

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1994, No. 21*

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*, hereby make the following Rules of Court.

Dated 1st June 1994.

BRIAN MARTIN C J
W J F KEARNEY J
D N ANGEL J
D MILDREN J
S G THOMAS J

Judges of the Supreme
Court of the Northern
Territory of Australia

AMENDMENTS OF SUPREME COURT RULES

1. SERVICE OF STATEMENT OF EXPERT EVIDENCE

Rule 44.03 of the Supreme Court Rules is amended by omitting from subrule (1) paragraphs (a) and (b) and substituting the following:

- "(a) not later than the time fixed by a Judge, the Master or a Registrar at a listing hearing or directions hearing held under Order 48; or
- (b) where no such time is fixed -
 - (i) 6 weeks before the day fixed for the trial;
or

* Notified in the *Northern Territory Government Gazette* on 13 July 1994.

Amendments of Supreme Court Rules

- (ii) before a directions hearing under rule 48.34 to ensure that a proceeding is ready to proceed to trial,

whichever is the earlier,".

2. REPEAL AND SUBSTITUTION

Order 48 of the Supreme Court Rules is repealed and the following substituted:

"ORDER 48 - SETTING DOWN FOR TRIAL
AND CASE FLOW MANAGEMENT

"Part 1 - Preliminary

"48.01 INTERPRETATION

"(1) In this Order, unless the contrary intention appears -

'hearing time', in relation to a proceeding, means the time taken for the trial of the proceeding;

'listing hearing' means a listing hearing convened under rule 48.19;

'Master' includes a Registrar;

'settlement' means -

(a) a final disposition, by agreement between the parties to a proceeding, of all the issues in the proceeding; or

(b) a resolution by agreement between the parties of such of the issues in a proceeding as will or is likely to reduce the hearing time of the proceeding,

whether or not the agreement is subject to a contingency, and settled has a corresponding meaning;

'settlement conference' means a settlement conference convened under rule 48.14.

"(2) Where a directions hearing is conducted before a Registrar, 'Judge' in rules 48.10(b) and 48.13(b)(ii) includes the Master where the Master has the power to make the relevant order or give the relevant direction.

"(3) The times referred to in this Part are not inflexible and, in fixing or assessing times, a Judge or the Master shall give consideration to prevailing circumstances.

Amendments of Supreme Court Rules

"48.02 APPLICATION

"(1) This order applies to all proceedings in the court commenced by writ and to all proceedings in respect of which an order has been made under rule 4.07.

"(2) Where in a proceeding commenced by originating motion it is proposed to call oral evidence pursuant to rule 45.02 or for any other reason it appears desirable that the provisions of this Order should apply to that proceeding the Master or Judge may so order.

"48.03 POWER OF REGISTRAR

"(1) In this rule, 'Master' does not include a Registrar.

"(2) Nothing in this Order empowers a Registrar to dismiss a proceeding for want of prosecution or to strike out a defendant's appearance, defence or counterclaim.

"(3) Where a directions hearing is convened by or held before a Registrar, the Registrar may give such directions for the conduct of the proceeding as he thinks fit and Order 34 with the necessary changes, applies to a direction so given.

"(4) A Registrar may, where a party fails to attend a directions hearing convened or held before the Registrar, furnish to the Master a report signed by the Registrar as to the party's failure to so attend.

"(5) On receiving a report under subrule (4), the Master may give to the party failing to attend the directions hearing referred to in the report notice of a date, time and place when and at which the party is to attend before the Master to show cause why -

(a) if the party is a plaintiff - the party's claim should not be dismissed for want of prosecution; or

(b) if the party is a defendant - the party's appearance, defence and/or counterclaim should not be struck out.

"(6) If the Master gives notice under subrule (5), he shall also give a copy of the notice to all other interested parties and those parties may attend and be heard at the meeting.

"(7) At the date, time and place fixed by notice in accordance with subrule (5), or at any adjourned date thereafter, the Master may proceed in accordance with rule 48.07(2).

Amendments of Supreme Court Rules

"Part 2 - Case Flow Management

"48.04 FIXING OF DIRECTIONS HEARING

"At a time not later than 2 months after an originating process has been filed, the Master shall fix a time, date and place for the holding of an initial directions hearing.

"48.05 NOTICE OF MEETING

"(1) The Master shall give to each party not less than 14 days notice of the initial directions hearing.

"(2) A notice under subrule (1) may be given -

(a) by sending it by prepaid post to the party's address for service; or

(b) where a party appears by a solicitor, in accordance with rule 6.06(1)(d).

"(3) The Master shall file a copy of the notice.

"(4) A copy of the notice filed in accordance with subrule (3) shall be endorsed with the date of the giving of the notice and shall be signed by the Master.

"(5) A copy of a notice duly filed, endorsed and signed in accordance with this rule is evidence of the giving of the notice as required by this Part.

"48.06 PARTY TO ATTEND DIRECTIONS HEARING

"A party shall attend a directions hearing fixed in accordance with rule 48.05.

"48.07 CONSEQUENCE OF FAILURE TO ATTEND

"(1) If a party fails to attend a directions hearing of which notice has been duly given, the Master may give to the party failing to attend notice of a date, time and place when and at which the party is to attend before the Master to show cause why -

(a) if the party is a plaintiff - the party's claim should not be dismissed for want of prosecution; or

(b) if the party is a defendant - the party's appearance, defence and/or counterclaim should not be struck out.

"(2) At the date, time and place fixed by notice in accordance with subrule (1), or at any adjourned date after that date, the Master may -

Amendments of Supreme Court Rules

- (a) where the party failing to attend was the plaintiff - dismiss the plaintiff's claim for want of prosecution;
- (b) where the party failing to attend was the defendant, strike out the defendant's appearance, defence and/or counterclaim; or
- (c) proceed in accordance with rule 48.08.

"(3) In acting under subrule (2), the Master may order costs against the party failing to attend or against the party's solicitor.

"(4) Rules 48.38(5), (6) and (7), with any necessary changes, apply to a proceeding, appearance or pleading dismissed or struck out under this rule.

"48.08 CATEGORISING PROCEEDINGS

"(1) The purpose of the initial directions hearing is to determine which of the categories specified in subrule (2) it is appropriate to designate the proceeding.

"(2) At the initial directions hearing the Master shall designate each proceeding as one of the following categories of proceedings:

- (a) if the hearing time is likely to be 1 to 2 days - Category A;
- (b) other ordinary matters requiring the supervision of the Master - Category B;
- (c) complex matters requiring the supervision of a Judge - Category C;
- (d) urgent matters requiring the supervision of a Judge - Category D;
- (e) if the proceeding involves only local witnesses or no witnesses and is likely to be capable of being brought on for trial when ready for trial on not less than 2 days' notice - Category E.

"(3) The category of a proceeding may, for good reason, be altered from time to time.

"48.09 ADJOURNMENT OF DIRECTIONS HEARING

"A directions hearing may be adjourned from time to time.

"48.10 ACTION OF MASTER AT DIRECTIONS HEARING

"At a directions hearing the Master may -

Amendments of Supreme Court Rules

- (a) make such orders or give such directions as he has power to make or give under these Rules as he thinks fit; or
- (b) refer the making of an order or the giving of a direction to a Judge.

"48.11 FIXING TIME FOR CATEGORY C AND D PROCEEDINGS

"(1) If, at a directions hearing, a proceeding is designated as a Category C or D proceeding, the Master shall fix a date, time and place for the proceeding to be listed before a Judge.

"(2) A person attending a hearing at which a proceeding is referred under subrule (1) to a Judge shall be taken to have notice of the date, time and place fixed by the Master.

"(3) Where this rule applies and a person is not present at the hearing the Master shall give notice to the person, in accordance with rule 48.05, of the date, time and place fixed by him.

"(4) A Judge before whom a proceeding is listed in accordance with subrule (1) shall have charge of the proceeding and shall make such orders and give such directions as the Judge from time to time thinks fit in order to have the proceeding effectively, completely, promptly and economically determined.

"48.12 TIME FOR HEARING OF CATEGORY A, B, AND E PROCEEDINGS

"(1) The Master shall have charge of all Category A, B, and E proceedings and shall make such orders and give such directions as he from time to time thinks fit in order to have the proceedings effectively, completely, promptly and economically determined.

"(2) Notwithstanding subrule (1), a Judge may at any time, if he thinks fit, exercise the powers of the Master conferred by subrule (1).

"48.13 PROCEDURE IN RELATION TO DIRECTIONS HEARINGS

"For the purpose of achieving the objectives under -

- (a) rule 48.11(4), a Judge may adjourn a directions hearing from time to time; and
- (b) rule 48.12, the Master may -
 - (i) as he thinks fit, make such orders or give such directions as he has power to make or give under these Rules;

Amendments of Supreme Court Rules

- (ii) refer the proceeding to a Judge to make such orders or directions as the Judge thinks fit;
- (iii) convene such further hearings as he thinks fit; or
- (iv) adjourn a directions hearing from time to time.

"48.14 SETTLEMENT CONFERENCE

"(1) If at any time a Judge or the Master is of the opinion that a proceeding is capable of settlement or ought to be settled, the Judge or Master may direct that it be set down for a settlement conference for the purpose of exploring the possibility of settlement.

"(2) A settlement conference shall be held before the Master as mediator or before a mediator appointed by the Judge or the Master from the list of mediators kept in accordance with subrule (9).

"(3) A notice of the proposed holding of a settlement conference fixing the time, date and place of the conference shall be given by a Judge or the Master in accordance with rule 48.05.

"(4) A Judge or the Master may direct that the parties personally attend a settlement conference convened under this rule, and if a party is a corporation, that party may be ordered to attend by an agent familiar with the substance of the issues in the proceeding and with unqualified authority either to settle the proceeding or to make recommendations to the corporation which are likely to result in the settlement of the proceeding.

"(5) A direction under subrule (4) may be given -

- (a) orally to a party or to that party's solicitor;
- (b) in writing to a party by prepaid post addressed to the party at the address shown in the originating process; or
- (c) where the solicitor for a party has facilities for the reception of documents in a document exchange - by delivering it into those facilities,

by a Judge or the Master or an officer authorised by a Judge or the Master.

"(6) Where the Master is the mediator, rules 48.05(3), (4) and (5), 48.06, 48.07 and 48.13(b), with the necessary changes, apply to a settlement conference.

Amendments of Supreme Court Rules

"(7) The attendance by a party in person at a settlement conference does not prevent the party being represented at the conference by the party's solicitor or counsel, or both.

"(8) Except in order to prove that a binding settlement was reached between the parties and the terms of that settlement, evidence of things said or admissions made to a person at a settlement conference is not admissible in the proceeding or in a court, except by consent of the parties.

"(9) The Master shall keep a list of all persons who, in the opinion of a Judge or the Master, are suitably qualified and willing to act as mediators.

"(10) The costs and expenses of a mediator, other than the Master, may be fixed by a Judge or the Master, and subject to subrule (12) shall be met equally by all parties to the mediation.

"(11) A Judge or the Master may make an order necessary to secure or enforce the payment of the mediator's costs and expenses.

"(12) If a party fails to attend a settlement conference notice of which has been duly given in accordance with subrule (3) or any adjourned settlement conference, or if, having attended a settlement conference or adjourned settlement conference a party refuses to participate in the settlement conference or applies, (except by consent of all other parties), to adjourn or further adjourn the settlement conference and the adjournment is granted by the mediator, the party at fault shall pay the costs of the mediator and of the other parties thrown away as a result, which costs may be immediately taxed by the Taxing Master notwithstanding rule 63.04(3).

"(13) Subject to subrule (8), a mediator to whom a proceeding or part of a proceeding is referred under the Rules shall not disclose or be required to disclose any information of which the mediator becomes aware in the course of and for the purposes of the mediation notwithstanding any law of the Territory to the contrary.

"(14) A settlement conference may be adjourned by the mediator from time to time if the parties consider that further negotiations may lead to a settlement.

"48.15 COSTS

"Subject to this Order, the costs of and incidental to attending a settlement conference or directions hearing convened in accordance with this Part shall be costs in the proceeding, unless the Judge or Master otherwise orders.

Amendments of Supreme Court Rules

"48.16 ALICE SPRINGS LISTING HEARINGS AND DIRECTION
HEARINGS MAY BE BY VIDEOCONFERENCE OR
TELECONFERENCE

"(1) Where a proceeding has been filed in the Alice Springs Registry, a Judge or the Master may conduct a listing hearing or directions hearing by means of -

- (a) a videoconference; or
- (b) a teleconference.

"(2) Where a listing hearing or directions hearing is to be held in accordance with subrule (1) -

- (a) the Court shall provide and meet the expenses of the equipment necessary to enable the videoconference or teleconference to be held;
- (b) the Court shall notify the parties or their solicitors of the place where they may attend the meeting or hearing by the use of the equipment;
- (c) the Court file shall be sent to the Darwin registry by the Alice Springs registry in time for the meeting;
- (d) a party seeking to rely on an affidavit or other document sought to be filed after the file has been sent to the Darwin registry may -
 - (i) file the document in the Alice Springs registry; and
 - (ii) request a copy of the document filed to be faxed by the Alice Springs registry to the Darwin registry and the Alice Springs registry shall fax the document to the Darwin registry as soon as possible on payment by the person to it of a fee of 50 cents per page or such other fee as the Chief Justice from time to time fixes by practice direction,

and a document faxed in accordance with subparagraph (ii) shall be treated as if it were the original document duly filed; and

- (e) a Judge or the Master may, if he thinks fit, take evidence from any witness who is duly sworn at such a meeting or hearing, and may exercise all or any of the powers or discretions available, whether under these Rules or otherwise, during the meeting or hearing as if the parties and the witness were physically in the presence of the Judge or Master.

Amendments of Supreme Court Rules

"48.17 OTHER ATTENDANCES AT LISTING HEARINGS OR DIRECTIONS HEARINGS BY VIDEOCONFERENCE OR TELECONFERENCE

"(1) A party may attend a listing hearing or directions hearing, wherever it is to be heard, with the permission of a Judge or the Master, by videoconference or teleconference.

"(2) A Judge or the Master may, if he thinks fit, take evidence from any witness who is duly sworn at such a hearing, and may exercise all or any of the powers or discretions available, whether under these Rules or otherwise, during the hearing as if the parties and the witnesses were physically in the presence of the Judge or Master.

"(3) A party intending to attend a listing hearing or a directions hearing by videoconference or teleconference shall, at least 24 hours before the time set for the hearing, seek the permission of the Judge or the Master to attend in accordance with subrule (1).

"(4) Permission under this rule may be granted informally by telephone and without notice to any other party.

"(5) A party who has been granted permission to attend a hearing in accordance with subrule (1) shall -

- (a) give such notice to the other parties of his intention to attend the hearing as a Judge or the Master may direct; and
- (b) unless a Judge or the Master directs otherwise, provide and meet the expenses of any equipment necessary to enable the videoconference or teleconference to take place.

"Part 3 - Setting Down for Trial

"48.18 PAPERS FOR JUDGE

"When pleadings have been closed in accordance with rule 14.08, the plaintiff or applicant, as the case may be, shall, within 14 days, file a copy of all pleadings, which shall include particulars of all such pleadings given and the request for such particulars, but not the writ or the notice of appearance.

"48.19 LISTING HEARING

"Subject to these Rules, a proceeding shall not, unless the Court otherwise orders, be listed for trial until a listing hearing in accordance with the following rules in this Order has taken place.

Amendments of Supreme Court Rules

"48.20 CERTIFICATE OF READINESS

"(1) Unless a Judge or the Master otherwise orders, a listing hearing shall not take place until a duly completed Certificate of Readiness for trial is filed.

"(2) A Certificate of Readiness shall be in Form 48B and shall be completed by all parties to the proceeding in the manner indicated in the form.

"(3) A Certificate of Readiness shall state the place at which the proceeding is to be listed for trial.

"48.21 SERVICE OF THE CERTIFICATE OF READINESS

"A party to a proceeding may, in a manner provided by rule 6.06, serve on another party a form of Certificate of Readiness bearing an endorsement in Form 48C, for completion by that other party and return to the party serving it.

"48.22 DETERMINING IF PROCEEDING READY FOR TRIAL

"(1) On a Certificate of Readiness being filed -

- (a) if the proceeding is designated as a Category A, B, or E proceeding - the Master shall fix a time and date for the parties or their solicitors to attend before him on a listing hearing; or
- (b) if the proceeding is designated as a Category C or D proceeding - the Master shall fix a time and date for the parties or their solicitors to attend before a Judge on a listing hearing.

"(2) The Master shall give notice to the parties or their solicitors of the time and date fixed under subrule (1).

"(3) At the listing hearing, consideration shall be given to -

- (a) the possibility of the claim being settled by compromise and the desirability of a settlement conference;
- (b) further simplification of the issues;
- (c) the necessity or desirability of amendments to the pleadings;
- (d) obtaining further admissions of facts and of documents that will avoid unnecessary proof, including questions of medical examination and reports under Order 33;
- (e) the limitation of the number of witnesses or the issues covered by their evidence;

Amendments of Supreme Court Rules

- (f) the submissions by the parties to the trial Judge of written arguments on issues of law or on issues of mixed law and facts;
- (g) the necessity to refer a proceeding to a Judge to secure appropriate directions or other orders to ensure that the proceeding is ready for and will proceed to trial;
- (h) the estimated duration of the trial;
- (j) whether a witness' evidence will be heard by means of a videoconference in accordance with these rules;
- (k) whether it is desirable to order exchange of witness' statements; and
- (m) any other matter that might facilitate the disposal of the proceeding.

"(4) If a Judge or the Master is satisfied as to the matters referred to in subrule (3) and that the proceeding is in fact ready for trial, he shall order that the proceeding be placed in a list of proceedings ready for trial.

"(5) If a Judge or the Master is not satisfied following a listing hearing that a proceeding is in fact ready for trial -

- (a) if the listing hearing is heard by a Master -
 - (i) the Master shall certify in writing that he is not so satisfied and state the reason for his not being satisfied; and
 - (ii) the listing hearing may be adjourned generally or to a specified date and may continue to be adjourned for listing hearing until the Master is satisfied that the proceeding is ready for trial; and
- (b) if the listing hearing is heard by a Judge - it may be adjourned generally or to a specified date and may continue to be adjourned for listing hearing until the Judge is satisfied that the proceeding is ready for trial.

"(6) Subject to rule 48.24(1), the Master shall not place a proceeding in a list of proceedings ready for trial until satisfied that -

- (a) advice on evidence has been prepared by each party's solicitors;
- (b) such advice has been obtained from counsel; or
- (c) advice on evidence is not necessary.

Amendments of Supreme Court Rules

"48.23 LISTING HEARING ON FAILURE TO SIGN CERTIFICATE OF READINESS

"(1) If the parties in a proceeding cannot agree to sign a Certificate of Readiness, a party who has served a Certificate of Readiness, with an endorsement in Form 48C, under rule 48.21 may, after the expiration of 21 days, apply for a listing hearing under this rule.

"(2) A listing hearing shall be heard by a Master if the proceeding is designated a Category A, B or E proceeding, but otherwise it shall be heard by a Judge.

"(3) An application under this rule shall -

- (a) be filed and served on the other party;
- (b) set out the reason for there being no agreement; and
- (c) be in Form 48D.

"(4) On application being made under this rule, the Master shall fix a time and date for the parties or their solicitors to attend before a Judge or the Master, as the case may be.

"(5) The Master shall give notice to the parties or their solicitors of the time and date fixed under subrule (4).

"(6) At a listing hearing the Judge or Master shall determine whether the proceeding is in fact ready for trial.

"(7) If the Master, following a listing hearing under this rule, is not satisfied that a proceeding is ready for trial, he may so certify in writing stating the reasons for his not being so satisfied.

"(8) If a Judge or the Master, following a listing hearing under this rule is satisfied that a proceeding is ready for trial, he shall order that the proceeding be placed in a list of proceedings ready for trial.

"(9) At a listing hearing the Master may, before certifying in accordance with subrule (7) -

- (a) refer, or direct a party to refer, a matter in the proceeding to a Judge for directions or other orders; or
- (b) take, or direct the parties to take, such other action as the Master thinks fit to have the proceeding made ready for trial.

"(10) A listing hearing may be adjourned generally or to a specified date and from time to time.

Amendments of Supreme Court Rules

"(11) In considering whether a proceeding is ready for trial, the Master shall have regard to the matters referred to in rule 48.22(3) and (6).

"48.24 WHEN PROCEEDING NOT READY FOR TRIAL

"(1) Where the Master has certified in accordance with rule 48.22(5) or 48.23(7), he shall order that the proceeding be placed in a list of proceedings ready for trial unless, in the interests of justice, it would be inappropriate to do so.

"(2) If the Master declines to order a proceeding to be listed for trial and has certified in accordance with rule 48.23(7), the listing hearing is concluded.

"(3) Unless the Master otherwise orders, when a listing hearing is concluded pursuant to subrule (2), no step to have a date fixed for a trial of the proceeding shall be taken except -

- (a) after compliance with rule 48.22; or
- (b) pursuant to a fresh application filed in pursuance of rule 48.23(3).

"48.25 REFERENCE TO JUDGE

"The power of the Master to refer under rule 48.22(3)(g) or 48.23(9)(a) may be exercised when -

- (a) there is a need for an order or direction that he does not have the power to make or give;
- (b) he is of the opinion that the dispute between the parties as to whether a date for trial should be given may be better resolved by a Judge;
- (c) he is of the opinion that the proceeding could have been commenced in a Local Court; or
- (d) for any other reason the Master considers it appropriate so to do.

"48.26 MASTER'S CERTIFICATE AS EVIDENCE

"A document purporting to be a certificate referred to in rule 48.22(5) or 48.23(7) is, on being produced to a Court, evidence of the facts stated in the document as to a matter arising at or from a listing hearing under this Order.

"48.27 APPLICATION TO DISMISS OR FOR JUDGMENT

"(1) A party may rely on matters arising at or from a listing hearing and stated in a certificate referred to in rule 48.26 to support an application for -

Amendments of Supreme Court Rules

- (a) a stay or dismissal of a proceeding for want of prosecution; or
 - (b) judgment or otherwise against a defendant.
- "(2) Failure of a party in a proceeding -
- (a) to appear at a listing hearing under this Order after having had notice of the hearing; or
 - (b) to act on a direction of the Master under this Order,

is evidence -

- (c) if the failure is on the part of the plaintiff - of the plaintiff's failure to prosecute the proceeding with due diligence; or
- (d) if the failure is on the part of the defendant - of the defendant's failure to defend the proceeding with due diligence.

"(3) On an application of a kind referred to in subrule (1) (a) and (b), the Court may make such orders in the proceeding, and may give such directions, as it thinks fit.

"48.28 MASTER MAY MAKE OR RECOMMEND ORDER

"The Master may, at a listing hearing -

- (a) make such interlocutory orders as are within the Master's power to make and, in particular, may make an order as to costs; or
- (b) recommend orders to a Judge, including orders as to costs.

"48.29 COSTS

"The costs of and incidental to a listing hearing shall, unless a Judge or the Master otherwise orders, be costs in the proceeding. -

"48.30 COPIES OF MASTER'S CERTIFICATES TO BE GIVEN TO PARTIES

"The Master shall serve a copy of a certificate under rule 48.22(5) or rule 48.23(7) on the parties to a proceeding.

"48.31 LISTING FOR TRIAL AT DIRECTIONS HEARING

"At a directions hearing, a Judge or the Master may, having regard to the matters referred to in rule 48.22(3) and (6), if satisfied that a proceeding is ready for trial, or should, in the interests of justice, proceed to

Amendments of Supreme Court Rules

trial, order that the proceeding be placed in a list of proceedings ready for trial notwithstanding that no Certificate of Readiness has been filed.

"48.32 TRIAL LISTS

"There shall be kept in each registry -

- (a) a list (called the "A" list) of all Category A and B proceedings;
- (b) a list (called the "B" list) of all Category C and D proceedings; and
- (c) a list (called the "C" list) of all Category E proceedings,

ready for trial.

"48.33 FIXING HEARING DATES

"(1) There shall, from time to time, be a callover before a Judge of all proceedings in the A and C lists.

"(2) At the callover, the Judge shall allocate hearing dates to such proceedings in the A and C lists as the Judge thinks fit, to be heard during the next days allocated by the Chief Justice for the hearing by the Court of civil actions.

"(3) Unless counsel briefed in the proceeding attends personally, the parties shall, not later than the time of the callover, file a certificate by each counsel briefed in each proceeding likely to be given a trial date, stating -

- (a) that the proceeding is ready for trial;
- (b) that no amendment to the pleadings is required;
- (c) the anticipated length of the case of the party counsel is representing, including opening and closing addresses;
- (d) any dates during the proposed sittings when counsel or a witness will not be available;
- (e) whether or not counsel has discussed the proceeding with each of the other counsel involved;
- (f) whether or not there are outstanding proceedings to be resolved; and
- (g) the prospects of the proceeding being settled before the hearing.

Amendments of Supreme Court Rules

"(4) A Judge shall, subject to compliance with subrule (3), allocate hearing dates in order of priority on each list.

"(5) A Judge may, if he thinks it expedient to do so, allocate a hearing date to a proceeding notwithstanding that subrule (3) has not been complied with or that there are other proceedings with priority over that proceeding in a list.

"(6) The Registrar shall provide a copy of the list to all parties or their solicitors not later than 7 days before the proposed callover date and at the same time shall give notice of the time and place of each callover.

"(7) A callover of the proceedings in the Alice Springs registry may be conducted by videoconference or teleconference.

"(8) Notwithstanding anything in this rule -

(a) a Judge or the Master may list a proceeding in the A or the C list, or which would otherwise be placed in the A or C list, for trial before a Judge if there are suitable dates in any period already allocated by the Chief Justice pursuant to subrule (2);

(b) a Judge or the Master may list a proceeding placed in the C list for trial before a Judge at any time on not less than 2 day's notice to the parties; and

(c) a Judge may list any proceeding for hearing before a Judge at any time whether or not dates have already been allocated by the Chief Justice pursuant to subrule (2) and whether or not the proceeding is in a list of proceedings ready for trial.

"(9) Each proceeding in the B list shall be given a hearing date by a Judge at a directions hearing called for that purpose by a Judge or by a party.

"(10) A certificate by each counsel in accordance with subrule (3) shall be filed before the date of a directions hearing called pursuant to subrule (9), unless counsel briefed in the proceeding attends personally.

"48.34 PRE-TRIAL DIRECTIONS HEARING

"(1) A directions hearing to ensure that a proceeding is ready to proceed to trial may be held before the allocated trial Judge at a time and place determined by the Judge, in relation to any proceeding that has been given a date for trial.

Amendments of Supreme Court Rules

"(2) Where a trial is listed to be held in Alice Springs, a directions hearing referred to in subrule (1) may be held by means of a videoconference or teleconference.

"(3) The trial Judge may make such orders as he thinks necessary at the hearing, including an order that no further amendments to the pleadings will be permitted.

"Part 4 - General

"48.35 EXCHANGE OF WITNESS STATEMENTS

"(1) In this rule, 'witness statement' means a written statement of such of the evidence in chief as it is proposed to adduce from a witness at trial.

"(2) A judge or the Master may, at a listing hearing or a directions hearing called for the purposes of this Order, order that the parties exchange or that a party deliver witness statements and may give such directions as he thinks necessary to give effect to the order and the use to which the statement may be put.

"(3) A witness statement shall be signed by the witness before it is exchanged or delivered in pursuance of an order under subrule (2) and shall be filed.

"(4) When witness statements are ordered under subrule (2) to be exchanged or delivered, the witness shall, unless the Court otherwise orders, confine his evidence in chief at the trial to the matters dealt with in the statement.

"(5) At a hearing referred to in subrule (1) a party shall be represented by his counsel or the solicitor who has actual charge of the proceeding for the party.

"48.37 VIDEOCONFERENCING

"(1) If a party intends to adduce evidence by means of a videoconference he shall, not later than 4 weeks before the date fixed for the trial of the proceeding, give notice -

- (a) to the other party to the proceeding of his intention;
- (b) file a copy of the notice; and
- (c) deliver a copy of the notice to the trial Judge's associate.

"(2) A notice under subrule (1) shall state the name of the witness proposed to be called and the proposed time of the videoconference and be accompanied by a signed copy of the witness' evidence in chief.

Amendments of Supreme Court Rules

"(3) A party to whom notice has been given under subrule (1) may, within 7 days after receiving the notice, object to the proposal contained in the notice.

"(4) An objection under subrule (3) shall be dealt with by the trial Judge.

"(5) At a videoconference referred to in this rule the evidence in chief of the witness shall be confined to that in the witness' statement.

"(6) The party proposing to adduce evidence by videoconference shall arrange and pay for the booking of the necessary facilities at both ends and all other associated costs and expenses.

"(7) If within the period referred to in subrule (3) no notice of objection to the proposed adducing of evidence by videoconference has been given, all parties to the proceeding shall be taken to have consented to it being so given.

"(8) If an objection is upheld by the Judge, the party objecting may be ordered to pay as costs an amount equal to the difference between what would have been the cost of adducing the evidence by videoconference and the costs of bringing the witness to Court, regardless of the outcome of the trial.

"48.38 SELF-EXECUTING ORDERS

"(1) A Judge or the Master may, at any time in relation to a proceeding, make a self-executing order -

- (a) dismissing the proceeding; or
- (b) striking out a pleading,

for a party's non-compliance with a rule or failure to comply with an order of the Court.

"(2) An order under subrule (1) may be made notwithstanding that the default is that of the solicitor of the party or that the fault of the party or his solicitor is not shown to be contumelious.

"(3) An order under subrule (1) is of no effect unless -

- (a) it is made in the presence of the parties;
- (b) within the time fixed by the Judge or Master for the service of the order, it is served personally on the party at fault; or
- (c) it is otherwise served in accordance with an order for substituted service made by the Court.

Amendments of Supreme Court Rules

"(4) For the purposes of enabling an order under subrule (1) to be served, the solicitor for the party at fault shall provide the party in whose favour the order is obtained with the address of the party against whom it is made last known to the solicitor.

"(5) A proceeding or pleading struck out under this rule may be reinstated by and in the discretion of a Judge on application by interlocutory summons in the action made within one month after the proceeding or pleading was struck out, notwithstanding that judgment may have been entered.

"(6) Notwithstanding subrule (5), a proceeding or pleading struck out under this rule may, by special leave, be reinstated at any time by and in the discretion of a Judge by an order obtained by motion.

"(7) A proceeding or pleading may be reinstated in pursuance of subrule (5) or (6) subject to such terms as to costs as the Judge thinks fit (including a term that the costs thrown away be paid before the proceeding is reinstated) and the Judge may require the party at fault to lodge with the Court security for future costs in the proceeding."

3. REPEAL

Order 58 of the Supreme Court Rules is repealed.

4. DEFINITIONS

Rule 83.01 of the Supreme Court Rules is amended by omitting the definition of "Acts" and substituting the following:

" 'Acts' means the *Justices Act, Local Court Act, Mining Act, Juvenile Justice Act, Community Welfare Act* and, subject to rule 83.03, any other Act of the Territory or of the Commonwealth which provides for a procedure in relation to appeals to the Court;".
