

NORTHERN TERRITORY OF AUSTRALIA
LOCAL COURT AMENDMENT (ORIGINATING APPLICATION)
RULES 2005

Regulations No. 33 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 33 of 2005*

Local Court Amendment (Originating Application) Rules 2005

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

Dated 28 July 2005.

H. BRADLEY
Chief Magistrate

* Notified in the *Northern Territory Government Gazette* on 12 October 2005.

Local Court Amendment (Originating Application) Rules 2005

1. Citation

These Rules may be cited as the *Local Court Amendment (Originating Application) Rules 2005*.

2. Principal Rules amended

These Rules amend the *Local Court Rules*.

3. Amendment of rule 7.08 (Form of originating application between parties)

(1) Rule 7.08(1) –

omit

An

substitute

Subject to rule 7.15, an

(2) Rule 7.08(1)(a) to (f), at the end –

insert

and

4. Amendment of rule 7.14 (Hearing of originating application in proceeding with no respondent)

Rule 7.14(1), after "application" –

insert

referred to in rule 7.13

5. New rule 7.15

After rule 7.14 in Part 7 –

insert

7.15 Originating application between parties when early hearing required

(1) This rule applies if an Act, subordinate legislation or practice direction requires the Court, on the filing of an originating application between parties, to fix a date for the hearing of the proceeding.

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- (2) The originating application –
 - (a) must be in accordance with Form 7F; and
 - (b) must contain all the information referred to in rule 7.08(1)(a) to (g); and
 - (c) may contain the information referred to in rule 7.08(2); and
 - (d) may be accompanied by a supporting affidavit if required.
- (3) A Registrar must fix a date, time and place for the hearing and mark them on the application.

(4) Unless the Court orders otherwise, as soon as practicable after filing the originating application and not later than 2 days before the date fixed for the hearing, the applicant must serve personally on each respondent the following documents:

- (a) the originating application;
 - (b) any supporting affidavit;
 - (c) a notice of intention to appear, in accordance with Form 7D.
- (5) As soon as practicable after being served with the originating application and before the hearing, each respondent –
- (a) must file and serve on the applicant a notice of intention to appear, in accordance with Form 7D, that must contain the information referred to in rule 7.11(2) and may contain the information referred to in rule 7.11(3); and
 - (b) may file and serve on the applicant an affidavit in response to the facts, matters and circumstances specified in the originating application and any supporting affidavit.

6. Amendment of rule 11.02 (Affidavit or declaration required)

- (1) Rule 11.02(a), at the end –

insert

or

- (2) Rule 11.02(b)(i), at the end –

insert

and

(3) Rule 11.02(b)(ii) and (iii) –

omit

less

substitute

more

7. Amendment of Schedule 1

Schedule 1, after Form 7E –

insert

FORM 7F

Rule 7.15(2)(a)

**ORIGINATING APPLICATION BETWEEN PARTIES
WHEN EARLY HEARING REQUIRED**

IN THE LOCAL COURT
AT [*VENUE*]

Claim No.

BETWEEN

[*FULL NAME*]

Applicant

and

[*FULL NAME*]

Respondent

TO THE COURT

The applicant applies to the Court for the following orders or relief:

[*brief statement of orders or relief applied for*]

* The applicant relies on [*identify specific provision of legislation*]

The facts, matters and circumstances supporting this application are:

[*sufficient particulars to support the application*]

[*signature of applicant
or legal practitioner*]

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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.

TO THE RESPONDENT

This proceeding has been commenced against you by the applicant who has applied to the Court for the orders or relief referred to above.

IF YOU INTEND TO APPEAR before the Court in respect of this proceeding
**YOU MUST, AS SOON AS PRACTICABLE BEFORE THE DATE FIXED
FOR THE HEARING –**

- (a) file with a Registrar of the Local Court at [venue] a notice of intention to appear; and
- (b) serve a copy of the notice on the applicant.

YOU MAY ALSO FILE AND SERVE an affidavit in response to the facts, matters and circumstances specified in the originating application and any supporting affidavit.

IF YOU DO NOT appear at the hearing, the applicant may obtain the orders or relief sought without further notice.

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.

1. This originating application was filed –
 - *by the applicant in person.
 - *for the applicant by [name of applicant's legal practitioner] of [name of firm], legal practitioner(s), of [business address in Australia including telephone, facsimile and reference numbers. If the legal practitioner is the agent of another legal practitioner, also insert the name of the principal's firm and business address including telephone, facsimile and reference numbers.]
2. The address of the applicant is –

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3. The address for service of the applicant is – [*If the applicant acts in person – the address in 2. If the applicant is represented by a legal practitioner – the address in 1.*]

4. The address of the respondent is –

* Delete if inapplicable.

WHAT TO DO WHEN YOU GET THIS ORIGINATING APPLICATION

The person called the applicant has commenced a proceeding against you in the Court.

YOU MUST, AS SOON AS PRACTICABLE BEFORE THE DATE FIXED FOR THE HEARING, fill out the accompanying notice headed "NOTICE OF INTENTION TO APPEAR", file the notice with a Registrar at the Court, and serve a copy on the applicant. If you do not file a notice of intention to appear, the Court may make the order or give the relief sought by the applicant. You may also file and serve an affidavit in response to the facts, matters and circumstances specified in the originating application and any supporting affidavit.

If you do not understand what you have to do or need help contact:

- . A legal practitioner – look under "solicitors" in the Yellow pages
- . Law Society Northern Territory – they will refer you to a legal practitioner who can help with your particular matter (Phone: 89815104)
- . Northern Territory Legal Aid Commission (Phone: Darwin 89993000, Alice Springs 89515377, Katherine 89738704)
- . Aboriginal Legal Aid (Phone: Darwin 89815266, Alice Springs 89522933, Katherine 89721133, Nhulunbuy 89871300)
- . A Registrar of the Court

AFFIDAVIT OF SERVICE

IN THE LOCAL COURT
AT [*VENUE*]

Claim No.

BETWEEN

[*FULL NAME*]

Applicant

and

Local Court Amendment (Originating Application) Rules 2005

[FULL NAME]

Respondent

NAME OF DEPONENT:

DATE SWORN:

I,

(full name)

of

(address)

say on oath

I did at

(time)

on

(day)

(month)

(year)

serve the respondent

(full name of respondent)

with this originating application by delivering a true copy of the originating application to the respondent at

(address)

I identified the respondent as follows:

Sworn at

(place)

on

(date)

before me

Justice of the Peace/Commissioner for Oaths

*Commissioner for Affidavits or Declarations or Notary Public (for service under Service and Execution of Process Act 1992 (Cth))

* Delete if inapplicable.

Filed by –

Address:

Telephone:

Fax:
