extend or abridge the time fixed by or under rules 64.04, 64.06, 64.07, 64.08 or 64.09, whether before or after the time expires and whether or not an application for the extension is made before the time expires.

64.11 Filing the case

When a stated case is received in the Registry, it shall be filed and shall constitute an originating process.

64.12 Setting down for hearing

Within 7 days after the filing of a stated case, a Registrar shall:

(a) set the stated case down for hearing; and

(b) notify the parties in writing of the date and place of the hearing.

64.13 Documents

The Court and the parties may refer to the whole contents of a document stated in a stated case.

64.14 Inferences

The Court may draw inferences from the facts and documents stated in a stated case.

64.15 Insufficient case

(1) Where it appears to the Court that a stated case does not state the facts and documents sufficiently to enable it to hear and determine the proceeding on the stated case, it may:

(a) with the consent of all interested parties, add to or otherwise alter the stated case;

(b) send the stated case back to the authority by which it was stated for the purpose of addition or other alterations; or

(c) receive evidence, make findings of fact and add to or otherwise alter the stated case in accordance with the findings of fact of the Court.

(2) The Court shall not exercise its powers under subrule (1)(c) in respect of a stated case in a criminal proceeding.

64.16 Disputed facts

Where, in a proceeding on a stated case, a party is entitled to dispute a fact or document stated in the case, the Court may receive evidence, make findings of fact and add to or alter the stated case in accordance with the findings of fact of the Court.

Order 65 Applications to Full Court

65.01 Application

This Order applies to an application to the Full Court relating to:

(a) a reference under section 21 of the Act; or

(b) a matter mentioned in Chapter 10, other than an appeal from the Legal Practitioners Disciplinary Tribunal.

65.02 Mode of application

(1) An application to the Full Court must be made:

(a) if the application relates to a reference under section 21 of the Act – in the manner the Judge who is referring the matter directs; or

(b) if the application relates to a matter mentioned in Chapter 10 to which this Order applies – by originating motion.

(2) The party who makes an application under subrule (1)(b) shall be called the applicant and the other parties interested shall be called the respondents.

(3) An originating motion under subrule (2) shall be served on all parties interested.

(4) Where it is satisfied that a delay would be caused by proceeding in accordance with subrule (1)(b) and would or might entail irreparable or serious injustice, the Full Court may make an order without notice to a party on such terms as to costs or otherwise and subject to such undertaking, if any, as it thinks fit.

(5) The Full Court may set aside an order made under subrule (4) on the application of a party affected by the order.

65.03 Service of document

Service of a document under rule 65.02 shall be made not later than 3 days before the day for hearing named in the document, unless:

(a) in an application to which rule 65.02(1)(a) refers – the Judge referring the matter otherwise directs; or

(b) in any other case – the Full Court otherwise orders.

65.04 Documents for application

(1) Before the hearing of an application to the Full Court relating to a matter mentioned in Chapter 10 to which this Order applies:

(a) the applicant shall deliver to a Registrar for the use of the members of the Full Court 4 copies and to each respondent to the application 1 copy of the originating motion of all affidavits and, unless the Registrar otherwise directs, all exhibits in support of the application; and

(b) each respondent shall deliver to a Registrar for the use of the members of the Full Court 4 copies and to the applicant 1 copy of all affidavits and, unless the Registrar otherwise directs, all exhibits to be used by him on the hearing of the application.

(2) The applicant shall deliver the documents referred to in subrule (1)(a) to a Registrar not later than 3 days before the day named in the originating motion for the hearing of the application.

(3) In the preparation of a copy of documents for the purpose of subrule (1), regard shall be had, so far as practicable, to any Practice Notes published by the Associate Judges from time to time.

65.05 Procedure on application

Order 45, with the necessary changes, applies to an application to the Full Court under this Order.

Order 66 Enforcement of judgments and orders

66.01 Definitions

In this Order, unless the contrary intention appears:

judgment for the payment of money into court includes a judgment for the payment of money to an Associate Judge or to a Registrar.

person bound means a person against whom a judgment is entered or given or an order is made.

66.02 Payment of money

(1) A judgment for the payment of money not within subrule (2) may be enforced by:

(a) warrant of seizure and sale;

(b) attachment of debts under Order 71;

(c) attachment of earnings under Order 72;

(d) charging order under Order 73;

(e) appointment of a receiver under Order 74; or

(f) where rule 66.05 applies, and subject to rule 66.10:

(i) committal; or

(ii) sequestration,

or any combination of those means.

(2) A judgment for the payment of money into court may be enforced by:

(a) appointment of a receiver; or

(b) where rule 66.05 applies, and subject to rule 66.10:

(i) committal; or

(ii) sequestration,

or both those means.

(3) Subrules (1) and (2) do not affect any other means of enforcement of a judgment for the payment of money.

(4) The Court may authorise or direct an Associate Judge or a Registrar, or a party, to enforce a judgment for the payment of money into court by one or more of the means referred to in subrule (1).

66.03 Possession of land

A judgment for possession of land may be enforced by:

(a) warrant of possession; or

(b) where rule 66.05 applies, and subject to rule 66.10:

(i) committal; or

(ii) sequestration,

or both those means.

66.04 Delivery of goods

(1) A judgment for the delivery of goods and a judgment for the delivery of goods or the payment of their assessed value may be enforced by:

(a) warrant of delivery; or

(b) where rule 66.05 applies, and subject to rule 66.10:

(i) committal; or

(ii) sequestration,

or both those means.

(2) The warrant of delivery shall, as the judgment requires, be for:

(a) the delivery of the goods; or

(b) the delivery of the goods or recovery of their assessed value.

(3) A warrant of delivery may include provision for enforcing the payment of money required to be paid by the judgment.

(4) A judgment for the payment of the assessed value of goods may be enforced by the same means as any other judgment for the payment of money except a judgment for the payment of money into court.

66.05 Doing or abstaining from doing an act

(1) This rule applies where:

(a) a judgment requires a person to do an act and the act is to be done within a time fixed in the judgment or by subsequent order and he refuses or neglects to do the act within that time; or

(b) a judgment requires a person to abstain from doing an act and he disobeys the judgment.

(2) Where this rule applies, a judgment may, subject to rule 66.10, be enforced by:

(a) the committal of the person bound;

(b) sequestration of the property of the person bound; or

(c) where the person bound is a corporation, without limiting subrule (2)(b):

(i) the committal of an officer of the corporation; or

(ii) sequestration of the property of an officer of the corporation,

or any combination of those means.

66.06 Attendance of natural person

(1) This rule applies where the Court by subpoena or otherwise makes an order in a proceeding for the attendance of a natural person:

(a) for the purpose of giving evidence;

(b) for the production of a document or thing;

(c) to answer a charge of contempt; or

(d) for any other purpose,

and after service of the order the person defaults in attendance in accordance with the order.

(2) In the circumstances referred to in subrule (1), the Court may:

(a) make an order for the issue of a warrant to the Sheriff or such other person as the Court appoints for the arrest of the person in default and for his production before the Court or before an examiner or other person for the purpose of the proceeding

and for his detention in custody in the meantime; and

(b) order the person in default to pay the costs and expenses occasioned by the default.

66.07 Attendance of corporation

(1) This rule applies where the Court, by subpoena or otherwise, makes an order in a proceeding for the production by a corporation of a document or thing and after service of the order the corporation defaults in producing the document or thing in accordance with the order.

(2) In the circumstances referred to in subrule (1), the Court may:

(a) make an order for the issue of a warrant to the Sheriff or such other person as the Court appoints for the arrest of an officer of the corporation and for his production before the Court or before an examiner or other person for the purpose of the proceeding and for his detention in custody in the meantime; and

(b) order the corporation to pay the costs and expenses occasioned by the default.

66.08 Attendance before another Court, etc.

Rules 66.06 and 66.07, with the necessary changes, apply where by or under an Act the Court has authority to compel by subpoena the attendance of a person for the purpose of giving evidence or producing a document or thing for evidence in a court or before a person having by law or by consent of parties authority to hear, receive and examine evidence.

66.09 Contempt

Nothing in rules 66.06 or 66.07 affects the power of the Court to punish for contempt.

66.10 Service before committal or sequestration

(1) A judgment shall not be enforced by committal or sequestration unless:

(a) a copy of it is served personally on the person bound; and

(b) if the judgment requires the person bound to do an act within a fixed time, the copy is so served a reasonable time before that time expires.

(2) Where the person bound is a corporation, the judgment shall not be enforced by committal of an officer of the corporation or by sequestration of the property of an officer of the corporation unless, in addition to service under subrule (1) on the corporation:

(a) a copy of the judgment is served personally on the officer; and

(b) if the judgment requires the corporation to do an act within a fixed time, the copy is so served a reasonable time before that time expires.

(3) A copy of a judgment served under this rule shall be endorsed with a notice, naming the person served, that the person served is liable to imprisonment or to sequestration of property if:

(a) where the judgment requires the person bound to do an act within a fixed time, the person bound refuses or neglects to do the act within that time; or

(b) where the judgment requires the person bound to abstain from doing an act, the person disobeys the judgment.

(4) Where a judgment requires the person bound to do an act and an order is made under rule 59.03 fixing a time within which the act is to be done, a copy of the judgment, endorsed as required by subrule (3)(a), and a copy of the order, shall be served on that person a reasonable time before the expiration of that time.

(5) A judgment requiring a person to do an act within a fixed time or a judgment requiring a person to abstain from doing an act, may be enforced under rule 66.05 notwithstanding that service has not been effected under this rule if the person against whom the judgment is to be enforced has notice of the judgment:

(a) by being present when the judgment was given; or

(b) by being notified of the terms of the judgment whether by telephone, telegram or otherwise.

(6) The Court may dispense with service under this rule.

66.11 Substituted performance

(1) Where a judgment requires the person bound to do an act and the person bound does not do the act, the Court may:

(a) direct that the act be done by a person appointed by the Court; and

(b) order the person bound to pay the costs and expenses occasioned by the default.

(2) Subrule (1) does not affect:

(a) the power of the Court under section 36 of the *Trustee Act 1893* or any other Act; or

(b) the power of the Court to punish for contempt.

66.12 Enforcement by or against non-party

(1) A person, not being a party, who obtains a judgment or in whose favour a judgment is made may enforce the judgment by the same means as if he were a party.

(2) Where obedience to a judgment may be enforced against a person not a party, the judgment may be enforced against him by the same means as if he were a party.

(3) Where obedience to a judgment may be enforced against a corporation not a party, an officer of the corporation shall be liable to the same processes of enforcement as if the corporation were a party.

66.13 Non-performance of condition

A person entitled to a judgment subject to the fulfilment of a condition who fails to fulfil the condition shall be taken to have abandoned the benefit of the judgment and, unless the Court otherwise orders, another person interested may take the steps which are warranted by the judgment or which might have been taken if the judgment or order had not been given or made.

66.14 Matters occurring after judgment

The Court may stay execution of a judgment, or make such order as the nature of the case requires, on the ground of matters occurring after judgment.

66.15 Order in aid of enforcement

(1) The Court may make such order as it thinks fit in aid of the enforcement of a warrant of execution and for that purpose may make an order that a person, whether or not a party:

(a) attend before the Court to be examined; or

(b) do or abstain from doing an act.

(2) An application for an order under subrule (1) may be made by the Sheriff or other person to whom a warrant of execution is directed.

66.16 Stay of execution

The Court may stay execution of a judgment.

Order 67 Discovery in aid of enforcement

67.01 Definitions

In this Order, unless the contrary intention appears:

material questions are:

(a) whether any and, if so, what debts are owing to the person bound;

(b) whether the person bound has any and, if so, what other property or means of satisfying the judgment; and

(c) questions concerning or in aid of the enforcement or satisfaction of the judgment specified in the order for examination or production.

person bound means a person against whom a judgment is entered or given or an order is made.

67.02 Order for examination or production

(1) The Court may, on application by a person entitled to enforce a judgment, order a person bound by the judgment to:

(a) attend before the Court and be orally examined on; and

(b) produce a document or thing in the possession, custody or power of the person bound relating to,

the material questions.

(2) Where the Court makes an order under subrule (1), it may order that the person attend to be examined before or produce the document or thing to an Associate Judge.

67.03 Corporation

(1) Where the person bound is a corporation, the Court may make an order that:

(a) an officer or former officer of the corporation attend before the Court and be orally examined on the material questions; and

(b) an officer of the corporation produce a document or thing in the possession, custody or power of the corporation relating to the material questions.

(2) Where the Court makes an order under subrule (1), it may order that the officer or former officer attend to be examined before or produce the document or thing to an Associate Judge.

67.04 Procedure

(1) An application for an order under rule 67.02 or 67.03 may be made without notice to the person bound by the judgment.

(2) An order under rule 67.02 or 67.03 shall be served personally on the person bound and on all other persons ordered to attend or to produce a document or thing.

67.05 Record of examination

The Judge or Associate Judge before whom an examination is conducted under rule 67.02 or 67.03 shall take down, or cause to be taken down, in writing the statement made by the person examined at the examination.

Order 68 Warrants of execution generally

68.01 Definitions

In this Order, unless the contrary intention appears:

Sheriff includes a person to whom a warrant of execution is directed.

warrant of execution means a warrant of seizure and sale, a warrant of possession or a warrant of delivery.

68.02 Leave to issue warrant

(1) Notwithstanding Order 66, a warrant of execution to enforce a judgment shall not be issued without the leave of the Court where:

(a) 6 years have elapsed since the judgment took effect;

(b) a change has taken place, whether by assignment or death or otherwise, in the identity of the person entitled or liable to execution under the judgment;

(c) the judgment is against the assets of a deceased person coming to the hands of his executor or administrator after the date of the judgment and it is sought to issue execution against assets of that description;

(d) under the judgment a person is entitled to enforce it subject to the fulfilment of a condition; or

(e) the warrant is against property in the hands of a receiver appointed by the Court or of a sequestrator.

(2) Subrule (1) does not affect a provision of or under an Act requiring the leave of the Court before a judgment may be enforced.

(3) An application for leave under subrule (1) may be made without notice to any person, unless the Court otherwise orders.

(4) The application shall be supported by evidence on affidavit showing:

(a) where the judgment is for the payment of money – the amount, including interest, due on the date of the application;

(b) where subrule (1)(a) applies – the reasons for the delay;

(c) where subrule (1)(b) applies – the change which has taken place;

(d) where subrule (1)(b), (c) or (d) applies – that a demand to satisfy the judgment has been made on the person liable to satisfy it and that he has not satisfied it;

(e) that the applicant is entitled to proceed to execution on the judgment; and

(f) that the person against whom execution is sought is liable to execution on the judgment.

68.03 Separate execution for costs

A person entitled to enforce a judgment entered or given with costs may have execution to enforce the judgment and, when the costs become payable, have execution separately to enforce payment of the costs.

68.04 Issue of warrant of execution

(1) A warrant of execution is issued when the warrant is sealed with the seal of the Court.

(2) A warrant of execution shall bear the date of its issue.

(3) A warrant of execution shall not be issued unless the person requesting it to be issued:

(a) produces to a Registrar a form of the warrant; and

(b) files a copy; and

(c) where the warrant is to enforce a judgment for the payment of money, files an affidavit, made within 14 days before the request, stating:

(i) the date of the judgment; and

(ii) the amount for which judgment was entered or given; and

(iii) the amount, including interest accrued and costs, due and payable in respect of the judgment at the date the affidavit is made with particulars showing how that amount is calculated or made up; and

(iv) the daily amount of interest, if any, which, subject to any future payment under the judgment, will accrue after the date the affidavit is made in respect of the judgment amount and costs.

(4) In the case of a warrant of execution to enforce a judgment for the payment of money, the person to whom the warrant is directed shall, when executing the warrant, serve a copy of the affidavit required to be filed under subrule (3)(c) on the person against whom the warrant is executed or leave it at the place where the warrant is executed.

68.05 Duration

(1) A warrant of execution is valid for the purpose of execution for one year after the day it is issued.

(2) Notwithstanding subrule (1), the Court may from time to time, by order, extend the period of the validity of the warrant for the purpose of execution for not more than one year at any one time from the day on which it would otherwise expire.

(3) An order under subrule (2) shall not be made after the day of expiry of the warrant.

(4) An application for an order under subrule (2) may be made without notice to any person.

(5) A copy of an order under subrule (2) shall be delivered to the Sheriff by the party obtaining the order.

(6) The priority of a warrant of execution in respect of which an order under subrule (2) has been made shall be determined by reference to the date on which the warrant was originally delivered to the Sheriff.

68.06 Costs of prior execution

The amount for which a warrant of execution may be issued shall, unless the Court otherwise orders, include the costs, fees and expenses incurred in respect of a prior warrant of execution on the same judgment, whether the prior warrant was or was not satisfied in full.

68.07 Provision for enforcing payment of money

Order 69, with the necessary changes, applies to a warrant of execution which includes a provision for enforcing the payment of money required to be paid by the judgment which is to be enforced by the warrant.

68.08 Form of warrant of execution

A warrant of execution shall be in Form 53B, 68A, 68B or 68C, whichever is appropriate.

Order 69 Warrant of seizure and sale

69.01 Definitions

In this Order, unless the contrary intention appears:

creditor means a person for whom a warrant is issued.

debtor means a person against whose property a warrant is to be executed.

judgment includes an order.

Sheriff includes a person to whom a warrant is directed.

warrant means a warrant of seizure and sale.

69.02 Application

This Order applies subject to the *Sheriff Act 1962* and the Regulations made under that Act.

69.03 New enforcement process

The process of enforcement under this Order shall be used instead of the process of enforcement by writ of fieri facias.

69.04 Two or more warrants

Unless the Court otherwise orders, a warrant shall not be issued while another warrant issued in respect of the same judgment is in force, except for the purposes of rule 68.03.

69.05 Order of sale

(1) Subject to subrules (2) and (3), where it appears to the Sheriff that property subject to levy under a warrant is more than sufficient to satisfy the amount to be levied, he shall take or sell so much of the property as appears to him to be sufficient.

(2) Subject to subrule (3), the Sheriff shall take or sell property:

(a) in such order as seems to him best for the prompt execution of the warrant without undue expense;

(b) subject to paragraph (a), in such order as the debtor directs; and

(c) subject to paragraphs (a) and (b), in such order as seems to the Sheriff best for minimizing hardship to the debtor and other persons.

(3) Unless the debtor so requests, land shall not be put for sale under the warrant until all other property liable to sale under the warrant has been sold.

(4) The Court may order that property subject to levy under the warrant be taken or sold otherwise than in accordance with this rule.

69.06 Time and place of sale

The Sheriff shall put up for sale all property liable to sale under a warrant:

(a) as early as may be having regard to the interests of the parties; and

(b) at the place which seems to him best for a beneficial sale of the property.

69.07 Advertisement of sale

(1) Before putting property up for sale under a warrant, the Sheriff shall advertise the sale by giving notice of the time and place of sale, and of particulars of the property, in the manner which seems to him best to give publicity to the sale.

(2) The Sheriff shall not advertise the sale of land until the creditor has satisfied him, by such means as he may reasonably require, that a copy of the warrant has been served on the Registrar-General and that a memorial of the warrant has been entered on the original Certificate of Title under the *Land Title Act 2000*.

(3) An advertisement relating to the intended sale of land by the Sheriff shall be in Form 69A and include:

(a) a concise description of the land, including its location, stated in terms calculated to enable interested persons to identify it;

(b) a statement in general terms of the improvements, if any, believed by the Sheriff to be on the land;

(c) a statement of the last known address of the debtor; and

(d) a statement of the interest, if any, of the debtor according to the Register Book under the *Land Title Act 2000* and of the entries in the Register Book which affect or may affect the land as at the date of service on the Registrar-General of the warrant.

(4) The creditor shall serve personally on the debtor a copy of the advertisement not later than 14 days before the date of the intended sale.

(5) The Court may dispense with service under subrule (4).

(6) Not later than 3 days, or such lesser period as the Sheriff allows, before the date advertised for the sale, the creditor shall:

(a) file an affidavit of service of a copy of the advertisement or, where the Court makes an order for substituted service of the advertisement, an affidavit showing due compliance with the order; and

(b) deliver to the Sheriff:

(i) where a copy of the advertisement is served on the debtor – a copy of the affidavit of service;

(ii) where the Court makes an order dispensing with service of a copy of the advertisement – a copy of the order; and

(iii) where the Court makes an order for substituted service of the advertisement – a copy of the order and of the affidavit showing due compliance.

69.08 Notional possession of goods

Notwithstanding that the Sheriff leaves land on which goods have been seized under a warrant, he shall be taken to remain in possession of the goods if he leaves in a prominent position on or about the land on which the goods were seized or on the goods seized a notice of the seizure listing the items seized.

Order 70 Warrant of possession

70.01 Payment of money

A warrant of possession to enforce a judgment for the possession of land may include provision for enforcing the payment of money required to be paid by the judgment.

70.02 Removal of goods on warrant of possession

On the execution of a warrant of possession the Sheriff need not remove any of the goods found on the land.

Order 71 Attachment of debts

71.01 Definitions and application

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

garnishee means a person from whom a judgment creditor claims that a debt:

(a) is due or accruing to the judgment debtor on the day an order for the filing and service of a garnishee summons is made; or

(b) will or is likely to become due or accrue to the judgment debtor between the day an order for the filing and service of a garnishee summons is made and the day for hearing named in the summons.

judgment creditor means a person entitled to enforce a judgment for the payment of money, other than a judgment for the payment of money into court.

judgment debtor means a person required by a judgment to pay money otherwise than into court.

(2) This Order does not apply to debts, being earnings within the meaning of Order 72, due or accruing to the judgment debtor.

71.02 What debts attachable

A debt may be attached under this Order if the debt:

(a) is due or accruing to the judgment debtor from the garnishee on the day an order for the filing and service of a garnishee summons is made; or

(b) becomes due or accrues to the judgment debtor from the garnishee between the day an order for the filing and service of a garnishee summons is made and the day for hearing named in the summons.

71.03 Bank account

(1) An amount standing to the credit of a judgment debtor in an account in an ADI shall, for the purpose of this Order, be a debt due or accruing to the judgment debtor, notwithstanding that any of the following conditions applicable to the account has not been satisfied:

(a) that a demand or notice is required before money is withdrawn;

(b) that a personal application must be made before money is withdrawn;

(c) that a deposit book must be produced before money is withdrawn; or

(d) that a receipt for money deposited in the account must be produced before money is withdrawn.

(2) Subrule (1), with the necessary changes, applies to an amount which is placed to the credit of a judgment debtor in an account in an ADI between the day an order for the filing and service of a garnishee summons is made and the day for hearing named in the summons.

71.04 Filing and service of garnishee summons

(1) Subject to an Act, the Court may, on the application of a judgment creditor, order that a garnishee summons be filed and served on the garnishee.

(2) A judgment creditor may apply for an order under subrule (1) without notice to any person.

(3) The Court shall, in making an order under subrule (1), fix an amount to be specified in the garnishee summons for the purpose of rule 71.06 having regard to:

(a) the amount due under the judgment on the date of the order;

(b) the amount of interest accrued and accruing on the judgment debt; and

(c) the costs of the garnishee proceedings.

(4) Where an order is made under subrule (1) in respect of a debt not yet due or accruing to the judgment debtor from the garnishee, the day for hearing named in the summons shall be not later than 30 days after the date of the order.

71.05 Evidence on application for garnishee summons

(1) An order shall not be made under rule 71.04 unless it is shown by affidavit:

(a) that the judgment is unsatisfied, either wholly or to a stated extent; and

(b) that:

(i) a debt is due or accruing to the judgment debtor from the garnishee; or

(ii) a debt will or is likely to become due or accrue to the judgment debtor from the garnishee,

as the case requires.

(2) Where an application is made for an order under rule 71.04 in respect of a debt within subrule (1)(b)(ii), the affidavit shall give particulars identifying the transaction between the judgment debtor and the garnishee under which the debt will or is likely to become due or accrue and state the date or likely date it will become due or accrue.

(3) An affidavit under this rule may contain statements of fact based on information and belief if the grounds are set out.

71.06 Garnishee summons

(1) A garnishee summons shall identify each debt in respect of which it is filed and state:

(a) where the debt is due or accruing to the judgment debtor from the garnishee:

(i) that on service of the summons the debt shall be attached and bound in the hands of the garnishee to the extent of the amount specified in the summons; and

(ii) that in the event that the debt becomes due or accrued before the day for hearing named in the summons the debt shall be attached and bound in the hands of the garnishee to the extent of the amount specified in the summons when it becomes due or accrues,

as the case requires; and

(b) that on the day for hearing named in the summons the judgment creditor will apply for an order that the garnishee pay to the judgment creditor the debt attached to the extent of the amount specified in the summons.

(2) A garnishee summons shall be in Form 71A.

71.07 Service of summons

(1) Subject to subrule (2), the judgment creditor shall, not later than 7 days before the day for hearing named in the garnishee summons, serve the summons and a copy of each affidavit used on the application for an order under rule 71.04 on the garnishee personally and on the judgment debtor.

(2) A garnishee summons shall not be served on a garnishee out of the Territory.

(3) The Court may dispense with service on the judgment debtor under subrule (1).

71.08 What debts attached, when and to what extent

(1) A debt due or accruing to the judgment debtor from the garnishee in respect of which an order for the filing and service of a garnishee summons is made is, on service of the summons on the garnishee, attached and bound in the hands of the garnishee to the extent of the amount specified in the summons.

(2) A debt not yet due or accruing to the judgment debtor from the garnishee in respect of which an order for the filing and service of a garnishee summons is made is in the event that the debt becomes due or accrues before the day for hearing named in the summons, attached and bound in the hands of the garnishee to the extent of the amount specified in the summons when it becomes due or accrues.

(3) Notwithstanding subrules (1) and (2), where, after service of a garnishee summons on the garnishee, the garnishee acts with reasonable diligence for the purpose of giving effect to the attachment but nevertheless pays to the judgment debtor the whole or a part of the debt attached or otherwise deals with the debt attached so as to satisfy, as between the garnishee and the judgment debtor, the whole or a part of the debt attached, the Court may order that for the purpose of the garnishee application the debt attached be reduced to the extent of the payment or satisfaction.

71.09 Payment to judgment creditor

(1) Subject to rules 71.10 and 71.11, the Court may, on the hearing of a garnishee summons, order the garnishee to pay to the judgment creditor:

(a) the debt attached to the extent specified in the garnishee summons; or

(b) so much of the debt attached to the extent so specified as is required to satisfy the judgment in respect of which the summons is filed and served together with interest and such costs of the application as are specified in the order.

(2) Where on the hearing of a garnishee summons the garnishee does not dispute the debt, or where he does not attend on the hearing, the Court may make an order under subrule (1) on the evidence in support of the application under rule 71.04 for an order that the garnishee summons be filed and served on the garnishee.

(3) An order under subrule (1) may be enforced in the same manner as any other order for the payment of money.

(4) An order under subrule (1) shall be in Form 71B or 71C, as the case requires.

71.10 Dispute of liability by garnishee

If on the hearing of the garnishee summons the garnishee disputes liability to pay the debt attached, the Court may determine the question of liability or give directions for the trial of the question.

71.11 Claim by other person

Where it appears to the Court that a person other than the judgment debtor may be entitled to the debt attached or to a charge or lien on it, it may order that notice of the application be given to that person and then determine the entitlement or give directions for its determination.

71.12 Discharge of garnishee

A payment made by a garnishee in compliance with, and any execution levied against him under, an order made under rule 71.09 is a valid discharge of his liability to the judgment debtor to the extent of the amount paid or levied notwithstanding that subsequently the garnishee proceedings are set aside or the judgment from which they arose is reversed or varied.

71.13 Money in Court

(1) Subject to rule 15.09, where money is standing to the credit of the judgment debtor in court, the Court may, on the application of the judgment creditor made by summons, order that the money or so much of it as is sufficient to satisfy the judgment sought to be enforced, together with interest accrued on the judgment debt and the costs of the application, be paid to the judgment creditor.

(2) The summons and a copy of any affidavit in support shall be served on the judgment debtor not later than 7 days before the day for hearing named in the summons.

71.14 Costs

The costs of the judgment creditor of a garnishee application under this Order shall, unless the Court otherwise orders, be retained by the judgment creditor out of the money recovered by him from the garnishee in priority to the debt under the judgment in respect of which the application arose and interest accrued on the debt.

Order 72 Attachment of earnings

72.01 Definitions

In this Order, unless the contrary intention appears:

attachment of earnings order means an order under rule 72.03 or such an order as varied from time to time.

earnings, in relation to a judgment debtor, means an amounts payable to the judgment debtor:

(a) by way of wages or salary, including fees, bonuses, commissions, overtime payments or other emoluments payable in addition to wages or salary; or

(b) by way of pension, including:

(i) an annuity in respect of past services, whether or not the services were rendered to the person paying the annuity; and

(ii) periodical payments in respect of or by way of compensation for the loss, abolition or relinquishment, or a diminution in the emoluments, of an office or employment,

but does not include a pension payable to the judgment debtor under the *Social Security Act 1947*, the *Repatriation Act 1920* or the *Seamen's War Pensions and Allowances Act 1940* of the Commonwealth.

employer, in relation to a judgment debtor, means a person (including the Crown in right of the Territory, a Minister of the Crown in right of the Territory and a statutory authority representing the Crown in right of the Territory) by whom, as a principal and not as a servant or agent, earnings are payable or are likely to become payable to the judgment debtor.

judgment creditor means a person entitled to enforce a judgment for the payment of money, other than a judgment for the payment of money into court.

judgment debtor means a person required by a judgment to pay money otherwise than into court.

net earnings, in relation to a pay-day, means the amount of the earnings becoming payable by a particular employer on that pay-day after the deduction from those earnings of:

(a) an amount deducted under Division 2 of Part VI of the *Income Tax Assessment Act 1936* of the Commonwealth; and

(b) an amount deducted that would be an allowable deduction:

(i) under section 82H of that Act other than life insurance premiums, not being life insurance premiums payable in respect of superannuation; or

(ii) under section 82A of that Act.

normal deduction, in relation to an attachment of earnings order and in relation to a pay-day, means an amount representing a payment at the normal deduction rate specified in the order in respect of the period between that pay-day and either the last preceding pay-day or, where there is no last preceding pay-day, the date on which the employer became, or last became, the judgment debtor's employer.

pay-day means an occasion on which earnings to which the attachment of earnings order relates become payable.

protected earnings, in relation to an attachment of earnings order and in relation to a pay-day, means the amount representing a payment at the protected earnings rate specified in the order in respect of the period between that pay-day and either the last preceding pay-day or, where there is no last preceding pay-day, the date on which the employer became, or last became, the judgment debtor's employer.

72.02 Application for attachment of earnings order

(1) A judgment creditor may apply by summons to the Court for an attachment of earnings order.

(2) The summons shall be supported by an affidavit, which may contain statements of fact based on information and belief if the grounds are set out.

(3) The summons shall be in Form 72A and the affidavit shall be in Form 72B.

(4) The summons, a copy of the affidavit and a notice in Form 72C as to the property and assets of the judgment debtor and the debts, liabilities and other financial obligations of the judgment debtor shall be served on the judgment debtor not later than 14 days before the

day for hearing named in the summons.

72.03 Making of order

(1) Where the Court is satisfied that the judgment debtor is a person to whom earnings are payable or are likely to become payable and that:

(a) at the time when the application was made there was due and unpaid in respect of the judgment which the judgment creditor is entitled to enforce an amount of not less than $20; or

(b) the judgment debtor has persistently failed to comply with an order with respect to the judgment,

the Court may order a person who appears to it to be the judgment debtor's employer in respect of those earnings or part of those earnings to make out of those earnings or that part of those earnings payments in accordance with rule 72.07.

72.04 Attendance of or information about judgment debtor

(1) In relation to an attachment of earnings order or an application for such an order, the Court may order that:

(a) the judgment debtor attend before it at a time specified in the order to be examined concerning his means and ability to comply with the judgment;

(b) the judgment debtor state to it or furnish to it, within the time fixed by it, a statement signed by him setting forth:

(i) the name and address of his employer or, if he has more employers than one, of each of his employers; and

(ii) particulars as to the judgment debtor's earnings; and

(iii) such other particulars as the Court thinks necessary to enable the enforcement of the order; or

(c) a person who appears to it to be indebted to the judgment debtor or to be the employer of the judgment debtor give to it a statement signed by him or on his behalf containing such particulars as are specified in the direction of his indebtedness to the judgment debtor that became payable by that person during a specified period.

(2) A document purporting to be a statement referred to in subrule (1) shall be received in evidence in a proceeding for the enforcement of the order.

(3) Where on an application for an attachment of earnings order the Court is satisfied:

(a) that the judgment debtor has been served with a copy of the summons;

(b) that the judgment debtor has had a reasonable opportunity of attending the hearing;

(c) that the judgment debtor is employed by an ascertained employer; and

(d) as to the earnings of the judgment debtor,

it may make an attachment of earnings order in the absence of the judgment debtor.

(4) For the purpose of this rule, the Court may act on evidence by or on behalf of the judgment debtor's employer or by a spouse or de facto partner of the judgment debtor, or a statement or information furnished under subrule (1).

(5) Where the Court considers an application in the absence of the judgment debtor or any spouse or de facto partner of the judgment debtor and it has before it sufficient evidence in its opinion on which to specify a protected earnings rate and a normal deduction rate, it shall so specify those rates but, where it does not have sufficient evidence, it may, without specifying those rates, make an order requiring the payment by the judgment debtor's employer to the judgment creditor of such amount as the Court thinks reasonable having regard to the circumstances of the judgment debtor so far as they are known to the Court.

(6) Nothing in subrule (1)(a) affects any other mode of enforcing the attendance of the judgment debtor before the Court.

(7) An application for an order under subrule (1) (a) shall be made by summons in Form 72D and shall be supported by an affidavit in Form 72E.

(8) An order under subrule (1) shall be in Form 72F or 72G, whichever is appropriate.

72.05 Contents of order

(1) In this rule:

normal deduction rate means the rate at which the Court considers it to be reasonable that the earnings of a judgment debtor should be applied in satisfying the judgment to which the order relates, not exceeding a rate that appears to the Court to be necessary for the purpose of:

(a) securing payment of the amount due and unpaid under the judgment; and

(b) securing payment within a reasonable time of any costs ordered by the Court to be paid by the judgment debtor.

protected earnings rate means the rate below which, having regard to the resources and needs of a judgment debtor and of any other person for whom he must or reasonably may provide, the Court considers it to be reasonable that the earnings to which the order relates should not be reduced by a payment under an attachment of earnings order.

(2) An attachment of earnings order shall specify, either generally or in relation to a particular pay-day or particular pay-days, the normal deduction rate.

(3) An attachment of earnings order may specify a higher normal deduction rate to apply for a specified number of pay-days after the order comes into force and a lower normal deduction rate to apply to subsequent pay-days.

(4) An attachment of earnings order shall also specify the protected earnings rate.

(5) Unless the Court:

(a) has received from the judgment debtor a completed form pursuant to the notice in Form 72C given under rule 72.02(4) as to the property and assets of the judgment debtor and has debts, liabilities and other financial obligations; or

(b) has examined the judgment debtor as to those matters,

it shall not under subrule (3) specify as the protected earnings rate a rate that is less than 80% of the net earnings of the judgment debtor.

(6) An attachment of earnings order shall:

(a) provide that the payments under the order are to be made to the person specified in the order; and

(b) contain such particulars as the Court thinks necessary for enabling the person to whom the order is directed to identify the judgment debtor.

(7) An attachment of earnings order shall be in Form 72H.

72.06 Service of orders

(1) An attachment of earnings order shall be served on the judgment debtor and on the person to whom the order is directed.

(2) There shall also be served on the person to whom an attachment of earnings order is directed:

(a) a notice informing him of the effect of the order and of his obligations under the Order; and

(b) 2 forms of notice that the judgment debtor is not in his employ.

(3) A notice under subrule (2)(a) shall be in Form 72J and a notice under subrule (2)(b) shall be in Form 72K.

(4) The order shall not come into force until the expiration of 7 days after the day on which it is served on the person to whom it is directed.

72.07 Employer to make payments

(1) An employer to whom an attachment of earnings order is directed shall, in respect of each pay-day whilst the order is in force, if the net earnings of the judgment debtor exceed the sum of:

(a) the protected earnings of the judgment debtor; and

(b) so much of an amount by which the net earnings that became payable on a previous pay-day were less than the protected earnings in relation to that pay-day as has not been made good on any other previous pay-day,

pay, so far as that excess permits, to the person specified in the order the normal deduction in relation to that pay-day and so much of the normal deduction in relation to a previous pay-day as was not paid on that pay-day and has not been paid on a previous pay-day.

(2) A payment made by an employer under subrule (1) is a valid discharge to him as against the judgment debtor to the extent of the amount paid.

(3) An employer making payments in accordance with an attachment of earnings order may deduct from the earnings of the judgment debtor, in addition to any other amount, an allowance of $3 in respect of each payment towards the clerical and administrative costs of making payments under the order and shall give to the judgment debtor notice of the amount deducted.

72.08 Attachment of earnings in place of other orders

Where an application is made to the Court to enforce a judgment for the payment of money otherwise than into court, the Court may, instead of making another order, make an attachment of earnings order.

72.09 Execution after attachment of earnings

Unless the Court otherwise orders, where an attachment of earnings order is in force, no warrant of execution shall issue and no order shall be made for the enforcement of the judgment to which the attachment of earnings order relates.

72.10 Discharge or variation of order

(1) Where an attachment of earnings order is in force, the Court may, on the application of the judgment creditor or the judgment debtor, discharge, suspend or vary the order.

(2) An order suspending or varying an attachment of earnings order shall be served on the respondent to the application and the person to whom the attachment of earnings order is directed.

(3) An order suspending or varying an attachment of earnings order does not come into force until the expiration of 7 days after the day on which the order is served on the person to whom it is directed.

72.11 Cessation of attachment of earnings order

(1) An attachment of earnings order ceases to have effect:

(a) on being discharged under rule 72.10; or

(b) unless the Court otherwise orders, on the making of another order for the recovery of the moneys owing under the judgment in relation to which the attachment of earnings order was made.

(2) Where an attachment of earnings order ceases to have effect, a Registrar shall, without delay, give notice accordingly to the person to whom the order was directed.

(3) A notice under subrule (2) shall be in Form 72L.

(4) Where an attachment of earnings order ceases to have effect, the person to whom the order is directed shall not incur a liability in consequence of his treating the order as still in force at any time before the expiration of 7 days after the day on which the notice required by subrule (2) or a copy of the order discharging the attachment of earnings order, as the case may be, is served on him.

72.12 Two or more orders in force

Where earnings become payable to a judgment debtor and there are in force 2 or more attachment of earnings orders, whether made under this Chapter or otherwise, in relation to those earnings, the person to whom the orders are directed shall comply with:

(a) those orders according to the respective dates on which they took effect and shall disregard an order until the earlier order has been complied with; and

(b) an order as if the earnings to which the order relates were the residue of the earnings of the judgment debtor after the making of a payment under an earlier order.

72.13 When varied order taken to be made

For the purpose of rule 72.12, an attachment of earnings order which has been varied under rule 72.10 shall be taken to have been made as so varied on the day on which the attachment of earnings order was made.

72.14 Notice to judgment debtor of payments

(1) A person who makes a payment in compliance with an attachment of earnings order shall give to the judgment debtor a notice specifying the particulars of the payment.

(2) Where a person served with an attachment of earnings order directed to him is not the employer of the judgment debtor at the time of service of the order, he shall, without delay after service of the order, give notice in writing accordingly to a Registrar.

(3) Where a person served with an attachment of earnings order directed to him is the employer of the judgment debtor at the time of service of the order but ceases to be his employer at any time thereafter, that person shall, as soon as he ceases to be the judgment debtor's employer, give notice in writing accordingly to the Registrar.

72.15 Determination of earnings

(1) The Court shall, on the application of the person to whom an attachment of earnings order is directed, determine whether payments to the judgment debtor of earnings of a particular class or description specified in the application are earnings for the purpose of that order.

(2) A person to whom an attachment of earnings order is directed who makes an application under subrule (1) shall not incur a liability for failing to comply with the order with respect to a payment of the class or description specified in the application that is made by him to the judgment debtor while the application, or an appeal from an order made on the application, is pending.

(3) Subrule (2) does not apply in respect of a payment made after an application is withdrawn or an appeal from an order made on the application is abandoned.

72.16 Service

An order or document required or permitted to be served on a person under this Order may be served on him:

(a) personally;

(b) by delivering a copy at his usual or last known place of residence or business to a person who apparently resides or is employed there and has apparently attained the age of 16 years; or

(c) by sending a copy to him at his usual or last known place of residence or business by registered post.

Order 73 Charging orders and stop orders and notices

73.01 Definitions

In this Order, unless the contrary intention appears:

corporation means a corporation formed under an Act of the Commonwealth or under an Act or Companies Code of a State or Territory, and includes a building society and a credit union.

funds or ***funds in court*** means money, stock issued by or funds of, or an annuity granted by, a government, or stock of a corporation standing or to be placed to the credit of an account in the books of the Court.

judgment means a judgment for the payment of an ascertained amount otherwise than into court.

judgment creditor means a person entitled to enforce a judgment.

judgment debt means the amount due under a judgment and includes interest on that amount.

judgment debtor means a person against whom a judgment may be enforced.

securities means any of the following:

(a) stock issued by or funds of, or an annuity granted by, the Commonwealth or a State or Territory;

(b) stock of a corporation;

(c) a dividend or interest payable on stock mentioned in paragraph (a) or (b).

stock includes shares and a debenture, debenture stock, bond, note or other security.

73.02 Order charging securities

For the purpose of securing the payment of a judgment debt, the Court may by order (in this Order called ***a charging order***), impose a charge on the beneficial interest of the judgment debtor in a security.

73.03 Filing and service of charging summons

(1) The Court may, on the application of a judgment creditor, order that a charging summons be filed and served.

(2) A judgment creditor may apply for an order under subrule (1) without notice to any person.

73.04 Evidence on application for charging summons

(1) An application for an order under rule 73.03(1) shall be supported by an affidavit:

(a) stating that the judgment is unsatisfied, either wholly or to a stated extent;

(b) identifying the securities in respect of which the order is sought and stating in whose name they stand; and

(c) stating that the judgment debtor has a beneficial interest in the securities and describing that interest.

(2) An affidavit under this rule may contain statements of fact based on information and belief if the grounds are set out.

73.05 Charging summons

(1) A charging summons shall identify the securities in respect of which it is filed and state that on service of the summons on:

(a) the government or corporation to which it is addressed, the government or corporation, as the case may be, shall not, except by order of the Court, cause or permit a transfer of any of the securities to be made or pay to a person a dividend or interest on any of them;

(b) the judgment debtor, unless the Court otherwise orders, no disposition by him of his interest in any of the securities made before the application for the charging order is heard by the Court is valid as against the judgment creditor.

(2) A charging summons shall be in Form 73A.

73.06 Service of summons

(1) The judgment creditor shall, not later than 7 days before the day for the hearing named in the charging summons, serve on the judgment debtor and personally on the government or corporation the summons and a copy of each affidavit used on the application for an order under rule 73.03(1).

(2) The Court may dispense with service on the judgment debtor under subrule (1).

73.07 Effect of service of summons

(1) Where, without the authority of the Court, a government or corporation on which a charging summons has been served causes or permits any of the securities to which the summons relates to be transferred or pays to a person a dividend or interest on any of them, the government or corporation, as the case may be, is liable to pay to the judgment creditor an amount equal to the value to the judgment debtor of the securities transferred or of the dividend or interest paid, as the case may be, or so much of that value as is sufficient to satisfy the judgment.

(2) No disposition by the judgment debtor of his interest in any of the securities to which a charging summons relates made after the service of it on him and before the application for the charging order is heard is valid as against the judgment creditor, unless the Court otherwise orders.

73.08 Order on summons hearing

(1) On the hearing of a charging summons the Court may make a charging order with respect to securities to which the summons relates.

(2) If the judgment debtor does not attend on the hearing of the charging summons or, if attending, does not dispute the evidence in support of the application under rule 73.03(1), the Court may make a charging order on that evidence.

73.09 Effect and enforcement of charge

A charge imposed by a charging order shall have the same effect, and give the judgment creditor the same remedies for enforcing it, as if it were a valid charge effectively made by the judgment debtor.

73.10 Variation or discharge of order

The Court may by order, at any time:

(a) vary the effect under rule 73.07 of the service of a charging summons; or

(b) vary or discharge a charging order.

73.11 Order charging funds in Court

(1) Subject to rule 15.09, for the purpose of securing the payment of a judgment debt, the Court may, by order, impose a charge on the beneficial interest of the judgment debtor in any funds in court.

(2) Rules 73.03 to 73.08 inclusive and rule 73.10, with the necessary changes, apply to an application for an order under subrule (1).

(3) The judgment creditor shall, without delay, on the making of an order that a summons for an order under subrule (1) be filed and served, lodge a copy of the summons and of each affidavit used on the application for the order with an Associate Judge, a Registrar or other proper officer of the Court by whom the funds in court are held.

73.12 Stop order for funds in Court

(1) The Court may make an order that funds in court, or a part of them, or the income from them, shall not be transferred, sold, delivered out, paid or otherwise dealt with unless notice is first given to the person applying for the order.

(2) An order may be made under subrule (1) on the application of a person:

(a) who has a mortgage or charge on the interest of a person in the funds in court;

(b) to whom the interest has been assigned; or

(c) who is a judgment creditor of the person entitled to the interest.

(3) The application shall be made by summons in the proceeding in which the funds are in court or, if there is no proceeding, by originating motion.

(4) The summons or originating motion, and a copy of any affidavit in support, shall be served on every person who has an interest in the funds in court which may be affected by the order sought.

(5) On an application under this rule the Court may make such order as it thinks fit for the costs and expenses of the applicant and of a party to the application or other person against whom an order is sought.

73.13 Stop notice on corporation stock not in Court

(1) A person (in this and rules 73.14 and 73.15 called ***the claimant***) claiming a beneficial interest in stock of a corporation, other than stock in court, who desires to be notified of a proposed transfer of the stock or payment of any dividend or interest on the stock may give notice of that desire to the corporation by filing:

(a) an affidavit in Form 73B identifying the stock in question and describing his interest in it and identifying any document under which it arises; and

(b) serving a sealed copy of the affidavit and of the notice on the corporation.

(2) The affidavit shall be endorsed with a note stating the address to which a notice under rule 73.14 is to be sent and, subject to subrule (3), that address shall for the purpose of that rule be the address for service of the claimant.

(3) The claimant may change his address for service for the purpose of rule 73.14 by filing and serving on the corporation notice of the change.

73.14 Effect of stop notice

Where an affidavit and a notice are served on a corporation under rule 73.13 and, during the time the notice is in force, the corporation is requested to register a transfer of the stock to which the notice relates or the payment of a dividend or interest on the stock falls due, it:

(a) shall serve on the claimant, at his address for service, a notice informing him of the request; and

(b) except with the authority of the Court, shall not register the transfer or, as the case requires, pay the dividend or interest before the expiration of 10 days after the day the notice is served.

73.15 Withdrawal or discharge of stop notice

(1) A claimant may by notice served on the corporation withdraw a notice served on it under rule 73.13.

(2) The Court may by order discharge a notice under subrule (1).

73.16 Prohibition of transfer of or payment on stock

(1) The Court may on the application of a person claiming a beneficial interest in stock of a corporation, other than stock in court, by order, prohibit or restrict the corporation from registering a transfer of the whole or a part of the stock or from paying a dividend or interest on it.

(2) The Court may vary or discharge an order made under subrule (1).

Order 74 Enforcement by appointment of receiver

74.01 Procedure

An application for the appointment of a receiver by way of equitable execution may be made in accordance with Order 39 and that Order applies to such a receiver as it applies to a receiver appointed for any other purpose.

74.02 Appointment of receiver by way of equitable execution

Before determining an application for the appointment of a receiver by way of equitable execution, the Court shall have regard to the amount claimed by the judgment creditor, the amount likely to be obtained by the receiver and the probable costs of his appointment and may direct an inquiry on these or any other matters.

Order 75 Contempt

Part 1 Interpretation

75.01 Definition

In this Order, unless the contrary intention appears, ***respondent*** means a person guilty or alleged to be guilty of contempt of court.

Part 2 Summary proceeding for contempt

75.02 Contempt in face of the Court

Where it is alleged or appears to the Court that a person is guilty of contempt of court committed in the face of the Court, it may:

(a) by oral order, direct that the respondent be arrested and brought before it; or

(b) issue a warrant for his arrest in Form 75A.

75.03 Procedure on hearing of charge

Where the respondent is brought before the Court, whether under oral order or warrant for arrest, the Court shall cause him to be informed of the contempt with which he is charged and after so doing shall adopt such procedures as in the circumstances it thinks fit.

75.04 Custody pending disposal of charge

The Court may order that, until the charge is disposed of, the respondent be kept in custody or be released on terms, including a condition that he give security for appearance in person to answer the charge.

Part 3 Other procedure for contempt

75.05 Application

(1) This Part applies to:

(a) contempt of court committed in the face of the Court;

(b) any other contempt of the Court; and

(c) contempt of an inferior court.

(2) In the case of contempt of court committed in the face of the Court, the procedure under this Part is alternative to that under Part 2.

75.06 Procedure

(1) Application for punishment for the contempt shall be by summons or originating motion in accordance with this rule.

(2) Where the contempt is committed by a party in relation to a proceeding in the Court, the application shall be made by summons in the proceeding.

(3) Where subrule (2) does not apply, the application shall be made by originating motion which:

(a) shall be entitled "The Queen v." the respondent, "on the application of" the applicant; and

(b) shall require the respondent to attend before a Judge.

(4) The summons or originating motion shall specify the contempt with which the respondent is charged.

(5) The summons or originating motion and a copy of every affidavit shall be served personally on the respondent, unless the Court otherwise orders.

75.07 Application by Registrar

(1) The Court may, by order, direct the Registrar to apply by summons or originating motion for punishment of a contempt.

(2) Where the Registrar applies as so directed, the Court may order that costs be paid by the Registrar to the respondent or by the respondent to the Registrar, as it thinks fit.

75.08 Arrest of respondent

Where a summons or originating motion for punishment of a contempt has been filed and it appears to the Court that the respondent has absconded or is likely to abscond or has left or is likely to leave the Territory, the Court may issue a warrant for his arrest and detention in custody until he is brought before it to answer the charge, unless he gives security, as the Court directs, for his appearance in person to answer the charge and to submit to its judgment.

75.09 Warrant for arrest

(1) A warrant for the arrest of a respondent shall be addressed to the Sheriff and may be issued:

(a) where the arrest is ordered by a Judge – under his hand;

(b) where the arrest is ordered by the Full Court – under the hand of the presiding Judge.

(2) The warrant shall be in Form 75B.

Part 4 Committal and costs

75.10 Application

This Part applies where the Court finds that a respondent is guilty of contempt of court.

75.11 Punishment for contempt

(1) Where the respondent is a natural person, the Court may punish for contempt by committal to prison or fine, or both.

(2) Where the respondent is a corporation, the Court may punish for contempt by sequestration or fine, or both.

(3) When the Court imposes a fine, it may commit, or further commit, the respondent to prison until the fine is paid.

(4) The Court may make an order for punishment on terms, including a suspension of punishment.

75.12 Discharge

Where a respondent is committed to prison for a term, the Court may order his discharge before the expiry of the term.

75.13 Warrant for committal

A warrant for the committal of a person found guilty of contempt of court shall be in Form 75C.

75.14 Costs

The costs of an application for punishment for contempt shall be in the discretion of the Court, whether an order for committal is made or not.

Order 76 Sequestration

76.01 Definitions

In this Order, unless the contrary intention appears:

judgment includes order.

person bound means a person against whom a judgment is entered or given or an order is made.

76.02 Enforcement by sequestration

The process of enforcement under this Order shall be used instead of the process of enforcement by writ of sequestration.

76.03 Order for sequestration

(1) An order for sequestration shall appoint one or more persons as sequestrators and provide that the sequestrator be authorized and directed to enter on and take possession of the real and personal estate of the person bound and to collect, receive and get into their hands the rents and profits of his real and personal estate and keep them under sequestration in their hands until the person bound complies with the judgment to be enforced by sequestration, or until further order.

(2) Where the person bound is a corporation and an order is made for the sequestration of the property of an officer of the corporation (whether or not an order for sequestration is also made against the corporation), the order shall give the same authority and direction to the sequestrators with respect to the real and personal estate of the officer as in the case of an order against a corporation and shall provide that the sequestrators shall keep the estate under sequestration in their hands until the corporation complies with the judgment to be enforced by sequestration or until further order.

(3) The Court may discharge an order for sequestration.

76.04 Application

(1) An application for an order for sequestration shall be by summons and the summons and a copy of each affidavit in support shall be served personally on the person bound.

(2) Where the person bound is a corporation and sequestration of the property of an officer of the corporation is sought, a copy of the summons and of each affidavit in support shall also be served personally on him.

(3) The Court may dispense with service under subrules (1) and (2).

Order 77 Authority of Associate Judges

77.01 Authority in civil proceedings

(1) Subject to this Order, an Associate Judge, in addition to exercising the powers and authority imposed or conferred by any other provision of this Chapter or an Act, may do any of the following:

(a) in a proceeding to which this Chapter applies, give a judgment or make an order, including a judgment or order, in the exercise of the inherent jurisdiction of the Court;

(b) hear and determine an application and exercise powers and authorities under the following statutory provisions:

(i) the *Family Provision Act 1970*, where an order is sought by consent;

(iii) the *Land Title Act 2000*, for the removal of a caveat or for leave to lodge another caveat on the same, or substantially the same, grounds as those contained in a caveat that has lapsed or has been withdrawn, cancelled or removed from a lot;

(iv) the *Unit Titles Act 1975*, section 95 (order for cancellation of Units plan), section 98 (approval of scheme for alteration of Units plan) and section 99 (order for alteration of Units plan);

(v) the *Births, Deaths and Marriages Registration Act 1996*, section 21 (orders with regard to the surname of the child);

(vi) the *Service and Execution of Process Act 1992* of the Commonwealth, Part 2, 3 and 6;

(via) the *Supreme Court Act 1979*, section 16 (transfer of proceedings to Local Court);

(vii) the *Trustee Act 1893*, Part III (Appointment of new trustees and vesting orders);

(viii) the *Administration and Probate Act 1969*, sections 24 and 25 (order for assignment of Administration Bond), section 32 (appointment of Administrator pendente lite and receiver), section 33 (power to appoint Administrator), section 34(1) (order where executor neglects to prove will), section 35 (issue of special letters of administration) and section 45 (order nisi where caveat lodged);

(ix) the *Partnership Act 1997*;

(x) the *De Facto Relationships Act 1991*;

(xi) the *Legal Profession Act 2006* – section 261 (appeal against decision of Funds Management Committee), section 277 (appeal against decision of Law Society as to costs), section 332 (application for costs assessment to be dealt with out of time), section 362 (appeal against decision of costs assessor as to a matter of law), section 400 (application for further time), section 414 (appeal against decision of Law Society as to Fidelity Fund claim), section 415 (appeal against failure to determine claim), section 595 (application for examination);

(c) hear and determine:

(i) an application under an Act for payment or transfer to a person of any money or securities in Court, including interest; or

(ii) an application for or relating to the sale of property by auction or private contract, and for payment into court and investment of the purchase money;

(d) conduct the trial of a proceeding if all the parties to the proceeding consent to an Associate Judge conducting the trial;

(e) conduct the trial of a proceeding if the only matters in issue are the amount of damages, or the value of goods, and costs;

(f) conduct the trial of an action for personal injuries, which may include hearing and determining issues of liability and damages;

(g) hear and determine an application for the extension of a limitation period;

(h) hear and determine an application for the possession of land, which may include hearing and determining an application for recovery of money outstanding under a mortgage over the land;

(k) exercise the jurisdiction of the Court under the *Family Law Act 1975* (Cth).

(j) hear and determine a matter referred to an Associate Judge by the Court of Appeal or a Judge.

(2) Subject to this Order, an Associate Judge may exercise power conferred on the Court or a Judge:

(a) in respect of the approval of a compromise on behalf of person under a disability; or

(b) to give judgment or make an order in a proceeding if all parties affected appear and consent or on written application by a party and written consent of all other parties affected, provided that the judgment or order states that it is given or made by consent of the parties.

(3) Subject to these Rules, an Associate Judge may hear and determine all interlocutory matters including an application for an interim or interlocutory injunction.

77.02 Limitation on authority

(1) Subject to these Rules, the trial of a proceeding shall not be held before an Associate Judge and an Associate Judge shall not give a judgment or make an order at the trial of a proceeding.

(2) Except where the trial was conducted by an Associate Judge, an order under rule 49.02 shall only be made by a Judge.

(3) An Associate Judge does not have authority to extend or abridge a time fixed by an order of a Judge, unless the Judge directs.

(4) Subject to these Rules, an Associate Judge does not have authority to hear or determine any of the following:

(d) an application for the review of taxation of costs;

(e) a proceeding for a declaration of the rights of a person, other than a declaration under Part 2, Division 2 of the *De Facto Relationships Act 1991*;

(f) a question of construction arising under an instrument where the sole purpose of the proceeding is to determine that question;

(h) an application in a matter pending in the Federal Court or the High Court;

(j) a proceeding in respect of which a Judge orders that rule 77.01 shall not apply, as long as the order is in force (a Judge at any time may make such an order and may rescind it);

(k) a proceeding or class of proceeding which the Chief Justice directs to be excepted from rule 77.01;

(m) an application which by this Chapter or an Act is required to be heard only by a Judge;

(n) an application under any of the following Acts:

(i) the *Criminal Property Forfeiture Act 2002*;

(ii) the *Serious Crime Control Act 2009*;

(iii) the *Vexatious Proceedings Act 2006*.

77.03 Associate Judge to hear application

(1) Subject to subrule (2), an application in a proceeding for a judgment or order which may, in accordance with this Order, be given or made by an Associate Judge shall be made to an Associate Judge, not a Judge.

(2) A judgment or order to which subrule (1) applies may be given or made by a Judge:

(a) on a reference by an Associate Judge to a Judge under rule 77.04;

(b) with special leave of a Judge;

(c) on an appeal from an Associate Judge;

(d) during the trial of the proceeding; or

(e) when an Associate Judger is absent or not available.

77.04 Reference by Associate Judge to Judge

(1) Subject to subrules (5) and (6), if on an application to an Associate Judge in accordance with rule 77.01 it appears to the Associate Judge that the application is proper for the determination of a Judge, the Associate Judge may refer the application to a Judge.

(3) The Judge to whom the application is referred may hear and determine the application or refer it back to an Associate Judge with directions.

(4) An Associate Judge may refer to a Judge for direction a question arising on an application to the Associate Judge.

(5) If it is reasonably practicable to do so, an Associate Judge must consult a Judge before hearing an interlocutory matter in a proceeding that:

(a) is being case flow managed by a Judge; or

(b) in the opinion of the Associate Judge, is proper for the determination of a Judge as mentioned in subrule (1).

(6) An Associate Judge must refer an application for a Mareva Order or Anton Piller Order to a Judge under subrule (1) unless there are exceptional circumstances why the Associate Judge should hear and determine the application.

Order 78 Proceeding under judgment

78.01 Directions in judgment

(1) Where by a judgment of the Court further proceedings are necessary, the Court may, when giving the judgment or at a later time, give directions for the conduct of those proceedings.

(2) Without limiting subrule (1), the Court may give directions with respect to:

(a) the taking of an account or the making of an inquiry;

(b) the evidence to be adduced on the account or inquiry;

(c) the preparation of a draft instrument directed by the judgment to be settled and the making of objections to the draft;

(d) the parties required to attend the proceedings;

(e) the representation by the same solicitors of parties who constitute a class and by different solicitors of parties who ought to be separately represented;

(f) the time for taking each step in the proceedings, and the day or days for the further attendance of the parties; or

(g) the publication of advertisements for creditors or other claimants and the time for creditors and claimants to respond.

(3) The Court may revoke or vary a direction given under this rule.

78.02 Claims

(1) In this rule ***administration proceeding*** means a proceeding for the administration of the estate of a deceased person or the execution of a trust under the direction of the Court.

(2) Where the judgment in an administration proceeding directs the taking of an account of debts or other liabilities of a deceased person, the Court may direct a party to:

(a) examine the claims of persons claiming to be creditors of the estate and determine, so far as he is able, to which of the claims the estate is liable;

(b) determine, so far as he is able, what are the other debts or liabilities of the deceased; and

(c) file an affidavit stating his conclusions and reasons.

(3) Where the judgment in an administration proceeding directs an inquiry for unascertained persons entitled, the Court may direct a party to:

(a) examine the claims of persons claiming to be entitled and determine, so far as he is able, which of them are valid;

(b) determine, so far as he is able, what other persons are entitled; and

(c) file an affidavit stating his conclusions and reasons.

(4) Where the party directed by the Court under subrule (2) or (3) to examine claims is not the personal representative or trustee concerned, then, unless the Court otherwise orders, the personal representative or trustee shall join with the party so directed in making the affidavit.

(5) A copy of the affidavit under subrule (2)(c) or (3)(c) shall be served on every other party not later than 7 days before the time appointed by the Court for adjudicating on claims.

(6) For the purpose of adjudicating on claims, the Court may:

(a) direct a claim to be investigated in such manner it thinks fit;

(b) require a claimant to attend and prove his claim or to furnish further particulars or evidence of it; or

(c) allow a claim with or without proof.

(7) The Court may give directions for service on persons claiming to be creditors of notice of the result of the adjudication.

(8) This rule, with the necessary changes, applies where the judgment in a proceeding other than an administration proceeding directs that an account of debts or other liabilities be taken or that an inquiry be made.

78.03 Interest on debts

(1) Where a judgment directs an account of the debts of a deceased person, unless the estate of the deceased is insolvent or the Court otherwise orders, interest shall be allowed:

(a) on a debt which carries interest, at the rate it carries;

(b) on any other debt, from the date of the judgment at the rates payable on judgment debts from that date.

(2) A creditor whose debt does not carry interest and who establishes the debt in proceedings under the judgment is, unless the Court otherwise orders, entitled to interest on the debt in accordance with subrule (1)(b) out of an asset which remain after satisfying the costs of the proceeding, the debts established and the interest on debts which by law carry interest.

(3) For the purpose of this rule, the debts of a deceased person include funeral, testamentary and administration expenses and, in relation to expenses incurred after the judgment, for the reference in subrule (1)(b) to the date of the judgment substitute a reference to the date on which the expenses became payable.

78.04 Interest on legacies

Where a judgment directs an account of legacies, subject to a direction in the will or codicil or an order of the Court, interest shall be allowed on each legacy at the rate of 12% per annum from the end of one year after the testator's death.

78.05 Account or inquiry by Associate Judge

Unless the Court otherwise orders, an Associate Judge shall take an account or make an inquiry with respect to further proceedings under a judgment.

78.06 Associate Judges's order

(1) The result of proceedings before an Associate Judge under a judgment shall be stated in the form of an order.

(2) An order under this rule shall have immediate binding effect on the parties to the proceeding and a copy shall be served on such parties as the Associate Judge directs.

(3) Subject to a direction of the Associate Judge under subrule (4) or otherwise, an order under this rule has effect as a final order disposing of the proceeding in which it is made.

(4) The Associate Judge may give directions as to the further consideration of the proceeding.

Order 79 Moneys in Court

79.01 Application

Moneys or funds paid into Court are governed by this Order.

79.02 Litigants' Fund

(1) Subject to rule 79.04(1), moneys paid into Court shall, unless otherwise ordered, be paid into an ADI account to the credit of an account entitled "Northern Territory Supreme Court Litigants' Fund" (in this order called ***the Fund***).

(2) An account referred to in subrule (1) shall be established with such ADI as the Treasurer directs.

(4) The signing officer and countersigning officer for the account shall be such persons as an Associate Judge designates from time to time.

79.03 Particulars of payment

An order which directs that moneys in Court be paid out or otherwise dealt with shall state the particulars of the payment out or other action to be taken by an Associate Judge.

79.04 Other application of moneys

(1) The Court may, at any time, order that moneys paid into Court, or to be paid into Court, be credited or applied in a manner other than by payment into an account referred to in rule 79.02.

(2) Where interest is earned on the moneys referred to in subrule (1), the Court may direct the disbursement of that interest.

79.05 Money in Court or to be paid into Court for person under disability

(1) Where an order is made that money in court or to be paid into Court be held for the benefit of a person under a disability and that order does not direct by whom the money is to be held, an Associate Judge shall pay the money to the Public Trustee who shall hold it on trust for the benefit of the person under a disability.

(2) A party to a proceeding in which an order is made for the payment of moneys for the benefit of a person under a disability shall, as soon as practicable, procure the authentication of that order.

(3) As soon as practicable after authentication, the party obtaining the order shall serve a copy of it on the Public Trustee or on such other person as is under the order required to hold the money for the person under a disability.

(4) The party ordered to pay moneys into court under an order to which this rule refers shall, unless the Court otherwise orders, within 14 days after the service on him of a copy of the authenticated order, pay those moneys into court.

(5) Where moneys are received by an Associate Judge under an order of the Court, the Associate Judge shall give:

(a) to the party paying the moneys, a receipt for the moneys; and

(b) to the party obtaining the order, notice that the moneys have been received.

79.06 Delay

(1) Where an order is made that a party pay moneys into court for the benefit of a person under a disability and it appears to an Associate Judge after due inquiry that loss has been occasioned to the person under a disability:

(a) through undue delay by a party or his solicitor in making the payment; or

(b) where the order was made on the approval of a compromise of a claim by the person under a disability, through undue delay by the solicitor for or the litigation guardian of the person under a disability in:

(i) obtaining the approval of the compromise;

(ii) procuring the authentication of the order; or

(iii) serving a copy of the order on the other party or as required by this Order,

the Associate Judgemay order that the person responsible for the loss pay into court for the benefit of the person under a disability an amount by way of interest on the moneys received or to be received under the order.

(2) The amount ordered to be paid under subrule (1) shall not exceed that derived by applying to the moneys for the period of the loss the rate fixed from time to time by the Chief Justice and the Chief Justice may fix a rate for the purposes of this rule accordingly.

(3) An Associate Judge shall not make an order under subrule (1) without giving the person who appears to be responsible for the loss an opportunity to be heard.

(4) A person affected by an order under subrule (1) may appeal to a Judge.

(5) Where moneys are paid into court in accordance with an order under subrule (1), the Associate Judge shall deal with the amount as if it were paid into court under the original order.

79.07 Investment of moneys paid into Court

Subject to this Order, an Associate Judge may, after consultation with the parties in a proceeding in which moneys are paid into court and pending the outcome of that proceeding, invest the money in such forms of investment as a trustee may invest trust funds under the *Trustee Act 1893*.

79.07.1 Unclaimed money

(1) All moneys which, before or after the commencement of this rule, have been paid into Court may, if unclaimed for 3 years, be paid into the Central Holding Authority.

(2) A person entitled to claim money paid under subrule (1) into the Central Holding Authority may apply to an Associate Judge for a certificate certifying the claimant's right to claim the money and an Associate Judge may issue such a certificate.

(3) On receiving a certificate referred to in subsection (2), the Treasurer, if satisfied that the claimant is not precluded by the *Limitation Act 1981* from claiming the amount, shall authorize payment of the money to the claimant or the claimant's agent.

79.08 Payment under order

Subject to rules 26.21(9) and 79.07, no moneys shall be paid out of the Fund otherwise than under an order of the Court.

Order 80 Service of foreign process

80.01 Application

(1) This Order applies to service in the Territory of a document in connection with civil or commercial proceedings pending before a foreign court if:

(a) a letter from the court requesting service on a person in the Territory is received by the Registry; and

(b) either:

(i) the request is for service in accordance with a Convention; or

(ii) the Attorney-General certifies that effect ought to be given to the request.

(2) In this rule:

foreign court means a court or other tribunal in a country outside Australia, other than a Hague Convention country.

80.02 Documents required

(1) In order that service may be effected in accordance with this Order there shall be delivered to a Registrar, unless he otherwise directs:

(a) the document to be served and 2 copies of it;

(b) a copy of the letter of request; and

(c) if either the document to be served or the letter of request is not in English, a translation into English of the document or the letter and a copy of the translation.

(2) Where subrule (1)(c) applies, the translation shall, unless a Registrar otherwise directs, bear a certificate of the translator, in English, stating that it is an accurate translation of the document or letter of request.

80.03 Service

(1) A Registrar shall request the Sheriff to serve the document and a copy of the letter of request.

(2) If either the document or the letter of request is not in English, a translation of the document or letter shall also be served.

(3) The document, copy letter of request and a translation may be served in any manner in which originating process in the Court may be served, including substituted service in accordance with rule 6.09.

(4) A proceeding for an order for substituted service shall be commenced by the Attorney-General by originating motion, which shall not name a defendant.

80.04 Affidavit of service

(1) After the document, copy letter of request and any translation have been served or attempts to serve them have failed, the Sheriff shall file an affidavit made by the person who effected or attempted to effect service.

(2) The affidavit shall:

(a) where the document, copy letter of request and any translation have been served – state the hour of the day, day of the week and date on which they were served, the place and mode of service and manner of identification of the person served; or

(b) where the document, copy letter of request and any translation have not been served – describe the attempts made to serve them.

80.05 Certificate

(1) Where the request for service is made in accordance with a Convention, a Registrar shall give either:

(a) a certificate, sealed with the seal of the Court:

(i) certifying that the document, copy letter of request and any translation, were served on the person to be served, on the date and in the manner specified in the certificate or, if attempts to effect service failed, certifying the failure and the reasons for the failure; and

(ii) certifying the amount of the costs incurred; or

(b) such other certificate as is appropriate to the terms of the relevant Convention.

(2) Where the request for service is not made in accordance with a Convention, a Registrar shall give either:

(a) a certificate, sealed with the seal of the Court:

(i) annexing the letter of request, a copy of the document to be served and of any translation and a copy of the affidavit under rule 80.04;

(ii) identifying the annexures;

(iii) certifying that the manner of service of the documents and the proof of service are such as are required by the Rules of the Court regulating the service of originating process of the Court in the Territory or, if attempts to effect service failed, certifying the failure and the reasons for the failure; and

(iv) certifying the amount of the costs incurred; or

(b) such other certificate as is appropriate to the terms of the letter of request.

(3) A Registrar shall send the certificate to the Attorney-General or, if the letter of request or a relevant Convention so requires, to the appropriate consul or other authority.

Order 81 Obtaining evidence for external tribunal

81.01 Procedure

(1) An application for an order for the examination of a witness in the Territory in relation to a matter pending before a court or tribunal in a place out of the Territory may be made by a person nominated for that purpose by the court or tribunal concerned or, if no person is so nominated, by the Solicitor for the Northern Territory with the consent of the Attorney-General.

(2) The application shall be made by originating motion not joining a person as a defendant and shall be supported by affidavit to which shall be exhibited the letter of request, certificate or other document pursuant to which the application is made and, if that document is not in the English language, a translation in that language.

81.02 Examiner

The Court may make an order for the examination of the witness before a fit and proper person nominated by the person making the application or such other qualified person as it appoints (in this Order called ***the examiner***).

81.03 Conduct of examination

(1) An examination under this Order shall be conducted in accordance with this rule, unless the Court otherwise orders.

(2) Subject to rules 81.04, 81.05 and 81.06, rules 41.02 to 41.10 inclusive apply to the examination as if:

(a) the matter pending before the court or tribunal concerned were a proceeding in the Court;

(b) the order for the examination were made under rule 41.01(1)(a) in that proceeding; and

(c) where the examiner is a Judge or an Associate Judge, an order were made under rule 41.01(1)(a) for the examination of a person before a Judge or an Associate Judge.

81.04 Attendance of non-party

Where the person on whose application an order is made under this Order is not a party to the matter pending before the court or tribunal concerned, the examiner may permit that person and his legal advisers to attend the examination.

81.05 Deposition and exhibits

(1) Subrules (4) and (5) of rule 41.08 do not apply to an examination under this Order.

(2) The examiner shall send the deposition to a Registrar.

(3) Where the examiner receives an exhibit on the examination, he shall, on the conclusion of the examination, return the exhibit to the person producing it, unless the person consents to its retention by him.

(4) Where the examiner retains an exhibit under subrule (3), he shall send it to a Registrar together with the deposition.

81.06 Certificate

On receipt of a deposition taken under this Order a Registrar shall:

(a) give a certificate sealed with the seal of the Court annexing and identifying the letter of request, certificate or other document from the court or tribunal requesting the examination, the order of the Court for examination, the deposition and the exhibits (if any) received from the examiner; and

(b) send the certificate and the annexures to the Attorney-General or, where the letter of request, certificate or other document was sent to the Registry or Registrar by some other person pursuant to a Convention, to that other person.

Chapter 1A General rules of procedure in criminal proceedings

Order 81A General

Part 1 Preliminary

81A.01 Interpretation

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

accused means a person:

(a) who has been committed or remanded to the Court for trial or sentence or directed to be tried at the Court; or

(b) in respect of whom an indictment has been presented.

appeal period means the time for giving notice of appeal or notice of application for leave to appeal under section 417 of the Criminal Code and, if the time has been extended by the Court, includes that extension.

court of trial has the same meaning as in section 406(1) of the Criminal Code.

criminal registrar means the Sheriff and includes:

(aa) an Associate Judge; and

(a) the Registrar; and

(b) any other officer of the Court who has been assigned the duties of a criminal registrar by the Chief Justice.

Director means:

(a) the Director of Public Prosecutions for the Northern Territory within the meaning of the *Director of Public Prosecutions Act 1990*; or

(b) the Director of Public Prosecutions for the Commonwealth within the meaning of the *Director of Public Prosecutions Act 1983* of the Commonwealth,

as the case requires.

legal aid agency means an organisation, whether established by or under an Act or otherwise, the primary function of which is to provide legal assistance to persons free of charge, whether or not those persons actually make a payment in respect of that assistance.

prison has the same meaning as in section 5 of the *Prisons (Correctional Services) Act 1980*.

proper officer means:

(a) in relation to a provision of an Act specified in subrule (2) – a person specified as the proper officer for the purposes of that provision; or

(b) in any other case – an officer of the Court who is authorised to:

(i) receive documents on behalf of the Court; or

(ii) do an act or thing for or on behalf of the Court, the doing of which is required for the purposes of or is referred to in this Chapter.

trial includes a plea hearing.

(2) The proper officer of the Court for the purposes of:

(a) sections 11(4)(b), 13(4)(b), 21, 25 and 96 of the *Sentencing Act 1995* – is the Associate Judge, the Registrar or the Sheriff;

(b) section 43(8) of the *Sentencing Act 1995* – is the associate to the Judge who made the order or the Sheriff;

(c) section 99(4) of the *Sentencing Act 1995* – is the associate to the Judge who made the order;

(d) section 99(6)(a) and (b) and (7) of the *Sentencing Act 1995* – is the Registrar or the Sheriff; and

(e) section 139 of the *Local Court (Criminal Procedure) Act 1928* – is the Registrar and any person employed in the Registry of the Court.

81A.02 Application

This Chapter applies to a proceeding in the Court relating to its criminal jurisdiction.

(2) This Chapter does not apply to any matter respecting an appeal.

81A.02A Authority of Associate Judge in criminal proceedings

(1) Subject to these Rules, an Associate Judge may exercise the powers and authority of the Court:

(a) in relation to a matter on an arraignment day as mentioned in rule 81A.14; and

(b) under the *Bail Act 1982*.

81A.03 Dispensing with compliance

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

81A.04 Time

Rules 3.01, 3.02 and 3.03, with the necessary changes, apply for the purposes of this Chapter.

81A.05 Private practitioner acting for accused to notify Court

(1) Subject to subrule (2), a legal practitioner who is engaged to act for an accused in a proceeding must notify the Court as soon as reasonably practicable after beginning to act for the accused.

(2) Subrule (1) does not apply:

(a) to a person who practises solely as a barrister; or

(b) to a legal practitioner who is an employee of a legal aid agency and who is acting on behalf of the accused.

Part 2 Filing, sealing and inspection of court documents

81A.06 How document is filed

A document in a proceeding is to be filed:

(a) in the Registry where the proceeding commenced; or

(b) with the proper officer of the Court.

81A.07 Place of filing

(1) Documents in respect of a proceeding in Darwin are to be presented in the Registry at Darwin for filing.

(2) Documents in respect of a proceeding in Alice Springs are to be presented in the Registry at Alice Springs for filing.

(3) A document received in a registry for filing is not filed until it is accepted by the proper officer.

(4) Despite subrules (1) and (2), if an urgent application is made in a proceeding, a document may be filed in connection with that application at the Registry at the place where the application is made.

81A.08 Date of filing

The Registrar or proper officer must endorse the date and time of filing on every document filed.

81A.09 Inspection of documents

(1) When the Registry of the Court is open, a person may inspect and obtain a copy of a document filed in a proceeding that is part of the record of proceedings of a trial within the meaning of rule 81A.39.

(2) Despite subrule (1):

(a) a person may not inspect or obtain a copy of a document that the Court has ordered remain confidential; and

(b) a person who is not a party may not without leave of the Court inspect or obtain a copy of a document that in the opinion of a Registrar ought to remain confidential to the parties.

81A.10 Service

Subject to this Chapter, if a document referred to in this Chapter is required to be served, service of the document is to be effected by:

(a) subject to paragraph (c), if the provision requiring service of the document specifies a person on whom the document is to be served – serving personally in accordance with rule 6.03(1) on the person a signed and sealed copy of the document;

(b) subject to paragraph (c), if the provision requiring service of the document does not specify a person on whom the document is to be served – by serving personally in accordance with rule 6.03(1) on each person who is affected by the application to which the document relates and is entitled to be heard a signed and sealed copy of the document;

(c) if the person being served is in prison – by serving personally on the person's legal representative or on a prison officer at the prison a signed and sealed copy of the document; or

(d) if the Court orders otherwise – in the manner specified by the Court.

Part 3 Applications to Court

81A.11 Applications generally

(1) Unless otherwise provided for in this Chapter, an application to the Court may be made orally.

(2) If a written application is required by this rule or this Chapter to be served:

(a) the form of the application is to be in accordance with Form 81A-A unless otherwise provided for in these Rules; and

(b) the application is to be served, sealed and filed, together with any supporting affidavit, not later than 2 days before the hearing of the application.

(3) If a written application is required by this rule or this Chapter but is not required to be served, the application is to be in accordance with Form 81A-B unless otherwise provided for in these Rules.

(4) A written application to the Court is required:

(a) for a review of a community work order under section 38 of the *Sentencing Act 1995*;

(b) to vary or cancel an order conditionally suspending a sentence under section 42 of the *Sentencing Act 1995*;

(c) for an order relating to a breach of an order suspending a sentence under section 43 of the *Sentencing Act 1995*;

(d) for a review of a home detention order under section 47 of the *Sentencing Act 1995*;

(e) for a review of an indefinite sentence under section 72 or 73 of the *Sentencing Act 1995*;

(f) to vary or cancel a hospital order under section 85 of the *Sentencing Act 1995* or to discharge a hospital order and impose another sentence under section 20BU of the *Crimes Act 1914* of the Commonwealth;

(g) for an order relating to a breach of a hospital order under section 86 of the *Sentencing Act 1995*;

(h) to discharge or vary the terms of a recognisance under section 20AA of the *Crimes Act 1914* of the Commonwealth or to release a person from custody under section 20BC(7) of that Act;

(j) to reopen proceedings under section 112(3)(b) of the *Sentencing Act 1995*;

(k) for an order under an Act where the application is to be in writing but the form is not prescribed;

(m) in any case where the Chief Justice directs by practice direction; or

(n) in any other case where the Court directs.

Part 3A Commencement of other proceedings

81A.12 Proceeding for breach of bail

(1) Subject to subrule (3), a proceeding against a person for a bail offence, other than a bail offence mentioned in section 39 of the *Bail Act 1982*, must be commenced by filing a complaint in accordance with Form 81A-C issued by a justice of the peace.

(2) In addition:

(a) a summons in accordance with Form 81A-D issued by a justice of the peace must be served on the person in accordance with rule 81A.10; and

(b) an affidavit of service of the summons in accordance with Form 81A-D must be filed before the hearing of the bail offence.

(3) If a person is arrested and brought before the Court under section 38 of the *Bail Act 1982*, a complaint in accordance with Form 81A-C issued by a justice of the peace must be filed before the hearing of the bail offence is completed.

(4) In this rule:

bail offence, see section 37B(1) of the *Bail Act 1982*.

Part 4 Pre-trial procedure

81A.14 Arraignments

(1) Except in special circumstances, the Director must present an indictment to the Court in respect of an accused on the first occasion on which the accused is required to appear in court.

(2) If suitable arrangements for a videoconferencing link between the Court and a prison can be made, an accused who is on remand at the prison may be present by means of that link at an arraignment day after he or she is committed for sentence or trial.

(3) Despite subrule (2), if an accused is on remand, the accused, his or her legal representative or the Director may request that the accused attend arraignment day in person and the Court may order that the accused so attend.

(4) An accused who is present at arraignment day by means of a videoconferencing link is not to be required to plead.

(5) If a matter before the Court on an arraignment day has been allocated a date for trial or hearing of submissions on a point of law or evidence, the Court may confirm, change or vacate that date.

(6) In addition to any other powers that the Court has in relation to a matter on an arraignment day, the Court has the powers and functions of a Judge at a pre-trial hearing.

81A.15 Fixing time for pre-trial conference

As soon as practicable after becoming aware that an accused has been committed for trial or sentence or an ex officio indictment has been laid, a criminal registrar must:

(a) file the notice of committal for trial or sentence or notice of the ex officio indictment, as the case may be;

(b) fix a time and date for a pre-trial conference; and

(c) not less than 14 days before the date fixed for the conference, notify:

(i) the Director; and

(ii) the accused's legal representative or, if the accused is unrepresented, the accused,

of the time and date of the conference.

81A.16 Pre-trial conference

(1) A pre-trial conference:

(a) is to be conducted by a criminal registrar;

(b) is to be attended by:

(i) the Director; and

(ii) the accused's legal representative or, if the accused is unrepresented, the accused; and

(c) may be conducted by teleconference or videoconference.

(2) At a pre-trial conference:

(a) for the expeditious conduct of the proceedings, the criminal registrar may enquire into a matter specified in Schedule 2;

(b) the Director and the accused person or his or her legal representative are to be prepared to answer questions and provide information to the criminal registrar on the matters specified in Schedule 2; and

(c) the Director must, subject to subrule (3):

(i) give notice of the name of each person who may be called as a witness for the prosecution at the trial and whose statement has not been provided to the accused or who was not called to give evidence at the committal hearing;

(ii) give notice of the substance of the evidence proposed to be adduced from each person referred to in subparagraph (i), either by providing a copy of a statement made by the witness or otherwise;

(iii) if the Director has not already done so – comply with sections 116(2) and 139 of the *Local Court (Criminal Procedure) Act 1928*;

(iv) provide to the criminal registrar the information the criminal registrar reasonably requires in relation to the availability of each witness for the prosecution; and

(v) notify the criminal registrar and the accused person's legal representative or, if the accused is unrepresented, the accused, of the name of a potential witness for the prosecution whose deposition the prosecution proposes

to apply to tender in evidence and the grounds of the proposed application.

(3) The Director does not have to comply with subrule (2)(c)(i) or (2)(c)(v) in respect of a witness if he or she is satisfied that it is not in the interests of the witness's personal safety to comply with that subrule.

(4) Anything said at a pre-trial conference by or on behalf of the prosecution or an accused, or a failure by the prosecution or an accused or his or her legal representative to answer a question at a pre-trial conference, is not to be used in the trial or made the subject of comment at the trial.

(5) Subrule (4) does not preclude an accused from relying at the trial on an indication of an intention to plead guilty given at a pre-trial conference.

81A.17 Powers of criminal registrar at pre-trial conference

(1) At a pre-trial conference the criminal registrar may:

(a) subject to subrule (2), allocate a trial date to a matter, either as a head trial or as a back-up trial, which date may be confirmed by a Judge at the next arraignment day or at some other date;

(b) fix a time and date for the hearing of a plea or for a mention before a Judge;

(c) adjourn the pre-trial conference for further hearing by the criminal registrar;

(d) allocate a hearing date to a matter for a hearing before the jury is empanelled on a point of law or admissibility of evidence, which date is to be confirmed by a Judge at the next arraignment day or at some other date; or

(e) adjourn the pre-trial conference for a pre-trial hearing by a Judge.

(2) A criminal registrar may allocate a date under subrule (1)(a), (b) or (d) even if the accused or his or her legal representative does not certify that the accused will be ready to proceed on the matter on that date.

(3) If, at a pre-trial conference, the criminal registrar is of the opinion that:

(a) the trial of the matter is likely to exceed the length of a criminal sitting;

(b) additional time, other than that presently allocated for the trial of criminal matters, will be needed for the trial of the matter;

(c) the trial of the matter is urgent;

(d) the accused is not legally represented and intends to conduct his or her own defence at the trial; or

(e) there is any other reason for doing so,

the criminal registrar must adjourn the pre-trial conference for a pre-trial hearing.

(4) If the criminal registrar determines that a pre-trial hearing is to be held, he or she must allocate a date for the hearing, which date is to be confirmed by a Judge.

(5) At a pre-trial conference, the criminal registrar may, with the consent of the Director and the accused, make an order for the inspection or copying of documents in the custody of the prosecution or in the custody of the Court.

81A.18 Pre-trial hearing

(1) A pre-trial hearing:

(a) is to be conducted by a Judge in open court;

(b) is to be attended by:

(i) the Director; and

(ii) the accused's legal representative or, if the accused is unrepresented or if the Court determines, the accused; and

(c) may be conducted by teleconference or videoconference.

(2) At a pre-trial hearing, the Court may:

(a) ask any questions it considers necessary;

(b) give directions it thinks fit with respect to the preparation for trial, readiness for trial or conduct of the trial; and

(c) make any order, whether by consent or otherwise, for the expeditious conduct of the trial.

(3) Anything at a pre-trial hearing said by or on behalf of the prosecution or an accused, or a failure by the prosecution or an accused or his or her legal representative to answer a question at a pre-trial hearing, is not to be used in the subsequent trial or made the subject of comment at the trial.

(4) Subrule (3) does not preclude an accused from relying at the trial on an indication of an intention to plead guilty given at a pre-trial hearing.

81A.19 Tendering documents at pre-trial conference or pre-trial hearing

(1) If:

(a) a party intends to tender a document at a trial; and

(b) the criminal registrar conducting the pre-trial conference or the Judge conducting the pre-trial hearing, as the case may be, is satisfied that it is appropriate in the circumstances,

the party may produce the document at the pre-trial conference or pre-trial hearing to be marked as a preliminary exhibit.

(2) A party producing a preliminary exhibit must ensure that a copy of the exhibit is served upon each party before or at the time it is tendered at the pre-trial conference or pre-trial hearing.

(3) A preliminary exhibit:

(a) is to be placed in the custody of the Court with a number of copies of the exhibit sufficient for the use of the trial Judge and the jury;

(b) is to be marked as a preliminary exhibit by the criminal registrar or Judge's associate, as the case may be; and

(c) is not to be taken to be evidence until admitted into evidence at the trial.

Part 5 Prisoners at risk

81A.20 Definition

In this Part, ***at risk*** includes at risk of suicide or any other significant risk to physical or mental health.

81A.21 Duty to disclose risk

If:

(a) there is information available to a prosecutor that the accused may be at risk if remanded into custody or committed to a prison; or

(b) the accused's legal representative forms the opinion that the accused may be at risk if remanded into custody or committed to a prison,

the prosecutor or legal representative must disclose the information or opinion to the Court as soon as possible.

81A.22 Court may order disclosure to Sheriff and officer in charge of prison

If:

(a) information or an opinion has been disclosed to the Court under rule 81A.21; or

(b) there is material before the Court upon which the Court may conclude that the accused may be at risk if remanded into custody or committed to a prison,

and the accused is to be remanded or committed, the Court may order that the information, opinion or material disclosed be brought to the attention of the Sheriff and the officer in charge of the prison to which the accused is to be remanded or committed.

81A.23 Sheriff to be informed of and explain order

(1) If an order has been made under rule 81A.22, the Court must as soon as possible inform the Sheriff of the making of the order.

(2) After receiving notice of the making of an order under subrule (1), the Sheriff must:

(a) write out the order and deliver it to the Judge for signature;

(b) attach to a sealed copy of the order the relevant transcript of the proceedings and any other document the Court ordered to be attached to the order;

(c) forward a sealed copy of the order, whether by facsimile or otherwise, to the officer in charge of the prison, together with the attachments referred to in paragraph (b);

(d) ensure that the terms of the order are explained to each Deputy Sheriff, and to each prison officer, into whose custody the prisoner is to be delivered;

(e) forward a sealed copy of the order, together with the attachments referred to in paragraph (b), to each prison officer into whose custody the prisoner is to be delivered; and

(f) ensure that the prisoner is not left unsupervised while in the custody of the Court.

81A.24 "At risk" to be written on warrants

If an order is made in accordance with rule 81A.22, a warrant relating to the custody of the person who is or is to become a prisoner is to be stamped with the words "AT RISK" in large letters.

Part 6 Evidence generally

81A.25 Subpoenas

Order 42 applies to a proceeding to which this Chapter applies.

81A.26 Evidence by videoconferencing

(1) Evidence may be given by way of a videoconferencing link:

(a) on the hearing of a guilty plea;

(b) on the hearing of an application in pursuance of section section 189 of the *Evidence (National Uniform Legislation) Act 2011*; or

(c) at the trial of an accused.

(2) A submission in relation to evidence given by way of a videoconferencing link:

(a) on the hearing of a guilty plea; or

(b) on the hearing of an application in pursuance of section 189 of the *Evidence (National Uniform Legislation) Act 2011*,

may be heard by way of a videoconferencing link.

(3) If the Director or the accused intends to adduce evidence by means of a videoconferencing link, he or she must, not later than 4 weeks before the date fixed for the hearing or trial of the accused:

(a) give notice to the other party or the other party's legal representative of his or her intention;

(b) file a copy of the notice; and

(c) deliver a copy of the notice to the trial Judge's associate or to the criminal registrar.

(4) A notice under subrule (3) is to specify:

(a) the name of each witness who is to be called;

(b) the proposed time of the videoconference; and

(c) the anticipated duration of the witness's evidence-in-chief.

(5) A party to whom a notice under subrule (3) has been given may, not later than 7 days after receiving the notice, object to the proposal contained in the notice, by filing in the Registry an objection in writing.

(6) The objection is to be served on the other party not later than 14 days before the trial or hearing at which the evidence is proposed to be adduced.

(7) An objection is to be dealt with by the trial Judge.

(8) The party proposing to adduce evidence by means of a videoconferencing link must arrange and pay for the booking of all necessary facilities and other associated costs and expenses.

(9) If an objection has not been filed within the period referred to in subrule (5), the proposal to adduce evidence by means of a videoconferencing link is to be taken to have been consented to by both parties.

(10) If it is proposed to show to the witness whose evidence is being given by way of a videoconferencing link a document in the course of the examination-in-chief or cross-examination, the party proposing to show the document must provide a copy of the document to the trial Judge's associate in sufficient time to enable the document to be transmitted or sent to the place where the witness will be giving his or her evidence.

(11) A document transmitted or sent in accordance with subrule (10) is to be kept in a sealed envelope and not shown to the witness or any other person until counsel for the party proposing to show the document requires the witness to be shown the document while the witness is giving evidence.

81A.27 Victim impact statements and victim reports

For the purposes of section 106B(8) of the *Sentencing Act 1995*:

(a) in the case of a written victim impact statement or report – the copy of the statement or report; or

(b) in the case of an oral victim impact statement or report – the written or oral summary of its contents,

is to be provided to the offender not later than 7 days before the date of the hearing of the plea for sentence.

Part 6A Special hearing to pre-record evidence

81A.27A Special hearing

If the prosecution intends to elect under section 21B(2)(b) of the *Evidence Act 1939* to present the whole of the evidence of a witness by video tape or other audio-visual means:

(a) the prosecution must give notice of its intention to the accused and the Court as soon as reasonably practicable after the accused has been committed for trial; and

(b) the criminal registrar must allocate a date for the special hearing; and

(c) to the extent possible, the Judge allocated to conduct the special hearing must be the Judge allocated to conduct the trial; and

(d) the Registrar must ensure the recording equipment necessary for the special hearing is available and reserved for the hearing.

81A.27B Accused to plead

At the commencement of the special hearing, the accused must be arraigned and he or she must plead guilty or not guilty.

81A.27C Objection to admissibility of evidence

(1) The Judge conducting the special hearing must hear and decide all objections to the admissibility of evidence at the time of the special hearing.

(2) An objection can be reactivated at the time of trial (or re-trial) with leave of the Judge conducting the proceedings.

(3) If an objection is upheld in relation to the admissibility of evidence that has been recorded, the recording must be edited before being presented at the trial.

81A.27D Special hearing may be re-opened

(1) A special hearing stands adjourned at the completion of the recording of evidence.

(2) If the Court considers it necessary in the interests of justice, the Court may re-open the special hearing of its own volition or on application by the prosecution or defence.

(3) The special hearing may be re-opened at any time before the jury retires to consider its verdict (including in a re-trial).

(4) Unless the Judge otherwise orders, the prosecution and defence can question the witness at a re-opened special hearing only in respect of any issue that gave rise to the re-opening.

(5) If the Judge who presided over a special hearing was not the trial Judge, the re-opened hearing may be conducted by another Judge whether or not that Judge is the trial Judge.

81A.27E Duplicate of recording to be made

(1) At the completion of the special hearing, the Sheriff must make a duplicate copy of the recording.

(2) The original recording must be marked as such and given to the Registrar for safe-keeping.

(3) The duplicate recording must, unless required for editing in accordance with this Part, also be given to the Registrar for safe-keeping.

81A.27F Editing of recording

(1) If the recording of the evidence requires editing, the Judge may make the orders that he or she thinks fit.

(2) An order under subrule (1) may include an order that the duplicate tape is to be given to the prosecution to effect the editing.

(3) The order may also include directions for the means by which the edited recording is to be validated as correctly edited for use at the trial.

(4) The edited version of the recording must be marked as such and, once validated, must be given to the Sheriff.

(5) The Sheriff must make a duplicate copy of the edited tape and mark the duplicate as "trial copy".

(6) The edited recording and the trial copy, along with the duplicate unedited recording (if such a version still exists) must be given to the Registrar for safe-keeping.

81A.27G Access to recording

(1) Each version of the recording of a special hearing is the property of the Court and, subject to the necessity to edit in accordance with this Part, must remain in the custody of the Court at all times.

(2) No copies of the pre-recorded evidence are to be given to the parties (except for editing in accordance with rule 81A.27F), but the prosecution and defence may, on request, view the trial copy under the supervision of the Sheriff or Registrar.

(3) The Sheriff must produce the trial copy of the recording of the special hearing at the trial.

(4) The trial copy of the pre-recorded evidence must be played to the jury at the trial but not tendered as an exhibit.

81A.27H Transcript

(1) A transcript must be made of the trial copy of the recording of the special hearing.

(2) The transcript must be made available to all parties.

81A.27J Other matters

(1) The Judge who conducts a special hearing may make any directions that he or she considers necessary for the efficient conduct of the trial.

(2) Without limiting subrule (1), directions may include making an order under section 21A(2A) of the *Evidence Act 1939*.

Part 7 Orders for discovery

81A.28 Discovery, inspection and preservation of property

(1) If it appears that a person (other than the accused) has or is likely to have, or had or is likely to have had, in his or her possession or power a document that relates to a question likely to be raised at the trial of the accused, the Director or the accused may apply to the Court for an order that the person make discovery to the applicant of the document.

(2) Documents ordered to be discovered may be discovered:

(a) if the Court does not specify a method of discovery:

(i) by delivering to the applicant a list of the documents prepared in accordance with rule 29.04; or

(ii) by producing to the applicant the original documents for inspection; or

(b) if the Court specifies a method of discovery – by that method.

(3) If a document is produced to an applicant, the applicant may:

(a) copy the document, including by taking a photocopy or photograph of it; or

(b) request a photocopy of the document.

(4) If an applicant requests a photocopy of a document, the person producing the document must, at his or her option, either:

(a) allow the applicant to photocopy the document at a place agreed by the parties; or

(b) supply the applicant with a photocopy of the document.

(5) The cost of photocopying a document is payable by the applicant.

(6) If a person provides a list of documents in accordance with subrule (2)(a)(i), the person to whom the list is provided may apply to the Court for an order that:

(a) the documents or some of them be produced to the applicant for inspection; and

(b) the applicant pay the costs of preparing and serving the list of documents and the costs of opposing the order incurred by the person who was required to produce the document.

(7) Unless otherwise ordered by the Court, an application under subrule (1) or (6) is to be supported by affidavit and the application and supporting affidavit are to be served on the person against whom discovery is sought.

(8) An order under subrule (1) or (6) may be made ex parte if the applicant establishes that it is necessary to do so in the interests of justice.

81A.29 Inspection, detention and preservation of property

(1) The Director or the accused may apply to the Court for an order for the inspection, detention, custody or preservation of property, including the property of the accused, that is in the possession, custody or power of another person or body.

(2) An order under subrule (1) is not to be made unless it is established by the applicant that the order is necessary in the interests of justice.

(3) An order under subrule (1) may authorise a person to:

(a) enter land or do any other thing for the purpose of obtaining access to the property;

(b) take samples of the property;

(c) make observations of the property, including photographing the property;

(d) conduct an experiment on or with the property; or

(e) observe a process in relation to the property.

(4) The Court may not make an order under subrule (1) unless:

(a) subject to subrule (5), the application and a supporting affidavit are served upon the person or body who or which has possession or custody of or power over the property to which the order relates; and

(b) the applicant gives security for the costs and expenses of any loss or damage that may be caused to that person or body if the order is made.

(5) The application and supporting affidavit are not required to be served on the person or body who or which has possession or custody of or power over the property to which the order relates if the Court is satisfied that it is necessary, in the interests of justice, to make the order ex parte.

(6) If the application is for an order for the preservation of property that is:

(a) a living thing;

(b) of a perishable nature; or

(c) likely to deteriorate or diminish in value if kept,

the Court may order instead that the property be photographed or that a video recording be made of it.

(7) A photograph taken or recording made of property in pursuance of an order under subrule (6) is admissible in evidence at the trial without production of the original property.

(8) The Court must not make an order under subrule (6) unless a copy of the application has been served on:

(a) if the application was made by the Director – the accused or his or her legal representative; or

(b) if the application was made by the accused or his or her legal representative – the Director.

81A.30 Rights of person affected by ex parte orders

(1) A person against whom an ex parte order under this Chapter is made may apply to the Court to set aside that order.

(2) An application under subrule (1) and a supporting affidavit are to be served on the person who obtained the order or his or her legal representative.

(3) On the hearing of an application under subrule (1), the Court may make:

(a) the orders it considers to be in the interests of justice; and

(b) the orders for the costs of the application it considers appropriate.

Part 8 Orders made at trial or other hearing relating to exhibits and other property

81A.31 Return of preliminary exhibits

A preliminary exhibit that is not to be tendered at a trial is:

(a) if it was produced on behalf of the prosecution – to be returned to the custody of the prosecution; and

(b) if it was produced otherwise than by the prosecution – to be returned to the custody of the person who produced it.

81A.32 Preservation of exhibits

(1) The Court may make orders or give directions for the production, custody or disposal of an exhibit or other item tendered in evidence.

(2) The Court must keep a record of an order made or direction given under subrule (1).

(3) Subject to an order or direction under subrule (1), an exhibit or other item must be retained by the criminal registrar until:

(a) if an appeal is lodged – 6 months after the conclusion of the appeal; or

(b) if no appeal is lodged – 6 months after the appeal period expires.

(4) Subrule (3) does not apply to:

(a) a document of a kind kept by the criminal registrar; or

(b) an exhibit to which section 415 of the Criminal Code applies.

(5) After the conclusion of an appeal, the Registrar must return to the criminal registrar the original depositions, exhibits, indictments, plea and other documents forming part of the record of the trial that were given to the Registrar for the purposes of the appeal.

81A.33 Court of trial may permit conditional release of documents etc.

The court of trial may permit the conditional release of a document, exhibit or other item tendered at the trial to a party on receipt of an undertaking by the party to return the document, exhibit or item:

(a) on a date fixed by the court of trial; or

(b) 7 days after lodgement of a notice of appeal,

whichever is the earlier.

81A.34 Release of documents etc. tendered in pursuance of section 189 of *Evidence (National Uniform Legislation) Act 2011*

On the determination of a question under section 189 of the *Evidence (National Uniform Legislation) Act 2011*, the trial Judge may immediately release to a party a document, exhibit or other item tendered for the purposes of that section without requiring an undertaking by the party to return the document.

81A.35 Destruction of uncollected documents etc.

The court of trial may order the destruction of documents, exhibits and other items tendered at the trial that are uncollected or unable to be returned as at the end of 6 months after:

(a) the appeal period expires; or

(b) if an appeal is lodged – the date on which the Court of Criminal Appeal delivers judgment or the appeal is withdrawn.

81A.36 Custody of property of person found guilty

If the trial Judge makes an order for the restitution of property or the payment of compensation by a person found guilty at the trial, the Judge must give directions for the custody, during the appeal period, of money or other valuable property belonging to the person that:

(a) was taken from that person when arrested; or

(b) is in the possession of the prosecution at the date the person was found guilty or the date of application for leave to appeal.

81A.37 Order for security to be given

If the trial Judge makes an order for the payment of money and suspends the order, the Judge may direct that security is to be given to the satisfaction of the person in whose favour the order is made.

81A.38 Consequential orders

(1) If:

(a) a person has been found guilty of an offence and the trial Judge has made orders consequential on that finding; and

(b) an appeal is instituted:

(i) under Chapter 2 by the person found guilty; or

(ii) under section 414 of the Criminal Code by a Crown Law Officer within the meaning of the Code,

the court of trial may, on written application:

(c) make orders suspending or refusing to suspend the consequential orders pending the determination of the appeal;

(d) make orders or give directions in relation to the effect of the consequential orders pending the determination of the appeal; or

(e) make orders or give directions in relation to the vesting, preservation or disposal of the property to which the consequential orders relate,

on the terms the court thinks fit.

(2) An application under subrule (1) is to be in accordance with Form 81A-E.

(3) If, on a finding of guilt, the trial Judge orders under a law in force in the Territory that any property, matter or thing be destroyed or forfeited, subject to subrule (1)(e), the order is suspended until:

(a) the appeal period expires; or

(b) if an appeal is lodged – the period of 28 days after the determination of the appeal expires.

(4) If:

(a) a person has been found guilty of an offence; and

(b) a claim may be made or proceedings taken against that person or another person as a result of that finding,

that claim may not be made or those proceedings taken until:

(c) the appeal period expires;

(d) if an appeal is lodged – the period of 28 days after the date of the determination of the appeal expires; or

(e) after a later date ordered by the trial Judge.

(5) A person affected by an order to which this rule applies, may, with the leave of the Court of Criminal Appeal, be heard on the final determination of an appeal before the order is varied or annulled by that Court.

Part 8A Sentencing

81A.38A Submissions on sentencing or sentencing by videoconference by the Judge's own motion

(1) After a person has entered a guilty plea or has been found guilty following a trial, the Judge, on his or her own motion, may do either or both of the following by means of a videoconference:

(a) hear submissions on sentencing;

(b) sentence the person.

(2) If a videoconference is held under subrule (1):

(a) the Court must provide and meet the expenses of the facilities necessary to enable the videoconference; and

(b) the Court must notify the parties or their solicitors of the place where they may attend by use of those facilities.

(3) A party seeking to tender an item as an exhibit during a hearing held under subrule (1) must arrange for the item to be provided to the Court in time for the hearing.

Note for subrule (3)

For example, a party may fax or email a document to the Court prior to the hearing date.

81A.38B Submissions on sentencing or sentencing by videoconference by application

(1) With the permission of the Judge, a party may do either or both of the following by means of a videoconference:

(a) attend a hearing to make submissions on sentencing;

(b) attend the sentencing.

(2) A party who has been granted permission under subrule (1) must provide and meet the expenses of the facilities necessary to enable them to attend by videoconference, unless the Judge directs otherwise.

(3) A party who attends the hearing by videoconference and seeks to tender an item as an exhibit must arrange for the item to be provided to the Court in time for the hearing.

Note for subrule (3)

For example, a party may fax or email a document to the Court prior to the hearing date.

Part 9 Record of proceedings

81A.39 Record of proceedings and recording of orders

(1) For the purposes of section 428 of the Criminal Code, the record of the proceedings of a trial consists of:

(a) the indictment;

(b) subject to subrules (4) and (5), the official tape recordings of the proceedings of the trial made by persons approved by the Chief Justice; and

(c) the official transcript, made by persons approved by the Chief Justice, of the official tape recordings.

(2) An official transcript is to be made of the evidence of each witness called to give evidence at a trial.

(3) The Court or a Judge may order that an official transcript of any other part of the proceedings be made.

(4) The trial Judge may at any time correct an official transcript of an official tape recording if he or she is satisfied that it does not correspond with the official tape recording.

(5) Once an official transcript has been made, the official tape recording of the part of the proceedings transcribed ceases to be part of the record of the proceedings of the trial.

(6) All official tape recordings of a trial cease to be part of the record of the proceedings of the trial and may be erased or destroyed:

(a) if an appeal has not been lodged – after 6 months after the appeal period has expired; or

(b) if an appeal has been lodged – after 28 days after the determination of the appeal.

(7) A person approved by the Chief Justice may correct the official transcript of the proceedings of a trial by reference to the official tape recording of the proceedings, whether or not the tape recordings have ceased to be official tape recordings under subrule (5) or (6).

(8) A Judge or his or her associate must note on the back of the indictment or on a piece of paper attached to the back of the indictment:

(a) the accused's plea or pleas;

(b) the verdict of the jury, if any;

(c) the recording of a conviction, if any;

(d) the sentence of the Court, if any;

(e) the order finally disposing of the indictment;

(f) any other order made by the Court after a plea of guilty has been entered or the verdict of the jury has been taken; and

(g) the amount of the levy payable by the accused under Part 6 of the *Victims of Crime Assistance Act 2006*.

(9) The Judge or associate must, in respect of each notation made under subrule (8):

(a) include the date of the plea, verdict, conviction, sentence, order or levy; and

(b) sign and date the notation.

(10) In the case of an order in relation to a criminal trial to which subrule (8) does not apply:

(a) the order is to be recorded on the back of the application and then filed; or

(b) if there is no application – a written note of the order is to be made by the Judge or his or her associate and then filed.

(11) A notation made in accordance with subrule (8), (9) or (10) forms part of the record referred to in section 428 of the Criminal Code.

Part 10 Certificate of conviction and other forms

81A.40 Certificate of conviction

(1) A proper officer must not issue:

(a) a certificate of conviction of a person convicted in the Court;

(b) a certificate of conviction of a person convicted in the Local Court under Part V, Division 2 of the *Local Court (Criminal Procedure) Act 1928*; or

(c) a certificate under section 21B of the *Crimes Act 1914* of the Commonwealth,

until:

(d) the appeal period expires; or

(e) if an appeal is lodged – after the determination of the appeal.

(2) A person may apply, not earlier than 28 days after a conviction is recorded, to a proper officer for a certificate of conviction in relation to that conviction.

(3) The proper officer must issue a certificate of conviction if the application is accompanied by a certificate, in the form approved by the Registrar and signed by the Registrar and certifying that no appeal has been lodged against the conviction.

(4) A certificate of conviction is to be in accordance with Form 81A-F.

(5) In this rule, ***appeal*** includes an application for leave to appeal.

81A.41 Form of warrants, orders etc.

(1) A warrant of commitment:

(a) to a prison is to be in accordance with Form 81A-G; and

(b) to a detention centre within the meaning of the *Youth Justice Act 2005* is to be in accordance with Form 81A-H.

(2) A copy of a warrant of commitment to a prison or a detention centre is to be given by the Sheriff to the Director and to the offender or the offender's legal representative.

(3) If the Court imposes a sentence of imprisonment but directs that it be wholly or partly suspended without requiring any security, the Sheriff must prepare a notice in accordance with Form 81A-I and give it to the Director and the offender or the offender's legal representative.

(4) A recognisance release order under the *Crimes Act 1914* of the Commonwealth or an order to release a person on his or her giving security is to be in accordance with Form 81A-J or 81A-K, respectively, and a copy of the order is to be given by the Sheriff to the Director and the offender.

(5) A community work order is to be in accordance with Form 81A-L and a copy of the order is to be given by the Sheriff to the Director and the offender.

(6) A home detention order is to be in accordance with Form 81A-M and a copy of the order is to be given by the Sheriff to the Director and the offender.

(7) A warrant of remand is to be in accordance with Form 81A-N.

(8) A warrant of arrest for non-payment of restitution in accordance with an order is to be in accordance with Form 81A-O.

(9) A warrant under section 39 of the *Bail Act 1982* is to be in accordance with Form 81A-P.

(10) A warrant for failure to comply with a recognisance release order under the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-Q.

(11) A warrant of commitment for non-payment of a fine is to be in accordance with Form 81A-R.

(12) A summons under section 39(2) or 48(2)(a) of the *Sentencing Act 1995* is to be in accordance with Form 81A-S.

(13) An information under section 48(2) of the *Sentencing Act 1995* is to be in accordance with Form 81A-T.

(14) An order requiring a prisoner to be removed from a prison or police prison to another prison or police prison or to be produced to the Court or such other place as is required is to be in accordance with Form 81A-U.

(15) A hospital order under section 80 of the *Sentencing Act 1995*, a treatment order under section 83 of that Act or a hospital order under section 20BS of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-V.

(16) A residential or passport order under section 99 of the *Sentencing Act 1995* or section 22 of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-W.

(17) An order under section 19B of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-X.

(18) An order releasing a person from custody, whether subject to conditions or not, is to be in accordance with Form 81A-Y.

(19) An order under section 20BC(2) of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-Z.

(20) An order under section 20BJ(1) or (4) of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-ZA.

(21) A psychiatric probation order made under section 20BV of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-ZB.

(22) A program probation order made under section 20BY of the *Crimes Act 1914* of the Commonwealth is to be in accordance with Form 81A-ZC.

(23) A notice to show cause under section 93(3) of the *Sentencing Act 1995* is to be in accordance with Form 81A-ZD.

(24) A warrant for failure to comply with an order for payment of compensation is to be in accordance with Form 81A-ZE.

Chapter 2 Appeal rules

Order 82 Rules for appeals

Part 1 Preliminary matters

82.01 Definitions

In this Chapter:

civil appeal means an appeal in the civil jurisdiction.

court of trial, see section 406(1) of the Criminal Code.

court or tribunal below means the court, tribunal, person or body whose decision is being appealed from.

criminal appeal means an appeal in the criminal jurisdiction.

cross-appellant means a respondent who appeals from the decision being appealed from by the appellant.

decision includes a judgment.

file means to file in the Registry.

Notes for rule 82.01

1 Other terms are also defined in the Act.

2 The definitions in rule 1.09 also apply to this Chapter, see rule 82.03.

82.02 Application to appeals

(1) This Chapter applies to all appeals made under a law of the Territory to the following:

(a) the Supreme Court constituted as a single judge or the Full Court;

(b) the Supreme Court constituted as the Court of Appeal under Part III of the Act;

(c) the Supreme Court constituted as the Court of Criminal Appeal under section 407 of the Criminal Code.

(2) To avoid doubt, an appeal includes a civil appeal or criminal appeal.

82.03 Operation of Chapter 1

The definitions and rules in Chapter 1 apply to any matter respecting an appeal not otherwise provided for in this Chapter, with the necessary changes and to the extent that they are consistent with this Chapter.

Part 2 Appeals

82.04 Filing and service of notice of appeal

(1) To commence an appeal, the appellant must file a notice of appeal.

(2) A notice of appeal must be filed and served:

(a) within any period required for the commencement of the appeal under an Act; or

(b) if no period is required under an Act – within 28 days after the

day the decision being appealed from is made.

(3) A notice of appeal must be served on:

(a) all respondents; and

(b) any other person known by the appellant to be directly affected by the relief sought by the appellant.

Note for rule 82.04

The necessary respondents to an appeal are identified in rule 82.26(1). The Court may join other persons as respondents under rule 82.26(2) and (3).

82.05 Contents of notice of appeal

(1) In a civil appeal, the notice of appeal must include or attach the following:

(a) a brief but specific statement of the decision appealed against;

(b) any formal order or other document comprising or setting out the decision being appealed against, and any written reasons for the decision;

(c) a statement whether the appeal is from the whole or part only of the decision and, if part only, a description of what part;

(d) the grounds of the appeal;

(e) the judgment, relief or decision sought by the appellant.

(2) In a criminal appeal, the notice of appeal must include or attach the following:

(a) a brief but specific statement of the decision appealed against;

(b) any formal order or other document comprising or setting out the decision being appealed against, and any written reasons for the decision;

(c) a statement whether the appeal is against a finding of guilt or a special finding referred to in section 410(a) of the Criminal Code;

(d) for an appeal under section 410(b) of the Criminal Code on a certificate of the Judge of the court of trial – a copy of the certificate;

(e) for an appeal under section 414(1) of the Criminal Code – a statement whether the appeal is from the whole or part only of

the decision and, if part only, a description of what part;

(f) the grounds of the appeal;

(g) the judgment, relief or decision sought by the appellant.

82.06 Amendment by supplementary notice

(1) An appellant may amend the notice of appeal by filing and serving a supplementary notice of appeal.

(2) A notice of appeal must not be amended after the directions hearing under rule 82.12, without leave of the Court.

82.07 Competency of appeal

(1) A respondent may, on summons, apply at any time for an order dismissing an appeal as incompetent.

(2) On the hearing of a summons under subrule (1), the burden of establishing the competency of the appeal is on the appellant.

(3) If an appeal is dismissed by the Court as incompetent, without an application by the respondent under subrule (1):

(a) the respondent must not receive any costs of the appeal, unless the Court otherwise orders; and

(b) the Court may order that the respondent pay the appellant's costs of the appeal proving useless or unnecessary.

82.08 Cross-appeal

(1) A respondent who wishes to appeal from the decision being appealed from must file a notice of cross-appeal.

(2) A notice of cross-appeal must be filed and served within 14 days after the day the notice of appeal is served on the respondent.

(3) A notice of cross-appeal must be served on:

(a) the other parties to the appeal; and

(b) any other person known by the cross-appellant to be directly affected by the relief sought by the cross-appellant.

(4) The notice of cross-appeal must include the following information:

(a) a statement whether the cross-appeal is from the whole or part only of the decision and, if part only, a description of what

part;

(b) for a cross-appeal in a criminal appeal:

(i) if the cross-appeal is by a person found guilty – a statement whether the cross-appeal is against a finding of guilt or a special finding referred to in section 410(a) of the Criminal Code; or

(ii) if the cross-appeal is by a Crown Law Officer under section 414(1) of the Criminal Code – a description of what part of the sentence, determination, declaration or order is the subject of the cross-appeal;

(c) the grounds of the cross-appeal;

(d) the judgment, relief or decision sought by the cross-appellant.

(5) The rules applicable to a notice of appeal apply to a notice of cross-appeal, with the necessary changes.

Note for rule 82.08

The necessary respondents to a cross-appeal are identified in rule 82.26(1). The Court may join other persons as respondents under rule 82.26(2) and (3).

82.09 Notice of contention

(1) A respondent must file and serve a notice of contention, not a notice of cross-appeal, if the respondent contends that a matter of fact or law was erroneously decided against the respondent, but does not seek a discharge or variation of the decision being appealed from.

(2) A notice of contention must be filed and served within 14 days after the day the notice of appeal is served on the respondent.

(3) The respondent must give written notice to the appellant of the record of evidence or documents before the court or tribunal below, relevant to the respondent's notice of contention, for inclusion in the appellant's draft index of appeal book.

82.10 Party's submissions and list of authorities

(1) Each party must prepare the following:

(a) the party's written submissions;

(b) the party's list of authorities.

(2) The appellant must file the appellant's written submissions and list

of authorities and serve them on the respondent within 28 days after the day the notice of appeal is filed.

(3) The respondent must file the respondent's written submissions and list of authorities and serve them on the appellant within 14 days after the day the appellant serves the respondent under subrule (2).

(4) This rule also applies to a cross-appeal, with the necessary changes.

Note for rule 82.10

The form, content and length of written submissions and lists of authorities will be governed by Practice Directions.

82.11 Preparation of draft index to appeal book

(1) The appellant must prepare a draft index for an appeal book that lists the documents required in an appeal book under rule 82.13(3).

(2) The index must state the name and date of each document and its page number in the sequence in which it will appear in the appeal book.

(3) The appellant must serve the draft index on the respondent within 28 days after the day the notice of appeal is filed.

82.12 Directions hearing

(1) The Registrar must set a date for a directions hearing and inform the parties.

(2) At the directions hearing, the Registrar must:

(a) in the case of an appeal to the Supreme Court – determine whether an appeal book is necessary; and

(b) settle the index to the appeal book; and

(c) settle any other matters related to the appeal book; and

(d) set the hearing date; and

(e) make any other necessary programming orders.

(3) To settle the appeal book, the Registrar must determine the following:

(a) the documents that should be included in the appeal book;

(b) the sequence of the documents;

(c) the number of copies of the appeal book required;

(d) the time within which those copies are to be filed and served;

(e) any other matters the Registrar considers are required for the preparation of copies of the appeal book.

82.13 Appeal book

(1) The appellant must prepare an appeal book for the following appeals:

(a) an appeal to the Supreme Court, whether constituted as a single judge or the Full Court, if the Registrar considers it necessary;

(b) an appeal to the Court of Appeal;

(c) an appeal to the Court of Criminal Appeal.

Note for subrule (1)(a)

The draft index under rule 82.11 is still required for an appeal to the Supreme Court even if an appeal book is not necessary.

(2) An appeal book must be legible, paginated and securely fastened.

(3) An appeal book consists of the following documents to the extent they are relevant to the appeal:

(a) the indictment or originating process and pleadings;

(b) a transcript of oral evidence;

(c) any affidavits before the court or tribunal below;

(d) the exhibits, arranged in the order in which they were lettered or numbered as exhibits in the court or tribunal below;

(e) in a civil appeal – any prior decision relevant to the decision being appealed from and the reasons for that decision;

(f) in a criminal appeal:

(i) a transcript of the trial Judge's directions and summing up to the jury; and

(ii) a transcript of any remarks on sentence by the trial Judge;

(g) the notice of appeal and any supplementary notice of appeal,

cross-appeal or contention;

(h) any relevant certificate required by subrule (4).

(4) If a transcript is to be included in the appeal book, a certificate of the appellant and respondent must also be included in the appeal book certifying that:

(a) the transcript was examined by them; and

(b) any dispute regarding the transcript was resolved after consultation with the trial judge; and

(c) the transcript is correct.

(5) The appellant must file and serve the appeal book, as settled by the Registrar.

Part 3 Applications for leave or to extend time

82.14 Application of Part

This Part applies in relation to the following applications:

(a) an application for leave to appeal;

(b) an application for an extension of time to:

(i) file a notice of appeal; or

(ii) apply for leave to appeal;

(c) an application under section 429 of the Criminal Code.

82.15 Filing and service of applications

(1) An application for leave to appeal must be filed and served in the same manner and within the same time as a notice of appeal under rule 82.04.

(2) An application for an extension of time must be filed and served in the same manner as a notice of appeal under rule 82.04.

82.16 Supporting documents

(1) The application must be accompanied by the following:

(a) the proposed notice of appeal;

(b) written submissions in support of the application;

(c) an affidavit deposing any fact relied on in support of the application.

(2) The written submissions must concisely set out the following:

(a) the nature of the case;

(b) the questions involved;

(c) in the case of an extension of time – the reasons for the delay in giving notice of appeal or applying for leave to appeal;

(d) the reasons why the leave or extension should be given.

Note for rule 82.16

The form, content and length of written submissions and lists of authorities will be governed by Practice Directions.

82.17 Hearing at same time as appeal

(1) If an applicant wishes the hearing of the application to be deferred until the hearing of the appeal, the applicant may include a request for that purpose in the application.

(2) The Court may, on request or on its own initiative:

(a) order that an application be heard at the same time as the appeal; and

(b) make any consequential orders that may be necessary.

82.18 Response to application

(1) If served with an application for leave to appeal or for an extension of time, the respondent must file and serve on the applicant the respondent's written submissions.

(2) Any fact relied on in opposition to the application must be set out in a supporting affidavit.

(3) The submissions and any affidavit must be filed and served within 14 days after the day the application is served on the respondent.

82.19 Determination of application

(1) The application may be determined on the papers by a single Judge.

(2) A single Judge may refer the application to 3 Judges to determine on the papers.

(3) The Judge or Judges may call for further submissions on the application from the parties.

(4) Instead of determining the matter on the papers, the Judge or Judges may:

(a) call for and hear oral submissions on the application; or

(b) make an order under rule 82.17(2) and hear the application at the same time as the appeal.

(5) Leave may be granted on any or all proposed grounds of appeal.

(6) If all or part of the application is refused by a single Judge, the applicant may request that the application be determined by 3 Judges in accordance with subrules (3) to (5).

(7) The request must be filed and served within 14 days after the day the applicant receives notice of the refusal by a single Judge.

(8) If the Court grants the request, the application is to be determined by 3 Judges in accordance with subrules (3) to (5).

(9) A single Judge who refused an application may sit as one of the 3 Judges determining the same application.

82.20 If leave granted

(1) The Registrar must notify the parties if leave to appeal or an extension of time is granted.

(2) Subject to the order granting leave or an extension of time, the parties may proceed with the appeal in accordance with this Chapter.

(3) The date the appellant is notified by the Registrar under subrule (1) is to be used for the purpose of calculating when to file and serve documents in the appeal, instead of the date the notice of appeal is filed.

(4) The proposed notice of appeal filed in the application for leave to appeal or an extension of time is taken to be filed as the notice of appeal in the appeal, subject to any order of the Court.

Part 4 Specific matters relating to criminal appeals

82.21 Criminal Code certificate

A certificate issued under section 410(b) of the Criminal Code may be given at the trial or within 10 days after the finding of guilt.

82.22 Consequential orders

(1) The Court of Criminal Appeal may, on application, make orders or give directions under subrule (2) if:

(a) a person is found guilty of an offence; and

(b) the court of trial made orders consequential on that finding of guilt; and

(c) an appeal is instituted by:

(i) the person found guilty; or

(ii) a Crown Law Officer under section 414(1) of the Criminal Code.

(2) In the circumstances referred to in subrule (1), the Court of Criminal Appeal may make the following orders and directions:

(a) orders suspending or refusing to suspend the consequential orders pending the determination of the appeal;

(b) orders or directions in relation to the effect of the consequential orders pending the determination of the appeal;

(c) orders or directions in relation to the vesting, preservation or disposition of property that is subject to the consequential orders.

82.23 Reservation of points of law

(1) This rule applies in relation to a case stating a question of law reserved under section 408, 409 or 414(2) of the Criminal Code on the trial of a person charged with an indictable offence.

(2) If the case states a question of law reserved under section 408 of the Criminal Code, the case must state:

(a) whether judgment on the finding of guilt was pronounced and respited or was postponed; and

(b) whether the person found guilty was committed to prison or

admitted to bail or to receive judgment.

(3) On receiving the case, the Registrar must:

(a) set the case down for hearing on the first day on which the Court of Criminal Appeal is next appointed to sit; and

(b) give a copy of the case, without delay, to:

(i) the Solicitor for the Northern Territory; and

(ii) the parties; and

(iii) for an application under section 414(2) of the Criminal Code – the accused.

(4) The Judge who signed the case may amend it at any time before argument.

(5) The accused person has the carriage of the proceeding, except for an application under section 414(2) of the Criminal Code.

82.24 Failure to appear

(1) If the appellant is required by a bail undertaking or bail condition to appear at the hearing of the appeal or an application but fails to appear without reasonable cause, the Court may:

(a) summarily dismiss or decline to hear the appeal or application; or

(b) consider the appeal or application in the appellant's absence.

(2) The evidentiary burden of proving reasonable cause under subrule (1) lies on the appellant.

82.25 Notice under Criminal Code

A notice given by the Registrar under section 426(4) and (5) of the Criminal Code may be given to a solicitor representing the appellant or respondent.

Part 5 General matters

82.26 Parties

(1) Each party to the proceeding in the court or tribunal below and directly affected by the relief sought in the notice of appeal or interested in maintaining the decision being appealed must be

made a respondent to the appeal.

(2) A person who was not a party to the proceeding in the court or tribunal below may be joined as a respondent if the person is directly affected by the relief sought in an appeal or interested in maintaining the decision being appealed from.

(3) The Court may order the addition or removal of a person as a party to an appeal.

(4) Despite subrule (3), a person must not be made an appellant without that person's consent.

(5) A Local Court Judge whose decision is being appealed from must not be joined as a party to an appeal.

82.27 Serial numbers and seals

(1) When the following documents are filed, the Registrar must allocate a serial number to them and seal them:

(a) a notice of appeal;

(b) an application for leave to appeal;

(c) an application for an extension of time to file a notice of appeal;

(d) an application for an extension of time to file an application for leave to appeal.

(2) A sufficient number of copies of the documents for service and proof of service provided by the party must also be numbered and sealed.

(3) The serial number of the notice or application must be endorsed on each subsequent document filed in relation to that notice or application.

82.28 No stay of proceedings or execution

(1) An appeal does not:

(a) operate as a stay of proceedings or execution under the decision appealed against; or

(b) invalidate an intermediate act or proceeding.

(2) Subrule (1) is subject to the following:

(a) any Act that provides otherwise;

(b) any decision made by the court or tribunal below;

(c) any direction of the Court.

82.29 Discontinuance of appeal

(1) Subject to rule 97.02, an appellant may discontinue the appeal.

(2) To discontinue an appeal, the appellant must file and serve a notice of discontinuance.

(3) The appeal is taken to be discontinued once the notice of discontinuance is filed.

(4) The filing of a notice of discontinuance by an appellant does not affect any other appellant in the appeal.

(5) An appellant who discontinues an appeal under this rule, other than in a criminal matter, is liable to pay the costs of the other parties caused by that appeal.

82.30 Forms

(1) Parties must use the forms published on the Court's website for any notice, application or document required or authorised to be given or filed for the purposes of this Chapter.

(2) The notice, application or document must be signed in accordance with any requirements in the form.

Chapter 3 Probate and administration rules

Order 88 Probate and administration rules

Part 1 Preliminary

88.01 Application

(1) The Rules in this Chapter apply to all proceedings in the probate jurisdiction of the Court commenced on or after the commencement of this Chapter whether the matter is governed by the *Administration and Probate Act 1969* or by the following Acts of the State of South Australia:

The Administration and Probate Act, 1891,

The Administration and Probate Amendment Act, 1903,

The Administration and Probate Amendment Act, 1904.

(2) The rules in Chapter 1 of the *Supreme Court Rules 1987* apply to the practice and mode of procedure in the Court in its probate jurisdiction to the extent to which:

(a) they are applicable to;

(b) they are not expressly excluded by; or

(c) they do not conflict with,

the rules in this Chapter.

88.01.1 Validation of will

(1) Subject to subrule (2), an application for the admission to probate of a document referred to in section 12(2) of the repealed *Wills Act 1938* shall be supported by an affidavit setting out the grounds of the application, together with the consents in writing to the application given by all persons who may be prejudiced by the admission of the document to proof.

(2) Where a person who may be prejudiced by an application referred to in subrule (1) is not sui juris or cannot be ascertained or found, or the Court is satisfied that in the circumstances it is just and expedient to do so, it may nevertheless dispense with the consent.

(3) An application for the admission to probate of a document referred to in section 10(2) of the *Wills Act 2000* is:

(a) to be made by originating motion in accordance with Form 5B or Form 5C; and

(b) to be supported by an affidavit setting out the grounds of the application.

(4) An application referred to in subrule (3) is, together with the affidavit in support of it, to be served on all persons who may be prejudiced by the admission of the document to proof.

88.02 Interpretation

In this Chapter, unless the contrary intention appears:

estate includes real estate and personal estate.

General Rules means the rules in Chapter 1.

Probate Act means the *Administration and Probate Act 1969*.

repealed Wills Act means the *Wills Act 1938* in force before 1 March 2001.

re-sealing means sealing, under section 111 of the Probate Act, of a probate or letters of administration,

and expressions used have the same meaning as in the Probate Act and the General Rules.

88.03 Transition

(1) A proceeding for a grant or for resealing to which Part 3 applies commenced before the commencement of this Chapter, may be continued in accordance with the practice, procedure, requirements and forms in force immediately before that commencement.

(2) Where a proceeding is commenced as referred to in subrule (1), the notice of address filed in the proceeding shall have effect as if it were the applicant's address for service stated in a proceeding commenced in accordance with Part 3.

88.04 Heading and title

(1) This rule applies to a document in a proceeding in which the powers of the Court may be exercised by the Registrar.

(2) A document shall:

(a) be headed "In the Supreme Court of the Northern Territory of Australia" with a reference to the Probate jurisdiction of the Court;

(b) show the Registry and the serial number of the proceeding;

(c) be entitled "The estate of" with a reference to the name of the deceased, his place of residence and his occupation at the time of his death; and

(d) where a grant or reseal has been made in the estate, show the number given in the Registry to that grant or reseal.

(3) Rule 27.02 does not apply to a proceeding under this Chapter.

Part 2 Registrar

88.05 Powers of Registrar

(1) In addition to the powers vested in him by the Probate Act, the Registrar may exercise the powers of the Court in and about:

(a) a proceeding to which Part 3 applies;

(b) settling and issuing citations;

(c) appointing a litigation guardian of a person under a disability;

(d) assigning a guardian to an infant under Part 4;

(e) granting leave under Part 5;

(f) granting an extension of a caveat or giving leave to withdraw a caveat under Part 12;

(g) making orders in pursuance of Rule 88.27;

(h) the withdrawal of caveats under section 49 of the Probate Act where the withdrawal is not contested;

(j) a proceeding under sections 88 and 91(2) and (3) of the Probate Act and under rules 88.75 and 88.79;

(k) ordering the production of an instrument under section 147 of the Probate Act;

(m) the revocation or rescission of grants of probate or administration where the revocation or rescission is not contested;

(n) the authorization of the sale, lease or mortgage of any of the real estate as to which a person dies intestate where the gross value of the real estate does not exceed $50,000 and no objection is raised to the sale, lease or mortgage;

(p) passing the accounts of executors, administrators and trustees, including allowing commission and costs in relation to accounts;

(pa) an application referred to in section 12(2) of the repealed *Wills Act 1938* or section 10(1) of the *Wills Act 2000* where the gross value of the estate, wherever situated, does not exceed $20 000;

(q) a matter which the Court refers to the Registrar; and

(r) such other powers as the Chief Justice directs that he have.

(2) Where the Court refers a matter to the Registrar for the exercise in respect of that matter of a power of the Court, the Registrar may exercise that power in respect of that matter.

(3) In respect of a matter referred to in subrule (1) or (2), the Registrar may exercise the power of the Court under rules 2.04 and 3.02.

Part 2A Applications under Part 3 of Wills Act

88.05A Application by minor for authorisation to make etc. will

(1) An application under section 18 of the *Wills Act 2000* for an order authorising a minor to make or alter a will, or to revoke the whole or a part of the minor's will, is to be made by originating motion in accordance with Form 5D.

(2) An application referred to in subrule (1):

(a) may be made by the person who is the legal guardian or the persons who are the legal guardians of the minor; and

(b) is to be supported by affidavits by the minor, and by the other persons (if any) on whom the applicant relies or applicants rely, that between them specify (which includes specified in documents annexed to one or more of the affidavits) the matters referred to in section 20(2)(a), (b) and (d) to (m) (inclusive) of the *Wills Act 2000* that are relevant to the application.

(3) An initial draft of the proposed will, alteration or revocation to be authorised by the order is to be annexed to the minor's affidavit.

88.05B Application for leave to apply for order regarding will of person without testamentary capacity

(1) An application under section 20 of the *Wills Act 2000* for leave to apply for an order authorising the making or altering of a will, or the revoking of the whole or a part of a will, for and on behalf of a person who lacks testamentary capacity is to be made by originating motion in accordance with Form 5D.

(2) An application referred to in subrule (1) is to be supported by an affidavit by the applicant that specifies the information, and has annexed to it the documents, required by the Court under section 20(2) of the *Wills Act 2000*.

(3) When the application for leave first comes before the Court, the Court must:

(a) consider who are the persons who have reason to expect a gift or benefit from the estate of the proposed testator or who otherwise have a legitimate interest in the making of the application; and

(b) give the directions the Court considers appropriate to ensure that adequate steps are taken to allow those persons representation at the hearing of application.

(4) If the Court grants the application for leave, the application is to be taken to be, and is to proceed as if it were, an application for the order for which the Court granted the leave.

88.05C Application for order to rectify will

(1) An application under section 27 of the *Wills Act 2000* for an order to rectify a will is to be made by originating motion in accordance with Form 5B or Form 5C.

(2) An application referred to in subrule (1) is to be served on each beneficiary under the will who is likely to be affected by the relief sought.

88.05D Application under section 18, 20 or 27 of *Wills Act 2000* to be heard by Judge

An application under section 18, 20 or 27 of the *Wills Act 2000* is to be heard by the Court constituted by a Judge.

Part 3 Non-contentious proceedings

88.06 Application of Part

This Part applies to a proceeding for a grant or for resealing where:

(a) there is no respondent; and

(b) no person is cited to see the proceeding.

88.07 Commencement of proceedings

(1) A proceeding for a grant or resealing shall be commenced by application in accordance with Form 88A supported by affidavit.

88.08 Hearing

(1) A proceeding under this Part:

(a) may be heard:

(i) in the absence of the public; and

(ii) without the appearance before the Court of a person; and

(b) shall be heard without an appointment being obtained for the hearing.

(2) Order 46 does not apply to a proceeding under this Part.

88.09 Publication of notice of intended application

(1) Notice, in accordance with Form 88B, 88C or 88D, of an intended application for a grant or for resealing shall be published in one Darwin daily newspaper and, if the deceased was resident at the date of his death in the Territory at a place more than 200 kilometres from the General Post Office, Darwin, also in a newspaper published and circulating in the district where the deceased resided.

(2) A notice under subrule (1) shall state the date or dates of a will and each codicil (if any) sought to be proved or, where the document bears no date, a statement of that fact and of the approximate date, if known.

(3) Where it is intended to apply to dispense with an administration bond, or with one or both of the sureties, or for reduction of the penalty of the bond, the notice under subrule (1) shall require creditors to send in their claims.

(4) The Court may require further advertisement.

88.10 Delay

Where a proceeding for a grant:

(a) is not commenced until 6 months or more after the death of the deceased; and

(b) is the first proceeding for a grant,

the applicant shall file an affidavit explaining the delay.

88.11 Domicile out of the Territory

Where it appears, in a proceeding for a grant or for resealing, that the deceased was domiciled out of the Territory, the Court may require evidence of:

(a) the domicile of the deceased;

(b) the requirements of the law of the domicile as to the validity of a will made by the deceased; and

(c) the law of the domicile as to the persons entitled on distribution of the estate.

88.12 Identity

The Court may, in a proceeding for a grant, require proof of the identity of the deceased or of the applicant.

88.13 Renunciation

(1) Where a person has renounced probate or administration, he shall not be granted representation of the deceased in another capacity.

(2) A renunciation by an executor of probate may be made in accordance with Form 88E.

88.14 Evidence of attestation

(1) Where:

(a) a will does not contain an attestation clause; or

(b) the attestation clause in a will indicates that the will has not been executed in the manner required by the *Wills Act 2000*,

an applicant for a grant of probate or letters of administration with the will annexed shall, with the application for a grant of probate, file an affidavit in accordance with Form 88F of one or more of the attesting witnesses as to due execution of the will.

(2) Where an applicant is unable to comply with subrule (1), he shall file an affidavit explaining the reason for the inability and an affidavit by some person, other than an attesting witness, who was present when the will was executed.

(3) Where an applicant is unable to comply with subrule (1) or (2), he shall furnish evidence, on affidavit, of the reason for the inability and of the identity of the signature of the testator and of the attesting witness respectively or of such other facts on which he

relies as establishing that the will was duly executed.

88.15 Testator's knowledge and approval of contents

(1) This rule applies where, in a proceeding for a grant, an applicant seeks to prove a will and:

(a) the will appears to have been signed by a blind testator;

(b) the will appears to have been signed by an illiterate testator;

(c) the will appears to have been signed by another person by direction of the testator; or

(d) there are circumstances which raise doubt whether the testator, at the time of execution of the will, knew and approved of the contents of it.

(2) An applicant shall furnish evidence on affidavit to establish that the testator, at the time of execution of the will, knew and approved of its contents.

(3) Where the evidence adduced pursuant to subrule (2) is that of an attesting witness or other person present at the time of execution, his affidavit shall state the manner in which the will was executed.

88.16 Further evidence as to execution

Where, in a proceeding for a grant, the applicant seeks to prove a will and, notwithstanding that the applicant has complied with rules 88.14 and 88.15, the Court considers that there is some doubt about the execution of the will or that a circumstance in connection with the execution requires explanation, the Court may require further evidence.

88.17 Date of execution

Where, in a proceeding for a grant, the applicant seeks to prove a will and the will is undated or there appears to be doubt as to the date on which it was executed, the Court may require evidence establishing the date of execution.

88.18 Interlineations, obliterations and alterations

Where, in a proceeding for a grant, an applicant seeks to prove a will and:

(a) an interlineation, obliteration or alteration appears in the will; and

(b) the interlineation, obliteration or alteration has not been duly authenticated or otherwise validated,

the Court may require evidence establishing whether the interlineation, obliteration or alteration was made before the execution of the will.

88.19 Documents referred to or attached

Where, in a proceeding for a grant, an applicant seeks to prove a will and:

(a) the will contains a reference to a document that suggests that the document may be incorporated in the will; or

(b) there are marks on the will from which it appears that a document has been attached to it,

the Court may require:

(c) production of the document; and

(d) evidence in regard to it.

88.20 Part of will paper torn off or cut off

Where, in a proceeding for a grant, an applicant seeks to prove a will and it appears that part of the paper on which the will was written has been torn off or cut off, the Court may require:

(a) production of the part torn off or cut off; and

(b) evidence in regard to it.

88.21 Burning, tearing or other sign of revocation

Where, in a proceeding for a grant, an applicant seeks to prove a will and:

(a) the appearance of the will suggests that there may have been an attempted destruction of it by burning, tearing or otherwise; or

(b) there are other circumstances which suggest that the testator may have revoked the will,

the circumstances shall be fully explained on affidavit.

88.22 Inoperative will

Where, in a proceeding for a grant, an applicant seeks to prove a will and it appears that the will is or may be inoperative or partly inoperative by reason of the executors and beneficiaries all predeceasing the testator or for another reason, the Court may require evidence:

(a) as to matters relevant to whether the will is inoperative or partly inoperative; and

(b) showing what persons would be entitled in distribution of the estate upon intestacy.

88.23 Evidence and documents in applications for probate

(1) An application for probate shall be supported by affidavit:

(a) in accordance with Form 88G, of the death of the testator; and

(b) in accordance with Form 88H:

(i) setting out the full residential address of the applicant; and

(ii) stating that the testator has left a will, the date of the will, and whether it has been revoked; and

(iii) stating the date of death of the testator and his age at that date; and

(iv) setting out the names and addresses of the subscribing witnesses to the will and of each executor named in the will; and

(v) stating that the deceased did not marry (if that is the case) after making the will; and

(vi) stating that the deceased left an estate within the Territory and setting out the value of that estate, distinguishing real and personal estate, and giving a short statement of what the estate consists; and

(vii) stating that the applicant is a corporation or has attained the age of 18 years; and

(viii) where an executor has died or has renounced probate, furnishing details of the date of his death or renunciation; and

(c) in accordance with Form 88I:

(i) of publication of the notice of intention to apply for probate; and

(ii) of the result of search for a will of the testator deposited under Part 6 of the *Wills Act 2000*; and

(iii) whether a caveat relating to the application has been lodged up to the morning of the application; and

(iv) where 2 years or more have elapsed since the death of the deceased, whether a prior application for a grant or resealing has been made in connection with the estate; and

(v) stating that, before the making of the application, no election has been filed under Part VII of the *Public Trustee Act 1979*, or, if an election has been filed, setting out the full particulars of that election.

(2) Subject to subrule (3), where an executor has renounced probate, the application shall be supported by an affidavit furnishing evidence of the renunciation.

(3) Where a renunciation has been signed by the executor, the renunciation shall be filed with the application for a grant and the filing of that document shall be taken as compliance with subrule (2) without the need for an affidavit.

(4) Where an executor does not join in an application for a grant and leave is sought to be reserved to him to come in and apply for probate, evidence shall be furnished that he has been served, not later than 14 days before the proceeding for grant is commenced, with notice of the intended proceeding or that he is not in the Territory or that he is an infant.

(5) The notice referred to in subrule (4) may be served personally or by sending the notice by registered post to the executor and obtaining from the postal authorities a written acknowledgement, purporting to be signed by the addressee, of receipt of the registered article.

(6) An affidavit of an applicant stating his means of identifying the will as that of the testator shall be filed and the will shall be marked by him and by the person who witnesses the affidavit and filed with the affidavit.

(7) An oath in writing of the applicant, in accordance with Form 88J, administered by a person who might witness an affidavit of the applicant, shall be filed.

(8) The Court may require further evidence (including evidence establishing the value of an asset of, and the amount of a liability of, the testator) to be furnished, and that further documents be filed, and notices be given.

(9) Except where section 40 of the *Public Trustee Act 1979* applies, an official record of the death of the testator shall be annexed to the affidavit referred to in subrule (1)(a).

(10) If there is no official record of the death of the testator, an additional affidavit shall accompany the application setting out the facts relied on to establish his death or a presumption of his death.

88.24 Evidence and documents in applications for administration

(1) An application for administration shall be supported by affidavits:

(a) in accordance with Form 88G, of the death of the deceased; and

(b) in accordance with Form 88K:

(i) setting out the full residential address of the applicant; and

(ii) stating that the deceased died intestate; and

(iii) furnishing details of the searches and enquiries which have been made to locate a will; and

(iv) establishing the status of the deceased, that is, whether the deceased died leaving a spouse, de facto partner or issue, whether at the date of death the deceased was not married or in a de facto relationship, whether a spouse or de facto partner of the deceased had died before the deceased or whether the deceased died leaving a former spouse or de facto partner; and

(v) stating that the deceased left an estate in the Territory, and the value of that estate, distinguishing real and personal estate and giving a short statement of what the estate consists; and

(vi) setting out the relationship (if any) of the applicant to the deceased; and

(vii) furnishing the names and ages of the persons entitled in distribution of the estate and their relationship to the deceased; and

(viii) stating that the applicant is a corporation or has attained the age of 18 years; and

(ix) affirming that the applicant is not an undischarged bankrupt and has not assigned or encumbered his interest (if any) in the estate; and

(x) furnishing details of the applicant's knowledge of claims against the estate; and

(xi) stating the character in which the person making the application claims to be entitled to a grant and the truth of that statement; and

(xii) if the applicant is a creditor, stating that fact and to what amount, the particulars of his debt and the evidence in support of the claim; and

(c) in accordance with Form 88I:

(i) of publication of the notice of intention to apply for administration; and

(ii) of the result of search for a will of the deceased deposited under Part 6 of the *Wills Act 2000*; and

(iii) whether a caveat relating to the application has been lodged up to the morning of the application; and

(iv) where 2 years or more have elapsed since the death of the deceased, whether a prior application for a grant or resealing has been made in connection with the estate; and

(v) showing that Division 4A of Part III of the Probate Act does not apply to or in relation to the estate of the deceased; and

(vi) stating that, before the making of the application, no election has been filed under Part VII of the *Public Trustee Act 1979*, or, if an election has been filed, setting out the full particulars of that election.

(2) Where the grant is applied for by fewer than all the persons who are in the Territory and are entitled to a grant of administration, the application shall be supported by:

(a) the consent, in accordance with Form 88L, of each person entitled to a grant but not applying for the grant, to the grant being made to the applicant, with an affidavit in accordance

with Form 88M verifying the consent endorsed on the document containing the consent; or

(b) an affidavit as to service, not later than 14 days before the proceeding is commenced, on each of those persons whose consent to the grant is not filed, of notice of intention to make the application.

(3) The notice referred to in subrule (2)(b) may be served personally or by sending the notice by registered post to the person to be served and obtaining from the postal authorities a written acknowledgement, purporting to be signed by the addressee, of receipt of the registered article.

(4) Where the Registrar orders a person to enter into a bond under section 23 of the *Administration and Probate Act 1969*, the bond is to be in accordance with Form 88N.

(5) The Court may:

(a) dispense with a bond; or

(b) dispense with one or both of the sureties; or

(c) reduce the penalty of the bond.

(6) Where it is sought to dispense with the bond or with one or both of the sureties, or to reduce the penalty of the bond, an affidavit shall be filed in support of the application.

(7) Where there is a surety to a bond, an affidavit of justification by the surety, in accordance with Form 88P, shall be filed.

(8) An oath in writing of the applicant, in accordance with Form 88J, administered by a person who might witness an affidavit of the applicant, shall be filed.

(9) The Court may require further evidence (including evidence establishing the value of an asset of, and the amount of a liability of, the deceased) to be furnished, and that further documents be filed, and notices be given.

(10) An official record of the death of the deceased shall be annexed to the affidavit referred to in subrule (1)(a).

(11) If there is no official record of the death of the deceased, an additional affidavit shall accompany the application setting out the facts relied on to establish his death or a presumption of his death.

(12) Where a person entitled to apply for Letters of Administration in the estate of an intestate deceased person renounces Letters of Administration in favour of the Public Trustee, in accordance with Form 88R, Letters of Administration in that estate may be granted to the Public Trustee without the consent or citation of a person.

88.25 Evidence and documents in applications for administration with will annexed

(1) An application for administration with the will annexed shall be supported by:

(a) the affidavits and documents, so far as appropriate, referred to in rule 88.24; and

(b) the affidavits and documents which, if the application were an application for probate of the will, would be required by:

(i) rule 88.23(1)(b)(ii), (iii), (iv) and (v); and

(ii) rule 88.23(2), (3) and (9).

(2) An affidavit of the applicant under subrule (1) shall be in accordance with Form 88Q.

(3) Where a renunciation has been signed by the executor, the renunciation shall be filed with the application for grant.

(4) Where the executor named in the will renounces probate in favour of the Public Trustee, in accordance with Form 88R, administration with the will annexed may be granted to the Public Trustee without the consent or citation of a person.

(5) The Court may require further evidence (including evidence establishing the value of an asset of, and the amount of a liability of, the deceased) to be furnished, and that further documents be filed, and notices be given.

88.26 Evidence and documents in applications for resealing

(1) An application for resealing shall be supported by affidavit:

(a) in accordance with Form 88S:

(i) setting out the full residential address of the applicant;

(ii) stating that the deceased left an estate in the Territory;

(iii) furnishing particulars of the grant sought to be sealed;

(iv) furnishing particulars of the persons beneficially entitled

under the grant sought to be sealed;

(v) annexing certified copies of any relevant power of attorney and other relevant documents;

(vi) where the application is for resealing of letters of administration, affirming that the applicant is not a bankrupt and has not assigned or encumbered his interest (if any) in the estate;

(vii) stating that the applicant is a corporation or has attained the age of 18 years; and

(viii) where the application is for resealing letters of administration, furnishing details of the applicant's knowledge of claims against the estate;

(b) in accordance with Form 88I:

(i) of publication of the notice of intention to apply for the resealing;

(ii) of the result of search for a will of the deceased deposited under Part 6 of the *Wills Act 2000*;

(iii) whether a caveat relating to the resealing has been lodged up to the morning of the application; and

(iv) where 2 years or more have elapsed since the death of the deceased, whether a prior application for a grant or resealing has been made in connection with the estate.

(2) Rule 88.24(4), (5), (6) and (7) apply as if the application were an application for administration.

(3) A copy of the document sought to be sealed, certified by the Court which made the grant, shall be filed.

(4) All relevant original documents shall be produced.

(5) The Court may require further evidence (including evidence establishing the value of an asset of, and the amount of a liability of, the deceased) to be furnished, and that further documents be filed, and notices be given.

88.27 Affidavit of assets and liabilities

(1) An applicant for a grant under this Part shall file an affidavit of assets and liabilities in accordance with Form 88T.

(2) The value of each item of property shall be stated in an affidavit filed in accordance with subrule (1) or, if the value is not known, an estimate of the value shall be stated.

(3) For the purposes of subrule (2), evidence of value shall not be furnished unless the Court orders otherwise.

(4) The amount of each liability shall be stated in an affidavit filed in accordance with subrule (1) or, if the amount is not known, an estimate of the amount shall be stated.

(5) For the purposes of subrule (4), evidence of the amount of a liability shall not be furnished unless the Court orders otherwise.

Part 4 Administration during minority

88.28 Administration during minority

(1) The Court may grant administration during minority, for the use and benefit of an infant, to:

(a) the legal or testamentary guardian of the infant;

(b) a guardian elected as provided by rule 88.29; or

(c) a guardian of the infant assigned, on his application, by the Court.

(2) A grant of administration during minority shall be subject to such limitations and conditions as the Court thinks fit.

88.29 Elected guardians

(1) An infant who has attained the age of 16 years may elect a guardian for the purpose of applying for a grant of administration.

(2) The elected guardian may act also for an infant who has not attained the age of 16 years of age but who is in the same family as the infant who elected.

(3) Notwithstanding the election of a guardian, the Court may grant administration to a person who is referred to in rule 88.28(1)(a) or (c) and who it considers is more appropriate or better fitted to act as guardian.

(4) A grant shall not be made to an elected guardian unless evidence of his election and of his appropriateness and fitness to be guardian is furnished.

88.30 Assigned guardians

(1) A proceeding by a person for an order assigning him as the guardian of an infant for the purpose of applying for administration shall be commenced by originating motion in accordance with Form 5D supported by affidavit.

(2) There shall be no respondent in the proceeding.

(3) The proceeding may be heard:

(a) in the absence of the public; and

(b) without the appearance before the Court of a person.

(4) The proceeding shall be heard without an appointment being obtained for the hearing.

(5) Order 46 does not apply to a proceeding under this rule.

(6) An application under this rule shall be supported by evidence of the relationship, if any, of the proposed guardian to the infant and of his appropriateness and fitness to act as guardian.

(7) A draft minute of the order sought shall be lodged with the Registrar.

(8) The order shall be authenticated in accordance with the requirements of the General Rules after the minute of it is signed.

Part 5 Applications by creditors of administration

88.31 Leave to commence proceedings

(1) A creditor shall not, without the leave of the Court, commence a proceeding for a grant of administration.

(2) The Court may, if it thinks fit, refuse or withhold a grant to a creditor, notwithstanding that he has obtained leave to commence a proceeding for the grant.

88.32 Citations

(1) Where a creditor desires to commence a proceeding for a grant of administration and the deceased has left a will, the creditor shall:

(a) where an executor is appointed by the will and has not renounced probate, serve on the executor a citation to take probate; and

(b) if the executor fails to comply with the citation, serve on each spouse and de facto partner of the deceased and on every beneficiary under the will and, where there is a partial intestacy, on every person entitled in administration of the estate on intestacy, a citation to pray for administration.

(2) Where the executor has been served with a citation to take probate and has failed to comply with the citation, it is not necessary, unless the Court otherwise directs, to serve him with a citation to pray for administration.

(3) Where an executor is appointed by the will and has not renounced probate, the creditor shall not serve a citation to pray for administration unless he has complied with subrule (1)(a) and the executor has failed to comply with the citation to take probate.

(4) Where a creditor desires to commence a proceeding for a grant of administration and the deceased did not leave a will, he shall serve on the spouse of the deceased and on every person entitled in administration of the estate on intestacy, a citation to pray for administration.

88.33 Proceeding for leave

(1) A proceeding for an order that a creditor have leave to commence a proceeding for a grant of administration shall be commenced by originating motion in accordance with Form 5D supported by affidavit.

(2) There shall be no respondent in the proceeding.

(3) The proceeding may be heard:

(a) in the absence of the public; and

(b) without the attendance before the Court of a person.

(4) The proceeding shall be heard without an appointment being obtained for the hearing.

(5) Order 46 does not apply to a proceeding under this rule.

(6) A creditor applying for leave under this rule shall file:

(a) an affidavit in proof of the debt to him;

(b) an affidavit of compliance with rule 88.32 and that none of the persons cited has complied with the citation;

(c) an administration bond in accordance with Form 88N; and

(d) where necessary, an affidavit of justification, in accordance with Form 88P, of a surety to the bond.

(8) A draft minute of the order sought shall be lodged with the Registrar.

(9) The order shall be authenticated in accordance with the General Rules after the minute of it is signed.

(10) The Court may require further evidence to be furnished, further documents to be filed, and that further citations be served and notices be given.

Part 6 Small estates

88.34 Applications in small estates

(1) A person desiring to obtain a grant of representation in pursuance of Part IV of the Probate Act may apply, either in person or by letter, to the Registrar.

(2) An application under subrule (1) shall not be received through an agent of the applicant.

88.35 Directions

When, in the opinion of the Registrar, it becomes necessary in the course of a personal application to obtain the directions of the Court, the application shall not further proceed as a personal one except by leave of the Court.

88.36 Record of death

In an application under this Part, the applicant shall produce an official record of the death of the deceased or give a reason, to the satisfaction of the Registrar, for the non-production of that record.

Part 7 Intestate Aboriginals

88.37 Form of application

(1) Subject to subrule (2), an application under section 71B of the Probate Act shall be by originating motion in accordance with Form 5D supported by affidavit.

(2) The Court may dispense with the need to file or serve an affidavit in support of an application under subrule (1).

(3) Order 46 does not apply to a proceeding under this rule.

(4) The proceeding shall be heard without an appointment being obtained for the hearing.

Part 8 Contentious proceedings

88.38 Application of Division

This Part applies to a proceeding for a grant or for resealing where:

(a) there is a defendant; or

(b) a person is cited to see the proceeding.

88.39 Commencement of proceeding

(1) Where there is a defendant, the proceeding shall be commenced by a writ or originating motion.

(2) Where there is no defendant, the proceeding shall be commenced by originating motion supported by affidavit.

88.40 Claims of interest

(1) Where a defendant opposes a grant and the plaintiff disputes the standing of the defendant to do so, the plaintiff shall, in his statement of claim or affidavit, allege the absence of standing.

(2) Where a party claims a grant of administration and another party alleges absence of title of the claimant to do so, the party alleging absence of title shall, in his pleadings, allege facts which, if proved, will show that he has title to claim the grant.

Part 9 Proceeding for revocation of grant

88.41 Deposit of grant

(1) Where a proceeding has been commenced for revocation of a grant, the Court may order the executor or administrator to deposit the grant in the Registry.

(2) In an urgent case, the Court may, on the application of a person who intends to commence a proceeding for revocation of a grant, order the executor or administrator to deposit the grant in the Registry to the same extent as if the applicant had commenced the proceeding and the application were made in the proceeding.

88.42 Commencement of non-contentious proceedings

(1) Proceedings for revocation of a grant shall, where there is no defendant, be commenced by application in accordance with Form 88U.

(2) Where there is no respondent, a proceeding may be heard:

(a) in the absence of the public; and

(b) without the appearance before the Court of a person.

(3) The proceeding shall be heard without an appointment being obtained for the hearing.

(4) Order 46 does not apply to a proceeding under this rule.

(5) A draft minute of the order sought shall be lodged with the Registrar before an order is made on the application.

(6) The order shall be authenticated in accordance with the General Rules after the minute of it is signed.

88.43 Commencement of contentious proceedings

In a proceeding for revocation of a grant in which proceeding there is a defendant, the statement of claim or affidavit shall allege facts which, if proved, shall show that the plaintiff has standing to claim revocation of the grant.

Part 10 Contentious proceedings generally

88.44 Cross-claim

(1) A party in a proceeding may cross-claim for a grant or for resealing notwithstanding that notice of the intended application has not been published in compliance with this Chapter.

(2) Where, in a case to which subrule (1) refers, a notice of the intended application has not been published, the party shall, within 30 days after filing the cross-claim, cause notice of the intended application to be published in the manner, and with such variations as the circumstances require, in the appropriate form required by rule 88.09.

88.45 Intervention

(1) An application to intervene in a proceeding for a grant shall be by summons in the proceeding for an order that the person applying

be added as a party.

(2) Before filing the summons, the person applying shall file a notice of appearance in the proceeding.

Part 11 Citations

88.46 Request for issue

(1) Application for issue of a citation shall be made by filing a request in accordance with Form 88V.

(2) The person requesting issue of a citation shall:

(a) file an affidavit verifying the averments contained in the proposed citation; and

(b) lodge 2 copies of the proposed citation.

88.47 Citation to be settled

A citation shall be settled by the Registrar before it is issued.

88.48 Seal

A citation shall be sealed with the Seal.

88.49 Registrar to file copy

Where a citation is issued, the Registrar shall file a copy of it.

88.50 Citation to bring in abolished

(1) A citation to bring in a grant, will or other document shall not be issued.

(2) This rule does not limit the power of the Court to order a person to deposit in the Registry a grant, will or other document.

88.51 Citation to pray for administration

(1) A requirement under section 22(2)(c) of the Probate Act of a person to pray for administration shall be by citation which may be in accordance with Form 88W.

(2) An answer to a citation to which subrule (1) refers shall be in accordance with Form 88X.

88.52 Citation to take probate

(1) A requirement under sections 28 or 29 of the Probate Act of an executor named in a will to take or apply for probate shall be by citation which may be in accordance with Form 88Y.

(2) An answer to a citation to which subrule (1) refers shall be in accordance with Form 88Z.

88.53 Citation to see proceeding

(1) On the application of a party to a proceeding to which Part 8 applies, a citation may be issued against a person who is not a party to the proceeding but who has an adverse interest to the applicant notifying him that, if he does not answer the citation by filing a notice of appearance in the proceeding, the proceeding may be heard and determined in his absence.

(2) The citation under this rule may be in accordance with Form 88ZA.

(3) Where a person cited to see a proceeding has filed a notice of appearance in the proceeding, he shall be entitled to such notice of the hearing or trial of the proceeding as if he were a defendant in the proceeding.

88.54 Proceeding where executor neglects to prove will

(1) Subject to subrule (4), an application under section 34 of the Probate Act:

(a) shall be by originating motion supported by affidavit; and

(b) may be made in the absence of a respondent.

(2) An order which the Court may make under section 34 of the Probate Act shall not be in the form of an order nisi, but shall be:

(a) in accordance with Form 88ZB; or

(b) in accordance with such other form as the Court directs.

(3) In order to prove that an executor has neglected or refused to prove a will or to renounce probate of the will, a person intending to apply under subrule (1) may apply for issue of a citation under this Part in accordance with Form 88Y.

(4) Where a citation has been issued in accordance with subrule (3), a proceeding for an order under section 34 of the Probate Act shall be by summons in the proceeding in which the citation was issued.

88.55 Time for answer to a citation

(1) This rule applies to a citation other than a citation to see a proceeding.

(2) In settling the citation, the Court shall fix the time limited by the citation for answer to it.

(3) Subject to subrule (4), the time limited by the citation for answer to it shall be:

(a) in the case of service in the Territory – 14 days;

(b) in the case of service outside the Territory, but within the Commonwealth – 28 days;

(c) in any other case – 42 days.

(4) The Court may, in settling the citation, fix a shorter or longer period for each of the periods referred to in subrule (3).

(5) Where the applicant for issue of the citation wishes a shorter or longer period to be fixed, he shall include in his request for issue of the citation a statement of the period which he requests be fixed and file an affidavit in support of that request.

88.56 Service

(1) A citation shall be served personally on the person cited.

(2) A citation may be served outside the Territory.

(3) Service of a citation on a person under a disability shall not be effected otherwise than in accordance with subrules (4) to (7) (inclusive).

(4) Where the person to be served is an infant, the citation may be served:

(a) if he has attained the age of 16 years – on him;

(b) on a parent of his or a guardian of his person or of his estate; or

(c) if he has no parent and has no guardian of his person or of his estate – on a person with whom he resides or in whose care he is.

(5) Where the person to be served is a person otherwise under a disability, the citation may be served:

(a) if he has a guardian – on the guardian; or

(c) if the person under a disability has no guardian – on a person with whom he resides or in whose care he is.

(6) The citation may be served on a person (including a person under a disability) whom the Court, before or after the service, approves.

(7) A citation served in pursuance of subrules (4), (5) or (6) shall be served in the manner required by the General Rules with respect to personal service of a document.

88.57 Appearance by person cited to see

(1) Subject to subrule (2), Order 8 applies to a person cited to see a proceeding as if the person cited were a defendant in the proceeding.

(2) Rules 8.08 and 8.09 do not apply to a case to which this rule refers.

88.58 Election to be respondent

(1) A person cited to see a proceeding may, except where he has lodged a caveat requiring proof in solemn form of a will to which the proceeding relates, include in his notice of appearance a statement that he elects to be a defendant in the proceeding.

(2) Where the person cited elects under subrule (1) to be a defendant in a proceeding, he shall, on filing his notice under subrule (1), become a defendant in the proceeding and the proceeding shall continue as if he were joined as a defendant by the originating process and as if he were served with the originating process on the day on which he was served with the citation to see the proceeding.

(3) Where the person cited has lodged a caveat requiring proof in solemn form of a will to which the proceeding relates, he may, after filing a notice of appearance in the proceeding, apply for an order adding him as a party in the proceeding.

88.59 Person under disability

(1) This rule applies where a citation is served on a person under a disability.

(2) The proceeding in respect of a citation shall be stayed until the appointment of a litigation guardian for the person under a

disability.

(3) The person under a disability may answer a citation only by his litigation guardian.

(4) Subject to rule 88.60, Order 15 does not apply to the appointment of a litigation guardian under this Part.

(5) An application for the appointment of a litigation guardian shall be by summons in the proceeding relating to the citation.

(6) There shall be no defendant to a summons for appointment of a litigation guardian.

(7) The proceeding shall be heard without an appointment being obtained for a hearing.

(8) The proceeding may be heard:

(a) in the absence of the public;

(b) without the appearance before the Court of a person.

(9) A draft minute of the order sought shall be lodged with the Registrar before an order is made on the summons.

(10) The order shall be authenticated in accordance with the General Rules after the minute of it is signed.

(11) Where a person under a disability has a guardian who has or may be given authority under an Act to answer the citation on his behalf, no person other than the guardian shall act as litigation guardian, unless the Court otherwise orders.

(13) A litigation guardian shall not be appointed unless:

(a) he is the person applying for appointment; or

(b) evidence of his consent to act as litigation guardian is furnished.

(14) Where a citation to see a proceeding has been served on a person under a disability and a litigation guardian of that person is appointed to answer the citation, the appointment shall extend to the litigation guardian electing on behalf of the person under a disability to become a defendant in the proceeding in which the citation was served and defending that proceeding (including cross-claiming in it).

88.60 Person under disability elects to become defendant

Where a person under a disability elects by his litigation guardian to become a defendant in a proceeding in which a citation was served, Order 15 applies as if his litigation guardian had been appointed under that Order.

88.61 Proof of service of citation to see

A party at whose request a citation to see a proceeding has been issued shall not, without the leave of the Court, be entitled to be heard at the hearing or trial of the proceeding unless he has furnished evidence on affidavit:

(a) that the person cited has not been served with the citation; or

(b) where the person cited has not filed a notice of appearance in the proceeding – that the citation has been served on him.

Part 12 Caveats

88.62 Caveat in respect of grant

(1) A person claiming to have an interest in an estate may lodge in the Registry a caveat, in accordance with Form 88ZC, in respect of a grant or reseal being made in the estate.

(2) The caveat shall state fully the nature of the interest claimed by the caveator and shall provide an address for service.

(3) Where a person, to the knowledge of the caveator, is making or is intending to make application for a grant or resealing in the estate, the caveator shall, within 7 days after the lodging of the caveat, serve a copy of the caveat on him.

88.63 Caveat for solemn form

(1) A person having an interest in an estate may lodge in the Registry a caveat, in accordance with Form 88ZD, requiring proof in solemn form of a will.

(2) The caveat shall state fully the nature of the interest of the caveator and shall provide an address for service.

(3) Where a person, to the knowledge of the caveator, is making or intending to make application for a grant or resealing in the estate, the caveator shall, within 7 days after the lodging of the caveat, serve a copy of the caveat on him.

88.64 Duration

(1) A caveat takes effect on the date of lodgment and, unless the Court otherwise orders, remains in force for 6 months.

(2) The Court may extend the period of duration of a caveat.

88.65 Leave to withdraw caveat – no proceeding for grant

(1) This rule applies to an application for leave to withdraw a caveat where there is no proceeding for a grant or resealing in the estate.

(2) An application under this rule shall be made by summons supported by affidavit.

(3) There shall be no defendant in a proceeding for leave under this rule.

(4) Order 46 does not apply to a proceeding under this rule.

(5) A draft minute of the order sought shall be lodged with the Registrar before an order is made on the summons.

(6) The order shall be authenticated in accordance with the General Rules after the minute of it is signed.

88.66 Leave to withdraw caveat – proceeding for grant

(1) This rule applies to an application for leave to withdraw a caveat where there is a proceeding for a grant or resealing in the estate.

(2) A caveator shall file a notice of appearance in the proceeding for grant or resealing.

(3) The application for leave to withdraw the caveat shall be made by summons.

88.67 Withdrawal

(1) Where leave is given to withdraw a caveat, the caveator may withdraw it by himself or his solicitor and by writing in the margin of the caveat "I withdraw this caveat" and dating and signing the indorsement.

(2) Where a caveator withdraws a caveat, he shall, within 7 days after the withdrawal, serve notice of the withdrawal on a person who, to the knowledge of the caveator, is making or intending to make application for a grant or for resealing in the estate.

88.68 Recoupment of costs

Where a caveat is withdrawn and the person on whose application a grant or resealing is made is unable to recover from the caveator costs which the caveator has been ordered to pay to him, that person shall be entitled to be paid by the estate the amount of the costs properly incurred by him in addition to other costs to which he is entitled out of the estate.

88.69 Citation of caveator to see

Where a caveat is in force requiring proof of a will in solemn form, the caveator shall, in a proceeding for a grant or for resealing in which the applicant seeks to prove a will to which the caveat relates, be cited to see the proceeding.

88.70 Order that caveat cease to be in force

(1) Where a person intends to apply for a grant or for resealing and a caveat is in force in respect of a grant or resealing being made in the estate, that person may apply for an order that the caveat cease to be in force in respect of the intended application for grant or resealing.

(2) A proceeding under this rule shall be commenced by originating motion supported by affidavit.

(3) The caveator shall be the defendant in the proceeding.

(4) Where in respect of the caveat the Court considers that the evidence does not show:

(a) that the caveator has an interest in the estate or has a reasonable prospect of establishing such an interest; and

(b) some matter occasioning doubt as to whether the grant ought to be made,

the Court may order that the caveat cease to be in force in respect of the intended application.

(5) Where the Court does not, in pursuance of subrule (4), order that the caveat cease to be in force in respect of the intended application, the Court may give such directions as appear best adapted for the just, quick and inexpensive determination of what grant or resealing, if any, should be made in the estate and of related matters.

(6) Directions which the Court may give in pursuance of subrule (5) include a direction to a caveator to commence a proceeding.

(7) Where the Court, in pursuance of subrules (5) and (6), directs a caveator to commence a proceeding, it may order that, if the caveator does not commence the proceeding within such time as the Court fixes, the caveat shall cease to be in force in respect of the intended application referred to in subrule (1) or generally.

(8) An order under subrule (7) may be made at the time the caveator is directed to commence a proceeding or at a subsequent time.

88.71 Proceeding by a writ or originating motion

(1) Where a caveat is in force in respect of a grant or resealing being made in an estate, a proceeding for a grant or for resealing in the estate shall be commenced by a writ or an originating motion.

(2) Unless the Court otherwise directs, the caveator shall be a party in the proceeding.

Part 13 Accounts and commission

88.74 Service of notice or summons under section 91

(1) A notice or summons under section 91 of the Probate Act may be served by sending it by pre-paid post to the executor, administrator or trustee at his address for service stated in the originating process for the grant or resealing.

(2) A summons to which subrule (1) refers shall be in accordance with Form 88ZE.

(3) The Registrar shall, before the hearing of a summons under this Rule, file:

(a) a statement:

(i) of the date and mode of service of the notice to which subrule (1) refers; and

(ii) indicating whether the executor or administrator to whom the notice is directed has, within the time prescribed in section 91(2) of the Probate Act, complied with section 89 of that Act; and

(b) a copy of the notice referred to in this rule.

(4) The statement referred to in subrule (3)(a) is evidence of the matters stated in it.

(5) The prescribed time for the purpose of section 91(3) of the Probate

Act is one month from the making of an order by the Court.

88.75 Extension of time

(1) An executor or administrator may, in a proceeding for a grant or for resealing, apply for an order extending the period referred to in rule 88.72 and 88.73, including an order extending the period until the further order of the Court, without the prior filing or service of a summons.

(2) Where an executor or administrator has been summoned under section 91(2) of the Probate Act, and wishes to apply for an order extending the period referred to in rule 88.72 or 88.73, he shall apply on the day appointed for showing cause.

(3) Except where subrule (2) applies, a draft minute of the order sought shall be lodged with the Registrar before an order is made.

(4) An order for extension of time shall be authenticated in accordance with the General Rules after the minute of it is signed.

88.76 Order to file, &c., accounts

An application for an order that an executor, administrator or trustee of the estate of a deceased person:

(a) file an inventory;

(b) file accounts;

(c) file and pass accounts; or

(d) pass accounts filed,

shall be made by summons in the proceeding in which representation was applied for.

88.77 Commencement of proceeding for passing or commission

An application by an executor, administrator or trustee for:

(a) an order passing his accounts; or

(b) an order passing his accounts and for commission,

shall be made by summons.

88.78 Proceeding for passing accounts, &c.

(1) Before making an order under rule 88.77, the Court may order that the applicant for the Order attend before the Registrar to vouch the

applicant's accounts.

(2) The Registrar shall fix an appointment for the purpose of the vouching of the accounts.

(3) Not later than 14 days before the appointment to vouch his accounts the applicant shall cause to be published a notice of the filing of his accounts, the order or orders claimed in the proceedings and the appointment to vouch the accounts.

(4) The notice shall be published in a newspaper circulating in Darwin and, if the deceased was resident at the date of his death at a place more than 200 kilometres from the General Post Office at Darwin, also in a newspaper published and circulating in the district where the deceased resided.

(5) Subject to subclause (7), not later than 14 days before the appointment to vouch his accounts the applicant shall serve on any surety to an administration bond in the estate a copy of the notice referred to in subrule (3).

(6) The applicant shall file an affidavit of compliance with subrules (4) and (5).

(7) Instead of or in addition to complying with subrules (3) and (4) in respect of a surety, the applicant may file the consent of that surety to an order passing the accounts and an affidavit verifying the consent.

(8) While an application to which this rule applies is pending, a person:

(a) may, unless the Registrar otherwise directs, inspect the accounts without the leave of the Court; and

(b) may, at any time before completion of the hearing, file a notice of appearance in the proceeding.

(9) A person filing a notice of appearance shall be a respondent in the proceeding.

(10) On the day appointed under subrule (2) or at such later time as convenient, the Registrar shall proceed with the vouching before him of the accounts where the applicant has complied with this Part.

(11) The applicant may vouch his accounts in person, by his legal practitioner or by a person authorized by the legal practitioner.

(12) A person, whether or not he is a party in the proceedings, may attend on the vouching of the accounts unless the Court, of its own

motion, otherwise orders.

(13) The Registrar may permit a person to ask, through him, a question relevant to the vouching of the accounts.

(14) Where the vouching of the accounts is not concluded on the day appointed, subject to any direction by the Registrar, he may decline to proceed with the vouching at any time reasonable notice of which has not been given to any person interested.

(15) On the conclusion of the vouching, the Registrar shall inform the applicant of matters necessary for preparation by the applicant of a draft minute of a certificate of the vouching of the accounts.

(16) The certificate vouching the accounts shall certify as to:

(a) the correctness of the accounts;

(b) the amount of capital realised during the period of the accounts;

(c) the amount of income collected during the period of the accounts;

(d) the value of assets transferred to beneficiaries during the period of the accounts;

(e) where a business was carried on, the gross receipts and net profit earned or loss incurred during the period of the accounts; and

(f) any other relevant information.

(17) The applicant shall lodge the draft minute with the Registrar.

(18) The Registrar shall sign a correct minute of his certificate and shall file it.

(19) Except where rule 88.79 applies, the applicant, on the filing of a minute under subrule (18), shall obtain from the Registry an appointment for the resumption of the hearing of the proceeding.

88.79 Uncontested proceeding for passing accounts

(1) This rule applies where:

(a) there is no respondent in a proceeding to pass accounts; and

(b) the applicant does not seek commission.

(2) A proceeding may be heard:

(a) in the absence of the public; and

(b) without the appearance before the Court of a person.

(3) The proceeding shall be heard without an appointment being obtained for the hearing.

(4) Rule 46 does not apply to a proceeding under this Rule.

88.80 Affidavits in support of commission

Where the applicant seeks commission he shall file:

(a) an affidavit in support of the application; and

(b) where the accounts are not filed within the time fixed by this Part or an order of the Court, an affidavit explaining the delay.

88.81 Renunciation

(1) Where an executor, administrator or trustee renounces his right to commission in respect of a particular year, he shall be entitled to indemnity out of the assets in the estate for the amount of his legal practitioner's charges and disbursements, as moderated in accordance with the relevant professional scale, for non-professional work performed in that year, to an amount not exceeding that which the executor, administrator or trustee would have been, in the opinion of the Court, allowed by way of commission for that year had he applied for commission.

(2) Where an applicant, in accordance with subrule (1), files a renunciation of commission, the accounts shall be allowed in accordance with the indemnity under subrule (1).

(3) A renunciation shall be filed no later than a reasonable time before the hearing of the proceeding.

88.82 Notice

The Court may order an applicant under this Part to give notice of a proceeding to a person.

88.83 Review

(1) Where a proceeding under this Part is heard by the Registrar, a party may apply to the Court for review of an order made by the Registrar on the hearing.

(2) The Court may make such order by way of confirmation, variation,

discharge or otherwise as it thinks fit.

(3) An application for review shall be made within 14 days after the date of the order in respect of which the review is sought.

88.84 Accounting party

(1) Where accounts have been filed with the Registrar in pursuance of this Part and:

(a) a doubt or difficulty arises; or

(b) a person interested desires the matter referred to a Judge,

the Registrar shall serve the accounting party with a notice in writing stating that he will not pass the accounts and giving his reasons.

(2) Where a notice has been served under subrule (1), the accounting party may, within 14 days after the service of the notice, apply to a Judge to pass the accounts.

(3) An application shall be by summons and a copy of the summons shall be served on the Registrar 7 clear days before the return day of the motion.

(4) If an accounting party has been served with a notice under subrule (1) and has failed within the time prescribed in subrule (2) to apply to the Court to pass the accounts, he shall, for the purposes of the Probate Act and these Rules, be deemed to have failed to comply with the provisions of section 89 of that Act.

88.85 Public Trustee

Subject to a law to the contrary, nothing in this Part requires the Public Trustee to pass his accounts.

Part 14 General

88.86 Applications under Probate Act and these Rules

(1) An application for an order which, under the Probate Act or these Rules, the Court has power to make shall:

(a) where the application is in relation to a proceeding already commenced – be made by summons; or

(b) where the application is in the nature of an originating proceeding – be made by a writ or an originating motion

supported by affidavit,

unless:

(c) this Part provides otherwise; or

(d) the Court otherwise orders.

(2) Subrule (1) applies to a proceeding which may be commenced under this Chapter but in respect of which no procedure for commencement is prescribed.

88.87 Notice of appearance

A notice of appearance for the purposes of this Chapter shall be in accordance with Form 8A and Order 8 applies, with appropriate modifications, to a notice of appearance under this Chapter.

88.88 Notice of intended distribution

A notice under section 96 of the Probate Act may be in or to the effect of Form 88ZF.

88.89 Registrar not to deal with application for representation in certain cases

(1) Where an application for a grant of representation or for resealing has been made to the Registrar and:

(a) a caveat against the application is subsequently lodged with the Registrar before the representation applied for has been granted;

(b) there is no direct evidence of the death of the person in respect of whom the application is made but only evidence supporting a presumption of his death;

(c) it appears doubtful to the Registrar whether the application should be granted; or

(d) the application is made under Part IV of the Probate Act, and the Registrar thinks it proper to be dealt with by a Judge or it becomes necessary to obtain the directions of a Judge.

the Registrar shall serve on the applicant a notice in writing stating that he will not deal with the application, and giving his reasons.

(2) When an applicant has been served with a notice under subrule (1), he may apply to the Court by summons for a grant of representation or resealing.

88.90 Solemn form

(1) Notwithstanding anything contained in this Chapter, an executor or other person entitled to prove a will may prove it in solemn form of law.

(2) An application for proof in solemn form of law shall be commenced by writ.

(3) Immediately on the filing of a writ under this rule, the plaintiff shall apply to the Registrar by summons for directions.

Chapter 4 Cross-vesting of jurisdiction rules

Order 89 Cross-vesting

89.01 Application

(1) This Chapter applies to a proceeding in the Court to which a cross-vesting law applies.

(2) In the application of Chapter 1 to a proceeding to which this Chapter applies, a reference in rule 1.02 to a proceeding commenced includes a reference to a proceeding transferred under a cross-vesting law.

89.02 Definitions

In this Chapter, unless the contrary intention appears:

the Act means the *Jurisdiction of Courts (Cross-Vesting) Act 1987*.

cross-vesting law means a law of the Commonwealth or of a State or Territory (including the Act) relating to the cross-vesting of jurisdiction.

special federal matter has the same meaning as in the *Jurisdiction of Courts (Cross-Vesting) Act 1987* of the Commonwealth.

89.03 Form of documents

(1) Subject to subrule (2), an originating motion or summons by which application is made under a cross-vesting law shall be in writing and be prepared in accordance with rules 27.02 to 27.04 inclusive.

(2) In addition to the requirements of Order 27 the heading of the originating motion of summons shall state "In the matter of the *Jurisdiction of Courts (Cross-Vesting) Act 1987*".

89.04 Application by Attorney-General

If an application for the transfer of a proceeding is made by the Attorney-General of the Commonwealth or of a State or another Territory, the Attorney-General does not, by reason of the application, become a party to the proceeding in respect of which the application is made.

89.05 Removal of proceeding

If an order is made for the removal of a proceeding from a court or tribunal to the Court under section 8 of the Act, the Court may give any directions that could have been given by the court or tribunal in which the proceeding was pending.

89.06 Notice

(1) A party to a proceeding proposing to invoke a jurisdiction arising under a provision of a cross-vesting law, or otherwise to rely on a provision of a cross-vesting law, shall:

(a) file and serve a notice:

(i) identifying the provision;

(ii) identifying the claim in relation to which reliance is placed on the provision; and

(iii) stating the grounds on which reliance is placed on the provision; and

(b) seek directions as soon as practicable as to whether the proceeding should be transferred.

(2) Where a matter for determination in a proceeding is a special federal matter, the notice shall:

(a) identify the special federal matter; and

(b) state the grounds on which it is a special federal matter.

89.07 Service out of Territory

(1) Originating process may be served out of the Territory only with leave of the Court where the proceeding includes a matter for determination in respect of which jurisdiction under a cross-vesting law is invoked.

(2) Leave shall not be granted under subrule (1) unless the Court is satisfied that the Court may be, having regard to the relevant cross-vesting law, an appropriate court to hear and determine the proceeding.

(3) A proceeding may be transferred to another court notwithstanding that leave to serve the originating process out of the Territory has been given.

89.08 Procedure after transfer

(1) When a proceeding is transferred by the Court under a cross-vesting law, the Registrar of the Supreme Court shall send to the proper office of the court to which the proceeding is transferred all documents filed, and all orders made, in the proceeding.

(2) When a proceeding is transferred to the Court under a cross-vesting law, the Registrar of the Supreme Court shall give it a number and title.

(3) As soon as practicable after a proceeding is transferred to the Court under a cross-vesting law, the party by whom the proceeding was commenced shall apply for directions.

89.09 Conduct of proceeding

(1) If a party seeks to have a written law of another State or Territory applied under section 11(1)(b) of the Act in determining a right of action arising under that written law, that party shall file and serve a notice identifying the right of action and the written law.

(2) If a party seeks to have rules of evidence and procedure, other than those of the Court, applied under section 11(1)(c) of the Act in dealing with a matter for determination in the proceeding, that party shall file and serve a notice stating the relevant rules that the party seeks to have applied.

(3) A party required by subrule (1) or (2) to file and serve a notice shall seek directions on the subject-matter of the notice before the proceeding is set down for trial.

89.10 Directions

The Court may give directions in relation to a proceeding to which a cross-vesting law applies and may set aside or vary any direction given.

89.11 Applications made to Judge

The powers of the Court under a cross-vesting law and this Chapter shall be exercised by a Judge.

Chapter 5 Admiralty (Supplementary) Rules

Order 90 Admiralty

90.01 Interpretation

(1) In this Chapter:

Act means the *Admiralty Act 1988* of the Commonwealth.

Marshall means the Sheriff or other person authorized by or under rule 90.02.

Rules means the Admiralty Rules made under the Act.

(2) A reference in the Rules to the Registrar otherwise than in relation to a proceeding in a court includes a reference to an Associate Judge.

90.02 Registrar and Marshall

(1) For the purposes of section 4 of the Rules, but subject to subrule (2):

(a) an Associate Judge is authorised to exercise the power and function, and perform the duty, of the Registrar; and

(b) the Sheriff appointed under the *Sheriff Act 1962* is authorised to exercise the power and function, and perform the duty, of the Marshall.

(2) The Court constituted by the Chief Justice may, either generally or in a particular case, authorise a person to exercise the power or function, or perform the duty, of the Registrar or the Marshall.

90.03 Operation of Chapters 1 and 2

Chapters 1 and 2 of the *Supreme Court Rules 1987*, with the necessary changes, and to the extent that they are not inconsistent with the Rules, apply to and in relation to all matters to which the Rules apply.

90.04 Marshall may charge fees

The Marshall may, in respect of a function exercised or duty performed by the Marshall, charge fees in accordance with the following table:

TABLE OF FEES

1.	Receiving and entering a writ, warrant release, decree, order, caveat, commission or other instrument under the seal of the Court	$15.00
2.	For service of a writ, but subject to item 5	$15.00
3.	For execution of a warrant for the arrest of a ship or seizure of cargo or other goods, but subject to item 5	$30.00
4.	For execution of a writ of attachment – for each person	$30.00
5.	Where a writ is served at the same time as a warrant of arrest is executed – instead of fees under items 2 and 3	$40.00
6.	For release of a ship, goods or person from seizure or arrest	$15.00
7.	For execution of a commission of appraisement and sale or appraisement/sale, but subject to item 8	$30.00
8.	Where execution of a commission of appraisement is ordered and the Court then orders that there be a commission for sale – instead of the fee under item 7	$60.00
9.	For arranging the appointment of the commission of an auctioneer or agent for sale by public auction or private contract (to include an inventory, valuation, and compiling a certificate of appraisement and preparing for sale)	$25.00
10.	For execution of a decree, order, commission or instrument other than one specified in this Schedule	$30.00
11.	For delivery of a ship or goods to a purchaser	$30.00
12.	For attending the discharge of cargo or removal of a ship or goods – per day	$30.00
13.	Where process must be executed urgently resulting in office being open after hours – for each hour office is open after hours	$50.00

14.	On the gross proceeds of any ship or goods sold:	
	for every $200 or part of $200 up to $20,000	$6.00
	for each additional $200 or part of $200	$3.00
15.	For retaining possession of a ship (with or without cargo) or of a ship's cargo – per day	$15.00

Note

1 *No fee is payable for the custody and possession of property seized if it consists of money in an ADI, or goods stored in a bonded warehouse, or if it is in the custody of a customs house officer or other authorized person.*

2 *In addition to the fees specified in this Schedule, the Marshall may recover all expenses reasonably incurred in the execution of the duties referred to in this Schedule, including:*

(a) sums expended in attending the discharge of a ship or goods;

(b) sums paid to a shipkeeper;

(c) sums paid for the safe custody of property;

(d) travelling expenses;

(e) necessary meals;

(f) overtime penalties;

(g) sums paid to engage assistants, agents, etc.;

(h) postage, telephone calls, stationery;

(j) fees paid to auctioneers or appraisers (at the nominated prescribed fee);

(k) such fee (if any) as the Registrar may determine is payable for any procedure or service not specified in this Schedule.

3 *A deposit on account of fees applicable to any proceeding may be required before the proceeding is commenced, or at any time during the course of the proceeding and a memorandum of the amount deposited must be delivered to the party making the deposit. An undertaking in writing to pay any further fees or expenses incurred by the Marshall which may become payable beyond the amount deposited may be required.*

Chapter 6 Commercial arbitration rules

Order 91 Commercial arbitration

Part 1 General matters

91.01 Definitions

In this Order:

Act means the *Commercial Arbitration (National Uniform Legislation) Act 2011*.

arbitral tribunal, see section 2(1) of the Act.

arbitration, see section 2(1) of the Act.

proceeding means a proceeding in the Court under the Act.

91.02 Application of Chapter 1

Chapter 1, with the necessary changes, applies in relation to a proceeding.

91.03 Commencement of proceedings

A proceeding, including an application for leave to appeal made under section 34A(1)(b) of the Act and an appeal following the grant of leave, must be commenced by originating motion.

91.04 Jurisdiction of Associate Judges

An Associate Judge has jurisdiction under the Act except under sections 14, 27J, 34 and 34A.

91.05 Court assistance in taking evidence

(1) This rule applies if a request for assistance from the Court is made under section 27 of the Act.

(2) For the purpose of executing the request, the Court may, on behalf of the arbitral tribunal, take evidence in any way that the Court could take evidence if the arbitration were a proceeding in the Court.

(3) For subrule (2), Order 41 applies.

(4) The Registrar must cause all evidence taken under this rule (including transcripts or recordings of oral evidence) to be given to the arbitral tribunal.

91.06 Subpoenas

(1) Order 42, other than rules 42.03(6) and (7), 42.06(4)(b), 42.09 and 42.10, applies to the issue of a subpoena under section 27A of the Act.

(2) A subpoena to produce documents to the arbitral tribunal may, with the leave of the Court or the arbitral tribunal, require production of the documents on any day.

(3) Unless the Court orders otherwise, a subpoena requiring a person to produce documents to the arbitral tribunal must allow the person to produce them:

(a) to a person, and at a place, nominated in writing by the arbitral tribunal and stated in the subpoena; and

(b) by hand or by post.

(4) If the person produces the document in accordance with subrule (3), the person nominated must receive it not later than 2 days before the first date on which production before the arbitral tribunal is required.

(5) If a document is produced in accordance with subrules (3) and (4), the person nominated:

(a) if required to do so – must give a receipt to the person producing the document; and

(b) must produce the document as the nature of the case requires or as the arbitral tribunal may direct.

(6) Subrules (3) and (4) do not apply to so much of a subpoena as requires a person to attend for examination before the arbitral tribunal.

91.07 Application to determine a question of law

For an application to the Court under section 27J of the Act, the originating motion must be filed and served within 14 days after the date on which the consent of the arbitral tribunal or all the other parties is obtained.

91.08 Application to set aside an arbitral award

For an application to the Court under section 34 of the Act to set aside an arbitral award, the originating motion must include a statement of:

(a) the date the party received the award; or

(b) if a request has been made to the arbitral tribunal under section 33 of the Act – the date the request was disposed of by the arbitral tribunal.

91.09 Appeal on a question of law

(1) For a party seeking leave to appeal under section 34A(1)(b) of the Act, the originating motion must include a statement of the party's case setting out the following:

(a) the dates relevant to the calculation of the appeal period mentioned in section 34A(6) of the Act;

(b) the nature of the case with sufficient particularity for an understanding of the matters referred to in the originating motion;

(c) the question of law;

(d) how the determination of the question will substantially affect the rights of one or more of the parties;

(e) that the question is one which the arbitral tribunal was asked to determine;

(f) the reasons for which it is asserted that, on the basis of the findings of fact in the award:

(i) the decision of the arbitral tribunal on the question is obviously wrong; or

(ii) the question is one of general public importance and the decision is at least open to serious doubt;

(g) the reasons for which, despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in all the circumstances for the Court to determine the question.

(2) For an appeal to the Court under section 34A(1) of the Act, the originating motion must include a statement setting out the following:

(a) the date each party agreed under section 34A(1)(a) of the Act;

(b) the question of law;

(c) the nature of the dispute with sufficient particularity for an understanding as to the context in which the question of law arises under section 34A(3) and (4) of the Act;

(d) the respects in which it is asserted that the arbitral tribunal fell into error.

91.10 Enforcement of award

(1) For an application under section 35 of the Act, section 9 of the *International Arbitration Act 1974* (Cth) applies to proceedings in which a person seeks leave to enforce an award in the same way as it applies to proceedings in which a person seeks enforcement of a foreign award under that Commonwealth Act.

(2) For an application under section 35 of the Act, the originating motion must be supported by affidavit.

(3) The affidavit must:

(a) annex the arbitration agreement and the award or, in either case, a copy; and

(b) state the extent to which the award has not been complied with at the date the application is made; and

(c) state the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, if the person is a corporation, its last known registered office.

(4) If the Court grants the application, the party who sought the enforcement of the award may enter judgment in terms of the award.

Part 2 Offers of compromise

91.11 Application of Part

This Part applies in relation to an arbitration under an arbitration agreement unless otherwise agreed in writing by the parties to the agreement.

91.12 Offer of compromise

(1) A party to an arbitration may make an offer of compromise of a claim the subject of the arbitration on the terms specified in the offer to any other party.

(2) An offer of compromise must:

(a) be in writing; and

(b) contain a statement to the effect that the offer is made under this Part; and

(c) be served on the other party.

91.13 Time for making or accepting an offer

(1) An offer of compromise may be served at any time before the time prescribed by subrule (8) for the claim to which it relates.

(2) A party may serve more than one offer of compromise.

(3) An offer of compromise may be expressed to be limited as to the time the offer is open to be accepted after service on the party to whom it is made, but the time expressed must not be less than 28 days after service.

(4) A party on whom an offer of compromise is served must, within 3 days after service, serve a written acknowledgment of service on the party serving the offer.

(5) A party on whom an offer of compromise is served may accept the offer by serving written notice of acceptance on the party who made the offer before the first of the following occurs:

(a) the expiration of the period for which the offer is expressed to be open under subrule (3) or, if no time is specified, the expiration of 28 days after service of the offer; or

(b) the time prescribed by subrule (8) in respect of the claim to which the offer relates.

(6) An offer of compromise cannot be withdrawn during the time it is open to be accepted.

(7) An offer (the ***first offer***) is open to be accepted within the period mentioned in subrule (5) even if during that period the party on whom the first offer is served makes an offer (the ***second offer***) to the party who made the first offer, whether or not the second offer is made in accordance with this Part.

(8) For subrules (1) and (5), the time prescribed is the time when the arbitrator:

(a) has made decisions on all questions of liability and the relief to be granted in respect of the claim to which the offer relates; and

(b) has communicated the decisions to one or more of the parties.

91.14 Offer without prejudice

An offer of compromise is taken to be made without prejudice, unless the offer otherwise provides.

91.15 Time for payment

An offer of compromise providing for the payment of a sum of money, or for the doing of any other act, is taken to provide for the payment of that sum or the doing of that act within 28 days after acceptance of the offer, unless the offer otherwise provides.

91.16 Withdrawal of acceptance

(1) A party who accepts an offer may, by serving a written notice of withdrawal on the offeror, withdraw the acceptance if:

(a) the offer provides for payment of a sum of money or the doing of any other act; and

(b) the sum is not paid to the offeree, or the act is not done, within 28 days after acceptance of the offer or within such other time as the offer provides.

(2) On withdrawal of an acceptance all steps in the arbitration taken in consequence of the acceptance have effect only as the arbitrator may direct.

(3) On withdrawal of acceptance the arbitrator:

(a) may give directions under subrule (2); and

(b) may give directions for restoring the parties as nearly as may be to their positions at the time of the acceptance; and

(c) may give directions for the further conduct of the arbitration.

91.17 Disclosure of offer to arbitrator

(1) No statement of the fact that an offer of compromise has been made may be contained in a document delivered to the arbitrator before the time prescribed by subrule (4).

(2) If an offer of compromise has not been accepted, no communication with respect to the offer may be made to the arbitrator before the time prescribed by subrule (4).

(3) Subrules (1) and (2) do not apply if an offer of compromise provides that the offer is not made without prejudice.

(4) For subrules (1) and (2) the time prescribed is the time when the arbitrator:

(a) has made decisions on all questions of liability and the relief to be granted in respect of the claim to which the offer relates; and

(b) has communicated the decisions to one or more of the parties.

91.18 Failure to comply with accepted offer

If a party to an accepted offer of compromise fails to comply with the terms of the offer, the other party may apply to the Court for:

(a) judgment or orders to give effect to the terms of the accepted offer; or

(b) if the party in default is:

(i) the party who commenced the arbitration – an order that the arbitration be stayed; or

(ii) the party responding to the arbitration – an order that the accepted offer of compromise is of no effect and that the party who commenced the arbitration is at liberty to proceed with the arbitration.

91.19 Costs if the offer is not accepted

In any exercise of discretion as to costs, the arbitrator must consider whether the party serving an offer of compromise was at all times willing and able to carry out the party's part of what was proposed in the offer.

Part 3 Transitional matters for Supreme Court Amendment (Commercial Arbitration) Rules 2013

91.20 Transitional matters

(1) If an arbitration commenced before the commencement of the *Commercial Arbitration (National Uniform Legislation) Act 2011*, Order 91 as in force immediately before the commencement of the

Supreme Court Amendment (Commercial Arbitration) Rules 2013 continues to apply to the arbitration.

(2) For subrule (1), an arbitration has commenced if:

(a) a dispute to which the relevant arbitration agreement applies has arisen; and

(b) the arbitral tribunal has been properly constituted.

Chapter 7 Criminal property forfeiture rules

Order 92 Forfeiture of property

92.01 Interpretation

In this Order:

the Act means:

(a) the *Criminal Property Forfeiture Act 2002*; and

(b) where the context permits – the *Proceeds of Crime Act 2002* of the Commonwealth.

92.02 Application

(1) The rules in Chapter 1 apply to the practice and mode of procedure in relation to matters dealt with by this Chapter to the extent to which:

(a) they are applicable to;

(b) they are not expressly excluded by; or

(c) they do not conflict with,

the rules in this Chapter.

(2) The following rules and orders in Chapter 1 do not apply to a matter dealt with by this Chapter:

(a) Order 4 (except for rule 4.02);

(b) Order 10;

(c) Order 13;

(d) Order 30;

(e) Order 31;

(f) Order 45;

(g) Order 48.

92.03 Application ex parte

(1) An ex parte application is to be supported by an affidavit setting out the facts and circumstances on which the application is based.

(2) The ex parte application is to be heard by a Judge who may make such order or declaration that the Judge thinks fit.

92.04 Application on notice

(1) If the party the subject of an application enters an appearance, the Registrar must list the matter for case flow management by a Judge and the Judge may make the orders he or she thinks fit in order to bring the matter to trial as expeditiously as possible.

(2) If the party the subject of an application does not enter an appearance within 21 days of service of the application, the applicant may request the Registrar to list the matter for a hearing before a Judge, and if the Judge is satisfied:

(a) of the matters set out in the affidavit; and

(b) that service of the application and affidavit was properly effected on the party the subject of the application,

the Judge may make the order or declaration sought, or any other order or declaration that the Judge thinks fit in the circumstances.

92.05 Application in relation to deceased person

(1) If an application relates to a deceased person or to the property of a deceased person, notice of the application, together with a supporting affidavit, is to be served on the personal representative of the deceased person.

(2) If there is no personal representative or the personal representative cannot be located, the applicant may seek directions from the Judge who is responsible for case flow management of the matter.

92.06 Evidence by affidavit

(1) Unless by leave of the Court, evidence in chief in a matter (not including an examination) under the Act is to be by affidavit.

(2) Subrule (1) does not preclude the cross-examination or re-examination of a deponent on his or her affidavit.

(3) Except as provided by the Act, when notice of an application is served on a party the notice is to be accompanied by a copy of all affidavit evidence in relation to the application.

(4) The Judge may limit the scope of the evidence that is provided to a party if the Judge is satisfied that the protection of an ongoing investigation requires it, or for other good reason.

92.07 Affidavit of service

Whenever a notice under the Act or an application is served on a party who makes no appearance in the matter, the party serving the notice or application must file in the Court an affidavit of service.

92.08 Discovery

(1) Discovery of documents is only by order of the Judge and is limited to the matters disclosed in the application and the affidavit in support of the application.

(2) The Judge may further limit the scope of discovery if the Judge is satisfied that the protection of an ongoing investigation requires it, or for other good reason.

(3) Interrogatories are not available in a matter under the Act.

92.09 Examination

(1) An examination under the Act is to be conducted by an Associate Judge unless the Judge responsible for case flow management of the matter elects to conduct the examination himself or herself.

(2) If the Judge makes an order for the examination of a person under the Act, the applicant in relation to the order is to serve a copy of the order on the person.

(3) If the person to be examined fails to attend the examination, rule 66.06 applies.

92.10 Secrecy provisions in relation to examinations and matters generally

(1) A examination is to be conducted in closed court.

(2) A file of a matter under the Act, and a transcript of an examination under the Act, is not to be publicly available for perusal and is to be prominently marked accordingly by the Registrar.

(3) A person who wishes to inspect a file or transcript referred to in subrule (2) must apply in writing to the Registrar and the application must be approved by the Registrar before inspection is allowed.

(4) The Registrar may allow a person to inspect a file or a part of a file or a transcript referred to in subrule (2) only if the Registrar is satisfied that disclosure of the information to the person would not, in the circumstances, result in a contravention of the Act.

(5) An application form for access to a file is to be filed on the court file in relation to the matter, whether approved by the Registrar or refused.

(6) If access is provided to a person, the file or transcript cannot be removed from the immediate vicinity of the registry and photocopying (or other methods of reproduction) of documents is not permitted, other than note-taking by hand.

92.11 Damages

When making an application for a restraining order under the Act, the applicant must give the usual undertaking as to damages unless the Court otherwise orders.

92.12 Registration of interstate orders

An interstate restraining order or interstate forfeiture order may be registered by filing a copy of the order, sealed by the court that made the order, in the Registry.

92.13 Objection

If an objection is filed to the restraint of property or an application is made for the release of forfeited property, the Registrar must give notice of the objection or application to the Solicitor for the Northern Territory or to the Australian Government Solicitor, as the case requires.

92.14 Restraining order ceasing to have effect

(1) If a restraining notice under the Act ceases to have effect, the applicant in relation to the order must, within 2 days after the order ceases to have effect, file in the Registry a notice that the order has ceased to have effect.

(2) A notice filed in accordance with subrule (1) is to have the seal of the Court affixed by the Registrar and the person who filed the notice must, as soon as practicable, serve a copy of the notice on each person who was served with the restraining order.

(3) A party who is affected by a restraining order may, if the restraining order has ceased to have effect, apply to the Court for an order to that effect.

(4) The serving of a notice under subrule (2), or the making of an order under subrule (3), has no effect in relation to land that is subject to a restraining order until any relevant statutory restrictions notice in the land register is removed by the Registrar-General.

92.15 Forms

(1) An ex parte application is to be in the form of Form 92A.

(2) An application on notice is to be in the form of Form 92B.

(3) An application to inspect the court file or transcript of an examination is to be in the form of Form 92C.

Chapter 8 Applications for bail

93.01 Definitions

In this Chapter, ***Director*** means:

(a) the Director of Public Prosecutions for the Northern Territory within the meaning of the *Director of Public Prosecutions Act 1990*; or

(b) the Director of Public Prosecutions for the Commonwealth within the meaning of the *Director of Public Prosecutions Act 1983* of the Commonwealth.

93.02 Applications for bail or review of bail

(1) An application to the Court, the Court of Appeal or the Court of Criminal Appeal for bail or for a review of bail is to be in accordance with Form 93A and supported by affidavit.

(1A) An application under subrule (1) is to be made not later than 2 days before the hearing of the application.

(2) Subrule (1) does not apply in relation to an application to the Court for bail under Part 7 of the *Bail Act 1982* if:

(a) the Director does not oppose bail;

(b) the Director consents to the application being made orally; or

(c) the Court orders that the application may be made orally.

(3) Despite subrule (1), an application for review of bail under section 35 of the *Bail Act 1982* relating to an amendment of the conditions of bail may be made orally, by telephone or by facsimile to the Judge's chambers, if the Director does not oppose the amendment and consents to the application being in that manner.

(4) The Director may give his or her consent under subrule (3) to the Judge, or the Judge's associate, orally or by telephone, facsimile or computer transmission.

(5) If an application has been made orally or by telephone or facsimile, the Judge may determine the application in the same manner.

93.03 Application of provisions of Chapter 1A

Parts 1 and 2 of Order 81A apply in relation to an application for bail, or for review of bail, as if:

(a) a reference in that Order to ***the Court*** included a reference to the Court of Appeal, the Court of Criminal Appeal and a judge exercising the powers of either of those courts; and

(b) a reference to ***this Chapter*** were a reference to Chapter 8.

Chapter 9 Registration of foreign judgments

94.01 Interpretation

(1) In this Chapter:

the Act means the *Foreign Judgments Act 1991* (Cth).

(2) If an expression used in this Chapter is defined in the Act, the expression has the meaning given by that definition unless a contrary intention appears.

94.02 Application

This Chapter applies to any proceedings in the Court under the Act.

94.03 Application under section 6 by originating motion

(1) An application under section 6 of the Act for the registration of a judgment to which Part 2 of the Act applies may be made without notice to any person.

(2) The application must be by originating motion and supported by affidavit.

94.04 Affidavit

(1) An affidavit under rule 94.03 must state to the best of the information and belief of the deponent:

(a) that the plaintiff is entitled to enforce the judgment;

(b) that the judgment is final and conclusive between the parties;

(c) facts demonstrating that the Court is the appropriate court under section 6(1) of the Act;

(d) that at the date of the application, the judgment has not been satisfied or has been satisfied only in part;

(e) the amount in respect of which the judgment remains unsatisfied;

(f) that at the date of the application, the judgment can be enforced by execution in the country of the original court;

(g) that, if the judgment were registered, the registration would not be, or liable to be, set aside under section 7 of the Act;

(h) the amount of interest (if any) that, under the law of the country of the original court, has become due under the judgment up to the time of the application;

(i) if the sum payable under the judgment is expressed in a currency other than Australian currency and the judgment creditor has not stated that he or she wishes the judgment to be registered in that other currency – the amount that sum represents in Australian currency calculated in accordance with section 6(11), (11A) and (11B) of the Act;

(j) if the judgment is in respect of different matters and only some of the provisions of the judgment could, if contained in separate judgments, have been registered – the provisions in respect of which it is sought to register the judgment; and

(k) the full name, title, occupation and the usual or last known place of residence or business of the judgment creditor and the judgment debtor.

(2) The affidavit must exhibit:

(a) a copy of the judgment of the original court certified as such by the proper officer of the court and authenticated by its seal; and

(b) if the judgment is not in the English language, a translation of the judgment certified by a notary public or authenticated by affidavit.

(3) The affidavit must be accompanied by such other evidence in respect of the matters referred to in subrule (1)(f) and (h) as may be required having regard to the provisions of any regulations made under the Act extending the Act to the country of the original court.

94.05 Security for costs may be ordered

The Court may order that a person applying for registration of a judgment give security for costs.

94.06 Order on application

(1) An order for registration of a judgment must:

(a) specify the period within which an application to set aside the registration may be made; and

(b) state that the judgment will not be enforced until after the expiration of that period or any extension of that period under subrule (3).

(2) The order need not be served on the judgment debtor.

(3) The period referred to in subrule (1)(a) may be extended by the Court on the application of a party made before or after the expiration of the period or any extended period.

94.07 Notice of registration

(1) Notice in writing of the registration of a judgment must be served on the judgment debtor whether within the jurisdiction or not.

(2) Unless the Court orders otherwise, service must be personal service.

(3) The notice must:

(a) include full particulars of the judgment registered and the order for registration;

(b) provide the name and address of:

(i) the judgment creditor;

(ii) the judgment creditor's solicitor; or

(iii) an agent,

on whom and at which any process issued by the judgment debtor may be served;

(c) state that the judgment debtor may apply on the grounds set out in the Act to have the judgment set aside;

(d) specify the time from the date of the service of the notice within which the application must be made; and

(e) advise that the judgment debtor may apply to have that time extended.

94.08 Application to set aside

(1) An application to set aside the registration of a judgment must be made by summons in the proceedings in which the judgment was registered.

(2) The summons must set out the grounds of the application and be supported by affidavit.

(3) The summons and any affidavit in support must be served on the person who procured registration of the judgment.

94.09 Enforcement of judgment

A registered judgment may not be enforced unless:

(a) the period referred to in rule 94.06(1)(a), or any extended period, has expired;

(b) any application to set aside registration of the judgment has been determined by the Court;

(c) there has been filed in the Court:

(i) an affidavit of service of the notice of registration; and

(ii) a copy of the notice of registration; and

(d) any order of the Court in relation to the judgment has been authenticated and filed.

94.10 Certified copy of judgment

(1) An application under section 15 of the Act may be made without notice to any person.

(2) The application must be made in the proceeding in which the judgment of the Court was obtained.

(3) The application must be made by filing a draft of the certificate provided for rule 94.11(b) with an affidavit deposing to such information as will enable the certificate to be granted.

94.11 Certificates

(1) If an application for a certified copy of a judgment is granted, the copy of the judgment issued must be:

(a) sealed with the seal of the Court; and

(b) certified by the Registrar to be:

(i) a true copy; and

(ii) issued in accordance with section 15 of the Act.

(2) The copy of the judgment must be accompanied by a certificate from the Registrar that includes:

(a) a statement that the proceeding is at an end except for the enforcement of the judgment;

(b) the claim or claims in respect of which the judgment was given;

(c) the grounds on which the judgment was based;

(d) the rate at which the judgment carries interest; and

(e) such other matters as the Registrar considers necessary or desirable.

94.12 Associate Judge

An application other than one made under section 15 of the Act must be made to an Associate Judge.

Chapter 10 Proceedings relating to lawyers

95.01 Full Court to exercise jurisdiction of Court in certain matters relating to lawyers

(1) The Full Court will, as a general rule, exercise the jurisdiction of the Court to hear and determine a proceeding of any of the following kinds:

(a) a proceeding in the inherent jurisdiction of the Court relating to the discipline of a lawyer;

(b) an appeal against a decision of the Legal Practitioners Disciplinary Tribunal;

(c) a contested application under the *Legal Profession Act 2006* for removal of a lawyer's name from the local roll following foreign regulatory action;

(d) an application for admission as a local lawyer under the *Legal Profession Act 2006*.

(2) However:

(a) if it is not convenient for the Full Court to deal with an application for the admission of a local lawyer, the application will be heard and determined by a single Judge; and

(b) the Court may, despite the general rule, order that a particular matter be heard and determined by the single Judge.

(3) An order under subrule (2)(b) may be made by:

(a) the Full Court; or

(b) a single Judge in interlocutory proceedings.

Chapter 11 Interpreters

96.01 Notice of particulars

(1) A party to a proceeding must file a notice of particulars under this rule if:

(a) the party proposes to adduce evidence from a witness at the trial of the proceeding; and

(b) the witness needs the assistance of an interpreter to give evidence.

(2) The party must file the notice and serve it on each other party to the proceeding at least 14 days before the witness is required to give evidence using the interpreter.

(3) The notice must list the following particulars:

(a) the name and business address of the interpreter;

(b) the name and address of the witness;

(c) each language into which the interpreter will translate English or from which the interpreter will translate into English;

(d) the name of the organisation, if any, providing the interpreter;

(e) the qualifications and experience of the interpreter;

(f) the nature of the relationship, if any, of the interpreter to:

(i) the witness; or

(ii) any of the parties to the proceeding;

(g) the proposed date on which the witness will give evidence using the interpreter, or, if the witness will use the interpreter on more than one date, the first of those dates.

(4) In this rule:

witness includes an accused as defined in rule 81A.01(1).

96.02 Objection to interpreter

(1) If a notice under rule 96.01 is served on a party to a proceeding, the party may file a notice of objection to the use of the interpreter.

(2) The party must file the notice and serve it on the party proposing to use the interpreter at least 7 days before the date mentioned in rule 96.01(3)(g).

(3) The notice must state specifically and concisely the grounds of objection.

(4) If the party proposing to use the interpreter wishes to use the interpreter despite the objection, the objection must be determined by the trial Judge.

(5) The party proposing to use the interpreter must notify the objector and each other party of the date, time and place set by the trial Judge for determination of the objection.

(6) The trial Judge must determine the objection before the commencement of the trial if practicable.

(7) If the trial Judge does not determine the objection before the commencement of the trial, the trial Judge must determine the objection as soon as practicable and in the absence of a jury or panel of jurors.

Chapter 12 Matters relating to fees

97.01 Form of application for waiver or deferral of fee

An application to the Registrar to waive, defer or permit a party to pay a fee in instalments under regulation 5 of the Regulations must be:

(a) made in the form approved by the Registrar; and

(b) accompanied by a written undertaking, given by the applicant, to notify the Registrar of any settlement or judgment in the matter.

97.02 Certificate that fees paid or waived

Without leave of the Court or a certificate from the Registrar that all fees required to be paid by a party have been paid or waived:

(a) an application for leave to discontinue the proceeding by the party must not be accepted for filing; and

(b) a notice of discontinuance of the proceeding by the party must not be accepted for filing; and

(c) a judgment or order in relation to the proceeding must not be authenticated.

Note for rule 97.02

Regulation 5 of the Supreme Court Regulations 1985 is also relevant to the payment of fees.

Schedule 1

FORM 5A

rule 5.02(1)

WRIT

IN THE SUPREME COURT OF NORTHERN TERRITORY OF AUSTRALIA AT [Darwin or Alice Springs as the case may be] BETWEEN

No. of

A.B. Plaintiff

and

C.D. Defendant

TO THE DEFENDANT

This proceeding has been brought against you by the plaintiff for the claim set out in this writ.

IF YOU INTEND TO DEFEND the proceeding, or if you have a claim against the plaintiff which you wish to have taken into account at the trial, YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

(a) filing a "Notice of Appearance" in the Registry of the Supreme Court in the Supreme Court Building, State Square, Darwin, or, where the writ has been filed in the Alice Springs Registry, in the Alice Springs Registry of the Supreme Court, Law Courts Building, Parsons Street, Alice Springs; and

(b) on the day you file the Notice or on the next working day, serving, at the plaintiff's address for service which is set out at the end of this writ, a copy, sealed by the Court.

IF YOU DO NOT file an appearance within the proper time, the plaintiff may OBTAIN JUDGMENT AGAINST YOU on the claim without giving you any further notice.

*THE PROPER TIME TO FILE AN APPEARANCE is:

(a) Within 7 days after service:

(i) where you have been served with the writ filed in the Darwin Registry and that service was within the Northern Territory and within 200 kilometres of Darwin; or

(ii) where you have been served with the writ filed in the Alice Springs Registry and that service was within the Northern Territory and within 200 kilometres of Alice Springs;

(b) Within 14 days after service, where you are served within the Northern Territory with a writ filed in either Darwin or Alice Springs Registry but you are served at a place not within 200 kilometres of the Registry in which it was filed;

(c) Within 21 days after service where you are served with the writ out of the Northern Territory but within the Commonwealth;

(d) Within 28 days after service, where you are served with the writ in New Zealand or in Papua New Guinea;

(e) Within 42 days after service, where you are served with the writ in any other place.

IF the plaintiff claims a debt only and you pay that debt, namely, $ and $ for legal costs, to the plaintiff or his solicitor within the proper time for appearance, this proceeding will come to an end. Notwithstanding the payment, you may have the costs taxed by the Court.

FILED

REGISTRAR

THIS WRIT is to be served within one year from the date it is filed or within such further period as the Court orders.

---

* *Strike out this paragraph when order made fixing time for appearance and substitute:* "The proper time for appearance is within ___ days after service on you of this writ".

Part 2

[*Plaintiff's indorsement of a statement of claim or of a statement sufficient to give with reasonable particularity notice of the nature of the claim and its cause and of the relief or remedy sought in the proceeding.*]

Part 3*

1. Place of trial – DARWIN/ALICE SPRINGS

2. This writ was filed:

(a) by the plaintiff in person;

(b) for the plaintiff by [*name or firm of solicitor and, where the solicitor is a firm, the name of the member of the firm having responsibility for the conduct of the matter*], solicitor; or [business address of solicitor];

(c) for the plaintiff by [*name or firm of solicitor*], solicitor, of [*business address of solicitor*] or agent for [*name of firm or principal solicitor and, where the principal solicitor is a firm, indicate the name of the member of the firm having responsibility for the conduct of the matter*], solicitor, of [*business address of principal*.]

3. The address of the plaintiff is:

[*If the plaintiff sues by a solicitor, the address for service is the business address or email address of the solicitor or, where the solicitor acts by an agent, the business address or email address of the agent. If the plaintiff sues without a solicitor, and the address for service is not an email address, the address for service is stated in 3, but, if that address is not within 30 km of the Registry in which the Writ is filed the plaintiff must state an address for service which is within 30 km of that Registry*.]

5. The address of the defendant is:

* *Complete or strike out as appropriate*.

FORM 5B

rule 5.02(2)

ORIGINATING MOTION BETWEEN PARTIES

[*heading as in Form 5A*]

TO THE DEFENDANT

This proceeding by originating motion has been brought against you by the plaintiff for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding, YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

(a) filing a "Notice of Appearance" in the Registry of the Supreme Court in the Supreme Court Building, State Square, Darwin, or, where the originating motion has been filed in the Alice Springs Registry, in the Alice Springs Registry of the Supreme Court, Law Courts Building, Parsons Street, Alice Springs; and

(b) on the day you file the Notice or on the next working day, serving, at the plaintiff's address for service which is set out at the end of this originating motion, a copy, sealed by the Court.

IF YOU DO NOT file an appearance within the proper time, the plaintiff MAY OBTAIN JUDGMENT AGAINST YOU without giving you any further notice.

IF YOU FILE an appearance within the proper time, the plaintiff cannot obtain judgment against you except by application to the Court after notice to you by summons.

*THE PROPER TIME TO FILE AN APPEARANCE is as follows:

(a) Within 7 days after service:

(i) where you have been served with the originating motion filed in the Darwin Registry and that service was within the Northern Territory and within 200 kilometres of Darwin; or

(ii) where you have been served with the originating motion filed in the Alice Springs Registry and that service was within the Northern Territory and within 200 kilometres of Alice Springs;

(b) Within 14 days after service, where you are served within the Northern Territory with the originating motion filed in either Darwin or Alice Springs Registry but you are served at a place not within 200 kilometres of the Registry in which it was filed;

(c) Within 21 days after service where you are served with the originating motion out of the Northern Territory but within the Commonwealth;

(d) Within 28 days after service, where you are served with the originating motion in New Zealand or in Papua New Guinea;

(e) Within 42 days after service, where you are served with the originating motion in any other place.

FILED

REGISTRAR

THIS ORIGINATING MOTION is to be served within one year from the date it is filed or within such further period as the Court orders.

---

* *Strike out this paragraph where order made fixing time for appearance and substitute* "The proper time to file an appearance is within _____ days after service on you of this Originating summons".

Part 2

[*Specify the relief or remedy sought and the Act, if any, under which the claim is made, and, where the relief sought includes the answer to any question, state the question*.]

Part 3*

1. Place of trial – DARWIN/ALICE SPRINGS

2. This originating motion was filed:

(a) by the plaintiff in person;

(b) for the plaintiff by [*name or firm of solicitor*], solicitor, of [*business address of solicitor*];

(c) for the plaintiff by [*name or firm of solicitor*], solicitor, of [*business address of solicitor*] as agent for [*name or firm of principal solicitor*], solicitor, of [*business address of principal*].

3. The address of the plaintiff is:

[*If the plaintiff sues by a solicitor, the address for service is the business address or email address of the solicitor or, if the solicitor acts by an agent, the business address or email address of the agent. If the plaintiff sues without a solicitor, and the address for service is not an email address, the address for service is stated in 3, but, where that address is not within 30 km of the Registry in which the originating motion is filed the plaintiff must state an address for service which is within 30 km of that Registry*.]

5. The address of the defendant is:

---

* *Complete or strike out as appropriate.*

FORM 5C

rules 5.02(2),
45.05(2)(b)

ORIGINATING MOTION BETWEEN PARTIES

(where commenced under Rule 45.05)

[*heading as in Form 5A*]

TO THE DEFENDANT

This proceeding by originating motion has been brought against you by the plaintiff for the relief or remedy set out below.

The plaintiff cannot continue with the proceeding except by order of the Court. You will be given notice by summons of any application for the order and until the summons is served you are not required to take any step in the proceeding.

[*or where a summons for an order under Rule 45.05 or for judgment will be served with the originating motion*]

IF YOU INTEND TO DEFEND the proceeding you must attend before the Court at the time and place named in the summons served with this originating motion.

FILED [e.g. 15 June 19].

REGISTRAR

THIS ORIGINATING MOTION is to be served within one year from the date it is filed or within such further period as the Court orders.

Part 2

[*complete as in Form 5B*]

Part 3

[*complete as in Form 5B*]

FORM 5D

rule 5.02(2)

ORIGINATING MOTION

(where no defendant)

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA AT [Darwin
or Alice Springs as the
case may be] No. of

IN THE MATTER of an application by A.B. for [*describe nature of application and state the Act, if any, under which made*].

The plaintiff will apply to the Court on [*date*] at [*time*] for [*specify the relief or remedy sought and the Act, if any, under which the claim is made, and where it includes any question to be answered, state the question*].

FILED

REGISTRAR

The address of the plaintiff is:

The address for service of the plaintiff is:

FORM 5E

rules 5.02(2),
53.02(3)

ORIGINATING MOTION FOR RECOVERY OF LAND UNDER ORDER 53

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA AT [Darwin
or Alice Springs as the
case may be] No. of

BETWEEN

A.B. Plaintiff

and

C.D. Defendant

[*or if the plaintiff does not know the name of any person in occupation*]

BETWEEN

A.B. Plaintiff

and

(The plaintiff does not know the name of any person in occupation to make defendant)

Defendant

TO THE DEFENDANT AND TO EVERY PERSON IN OCCUPATION OF THE LAND AT [*description of land**]
[*or where there is no defendant*

TO EVERY PERSON IN OCCUPATION OF THE LAND AT [*description of land**]

This proceeding by originating motion has been commenced by the plaintiff for the recovery of land at . Further particulars of the claim appear in the affidavit in support of the claim. A copy of the affidavit and of any exhibit referred to in it is served with this originating motion.

The plaintiff will apply to an Associate Judge in the Supreme Court, Supreme Court Building, State Square, Darwin (*appropriate changes if to be heard in Alice Springs*) on [*date*] at [*time*] or so soon afterwards as the business of the Court allows. At that time the Associate Judge may refer to a Judge for hearing an application by the plaintiff for judgment.

IF YOU ARE NAMED AS DEFENDANT AND INTEND TO DEFEND THIS PROCEEDING you must:

(a) give notice of your intention by filing an appearance on or before the day specified above; and

(b) attend before an Associate Judge as as specified above.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

(a) filing a "Notice of Appearance" in the Registry of the Supreme Court, in the Supreme Court Building, State Square, Darwin, or, where the originating motion has been filed in the Registry at Alice Springs in the Alice Springs Registry of the Supreme Court; and

(b) on the day you file the Notice or on the next working day, serving, at the plaintiff's address for service which is set out at the end of this originating motion a copy, sealed by the Court.

---

* *Note: The land should be so described as to be physically identifiable*.

IF YOU DO NOT file an appearance on or before the day specified above or to attend before the Associate Judge on that day, the plaintiff MAY OBTAIN JUDGMENT AGAINST YOU without giving you further notice.

IF YOU ARE IN OCCUPATION OF THE LAND AND ARE NOT NAMED AS DEFENDANT you may attend before an Associate Judge in person or by your counsel or solicitor on the day and at the time and place specified above and apply to be made a defendant.

FILED

REGISTRAR

Part 2*

1. Place of trial – Darwin/Alice Springs

2.* This originating motion was filed:

(a) by the plaintiff in person;

(b) for the plaintiff by [*name or firm of solicitor*], solicitor, or [*business address of solicitor*];

(c) for the plaintiff by [*name or firm of solicitor*], solicitor, of [*business address of solicitor*] as agent for [*name or firm of principal solicitor*], solicitor, of [*business address of principal*].

3. The address of the plaintiff is:

[*If the plaintiff sues by a solicitor, the address for service is the business address or email address of the solicitor or, if the solicitor acts by an agent, the business address or email address of the agent. Where the plaintiff sues without a solicitor, and the address for service is not an email address, the address for service is stated in 3, but, if that address is outside the Northern Territory, the plaintiff must state an address for service within the Northern Territory*.]

5. [*If there is a defendant*] The address of the defendant is:

---

* *Complete or strike out as appropriate*.

FORM 7A

rule 7.08(2)(a)

REQUEST TO COURT FOR SERVICE IN A FOREIGN COUNTRY

[heading as in originating process]

I, (*full name*), request that (*describe document(s) to be served*) be transmitted *in accordance with the (*name of convention*)/*through the diplomatic channel to (*insert name of country*) for service on (*full name of person to be served*) at (*address for service*) or elsewhere in (*name of country*).

I personally undertake to be responsible for all expenses incurred by the Territory in respect of the requested service and, on receiving due notification of the amount of the expenses, will pay the amount to the Territory and will produce the receipt for that payment to a Registrar of the Supreme Court of the Northern Territory of Australia.

Date:

[*Signed*]

* *Delete if not applicable*

FORM 7B

rule 7.08(2)(b)

REQUEST FOR TRANSMISSION OF NOTICE TO A FOREIGN GOVERNMENT

[heading as in originating process]

The Chief Justice of the Supreme Court of the Northern Territory of Australia at (*address of relevant registry*) requests the Secretary of the *Attorney-General's Department/*Department of Foreign Affairs and Trade to transmit to the government of (*name of country*) the following documents:

(describe documents)

with the request that:

(a) the documents be served on (*name of person to be served*), against whom these proceedings have been taken in the Supreme Court of the Northern Territory of Australia, in accordance with the law of (*name of country*); and

(b) evidence of service of the documents be officially certified or declared (on oath or otherwise) to this Court in such manner as is consistent with usage or practice of the courts in (*name of country*) in proving service of legal process.

*The Chief Justice further requests that, if efforts to effect personal service of the documents prove ineffectual, the government or court of (*name of country*) be requested to certify or declare (on oath or otherwise) that fact to this Court.

*The following information is provided in support of the request:

(*insert any additional information that may be required by any convention applying to the service of the documents*)

Date:

**Delete if not applicable. The request should be made to:*

(a) if the Attorney-General's Department is the Central Authority for the purposes of a convention that applies to the service of the documents – the Secretary of the Attorney-General's Department; or

(b) in any other case – the Secretary of the Department of Foreign Affairs and Trade.

FORM 7A-A

rules 7A.04(2)(a), 7A.06(2)(a), 7A.13(2) and 7A.16(4)(a) and (b)

REQUEST FOR SERVICE ABROAD OF JUDICIAL DOCUMENTS AND CERTIFICATE

Part 1 Request for service abroad of judicial documents

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague on 15 November 1965

Identity and address of the forwarding authority requesting service	Identity and address of receiving authority [*Central Authority/ additional authority*]

The undersigned forwarding authority (on the application of [*name and address of applicant on whose behalf forwarding authority requests service*]) has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the abovementioned Convention, requests prompt service of one copy thereof on the addressee, ie:

(identity and address) .....

.....

(a) in accordance with the provisions of subparagraph (a) of the first paragraph of Article 5 of the Convention*.

(b) in accordance with the following particular method (subparagraph (b) of the first paragraph of Article 5*): .....

.....

(c) by delivery to the addressee, if he or she accepts it voluntarily (second paragraph of Article 5)*.

The receiving authority [*Central Authority/additional authority*] is requested to return or to have returned to the forwarding authority a copy of the documents – and of the annexures* – with a certificate as provided in Part 2 of this Form on the reverse side.

List of documents

.....

.....

Done at ....., the .....

Signature or stamp (or both) of forwarding authority.

**Delete if not applicable.*

Part 2 Certificate

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague on 15 November 1965

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention:

1 that the documents listed in Part 1 have been served*

– the *(date)* .....

– at *(place, street, number)* .....

.....

– in one of the following methods authorised by Article 5 of the Convention:

(a) in accordance with the provisions of subparagraph (a) of the first paragraph of Article 5*, ...

.....

(b) in accordance with the following particular method*: .....

.....

(c) by delivery to the addressee, who accepted it voluntarily*.

The document referred to in the request, has been delivered to:

– *(identity and description of person)* .....

.....

– relationship to the addressee *(family, business or other)* .....

.....

.....

2 that the document has not been served, by reason of the following facts*:

….....

.....

In conformity with the second paragraph of Article 12 of the Convention, the forwarding authority is requested to pay or reimburse the expenses detailed in the attached statement*.

Annexures

Documents returned: ....

.....

.....

In appropriate cases, documents, establishing the service: .....

.....

.....

Done at ....., the .....

Signature or stamp, (or both).

**Delete if not applicable.*

FORM 7A-B

rules 7A.04(2)(c) and 7A.13(2)(b)

SUMMARY OF DOCUMENT TO BE SERVED

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague on 15 November 1965

(Article 5, fourth paragraph)

Identity and address of the addressee [*Central Authority/additional authority*]:

IMPORTANT

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE SUMMARY OF THE DOCUMENT TO BE SERVED WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:.....

SUMMARY OF THE DOCUMENT TO BE SERVED

Name and address of the forwarding authority .....

.....

Particulars of the parties .....

.....

JUDICIAL DOCUMENT

Nature and purpose of the document .....

.....

Nature and purpose of the proceedings and, when appropriate, the amount in dispute .....

.....

.....

Date and place for entering appearance .....

.....

Court in which proceedings pending/judgment given .....

.....

Date of judgment (if applicable) .....

Time limits stated in the document .....

.....

FORM 8A

rule 8.05(2)

NOTICE OF APPEARANCE

[*heading as in originating process*]

[*Full name of defendant*], the defendant (*or* one of the defendants), of [*address*] appears in this proceeding.

Dated

Signed

The address for service of the defendant is

[*Where the defendant appears in person and the address of the defendant is outside the Northern Territory*: The address of the defendant within the Northern Territory, or email address, for service is .]

[*Where the defendant appears by a solicitor* The name or firm and the business address within the Northern Territory of the solicitor for the defendant or, if the address for service is the solicitor's email address, the email address of the solicitor, is .]

[*Where the solicitor is an agent of another:* as agent for [*name of firm and business address of principal or, if the address for service is the principal's email address, the email address of the principal,*].]

FORM 8B

rule 8.08(2)

NOTICE OF CONDITIONAL APPEARANCE

[*heading as in originating process*]

[*Full name of defendant*], the defendant (*or* one of the defendants), of [*address*] appears conditionally in this proceeding.

Dated [e.g. 15 June 19].

[Signed]

[*continue as in Form 8A*]

FORM 10A

rule 10.04(5)

HEADING AND NOTICE ON COUNTERCLAIM WHERE DEFENDANT NEW PARTY

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA AT [Darwin or Alice Springs as the case may be] BETWEEN — No. of 19

A.B. — Plaintiff

and

C.D. — Defendant

(by original proceeding)

AND BETWEEN

C.D. — Plaintiff

and

A.B. and E.F. — Defendants

(by counterclaim)

To E.F.
of [*address*]

This proceeding has been brought against you by the defendant for the claim set out in this counterclaim.

IF YOU INTEND TO DEFEND the claim YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

(a) filing a "Notice of Appearance" in the Registry of the Supreme Court in the Supreme Court Building, State Square, Darwin, or, where the counterclaim has been filed in the Registry at Alice Springs, in the Alice Springs Registry of the Supreme Court; and

(b) on the day you file the Notice or on the next working day serving, at the defendant's address for service which is set out at the end of this counterclaim, a copy, sealed by the Court.

IF YOU DO NOT file an appearance within the proper time, the defendant may OBTAIN JUDGMENT AGAINST YOU on the counterclaim without further notice.

*THE PROPER TIME TO FILE AN APPEARANCE is as follows:

(a) Within 7 days after service:

(i) where you have been served with the writ filed in the Darwin Registry and that service was within the Northern Territory and within 200 kilometres of Darwin; or

(ii) where you have been served with the writ filed in the Alice Springs Registry and that service was within the Northern Territory and within 200 kilometres of Alice Springs;

(b) Within 14 days after service, where you are served within the Northern Territory with a writ filed in either Darwin or Alice Springs Registry but you are served at a place not within 200 kilometres of the Registry in which it was filed;

(c) Within 21 days after service where you are served with the writ out of the Northern Territory but within the Commonwealth;

(d) Within 28 days after service, where you are served with the writ in New Zealand or in Papua New Guinea;

(e) Within 42 days after service, where you are served with the writ in any other place.

COUNTERCLAIM

[*Set out in separate, consecutively numbered paragraphs all the material facts relied upon for the counterclaim and state precisely the relief claimed*.]

The address of the defendant is:

The address for service of the defendant is:

---

* *Strike out this paragraph when order made fixing time for appearance and substitute:* "The proper time for appearance is within ___ days after service on you of this counterclaim".

FORM 10B

rule 10.04(6)

NOTICE OF APPEARANCE TO COUNTERCLAIM

[*heading as in Form 10A*]

[*Full name of defendant to counterclaim*], the defendant (*or* one of the defendants), to the counterclaim appears to the counterclaim of the defendant.

Dated [e.g. 15 June 19].

[Signed]

[*continue as in Form 8A*]

FORM 11A

rule 11.02

THIRD PARTY NOTICE
IN THE SUPREME COURT OF THE NORTHERN TERRITORY OF AUSTRALIA AT [Darwin or Alice Springs as the case may be] 19 No.

BETWEEN	A.B.	Plaintiff
	and	
	C.D.	Defendant
	and	
	E.F.	Third Party

TO E.F.
of [*address*]

The plaintiff has brought this proceeding against the defendant for the claim set out in the writ and statement of claim [*or* originating motion and affidavit[s]] served with this notice.

The defendant disputes the plaintiff's claim on the grounds set out in his defence served with this notice and claims to be entitled to relief against you on the grounds set out in the statement of claim indorsed on this notice.

IF YOU INTEND TO DISPUTE the plaintiff's claim against the defendant, or the defendant's claim against you, YOU MUST GIVE NOTICE of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

(a) filing a "Notice of Appearance" in the Registry of the Supreme Court in the Law Courts, State Square, Darwin or where the writ has been filed in the Alice Springs Registry, in the Alice Springs Registry of the Supreme Court;

(b) on the day you file the Notice or on the next working day, serving, at the defendant's address for service, which is set out at the end of this notice a copy, sealed by the Court.

IF YOU DO NOT file an appearance within the proper time you will be taken to admit the validity of any judgment against the defendant and your own liability to the defendant to the extent claimed in the statement of claim indorsed on this notice, and the defendant may OBTAIN JUDGMENT AGAINST YOU without giving you further notice.

*THE PROPER TIME TO FILE AN APPEARANCE is:

(a) Within 7 days after service:

(i) where you have been served with the writ filed in the Darwin Registry and that service was within the Northern Territory and within 200 kilometres of Darwin; or

(ii) where you have been served with the writ filed in the Alice Springs Registry and that service was within the Northern Territory and within 200 kilometres of Alice Springs;

(b) Within 14 days after service, where you are served within the Northern Territory with a writ filed in either Darwin or Alice Springs Registry but you are served at a place not within 200 kilometres of the Registry in which it was filed;

(c) Within 21 days after service where you are served with the writ out of the Northern Territory but within the Commonwealth;

(d) Within 28 days after service, where you are served with the writ in New Zealand or in Papua New Guinea;

(e) Within 42 days after service, where you are served with the writ in any other place.

FILED [e.g. 15 June 19].

REGISTRAR

Part 2

STATEMENT OF CLAIM

[*Set out in separate, consecutively numbered paragraphs all the material facts relied on for the claim against the third party and state precisely the relief claimed.*]

Part 3

1.** This notice was filed:

(a) by the defendant in person;

(b) for the defendant by [*name of firm of solicitor*], solicitor, of [*business address of solicitor*];

(c) for the defendant by [*name or firm of solicitor*], solicitor, of [*business address of solicitor*] as agent for [*name or firm of principal solicitor*], solicitor, of [*business address of principal*].

2. The address of the defendant is:

3. The address for service of the defendant is –

4. The address of the third party is –

---

* *Strike out this paragraph when order made fixing time for appearance and substitute:* "The proper time for appearance is within ___ days after service on you of this notice".

** *Complete or strike out as appropriate.*

FORM 11B

rule 11.15(5)

NOTICE BY ONE TORTFEASOR CLAIMING CONTRIBUTION AGAINST ANOTHER

[*heading as in originating process*]

TO THE DEFENDANT (*name of defendant*)

The plaintiff has brought this proceeding against the defendants to recover damages for loss sustained [e.g. as the result of a collision between a motor car driven by you and a motor car driven by the defendant (*name*) , which is alleged to have been caused by the negligence of the defendants].

The defendant (*name*) claims to be entitled to contribution from you in respect of any sum which the plaintiff may recover in this proceeding against him [*where appropriate*: to the extent of such amount as may be found by the Court to be just and equitable, having regard to your responsibility for the damages on the ground that your negligence contributed to the happening of the collision].

FILED [e.g. 15 June 19].

REGISTRAR

FORM 12A

rule 12.05(1)

NOTICE OF CLAIM TO GOODS TAKEN IN EXECUTION

[*heading as in originating process*]

To the [*judgment creditor*]
of [*address*]

A.B. has claimed the goods [*or* certain goods] [*where only certain goods are claimed; here enumerate them*] taken in execution by me as Sheriff under the warrant of execution issued in this proceeding.

IF within 7 days after service of this notice on you you serve notice on me stating that you admit the claim, you will not be liable for fees and expenses incurred by me after your notice is given. If, however, you dispute the claim, you may within 7 days after service of this notice on you serve notice in writing on me stating that you dispute the claim. In that case or if you do not give any notice within the time stipulated, I may apply to the Court by summons for relief by way of interpleader.

My address for service is:

Dated [e.g. 15 June 19].

Sheriff

FORM 15A

rule 15.08(6)

ORDER APPROVING COMPROMISE OF CLAIM OF MINOR

[*heading as in originating process*]

JUDGE [*or* ASSOCIATE JUDGE]:
DATE MADE:
ORIGINATING PROCESS:
HOW OBTAINED:

[*State whether on application by summons before trial, with date of summons, or at trial, with date of commencement of trial*]

APPEARANCES: (*eg* Mr Smith for plaintiff; Mr James for defendant.)

MATTERS TAKEN INTO CONSIDERATION:

1. The plaintiff was born on (e.g. 15 June 20).

2. By a compromise entered into on 20 the defendant proposes to pay and the plaintiff desires to accept $ for the benefit of the plaintiff and the plaintiff's costs, including the costs of this application, in full settlement of the plaintiff's claim in the proceeding.

3. The Court read the following material:

(a) [*identify affidavits by date and name of deponent*];

(b) the exhibits to the affidavits including the opinion of of Counsel dated 20 .

4. The defendant consents to the proposed compromise.

THE COURT ORDERS THAT:

1. [*Where order is made by Judge*] There be special leave for the application to be made to a Judge.

2. The compromise be approved.

3. The defendant within days after service of a copy of this order on his solicitors pay [*where appropriate:* $ to the solicitors for the plaintiff, being $ for the plaintiff and the balance of $ to be disbursed or retained by them in payment of the items referred to in the affidavit of dated 20 and] $ to the Public Trustee for the benefit of the minors referred to above, being $ for the benefit of and $ for the benefit of

4. The costs of the plaintiff, including the costs of the application for approval, be taxed, and when taxed, paid by the defendant.

5. Subject to any further order. the Public Trustee invest $ for the plaintiff to be paid out with the interest accrued to the plaintiff upon his attaining the age of 18 years.

6. [*Here set out any other specific orders made.*]

7. Upon payment by the defendant of the sum[s] and costs referred to, the proceeding be forever stayed.

8. Each party have liberty to apply.

9. Copy of the order be served on the Public Trustee.

DATE AUTHENTICATED:

REGISTRAR

FORM 15B

rule 15.08(6)

ORDER APPROVING COMPROMISE OF CLAIM BY PERSON UNDER DISABILITY OTHER THAN A MINOR

[*heading as in originating process*]

JUDGE [*or* ASSOCIATE JUDGE]:
DATE MADE:
ORIGINATING PROCESS:
HOW OBTAINED:

[*State whether on application by summons before trial with date of summons, or at trial with date of commencement of trial*]

APPEARANCES: (*As in Form 15A*)

MATTERS TAKEN INTO CONSIDERATION

1. The date of birth of the Plaintiff on whose behalf the proceeding is brought is .

2. The date on which Plaintiff became a person under disability is .

2. By a compromise entered into on 20 the defendant proposes to pay and the plaintiff desires to accept $ for and , respectively, the minors referred to above and the plaintiff's costs, including the costs of this application, in full settlement of the plaintiff's claim in the proceeding.

3. The Court read the following material:

(a) [*identify affidavits by date and name of deponent*];

(b) the exhibits to the affidavits including the opinion of of Counsel dated 20 .

4. The defendant consents to the proposed compromise.

THE COURT ORDERS THAT:

1. [*Where order is made by Judge*] There be special leave for the application to be made to a Judge.

2. The compromise be approved.

3. The defendant within days after service of a copy of this order on his solicitors pay $ to the Public Trustee for the benefit of the plaintiff [*where appropriate:* and $ to the solicitors for the plaintiff, to be disbursed or retained by them in payment of the items totalling $ referred to in the affidavit of made 20].

4. The costs of the plaintiff, including the costs of this application, be taxed and, when taxed, paid by the defendant.

5. Subject to any further order, the Public Trustee invest $ and $ for to be paid out with the interest accrued thereon to the person under disability when he ceases to be a person under disability.

[*continue as in Form 15A*]

FORM 19A

rule 19.02(3)

NOTICE OF A CONSTITUTIONAL MATTER

[*heading as in originating process*]

1. The [*party whose case raises the matter*] gives notice that this proceeding involves a matter under the Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act 1903* (*or as the case may be*).

2. [*State specifically the nature of the matter*].

3. [*State the facts showing the matter is one to which section 78B of the Judiciary Act 1903 applies (or as the case may be)*].

Dated [e.g. 15 June 19].

[*Signed*]

To Registrar
And to

FORM 29A

rule 29.04

LIST OF DOCUMENTS

[*heading as in originating process*]

I, (*full name*) the abovenamed , say as follows:

1. I have in my possession, custody or power, the documents relating to the questions in this proceeding enumerated in Schedule 1.

2. The documents enumerated in Part 2 of Schedule 1 are privileged, and I object to produce them. The documents are privileged on the ground –

(a) as to documents numbered 4 to 6, that [*state the ground*]; and

(b) as to document numbered 7, that [*state the ground*].

3. I have had, but no longer have, in my possession, custody or power, the document relating to the questions in the proceeding which are enumerated in Schedule 2.

4. Document numbered 8, referred to in Schedule 2, was last in my possession, custody or power on [*state when*] and I believe that [*state belief as to what has become of it*].

5. To the best of my knowledge, information and belief neither I, my solicitor nor any other person on my behalf has now, or ever had, in my or his possession, custody or power, any document relating to a question in the proceeding, other than the documents enumerated in the said Schedules 1 and 2.

[*Describe each document in the Schedules as original or copy.*]

Schedule 1

Part 1

1.

2.

3.

Part 2

4.

5.

6.

7.

Schedule 2

8.

[*Signed (by party or party's solicitor*)]

FORM 29B

NOTICE TO PRODUCE

rules 29.09(1)
and 29.10

[*heading as in originating process*]

To the [*identify party*]

The [*Plaintiff/Defendant*] requires you to produce for his inspection the following documents referred to in your [writ, pleading, particulars, affidavit, (*as the case may be*) [*describe documents required*].

Dated [e.g. 15 June 19].

[*Signed*]

FORM 35A

rules 35.03(4)
and 35.05(4)

NOTICE TO ADMIT

[*heading as in originating process*]

To the [*identify party*]

If you do not, within [*specify a number not less than 14*] days after service of this notice upon you, serve a notice upon the disputing any fact specified [*or* the authenticity of any document mentioned] below, that fact [*or* the authenticity of that document] shall, for the purpose of this proceeding only, be taken to be admitted by you in favour of the . If you do serve a notice disputing that fact [*or* the authenticity of that document], and afterwards that fact [*or* the authenticity of that document] is proved, you shall pay the costs of proof, unless the Court otherwise orders.

1.

2. [*specify each fact*]
[*or*]
[*mention each document*]

1.

2.

Dated [e.g. 15 June 19].

[*Signed*]

FORM 35B

rules 35.03(4)
and 35.05(4)

NOTICE OF DISPUTE

[*heading as in originating process*]

To the [*identify party*]

The disputes the following facts specified in the 's notice dated (e.g. 15 June 19).

1.

[*identify each fact*]

2.

[*or*]

The disputes the authenticity of the following documents mentioned in the 's notice dated (e.g. 15 June 19).

1.

[*identify each document*]

2.

Dated [e.g. 25 June 19].

[*Signed*]

FORM 39A

rule 39.05(b)

DEED OF GUARANTEE

[*heading as in originating process*]

THIS guarantee is made the day of

19 , BETWEEN [*name*] of [*address*] (called "the guarantor") and an Associate Judge .

WHEREAS:

1. by an order of the Supreme Court of the Northern Territory of Australia made the day of 20 , in this proceeding, [*name*] of [*address*] (called "the receiver") appointed to receive [*or* receive and manage] [*follow words of the order*].

2. pursuant to that order the receiver is required to give security approved by the Court.

3. the guarantor has agreed at the request of the receiver to give a guarantee in consideration of the annual premium mentioned below which guarantee has been approved by the Court evidenced by the Associate Judge in the margin of this document.

NOW THIS GUARANTEE WITNESSES that the guarantor promises the Associate Judge that if the receiver does not account to the Court for what the receiver receives as receiver or does not deal with what the receiver receives as the Court directs the guarantor will pay to an Associate Judge whatever is required to make good the default to a limit of $.

Guarantee for $. Annual premium $.

The Common Seal of

was

affixed to this (*Common Seal*)

guarantee in

the presence of (*Witnesses*)

FORM 41A

rule 41.01(2)

ORDER FOR EXAMINATION WITHIN THE NORTHERN TERRITORY OF AUSTRALIA

[*heading as in originating process*]
[*other particulars as in Form 60C*]

THE COURT ORDERS THAT:

[*name*] of [*address within the Northern Territory*] be examined before [*name and address or description of examiner*].

[*continue as in Form 60C*]

FORM 41B

rule 41.01(2)

ORDER FOR EXAMINATION OUT OF THE NORTHERN TERRITORY OF AUSTRALIA

[*heading as in originating process*]
[*other particulars as in Form 60C*]

THE COURT ORDERS THAT:

1. [*name and address or description*] be appointed as examiner for the purpose of taking the examination, cross-examination and re-examination orally on oath of a witness [*name*] of [*address out of the Northern Territory*], a witness on the part of at in [*name of country*].

2. The examiner be at liberty to invite the attendance of *the witness and the production of documents, but shall not exercise any compulsory powers, and that otherwise the examination be taken in accordance with the procedure of the Northern Territory.

3. The solicitors give to the solicitors days' notice of the date on which they propose to send out this order to for execution, and that days after the service of that notice the solicitors for the plaintiff and defendant respectively exchange the names of their agents at to whom notice relating to the examination of the said witness may be sent.

4. No later than days before the examination of the witness notice of the examination be given by the agent of the party on whose behalf the witness is to be examined to the agent of the other party, unless that notice is dispensed with.

5. The depositions when taken, together with any documents referred to in them, or certified copies of in those documents, or of extracts from them, be sent by the examiner, under seal, to the Registrar of the Supreme Court of the Northern Territory, Law Courts, State Square, Darwin, on or before 19 or such further day as may be ordered, there to be filed in the Registry of the Supreme Court.

6. The trial of the proceeding be stayed until the depositions are filed or until further order.

7. The costs of the application and the examination be costs in the proceeding.

[*Continue as in Form 60C*]

** If a Convention which applies requires that the invitation or notice to the witness should expressly state that no compulsory powers may be exercised, this shall be done.*

FORM 41C

rule 41.01(3)

ORDER FOR LETTER OF REQUEST TO JUDICIAL AUTHORITY OUT OF THE NORTHERN TERRITORY

[*heading as in originating process*]
other particulars as in Form 60C]

THE COURT ORDERS THAT:

1. A letter of request issue directed to the proper judicial authority for the examination of the following witnesses, namely:

E.F. of [*address*]

G.H. of [*address*]

2. The depositions taken of the examination be filed in the Registry.

3. The trial of the proceeding be stayed until the depositions are filed or until further order.

4. The costs of this application and the letter of request and examination be costs in the proceeding.

[*Continue as in Form 60C*]

FORM 41D

rule 41.13(2)

LETTER OF REQUEST FOR EXAMINATION OF WITNESS

[*heading as in originating process*]

TO [*the competent judicial authority*] of

A civil proceeding is now pending in the Supreme Court of the Northern Territory of Australia in which is plaintiff and is defendant and in which the plaintiff claims (*set out short details of claim.*)

It has been represented to the Court that it is necessary for the purposes of justice and for the due determination of the questions in dispute between the parties in the proceeding that the following persons should be examined as witnesses upon oath touching those questions, namely, of and of and it appears that those witnesses are resident within your jurisdiction.

I , a Judge of the Supreme Court of the Northern Territory of Australia, hereby request that for the reasons mentioned and for the assistance of the Court you summon those witnesses [and such other witnesses as the agents of the plaintiff and defendant request you in writing so to summon] to attend at such time and place as you appoint before you, or such other person as according to your procedure is competent to take the examination of witnesses. Please have those witnesses examined orally [or upon the interrogatories which accompany this letter of request] touching the questions in issue. That examination should take place in the presence of the agents of the plaintiff and defendant or such of them as attend the examination on due notice given.

I further request you to permit the agents of both the plaintiff and the defendant or such of them as are present to examine [upon interrogatories and orally upon the subject-matter of those interrogatories or arising out of the answers to them] such witnesses as are, after due notice in writing, produced on their behalf and the other party to cross-examine the witnesses [upon cross-interrogatories and orally] and the party producing the witness for examination to re-examine them orally.

And I further request you to have the evidence of the witnesses [*or* the answers of the witnesses and all additional oral questions, whether on examination, cross-examination or re-examination] reduced into writing and all books, documents and things produced on that examination to be duly marked for identification. Please authenticate the examination by the seal of your tribunal or in such other way as is in accordance with your procedure and return it, together with [the interrogatories and cross-interrogatories and] a note of the charges and expenses payable in respect of the execution of this

request through the from whom it was received for transmission to the Supreme Court of the Northern Territory of Australia.

I also request that you have the agents of the parties if appointed informed of the date and place where the examination is to take place. If no agents are appointed, please let me know that date and place.

Dated [e.g. 15 June 19].

(Signed)

FORM 42A

rule 42.03

SUBPOENA

[*heading as in originating process*]

To: [*name*]

[*address*]

YOU ARE ORDERED:

***to attend to give evidence – see section A of this form; or**

***to produce this subpoena or a copy of it and the documents or things specified in the Schedule – see section B of this form; or**

***to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule – see section C of this form**

* *Select one only of these 3 options*

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last date for service of this subpoena is: ……..... (*See Note 1*)

Please read notes 1 to 13 at the end of this subpoena.

[*Seal or Stamp of the Court*]

Date:

Issued at the request of [*name of party*], whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

B. Details of subpoena to produce only

You must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*See notes 5 – 9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar
[*Name of Court ….. etc. as the case may be*]

Schedule

The documents and things you must produce are as follows:
[*If insufficient space attach list*]

C. Details of subpoena both to attend to give evidence and to produce

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

(a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or

(b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*See notes 5 – 9*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

Address to which the subpoena or a copy of it and documents or things may be delivered or posted:

The Registrar
[*Name of Court ….. etc. as the case may be*]

Schedule

The documents and things you must produce are as follows:
[*If insufficient space attach list*]

NOTES

Last day for service

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Witness assistance

4. You need not comply with this subpoena to the extent it requires you to attend to give evidence unless the issuing party provides you with a reasonable sum of money for your costs in attending.

Production of subpoena or copy of it and documents or things by delivery or post

5. In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.

7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. A copy of a document may be:

(a) a photocopy; or

(b) a PDF file on a CD-ROM.

Applications in relation to subpoena

10. You have the right to apply to the Court:

(a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and

(b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to witness assistance mentioned in note 4 and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.

13. Note 12 iswithout prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

FORM 42B

rule 42.05

SUBPOENA – NOTICE AND DECLARATION

[*heading as in originating process*]

Notice to Addressee

The ***addressee*** is the person to whom the subpoena is addressed.

You may produce copies of any subpoenaed documents unless the subpoena specifically requires you to produce originals. A copy of a document may be:

(a) a photocopy; or

(b) a PDF file on a CD-ROM.

You must complete the Declaration below, attach it to the subpoena or a copy of the subpoena and return them with the documents or things you produce to the Court under the subpoena.

If you declare that the material you produce is copies of documents, the Registrar may, without further notice to you, destroy the copies 4 months after the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is or includes any original document, the Court will return all the material to you at the address specified by you in the Declaration below.

Declaration by Addressee (subpoena recipient)

(*Tick the relevant option and complete as appropriate*)

☐ **All** the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies when they are no longer required, without further notice to me.

☐ **Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. When the material is no longer required, all the material should be returned to me at the following address:

_____

_____

_____

_____

_____

_____

[*Signature of addressee*]

_____

[*Name of addressee*]

_____

[*Date*]

FORM 45A

rule 45.04(2)

SUMMONS ON ORIGINATING MOTION

[*heading as in originating process*]

To: [*identify each party or other person to whom summons is addressed and state address of each person not a party*.]

You are summoned to attend before the Court on the hearing of an application by the plaintiff for judgment or an order in respect of the relief or remedy sought in the originating motion as follows:– [*describe the judgment or order sought*].

The application will be heard before a Judge (*or* an Associate Judge) in the Court, Supreme Court Building, State Square (or Parsons Street, Alice Springs), on [e.g. 20 June 20] at a.m. [*or* p.m.] or so soon afterwards as the business of the Court allows.

(*Where returnable before an Associate Judge*) The Associate Judge may, as appropriate:

(a) where the Associate Judge has authority to give the judgment or make the order sought by the plaintiff, hear and determine the application;

(b) by consent of the defendant, give the judgment or make the order;

(c) refer the application to a Judge for hearing and determination;

(d) place the proceeding in the list of cases for trial and give directions for the filing and service of affidavits or otherwise.

FILED [e.g. 15 June 20].

FORM 46A

rule 46.04(1)

SUMMONS

[*heading as in originating process*]

To: [*identify each party or other person to whom summons is addressed and state address of each person not a party*].

You are summoned to attend before the Court on the hearing of an application by the for [*describe the order sought*].

The application will be heard before a Judge in the Court [*or* an Associate Judge in the Court] Supreme Court Building, State Square, Darwin (*or* Parsons St., Alice Springs) on [e.g. 20 June, 20] at a.m. [*or* p.m.] or so soon afterwards as the business of the Court allows.

FILED [e.g. 15 June 20].

This application is made in pursuance of (e.g. Order Rule *or as the case may be*).

FORM 53A

rule 53.07(2)

JUDGMENT IN SUMMARY PROCEEDING FOR RECOVERY OF LAND

[*heading as in Form 5E*]
[*other particulars as in Form 60A*]

THE JUDGMENT OF THE COURT IS THAT:

The plaintiff recover possession of the land described in the originating motion as [*description of land**] [*where there is a defendant:* and that the defendant pay the plaintiff $ costs] [*or* pay the plaintiff's costs to be assessed].

[*other particulars as in Form 60D*]

* *Note: The land should be so described as to be physically identifiable.*

FORM 53B

rule 53.08(3)

WARRANT OF POSSESSION IN SUMMARY PROCEEDING FOR RECOVERY OF LAND

[*heading as in Form 5E*]

TO THE SHERIFF:

In respect of the judgment dated [e.g. 20 April 19] by which it was adjudged that the plaintiff recover possession of the land described in the schedule [*where there is a defendant:* and that the defendant pay the plaintiff $ costs *or* the plaintiff's costs, which have been taxed at $], ENTER the land and cause the plaintiff to have possession of it [*where there is a defendant, and levy on the property of the defendant which is authorised by law to be taken in execution for*] [*continue as in Form 68A as for a levy for costs only*] *AND* INDORSE [*continue as in Form 68A*].

SCHEDULE

[*Describe land as in judgment*]

Issued [e.g. 15 June 19].

BY THE COURT

REGISTRAR

Issued at the request of the plaintiff.

[*Where there is a defendant*] The last known address of the defendant [*continue as in Form 68A*].

FORM 55A-A

rule 55A.01(2)

NOTICE OF PROPOSED APPLICATION FOR APPOINTMENT AS PUBLIC NOTARY

In the Supreme Court of the Northern Territory of Australia.

After 14 days from publication of this notice, an application under section 4(1) of the *Public Notaries Act 1992* for appointment as a public notary will be filed by (*name*) of (*address*).

FORM 57A

rule 57.03(3)

WRIT OF HABEAS CORPUS

[*heading as in Form 5A*]

TO THE DEFENDANT

of [*address*]

HAVE the plaintiff [*or name of person restrained, if not the plaintiff*] before the Judge in the Court, Supreme Court Building, State Square, Darwin (*or* Parsons Street, Alice Springs) on [e.g. 20 June, 19] and thereafter submit to the further order of the Court as to his custody.

YOU ARE REQUIRED to make a return to this writ by filing a notice stating the grounds of detention of the plaintiff [*or as the case may be*] and serving a copy on the plaintiff at or before the time referred to above.

DISOBEDIENCE TO THIS WRIT is a contempt of court which may be punished by imprisonment or fine or both.

ISSUED [e.g. 15 June 19].

By the Court

FORM 59A

rule 59.05(4)

NOTICE OF JUDGMENT

[*heading as in originating process*]

To [*name*]
of [*address*]

TAKE NOTICE THAT:

1. A judgment [or An order] of the Court was given [or made] on [e.g. 20 April 19] by which it was [*state substance of judgment or order*].

2. From the time of service of this notice you [*or some other person, naming him, as the case may be*] will be bound by the judgment [*or* order] to the same extent as you [or he] would have been if you [*or* he] were a party on the day the judgment [*or* order] was given [*or* made].

3. Without filing an appearance, you [*or the other person*] may apply by summons filed within 14 days after service of this notice for an order that the judgment [*or* order] be set aside or varied.

4. After filing an appearance, you [*or the other person*] may attend on the taking of the account or the making of the inquiry under the judgment [*or* order].

Dated [e.g. 15 June 19].

[*Signed*]

FORM 60A

rule 60.08

GENERAL FORM OF JUDGMENT GIVEN
[*heading as in originating process*]

JUDGMENT

JUDGE [or ASSOCIATE JUDGE]: [e.g. Smith J or Jones AsJ

DATE GIVEN: [e.g. 20 June 20]

ORIGINATING PROCESS: [e.g. Writ] [*state whether by writ, by originating motion or otherwise*]

HOW OBTAINED: [e.g. By plaintiff's summons dated 15 June 20] [*state whether on application by or without summons before trial with date of summons or application, or at trial with date of commencement of trial*]

APPEARANCE: [*set out appearance or non-appearance of any person entitled to attend and, if attending, whether by counsel or solicitor*]

OTHER MATTERS: [*state any finding of jurisdictional fact, undertaking of party or other matter as directed by Court*]

THE JUDGMENT OF THE COURT IS THAT:

1.

2. [*terms of judgment*]

3.

DATE AUTHENTICATED

REGISTRAR

FORM 60B

rule 60.08

GENERAL FORM OF JUDGMENT ENTERED

[*heading as in originating process*]

JUDGMENT

DATE ENTERED:

ORIGINATING PROCESS: [*state whether by writ, by originating motion or otherwise*]

HOW OBTAINED: [*state whether in default of appearance or defence or otherwise*]

THE JUDGMENT OF THE COURT IS THAT:

1.

2. [*terms of judgment*]

3.

REGISTRAR

FORM 60C

rule 60.08

GENERAL FORM OF ORDER

[*heading as in originating process*]

ORDER

JUDGE [*or* ASSOCIATE JUDGE]:

DATE MADE:

ORIGINATING PROCESS: [*state whether by writ, by originating motion or otherwise*]

HOW OBTAINED: [*state whether on application by or without summons, identifying party filing summons or, if no summons, making application, and whether application made before trial with date of summons or application, or at trial with date of commencement of trial*]

APPEARANCE: [*set out appearance or non-appearance of any person entitled to attend and, if attending, whether by counsel or solicitor*]

OTHER MATTERS: [*state any finding of jurisdictional fact, undertaking of party or other matter as directed by Court*]

THE COURT ORDERS THAT:

1.

2. [*terms of order*]

DATE AUTHENTICATED:

REGISTRAR

FORM 60D

rule 60.08

JUDGMENT AT TRIAL BY JUDGE WITHOUT A JURY

[*heading as in originating process*]

JUDGE:

DATE GIVEN:

ORIGINATING PROCESS:

HOW OBTAINED: Trial, commenced on [e.g. 15 June 19].

APPEARANCE:

OTHER MATTERS:

THE JUDGMENT OF THE COURT IS THAT:

[*e.g.*]

The defendant by himself his servants and agents be perpetually restrained from [*as the case may be*].

or

There be judgment for the defendant together with costs to be taxed.

DATE AUTHENTICATED:

REGISTRAR

FORM 60E

rule 60.08

JUDGMENT AT TRIAL BY JUDGE WITH A JURY

[*heading as in originating process*]

JUDGE:

DATE GIVEN:

ORIGINATING PROCESS:

HOW OBTAINED: Trial with a jury of (number), commenced on , 19 .

APPEARANCE:

OTHER MATTERS: [*set out findings of jury*]

THE JUDGMENT OF THE COURT IS THAT:

[*e.g.*]

The defendant pay the plaintiff $ and costs to be taxed.

or

There be judgment for the defendant together with costs to be taxed.

DATE AUTHENTICATED:

REGISTRAR

FORM 60F

rule 60.08

JUDGMENT OR ORDER AT TRIAL OF PRELIMINARY QUESTION

[*heading as in originating process*]

JUDGE:

DATE GIVEN [*or* MADE]:

ORIGINATING PROCESS:

HOW OBTAINED: Trial of question pursuant to order [*identify order*], commenced on

APPEARANCE:

OTHER MATTERS: The Court finds that:

[*state findings of Court*]

THE JUDGMENT OF THE COURT IS THAT:

[*e.g.*]

The defendant pay the plaintiff $ and costs to be taxed.

There be judgment for the defendant together with costs to be taxed.

[*or* THE COURT ORDERS THAT:]

[*e.g.*]

The proceeding be set down for trial at [*or as the case may be*]

DATE AUTHENTICATED:

REGISTRAR

FORM 60G

rule 60.08

DEFAULT JUDGMENT FOR DEBT

[*heading as in originating process*]

DATE ENTERED:

ORIGINATING PROCESS:

HOW OBTAINED: In default of appearance [*or* defence].

THE JUDGMENT OF THE COURT IS THAT:

[*e.g.*] The defendant pay the plaintiff $ and $ costs [or costs to be taxed].

REGISTRAR

FORM 60H

rule 60.08

DEFAULT JUDGMENT FOR RECOVERY OF LAND

[*heading as in originating process*]

DATE ENTERED:

ORIGINATING PROCESS:

HOW OBTAINED: In default of appearance [*or* defence].

THE JUDGMENT OF THE COURT IS THAT:

The plaintiff recover possession of the land described in the indorsement of claim on the writ as [*description of land**] and that the defendant pay the plaintiff $ costs [*or* pay the plaintiff's costs to be taxed.]

REGISTRAR

* *Note: The land should be so described as to be physically identifiable.*

FORM 60J

rule 60.08

INTERLOCUTORY OR INTERLOCUTORY AND FINAL JUDGMENT FOR DAMAGES IN DEFAULT

[*heading as in originating process*]

DATE INTERLOCUTORY JUDGMENT ENTERED:

ORIGINATING PROCESS:

HOW OBTAINED: In default of appearance [*or* defence].

THE JUDGMENT OF THE COURT IS THAT:

The defendant pay the plaintiff damages to be assessed and costs to be taxed.

JUDGE [*or* ASSOCIATE JUDGE]

DATE FINAL JUDGMENT GIVEN:

HOW OBTAINED: Assessment of damages pursuant to interlocutory judgment.

APPEARANCE:

THE JUDGMENT OF THE COURT IS THAT:

The defendant pay the plaintiff $, the amount of the assessed damages and costs to be taxed [*or as the case may be*]

DATE AUTHENTICATED:

REGISTRAR

[*Note: This form is a combined form of interlocutory and final judgment. The plaintiff may at his option enter interlocutory judgment by omitting the words below the line in the form and obtain the authentication of a separate final judgment in Form 60K.*]

FORM 60K

rule 60.08

FINAL JUDGMENT FOR DAMAGES OR VALUE IN DEFAULT

[*heading as in originating process*]

JUDGE [*or* ASSOCIATE JUDGE]

DATE FINAL JUDGMENT GIVEN:

ORIGINATING PROCESS:

HOW OBTAINED: Assessment of damages [*or* value] pursuant to interlocutory judgment entered on in default of appearance [*or* defence].

APPEARANCE:

THE JUDGMENT OF THE COURT IS THAT:

The defendant pay the plaintiff $, the amount of the assessed damages [*or* the assessed value of $] and costs to be taxed [*or as the case may be*].

DATE AUTHENTICATED:

REGISTRAR

FORM 60L

rule 60.08

INTERLOCUTORY OR INTERLOCUTORY AND FINAL JUDGMENT FOR DETENTION OF GOODS IN DEFAULT

[*heading as in originating process*]

DATE INTERLOCUTORY JUDGMENT ENTERED:

ORIGINATING PROCESS:

HOW OBTAINED: In default of appearance [*or* defence].

THE JUDGMENT OF THE COURT IS THAT:

The defendant deliver to the plaintiff the goods described in the indorsement of claim on the writ as [*description of goods*] or pay the plaintiff the value of the goods to be assessed [and also damages for their detention to be assessed] and costs to be taxed.

or

The defendant pay the plaintiff the value of the goods described in the indorsement of claim on the writ to be assessed [and also damages for their detention to be assessed] and costs to be taxed.

JUDGE [*or* ASSOCIATE JUDGE]

DATE FINAL JUDGMENT GIVEN:

HOW OBTAINED: Assessment of [*complete appropriately*] pursuant to interlocutory judgment.

APPEARANCE:

THE JUDGMENT OF THE COURT IS THAT:

The defendant pay the plaintiff $, the amount of the assessed value of $ [and the assessed damages or the assessed damages] and costs to be taxed [*or the case may be*]

DATE AUTHENTICATED:

REGISTRAR

[*Note: This form is a combined form of interlocutory and final judgment. The plaintiff may at his option enter interlocutory judgment by omitting the words below the line in the form and obtain the authentication of a separate final judgment in Form 60K.*]

FORM 63A

SUMMONS FOR TAXATION OF COSTS

(*heading as in originating process*)

rule 63.36(3)

To: [identify each party or other person to whom summons is addressed and state address of each person not a party.]

You are summoned to attend before the Taxing Master, Supreme Court Building, State Square, Darwin (*or as the case may be*) on the day of 19 at a.m. [or p.m.] on the hearing of an application by [identify party] for the costs which are payable to [that party] by [identify party liable for costs] under [identify the judgment, etc., by which payable] to be taxed in accordance with the bill of costs served on 19 [or with this summons].

Filed [e.g., 15 June, 19].

This summons was filed by of solicitor for the

Whether or not you attend on the day for hearing referred to above, the costs claimed in the bill may be allowed unless within 14 days after service on you of this summons and the bill you file and serve on the [identify party] a notice identifying by list each item in the bill to which you object and stating specifically and concisely the grounds of objection to each item. Failure to file such a notice amounts to an admission of the items to which you have taken no objection.

FORM 64A

SPECIAL CASE

(*or as the case may be*)

rule 64.05(e)

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT

NO.

IN THE MATTER of (*set out relevant legislative provision*) AND IN THE MATTER of a Special Case (*or as the case may be*) stated by (*specify court or as the) case may be*), in (*identify proceedings*) for the opinion of the Court

BETWEEN

(*full name*)
Applicant

AND

(*full name*)
Respondent

SPECIAL CASE (*or as the case may be*) formulated for the opinion of the Court in pursuance of (*state relevant provision*).

1. ...

2. (*set out facts*) ...

3. ...

QUESTION OF LAW

The question for the opinion of the Court is

The address for service of the applicant is:

The address for service of the respondent is:

DATED (e.g. 20 June 19)

(*signature of Local Court Judge or as the case may be.*)

FORM 68A

rule 68.08

WARRANT OF SEIZURE AND SALE

[*heading as in originating process*]

TO THE SHERIFF:

In respect of the judgment [or order] dated [e.g. 20 June 19] by which it was adjudged [*or* ordered] that [*judgment debtor*] pay $ to [*judgment creditor*] together with costs, which have been taxed at $, [*or* by which it was ordered that] [*judgment debtor*] pay certain costs to [*judgment creditor*], which have been taxed at $, LEVY ON THE PROPERTY of [*judgment debtor*] which is authorised by law to be taken in execution for:

(a) $, being $ now due and payable exclusive of taxed costs and $ for taxed costs; [*or* $ for taxed costs];

(b) $, being interest at per centum per annum, the rate for the time being fixed in accordance with law, on [*amount due and payable exclusive of taxed costs*] from the date of the judgment [*or* order];

(c) $, being interest at per centum per annum, the rate for the time being fixed in accordance with law, on [*amount of taxed costs*] from 19 [*date of taxation of costs*];

(d) $, being the costs of this [and of any prior] warrant; and

(e) your fees and expenses for this [and for any prior] warrant,

AND PAY the amount so levied other than your fees and expenses to [*judgment creditor*] or otherwise as the law requires AND INDORSE on this warrant immediately after you have performed all your obligations under it a statement of the date, time and place at which you have executed or attempted to execute the warrant and the results of the execution and send a copy of the statement to [*judgment creditor*].

Issued , 19 .

REGISTRAR

Issued at the request of [*judgment creditor*].

The last known address of [*judgment debtor*] is [*add if address is different*] the address of the place where it is believed that property of [*judgment debtor*] may be found is].

FORM 68B

rule 68.08

WARRANT OF POSSESSION

[*heading as in originating process*]

TO THE SHERIFF:

In respect of the judgment dated [e.g. 20 June 19] by which it was adjudged that [*identify party or other person against whom judgment was entered or given*] recover possession of the land described in the schedule and that [*identify party or other person for whom judgment was ordered or given*] pay [*identify party or other person*] costs [*or* pay $ to the [*identify party or other person*] together with costs], which have been taxed at $, ENTER THE LAND and cause [*identify party or other person*] to have possession of it, AND LEVY on the property of [*identify party or other person*] which is authorized by law to be taken in execution for [*continue as in Form 68A according to whether the levy is for a judgment amount and costs or for costs only*] AND INDORSE [continue as in Form 68A].

SCHEDULE

[*Describe land as in judgment*]

Issued , 19 .

REGISTRAR

Issued at the request of [*identify party or other person for whom judgment was entered or given*].

The last known address of [*continue as in Form 68A*].

FORM 68C

rule 68.08

WARRANT OF DELIVERY

[*heading as in originating process*]

TO THE SHERIFF:

In respect of the judgment [*or* order] dated [e.g. 20 June, 19] by which it was adjudged [*or* ordered] that [*identify party or other person against whom judgment was entered or given or order made*] deliver the goods described in the schedule to [*identify party or other person for whom judgment was entered or given or order made*] and pay [$ damages for their detention and] costs, which have been taxed at $, CAUSE THE GOODS TO BE DELIVERED to [*identify party or other person*] AND LEVY on the property of [*identify party or other person*] which is authorized by law to be taken in execution [*continue as in Form 68A according to whether the levy is for a judgment amount and costs or for costs only*] AND INDORSE [*continue as in Form 68A*].

or

[*where judgment or order is for delivery of goods or payment of their assessed value with or without an award of damages for their detention:*]

In respect of the judgment [or order] dated [e.g. 20 June 19] by which it was adjudged [or ordered] that [identify party or other person] deliver the goods described in the schedule to [identify party or other person] or pay $ their assessed value [and $ damages for their detention] and costs, which have been taxed at $, CAUSE THE GOODS TO BE DELIVERED to [identify party or other person] AND LEVY on the property of [identify party or other person], which is authorized by law to be taken in execution:

(a) if you cannot cause the goods to be so delivered, for $ [*assessed value of the goods*];

(b) for $, being $ [*amount of damages*] due and payable exclusive of taxed costs and $ for taxed costs; [*or*

(c) for $ for taxed costs;]

[*continue as in Form 68A according to whether the levy is for interest on damages and costs or on costs only*] *AND INDORSE* [*continue as in Form 68A*].

SCHEDULE

[*Describe goods as in judgment.*]

Issued 19 .

REGISTRAR

Issued at the request of [*identify party or other person*].

The last known address of [*continue as in Form 68A*].

FORM 69A

rule 69.07(3)

ADVERTISEMENT OF SALE BY THE SHERIFF

On 19 at a.m. [*or* p.m.] at (unless process is stayed or satisfied) all the estate and interest (if any) of the [debtor] of (*last known address*) as [proprietor of an estate in fee simple in the land described in Certificate of Title Volume Folio upon which is erected (*e.g.* a brick factory known as No. Street)].

[Registered Mortgage No. affects the said estate and interest (*or as the case may be*)].

Terms: Cash only.

Sheriff

FORM 71A

rule 71.06(2)

GARNISHEE SUMMONS

In the Supreme Court of the Northern Territory of Australia		No. of 19
Between	A.B.	Judgment creditor
	and	
	C.D.	Judgment debtor
	and	
	X.Y.	Garnishee

To [*name of garnishee*]
of [*address*].

You are summoned to attend before the Court on the hearing of an application by the judgment creditor for an order that you, the garnishee, pay to the judgment creditor the debt due from you to the judgment debtor [*or* the debt which will become due from you to the judgment debtor on 19] [*or* pay to the judgment creditor in such amount or amounts and at such time or times as the Court may direct the debt accruing from you to the judgment debtor] [*or* the debt which will accrue from you to the judgment debtor on 19] or so much of that debt as may be sufficient to satisfy a judgment recovered against the judgment debtor by the judgment creditor in the Court on [e.g. 20 June 19] for $, interest accrued and accruing on the judgment and the costs of the judgment creditor of the garnishee proceedings. The sum required to satisfy the judgment, interest and costs is $, and is made up as follows:

(a) $, the amount due and unpaid under the judgment;

(b) $, the amount of interest accrued and accruing;

(c) $, the costs of the garnishee proceeding.

The debt in respect of which this summons is filed and served is [identify the debt in accordance with Rule 71.06(1)].

This summons is filed and served by order of the Court made on 19, .

The application will be heard on [*continue as Form 46A*].

[*insert the following at end of summons*]

NOTE: [*Where the debt is due or accruing*] Upon service of this summons the debt is bound in your hands to the extent of the whole amount of the debt, namely, $ [*or* to the extent of $] to answer the sum of $ required to satisfy the judgment, interest and costs.

[*or where the debt is not yet due or accruing*]

In the event that the debt becomes due or accrues before the day for hearing named in the summons, upon its becoming due or accruing the debt is bound in your hands to the extent of the whole amount of the debt, namely, $ [*or* to the extent of $] to answer the sum of $ required to satisfy the judgment, interest and costs.

FORM 71B

rule 71.09(4)

GARNISHEE ORDER

(*where garnishee debt less than judgment debt, interest and judgment creditor's costs*)
[*heading as in Form 71A*]
[*other particulars as in Form 60C*]

THE COURT ORDERS THAT:

1. The garnishee [*where appropriate insert here:* (after deducting $ for his costs of the garnishee application)] pay immediately to the judgment creditor $, the debt due from him to the judgment debtor and that in default of payment execution may issue against the garnishee.

[*or where the debt is not due but accruing*]

pay to the judgment creditor $, the debt accruing from him to the judgment debtor, as follows [*state the amount or amounts to be paid and the time or times of payment as directed by the Court*] and that in default of payment execution may issue against the garnishee.

2. The costs of the judgment creditor of the garnishee application, being on amount of $, be added to the judgment debt and the interest accrued on that debt and be retained by the judgment creditor out of the money recovered by him under this order in priority to the judgment debt and interest.

DATE AUTHENTICATED:

REGISTRAR

FORM 71C

rule 71.09(4)

GARNISHEE ORDER

(*where garnishee debt greater than judgment debt, interest and judgment creditor's costs*)
[*heading as in Form 71A*]
[*other particulars as in Form 60C*]

THE COURT ORDERS THAT:

1. The garnishee pay immediately to the judgment creditor $, being so much of the debt due from him to the judgment creditor as is sufficient to satisfy the judgment debt, the interest accrued on that debt and the costs of the judgment creditor of the garnishee proceedings and that in default of payment execution may issue against the garnishee.

[*or where the debt is not due but accruing*]

pay immediately to the judgment creditor $, being so much of the debt accruing from him to the judgment debtor as is sufficient to satisfy the judgment debt, the interest accrued on that debt and the costs of the judgment creditor of the garnishee proceedings as follows [*state the amount or amounts to be paid and the time or times of payment as directed by the Court*] and that in default of payment execution may issue against the garnishee.

[*where appropriate add*]

2. The garnishee be at liberty to retain $ for his costs of the garnishee proceedings out of the balance of the debt due [*or* accruing] from him to the judgment debtor.

DATE AUTHENTICATED:

REGISTRAR

FORM 72A

rule 72.02(3)

ATTACHMENT OF EARNINGS SUMMONS

[*heading as in originating process*]

To the [*judgment debtor*]
of [*address*]

You are summoned to attend before the Court on the hearing of an application by [*judgment creditor*] for an order that the earnings of [*judgment debtor*] be attached to satisfy the judgment against [*judgment debtor*] in favour of [*judgment creditor*] in the Supreme Court dated [e.g. 20 June 19] for $, in respect of which judgment $ is due and unpaid, made up as follows:

(a) $, the amount due under the judgment;

(b) $, the amount of costs; and

(c) $, the amount of interest.

The application will be heard [*continue as in Form 46A*].

FORM 72B

rule 72.02(3)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ATTACHMENT OF EARNINGS ORDER

[*heading as in originating process*]

I, of , the [judgment creditor], make oath and say that:

1. By a judgment dated [e.g. 20 June 19] it was adjudged that [*judgment debtor*] pay to me the sum of $ together with costs.

2. In respect of that judgment, $ is due and unpaid, made up as follows:

(a) $, the amount due under the judgment;

(b) $, the amount of costs; and

(c) $, the amount of interest.

or

[*Judgment debtor*], the judgment debtor, has persistently failed to comply with an order with respect to the judgment made by the Supreme Court on 19 that [*judgment debtor*] [*insert terms of order not complied with*].

3. [*Judgment debtor*], the judgment debtor, is employed by of as a [*occupation*].

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 72C

rule 72.02(4)

JUDGMENT DEBTOR'S STATEMENT OF FINANCIAL SITUATION

[*heading as in originating process*]

To [*judgment debtor*]:

of [*address*]

You are required to complete this form by giving the information requested below. The completed form signed by you must be sent to [*judgment creditor*] at [*address for service*] before 19 [*day for hearing named in the summons*]. If you do not do this, the Court may make an order that you attend before the Court and give the information.

Signature of judgment

creditor's solicitor:

1. Amount and Source of Weekly Income

Occupation: _____
If working for an employer:
Name and address of employer: _____
Gross wage: _____
Current overtime (if any): _____
Car and other allowances and commission _____
If self-employed or in partnership:
Average pre-tax earnings for last 12 months: _____

If unemployed:
State length of last employment, date when last employment ceased and gross weekly amount earned: _____
Pension or other benefit received:
Workers' compensation received:
Maintenance received:
Superannuation received:
Board or rent received: _____
Average weekly interest on deposits in ADIs (e.g. banks, credit unions or building societies), debentures etc.: _____
Average weekly dividend on shares: _____
Other income (give particulars): _____

Total Gross Weekly Income: _____

2. Property and Assets

Land, including vacant land:

For each piece of land:
Market value: _____
Amount of mortgage: _____ _____

Net value:

Motor vehicle:

For each motor vehicle:
Year, make and model: _____
Amount owing to finance company: _____

Net value: Deposits in ADIs
(e.g. banks, credit unions, building societies etc.): _____
Other investments including shares,
debentures, bonds:

Money owing to you:

From , $
From , $

Total:

Value of interest in partnership or business:

Furniture, household and personal goods:

Market value

Amount owing to finance company

Net value:

Life insurance policies:

Give particulars and state surrender value of each
policy:

Other assets (give particulars):

Total Property and Assets:

3. Debts, Liabilities and Other Financial Obligations

(a) Weekly expenses

Income tax: _____
Superannuation: _____
Housing (mortgage, rent, board, hospital or institution): _____
Local government rates: _____
Water and sewerage rates: _____
Land tax: _____
Child care expenses incurred for the purpose of earning income: _____
Maintenance actually paid: _____

Instalment payments such as for household goods or tools of trade:

To , $

To , $

Total: _____

Electricity and gas: _____
Food: _____
Other general household expenses: _____
Motor vehicle expenses (registration, insurance, maintenance, fuel): _____
Fares: _____
Telephone: _____
Insurance policy premiums: _____
School fees and other school expenses: _____
Clothing and shoes: _____
Medical and chemist expenses: _____
Entertainment: _____
Payments on court orders and fines: _____
Other expenses (give particulars): _____

Total: _____

(b) Other debts outstanding

Give particulars of debts under hire purchase, leasing credit card or other credit contracts, department store accounts, guarantee or personal loan:

$, to , due on

$, to , due on

Total: _____

4. If any of the assets referred to in paragraph 2 above is owned jointly, identify each asset and give the name of the other owner or owners:

.. ..

.. ..

5. If any of the debts referred to in paragraph 3 is due jointly, identify each debt and give the name of the other debtor or debtors:

.. ..

.. ..

6. Give particulars of any other circumstances which affect the financial situation of the judgment debtor such as the number and age of dependants, marital status and health:

.. ..

.. ..

Signature of judgment debtor:

Date:

FORM 72D

rule 72.04(7)

SUMMONS FOR AN ORDER TO ATTEND FOR EXAMINATION OR FURNISH PARTICULARS

[*heading as in originating process*]

To: [judgment debtor]

or

[*person indebted to or employer of judgment debtor*]

of [*address*].

You are summoned to attend before the Court on the hearing of an application by [*judgment creditor*] for an order that [*set out the order sought*].

The application will be heard [*continue as in Form 46A*].

FORM 72E

rule 72.04(7)

AFFIDAVIT IN SUPPORT OF SUMMONS FOR AN ORDER TO ATTEND FOR EXAMINATION OR FURNISH PARTICULARS

[*heading as in originating process*]

I, of , the judgment creditor, make oath and say that:

1. By a judgment dated [e.g. 20 June 19] it was adjudged that [*judgment debtor*] should pay to me $ together with costs.

2. In respect of the judgment, the sum of $ is due and unpaid, made up as follows:

(a) $, the amount due under the judgment;

(b) $, the amount of costs; and

(c) $, the amount of interest.

or

[*Judgment debtor*] has persistently failed to comply with an order with respect to the judgment made by the Supreme Court on 19 that [*judgment debtor*] [*insert terms of order not complied with*].

3. I seek to obtain an order for the attachment of the earnings of [*judgment debtor*].

4. The place of residence of [*judgment debtor*] is .

5. On 19 , I was informed by

of and verily believe that [*judgment debtor*] is employed by of as a [*occupation*] and is a person to whom earnings are payable or likely to become payable by the said employer.

or

On 19, I was informed by
of and verily believe that [*judgment debtor*] is employed by and is a person to whom earnings are payable or likely to become payable, but I do not know the name of whereabouts of the employer of [*judgment debtor*] or what the earnings of the [*judgment debtor*] are.

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 72F

rule 72.04(8)

ORDER THAT JUDGMENT DEBTOR ATTEND OR GIVE STATEMENT

[*heading as in originating process*]

[*Follow Form 60C except as below.*]

HOW OBTAINED:

Summons by [*judgment creditor*] dated , 20 in aid of an application for an attachment of earnings orders against [*judgment debtor*] in respect of a judgment dated [e.g. 20 June 20] for $ together with costs.

THE COURT ORDERS THAT:

[*Judgment debtor*], the judgment debtor, attend before the Judge (*or* an Associate Judge) in the Court, Supreme Court Building, State Square, Darwin (*or* Parsons Street, Alice Springs), on 20 at a.m. (*or* p.m.) to be examined concerning the means and ability of [*judgment debtor*] comply with the judgment [*or* to state to the Court the following particulars, namely:

[*complete appropriately*].

or

[*Judgment debtor*], the judgment debtor, furnish to the Court on or before 20 a statement in writing signed by him, her or it (*as the case may be*) setting forth the following particulars, namely:

[*complete appropriately*].

FORM 72G

rule 72.04(8)

ORDER THAT PERSON INDEBTED TO OR EMPLOYER OF JUDGMENT DEBTOR GIVE STATEMENT

[*heading as in originating process*]

[*Follow Form 60C except as below.*]

HOW OBTAINED:

Summons by [*judgment creditor*] dated 19 in aid of an application for an attachment of earnings order against [judgment debtor] in respect of a judgment dated [e.g. 20 June 19] for $ together with costs.

OTHER MATTERS:

It was made to appear to the Court that (*person indebted*) is indebted to [*or* is the employer of] [*judgment debtor*].

THE COURT ORDERS THAT:

(*Person indebted*) give to the Court on or before (*date*), 19 a statement in writing signed by him or on his behalf containing the following particulars of his indebtedness to the [judgment debtor] that became payable during the period 19 to 19 .

(*complete appropriately*)

FORM 72H

rule 72.05(7)

ATTACHMENT OF EARNINGS ORDER

[*heading as in originating process*]

[*Follow Form 60C except as below.*]

OTHER MATTERS:

The Court finds that:

1. By a judgment dated [e.g. 20 June 19] it was adjudged that [*judgment debtor*] pay to [*judgment creditor*] $ together with costs.

2. $ is due and unpaid in respect of the judgment.

or

2. [*Judgment debtor*] has persistently failed to comply with an order with respect to the judgment made by the Court on 19 that he, she or it (*as the case may be) [insert terms of order not complied with*].

3. [*Judgment debtor*] was served with a copy of the summons in this proceeding and has had a reasonable opportunity of attending the hearing.

4. [*Judgment debtor*] is employed by at in the Northern Territory as a [*occupation*] and is a person to whom earnings are payable or are likely to become payable by that employer.

THE COURT ORDERS THAT:

1. (*The employer*), the abovenamed employer, on each pay-day whilst [*judgment debtor*] is employed by him or until this order ceases to have effect make payments out of the earnings of [*judgment debtor*] at the rate calculated in accordance with this order to [*name and address of person to whom payments are to be made*] for or towards securing payment of $, being the amount of $ due and unpaid in respect of the judgment and the amount of $ for costs.

2. For the purpose of calculating the normal deduction for the purposes of paragraph 4 of this order the normal deduction rate shall be $ each pay-day [*or* on the pay-day(s) falling on 19 and thereafter $ each pay-day].

3. The protected earnings rate, that is, the rate below which the earnings of [*judgment debtor*] may not be reduced by a payment under this order, shall be $ in respect of each pay-day.

4. [*The employer*] shall, in respect of each pay-day whilst the order is in force, if the net earnings of [*judgment debtor*] exceed the sum of:

(a) the protected earnings of [*judgment debtor*]; and

(b) so much of any amount by which the net earnings that became payable on any previous pay-day were less than the protected earnings in relation to that pay-day as has not been made good on any previous pay-day,

pay, so far as that excess permits, to [*judgment creditor*] the normal deduction in relation to that pay-day and so much of the normal deduction in relation to any previous pay-day as was not paid on that pay-day and has not been paid on any other previous pay-day.

[*complete as in Form 60C*)

NOTE – An attachment of earnings order does not come into force until the expiration of 7 days after the day on which the order is served on the person to whom the order is directed.

FORM 72J

rule 72.06(3)

NOTICE TO EMPLOYER

[*heading as in originating process*]

The attachment of earnings order served with this notice requires you to deduct from earnings becoming payable to [*judgment debtor*] as your employee, from pay-day to pay-day until the order is discharged or suspended, the amount referred to in the order as the normal deduction, and to pay that amount to

of towards securing payment of $, being the amount of $ due and unpaid in respect of the judgment referred to in the order and $ for costs.

"Earnings" in relation to [*judgment debtor*] means any amounts payable to him or her (*as the case may be*):

(a) by way of wages or salary, including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary; or

(b) by way of pension, including:

(i) an annuity in respect of past services whether or not the services were rendered to the person paying the annuity; and

(ii) periodical payments in respect of or by way of compensation for the loss, abolition or relinquishment, or any diminution in the emoluments, of any office or employment,

but does not include a pension payable to [*judgment debtor*] under the Commonwealth Acts known as the *Social Security Act 1947* (as amended from time to time) the *Repatriation Act 1920* (as amended from time to time) or the *Seamen's War Pensions and Allowances Act 1940* (as amended from time to time).

Where 2 or more attachment of earnings orders are directed to you with respect to earnings payable or likely to become payable by you to [*judgment debtor*], you are required to:

(a) comply with those orders according to the respective dates on which they took effect, and disregard any order until an earlier order has been complied with; and

(b) comply with any order as if the earnings to which it relates were the residue of the earnings of [*judgment debtor*] after the making of any payment under an earlier order.

You are required to give [*judgment debtor*] a notice specifying particulars of the payments made by you under the attachment of earnings order.

In addition to deducting the amount required to be deducted under an attachment of earnings order, you are entitled to make a further deduction of $3 from the earnings of [*judgment debtor*] towards the clerical and administrative costs of making payments under the order. You are required to give [*judgment debtor*] notice of the amount deducted for this purpose.

If you are in doubt whether payments to [*judgment debtor*] of a particular class or description are earnings for the purpose of the attachment of earnings order you may apply to the Court to have that question determined.

You must give notice in writing to the Registrar:

(a) if you are not the employer of [*judgment debtor*] at the time the order is served, immediately after service; or

(b) if you are the employer of [*judgment debtor*] at the time the order is served, but later cease to be his or her (*as the case may be*) employer immediately, after you cease to be employer.

A person who dismisses an employee, injures him in his employment or alters his position to his prejudice because an attachment of earnings order has been made or because the person is required to make payments under the order in relation to the employee may be dealt with as for contempt of court.

Dated (e.g. 20 June 19)

REGISTRAR

FORM 72K

rule 72.06(3)

NOTICE BY EMPLOYER THAT JUDGMENT DEBTOR IS NOT IN HIS EMPLOY

[*heading as in originating process*]

To the Registrar,

of [*address*].

And to [*judgment creditor*]

of [*address*].

I refer to the order made on 19 that I make payments to [*judgment creditor*] out of the earnings of (*judgment debtor*) and give notice that I am not the employer of [*judgment debtor*] [or I ceased to be the employer of [*judgment debtor*] on 19 .]

Dated

[*signature of employer*]

FORM 72L

rule 72.11(3)

NOTICE OF CESSATION OF ATTACHMENT OF EARNINGS ORDER

[*heading as in originating process*]

To: [*employer*] of , the employer of [*judgment debtor*].

The attachment of earnings order made on , 19 whereby you were ordered to make payments for or towards securing payment of the amount due and unpaid in respect of a judgment in favour of [*judgment creditor*] out of the earnings payable to [*judgment debtor*], ceased to have effect on , 19 because [*state reason*].

Dated (e.g. 20 June 19)

REGISTRAR

NOTE – Where the order ceases to have effect, you will not incur any liability in consequence of your treating it as still in force at any time before the expiration of 7 days after this notice or a copy of the order discharging the earlier order, as the case may be, is served on you.

FORM 73A

rule 73.05(2)

CHARGING SUMMONS

[*heading as in originating process*]

To [*name*]
of [*address*].
And to [*judgment debtor*].

You are summoned to attend before the Court on the hearing of an application by [*judgment creditor*] for an order that certain securities [*or as the case may be*] in which [*judgment debtor*] has a beneficial interest, namely, [*give particulars sufficient to identify the securities and the interest of the judgment debtor*], stand charged to the extent of the value of the entire beneficial interest of [*judgment debtor*] in the securities or of so much of that value as may be sufficient to satisfy a judgment recovered against [*judgment debtor*] by [*judgment creditor*] in the Court on [e.g. 20 June 19] for $, made up as follows:

(a) $, the amount due and unpaid under the judgment;

(b) $, the amount of interest accrued or estimated to accrue; and

(c) $, the estimated costs of the charging order proceedings.

This summons is filed and served by order of the Court made on 19 .

The application will be heard. [*continue as in Form 46A*].

[*Insert the following at the end of the summons*]

To [*name*]
of [*address*]

Upon service of this summons you shall not, except by order of the Court, cause or permit a transfer of any of the abovementioned securities to be made or pay to a person any dividend or interest on those securities.

To [*judgment debtor*].

Unless the Court otherwise orders, no disposition by you of your interest in any of the abovementioned securities made after service of this summons and before the application for the charging order is heard by the Court is valid as against [*judgment creditor*].

FORM 73B

rule 73.13(1)(a)

AFFIDAVIT AS TO STOCK

In the Supreme Court
of the Northern Territory No. of 19
of Australia

In the matter of [*identify the document comprising the stock under which the claimant's interest arises*].

I, of make oath and say that according to the best of my knowledge, information and belief I have [*or if the affidavit is made by the solicitor: (name of claimant) of has*] a beneficial interest in the stock specified in the notice filed with this affidavit as [*describe the interest of the claimant in the stock and identify any document under which it arises*].

This affidavit is filed on behalf of [*name of claimant*] of .

FORM 73C

rule 73.13(1)(a)

NOTICE AS TO STOCK

[*heading as in Form 73B*]

[*To be filed with Form 73B.*]

To [*name*]

of [*address*].

The stock comprised in and subject to the trusts of the settlement [*or as the case may be*] referred to in the affidavit filed with this notice consists of the following, namely [*identify the stock, stating the names in which it stand*].

This notice is intended to stop the transfer of the stock and not the payment of any dividend or interest on that stock [*or* also the payment of any dividend or interest on that stock].

[*Signature of claimant, or solicitor where affidavit made by solicitor*]

FORM 75A

rule 75.02(b)

ARREST WARRANT IN SUMMARY PROCEEDINGS FOR CONTEMPT IN FACE OF SUPREME COURT

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA

To the Sheriff and

Arrest and bring him before the Court to answer a charge of contempt, detaining him in custody in the meantime.

Dated [e.g. 15 June 19].

Judge

FORM 75B

rule 75.09(2)

ARREST WARRANT IN CONTEMPT PROCEEDINGS BY SUMMONS OR ORIGINATING MOTION

[*heading as in summons or originating motion*]

To the Sheriff, and to all members of the Police Force of the Northern Territory.

Arrest and bring him before the Court to answer a charge of contempt, detaining him in custody in the meantime, unless by paying $ into Court [*or as the case may be*], he gives security for his appearance in person before the Court to answer the charge and to submit to the judgment of the Court.

Dated [e.g. 15 June 19].

Judge

FORM 75C

rule 75.13

COMMITTAL WARRANT

[*heading as in Form 75A or 75B, as appropriate*]

To the Sheriff, and to all members of the Police Force of the Northern Territory.

Take to the prison at and deliver him to the Officer in Charge of that prison.

To the Officer in Charge of the prison at .

Receive into your custody and keep him until the further order of this Court [*or as the case may be*].

His committal is for contempt of court in that he [*state nature of the contempt*].

Dated [e.g. 15 June 19].

Judge

FORM 81A-A

rule 81A.11(2)(a)

IN THE SUPREME COURT)
OF THE NORTHERN TERRITORY) No. of 20
OF AUSTRALIA AT [*Darwin/Alice Springs*])

BETWEEN

THE QUEEN

and

A.B.

APPLICATION TO THE COURT

[*Applicant's name in full*]

of [*address*]

Application under [*cite rule under which application is made*]

Briefly specify the matter to which the application relates:

Relief sought:

The applicant's address for service is

Date:

Signature of the applicant
or applicant's solicitor

NOTICE OF HEARING

TO: * The accused person/Crown Prosecutor

NOTE: That the above matter has been listed for hearing at [*Name of court*] on ..... the ..... day of ..... 20.... at ..... am/pm* when all parties to the matter must attend.

COURT OFFICER

Date:

* *Delete whichever is inapplicable*

FORM 81A-B

rule 81A.11(3)

IN THE SUPREME COURT)
OF THE NORTHERN TERRITORY) No. of 20
OF AUSTRALIA AT [*Darwin/Alice Springs*])

BETWEEN

THE QUEEN

and

A.B.

APPLICATION TO THE COURT IF SERVICE OF APPLICATION IS NOT REQUIRED

[*Applicant's name in full*]

of [*address*]

Application under [*cite rule under which application is made*]

Briefly specify the matter to which the application relates:

Order/declaration sought:

Date:

Signature of the applicant
or applicant's solicitor

NOTICE OF HEARING

TO: * The accused person/Crown Prosecutor

NOTE: That the above matter has been listed for hearing at [*Name of court*] on ..... the ..... day of ..... 20.... at ..... am/pm* when all parties to the matter must attend.

COURT OFFICER

Date:

* *Delete whichever is inapplicable*

FORM 81A-C

rule 81A.12(1)

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT [Darwin or Alice Springs]
No.

BETWEEN

AB
Complainant

and

CD
Defendant

COMPLAINT

The Complaint of *[name of complainant]*, a police officer, is taken on [*date*], before the undersigned, a justice of the peace, who, on oath, states that:

(1) The defendant, [*name*] of [*address*], was granted bail for the offence of [*offence*] on [*date bail was granted*] by [*name of person who granted bail*].

(2) The defendant undertook to appear before this honourable Court under that bail on [*date of appearance*].

(3) On [*date of conduct resulting in breach of bail*], the defendant engaged in conduct that [would result in a breach of his/her* bail undertaking/resulted in a breach of a condition of the grant of bail*] contrary to section 37B(1) of the *Bail Act 1982.*

Particulars of breach

[*set out particulars*]

Taken before me at [*place*] on [*date*].

[*signature of justice of the peace*]
Justice of the peace

**Delete whichever is inapplicable*

FORM 81A-D

rule 81A.12(2)

SUMMONS TO A PERSON ON COMPLAINT

To [*name of defendant*] of [*address*]

You have been charged by [*name*], a police officer, before the undersigned, a justice of the peace, that on [*date of breach of bail*] you committed a bail offence contrary to section 37B(1) of the *Bail Act 1982*.

Particulars of bail offence

[*set out particulars*]

You are summoned to appear on [*date of hearing*] at [*time*] at [*address of court*] before a Judge of the Supreme Court of the Northern Territory to answer the charge, and to be further dealt with according to law.

If you do not appear as required by this summons the Court may issue a warrant for your arrest or proceed to hear the complaint in your absence.

Dated [*date*], at [*place*].

[*signature of justice of the peace*]
Justice of the peace

AFFIDAVIT OF SERVICE

I, [*name*], of [*address*] make oath that on [*date*], at [*time*], at [*address*], I served the defendant, [*name*], with this summons by [delivering a copy of the summons to the defendant personally/putting a copy of the summons down in the defendant's presence and telling him/her* the nature of the document/delivering a copy of the summons to the defendant's legal representative/a prison officer at [*name of the prison*].]*

[*insert facts constituting service*]

Dated [*date*], at [*place*].

[*signature of deponent*]

Witnessed by: [*signature of justice of the peace/commissioner for oaths*]

Name: [*name of witness*]

Address or phone number: [*address or phone number of witness*]

**Delete whichever is inapplicable*

FORM 81A-F

rule 81A.40(4)
No:
Judge:

CERTIFICATE OF CONVICTION

I, ……....., Deputy Sheriff/Criminal Clerk*, an officer having the care, custody and control of the criminal records of the Supreme Court of the Northern Territory, hereby certify that on [*date*] at [*place*] in the Northern Territory, [*full name of convicted person, sex and date of birth*] was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] which recorded a conviction for that he/she*:

COUNT(S):

AND upon being convicted he/she* was sentenced to a total effective period of imprisonment of .....;

AND it was further ordered that:

Date:
at [*place*] in the Northern Territory.

DEPUTY SHERIFF/CRIMINAL CLERK*

** Delete whichever is inapplicable*

FORM 81A-G

rule 81A.41(1)(a)
No:

WARRANT OF COMMITMENT FOR IMPRISONMENT

TO THE SHERIFF AND DEPUTY SHERIFFS, TO ALL PRISON OFFICERS AND TO THE OFFICER IN CHARGE OF
[*name of prison*] AT [*place*] IN THE NORTHERN TERRITORY

[*Offender's name in full*]

of c/– [*name of prison*] [*place of prison*] NT

was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] which recorded a conviction for the offences shown below and on [*date*] it imposed the sentences shown opposite each offence:

CASE & OFFENCE NOS		OFFENCE	SENTENCE

The total effective period of imprisonment is [*total effective sentence for this warrant including commencement date*].

And it was further ordered that:

1. The offender is not eligible to be released on parole for a period of [*non-parole period*].

2. The offender is to be released after serving [*period*] upon giving security of $.... and is to be of good behaviour for [*period ordered and other conditions*].

3. Other conditions ordered:

You the said Sheriff and Deputy Sheriffs are ordered to deliver the offender to a prison officer or to the officer in charge of the [*name of prison*] and you the said prison officers are ordered to deliver the offender to the officer in charge of the [*name of prison*] and you the officer in charge of the said prison are ordered to take the offender into your custody and keep the offender as provided for above.

Date:

JUDGE

FORM 81A-H

rule 81A.41(1)(b)
No.:

WARRANT OF COMMITMENT FOR DETENTION

TO THE SHERIFF AND DEPUTY SHERIFFS,
TO ALL PRISON OFFICERS
AND TO THE SUPERINTENDENT OF
[*name of detention centre*] AT [*place*] IN THE NORTHERN TERRITORY

[*Offender's name in full*]

of c/– [*name of detention centre*] [*place of detention centre*] NT

was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] which recorded a conviction for the offences shown below and on [*date*] it imposed the sentences of detention shown opposite each offence:

CASE & OFFENCE NOS		OFFENCE	SENTENCE

The total effective period of detention is [*total effective sentence for this warrant including commencement date*].

And it was further ordered that:

You the said Sheriff and Deputy Sheriffs are ordered to deliver the offender to a prison officer, you the said prison officers are ordered to deliver the offender to the superintendent of the [*name of detention centre*] centre and you the said superintendent of that centre are ordered to take the offender into your custody and keep the offender as provided for above.

Date:

JUDGE

FORM 81A-I

rule 81A.41(3)
No.:

NOTICE OF SUSPENDED SENTENCE OF IMPRISONMENT
IF SECURITY IS NOT REQUIRED

[*Offender's name in full*]

of [*address*]

was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] which recorded a conviction for the offences shown below and on [*date*] it imposed the sentences shown opposite each offence:

CASE & OFFENCE NOS		OFFENCE	SENTENCE

Total effective period of imprisonment is .....

ORDER

That the offender be released on [*date*] and that [the whole of the sentence be held in suspense/ the sentence be held in suspense for (*period*)*]from the making of this order.

That, pursuant to section 40(6) of the *Sentencing Act 1995*, the period of [*optional period*] from the making of this order is the period during which the defendant must not commit another offence punishable by imprisonment if the defendant is to avoid being dealt with under section 43 of the *Sentencing Act 1995*.

CONDITIONS:

I acknowledge that the conditions have been explained to me and I understand them and consent to them.

Signature of offender

Signed by the offender at [*place*] on [*date*].

DEPUTY SHERIFF

* *Delete whichever is inapplicable*

FORM 81A-J

rule 81A.41(4)

RECOGNISANCE RELEASE ORDER

[*Offender's name in full*]

of [*address*]

came before this Honourable Supreme Court of the Northern Territory of Australia at [*place*] on [*date*] and was found guilty of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

and the Court ordered under the *Crimes Act 1914* of the Commonwealth that:

1. The offender be released immediately on giving $.... security, to:

(a) appear before the Court if called on to do so during the period of [*period of recognisance*]; and

(b) be of good behaviour during that period.

2. Other conditions ordered:

I acknowledge that the conditions have been explained to me and I understand them and consent to them.

Signature of offender

Signed by the offender at [*place*] on [*date*].

DEPUTY SHERIFF

FORM 81A-K

rule 81A.41(4)
No.:

ORDER TO RELEASE ON GIVING OF SECURITY

[*Offender's name in full*]

of [*address*]

came before this Honourable Supreme Court of the Northern Territory of Australia at [*place*] on [*date*] and was found guilty of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

and the Court ordered that:

1. The offender be released immediately on giving $.... security, to:

(a) appear before the Court if called on to do so during the period of [*period of bond*]; and

(b) be of good behaviour during that period.

2. Other conditions ordered:

I acknowledge that the conditions have been explained to me and I understand them and consent to them.

Signature of offender

Signed by the offender at [*place*] on [*date*].

DEPUTY SHERIFF

FORM 81A-L

rule 81A.41(5)

No.:

COMMUNITY WORK ORDER

[*Offender's name in full*]

of [*address*]

was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] for the offences shown below and on [*date*] it imposed the hours of community work shown below:

CASE & OFFENCE NOS		OFFENCE	HOURS ORDERED

You must participate in one or more approved projects for a total of [*period ordered*].

You must present yourself to [*name of person to whom offender must report*] at [*place to which offender must report*] within [*period ordered*].

You must present yourself to a person at a place and at a time specified by the Director of Correctional Services.

Date:

SHERIFF / DEPUTY SHERIFF*

I hereby confirm that I have consented to the making of this order and to its terms and conditions and I will comply with all of its requirements.

Date:

Signature of offender

(One copy of this order must be given to the offender and to the Director)

IMPORTANT INFORMATION ABOUT YOUR ORDER

SENTENCING ACT 1995 – section 37 – Duties in carrying out your community work order

1. Under this community work order you:

   (a) must participate, for the number of hours specified in the order, in the approved project that a probation officer directs you to participate in;

   (b) must participate in the project in a satisfactory manner;

   (c) must, while participating in the project, comply with any reasonable direction of a probation officer or supervising officer; and

   (d) must inform a probation officer of a change in your residential address not later than 48 hours after the change.

2. Except where you consent, you shall not be required to participate in an approved project under your community work order for more than 8 hours (exclusive of time allowed for meals) in any one day.

SENTENCING ACT 1995 – section 39 – Breach of your community work order

You will breach your community work order if you:

(a) fail to comply with a term or condition of the order;

(b) fail to carry out your obligations under section 37(1) (printed above);

(c) disturb or interfere with any other person participating in or doing anything under a community work order;

(d) assault, threaten, insult or use abusive language to a probation officer or supervising officer;

(e) change your address for the purposes of evading the execution of the *Sentencing Act 1995*;

(f) commit a breach of the Regulations; or

(g) commit an offence against a law in force in the Territory during a time when you are participating in an approved project under the order.

FORM 81A-M

rule 81A.41(6)

No.:

HOME DETENTION ORDER
AFTER APPEAL HEARD AND DETERMINED

[*Offender's name in full*]

of [*address*] was on [*date*] dealt with by the Local Court at [*place*] which recorded a conviction for the offences shown below:

CASE & OFFENCE NOS		OFFENCE

AND, amongst other things, he/she* was sentenced on [*date*] to imprisonment for a total effective period of [*period of sentence*] suspended upon entering a home detention order.

AND [*offender's name in full*] appealed to the Supreme Court of the Northern Territory and on [*date of court order*] this Honourable Court made the following orders:

[*specify orders made*]

This order starts on [*date*] and ends on [*date*]

Date:

SHERIFF

I the offender declare that I fully understand the terms and conditions of this home detention order and have consented to the making of order and that I will comply with the order.

Date:

Signature of offender

A copy of this order must be given to the offender and the Director

FORM 81A-N

rule 81A.41(7)

WARRANT OF REMAND TO THE OFFICER IN CHARGE OF THE PRISON AT [*place*] IN THE NORTHERN TERRITORY

The accused [*name of accused*] of [*prison*] at [*place*] NT, was before this Honourable Supreme Court of the Northern Territory on [*date*] for the offence of [*specify offence*]

You are ordered to keep the accused in your custody and unless he/she* has been bailed, to deliver the accused to the Sheriff or to a Sheriff's deputy at this Honourable Court at [*place*] (or at any other place) and so on from day to day, unless you are otherwise ordered, so that the accused may be dealt with according to law.

Date:

at [*place*].

JUDGE

FORM 81A-O

rule 81A.41(8)

WARRANT OF ARREST FOR NON-PAYMENT OF RESTITUTION

TO THE COMMISSIONER OF POLICE AND ALL MEMBERS OF THE POLICE FORCE IN THE NORTHERN TERRITORY

[*Defendant's name*] of [*last known address*]

was ordered to pay the following restitution: [*specify details of restitution order*]

AND he/she* has not paid the full amount of the restitution/a part of the amount of restitution ordered.*

You are ordered to bring him/her before this Honourable Supreme Court to be dealt with according to law as soon as practicable.

Date: [*today's date*]

JUDGE

* *Delete whichever is inapplicable*

FORM 81A-P

rule 81A.41(9)

WARRANT FOR ARREST FOR FAILURE TO APPEAR
IN ACCORDANCE WITH BAIL UNDERTAKING

TO THE COMMISSIONER OF POLICE AND TO ALL MEMBERS OF THE NORTHERN TERRITORY POLICE FORCE

Arrest [*name of person to be arrested*] and bring him/her* before the Supreme Court to answer a charge that he/she*, having been released on bail to appear before this Court on [*date on which person was required to appear*], has failed to appear before this Court.

Until [*name of person to be arrested*] is brought before the Court you are to detain him/her* in custody.

Date:

JUDGE

** Delete whichever is inapplicable*

FORM 81A-Q

rule 81A.41(10)

WARRANT FOR ARREST FOR FAILURE TO APPEAR
IN ACCORDANCE WITH RECOGNISANCE RELEASE

TO THE COMMISSIONER OF POLICE AND ALL MEMBERS OF THE NORTHERN TERRITORY POLICE FORCE

Arrest [*name of person to be arrested*] and bring him/her* before the Supreme Court to answer a charge that he/she*, having been released on recognisance under the *Crimes Act 1914* of the Commonwealth to appear before this Court on [*date on which person was required to appear*], has failed to appear before this Court.

Until [*name of person to be arrested*] is brought before the Court you are to detain him/her* in custody.

Date:

JUDGE

* *Delete whichever is inapplicable*

FORM 81A-R

rule 81A.41(11)

WARRANT OF COMMITMENT FOR NON-PAYMENT OF FINE ETC.

TO THE COMMISSIONER OF POLICE AND ALL MEMBERS OF THE NORTHERN TERRITORY POLICE FORCE AND TO THE OFFICER IN CHARGE OR SUPERINTENDENT OF EACH GAOL, PRISON OR DETENTION CENTRE IN THE TERRITORY

No.:

[*Offender's name in full*]

of [*address*]

was found guilty by this Honourable Supreme Court of the Northern Territory at [*place*] of the following offences and on [*date*] it made orders for the payment of fines, costs etc. for them. The defendant has not paid the total amount owing in respect of those orders. The amounts owing are shown below:

CASE & OFFENCE NOS		OFFENCE	BALANCE OWING FOR				
			FINE	COSTS	LEVY	TOTAL	DAYS IN DEFAULT
TOTALS				Warrant Fee			
				AMOUNT			DAYS

YOU the said Members are ordered to arrest and convey the defendant to the nearest gaol/ prison/ detention centre* and deliver the defendant to the officer in charge or superintendent there.

The officer in charge or superintendent there must receive the defendant into that officer's custody and keep the defendant for the total default period, unless the total of this warrant is sooner paid.

Date:

JUDGE

* *Delete whichever is inapplicable*

ENDORSEMENT OF PAYMENTS BY PERSON HAVING CUSTODY OF THE DEFENDANT

Date of payment:

Amount received:

Receipt number:

Signature:

FORM 81A-S

rule 81A.41(12)

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT [Darwin or Alice Springs]
No.

BETWEEN

THE QUEEN

and

A.B.

SUMMONS

To: [*name of person to whom summons issued*]

You have failed without reasonable excuse to comply with the following condition of a community service order/ home detention order* made under the *Sentencing Act 1995* [*give details of condition and the failure to comply*]:

You are summoned to attend the Court at the Supreme Court Building, State Square, Darwin / Parsons St., Alice Springs* on [*date*] at a.m./p.m.* or so soon afterwards as the business of the Court allows.

FILED [*date*].

This summons is issued under section 39(2) / 48(2)(a)* of the *Sentencing Act 1995*.

* *Delete whichever is inapplicable*

FORM 81A-T

rule 81A.41(13)

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT [Darwin or Alice Springs]
No.

BETWEEN

THE QUEEN

and

A.B.

APPLICATION TO THE COURT

INFORMATION FOR BREACH OF HOME DETENTION ORDER

Defendant's address:

Informant's address:

The information of [*name of informant*] of [*address*]

taken this day of , 19 , before the undersigned, a justice of the peace, who (upon oath) states that [*name of person to whom order relates*] of [*address*] on [*date of alleged breach*] at [*place of alleged breach*] in the Northern Territory of Australia, did breach the home detention order made in relation to him/her* on [*date of order*] by [*specify alleged breach*].

Taken before me on the first date specified above, at [*place*] in the Northern Territory.

JUSTICE OF THE PEACE

FORM 81A-U

rule 81A.41(14)

ORDER TO THE OFFICER IN CHARGE OF
[*name of prison*]

I, ...…….. a Judge of the Supreme Court of the Northern Territory of Australia

ORDER that [*name of prisoner*]

be removed from the [*name of prison*]

and be:

(a) imprisoned at [*name of prison/police prison*]*;

OR

(b) brought before the Supreme Court of the Northern Territory of Australia at [*place*] on [*date and time*] AM/PM* and on any further adjournments until the conclusion of the matter and there be committed to the custody of the Sheriff;

I further order the Sheriff and Deputy Sheriffs to receive and cause the prisoner to be detained until ordered by the Court to return the prisoner to prison, or to the lawful custody of prison officers or police officers, or to be otherwise dealt with according to law*;

OR

(c) produced to [*name of place where prisoner is to be moved to*]*.

Date:

JUDGE

** Delete whichever is inapplicable*

FORM 81A-V

rule 81A.41(15)

HOSPITAL OR TREATMENT ORDER

[*Offender's name in full*]

of [*address*] was on [*date*] dealt with by the Supreme Court at [*place*] which recorded a conviction for the offences shown below:

CASE & OFFENCE NOS		OFFENCE

AND, amongst other things, it was ordered under section 80 or 82 of the *Sentencing Act 1995*/section 22 of the *Crimes Act 1914* of the Commonwealth* that the offender:

[*state details of the diagnosis, assessment and/or treatment that the offender is ordered to undertake and any other relevant orders made*]

This order starts on [*date*] and ends on [*date*].

Date:

A copy of this order must be given to the offender and the Director

** Delete whichever is inapplicable*

FORM 81A-W

rule 81A.41(16)

RESIDENTIAL OR PASSPORT ORDER

[*Offender's name in full*]

of [*address*]

was on [*date*] dealt with by the Supreme Court at [*place*] which recorded a conviction for the offence(s) shown below:

CASE & OFFENCE NOS		OFFENCE

AND, amongst other things, it was ordered under section 99 of the *Sentencing Act 1995*/ section 22 of the *Crimes Act 1914* of the Commonwealth* that the offender:

[*state details of the order*]

This order starts on [*date*] and ends on [*date*].

Date:

JUDGE

A copy of this order must be given to the offender and the Director

** Delete whichever is inapplicable*

FORM 81A-X

rule 81A.41(17)

ORDER UNDER SECTION 19B OF
CRIMES ACT 1914 OF THE COMMONWEALTH

To: [*Offender's name in full*]

of [*address*]

On [*date*] the Supreme Court found the following charge(s) proven against you:

CASE & OFFENCE NOS		OFFENCE

and ordered that:

(a) the charge be dismissed;

OR

(b) the offender be discharged, without proceeding to conviction, upon his/her* giving security by recognisance/ [*other*]*, with/without* a surety of $...,* that he/she* will comply with the following conditions:

(i) that the offender will be of good behaviour for [*period of order*] years;*

(ii) that the offender will:

(A) make reparation or restitution in respect of [*item and amount*];

(B) pay compensation of $...;

(C) pay costs of $ ... ,

by [*date of payment or instalment dates*]*;

(iii) [other orders] *.

This order starts on [*date*] and ends on [*date*].

Date:

JUDGE

* *Delete whichever is inapplicable*

FORM 81A-Y

rule 81A.41(18)

ORDER RELEASING PERSON FROM CUSTODY

TO THE OFFICER IN CHARGE OF/ SUPERINTENDENT OF*
[*name of prison/detention centre*]

I, ... a Judge of the Supreme Court of the Northern Territory of Australia

ORDER that [*name of offender who is imprisoned/detained*]

be released from the [*name of prison/detention centre*] on [*date*], subject to the following condition(s): [*delete if unnecessary*]*

Date:

JUDGE

FORM 81A-Z

rule 81A.41(19)

ORDER UNDER SECTION 20BC(2) OF
CRIMES ACT 1914 OF THE COMMONWEALTH

To: [*Offender's name in full*]

of [*address*]

You have been charged with the following offence(s):

CASE & OFFENCE NOS		OFFENCE

On [*date*] the Supreme Court determined that you, a person unfit to be tried, will not become fit to be tried before 12 months after that date and:

(a) being satisfied that you are suffering from a mental illness, or a mental condition, for which treatment is available in hospital and that you do not object to being detained/continuing to be detained in a hospital – ordered that you be detained in [*name of hospital*] for [*period of detention*];*

OR

(b) ordered that you be detained at [*place, including a prison, not being a hospital*] for [*period of detention*]*.

Date:

JUDGE

** Delete whichever is inapplicable*

FORM 81A-ZA

rule 81A.41(20)

ORDER UNDER SECTION 20BJ(1) OR (4) OF
CRIMES ACT 1914 OF THE COMMONWEALTH

To: [*Offender's name in full*]

of [*address*]

On [*date*] you were acquitted of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

because of your mental illness at the time of the offence.

NOW

(A) This Court orders you, under section 20BJ(1) of the *Crimes Act 1914 of the Commonwealth*, to be detained in safe custody:

(a) in prison*; or

(b) in hospital*,

for [*period of detention*]

OR

(B) This Court orders, under section 20BJ(4) of the *Crimes Act 1914 of the Commonwealth*, that you be released from custody:

(i) absolutely *;

(ii) subject to the following condition)(s) for [*period*]*:

Date:

JUDGE

** Delete whichever is inapplicable*

FORM 81A-ZB

rule 81A.41(21)

PSYCHIATRIC PROBATION ORDER UNDER SECTION 20BV OF *CRIMES ACT 1914* OF THE COMMONWEALTH

To: [*Offender's name in full*]

of [*address*]

On [*date*] you were convicted of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

NOW this Court orders you, under section 20BV(1) of the *Crimes Act 1914* of the Commonwealth, to reside at or attend [*name of hospital/place*] for the purpose of receiving the following psychiatric treatment at that hospital/place: [*specify nature of treatment to be given*]

for [*period of detention*]

This order is subject to the condition that:

(a) you will for [*period*] be subject to the supervision of a probation officer appointed in accordance with this order;

AND

(b) you will be of good behaviour for [*period*].

Date:

JUDGE

FORM 81A-ZC

rule 81A.41(22)

PROGRAM PROBATION ORDER UNDER SECTION 20BY OF *CRIMES ACT 1914* OF THE COMMONWEALTH

To: [*Offender's name in full*]

of [*address*]

On [*date*] you were convicted of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

NOW this Court orders you, under section 20BV(1) of the *Crimes Act 1914* of the Commonwealth, to undertake the following education program/treatment*: [*specify nature of treatment to be given*]

for [*period of detention*]

This order is subject to the condition that:

(a) you will for [*period*] be subject to the supervision of a probation officer appointed in accordance with this order;

AND

(b) you will be of good behaviour for [*period*].

Date:

JUDGE

FORM 81A-ZD

rule 81A.41(23)
section 93(3) *Sentencing Act 1995*

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT [Darwin or Alice Springs]
No.

BETWEEN

THE QUEEN

and

A.B.

NOTICE TO SHOW CAUSE

To: [*Offender's name in full*]

of [*address*]

You were convicted by the Supreme Court of the Northern Territory on [*date*] of the following offence(s):

CASE & OFFENCE NOS		OFFENCE

and the following order was made on [*date*] under Division 1 of Part 5 of the *Sentencing Act 1995* in relation to the/those* offences: [*specify order made*]

NOW, this Court being satisfied that you have failed to comply with the order, you are required to appear at [*place*] at [*time*] to show cause why you should not be detained because of your failure to comply with the order.

Date:

JUDGE

FORM 81A-ZE

rule 81A.41(24)
No.:

WARRANT OF ARREST FOR
NON-PAYMENT OF COMPENSATION

TO THE COMMISSIONER OF POLICE AND ALL MEMBERS OF
THE POLICE FORCE IN THE NORTHERN TERRITORY

[*Defendant's name*]

of [*last known address*]

was found guilty before this Honourable Supreme Court of the Northern Territory of the following offence: [*specify offence*] and was ordered to pay the following compensation: [*specify details of compensation order*]

AND he/she* has not paid the full amount of the compensation/a part of the amount of compensation ordered* before the date required by the order.

You are ordered to bring him/her* before this Honourable Supreme Court to be dealt with according to law as soon as practicable.

Date: [*today's date*]

JUDGE

FORM 88A

rule 88.07(1)

IN THE SUPREME COURT
OF THE NORTHERN
TERRITORY OF AUSTRALIA
PROBATE JURISDICTION
DARWIN REGISTRY (*or as the case may be*)

THE ESTATE of the late (*name*) late of (*address and occupation at time of death*)

No. of 19

APPLICATION

The applicant, (*name*), the executor named in the will dated (*e.g.* 1 April 1986), (*where applicable:* and 2 codicils dated (*date*) and (*date*)) of (*name*) late of (*address and occupation*), deceased, claims that probate of the will (where applicable: and 2 codicils) be granted to him.

or

The applicant (*name*), a beneficiary named in the will dated (e.g. 1 July, 1971, (*where applicable* and 2 codicils dated (*date*) and (*date*)) of (*name*) late of (*address and occupation*), deceased, claims that administration with the will (*where applicable:* and 2 codicils) annexed of the estate of the deceased be granted to him (*where applicable:* (*name*), the executor named in the will, having renounced probate) (*where applicable:* and that the administration bond be dispensed with).

or

The applicant (*name*), the widow of (*name*), late of (*address and occupation*), deceased, claims that administration of the estate of the deceased be granted to her (*where applicable:* and that the administration bond be dispensed with).

or

The applicant (*name*) (*where applicable:* as attorney of (*name*) claims that probate of the will dated (*e.g.* 1 April 1986) (*or where applicable:* letters of administration of the estate) of (*name*) late of (*address and occupation*) granted by (*description of court*) to (*name*) be sealed with the seal of this Court (*where applicable:* and that the administration bond be dispensed with).

Applicant: (*name, address and occupation*)

Applicant's address for service: .

Filed: (*date*)

(*Signature*)
Applicant's Solicitor.

FORM 88B

rule 88.09(1)

NOTICE OF INTENDED APPLICATION FOR PROBATE

In the Supreme Court of the Northern Territory of Australia.

After 14 days from publication of this notice an application for probate of the will dated (*date e.g. 10 April 1960*) (*where applicable:* and 2 codicils dated (*date*) and (*date*)) of (*name in capitals*), late of (*address and occupation*), will be made by (*name*). Creditors are required to send particulars of their claims upon his estate to (*name*) solicitors (*address*) (*and, where applicable:* or their agents, *name, address*).

FORM 88C

rule 88.09(1)

NOTICE OF INTENDED APPLICATION FOR ADMINISTRATION

In the Supreme Court of the Northern Territory of Australia.

After 14 days from publication of this notice an application for administration (*or where applicable:* administration with the will dated (*date e.g. 10 April 1960*) annexed of the estate of (*name in capitals*) late of (*address and occupation*) will be made by (*name*), the (*relationship to deceased or capacity of applicant*). Creditors are required to send particulars of their claims upon his estate to (*name*) solicitors (*address*) (*and, where applicable,* or their agents, *name, address*).

FORM 88D

rule 88.09(1)

NOTICE OF INTENDED APPLICATION FOR RESEALING

In the Supreme Court of the Northern Territory of Australia.

After 14 days from publication of this notice an application will be made that the Probate of the will and codicils (*or where applicable:* Letters of Administration of the estate) of (*name in capitals*), late of (*address and occupation*), granted by (*court*) to (*name*) be sealed with the seal of this Court. Creditors are required to send particulars of their claims upon his estate to (*name*) solicitors (*address*) (*and, where applicable:* or their agents, *name, address*).

FORM 88E

rule 88.13(2)

RENUNCIATION OF PROBATE

I, (*name*) of (*address of place of residence*) (*occupation e.g. labourer*) declare:

1. I am the executor (*or* one of the executors *or as the case may be*) appointed by the will dated (*date e.g. 1 April 1960*) (*where applicable*): and 2 codicils dated (*date*) and (*date*) of (*name*) late of (*address and occupation*) who died on (*date*).

2. I have not intermeddled in the estate of the deceased.

3. I renounce all rights to probate of the will (*where applicable:* and codicils) and to all trusts, powers and authorities expressed by the will *(where applicable:* and codicils) to be made or given to me.

Dated: *date*))

Signed in the)
)
presence of)

FORM 88F

rule 88.14(1)

(*heading as in Form 88A*)

AFFIDAVIT OF ATTESTING WITNESS

I (*name, address and occupation*) make oath and say that:

1. On (*date*) the document annexed and marked "A" was signed (*as appears on the document*) by (*name*), the deceased, as his will in my presence and that of (*name of other witness*) present at the same time and we then at the request of the deceased attested and subscribed that will in his presence and in the presence of each other.*.

2. The signatures (*set out*) and (*set out*) subscribed as witnesses to the will are respectively my signature and that of (*name of other witness*).

Made at *[place]* _____on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

* *Delete "and in the presence of each other" if the document is a will that is made on or after 1 March 2001*

FORM 88G

rules 88.23(1)(a)
and 88.24(1)(a)

(*heading as in Form 88A*)

AFFIDAVIT OF DEATH

I (*name, address and occupation*) make oath and say that:

1. I was well acquainted with (*name of deceased*), late of (*address and occupation*) for (*number*) years.

2. I saw his dead body on the day he died, that is to say, on (*date*).

3. I am not interested in his estate.

or in lieu of paragraphs 2 and 3

2. *I believe that he is (name in certificate of registration of death*) referred to in the certificate of registration of death which is annexed and marked "A".

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88H

rule 88.23(1)(b)

(*heading as in Form 88A*)

AFFIDAVIT OF EXECUTOR

I (*name, address and occupation*) make oath and say that:

1. My full residential address is (*address*).

2. The document, dated (*date*) and signed in the margin by me and by the person witnessing this affidavitis, I believe, the last will of (*name*), the deceased which will has not been revoked.

3. My means of identifying the will are (*state these*).

4. I am the executor (*or* one of the executors) named in the will (*where relevant add:* The other executors named in the will are and *set out names and addresses*).

5. The subscribing witnesses to the will are (*name*) and (*name*).

6. The deceased did not marry after the will was made. (*If he did marry state particulars of the marriage*).

7. The deceased left an estate within the Territory the value of which is under $ being (*give brief details*).

8. I am over 18 years of age (*or as the case may be. See Rule 88(1)(b)(vii)*)

9. (*where applicable*) (*name*), one of the executors appointed by the will died on (*date*).

10. (*where applicable*) (*name*), one of the executors named in the will renounced probate of the will on (*date*).

11. The deceased died on (*date*) aged years.

Made at *[place]* _____on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88I

rule 88.23(1)(c)

(*heading as in Form 88A*)

AFFIDAVIT OF PUBLICATION AND SEARCH

I (*name, address and occupation*) make oath and say that:

1. A notice, a copy of which is annexed and marked "A", was published on (*date*) in the (*name*) which is a Darwin daily newspaper.

2. (*where applicable*) The notice was also published on (*date*) in the (*name*) which is a newspaper published and circulating in the district where (*name*), the deceased, resided at the time of his death.

3. I have this day searched in the Registry of the Court and have found:

   (a) no evidence of a caveat having been lodged relating to a grant or reseal being made in the estate of the deceased (*or state the evidence*);

   (b) (*where 2 years have elapsed since the date of death*) no evidence of a prior application for probate or administration or resealing in the estate having been made; and

   (c) that, before the making of this application for grant of probate no election has been filed under Part VII of the *Public Trustee Act 1979* (*supply information to comply with Rule 88.24(1)(c)(v) where relevant*).

4. I have searched the index of wills kept by each prescribed person within the meaning of section 3 of the *Wills Act 2000* and have found (*set out the results of the search)*.

Made at *[place]* _____on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88J

rule 88.23(7)

(*heading as in Form 88A*)

OATH OF OFFICE

I (*name*) of (*address and occupation*) make oath and say that if the Supreme Court of the Northern Territory of Australia grants to me (*state the grant sought*) of (*name*) late of (*address and occupation*) I will well and truly collect and administer the estate of the deceased according to law.

Oath taken at *[place]* _____ on *[date]* _____
By *[signature of person taking oath]* _____
Administered by:
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88K

rule 88.24(1)(b)

(*heading as in Form 88A*)

AFFIDAVIT OF APPLICANT FOR ADMINISTRATION

I (*name, address and occupation*) make oath and say that:

1. My full residential address is (*address*).

2. I am (*state relationship to deceased*) of (*name*) late of (*address and occupation*) who died on (*date*).

3. I believe that the deceased did not leave a will.

4. (*State what searches have been made for a will.*)

5. The names, ages and relationship to the deceased of his next of kin who survived him are (*state these*).

6. The deceased died a widower (*or as the case may be. (See Rule 8.24(1)(iv)*).

7. I am over 18 years of age (*or as the case may be*).

8. I am not an undischarged bankrupt and I have not assigned or encumbered my interest in the estate.

9. The deceased left an estate within the Territory.

10. I am not aware of any claims against the estate (*where applicable:* other than those set out in the affidavit of assets and liabilities filed in this proceeding).

11. I estimate that the estate is under the value of $ (*gross value*). (*see Rule 88.24(1)(v)*).

12. The deceased died on (*date*) aged years.

13. (*State facts to comply with Rule 88.24(1)(b)(xi)*).

14. (*If applicable*) I am a creditor of the deceased (*add details of debt, amount and evidence to support claim*).

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88L

rule 88.24(2)(a)

CONSENT TO ADMINISTRATION

I (*name*) of (*address and occupation*) am (*state relationship*) of (*name*) late of (*address and occupation*) I am over 18 years of age. I am not an undischarged bankrupt and I have not assigned or encumbered my interest in the estate of the deceased.

I consent to letters of administration being granted to (*name*) who is (*state relationship*) of the deceased (*where applicable:* and to an administration bond being dispensed with).

Date: (*date*)

Signed in the)
)
presence of)

FORM 88M

rule 88.24(2)(a)

(*heading as in Form 88A*)

AFFIDAVIT OF WITNESS TO CONSENT

I (*name, address and occupation*) make oath and say that:

1. The document marked "A" annexed to this my affidavit was signed in my presence on (*date*) by (*name*).

2. The signatures (*set these out*) are respectively my signature and that of (*name of person consenting*).

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

(*This affidavit may be subscribed to Form 88L*)

FORM 88N

rule 88.24(4)

ADMINISTRATION BOND

We (*state the name, address and occupation of the proposed administrator and of the surety to the bond*) jointly and severally covenant to pay to Her Majesty the Queen and her successors $ (*penalty of bond*) if administration of the estate of (*name*) late of (*address and occupation*) deceased, is granted by the Supreme Court of the Northern Territory to (*name of proposed administrator*) and any one or more of the following occurs, namely:

1. he does not collect, get in and administer the estate according to law;

2. he does not pay out of the estate the just debts of the deceased;

3. he prefers any debt of the deceased to him.

Dated: (*date*)

Signed sealed and delivered etc.

FORM 88P

rules 88.24(7)
88.33(6)(d)

(*heading as in Form 88A*)

AFFIDAVIT OF SURETY

On (*date*), I (*name, address and occupation*) make oath and say:

1. My full residential address is (*state address*).

2. I am one of the sureties for (*name*) the intended administrator of the estate of (*name*) late of (*address and occupation*) who died on (date).

3. I own property to the value of $ (*state value*) after deduction of all my just debts and every sum for which I am bail or surety in any civil or criminal matter, action or proceeding.

4. My property consists of (*set out in detail the location and nature of assets and whether held severally or jointly with any other person, and state particulars of encumbrances*).

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88Q

rule 88.25(2)

(*heading as in Form 88A*)

AFFIDAVIT OF APPLICANT FOR ADMINISTRATION WITH THE WILL ANNEXED

I, (*name, address and occupation*) make oath and say that:

1. My full residential address is (*state address*).

2. The document, dated (*date*) and signed in the margin by me and the person witnessing this affidavit is, I believe, the last will of (*name*), the deceased.

3. My means of identifying the will are (*state these*).

4. The executor named in the will is (*name*) and his full residential address is (*state this*).

5. The subscribing witnesses to the will are (*name*) and (*name*).

6. The deceased did not marry after the will was made. (*if he did marry state particulars of the marriage.*)

7. The deceased left an estate within the Territory.

8. (*Where applicable*) (*name*), the executor named in the will, died on (*date*).

9. (*Where applicable*) (*name*), the executor named in the will renounced probate of the will on (*date*).

10. I am over 18 years of age (*or as the case may be*).

11. I am not an undischarged bankrupt and I have not assigned or encumbered my interest in the estate.

12. The names and ages of the persons entitled to share in the estate are (*state these*). (*Where the names of all the persons entitled do not appear on the face of the will, state the facts showing that the persons named in this paragraph are entitled and that no other person is entitled.*)

13. I am not aware of any claims against the estate (*where applicable*) other than those set out in the affidavit of assets and liabilities filed in this proceeding.

14. I estimate that the estate is under the value of $ (*gross value*).

15. The deceased died on (*date*) aged years.

Made at *[place]* _____on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88R

rules 88.24(12)
88.25(4), 88.33(6)(c)

(*heading as in Form 88A*)

RENUNCIATION IN FAVOUR OF PUBLIC TRUSTEE

I, (*name*) of (*address of place of residence*) *labourer* declare:

1. I am the executor (*or* one of the executors *or as the case may be*) appointed by will dated (*date*) (*where applicable:* and 2 codicils dated (*date*) and (*date*)) of (*name*) late of (*address and occupation*) who died on (*date*)).

2. I have not intermeddled in the estate of the deceased.

3. I renounce all right to probate of the will (*where applicable:* and codicils) and to all trusts, powers and authorities expressed by the will (*where applicable:* and codicils) to be made or given to me.

4. I request the Public Trustee to apply for administration with the will (*where applicable:* and codicils) annexed of the estate.

or

(*In case of renunciation of Letters of Administration in favour of Public Trustee*)

1. (*Name of deceased*), late of (*address and occupation*) who died (*date*) intestate.

2. The deceased left surviving him his (*name of survivor and relationship*).

3. I (*name*), the (*only son or as the case may be*) renounce all right to Letters of Administration of the real and personal estate of the deceased.

Dated: (*date*)

Signed in the
presence of

FORM 88S

rule 88.26(1)(a)

(*heading as in Form 88A*)

AFFIDAVIT OF APPLICANT FOR RESEALING

I, (*name, address and occupation*) make oath and say that:

1. My full residential address is (*state address*).

2. (*name*), the deceased, died at (*place*) in (*indicate State, Territory or elsewhere*) on (*date*) aged years.

3. The deceased died intestate.

or

The deceased left a will dated (*date*) by which he appointed me (*or where applicable:* (*name*)) sole executor of it.

4. Probate of the will was (*where applicable:* Letters of Administration of the estate of the deceased were) granted by (*name of court*) to me (*or where applicable:* to (*name*)) on (*date*).

5. The grant has not been revoked.

6. (*Where applicable*) By Power of Attorney annexed hereto and marked "A" dated (*date*) (*name*) appointed me his attorney to apply to this Court to reseal the Probate (*or* Letters of Administration).

7. (*where applicable*) I have not received any notice of revocation of the Power of Attorney by death, unsoundness of mind, act of the donor or otherwise.

8. The deceased left an estate within the Territory.

9. I am over 18 years of age (*or as the case may be*).

11. I am not aware of any claims against the estate (*or* I am not aware of any claims against the estate other than those set out in the affidavit of assets and liabilities filed in this proceeding).

12. (*Comply with Rule 88.26(1)(b)(iv) where relevant*).

13. The persons beneficially entitled under the grant are:

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

FORM 88T

rule 88.27(1)

(*heading as in Form 88A*)

AFFIDAVIT OF ASSETS AND LIABILITIES

I, (*name, address and occupation*) make oath and say that:

1. I am the person applying for a grant (of probate *or as the case may be*) in respect of the estate of (*name*), deceased, late of (*address and occupation*).

2. The statement of the assets of the deceased in the attached inventory (signed in the margin by me and by the person witnessing this affidavit) and the within statement under the heading "Liabilities" comprise a true statement of all the assets and liabilities of the deceased of which at the date of making this affidavit I am aware.

Unless the application is an application for resealing add:

3. The within statement under the heading "Persons entitled" is a true statement showing the persons entitled to the assets of the deceased, a description of, and an estimate of the value of, their entitlements and, where a person entitled is a minor, his age.

Made at *[place]* _____ on *[date]* _____
By *[signature of deponent]* _____
Witnessed by
Signature _____
Justice of the peace / commissioner for oaths
Name _____
Address or phone no. _____

Inventory of Property

1. Property of the deceased shall be listed in the inventory under the headings below and in the order in which the headings appear but the inventory should not show a heading if the deceased did not have property of that description.

2. Property held by the deceased as joint tenant should not be included in the inventory but may be noted at the foot of it as shown.

3. The value of each item of property shall be stated, or, if the value is not known, an estimate of value must be stated. It is not necessary to furnish evidence of value unless the Court so requires.

Liabilities

4. The amount of each liability shall be stated or, if the amount is not known, an estimate of the amount shall be stated. It is not necessary to furnish evidence of the amount unless the Court so requires.

The headings are:

1. Real Estate, leasehold estate, rents accrued.

2. Furniture, watches and jewellery.

3. Money in house or hand.

4. Money in current accounts.

5. Money in an ADI on deposit.

6. Life policies.

7. Superannuation, long service leave, other leave.

8. Shares in companies.

9. Government stock.

10. Debenture and mortgages.

11. Debts.

12. Interest in partnership or business.

13. Interest in deceased estate.

14. Motor vehicles.

15. Livestock, farming plant, wool and crops.

16. Payments under any medical benefits or hospital contribution fund.

17. Taxation credits.

18. Other personal property.

State the balance as follows:

SUMMARY OF ASSETS AND LIABILITIES

Total value of assets	$95,370.86
Total amount of liabilities	$933.00
Net	$94,437.86

INVENTORY OF PROPERTY
of the estate of (*name*) of (*place)* (occupation) deceased

		Estimated or known value
SCHEDULE No. 1 REAL ESTATE		
No. 33 (*name*) Road, (*place*) being Lot 33 D.P. 3333 Certificate of Title Volume 3333 Folio 33 (estimated)		$52,000.00
SCHEDULE No. 2 MONEY IN CURRENT ACCOUNT		
(*name of ADI*) at (*place*) Account No. 44-4444 .....……..		$ 1,909.31
SCHEDULE No. 3 MONEY IN ADIs etc. ON DEPOSIT		
(*name of ADI*) at (*place*)		
Savings Account No. 5-5555	$ 9,746.17	
Term Deposit, Account No. 666-666	$29,615.38	
		$39,361.55
SCHEDULE NO. 4 MOTOR VEHICLES		
(*make*) Sedan Registered No. 123-333 (*estimated*)		$ 2,100.00
	TOTAL	$95,370.86

JOINT TENANCY

100 shares in X Pty. Ltd. held by the deceased and (*name*) as joint tenants.

LIABILITIES

Date	Name of Creditor, &c.	Description of liability	Estimated or known amount	
			Secured	Unsecured
			$	$
3-8-81	(*name*)	Repair account		883.00
3-8-81	(*name*)	Ambulance account		50.00
				933.00

PERSONS ENTITLED

Name	Relationship, if any to the deceased	Age if a minor	Description of entitlement	Estimated or known value
				$

FORM 88U

rule 88.42(1)

(*heading as in proceeding in which grant was made*)

APPLICATION FOR REVOCATION OF GRANT

On the grounds appearing in the accompanying affidavit, the applicant claims that probate of the will (*or where applicable* Letters of Administration) of (*name*) late of (*address and occupation*) granted to the applicant on (*date*) and numbered (*number of grant*) be revoked.

Applicant: (*name, address and occupation*)

Applicant's address for service: (*Rule 6.05 applies as if the applicant were a plaintiff*)

Filed: (*date*)

(*signature*)
Applicant's solicitor

FORM 88V

rule 88.46(1)

(*Heading as in originating process*)

REQUEST FOR ISSUE OF CITATION

I request that a citation issue to each of (*name and address of each person to be cited*) to take probate of the will dated (*date*) (*or where applicable* pray for administration of the estate) of (*name*) late of (*name and address*)

(*Where applicable*) I request that the time limited for (*name*) to answer the citation be (*number*) days after service on him of the citation.

Person applying: (*name, address and occupation*)

Filed: (*date*)

(*signature*)
Solicitor for person applying

or

(*Title, etc. as in originating process*)

I request that a citation to see these proceedings issue to each of (*name and address of each person to be cited*).

Party applying: (*name*)

Filed: (*date*)

(*signature*)
Solicitor for person applying

FORM 88W

rule 88.51(1)

(*heading as in Form 88V*)

CITATION TO PRAY FOR ADMINISTRATION

To (*name*) of (*address*),

This citation is issued at the request of (*name*) of (*address and occupation*) who has filed in this Court an affidavit by him stating that:

1. (*name*) late of (*address and occupation*) died at (*place*) on (*date*);

2. he believes that the deceased died without leaving a will (*or where applicable* he believes that the deceased left a will, a copy of which is annexed and marked "A");

3. (*where applicable*) no executor was appointed by the will (*or where applicable:* (*name*) the executor appointed by the will has renounced probate or (*name*) the executor appointed by the will died on (*date*)); and

4. he is (*state relationship to the deceased*) of the deceased (*or where applicable:* he is a beneficiary under the will or he is a creditor of the deceased).

You are cited to pray for administration of the estate of the deceased. If you wish to comply with this citation you must:

1. within (*number of days*) days after service on you of this citation (or if this citation is served on you outside the Northern Territory within (*number of days*) after service of it on you) file in the Registry of this Court an answer stating (*if it be the case*) that you intend to apply to the Court for a grant to you of administration of the estate of the deceased; and

2. with reasonable promptness commence a proceeding in this Court for a grant to you of administration of the estate of the deceased and pursue that proceeding diligently.

If you do not comply with this citation the Court may grant administration of the estate of the deceased to (*name*) without further notice to you in your absence.

Dated: (*date*)

By the Court
Registrar

FORM 88X

rule 88.51(2)

(*heading as in citation*)

ANSWER TO CITATION TO PRAY FOR ADMINISTRATION

I (*name*) of (*address and occupation*) having been served on (*date*) at (*place*) with a citation issued at the request of (*name*) and dated (*date*) to pray for administration of the estate of (*name*) late of (*address and occupation*) answer that I intend to apply to this Court for a grant to me of administration of the estate of the deceased.

Filed: (*date*)

(*signature*)
Solicitor for person cited

FORM 88Y

rules 88.52(1)
and 88.54(3)

(*heading as in Form 88A*)

CITATION TO TAKE PROBATE

To (*name*) of (*address*),

This citation is issued at the request of (*name*) of (*address and occupation*) who has filed in this Court an affidavit by him stating that:

1. (*name*) late of (*address and occupation*) died at (*place*) on (*date*);

2. he believes that the deceased left a will, a copy of which is annexed and marked "A", which appoints you the executor (*or* one of the *executors*) of it; and

3. he is a beneficiary under the will (*or where applicable:* he is (*state relationship to the deceased*)) of the deceased (*or where applicable:* he is a creditor of the deceased).

You are cited to take probate of the will. If you wish to comply with this citation you must:

1. within (*number of days*) days after service on you of this citation (or if this citation is served on you outside the Northern Territory within (*number of days*) after service of it on you) file in the Registry of this Court an answer stating that you intend to apply (if it be the case) to the Court for a grant to you of probate of the will; and

2. with reasonable promptness commence a proceeding in this Court for a grant to you of probate of the will and pursue that proceeding diligently.

If you do not comply with this citation your right in respect of the executorship shall wholly cease, and the representation to the deceased and the administration of his estate shall, without any further renunciation, go devolve and be committed as if you had not been appointed executor.

Dated: (*date*)

By the Court

Registrar

FORM 88Z

rule 88.52(2)

(*heading as in citation*)

ANSWER TO CITATION TO TAKE PROBATE

I (*name*) of (*address and occupation*) having been served on (*date*) at (*place*) with a citation issued at the request of (*name*) and dated (*date*) to take probate of the will, a copy of which is annexed to the citation, of (*name*) late of (*address and occupation*) answer that I intend to apply to this Court for a grant to me of probate of the will.

Filed: (*date*)

(*signature*)
Solicitor for person cited

FORM 88ZA

rule 88.53(2)

(*Heading as in originating process*)

CITATION TO SEE PROCEEDINGS

To (*name*) of (*address*),

This citation is issued at the request of (*name*) of (*address and occupation*) who is the applicant (*or where applicable:* a respondent) in a proceeding commenced in this Court by application. A copy of the (*originating process or as the case may be*) is annexed and marked "A".

A copy of the will referred to in the (*originating process*) is annexed and marked "B".

The applicant has filed an affidavit stating that you have an interest adverse to him in the proceeding in that (*state the adverse interest*).

If you do not answer his citation by filing an appearance in the proceeding before the proceeding is heard and determined, the Court may hear and determine the proceeding in your absence with such consequences as may ensue according to law.

Dated: (*date*)

By the Court

Registrar

FORM 88ZB

rule 88.54(2)(a)

(*Order under section 34 of Administration and Probate Act 1969*)

(*heading as in originating process*) (*other particulars as in Form 60C of General Rules*)

ORDER

THE COURT ORDERS THAT:

1. Probate of the will of (*name*) late of (*address and occupation*) dated (*date e.g. 1 April 1945*) who died on (*date*) will, after the expiration of (*number*) days (*or* one month *or as the case may be*) be granted to (*applicant's name*) of (*applicant's address and occupation*).

2. (*name of executor who neglects or refuses to prove the will or renounce probate or who is unknown or cannot be found*) have liberty to apply within the time specified in paragraph 1 of this Order to set aside or vary this order.

3. (*Insert other orders made by the Court*).

DATE AUTHENTICATED:

Judge *or*
Registrar

Or

By the Court

Registrar

FORM 88ZC

rule 88.62(1)

(*Caveat in respect of a grant or reseal being made*)

(*heading as in Form 8A*)

CAVEAT

I demand that no grant or reseal be made in the estate of (*name*) late of (*address and occupation*) without prior notice to me.

My interest is (*state interest*).

Caveator: (*name, address and occupation*)

Caveator's address for service: (*See Rule 6.05 of General Rules*)

Lodged: (*date*)

(*signature*)
Caveator or his solicitor

FORM 88ZD

rule 88.63(1)

(*Caveat requiring proof of will in solemn form*)

(*heading as in Form 88A*)

CAVEAT

I require that any will (*or where applicable:* the will dated (*date*) *or otherwise identify the will*) of (*name*) late of (address and occupation) be proved in solemn form.

My interest is (*state interest*).

Caveator: (*name, address and occupation*)

Caveator's address for service: (*Rule 6.05 applies as if the caveator were a plaintiff*)

Lodged: (*date*)

(*signature*)
Caveator or his solicitor

FORM 88ZE

rule 88.74(2)

(*Summons under section 91(2) of Administration and Probate Act 1969*)

(*heading as in originating process*)

REGISTRAR'S SUMMONS

You are required, on the application of the Registrar, to show cause to the Court why you should not be ordered, under section 91(2) of the *Administration and Probate Act 1969*:

* to file an inventory or statement as required by section 89 of that Act and by the Rules of Court;

* to fill accounts;

* to file and pass accounts;

* to pass accounts forthwith.

The application will be heard before a Judge [*or* the Registrar] on (*date*) at a.m. [*or* p.m.] or so soon afterwards as the business of the Court will allow.

Registrar.

To: [*identify person to whom summons is address*].

* *Strike out whichever is inapplicable.*

FORM 88ZF

rule 88.88

(*No heading or title is necessary*)

NOTICE OF INTENDED DISTRIBUTION OF ESTATE

Any person having a claim upon the estate of (*name in capitals*) late of (*place*) (*occupation*) who died on (*date*) must send particulars of his claim to the executor (*or as the case may be*) (*name*) at (*address of executor*) (*or* care of *name of solicitor*, solicitor, *address, and, where applicable*, or their agents, *name, address*) within 2 calendar months (*or more*) from publication of this notice. After that time the executor (*or as the case may be*) may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was (*or* Letters of Administration were) granted in the Territory on (*date*).

FORM 92A

rule 92.15(1)

20 No.

IN THE SUPREME COURT OF THE NORTHERN TERRITORY AT	IN THE MATTER OF the *Criminal Property Forfeiture Act 2002* and IN THE MATTER of CD,

BETWEEN	AB	Applicant
	and	
	CD	Respondent

EX PARTE APPLICATION

The applicant applies for the following declaration(s) and/or order(s) against:

Dated: [*e.g.* 15 June 20 .]

[*Signed*]

Filed:
The Applicant's address for service is:
[*The form is to include, in a Schedule if necessary, details of any property in respect of which an order is sought*.]

FORM 92B

rule 92.15(2)

20 No.

IN THE SUPREME COURT OF THE NORTHERN TERRITORY AT		IN THE MATTER OF the *Criminal Property Forfeiture Act 2002* and IN THE MATTER of CD,
BETWEEN	AB	Applicant
	and	
	CD	Respondent

APPLICATION

TO: [*Respondent*]

TAKE NOTICE that the applicant applies for the following declaration(s) and/or order(s) against you:

Directions as to the hearing of this application will be given by the Court on [*date*] at [*time*].

Dated: [*e.g.* 15 June 20 .]

[*Signed*]

The Applicant's address for service is:
[*The form is to include, in a Schedule if necessary, details of any property in respect of which an order is sought*.]

If you intend to defend the proceeding, you must give notice of your intention by filing an appearance within 21 days of being served with this notice. You or your solicitor may file the appearance by filing a "Notice of Appearance" in the Registry of the Supreme Court in the Supreme Court Building, State Square, Darwin, or, if this notice is issued by the Alice Springs Registry, in the Alice Springs Registry of the Supreme Court, Law Courts Building, Parsons Street, Alice Springs.

If you do not file an appearance within the proper time, the applicant may obtain an order or declaration against you without giving you any further notice.

FORM 92C

rule 92.15(3)

20 No.

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
AT

IN THE MATTER OF the *Criminal Property Forfeiture Act 2002* and IN THE MATTER of CD,

APPLICATION TO INSPECT FILE

I, [*full name and address*] apply to inspect the court file in the matter of [*name of party*] under the *Criminal Property Forfeiture Act 2002*.

I certify that my reason for this application is [*state grounds – e.g. I am a legal practitioner retained to provide advice to in the matter*].

I acknowledge that the *Criminal Property Forfeiture Act 2002* provides a penalty of 1 000 penalty units or 5 years imprisonment for a breach of the secrecy provisions of the Act.

Signed

Dated: [*e.g.* 15 June 20 .]

Application approved/not approved

Registrar

Date

FORM 93A

rule 93.02

IN THE SUPREME COURT */
IN THE COURT OF APPEAL*/
IN THE COURT OF CRIMINAL APPEAL*/
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT [Darwin or Alice Springs]
No.

BETWEEN

THE QUEEN

and

A.B.

APPLICATION FOR BAIL / REQUEST FOR REVIEW OF BAIL DECISION*

[*Name in full of applicant/ person requesting review**]

of [*address*] is charged with/has been convicted of* [*description of offence*]

I, [*name of applicant /person making request**] of [*address*]

request [*name of court*] at [*place*]

to:

(a) grant bail

Application for bail made at .....…..... [place] on the ….... day of ...20..;

or

(b) review under [*cite provision of Bail Act 1982 under which review is sought*] a decision of [*name of Local Court Judge/Supreme Court Judge/court*] made at [*court, place*] on [*date of decision*] .

Application/ request for review made on the ..... day of ..... 20.... *

Signature of applicant / person making request

NOTICE OF HEARING

* The accused person

TO:

* Director of Public Prosecutions

NOTE: That the above matter has been listed for hearing at [*name of court*] on ..... the ..... day of ..... 20.... at .....am/pm* when all parties to the matter must attend.

Date:

COURT OFFICER

* *Delete where inapplicable*

Schedule 2

rule 81A.16

1. Has an indictment been signed and served upon the accused?

2. Are further particulars of the indictment likely to be sought by the accused?

3. Does the accused person presently intend to plead guilty or not guilty to a specified count on the indictment?

4. Is there to be an application to sever the indictment and, if so, what parts of the indictment are to be severed?

5. Is a specified accused likely to make an application for a separate trial?

6. Is there a possibility of a change of plea?

7. Has there been a conference between counsel for the Director and counsel for the accused? If not, is such a conference proposed?

8. Does the prosecution propose to call additional evidence?

9. Has the prosecution notified the accused or his or her legal representative of additional evidence and, if it intends to do so, when is it proposed to furnish a proof of evidence?

10. What is the probable length of trial?

    (a) the prosecution's estimate?

    (b) the accused's estimate?

11. Is a point of law or of admissibility of evidence likely to be raised before a jury is empanelled? If yes, what are those matters and what is the likely duration of these matters?

12. Does the accused or the prosecution intend to raise a special issue? e.g. unfitness to be tried, change of venue, mental impairment.

13. Does the accused intend to raise a special plea? e.g. lack of jurisdiction, autrefois convict, autrefois acquit.

14. Does the accused intend to rely on an alibi not yet disclosed in conformity with the Criminal Code?

15. Do the parties anticipate a problem in relation to the availability of witnesses? If yes, give details.

16. What admissions of fact are sought by the prosecution? Is the accused prepared to make any of the admissions sought?

17. What admissions of fact are sought by the accused? Is the prosecution prepared to make any of the admissions sought?

18. Are there any difficulties relating to photographs or plans and formal proof of them?

19. Is an order sought for the inspection of prosecution exhibits or other evidentiary material in the possession of the prosecution as to which a question may arise in the course of the trial?

20. Is an order sought for the discovery, inspection, preservation or detention of a document or thing relating to the trial?

21. Is an order sought for the production before the Court of a document, tape recording or thing relating to the trial?

22. Does a party propose to deliver to the other party a notice to admit in respect of anything not covered by the answers to question No. 16 or 17?

23. What arrangements have been made for the accused or his or her legal representative to view a video recording or to hear a tape recording in the custody of the prosecution and to be provided with a copy and a transcript of it?

24. Does a party intend to apply for a view and, if so, where and at what stage of the trial?

25. Have the parties agreed that copies of exhibits or of preliminary exhibits are to be supplied to the jury?

26. Will an interpreter be required during the trial? If so, what language is to be interpreted? Has the name of the interpreter and his or her qualifications been provided to the other party?

27. Is it proposed that a witness be declared a vulnerable witness? If so, what orders are proposed under s 21A of the *Evidence Act 1939*?

28. Is it proposed that a witness give evidence by videoconferencing link?

29. Is it proposed to call as a witness a person who wishes to take an oath under section 10 of the *Oaths, Affidavits and Declarations Act 2010*? If so, what form of oath is required and how is it to be administered?

30. Is it proposed to call as a witness a person to whom section 26 of the *Oaths, Affidavits and Declarations Act 2010* will apply? If so, has the identity of this witness been disclosed to the other party?

31. Does the prosecution intend to elect under section 21B(2)(a) of the *Evidence Act 1939* for evidence in chief of a witness to be pre-recorded and given by video tape or other audio-visual means?

32. Does the prosecution intend to elect under section 21B(2)(b) of the *Evidence Act 1939* for the whole of the evidence of a witness to be given by video tape or other audio-visual means at a special hearing of the Court in accordance with section 21B(4)(a) of that Act?

33. Does the prosecution intend to apply to the Court to admit evidence of a statement to another person as evidence of the facts in issue under section 26E(1) of the *Evidence Act 1939*?

34. Are there any other significant matters that might affect the proper and convenient trial of the issues?

ENDNOTES

1 KEY

Key to abbreviations

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

2 LIST OF LEGISLATION

Refer Volume 1 of Laws of the Northern Territory 1987

Notified	–
Commenced	1 November 1987 (r 2)

***Supreme Court (Probate and Administration) Rules* (SL No. 44, 1987)**

Notified	29 October 1987
Commenced	1 November 1987 (r 2)

***Amendments of the Supreme Court Rules* (SL No. 1, 1988)**

Notified	27 January 1988
Commenced	1 February 1988 (r 1)

***Amendments of the Supreme Court Rules* (SL No. 34, 1988)**

Notified	1 July 1988
Commenced	1 July 1988

***Amendments of the Supreme Court Rules* (SL No. 35, 1988)**

Notified	3 August 1988
Commenced	3 August 1988

***Amendments of the Supreme Court Rules* (SL No. 56, 1988)**

Notified	30 December 1988
Commenced	1 January 1989 (r 1)

***Amendments of the Supreme Court Rules* (SL No. 4, 1990)**

Notified	14 March 1990
Commenced	14 March 1990

***Amendments of the Supreme Court Rules* (SL No. 20, 1990)**

Notified	15 August 1990
Commenced	1 July 1990 (r 1)

***Amendments of the Supreme Court Rules* (SL No. 40, 1990)**

Notified	4 October 1990
Commenced	1 October 1990 (r 1)

***Amendments of the Supreme Court Rules* (SL No. 71, 1991)**

Notified	16 December 1991
Commenced	16 December 1991

***Amendments of Supreme Court Rules* (SL No. 74, 1992)**

Notified	13 January 1993
Commenced	13 January 1993

***Amendments of the Supreme Court Rules* (SL No. 23, 1993)**

Notified	8 September 1993
Commenced	8 September 1993

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

Assent date	31 December 1993
Commenced	1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

***Amendments of Supreme Court Rules* (SL No. 21, 1994)**

Notified	13 July 1994
Commenced	13 July 1994

***Amendment of Supreme Court Rules* (SL No. 27, 1996)**

Notified	1 July 1996
Commenced	1 July 1996

***Births, Deaths and Marriages Registration (Consequential Amendments) Act 1996* (Act No. 27, 1996)**

Assent date	28 June 1996
Commenced	1 January 1997 (s 2, s 2 *Births, Deaths and Marriages Registration Act 1996* (Act No. 26, 1996) and *Gaz* G49, 4 December 1996, p 5)

***Amendments of Supreme Court Rules* (SL No. 11, 1998)**

Notified	1 June 1998
Commenced	1 June 1998

***Amendments of Supreme Court Rules* (SL No. 21, 2000)**

Notified	2 May 2000
Commenced	2 May 2000

***Amendments of Supreme Court Rules* (SL No. 22, 2000)**

Notified	2 May 2000
Commenced	2 May 2000

***Amendments of Supreme Court Rules* (SL No. 50, 2000)**

Notified	18 October 2000
Commenced	18 October 2000

***Amendments of Supreme Court Rules* (SL No. 52, 2000)**

Notified	8 November 2000
Commenced	8 November 2000

Land Title (Consequential Amendments) Act 2000 **(Act No. 45, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

Amendment to the Supreme Court Rules 2001 **(SL No. 2, 2001)**

Notified	28 February 2001
Commenced	28 February 2001

Statute Law Revision Act 2001 **(Act No. 3, 2001)**

Assent date	22 March 2001
Commenced	22 March 2001

Corporations Reform (Consequential Amendments NT) Act 2001 **(Act No. 17, 2001)**

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 Corporations Act 2001 (Cth Act No. 50, 2001) and Cth *Gaz* S285, 13 July 2001)

Amendment of Supreme Court Rules **(SL No. 8, 2002)**

Notified	24 April 2002
Commenced	24 April 2002

Amendment of Supreme Court Rules **(SL No. 13, 2002)**

Notified	8 May 2002
Commenced	8 May 2002

Statute Law Revision (Financial Provisions) Act 2002 **(Act No. 38, 2002)**

Assent date	13 September 2002
Commenced	30 October 2002 (*Gaz* G43, 30 October 2002, p 3)

Amendments of Supreme Court Rules **(SL No. 61, 2002)**

Notified	18 December 2002
Commenced	18 December 2002

Amendment of Supreme Court Rules **(SL No. 13, 2003)**

Notified	26 March 2003
Commenced	26 March 2003

Amendment of Supreme Court Rules **(SL No. 34, 2003)**

Notified	18 June 2003
Commenced	18 June 2003

Statute Law Revision Act (No. 2) 2003 **(Act No. 44, 2003)**

Assent date	7 July 2003
Commenced	7 July 2003

Amendments of the Supreme Court Rules **(SL No. 47, 2003)**

Notified	17 September 2003
Commenced	17 September 2003

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 **(Act No. 1, 2004)**

Assent date	7 January 2004
Commenced	17 March 2004 (*Gaz* G11, 17 March 2004, p 8)

***Amendments of Supreme Court Rules* (SL No. 32, 2004)**

Notified	22 September 2004
Commenced	22 September 2004

***Supreme Court Amendment (Registration of Foreign Judgments) Rules 2005* (SL No. 14, 2005)**

Notified	1 June 2005
Commenced	1 June 2005

***Youth Justice (Consequential Amendments) Act 2005* (Act No. 33, 2005)**

Assent date	22 September 2005
Commenced	1 August 2006 (s 2, s 2 *Youth Justice Act 2005* (Act No. 32, 2006) and *Gaz* G30, 26 July 2006, p 3)

***Supreme Court Amendment (Sexual Offences Evidence) Rules 2005* (SL No. 52, 2005)**

Notified	25 January 2006
Commenced	25 January 2006

***Supreme Court Amendment (Subpoenas) Rules 2006* (SL No. 28, 2006)**

Notified	2 August 2006
Commenced	2 August 2006

***Evidence and Other Legislation (Witness Assistance) Amendment Act 2006* (Act No. 32, 2006)**

Assent date	3 November 2006
Commenced	3 November 2006

***Supreme Court Amendment (Freezing and Search) Rules 2006* (SL No. 50, 2006)**

Notified	10 January 2007
Commenced	10 January 2007

***Supreme Court Amendment (Subpoenas) Rules* (No. 2) 2006 (SL No. 51, 2006)**

Notified	10 January 2007
Commenced	10 January 2007

***Statute Law Revision Act 2007* (Act No. 4, 2007)**

Assent date	8 March 2007
Commenced	8 March 2007

***Justice Legislation Amendment Act 2007* (Act No. 5, 2007)**

Assent date	24 April 2007
Commenced	s 37 (except amd of Criminal Code and *Legal Profession Act 2006*): 1 May 2007 (s 2(1), s 2 *Victims of Crime Assistance Act 2006* (Act No. 15, 2006) and *Gaz* G17, 26 April 2007, p 7); rem: 24 April 2007

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

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

***Supreme Court Amendment (Proceedings Relating to Lawyers) Rules 2007* (SL No. 16, 2007)**

Notified	25 July 2007
Commenced	25 July 2007

Supreme Court Amendment (Leave to Appeal) Rules 2007 **(SL No. 35, 2007)**

Notified	28 November 2007
Commenced	28 November 2007

Law Reform (Work Health) Amendment Act 2007 **(Act No. 30, 2007)**

Assent date	12 December 2007
Commenced	1 July 2008 (*Gaz* S29, 25 June 2008)

Care and Protection of Chilren Act 2007 **(Act No. 37, 2007)**

Assent date	12 December 2007
Commenced	Ch 1 and pts 3.3 and 5.1: 7 May 2008 (*Gaz* G18, 7 May 2008, p 4); Ch 2 (exc pt 2.1, div 6 and s 127), Ch 3, pts 3.1 and 3.2 (exc s 187) and Ch 5, pts 5.2 to 5.6: 8 December 2008 (*Gaz* G47, 26 November 2008, p 6); Ch 4: 9 June 2009 (*Gaz* S27, 1 June 2009); Ch 2, pt 2.1, div 6: 18 August 2010 (*Gaz* S43, 18 August 2010); s 187: 1 July 2011 (*Gaz* S32, 20 June 2011); s 127: nc

Statute Law Revision Act 2008 **(Act No. 6, 2008)**

Assent date	11 March 2008
Commenced	11 March 2008

Supreme Court Amendment Rules 2008 **(SL No. 21, 2008)**

Notified	30 July 2008
Commenced	30 July 2008

Supreme Court Amendment (Expert Witnesses) Rules 2008 **(SL No. 33, 2008)**

Notified	26 November 2008
Commenced	26 November 2008

Supreme Court Amendment (Miscellaneous Matters) Rules 2008 **(SL No. 37, 2008)**

Notified	17 December 2008
Commenced	17 December 2008

Supreme Court Amendment (Costs and Master's Authority) Rules 2009 **(SL No. 10, 2009)**

Notified	2 September 2009
Commenced	2 September 2009

Supreme Court Amendment (Subpoenas) Rules 2009 **(SL No. 11, 2009)**

Notified	27 May 2009
Commenced	27 May 2009

Supreme Court Amendment (Service Outside Australia) Rules 2009 **(SL No. 42, 2009)**

Notified	1 September 2010
Commenced	1 November 2010

Supreme Court Amendment (Authority of Master) Rules 2010 **(SL No. 30, 2010)**

Notified	15 December 2010
Commenced	15 December 2010

Mineral Titles (Consequential Amendments) Act 2010 **(Act No. 37, 2010)**

Assent date	18 November 2010
Commenced	7 November 2011 (*Gaz* G41, 12 October 2011, p 5)

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 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

Justice (Corrections) and Other Legislation Amendment Act 2011 **(Act No. 24, 2011)**

Assent date	31 August 2011
Commenced	ss 3, 9 to 11, 15 to 17, 19, 20, 24, 33, 42, schs 1 and 2, sch 4 pt 1 and sch 5: 31 August 2011 (s 2); rem: 27 February 2012 (*Gaz* S9, 21 February 2012)

Supreme Court Amendment (Subpoena) Rules 2011 **(SL No. 61, 2011)**

Notified	1 February 2012
Commenced	1 February 2012

Supreme Court Amendment (Mediation and Sentencing) Rules 2012 **(SL No. 14, 2012)**

Notified	11 April 2012
Commenced	11 April 2012

Supreme Court Amendment (Notice of Appeal) Rules 2012 **(SL No. 15, 2012)**

Notified	11 April 2012
Commenced	11 April 2012

Supreme Court Amendment (Breach of Bail) Rules 2012 **(SL No. 39, 2012)**

Notified	7 November 2012
Commenced	7 November 2012

Supreme Court Amendment (Evidence) Rules 2013 **(SL No. 7, 2013)**

Notified	8 May 2013
Commenced	8 May 2013

Supreme Court Amendment (Interest Rate) Rules 2013 **(SL No. 18, 2013)**

Notified	5 June 2013
Commenced	5 June 2013

Supreme Court Amendment (Commercial Arbitration) Rules 2013 **(SL No. 34, 2013)**

Notified	25 September 2013
Commenced	25 September 2013

Supreme Court Amendment (Public Notaries) Rules 2013 **(SL No. 37, 2013)**

Notified	6 November 2013
Commenced	6 November 2013

Supreme Court Amendment (Waiver and Deferral of Fees) Rules 2013 **(SL No. 38, 2013)**

Notified	6 November 2013
Commenced	6 November 2013

Workers Rehabilitation and Compensation Legislation Amendment Act 2015 **(Act No. 9, 2015)**

Assent date	23 April 2015
Commenced	ss 3, 4, 5, 24, 25 and pt 4: 22 May 2015; rem: 1 July 2015 (*Gaz* S50, 22 May 2015)

Supreme Court Amendment Rules 2015 **(SL No. 39, 2015)**

Notified	23 December 2015
Commenced	23 December 2015

Supreme Court Amendment Rules 2016 **(SL No. 35, 2016)**

Notified	13 July 2016
Commenced	13 July 2016

Advance Personal Planning Amendment Act 2016 **(Act No. 13, 2016)**

Assent date	7 June 2016
Commenced	28 July 2016 (s 2, s 2 *Guardianship of Adults Act 2016* (Act No. 15, 2016) and *Gaz* S74, 27 July 2016, p 1)

Supreme Court Amendment (Costs) Rules 2017 **(SL No. 23, 2017)**

Notified	12 July 2017
Commenced	12 July 2017

Supreme Court Amendment (Associate Judges) Rules 2017 **(SL No. 32, 2017)**

Notified	21 November 2017
Commenced	22 November 2017 (r 2, s 2 *Supreme Court Amendment (Associate Judges) Act 2017* (Act No. 18, 2017) and *Gaz* S84, 21 November 2017, p 1)

Supreme Court Amendment (Miscellaneous) Rules 2018 **(SL No. 6, 2018)**

Notified	14 March 2018
Commenced	14 March 2018

Supreme Court Amendment (Appeals) Rules 2022 **(SL No. 22, 2022)**

Notified	23 December 2022
Commenced	23 December 2022

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 1.01A, 1.09, 3.07, 11.15, 17.11, 22.03, 33.13, 42.06, 42.11, 43.01, 47.02, 47.03, 53.01, 53.04, 55A.01, 55A.02, 63.56, 63.75, 66.11, 69.02, 69.07, 77.01, 77.02, 79.07, 79.07.1, 81A.01, 81A.02A, 81A.11, 81A.12, 81A.16, 81A.26, 81A.27, 81A.27A, 81A.27J, 81A.34, 81A.39, 81A.40, 81A.41, 83.01, 84.17, 86.01, 86.05, 86.16, 86.26, 86.27, 87.01, 88.01, 88.01.1, 88.02, 88.05, 88.05A, 88.05B, 88.05C, 88.05D, 88.14, 88.23, 88.24, 88.26, 89.02, 89.03, 90.02, 90.03, 91.01, 91.20, 92.01, 93.01, 93.02 and 95.01 and sch 1 and 2.

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r 1.08	amd No. 44, 1987, r 4
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r 1.15	ins No. 35, 1988, r 3
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r 3.04	amd No. 40, 1990, r 2
r 3.07	sub No. 52, 2000, r 4
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r 4.03	amd No. 35, 1988, r 4
r 5.03	amd No. 32, 2017, r 58
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r 6.04	amd No. 35, 1988, r 7
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r 32.03	amd No. 32, 2017, r 58
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r 33.03	amd No. 61, 2002, r 3
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r 48.03	sub No. 21, 1994, r 2; No. 52, 2000, r 7
ch 1 od 48 pt 2 hdg	ins No. 20, 1990, r 3
	sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.04	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 32, 2017, r 17
r 48.05	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 32, 2017, r 18
r 48.06	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 21, 2008, r 4; No. 32, 2017, r 19
r 48.07	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 32, 2017, r 58
r 48.08	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 22, 2022, r 10
r 48.09	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 32, 2017, r 20
r 48.10	sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.11	sub No. 21, 1994, r 2; No. 52, 2000, r 7
	amd No. 32, 2017, r 21

r 48.12	sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 22
r 48.13	sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 14, 2012, r 3; No. 32, 2017, r 23
r 48.14	sub No. 21, 1994, r 2; No. 52, 2000, r 7
ch 1 od 48	
pt 3 hdg	ins No. 21, 1994, r 2 sub No. 52, 2000, r 7
r 48.15	sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.16	amd No. 74, 1992, rr 10 and 21 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 58
r 48.17	sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 24
r 48.18	sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 37, 2008, r 4; No. 32, 2017, r 58
r 48.19	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 58
r 48.20	ins No. 20, 1990, r 3 amd No. 74, 1992, r 21 sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.21	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.22	ins No. 20, 1990, r 3 amd No. 74, 1992, r 11 sub No. 21, 1994, r 2; No. 52, 2000, r 7
ch 1 od 48	
pt 4 hdg	ins No. 21, 1994, r 2 sub No. 52, 2000, r 7
r 48.23	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd Act No. 40, 2010, s 176; No. 32, 2017, r 25
r 48.24	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd Act No. 40, 2010, s 177; No. 32, 2017, r 26
ch 1 od 48	
pt 5 hdg	ins No. 52, 2000, r 7
r 48.25	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 27
r 48.26	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7
r 48.27	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7 amd No. 32, 2017, r 28
r 48.28	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2; No. 52, 2000, r 7
rr 48.29 – 48.32	ins No. 20, 1990, r 3 sub No. 21, 1994, r 2 rep No. 52, 2000, r 7

r 48.33	ins No. 20, 1990, r 3 amd No. 74, 1992, rr 12 and 21 sub No. 21, 1994, r 2 rep No. 52, 2000, r 7
r 48.34	ins No. 74, 1992, r 13 sub No. 21, 1994, r 2 rep No. 52, 2000, r 7
rr 48.35 – 48.38	ins No. 21, 1994, r 2 rep No. 52, 2000, r 7
r 49.01	amd No. 74, 1992, r 21
r 49.02	amd No. 74, 1992, r 14; No. 32, 2017, r 58
r 50.01	amd No. 32, 2017, r 29
r 50.02	amd No. 32, 2017, r 30
r 50.04	rep No. 11, 1998, r 8
r 50.05	amd No. 32, 2017, r 31
r 51.01	amd No. 74, 1992, r 15; No. 32, 2017, r 58
r 51.03	amd No. 35, 1988, r 44
r 51.04	amd No. 32, 2017, r 32
r 52.02	amd No. 35, 1988, r 44
r 53.01	sub No. 35, 1988, r 29 amd No. 37, 2008, r 4
r 53.04	amd No. 37, 2008, r 4
r 53.07	sub No. 30, 2010, r 4
r 53.08	amd No. 30, 2010, r 5
r 54.05	renum No. 35, 1988, r 44
ch 1 od 55A hdg	ins No. 37, 2013, r 3
rr 55A.01 – 55A.02	ins No. 37, 2013, r 3
r 57.03	amd No. 35, 1988, r 44
r 57.06	amd No. 35, 1988, r 44
od 58 hdg	rep No. 21, 1994, r 3
r 58.01	amd No. 74, 1992, r 21 rep No. 21, 1994, r 3
r 58.02	amd No. 71, 1991, r 8 rep No. 21, 1994, r 3
rr 58.03 – 58.04	amd No. 74, 1992, r 21 rep No. 21, 1994, r 3
rr 58.05 – 58.11	rep No. 21, 1994, r 3
r 59.02	amd No. 61, 2002, r 7; No. 18, 2013, r 3
r 59.04	amd No. 32, 2017, r 33
r 59.06	ins No. 61, 2002, r 8 amd No. 32, 2017, r 58
r 60.01	amd No. 35, 1988, r 30
r 60.02	amd No. 74, 1992, r 21; No. 32, 2017, r 58
r 60.03	amd No. 74, 1992, r 21; No. 32, 2017, r 34
r 60.04	amd No. 32, 2017, r 35
r 60.05	amd Act No. 3, 2001, s 9
rr 60.06 – 60.07	amd No. 74, 1992, r 21
r 62.02	amd No. 35, 1988, r 44; No. 23, 1993, r 5; Act No. 17, 2001, s 22
ch 1 od 63 hdg	ins No. 1, 1988, r 4

ch 1	
od 63	
pt 1 hdg	ins No. 1, 1988, r 4
r 63.01	ins No. 1, 1988, r 4
	amd No. 71, 1991, r 8; No. 23, 2017, r 3; amd No. 22, 2022, r 10
r 63.02	ins No. 1, 1988, r 4
	amd No. 35, 1988, r 31; No. 23, 2017, r 4
rr 63.03 – 63.11	ins No. 1, 1988, r 4
r 63.12	ins No. 1, 1988, r 4
	amd No. 71, 1991, r 3
r 63.13	ins No. 1, 1988, r 4
ch 1	
od 63	
pt 2 hdg	ins No. 1, 1988, r 4
rr 63.14 – 63.17	ins No. 1, 1988, r 4
r 63.18	ins No. 1, 1988, r 4
	amd No. 23, 2017, r 5
rr 63.19 – 63.20	ins No. 1, 1988, r 4
r 63.21	ins No. 1, 1988, r 4
	amd No. 32, 2017, r 36
rr 63.22 – 63.23	ins No. 1, 1988, r 4
ch 1	
od 63	
pt 3 hdg	ins No. 1, 1988, r 4
rr 63.24 – 63.30	ins No. 1, 1988, r 4
r 63.31	ins No. 1, 1988, r 4
	amd No. 71, 1991, r 8
r 63.32	ins No. 1, 1988, r 4
ch 1	
od 63	
pt 4 hdg	ins No. 1, 1988, r 4
r 63.33	ins No. 1, 1988, r 4
	amd No. 22, 2022, r 10
r 63.34	ins No. 1, 1988, r 4
	amd No. 23, 2017, r 6
ch 1	
od 63	
pt 5 hdg	ins No. 1, 1988, r 4
r 63.35	ins No. 1, 1988, r 4
	amd No. 22, 2022, r 5
rr 63.36 – 63.39	ins No. 1, 1988, r 4
r 63.40	ins No. 1, 1988, r 4
	amd No. 4, 1990, r 8; No. 74, 1992, r 21; No. 23, 1993, r 6; No. 21, 2008, r 5; No. 23, 2017, r 7
rr 63.41 – 63.49	ins No. 1, 1988, r 4
r 63.50	ins No. 1, 1988, r 4
	amd No. 39, 2012, r 5
r 63.51	ins No. 1, 1988, r 4
r 63.52	ins No. 1, 1988, r 4
	amd No. 22, 2022, r 10

rr 63.53 – 63.54	ins No. 1, 1988, r 4
r 63.55	ins No. 1, 1988, r 4 amd No. 35, 1988, r 32; No. 23, 2017, r 8
ch 1 od 63 pt 6 hdg	ins No. 1, 1988, r 4
r 63.56	amd Act No. 7, 2007, s 16
rr 63.57 – 63.58	ins No. 1, 1988, r 4
r 63.59 –	ins No. 1, 1988, r 4 amd No. 22, 2022, r 10
r 63.60	ins No. 1, 1988, r 4
r 63.60.1	ins No. 4, 1990, r 9 amd No. 37, 2008, r 4
rr 63.61 – 63.63	ins No. 1, 1988, r 4
r 63.63A	ins No. 23, 2017, r 9
r 63.64	ins No. 1, 1988, r 4
ch 1 od 63 pt 7 hdg	ins No. 1, 1988, r 4
r 63.65	ins No. 1, 1988, r 4
r 63.66	ins No. 1, 1988, r 4 amd No. 23, 2017, r 10
rr 63.67 – 71	ins No. 1, 1988, r 4
r 63.72	ins No. 1, 1988, r 4 amd No. 11, 1998, r 9; No. 23, 2017, r 11
r 63.72A	ins No. 23, 2017, r 12
r 63.73	ins No. 1, 1988, r 4 amd No. 42, 2009, r 8; No. 32, 2017, r 58
r 63.73A	ins No. 23, 2017, r 13
r 63.74	ins No. 1, 1988, r 4 amd No. 35, 1988, r 44; No. 11, 1998, r 10; No. 23, 2017, r 14
r 63.75	ins No. 10, 2009, r 3 amd No. 32, 2017, r 37; amd No. 22, 2022, r 10
ch 1 app od 63 hdg	ins No. 1, 1988, r 4
ch 1 od 63 app	amd No. 35, 1988, r 33; No. 4, 1990, r 10; No. 40, 1990, r 3; No. 34, 2003, r 6; No. 21, 2008, r 6; No. 42, 2009, r 8; No. 23, 2017, r 15
r 63.76	ins No. 6, 2018, r 18
r 64.01	amd Act No. 37, 2010, s 14; No. 35, 2016, r 2
r 64.12	amd No. 74, 1992, r 21
r 65.01	sub No. 16, 2007, r 3
r 65.02	amd No. 16, 2007, r 4
r 65.04	amd No. 74, 1992, r 21; No. 16, 2007, r 5; No. 32, 2017, r 38
r 66.01	amd No. 35, 1988, r 34; No. 74, 1992, r 21; No. 32, 2017, r 39
r 66.02	amd No. 74, 1992, r 21; No. 32, 2017, r 40
r 66.10	amd No. 35, 1988, r 35
rr 67.02	
67.03	amd No. 32, 2017, r 58
r 67.04	amd No. 35, 1988, r 36
r 67.05	amd No. 35, 1988, r 37; No. 32, 2017, r 41
r 68.02	amd No. 39, 2012, r 5
r 68.04	amd No. 74, 1992, r 21; Act No. 40, 2010, s 178
r 68.08	amd No. 35, 1988, r 38

r 69.07	amd Act No. 45, 2000, s 13
r 71.01	amd No. 37, 2008, r 4
r 71.03	amd Act No. 38, 2002, s 7
r 72.04	amd Act No. 1, 2004, s 63
r 72.11	amd No. 74, 1992, r 21; No. 23, 1993, r 7
r 72.14	amd No. 74, 1992, r 21
r 73.01	amd Act No. 3, 2001, s 9; No. 37, 2008, r 3
r 73.11	amd No. 74, 1992, r 21; No. 32, 2017, r 58
r 75.07	amd No. 74, 1992, r 21; No. 11, 1998, r 18
r 75.08	sub No. 35, 1988, r 39
ch 1	
od 77 hdg	amd No. 32, 2017, r 42
r 77.01	amd No. 4, 1990, r 11; No. 71, 1991, r 4; No. 74, 1992, r 16; Act No. 27, 1996, s 7(2); No. 11, 1998, r 11; No. 50, 2000, r 2; Act No. 38, 2002, s 7; No. 16, 2007, r 6; No. 35, 2007, r 3; No. 10, 2009, r 4; No. 30, 2010, r 6; No. 7, 2013, r 7; No. 32, 2017, r 58
r 77.02	amd No. 35, 1988, r 44; No. 74, 1992, r 17; No. 50, 2000, r 3; No. 61, 2002, r 9; No. 35, 2007, r 4; No. 10, 2009, r 5; No. 30, 2010, r 7; No. 32, 2017, r 43
r 77.03	amd No. 37, 2008, r 4; No. 32, 2017, r 44
r 77.04	amd No. 40, 1990, r 4; No. 30, 2010, r 8; No. 32, 2017, r 45; amd No. 22, 2022, r 10
r 77.05	amd No. 74, 1992, r 18 sub No. 50, 2000, r 4 rep No. 35, 2007, r 5
r 77.06	rep No. 74, 1992, r 19
r 78.01	amd No. 71, 1991, r 8
r 78.05	amd No. 32, 2017, r 46
r 78.06	amd No. 32, 2017, r 47
r 78.07	amd No. 35, 1988, r 44; No. 50, 2000, r 5 rep No. 37, 2008, r 4
r 79.02	amd Act No. 38, 2002, s 7; No. 23, 2017, r 16; No. 32, 2017, r 58
r 79.03	amd No. 32, 2017, r 58
r 79.05	amd No. 32, 2017, r 48
r 79.06	amd No. 37, 2008, r 4; No. 32, 2017, r 49
r 79.07	amd No. 32, 2017, r 58
r 79.07.1	ins No. 40, 1990, r 5 amd No. 11, 1998, r 12; Act No. 4, 2007, s 7; No. 32, 2017, r 58
r 79.08	amd No. 35, 1988, r 44
r 79.09	rep No. 6, 2018, r 19
r 80.01	sub No. 42, 2009, r 6
r 80.02	amd No. 74, 1992, r 21
r 80.03	amd No. 35, 1988, r 44; No. 74, 1992, r 21
r 80.05	amd No. 74, 1992, r 21
r 81.03	amd No. 35, 1988, r 44; No. 32, 2017, r 58
rr 81.05 – 81.06	amd No. 74, 1992, r 21
ch 1A hdg	ins No. 21, 2000, r 4
ch 1A od 81A hdg	ins No. 21, 2000, r 4
ch 1A od 81A pt 1 hdg	ins No. 21, 2000, r 4
r 81A.01	ins No. 21, 2000, r 4 amd No. 35, 2016, r 2; No. 32, 2017, r 50; amd No. 22, 2022, r 10
r 81A.02	ins No. 21, 2000, r 4 amd. No. 22, 2022, r 6
r 81A.02A	ins No. 30, 2010, r 9 amd No. 32, 2017, r 51

rr 81A.03 – 81A.05	ins No. 21, 2000, r 4
ch 1A od 81A pt 2 hdg	ins No. 21, 2000, r 4
rr 81A.06 – 81A.10	ins No. 21, 2000, r 4
ch 1A od 81A pt 3 hdg	ins No. 21, 2000, r 4
r 81A.11	ins No. 21, 2000, r 4 amd Act No. 6, 2008, s 4
ch 1A od 81A pt 3A hdg	ins No. 39, 2012, r 3
r 81A.12	ins No. 21, 2000, r 4 rep No. 13, 2002, r 2 ins No. 39, 2012, r 3 amd No. 35, 2016, r 2
r 81A.13	ins No. 21, 2000, r 4 rep No. 13, 2002, r 2
ch 1A od 81A pt 4 hdg	ins No. 21, 2000, r 4
r 81A.14	ins No. 21, 2000, r 4 amd No. 14, 2012, r 5
r 81A.15	ins No. 21, 2000, r 4
r 81A.16	ins No. 21, 2000, r 4 amd No. 14, 2012, r 5; No. 35, 2016, r 2
r 81A.17	ins No. 21, 2000, r 4
r 81A.18	ins No. 21, 2000, r 4 amd No. 14, 2012, r 5
r 81A.19	ins No. 21, 2000, r 4
ch 1A od 81A pt 5 hdg	ins No. 21, 2000, r 4
rr 81A.20 – 81A.24	ins No. 21, 2000, r 4
ch 1A od 81A pt 6 hdg	ins No. 21, 2000, r 4
r 81A.25	ins No. 21, 2000, r 4
r 81A.26	ins No. 21, 2000, r 4 amd No. 14, 2012, r 5; No. 7, 2013, r 8
r 81A.27	ins No. 21, 2000, r 4
ch 1A od 81A pt 6A hdg	ins No. 52, 2005, r 3
r 81A.27A	ins No. 52, 2005, r 3 amd No. 14, 2012, r 5
rr 81A.27B – 81A.27J	ins No. 52, 2005, r 3
ch 1A od 81A pt 7 hdg	ins No. 21, 2000, r 4
rr 81A.28 – 81A.30	ins No. 21, 2000, r 4

od 81A	
pt 8 hdg	ins No. 21, 2000, r 4
r 81A.31	ins No. 21, 2000, r 4
r 81A.32	ins No. 21, 2000, r 4
	sub No. 21, 2008, r 7
r 81A.33	ins No. 21, 2000, r 4
r 81A.34	ins No. 21, 2000, r 4
	amd No. 7, 2013, r 9
rr 81A.35 – 81A.38	ins No. 21, 2000, r 4
	amd No. 22, 2022, r 10
ch 1A	
od 81A	
pt 8A hdg	ins No. 14, 2012, r 4
rr 81A.38A – 81A.38B	ins No. 14, 2012, r 4
ch 1A	
od 81A	
pt 9 hdg	ins No. 21, 2000, r 4
r 81A.39	ins No. 21, 2000, r 4
	amd Act No. 5, 2007, s 37
ch 1A	
od 81A	
pt 10 hdg	ins No. 21, 2000, r 4
r 81A.40	ins No. 21, 2000, r 4
	amd No. 35, 2016, r 2
r 81A.41	ins No. 21, 2000, r 4
	amd Act No. 33, 2005, s 5; Act No. 6, 2008, s 4
ch 2 hdg	sub No. 22, 2022, r 7
od 82 hdg	sub No. 22, 2022, r 7
pt 1 hdg	sub No. 22, 2022, r 7
r 82.01	amd No. 71, 1991, r 8; No. 74, 1992, r 20; No. 32, 2017, r 52
	sub No. 22, 2022, r 7
rr 82.02– 82.03	sub No. 22, 2022, r 7
pt 2 hdg	sub No. 22, 2022, r 7
r 82.04	amd No. 35, 1988, r 40
	sub No. 22, 2022, r 7
rr 82.05– 82.13	sub No. 22, 2022, r 7
pt 3 hdg	sub No. 22, 2022, r 7
rr 82.14– 82.20	sub No. 22, 2022, r 7
pt 4 hdg	sub No. 22, 2022, r 7
rr 82.21– 82.25	sub No. 22, 2022, r 7
pt 5 hdg	sub No. 22, 2022, r 7
rr 82.26– 82.30	sub No. 22, 2022, r 7
r 83.01	amd No. 21, 1994, r 4; Act No. 33, 2005, s 5; Act No. 37, 2007, s 344; Act No. 37, 2010, s 14; No. 35, 2016, r 2
	rep No. 22, 2022, r 7
r 83.04	sub No. 50, 2000, r 6
	rep No. 22, 2022, r 7
r 83.05	amd No. 74, 1992, r 21; No. 23, 1993, r 7
	rep No. 22, 2022, r 7
r 83.13	amd No. 11, 1998, r 18; No. 32, 2017, r 58
	rep No. 22, 2022, r 7

rr 83.17 – 83.18	amd No. 74, 1992, r 21; No. 23, 1993, r 7 rep No. 22, 2022, r 7
r 83.23	amd No. 50, 2000, r 7 rep No. 22, 2022, r 7
r 84.06	amd No. 71, 1991, r 8; No. 74, 1992, r 21 rep No. 22, 2022, r 7
rr 84.08 – 84.11	amd No. 74, 1992, r 21 rep No. 22, 2022, r 7
r 84.13	amd No. 74, 1992, r 21 rep No. 22, 2022, r 7
r 84.15	amd No. 38, 2013, r 4 rep No. 22, 2022, r 7
r 84.17	sub No. 32, 2004, r 1; No. 35, 2007, r 6 rep No. 22, 2022, r 7
r 84.18	amd No. 32, 2004, r 2 rep No. 22, 2022, r 7
r 84.19	amd No. 32, 2004, r 3 rep No. 22, 2022, r 7
r 84.21	rep No. 32, 2004, r 4
r 84.23	amd No. 74, 1992, r 21 rep No. 22, 2022, r 7
r 84.24	amd No. 74, 1992, r 21; No. 32, 2017, r 53 rep No. 22, 2022, r 7
r 84.26	amd No. 74, 1992, r 21; No. 23, 1993, r 7 rep No. 22, 2022, r 7
r 85.01	amd No. 61, 2002, r 10 rep No. 22, 2022, r 7
ch 2 od 85	
pt 2 hdg	sub No. 35, 2007, r 7
r 85.02	amd No. 61, 2002, r 11 sub No. 35, 2007, r 7 rep No. 22, 2022, r 7
r 85.03	amd No. 61, 2002, r 12 sub No. 35, 2007, r 7 rep No. 22, 2022, r 7
r 85.04	amd No. 35, 1988, r 44 sub No. 35, 2007, r 7 rep No. 22, 2022, r 7
rr 85.05 – 85.06	sub No. 35, 2007, r 7 rep No. 22, 2022, r 7
r 85.07	amd No. 74, 1992, r 21; No. 23, 1993, r 7 sub No. 35, 2007, r 7 rep No. 22, 2022, r 7
r 85.07A	ins No. 35, 2007, r 7 rep No. 22, 2022, r 7
r 85.12	amd No. 61, 2002, r 13 rep No. 22, 2022, r 7
rr 85.14 – 85.15	amd No. 74, 1992, r 21; No. 23, 1993, r 7 rep No. 22, 2022, r 7
r 85.17	amd No. 74, 1992, r 21; No. 23, 1993, r 7 rep No. 22, 2022, r 7
r 86.01	amd No. 22, 2000, r 2 rep No. 22, 2022, r 7

r 86.01.1	ins No. 71, 1991, r 5 rep No. 37, 2008, r 4
r 86.03	amd Act No. 44, 2003, s 6 rep No. 22, 2022, r 7
rr 86.06 – 86.07	rep No. 21, 2000, r 5
r 86.09	sub No. 21, 2000, r 6 rep No. 21, 2008, r 8
rr 86.09A – 86.09B	ins No. 21, 2000, r 6 rep No. 22, 2022, r 7
ch 2 od 86 pt 3 hdg	sub No. 22, 2000, r 3 rep No. 22, 2022, r 7
rr 86.10 – 86.14	sub No. 22, 2000, r 3 rep No. 22, 2022, r 7
rr 86.14A – 86.14E	ins No. 22, 2000, r 3 rep No. 22, 2022, r 7
r 86.15	amd No. 15, 2012, r 3 rep No. 22, 2022, r 7
r 86.19	rep No. 22, 2000, r 3
r 86.21	amd No. 35, 2016, r 2 rep No. 22, 2022, r 7
r 86.21A	ins No. 21, 2000, r 7 rep No. 13, 2002, r 2
r 86.21B	ins No. 21, 2000, r 7 amd No. 22, 2000, r 5 rep No. 22, 2022, r 7
r 86.23	amd No. 22, 2000, r 6 rep No. 22, 2022, r 7
r 86.24	rep No. 21, 2008, r 8
r 86.27	amd Act No. 24, 2011, s 42 rep No. 22, 2022, r 7
r 86.30	amd No. 35, 1988, r 41 rep No. 22, 2022, r 7
r 87.01	amd No. 74, 1992, r 21; Act No. 30, 2007, s 59; Act No. 9, 2015, s 31; No. 35, 2016, r 2 rep No. 22, 2022, r 7
r 87.02	amd No. 74, 1992, r 21; No. 35, 2016, r 2 rep No. 22, 2022, r 7
r 87.03	amd No. 35, 1988, r 44; No. 74, 1992, r 21 rep No. 22, 2022, r 7
r 87.04	amd No. 4, 1990, r 12; No. 74, 1992, r 21 rep No. 22, 2022, r 7
r 87.09A	ins No. 11, 1998, r 13 rep No. 22, 2022, r 7
ch 3 hdg	ins No. 44, 1987, r 4
od 88 hdg	ins No. 37, 2013, r 4
r 88.01.1	ins No. 4, 1990, r 13 amd No. 8, 2002, r 2
r 88.02	amd No. 8, 2002, r 3
r 88.04	amd No. 71, 1991, r 8
r 88.05	amd No. 4, 1990, r 14; No. 8, 2002, r 4

od 88	
ch 3	
pt 2A hdg	ins No. 8, 2002, r 5
rr 88.05A – 88.05D	ins No. 8, 2002, r 5
r 88.07	amd No. 71, 1991, r 8
r 88.23	amd No. 11, 1998, r 14; No. 8, 2002, r 6; Act No. 40, 2010, s 179
r 88.24	amd No. 11, 1998, r 15; No. 8, 2002, r 7; Act No. 1, 2004, s 63; Act No. 40, 2010, s 180
r 88.26	amd No. 4, 1990, r 15; No. 8, 2002, r 8
r 88.32	amd Act No. 1, 2004, s 63
r 88.33	amd No. 35, 1988, r 42; No. 71, 1991, r 8
r 88.56	amd No. 35, 1988, r 44; Act No. 13, 2016, s 35
r 88.59	amd No. 37, 2008, r 4; Act No. 13, 2016, s 35
r 88.64	amd No. 71, 1991, r 8
rr 88.72 – 88.73	rep No. 11, 1998, r 16
r 88.77	amd No. 71, 1991, r 8
r 88.78	amd No. 4, 1990, r 16; No. 11, 1998, r 18
r 88.84	amd No. 37, 2008, r 4
r 88.86	amd No. 37, 2008, r 4
r 88.90	amd No. 4, 1990, r 17
ch 4 hdg	ins No. 34, 1988, r 2
ch 4	
od 89 hdg	ins No. 34, 1988, r 2
rr 89.01 – 89.06	ins No. 34, 1988, r 2
r 89.07	ins No. 34, 1988, r 2 amd No. 42, 2009, r 8
r 89.08	ins No. 34, 1988, r 2 amd No. 74, 1992, r 21
rr 89.09 – 89.11	ins No. 34, 1988, r 2
ch 5 hdg	ins No. 56, 1988, r 2
ch 5	
od 90 hdg	ins No. 56, 1988, r 2
r 90.01	ins No. 56, 1988, r 2 amd No. 32, 2017, r 58
r 90.02	ins No. 56, 1988, r 2 amd No. 32, 2017, r 54
r 90.03	ins No. 56, 1988, r 2
r 90.04	ins No. 56, 1988, r 2 amd No. 11, 1998, r 17; Act No. 38, 2002, s 7
ch 6 hdg	ins No. 71, 1991, r 6
ch 6	
od 91 hdg	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3
ch 6	
od 91	
pt 1 hdg	ins No. 34, 2013, r 3
rr 91.01 – 91.03	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3
r 91.04	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3 amd No. 32, 2017, r 55

rr 91.05 – 91.10	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3
ch 6 od 91 pt 2 hdg	ins No. 34, 2013, r 3
rr 91.11 – 91.14	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3
r 91.15	ins No. 71, 1991, r 6 amd Act No. 3, 2001, s 9 sub No. 34, 2013, r 3
rr 91.16 – 91.17	ins No. 71, 1991, r 6 sub No. 34, 2013, r 3
rr 91.18– 91.19	ins No. 34, 2013, r 3
ch 6 od 91 pt 3 hdg	ins No. 34, 2013, r 3
r 91.20	ins No. 34, 2013, r 3
ch 7 hdg	ins No. 71, 1991, r 6 sub No. 47, 2003, r 2
ch 7 od 92 hdg	ins No. 71, 1991, r 6 sub No. 47, 2003, r 2
r 92.01	ins No. 47, 2003, r 2
rr 92.02 – 92.08	ins No. 71, 1991, r 6 sub No. 47, 2003, r 2
r 92.09	ins No. 47, 2003, r 2 amd No. 32, 2017, r 58
rr 92.10 – 92.15	ins No. 47, 2003, r 2
ch 8 hdg	ins No. 13, 2002, r 3
r 93.01	ins No. 13, 2002, r 3
r 93.02	ins No. 13, 2002, r 3 amd No. 13, 2003; Act No. 24, 2011, s 42
r 93.03	ins No. 13, 2002, r 3
ch 9 hdg	ins No. 14, 2005, r 3
rr 94.01 – 94.11	ins No. 14, 2005, r 3
r 94.12	ins No. 14, 2005, r 3 amd No. 32, 2017, r 56
ch 10 hdg	ins No. 16, 2007, r 7
r 95.01	ins No. 16, 2007, r 7
ch 11 hdg	ins No. 21, 2008, r 9
rr 96.01 – 96.02	ins No. 21, 2008, r 9
ch 12 hdg	ins No. 38, 2013, r 5
rr 97.01 – 97.02	ins No. 38, 2013, r 5 sub No. 22, 2022, r 8
sch 1 hdg	ins No. 28, 2006, r 4
f 5A	amd No. 35, 1988, r 43; No. 4, 1990, r 18; No. 74, 1992, r 21; No. 11, 1998, r 18; No. 39, 2015, r 6
f 5B	amd No. 35, 1988, r 43; No. 74, 1992, r 21; No. 11, 1998, r 18; No. 39, 2015, r 6

f 5C	amd No. 74, 1992, r 21
f 5D	amd No. 35, 1988, r 43; No. 74, 1992, r 21; No. 39, 2015, r 6
f 5E	amd No. 35, 1988, r 43; No. 74, 1992, r 21; No. 11, 1998, r 18; No. 39, 2015, r 6; No. 32, 2017, r 57
f 7A	amd No. 74, 1992, r 21 sub No. 42, 2009, r 7
f 7B	ins No. 42, 2009, r 7
ff 7A-A – 7A-B	ins No. 42, 2009, r 7
f 8A	amd No. 39, 2015, r 6
f 10A	amd No. 35, 1988, r 43; No. 11, 1998, r 18
f 11A	amd No. 35, 1988, r 43; No. 74, 1992, r 21; No. 11, 1998, r 18
f 15A	amd No. 74, 1992, r 21; No. 11, 1998, r 18; No. 32, 2017, r 57
f 15B	amd No. 35, 1988, r 43; No. 11, 1998, r 18; Act No. 40, 2010, s 181; No. 32, 2017, r 57
f 19A	amd No. 74, 1992, r 21
ff 26A – 26D	om No. 6, 2018, r 20
f 29B	amd No. 35, 1988, r 43
f 39A	amd No. 32, 2017, r 57
f 41B	amd No. 74, 1992, r 21; No. 11, 1998, r 18; Act No. 40, 2010, s 181
f 41D	amd Act No. 40, 2010, s 181
f 42A	amd No. 74, 1992, r 21; No. 11, 1998, r 18 sub No. 28, 2006, r 5 amd Act No. 32, 2006, s 24; No. 11, 2009, r 5; No. 42, 2009, r 8; No. 61, 2011, r 8; No. 7, 2013, r 10
f 42B	amd No. 74, 1992, r 21; No. 11, 1998, r 18 om No. 28, 2006, r 5 ins No. 61, 2011, r 8
ff 42C – 42D	amd No. 74, 1992, r 21; No. 11, 1998, r 18 om No. 28, 2006, r 5
f 45A	amd No. 35, 1988, r 43; No. 11, 1998, r 18; No. 32, 2017, r 57
f 46A	amd No. 74, 1992, r 21; No. 11, 1998, r 18; No. 32, 2017, r 57
f 48A	amd No. 35, 1988, r 43 om No. 11, 1998, r 18
f 48B	amd No. 35, 1988, r 43; No. 4, 1990, r 18 om No. 37, 2008, r 4
ff 48C – 48D	om No. 37, 2008, r 4
f 53B	amd No. 35, 1988, r 43; No. 23, 1993, r 7
f 55A-A	ins No. 37, 2013, r 5
f 57A	amd No. 11, 1998, r 18
f 60A	amd No. 4, 1990, r 18; No. 74, 1992, r 21; No. 32, 2017, r 57; amd No. 22, 2022, r 10
f 60B	amd No. 74, 1992, r 21
f 60C	amd No. 35, 1988, r 43; No. 74, 1992, r 21; No. 32, 2017, r 57
ff 60D – 60H	amd No. 74, 1992, r 21
f 60J	sub No. 35, 1988, r 43 amd No. 74, 1992, r 21; No. 32, 2017, r 57
ff 60K – 60L	amd No. 74, 1992, r 21; No. 32, 2017, r 57
f 63A	ins No. 1, 1988, r 5 amd No. 35, 1988, r 43; No. 11, 1998, r 18
f 64A	amd No. 35, 2016, r 2
ff 68A – 68C	amd No. 74, 1992, r 21; No. 11, 1998, r 18
f 71B	amd No. 74, 1992, r 21; No. 11, 1998, r 18
f 71C	amd No. 74, 1992, r 21
f 72B	amd Act No. 40, 2010, s 181
f 72C	amd Act No. 84, 1993, s 6(2); Act No. 38, 2002, s 7
f 72E	amd Act No. 40, 2010, s 181
f 72F	amd No. 11, 1998, r 18; No. 32, 2017, r 57

f 72H	amd No. 35, 1988, r 43
ff 72J – 72L	amd No. 74, 1992, r 21
f 77A	om No. 74, 1992, r 21
ff 81A-A – 81A-B	ins No. 21, 2000, r 8 sub No. 35, 2007, r 8
ff 81A-C – 81A-D	ins No. 21, 2000, r 8 rep No. 13, 2002, r 4 ins No. 39, 2012, r 4
f 81A-E	ins No. 21, 2000, r 8 sub No. 35, 2007, r 8 rep No. 22, 2022, r 9
ff 81A-F – 81A-K	ins No. 21, 2000, r 8
f 81A-L	ins No. 21, 2000, r 8 amd Act No. 6, 2008, s 4
f 81A-M	ins No. 21, 2000, r 8 amd No. 35, 2016, r 2
ff 81A-N – 81A-S	ins No. 21, 2000, r 8
f 81A-T	ins No. 21, 2000, r 8 amd Act No. 40, 2010, s 181; No. 35, 2016, r 2
ff 81A-U – 81A-ZC	ins No. 21, 2000, r 8
f 81A-ZD	ins No. 21, 2000, r 8 amd No. 2, 2001
f 81A-ZE	ins No. 21, 2000, r 8
f 83A	amd No. 35, 1988, r 43; No. 32, 2017, r 57 rep No. 22, 2022, r 9
f 83B	rep No. 22, 2022, r 9
f 83C	amd No. 35, 1988, r 43; No. 4, 1990, r 18; Act No. 40, 2010, s 181; No. 32, 2017, r 57 rep No. 22, 2022, r 9
f 84A	amd No. 35, 1988, r 43 rep No. 22, 2022, r 9
f 84B	amd No. 35, 1988, r 43; No. 11, 1998, r 18; No. 32, 2017, r 57 rep No. 22, 2022, r 9
f 84C	rep No. 22, 2022, r 9
f 84D	amd No. 35, 1988, r 43; No. 74, 1992, r 21 rep No. 22, 2022, r 9
f 85A	amd No. 35, 2007, r 8; Act No. 40, 2010, s 181 rep No. 22, 2022, r 9
f 85B	amd No. 11, 1998, r 18; No. 35, 2007, r 8 rep No. 22, 2022, r 9
f 85C	amd No. 11, 1998, r 18; No. 61, 2002, r 14; No. 35, 2007, r 8; Act No. 40, 2010, s 181 rep No. 22, 2022, r 9
f 85D	ins No. 35, 2007, r 8 rep No. 22, 2022, r 9
ff 86A – 86C	amd No. 11, 1998, r 18 rep No. 22, 2022, r 9
ff 86D – 86E	rep No. 22, 2022, r 9
f 86F	om No. 21, 2000, r 8
f 86G	amd No. 11, 1998, r 18; Act No. 40, 2010, s 181 rep No. 22, 2022, r 9
f 86H	amd No. 11, 1998, r 18; No. 15, 2012, r 4 rep No. 22, 2022, r 9

f 86HA	ins No. 22, 2000, r 7 amd Act No. 40, 2010, s 181 rep No. 22, 2022, r 9
f 86J	amd No. 11, 1998, r 18 rep No. 22, 2022, r 9
f 86K	rep No. 22, 2022, r 9
f 86L	amd No. 4, 1990, r 18; Act No. 40, 2010, s 181 rep No. 22, 2022, r 9
f 86M	rep No. 22, 2022, r 9
f 86N	om No. 37, 2008, r 4 rep No. 22, 2022, r 9
f 86P	rep No. 22, 2022, r 9
ff 86Q – 86R	rep No. 22, 2022, r 9
f 86S	amd No. 35, 1988, r 43; No. 4, 1990, r 18 rep No. 22, 2022, r 9
ff 86T – 86U	amd No. 35, 1988, r 43 rep No. 22, 2022, r 9
f 86V	amd No. 35, 1988, r 43; No. 34, 2003, r 7 rep No. 22, 2022, r 9
f 87A	ins No. 4, 1990, r 18 amd Act No. 30, 2007, s 59; Act No. 9, 2015, s 31; No. 32, 2017, r 57 rep No. 22, 2022, r 9
f 88A	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18
f 88B	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43
ff 88C – 88E	ins No. 44, 1987, r 4
f 88F	ins No. 44, 1987, r 4 amd No. 4, 1990, r 18; No. 8, 2002, r 9; Act No. 40, 2010, s 181
f 88G	ins No. 44, 1987, r 4 amd No. 4, 1990, r 18; Act No. 40, 2010, s 181
f 88H	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; Act No. 40, 2010, s 181
f 88I	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; No. 11, 1998, r 18; No. 8, 2002, r 10; Act No. 40, 2010, s 181
f 88J	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 11, 1998, r 18; Act No. 40, 2010, s 181
f 88K	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; Act No. 40, 2010, s 181
f 88L	ins No. 44, 1987, r 4
f 88M	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; Act No. 40, 2010, s 181
f 88N	ins No. 44, 1987, r 4 amd No. 11, 1998, r 18
ff 88P – 88Q	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; Act No. 40, 2010, s 181
f 88R	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43
f 88S	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; No. 11, 1998, r 18; Act No. 40, 2010, s 181
f 88T	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 4, 1990, r 18; No. 11, 1998, r 18; Act No. 38, 2002, s 7; Act No. 40, 2010, s 181
f 88U	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 39, 2015, r 6
f 88V	ins No. 44, 1987, r 4

f 88W	ins No. 44, 1987, r 4 amd No. 4, 1990, r 18
ff 88X – 88Y	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43
ff 88Z – 88ZC	ins No. 44, 1987, r 4
f 88ZD	ins No. 44, 1987, r 4 amd No. 35, 1988, r 43; No. 39, 2015, r 6
ff 88ZE – 88ZF	ins No. 44, 1987, r 4
ff 92A – 92C	ins No. 71, 1991, r 7 sub No. 47, 2003, r 3
f 93A	ins No. 13, 2002, r 5 amd No. 61, 2002, r 15; No. 35, 2016, r 2
sch 2	ins No. 21, 2000, r 9 amd Act No. 44, 2003, s 6; No. 52, 2005, r 4; Act No. 40, 2010, s 182; No. 14, 2012, r 5