

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF SUPREME COURT RULES

Regulations 2002, No. 61

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 2002, No. 61*

Rules of Court under the *Supreme Court Act*

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

Dated 26 November 2002.

B. F. MARTIN CJ

D. N. ANGEL J

D. MILDREN J

S. G. THOMAS J

S. R. BAILEY J

Judges of the Supreme Court
of the Northern Territory of Australia

* Notified in the *Northern Territory Government Gazette* on 18 December 2002.

AMENDMENTS OF SUPREME COURT RULES

1. Principal Rules

The Supreme Court Rules are in these Rules referred to as the Principal Rules.

2. New rule

The Principal Rules are amended by inserting after rule 29.15 in Order 29 the following:

"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."

3. Definitions

Rule 33.03 of the Principal Rules is amended –

(a) by omitting the definition of "dentist";

(b) by omitting the definition of "examination" and substituting the following:

" 'examination' means an examination by a medical expert for the purpose of producing a medical report;";

(c) by omitting the definition of "medical expert" and substituting the following:

" '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;";

(d) by omitting the definition of "medical matters" and substituting the following:

" '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;";

(e) by omitting the definition of "medical practitioner";

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- (f) by omitting paragraph (a) of the definition of "medical report" and substituting the following:

"(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;"

- (f) by omitting "subsequently;" from paragraph (b) of the definition of "medical report" and substituting "subsequently."; and
- (h) by omitting the definition of "psychologist".

4. Repeal and substitution

Rule 33.06 of the Principal Rules is repealed and the following substituted:

"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."

5. Service of reports

Rule 33.07 of the Principal Rules is amended –

- (a) by omitting from subrule (1)(a) "his" and "he" and substituting "his or her" and "he or she" respectively;
- (b) by inserting in subrule (1)(b) "subject to rule 33.06 ," before "a defendant";
- (c) by omitting from subrule (1)(b) "his" and "him" and substituting "his or her" and "him or her" respectively;
- (d) by inserting in subrule (1)(b) "which the defendant intends to tender or the substance of which the defendant intends to adduce in evidence at the trial" after "plaintiff"; and
- (e) by omitting from subrule (2) "he intends to tender" and "he intends to call" and substituting "he or she intends to tender" and "he or she intends to call" respectively.

6. New rule

The Principal Rules are amended by inserting after rule 33.12 in Order 33 the following:

"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* and any other law in force in the Territory relating to the admissibility of evidence."

7. Date of effect

Rule 59.02 of the Principal Rules is amended by omitting from subrule (3) all the words after "rate per annum" and substituting "specified in rule 35.8 of the Federal Court Rules as in force from time to time".

8. New rule

The Principal Rules are amended by inserting after rule 59.05 in Order 59 the following:

"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.

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"(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 the Master under rule 77.01(2)."

9. Limitation on authority

Rule 77.02 of the Principal Rules is amended by inserting in subrule (4)(e) ", other than a declaration under Part 2, Division 2 of the *De Facto Relationships Act*" after "person".

10. Definitions

Rule 85.01 of the Principal Rules is amended by omitting the definition of "material date" and substituting the following:

" 'material date', in relation to an appeal or an application for leave to appeal, means the date on which the judgment takes effect in accordance with rule 59.02;"

11. How applications for leave to appeal made

Rule 85.02 of the Principal Rules is amended by omitting "Where" and substituting "Subject to this Order, where".

12. Time for filing

Rule 85.03 of the Principal Rules is amended by omitting subrule (2) and substituting the following:

"(2) If an application is not filed within the time limited by subrule (1), an application for leave to extend time is to be made to a Judge.

"(3) An application for leave to extend time referred to in subrule (2) is to be in accordance with Form 85C and supported by affidavit."

13. Time for filing and service of notice of appeal

Rule 85.12 of the Principal Rules is amended by omitting subrule (4) and substituting the following:

"(4) An application for leave referred to in subrule (1) or (2) is to be in accordance with Form 85C and supported by affidavit.

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"(5) If an application for leave to extend time is made to the Court of Appeal other than by an application referred to in subrule (1) or (2), the applicant must bear the costs of –

- (a) the application; and
- (b) if the Court of Appeal grants the application – the appeal,

unless the Court of Appeal otherwise orders."

14. Form 85C

Form 85C of the Principal Rules is amended –

- (a) by omitting "Rule 85.12(4)" (first reference) and substituting "Rules 85.03(3) and 85.12(4)"; and
- (b) by omitting from clause 2 "rule 85.12(1)(a)" and substituting "rule 85.03(1) or 85.12(1)".

15. Form 93A

Form 93A of the Principal Rules is amended by omitting "* Crown Prosecutor" and substituting "* Director of Public Prosecutions".
