

NORTHERN TERRITORY OF AUSTRALIA

---

Regulations 1992, No. 43\*

---

Rules of Court under the *Local Court Act*

I, SALLY GORDON THOMAS, the Chief Magistrate of the Local Court of the Northern Territory of Australia, in pursuance of section 21 of the *Local Court Act*, hereby make the following Rules.

Dated 4 August 1992.

S.G. THOMAS  
Chief Magistrate of the  
Local Court of the Northern  
Territory of Australia

---

AMENDMENTS OF LOCAL COURT RULES

1. COMMENCEMENT

These Rules shall come into operation on 31 August 1992.

2. PRINCIPAL RULES

The Local Court Rules (being Regulations 1990, No. 21) are in these Rules referred to as the Principal Rules.

3. FORM OF STATEMENT OF CLAIM

Rule 4.04(1) of the Principal Rules is amended -

- (a) by omitting from paragraph (d)(v) the word "and";
- (b) by inserting after paragraph (d) the following:  
"(da) if the claim arises from a motor vehicle collision, have attached to it an itemised quotation of the damages sought; and"; and
- (c) by adding at the end of paragraph (e) the words "or Form 4B."

---

\* Notified in the *Northern Territory Government Gazette* on 26 August 1992.

*Amendment of Local Court Rules*

4. NEW RULE

The Principal Rules are amended by inserting after Rule 5.04 the following:

"5.04.1 HOW PERSONAL SERVICE EFFECTED ON FIRM OR CORPORATION

"(1) Personal service may be effected on a firm by effecting service on an officer of the firm in accordance with Rule 5.03.

"(2) Personal service may be effected on a corporation by leaving a copy of the document at the registered office or the principal place of business or the principal office of the corporation with some person apparently an officer of, or in the service of, the corporation and apparently of or above the age of 16 years.

"(3) If a person refuses to accept service of a document, personal service may be effected on the person by putting the document down in his or her presence and telling him or her its nature.

"(4) It shall not be necessary in order to effect personal service that the original document be shown.

"(5) In spite of subrule (2), where a liquidator, receiver or manager has been appointed, personal service may be effected -

- (a) on a company, as defined in section 9 of the *Corporations Act 1989* of the Commonwealth or corresponding legislation of a State or Territory ("the Corporations Law"), in any manner permitted by section 220 of the Corporations Law;
- (b) on the liquidator of a company, in the manner permitted by subsection 220(5) of the Corporations Law; and
- (c) on an official manager of a company, in the manner permitted by subsection 220(6) of the Corporations Law.

"(6) For the purposes of subrule (5), a document served by sending it by prepaid post addressed to -

- (a) a company at the registered office of the company;
- (b) a liquidator at the last address of the office of the liquidator notice of which has been lodged; or

*Amendment of Local Court Rules*

- (c) an official manager at the last address of the office of the official manager notice of which has been lodged,

is taken to be served on the seventh day after posting."

5. REGISTRAR MAY MAKE ORDER OR REFER TO COURT

Rule 10.03(3) of the Principal Rules is amended -

- (a) by omitting from paragraph (b) the word "or"; and

- (b) by adding at the end the following:

"or

- (d) refuse to make the order sought in the application."

6. ABSENCE OF PARTY TO APPLICATION

Rule 20.06 of the Principal Rules is amended by adding after subrule (1) the following:

"(1A) The Court may, if it thinks fit, consent to attendance by telephone."

7. ISSUE OF WARRANT

Rule 29.02 of the Principal Rules is amended -

- (a) by inserting in clause (2) after "file an application" the words "in accordance with Form 29T"; and

- (b) by adding at the end the following:

"(6) Where a warrant is to be issued under rule 30.04, the person applying for its issue shall at the same time lodge with the Registrar a sum equal to the estimated cost of transporting the person arrested from the place the person was arrested to a Registrar for examination and returning the person to the place.

"(7) Where the warrant is not executed, the amount lodged under subrule (6) shall be refunded to the party applying for the issue of the warrant.

"(8) Where the actual cost of transport referred to in subrule (6) is greater than the amount lodged, the difference shall be paid to the Registrar by the person applying for the warrant before a further process may be issued to enforce the order of the Court.

*Amendment of Local Court Rules*

"(9) The amount mentioned in subrules (6) and (8) shall be added to the amount owing in the proceeding and shall be payable by the person arrested to the person applying for the warrant on the warrant being executed."

8. CONTENTS OF ORDER

Rule 29.18(3) of the Principal Rules is amended by adding after "under the order" the words ", except an order under rule 29.17(3)(b)".

9. CESSATION OF ATTACHMENT OF EARNINGS ORDER

Rule 29.22 of the Principal Rules is amended by adding after subrule (1) the following:

"(1A) If an employer wilfully fails to comply with a binding order under rule 29.13, the judgment creditor may apply to the Court to have the order enforced against the employer by means of this Order."

10. EXAMINATION OF JUDGMENT DEBTOR

Order 30 of the Principal Rules is amended by adding at the end the following:

"30.05 REQUEST FOR FINANCIAL INFORMATION

"(1) A judgment creditor who wishes to examine a judgment debtor may apply to the Registrar for a request for financial information in accordance with Form 30D.

"(2) The Registrar may issue a request for financial information in accordance with Form 30E to the judgment creditor.

"(3) A request for financial information shall be served by the judgment creditor by prepaid post to the last known address of the judgment debtor and shall be deemed to have been served 7 days after the date of posting.

"(4) The judgment debtor shall, within 28 days after its receipt, complete and return the relevant part of the request for financial information being Form 30F to the issuing Registrar, and the fact that it has not been received by the Registrar shall not prevent the issue of other process."

11. APPLICATION FOR RE-HEARING

Rule 32.01 of the Principal Rules is amended by adding at the end the following:

*Amendment of Local Court Rules*

"(3) If an application is struck out because the applicant failed to appear at the time fixed for hearing of the application, a further application for re-hearing is taken to be an application for leave to re-apply under section 20(5) of the Act."

12. COSTS

Order 36 of the Principal Rules is amended by adding at the end the following:

"36.16.1 PRESCRIBED FEE FOR TAXATION OF BILL OF COSTS BY TAXING OFFICER

"(1) The prescribed fee for the taxing of a bill of costs by the taxing officer is 7.5% of the amount allowed in relation to the bill.

"(2) The taxing officer shall, immediately after he or she has taxed the bill of costs, specify the fee under subrule (1) and add the fee to the amount allowed in the bill of costs.

"(3) Subject to subrule (4), the fee under subrule (1) shall become due and payable by the party whose costs have been allowed after 28 days after the date of taxation.

"(4) Where, under the Rules, a party in relation to a taxing of a bill of costs -

- (a) applies to the taxing officer for a review of the amount allowed by the taxing officer in the bill of costs; or
- (b) applies for an order to review the amount allowed by the taxing officer in the bill of costs,

the fee under subrule (1) shall not be due and payable until the expiration of 14 days after the determination of the application.

"(5) A party referred to in subrule (3) who has paid the fee under subrule (1) may recover the fee from the party liable for the payment of the bill of costs and the fee shall become due and payable by the party so liable immediately after the fee under subrule (1) has been paid.

"(6) Until the taxation fee is paid -

- (a) the taxing officer shall not issue a certificate of taxation; and
- (b) no action shall be commenced to recover the amount of the costs so taxed."

*Amendment of Local Court Rules*

13. FEES AND CHARGES

Rule 37.01 of the Principal Rules is amended -

(a) by inserting after subrule (1) the following:

"(1A) Notwithstanding subrule (1), a person who is exempt from payment of a filing fee is entitled to recover, as part of a judgment debt as if it were a cost incurred, an amount equal to the filing fee that would, but for subrule (1), have been payable, and the person shall pay to the Court an amount equal to the filing fee."; and

(b) by adding at the end the following:

"(3) A fee specified in items 1, 2, 3 and 4 in Part 1 of Schedule 1 shall be payable by the person filing a document or making an application to the Registrar at the time of filing or making the application and the fee specified in items 5 and 6 are payable on demand by the Registrar."

14. INTEREST ON COSTS AND JUDGMENT

Order 38 of the Principal Rules is amended by adding at the end the following:

"38.02 INTEREST UP TO JUDGMENT

"(1) In a proceeding the Court may order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or a part of the sum for the whole or a part of the period between the date when the cause of action arose and the date of the judgment.

"(2) Subrule (1) does not -

(a) authorise the giving of interest on interest;

(b) apply in respect of a debt on which interest is payable as of right whether by virtue of an agreement or otherwise; and

(c) affect damages recoverable for the dishonour of a bill of exchange.

"(3) This Rule applies to a proceeding in which judgment has not been entered before 31 August 1992."

15. SCHEDULE 1

Schedule 1 to the Principal Rules is amended -

(a) by adding in Part 1 at the end of item 1 the following:

Amendment of Local Court Rules

"Application under order 30.05 for the issue of a request for financial information \$20"; and

(b) by inserting in Part 2 after item 10 the following heading:

"FIXED SCALE OF LEGAL PRACTITIONERS COSTS".

16. SCHEDULE 2

Schedule 2 to the Principal Rules is amended -

(a) by inserting after Form 4A the following:

"FORM 4B

Rule 4.04

STATEMENT OF CLAIM

IN THE LOCAL COURT  
AT

Claim No.

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

TO THE DEFENDANT

This Statement of Claim has been brought against you by the plaintiff for the claim set out below.

IF YOU INTEND TO DEFEND this claim, YOU MUST GIVE NOTICE OF DEFENCE, within 28 days of service on you of this Statement of Claim, to -

(a) the plaintiff; and

(b) the Registrar of the Local Court at

IF YOU FAIL to give notice of defence, the plaintiff may OBTAIN JUDGMENT AGAINST YOU on the claim without further notice.

THE PLAINTIFF CLAIMS damages arising out of a collision, details of which are set out below.

\*IF you pay the amount of \$            and costs of \$            to the plaintiff or the plaintiff's legal practitioner without giving notice of defence you may avoid further costs.

FILED: (e.g. 5 September 19    )

Registrar

Amendment of Local Court Rules

Do not ignore this notice. If you do not understand this notice or need help contact the Registrar of the Local Court, a legal practitioner or your local legal aid office.

1. This Statement of Claim was filed by -
    - \* the plaintiff in person;
    - \* for the plaintiff by (name of firm of legal practitioner), legal practitioner(s), of (business address of legal practitioner).
  2. The address of the plaintiff -
  3. The address for service of the plaintiff is (if the plaintiff sues in person, the address in 2.)
  4. The address of the defendant is -
- \* Delete if inapplicable.

Particulars of Claim

WHAT IS THE NATURE OF YOUR CLAIM? (e.g. cost of repairs to motor vehicle; cost of repairs to damaged fence.)

WHERE DID YOUR CLAIM ARISE? (Give the location of a collision, and in the space below draw a sketch plan of the collision with names of roads, &c., identify your vehicle as "1", the vehicle driven by the defendant as "2" and any other vehicles involved as "3", "4", "5", &c.)

WHEN DID YOUR CLAIM ARISE?

HOW DID THE COLLISION HAPPEN? (You must set out here in as much detail as you can how the collision happened and why you believe the defendant is at fault. If the space is insufficient you may attach other sheets.)

\*HOW MUCH ARE YOU CLAIMING?

Dated: (e.g. 5 September 19 )

(To be signed by the Plaintiff or the Plaintiff's Solicitor)

\*You must attach an itemised quotation giving full details of property damage.

AFFIDAVIT OF SERVICE In the Local Court

On ..... at 19 No.  
I, .....  
of .....



Amendment of Local Court Rules

say on oath

I did on 19 , BETWEEN  
duly serve the defendant ...

with this statement of claim Plaintiff  
by delivering a true copy  
thereof to .....  
..... AND  
at ..... Defendant  
.....

ORDINARY STATEMENT OF CLAIM

Sworn at  
before me

Justice of the Peace or Legal Practitioner

Filed by:  
of:  
Telephone:

WHAT TO DO WHEN YOU GET A STATEMENT OF CLAIM

The person called the plaintiff has a complaint against you and wants the Court to decide it.

You can:

- (1) File a notice of defence.

You must fill out the form headed "Notice of Defence" that came with this claim explaining why you are not responsible for part or all of the amount the plaintiff claims. This form should be filed with the Court and a copy served on the plaintiff.

- (2) Pay the amount of the claim and the plaintiff's legal costs.

If you intend to do this you should contact the plaintiff or his or her legal practitioner immediately and make arrangements to pay. Make sure you get any agreements in writing.

*Amendment of Local Court Rules*

(3) File an application for an instalment order.

If you admit you owe the amount claimed but cannot pay it all at once you may apply to the Court for an instalment order. Forms for this are available from the Court office. You must file the original with the Court and serve a copy on the plaintiff.

**Warning:** DO NOT IGNORE THIS FORM OR A JUDGMENT MAY BE MADE AGAINST YOU FOR THE WHOLE AMOUNT OF THE CLAIM AND ADDITIONAL LEGAL COSTS.

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 - they will refer you to a legal practitioner who can help with your particular matter (Phone: 81 5104)
- . Legal Aid Commission (Phone 81 4799)
- . Aboriginal Legal Aid (Phone Darwin: 81 5266)  
(Phone Alice Springs: 52 2933)
- . A Registrar of the Court.;

(b) by inserting after Form 29S the following:

"NORTHERN TERRITORY OF AUSTRALIA

FORM 29T

Rule 29.02

Local Court Act

IN THE LOCAL COURT  
AT

Claim No.

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

APPLICATION FOR ISSUE OF WARRANT

I hereby apply for a warrant of (*identify type of warrant*) to be issued in respect of the judgment (*or order*) dated (*e.g. 20 June 1992*) against (*name parties against whom warrant to issue and give their last known addresses*) for the total shown below.

Amendment of Local Court Rules

I nominate (name the LICENSED PRIVATE BAILIFF) of (bailiffs address) as the private bailiff who shall execute the warrant applied for.

The amounts now owing are shown below:

Total owing, excluding interest, to the date of this application	\$
Total Interest to date:	\$
Practitioners Costs of this application	\$
Bailiff Fees	\$
Other costs	\$
TOTAL	\$
Daily rate of interest is now	\$

Dated

Signature of Applicant  
or legal representative

If payments have been received in this proceeding, list the date and amounts of the payments.";

(c) by omitting Form 30A and substituting the following:

"NORTHERN TERRITORY OF AUSTRALIA

FORM 30A

Rule 30

Local Court Act

IN THE LOCAL COURT  
AT

Claim No.

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

APPLICATION FOR ISSUE OF EXAMINATION SUMMONS

I, of apply for the issue of an examination summons in the above matter against (judgment debtors' names) On (e.g. 5 September 1992) it was ordered that (he/she/they) pay me the sum of \$ including costs.

The judgment debtor has defaulted in the payment of the order.

Amendment of Local Court Rules

The balance of the judgment now owing to me including all interest is shown below.

Dated

Judgment Creditor

AMOUNTS NOW OWING

Total owing, excluding interest, to the date of this application  
Total Interest to date:  
Practitioners Costs:  
Bailiff Fees:

\$  
\$  
\$  
\$

TOTAL

\_\_\_\_\_  
\$ \_\_\_\_\_  
\_\_\_\_\_

.";

(d) by omitting Form 30B and substituting the following:

"NORTHERN TERRITORY OF AUSTRALIA

FORM 30B

Rule 30

Local Court Act

IN THE LOCAL COURT  
AT

Claim No.

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

SUMMONS TO ATTEND FOR ORAL EXAMINATION

To (*judgment debtor*)

You are summoned to attend before a Registrar or the Court to be orally examined as to a matter related to your financial circumstances generally and your means and ability to satisfy the order made against you on (*e.g. 5 September 1992*) in favour of (*judgment creditor*) for \$(*amount originally ordered*).

You are required to produce to the Court on the examination the following documents: (*description of documents*).

You must attend at (*address*) at (*e.g. 10.00 am*) on (*e.g. Monday 29 February 1992*) or so soon afterwards as the business of the Court allows.

Issued: (*e.g. Monday 2 February 1992*)

Registrar

Amendment of Local Court Rules

AMOUNTS NOW OWING

Amount owing to date:	\$
Issue Fees:	\$ 20.00
TOTAL	\$ <u>          </u>

Plus interest on the total calculated at the rate of 11.05% per year.

"NORTHERN TERRITORY OF AUSTRALIA

FORM 30F

Rule 30.05(4)

Local Court Act

IN THE LOCAL COURT  
AT

Claim No.

BETWEEN

A.B.

Plaintiff

and

C.D.

Defendant

DECLARATION OF FINANCIAL INFORMATION

I (full name) (occupation)  
of (full residential address)  
do solemnly and sincerely declare that the following  
information and annexures (if any) are true and correct.

And I make this solemn declaration by virtue of the Oaths  
Act conscientiously believing the statements contained in  
this declaration to be true in every particular.

Declared at on

Your Signature

NOTE: A person wilfully making a false statement in a  
declaration is liable to a penalty of \$2,000 or  
imprisonment for 12 months, or both.

This document does not have to be witnessed.

*Amendment of Local Court Rules*

1. INCOME

List all your employers and the amounts shown for each employer and all other types of income for the last 12 months.

Employers Name	Gross pay	Average amount of in hand pay
	\$	\$ per

or average in hand pay for last 12 months: \$  
 or Total Earnings before tax for last 12 months: \$  
 Other Income: List all details for last 12 months  
 (e.g. Commissions, bonuses, interest, dividends, rent &c.)

2. EXPENSES, PROPERTY AND ASSETS

List all your expenses, or your average periodical expenses, for the last 12 months. If sharing expenses with another, state only your share.

Income tax,	\$
Medicare,	\$
Superannuation (name fund &c., total contributions)	\$
Insurance,	\$
Medical &c., dental expenses,	\$
Rent (Landlord's name and amount &c., period)	\$
Rates,	\$
Repairs,	\$
Food & groceries,	\$
Electricity, gas &c.,	\$
Telephone,	\$
Clothing,	\$
Fares,	\$
Vehicle expenses (fuel, rego &c., insurance, &c.),	\$
Spouse/child maintenance,	\$
Other: (e.g. department stores)	\$

List all your real and other property including credit in banks, including all joint accounts.

Real estate (address, estimated market value): \$  
\$

Banks, credit societies, (names, branch, account nos. and amounts):

Credit cards: (names, branch, account nos. and amounts):

*Amendment of Local Court Rules*

Loans (who from, amounts &c.):

Mortgage (balance and regular amount):

Shares and debentures - attach detailed list:

Insurance policies (specify company, term, maturity, and surrender value):

Motor vehicles (make, model and current market value):

Hire purchase payments:

All other property (list all details and market value):

---

I hereby offer to pay off the amount owing at the rate of  
\$            per            and the first payment will be made on:

Your signature."

17. SCHEDULE

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

---

SCHEDULE

---

Provision	Amendment	
	omit	substitute
Rule 1.09	the whole rule	
Rule 1.10(1)	"Attorney-General"	"Chief Magistrate"
Rule 2.03	"this Chapter"	"these Rules"
Rule 3.07(1)	"this Chapter"	"these Rules"
Rule 3.08	"this Chapter"	"these Rules"
Rule 5.04	"paragraphs (a) and (b)"	
Rule 5.09(1)	"this Chapter"	"these Rules"
Rule 5.14	"this Chapter"	"these Rules"
Rule 9.01(1)	"filed"	"given"

*Amendment of Local Court Rules*

Provision	Amendment	
	omit	substitute
Rule 9.01(4)	"may"	"shall"
Rule 10.02(a)	"affidavit"	"affidavit or declaration"
Rule 10.02(b)(i)	"affidavit"	"affidavit or declaration"
Rule 15.03(5)	"orders"	"orders, or the parties otherwise agree"
Rule 25.01(2)	"14 days"	"28 days"
Rule 29.09(4)	"specialities"	"specialties"
Rule 29.28(4)	"such order"	"an order"
	"as is appropriate"	"in accordance with the scale of costs in Schedule 1"
Rule 29.16(5)	the whole subrule	
Rule 30.02(4)	the whole subrule	
Rule 30.02(5)	all words after "date"	
Schedule -		
Form 11A	"28 days"	"14 days"
Forms 29G and 29H	the whole forms	