

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF SUPREME COURT RULES
OF THE NORTHERN TERRITORY

Regulations 2000, No. 22

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 2000, No. 22*

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 16 February 2000.

B. F. MARTIN CJ

D. N. ANGEL J

D. MILDREN J

S. G. THOMAS J

S. R. BAILEY J

T. J. RILEY J

Judges of the Supreme Court
of the Northern Territory of Australia

* Notified in the *Northern Territory Government Gazette* on 2 May 2000.

**AMENDMENTS OF SUPREME COURT RULES
OF THE NORTHERN TERRITORY**

1. Principal Rules

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

2. Definitions

Rule 86.01 of the Principal Rules is amended by inserting after the definition of "Director" the following:

"Director of Public Prosecutions' means the Director of Public Prosecutions for the Territory or the Commonwealth, as the case requires;"

3. Repeal and substitution

Part 3 of Order 86 of the Principal Rules is repealed and the following substituted:

"Part 3 – Applications for leave to appeal and for extension of time

"86.10 Form of application for leave to appeal.

"(1) An application under Division 2 of Part X of the Criminal Code for leave to appeal is to be in accordance with Form 86G.

"(2) The application is to be accompanied by an affidavit stating –

- (a) the nature of the appeal;
- (b) the questions involved; and
- (c) the reasons why leave should be granted.

"86.11 Form of application for extension of time

"(1) An application under section 417(2) of the Criminal Code for an extension of time is to be in accordance with Form 86L.

"(2) The application is to be accompanied by an affidavit stating the reasons for the delay in giving notice of appeal or applying for leave to appeal.

"86.12 Time for service

"(1) An application in accordance with rule 86.10 or 86.11 and the accompanying affidavit are to be filed with copies sufficient for service and proof of service.

Supreme Court Rules

"(2) An application in accordance with rule 86.10 or 86.11 and the accompanying affidavit are to be served, within 2 days after filing, on the Director of Public Prosecutions.

"86.13 Director may respond in writing to argument in support of application

"(1) The Director of Public Prosecutions may, within 21 days after being served with an application and affidavit in accordance with rule 86.12(2), file an affidavit in response to the application.

"(2) The Director of Public Prosecutions must, within 2 days after filing the affidavit, serve a copy of it on each person who was a party to, or given leave to intervene in, the proceedings resulting in the decision in respect of which the application is made.

"(3) The applicant may, within 7 days after being served with the Director of Public Prosecutions' affidavit in accordance with subrule (2), file a further affidavit in reply to the Director's affidavit.

"86.14 Matter to be dealt with by way of written submissions

"(1) An application made in accordance with rule 86.10 or 86.11 is to be determined by the Court of Criminal Appeal after –

- (a) 21 days after the Director of Public Prosecutions is served under rule 86.12 with the application and accompanying affidavit; or
- (b) 7 days after the Director of Public Prosecutions files an affidavit in response in accordance with rule 86.13(1),

whichever occurs first.

"(2) The Court of Criminal Appeal is to determine the application on the written arguments and in the absence of the parties and may, if it thinks it necessary to do so, hear oral submissions.

"(3) A party is not entitled to make oral submissions in relation to an application to be determined under this rule.

"(4) The Court of Criminal Appeal is not required to give reasons for its decision in relation to an application determined under this rule.

"86.14A Urgent applications for leave or for extension of time to be heard in court

"(1) Despite rule 86.14, an applicant may request that an application made in accordance with rule 86.10 or 86.11 be dealt with as a matter of urgency.

Supreme Court Rules

"(2) A request under subrule (1) is to be filed in accordance with Form 86HA and with copies sufficient for service and proof of service.

"(3) The grounds for a request under subrule (1) are to be stated either in the request or in an affidavit filed in support of the application to which the request relates.

"(4) A request is to be served, within 2 days after filing, on each person who was a party to, or given leave to intervene in, the proceedings resulting in the decision in respect of which the application to which the request relates is made.

"(5) The Court of Criminal Appeal may grant a request made under subrule (1) if the Court is satisfied that it is appropriate that the matter be dealt with as a matter of urgency.

"(6) If a request is granted under this rule, rules 86.13 and 86.14 do not apply in relation to the application to which the request relates.

"86.14B Grounds of appeal

"(1) If the Court of Criminal Appeal grants leave to appeal on only some of the grounds specified in an application referred to in rule 86.10, the Court must specify each ground in respect of which leave is granted.

"(2) An applicant for leave to appeal may not seek the leave of the Court of Criminal Appeal on a ground in respect of which leave has been refused by a Judge exercising the powers of the Court under section 429(1) of the Criminal Code unless the applicant has, not less than 14 days before the hearing of the application for leave to appeal before the Court, advised the Director of Public Prosecutions of the ground for which leave is to be sought before that Court.

"86.14C Setting down for hearing

"(1) The Registrar is to set down for hearing an application in relation to which a request under rule 86.14A has been made.

"(2) The Registrar must, in writing, notify the parties interested of the date appointed for hearing under subrule (1).

"86.14D Application for leave taken to be notice of appeal

"If the Court of Criminal Appeal, or a Judge exercising the powers of the Court under section 429(1) of the Criminal Code, gives leave to appeal, the application for leave to appeal is to be taken to be a notice of appeal.

Supreme Court Rules

"86.14E Certain powers to be exercised by single Judge

"The powers of the Court of Criminal Appeal under rules 86.14, 86.14A and 86.14B(1) are to be exercised by a single Judge."

4. Repeal

Rule 86.19 of the Principal Rules is repealed.

5. Hearing of application under section 429 of Criminal Code

Rule 86.21B of the Principal Rules is amended—

(a) by omitting "An application" and substituting "(1) An application";
and

(b) by adding at the end the following:

"(2) Subrule (1) does not apply to an application referred to in rule 86.10 or 86.11 that is to be dealt with under rule 86.14."

6. Written argument

Rule 86.23 of the Principal Rules is amended by inserting after subrule (1) the following:

"(1A) This rule does not apply to an application referred to in rule 86.10 or 86.11 that is to be dealt with under rule 86.14."

7. Form

The Principal Rules are amended by inserting after Form 86H the following form:

Supreme Court Rules

"FORM 86HA

Rule 86.14A(2)

IN THE COURT OF APPEAL)
OF THE NORTHERN TERRITORY)
OF AUSTRALIA)

No. of 20

A.B.

Applicant

C.D.

Respondent

REQUEST FOR APPLICATION FOR LEAVE TO APPEAL
OR EXTENSION OF TIME TO BE DEALT WITH URGENTLY.

1. The applicant requests that the attached application in accordance with rule 86.10 or 86.11 be dealt with urgently.
2. The grounds for the request are as follows*/appear in the affidavit of (deponent's name) sworn (date) filed with the attached application*.

To the Respondent (address).

NOTE: Before taking a step in these proceedings you must enter an appearance in the Registry.

The applicant's address for service is

Date:

Signature of applicant
or applicant's solicitor

_____ "
