

NORTHERN TERRITORY OF AUSTRALIA
JUSTICES RULES

Subordinate Legislation No. 12 of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 12 of 2011*

Justices Rules

I, Hilary Rae Hannam, Chief Magistrate, under section 201A of the *Justices Act*, make the following rules.

Dated 4 April 2011

Chief Magistrate

* Notified in the *Northern Territory Government Gazette* on 27 April 2011.

1 Citation

These Rules may be cited as the *Justices Rules*.

2 Commencement

These Rules commence on the later of the following:

- (a) the commencement of the *Justices Legislation Amendment (Committals Reform) Act 2011*;
- (b) the date of notification of these Rules in the *Gazette*.

3 Form of notice for committal brief

A notice mentioned in section 105D(1)(b) and (c) of the Act must be in the form set out in the Schedule.

Schedule Notice for committal brief

rule 3

Notice of preliminary examinationIn the *[Court of Summary Jurisdiction/ Youth Justice Court]*at *[place]* _____, Northern TerritoryTo *[name and address of accused]* _____You have been charged with *[details of offence(s)]* _____

There will now be a preliminary examination in relation to the charge(s).

It will be held at the Magistrates Court at *[address of Court]* _____

There will be a mention hearing on ____/____/20__ at _____ am/pm.

You must attend Court for this hearing.

The Magistrate will then set the date for the preliminary examination.

Information about a preliminary examination**What is a preliminary examination?**

A preliminary examination is a court proceeding in which a Magistrate reviews the evidence against you and decides whether there is sufficient evidence to send you for trial in the Supreme Court.

The evidence

The evidence against you is contained in the committal brief you have been given with this notice. The brief also includes:

- a list of prosecution witnesses and copies or recordings of their statements; and
- a list of any other prosecution evidence (ie. documents or other things) and copies or a description or picture of them.

If the prosecution wants the Magistrate to hear from other witnesses, or has other evidence, it must give you another list and copies of witness statements or the evidence.

These witness statements and any other listed evidence is the evidence that the Magistrate may consider at the preliminary examination.

Questioning the witnesses

If you (or your lawyer) want to question any of the prosecution's witnesses, you must get permission from the Magistrate to do so.

When you have decided whether you want to question any of the witnesses, you must fill in the Notice in Relation to Witnesses form. (If you have a lawyer, he or she will have this form. If not, you can get one from the Court.) When you attend Court for the mention hearing, you must give the form to the Magistrate.

If the prosecution agrees to the questioning, the Magistrate will usually give permission. If the prosecution does not agree to the questioning, the Magistrate may give permission if the Magistrate believes there is a good reason for you to question the witness. However the Magistrate does not have to give permission.

[The following sentence is to be included only if the accused is charged with a sexual offence.]

Also, you will not be allowed to question the alleged victim or any witnesses who are children.

[The following sentence is to be included only if the accused is charged with a serious violence offence that is not a sexual offence.]

Also, you will not be allowed to question any witnesses who are children.

What happens at the preliminary examination?

At the preliminary examination the Magistrate will read each witness' statement and treat it the same as if the witness had given evidence in person. The Magistrate may allow the witness to appear in Court and give extra evidence, but only if there is a good reason.

If you have been given permission to question the witness, the witness must attend Court and you (or your lawyer) will be allowed to question the witness. However, the Magistrate will control what you can question the witnesses about.

The Magistrate may allow the prosecution to call witnesses who are not on the list in the committal brief, or to give other evidence, but only if there is a very good reason.

If you wish to do so, you can give evidence at the preliminary examination and call your own witnesses. If you do, you and your witnesses can be questioned by the prosecutor and the Magistrate.

After considering all the evidence, the Magistrate will decide whether there is enough evidence to send you for trial in the Supreme Court.

Where to get more information

If you have a lawyer, he or she will be able to advise you about the procedure for a preliminary examination and what you should do now.

If you do not have a lawyer, it is recommended that you seek advice from the NT Legal Aid Commission, the North Australian Aboriginal Justice Agency (NAAJA) or the Central Australian Aboriginal Legal Aid Service (CAALAS).

If you choose to represent yourself, you should read and make sure you understand Part V, Division 1A of the *Justices Act* and the Court's Practice Directions which give more details about the Court's procedures.