

NORTHERN TERRITORY OF AUSTRALIA
SUPREME COURT AMENDMENT RULES 2008

Subordinate Legislation No. 21 of 2008

TABLE OF PROVISIONS

1	Citation	2
2	Rules amended	2
3	New rule 40.14	2
	40.14 Preservation of exhibits	
4	Amendment of rule 48.06 (Categorising proceedings)	2
5	Amendment of rule 63.40 (Content of bill)	3
6	Amendment of Order 63 (Costs).....	3
7	Repeal and substitution of rule 81A.32.....	3
	81A.32 Preservation of exhibits	
8	Repeal of rules 86.09A and 86.24	4
9	New Chapter 11.....	4
	Chapter 11 Interpreters	
	96.01 Notice of particulars	
	96.02 Objection to interpreter	



NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 21 of 2008*

Supreme Court Amendment Rules 2008

WE, the undersigned Judges of the Supreme Court of the Northern Territory of Australia, under section 86 of the *Supreme Court Act*, make the following Rules of Court.

Dated 28 May 2008.

B. MARTIN CJ

D. N. ANGEL J

D. MILDREN J

S. G. THOMAS J

T. J. RILEY J

Judges of the Supreme Court
of the Northern Territory of Australia

* Notified in the *Northern Territory Government Gazette* on 30 July 2008.

1 Citation

These Rules may be cited as the *Supreme Court Amendment Rules 2008*.

2 Rules amended

These Rules amend the *Supreme Court Rules*.

3 New rule 40.14

After rule 40.13

insert

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.

4 Amendment of rule 48.06 (Categorising proceedings)

Rule 48.06(1)(b)

omit

enable prompt

substitute

enable or require (whether or not the plaintiff consents) prompt

5 Amendment of rule 63.40 (Content of bill)

(1) Rule 63.40(1) and (3) to (5)

omit

(2) Rule 63.40(8)

omit, substitute

(8) An item in which travelling time is claimed must state the actual time for which the claim is made.

(9) In this rule:

taxation includes preparing for, and attending on, the taxation, including the preparation of a bill in taxable form.

6 Amendment of Order 63 (Costs)

Order 63, Appendix, Part 2, items 4 to 6

omit, substitute

4 (1) If the Taxing Master considers a charge for general care and conduct justified, the Taxing Master may, in addition to other allowances under items 1 and 2, allow for such a charge.

(2) The charge allowed must be a percentage of the amount allowed under items 1 and 2.

5 In item 4:

general care and conduct means:

(a) the care and consideration given, and the conduct and skill applied, by a solicitor in the proceeding (excluding taxation); and

(b) the solicitor's general supervision of, and responsibility for, the conduct of the proceeding; and

(c) any other factors which, in the opinion of the Taxing Master, justify additional reward.

7 Repeal and substitution of rule 81A.32

Rule 81A.32

repeal, substitute

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.

8 Repeal of rules 86.09A and 86.24

Rules 86.09A and 86.24

repeal

9 New Chapter 11

After rule 95.01

insert

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

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- (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.