

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

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1998, No. 11*

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 6 April 1998.

W J F KEARNEY A/CJ

S R BAILEY J

D N ANGEL J

S G THOMAS J

D MILDREN J

Judges of the Supreme
Court of the Northern
Territory of Australia

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. CHANGE OF PARTNER'S INTEREST

Rule 17.11 of the Principal Rules is amended by omitting from subrule (1) "section 23 of *The Partnership Act, 1891*, of the State of South Australia in its application to the Territory as a law of the Territory" and substituting "section 27 of the *Partnership Act*".

3. REPEAL AND SUBSTITUTION

Rule 24.01 of the Principal Rules is repealed and the following substituted:

* Notified in the *Northern Territory Government Gazette* on 1 June 1998.

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"24.01 WANT OF PROSECUTION

"Where the plaintiff, being required to serve a statement of claim, fails to do so within the time limited, the Court may order that the proceeding be dismissed for want of prosecution."

4. REPEAL AND SUBSTITUTION

Rule 30.02 of the Principal Rules is repealed and the following substituted:

"30.02 SERVICE OF INTERROGATORIES

"A party may serve interrogatories on another party relating to a question between them in the proceeding only with leave of the Court."

5. TIME FOR SERVICE

Rule 33.08 of the Principal Rules is amended by omitting subrules (1) and (2) and substituting the following:

"(1) A party must serve copies of all medical reports that the party is required to serve in accordance with these Rules at the time or times as directed by a Judge, the Master or the Registrar."

6. ANNEXURES AND EXHIBITS

Rule 43.06 of the Principal Rules is amended by omitting from subrule (4) "An exhibit" and substituting "An annexure or exhibit".

7. AFFIDAVIT SWORN BEFORE PARTY

Rule 43.10 of the Principal Rules is amended by omitting from subrule (1) ", his solicitor or his solicitor's agent" and "or of his solicitor or of his solicitor's agent".

8. REPEAL

Rule 50.04 of the Principal Rules is repealed.

9. COUNSEL'S FEES

Rule 63.72 of the Principal Rules is amended by omitting subrules (6) and (7).

10. INTEREST ON COSTS

Rule 63.74 of the Principal Rules is amended by omitting from subrule (1) "At the conclusion" and

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substituting "Notwithstanding rule 59.02(3), at the conclusion".

11. AUTHORITY

Rule 77.01 of the Principal Rules is amended by omitting subrule (1)(b)(vi) and substituting the following:

"(vi) the Service and Execution of Process Act 1992 of the Commonwealth, Parts 2, 3 and 6;"

12. UNCLAIMED MONEY

Rule 79.07.1 of the Principal Rules is amended —

- (a) by omitting from subrule (1) "for the use of a party to a proceeding before the Court shall" and substituting "may"; and
- (b) by omitting from subrules (1) and (2) "Consolidated Fund" and substituting "Consolidated Revenue Account".

13. NEW RULE

The Principal Rules are amended by inserting after rule 87.09 the following:

"87.09A. CROSS-APPEAL

"(1) A respondent to an appeal who wishes to appeal from a decision or part of a decision or to seek a variation of a decision or part of the decision, need not institute a substantive appeal but may, within 7 days after the service of the notice of appeal or within any further time that the Court allows —

- (a) file a notice of cross-appeal; and
- (b) serve a copy of the notice on the appellant and any other person affected by the relief that the respondent seeks.

"(2) In a notice of cross-appeal, a respondent must —

- (a) state the judgment, relief or decision that the respondent seeks in lieu of the decision of the Work Health Court;
- (b) set out a brief but specific statement of the grounds relied on in support of the cross-appeal; and

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- (c) state whether the appeal is from the whole or a part only of the decision appealed against and, if part only, what part.

"(3) Where a respondent proposes to contend that a matter of fact or law has been erroneously decided against him or her but does not seek a discharge or variation of a part of the judgment pronounced, he or she need not give a notice of cross-appeal, but must -

- (a) give written notice of his or her contention to the appellant; and
- (b) give written notice to the appellant of the record of evidence or documents before the Work Health Court relevant to his or her contention.

"(4) The rules applicable to the form and service of a notice of appeal, with the necessary changes, apply to and in relation to a notice of cross-appeal as if it were a notice of appeal."

14. EVIDENCE AND DOCUMENTS IN APPLICATIONS FOR PROBATE

Rule 88.23 of the Principal Rules is amended by omitting from subrule (6) "and annexed to that affidavit" and substituting "and filed with the affidavit".

15. EVIDENCE AND DOCUMENTS IN APPLICATIONS FOR ADMINISTRATION

Rule 88.24 of the Principal Rules is amended by omitting subrule (4) and substituting the following:

"(4) Where the Registrar orders a person to enter into a bond under section 23 of the *Administration and Probate Act*, the bond is to be in accordance with Form 88N."

16. REPEAL

Rules 88.72 and 88.73 of the Principal Rules are repealed.

17. MARSHALL MAY CHARGE FEES

Rule 90.04 of the Principal Rules is amended -

- (a) by omitting from items 1 and 2 of the Table "writ of summons" and substituting "writ"; and
- (b) by omitting from item 5 of the Table "writ of summons" and substituting "a writ".

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18. FURTHER AMENDMENTS

The Principal Rules are further amended as specified in the Schedule.

SCHEDULE

Regulation 18

Provision	Amendment	
	omit	substitute
Heading to Order 7	"THE TERRITORY"	"AUSTRALIA"
Heading to Part 1 of Order 7	"the Territory"	"Australia"
Rule 7.01(1)	"the Territory" (first occurring)	"Australia"
Rule 7.01(1)(n)	"the Territory" (second occurring)	"Australia"
Rule 7.02(1)	"the Territory"	"Australia"
Rule 7.02(4)	"a Registrar"	"the Registrar"
Rule 7.03	"the Territory" "place"	"Australia" "country"
Rule 7.04	"the Territory"	"Australia"
Rule 7.05(1) and (2)(a)	"the Territory"	"Australia"
Rule 7.06	"the Territory"	"Australia"
Rule 7.07(2)	"the Territory" (twice occurring)	"Australia"
Rule 7.07(3)	"the Territory"	"Australia"
Rule 7.08(2) and (4)	"the Territory"	"Australia"
Rule 41.16	"a Registrar"	"the Registrar"
Rule 42.06(1) and (2)	"a Registrar" (wherever occurring)	"the Registrar"
Rule 75.07(1) and (2)	"a Registrar"	"the Registrar"

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Rule 83.13	"or the Master"	", the Master or the Registrar"
Rule 88.78(1)	"or a Deputy Registrar"	
Rule 88.78(2)	"or Deputy Registrar"	
Rule 88.78(10)	"or Deputy Registrar"	
Rule 88.78(13)	"or Deputy Registrar"	
Rule 88.78(14)	"or the Deputy Registrar"	
Rule 88.78(15)	"or Deputy"	
Rule 88.78(18)	"or Deputy"	
Form 5A	"Mitchell St."	"State Square"
Form 5B	"Mitchell Street"	"State Square"
	"the writ" (wherever occurring)	"the originating motion"
	"a writ"	"the originating motion"
Form 5E	"Mitchell St." (twice occurring)	"State Square"
Form 10A	"Mitchell Street"	"State Square"
Form 11A	"Mitchell St."	"State Square"
Form 15A	"[other particulars as in Form 60C]"	
Form 15B	"[other particulars as in Form 60C]"	
Form 41B	"Mitchell St."	"State Square"
Form 42A	"Rule 42.02 (b)"	"Rule 42.02 (2)"
Form 42B	"Mitchell Street"	"State Square"
Form 42C	"Mitchell Street"	"State Square"
Form 42D	"Mitchell Street"	"State Square"
Form 45A	"Mitchell Street"	"State Square, Darwin"

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	"This summons was filed by of , solicitor for the plaintiff."	
Form 46A	"Mitchell Street"	"State Square"
	"This summons was filed by of , solicitor for the [identify party]."	
Form 48A	the whole form	
Form 57A	"Mitchell Street"	"State Square"
Form 63A	"Mitchell Street"	"State Square"
Form 68A	"BY THE COURT"	
Form 68B	"BY THE COURT"	
	"against whom judgment"	"for whom judgment"
Form 68C	"BY THE COURT"	
Form 71B	"Form 60L"	"Form 60C"
Form 72F	"Mitchell Street"	"State Square"
Form 84B	"Form 83A"	"Form 85A"
Form 85B	"the Master"	"the Registrar"
	"the Master"	"the Registrar"
Form 85C	"the Master"	"the Registrar"
Form 86A	"APPEAL"	"APPEAL OF THE NORTHERN TERRITORY OF AUSTRALIA"
Form 86B	"APPEAL"	"APPEAL OF THE NORTHERN TERRITORY OF AUSTRALIA"
Form 86C	"APPEAL"	"APPEAL OF THE NORTHERN TERRITORY OF AUSTRALIA"
Form 86G	"APPEAL"	"APPEAL OF THE NORTHERN TERRITORY OF AUSTRALIA"

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Form 86H	"APPEAL) "	"APPEAL) OF THE NORTHERN) TERRITORY OF) AUSTRALIA) "
Form 86J	"APPEAL) "	"APPEAL) OF THE NORTHERN) TERRITORY OF) AUSTRALIA) "
Form 88I	"searched the index"	"caused a search to be carried out of the index"
Form 88J	"and will exhibit and deposit in the office of the Registrar of Probates a just and true account of the administration of it within 12 months from the date of the grant"	
Form 88N	"each surety" "him; " paragraph 4	"the surety" "him. " "
Form 88S	paragraph 10	
Form 88T	"or (place labourer"	"of (place) (occupation) "

ALTERATION TO RULE HEADINGS

On the day on which the Supreme Court Rules are amended by these Rules the heading to rule 7.03 is altered by omitting "THE TERRITORY" and substituting "AUSTRALIA" and the heading to rule 75.07 is altered by omitting "DEPUTY MASTER" and substituting "REGISTRAR".