

NORTHERN TERRITORY OF AUSTRALIA  
LOCAL COURT AMENDMENT RULES 2005

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Regulations No. 7 of 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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Regulations No. 7 of 2005\*

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## *Local Court Amendment Rules 2005*

I, HUGH BURTON BRADLEY, the Chief Magistrate, pursuant to section 21 of the *Local Court Act*, make the following rules.

Dated 8 February 2005.

H. BRADLEY  
Chief Magistrate

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\* Notified in the *Northern Territory Government Gazette* on 23 March 2005.

**1. Citation**

These Rules may be cited as the *Local Court Amendment Rules 2005*.

**2. Principal Rules amended**

These Rules amend the *Local Court Rules*.

**3. Repeal and substitution of Parts 30 and 30A**

Parts 30 and 30A –

*repeal, substitute*

**PART 30 – APPLICATIONS AND CLAIMS RELATING TO TENANCIES**

***Division 1 – Preliminary***

**30.01 Definitions**

In this Part –

"Commissioner" –

(a) in relation to a tenancy application, means the Commissioner of Tenancies within the meaning of section 13 of the *Residential Tenancies Act*; or

(b) in relation to a retail tenancy claim, means the Commissioner of Business Tenancies within the meaning of section 12 of the *Business Tenancies (Fair Dealings) Act*;

"landlord", in relation to any application under the *Tenancy Act*, means the lessor within the meaning of that Act;

"order for possession" means an order for possession made under the *Residential Tenancies Act*, *Tenancy Act* or *Business Tenancies (Fair Dealings) Act*;

"retail tenancy claim" means any claim or application specified in section 84 of the *Business Tenancies (Fair Dealings) Act*;

"summary possession application" means an application under section 51 of the *Tenancy Act*;

"*Tenancy Act*" means the *Tenancy Act* as in force immediately before 1 March 2000, the application of which is continued in accordance with section 160 of the *Residential Tenancies Act*;

"tenancy application" means an application to the Court under the *Residential Tenancies Act*, *Tenancy Act* or *Business Tenancies (Fair Dealings) Act* other than a summary possession application or retail tenancy claim;

"tenant", in relation to an application under the *Tenancy Act*, means the lessee within the meaning of that Act.

### **30.02 Applications or claims may be made by agents**

Any application or claim under this Part may be made by an agent of a landlord or tenant who is authorised in writing by the landlord or tenant to act in that capacity.

### ***Division 2 – Tenancy applications and summary possession applications***

### **30.03 Form of applications**

(1) A tenancy application is to be in accordance with Form 30A.

(2) If a tenancy application is made by a landlord who does not know the name of the tenant, the application may be directed to the occupier of the premises to which the application relates.

(3) A summary possession application is to be in accordance with Form 30B.

### **30.04 Filing of applications and service of tenancy applications**

(1) On the filing of a tenancy application or summary possession application, a Registrar must fix a date, time and place for the hearing and mark them on the application.

(2) A copy of a tenancy application must be served personally on the person to whom it is addressed as soon as practicable after the application is filed and not less than 2 days before the date fixed for the hearing.

(3) If it is impracticable to effect personal service of the tenancy application or attempts to effect personal service are unsuccessful –

- (a) a copy of the tenancy application may be served by leaving it in a letter-box or other receptacle for mail at the last-known residential or business address of the person to whom it is addressed or by affixing it to a conspicuous part of the premises at that address; and
- (b) the applicant must file an affidavit stating the reasons why personal service of the tenancy application was not effected and the manner in which the tenancy application was served.

### **30.05 Hearing of applications**

(1) If the applicant fails to attend the hearing of the tenancy application or summary possession application, the Court may dismiss the application or make the orders it considers appropriate.

(2) If the person to whom a tenancy application is addressed fails to attend the hearing of the application, the Court may –

- (a) hear and determine the application if it is satisfied the application was properly served; or
- (b) make the orders it considers appropriate.

(3) If neither party to a tenancy application attends the hearing of the application, the Court may dismiss the application or make the orders it considers appropriate.

### **30.06 Applications for warrant of possession**

(1) After an order for possession is made, the landlord may apply for a warrant of possession by filing a form of the warrant in accordance with Form 46A.

(2) If the order for possession is made by the Commissioner, the landlord must also file a copy of the order.

## ***Division 3 – Retail tenancy claims***

### **30.07 Application of Division**

This Division applies in relation to a retail tenancy claim in respect of which –

- (a) a certificate has been issued by the Commissioner under section 104 of the *Business Tenancies (Fair Dealings) Act*; and
- (b) the Court has jurisdiction under section 105 of that Act.

### **30.08 Commencement of proceedings**

(1) A plaintiff commences a proceeding in respect of a retail tenancy claim by filing under Part 7 a statement of claim or an originating application, as applicable in the circumstances.

(2) The statement of claim or originating application must be accompanied by the certificate issued by the Commissioner.

### **30.09 Case management**

(1) At the first conciliation conference, the parties are not required to attend personally but may be represented by a legal practitioner or, with the leave of the Court, by some other person who is fully instructed as to the conduct of the proceeding.

(2) For subrule (1), the relevant rules and prescribed forms are to be applied or used with the necessary changes.

#### **4. New Part 35, Division 1 heading**

Before rule 35.01 in Part 35 –

*insert*

##### ***Division 1 – Orders made by Court***

#### **5. New Part 35, Division 2**

After rule 35.07 in Part 35 –

*insert*

##### ***Division 2 – Registration of other orders***

### **35.08 Application of Division**

This Division applies in relation to the registration of an order made by a person, court (other than the Local Court), tribunal or other statutory body –

- (a) if an Act permits an application to be made to the Court for the registration of the order; or
- (b) if a person applies, or intends to apply, to the Court for a warrant of execution or other enforcement process to enforce the order.

### **35.09 Application for registration of order**

(1) The application for registration of the order must be in accordance with Form 35C.

(2) The application must be accompanied by a copy of the order to be registered.

### **35.10 Registration**

(1) The Court may register the order if it can be enforced under Chapter 2.

(2) If the whole order cannot be enforced under Chapter 2, the Court may register any part of the order that can be enforced.

(3) The notice of registration must be –

(a) in accordance with Form 35D;

(b) signed by a Registrar; and

(c) sealed by the Court.

### **35.11 Enforcement**

Chapter 2, with the necessary changes, applies in relation to an order registered under this Division.

#### **6. Amendment of Part 37, Division 1 heading**

Heading to Part 37, Division 1 –

*omit*

#### **7. Repeal and substitution of rule 37.01**

Rule 37.01 –

*repeal, substitute*

#### **37.01 Application of Part**

This Part applies in relation to an appeal to the Court under an Act.

#### **8. Amendment of rule 37.02 (Definitions)**

(1) Rule 37.02 –

*omit*

Division

*substitute*

Part

(2) Rule 37.02, definition of "appellant" –

*omit*

other than the *Tenancy Act*

**9. Repeal of Part 37, Division 2**

Part 37, Division 2 –

*repeal*

**10. Amendment of rule 38.08 (Costs of applications or claims under Part 30)**

Rule 38.08 –

*omit*

under Part 30 or Part 30A

*substitute*

or claim under Part 30

**11. Amendment of Schedule 1**

- (1) Schedule 1, Forms 30A, 30B, 30C, 30D, 30A-A, 30A-B, 30A-C, 37C and 37D –

*omit*

- (2) Schedule 1 –

*insert (in numerical order) –*

**FORM 30A**

Rule 30.03(1)

**TENANCY APPLICATION**

LOCAL COURT  
AT [*VENUE*]

Claim No.

BETWEEN THE .....  
APPLICANT .....  
.....

name  
address for  
service

and

RESPONDENT .....  
.....  
.....

name  
address



*Local Court Amendment Rules 2005*

TO THE COURT

The applicant applies to the Court under [*identify section and name of Act under which application is made*]

The applicant applies for the following order or orders:

[*brief statement of orders applied for*]

The facts, matters and circumstances supporting this application are:

[*sufficient particulars to support the application*]

[*signature of applicant, agent  
or legal practitioner*]

The application will be heard by the Court at [*address of Court*] at     a.m./p.m.  
on                      or as soon afterwards as the business of the Court allows.

Filed:

Registrar

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Local Court, a legal practitioner or your local legal aid office.

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**FORM 30B**

Rule 30.03(3)

**SUMMARY POSSESSION APPLICATION**

LOCAL COURT  
AT [*VENUE*]

Claim No.

APPLICANT ..... name  
..... address for  
..... service

The applicant applies to the Court under section 51 of the *Tenancy Act* for an order terminating the lease of the premises described below and an order for immediate possession of those premises.

**DESCRIPTION OF PREMISES**

[*describe premises*]

The applicant states:

1.     \*I am the lessor.  
       \*I am the agent of the lessor authorised in writing.
2.     I gave the lessee notice of my intention to seek an order terminating the lease on [*date*].
3.     A copy of the notice to quit is attached to this application.

[*signature of applicant*]

The application will be heard by the Court at [*address of Court*] at     a.m./p.m.  
on                   or as soon afterwards as the business of the Court allows.

Filed:

Registrar

\* Delete if inapplicable.

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**FORM 35C**

Rule 35.09(1)

**APPLICATION FOR REGISTRATION OF ORDER**

TO THE COURT

The [*identify applicant*] applies to the Court for the registration of the attached order made by [*identify person, court, tribunal or statutory body*] on [*date*] under [*specify section and name of Act*].

Dated: [*e.g. 2 March 2005*]

[*signed*]

**NOTE:** You must attach a copy of the order to be registered.

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**FORM 35D**

Rule 35.10(3)

**NOTICE OF REGISTRATION OF ORDER**

COURT:

DATE:

**THE COURT GIVES NOTICE THAT AN ORDER HAS BEEN REGISTERED IN THIS COURT AND MAY BE ENFORCED AS IF MADE BY THIS COURT.**

THE ORDER WAS MADE BY:

THE ORDER WAS DIRECTED TO:

THE ORDER WAS MADE UNDER: [*section and name of Act*]

THE ORDER WAS REGISTERED ON: [*date*]

THE TERMS OF THE ORDER ARE:

1.     *[terms of order]*
- 2.

Dated:

BY THE COURT

Registrar

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