

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1987, No. 17*

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 this third day of April, 1987.

K.F. O'LEARY CJ

JOHN NADER J

W. KEARNEY J

MICHAEL MAURICE J

PHILLIP RICE J

AUSTIN ASCHE J

Judges of the Supreme
Court of the Northern
Territory of Australia

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

1. PRINCIPAL RULES

In these Rules the Rules of the Supreme Court of the Northern Territory of Australia are referred to as the Principal Rules.

* Notified in the *Northern Territory Government Gazette* on 20 May, 1987.

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Rules of the Supreme Court Amendment

2. JURISDICTION OF MASTER

Rule 19 of Order 56 of the Principal Rules is amended -

(a) by inserting after paragraph (b) the following:

"(ba) in respect of the approval of compromises on behalf of persons under a disability;"

(b) by omitting from paragraph (e)(vi) "and"; and

(c) by inserting at the end of paragraph (e) the following:

"(viii) set aside interrogatories as an abuse of the process of the Court;

(ix) order the solicitor of a party to pay the costs in a proceeding before the Master; and

(x) appoint a person as administrator *ad litem*, guardian *ad litem* or in any other representative capacity to commence, continue or defend proceedings."

3. CONSENT JUDGMENT IN PROCEEDINGS

Rule 24 of Order 56 of the Principal Rules is amended by omitting subrule (1) and substituting the following:

"(1) The Master may make an order or give judgment in a proceeding -

(a) if all parties affected thereby appear and consent thereto; or

(b) upon written application therefor by a party and upon the written consent thereto of all other parties affected thereby."

4. FIFTH SCHEDULE

The Fifth Schedule to the Principal Rules is repealed and the following substituted:

Rules of the Supreme Court Amendment

"FIFTH SCHEDULE

JURISDICTION OF THE MASTER

PART 1

Jurisdiction under the Rules

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of jurisdiction
Order 3, Rule 1(3)	Issue of writ for service out of Australia	
Order 3, Rule 2	Cost of prolixity	
Order 4, Rule 1	Defendant's application to set aside or amend writ, or for particulars	
Order 8	Disclosures by solicitor; removal or withdrawal of solicitor from the record	
Order 9	Renewal of writ	
Order 10	Service of writ	
Order 12, except Rules 3(1) and 11(1)	Service out of Australia	
Order 13	Appearance	
Order 14, Rules 1 and 10	Application to appoint guardian, where infant does not appear; to set aside judgment entered for default	
Order 14, Rule 13	Default of appearance to originating summons	
Order 19, except Rules 11, 36 and 50	Parties	
Order 20, except Rules 6 and 7(1)(a)	Third party procedure	
Order 21	Change of parties by death, etc.	

Rules of the Supreme Court Amendment

PART 1 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of jurisdiction
Order 22	Joinder of causes of action	
Order 23	Pleading generally	
Order 24, except Rule 4	Statement of claim	
Order 25	Defence and counter-claim	
Order 26	Payment into and out of Court, and tender	
Order 28	Matters arising pending the action	
Order 29, Rule 2	Points of law, how disposed of	
Order 30	Discontinuance	
Order 31	Default of pleading	
Order 32, except Rules 11 and 12	Amendment of endorsement	
Order 33, except Rule 1(2)	Summons for directions	
Order 34, except Rules 28 and 33 to 36	Discovery and inspection	
Order 36, Rule 1	Preparation of issues	
Order 36, Rule 2	Application	
Order 36, Rule 3	Inquiry of account at any stage	
Order 36, Rule 4	Where account ordered Court may give special directions as to mode of taking same	

Rules of the Supreme Court Amendment

PART 1 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of jurisdiction
Order 36, Rule 5	Accounts to be verified by affidavit	
Order 36, Rule 6	Mode of vouching accounts	
Order 36, Rule 8	Inquiry as to outstanding accounts	
Order 36, Rule 9	Directions to be numbered	
Order 37, Rule 2	Preliminary questions of law	
Order 37, Rule 5	Married woman, infant or mentally defective person	
Order 37, Rule 9	Trial of questions of fact by consent	
Order 38, Rules 1 and 3	Mode of entry for trial; dismissal for want of prosecution	
Order 40, Rules 5, 10, 25 and 26	Admission of defective affidavits; extension of time for filing affidavits	
Order 43, Rule 7	Judgment on condition, execution	
Order 43, Rule 18	Writ in force for one year, with power to renew	
Order 43, Rule 31	In case of difficulty, party may apply	
Order 43, Rule 32	Costs	
Order 46, Rules 1(4) and 5	Manner of service on judgment debtor; lien of third persons on debt of garnishee	
Order 46, Rule 3	Execution against garnishee	

Rules of the Supreme Court Amendment

PART 1 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of jurisdiction
Order 46, Rule 4	Trial of liability of garnishee	
Order 46, Rule 6	Trial of claim of third person and order thereon or on non-appearance	
Order 47, Rule 2	Charging of shares and securities	
Order 47, Rule 3	Order nisi and its effects	
Order 47, Rule 7	Substituted service and service out of the jurisdiction on judgment debtor	
Order 50, Rules 1 and 8(2)	Details of co-partners; execution against a member of a firm	
Order 50, Rule 2	Disclosure of partners' names	
Order 51, Rule 1	Actions may be consolidated	
Order 52, Rule 10	Conduct of sale	
Order 52, Rule 17	To give security	
Order 52, Rule 20	Fixing dates for receiver to pass accounts; dealing with neglect	
Order 53, Rule 2	Mode of carrying out sale, etc., when ordered by Court	
Order 54, Rule 5	Two clear days between notice and hearing	
Order 54, Rule 9	By leave with writ and before appearances	
Order 54, Rule 14	Two clear days between service and hearing	

Rules of the Supreme Court Amendment

PART 1 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of jurisdiction
Order 55, Rules 1 to 33	<i>Certiorari</i> ; mandamus; prohibition; quo warranto	As far only as concerns applications for order nisi
Order 56, Rule 5	Time for service of original summons	
Order 57, Rule 3	Service	
Order 57, Rule 4	Evidence	
Order 57, Rule 5	Direction of Court	
Order 58, Rule 6	Service on other persons	
Order 58, Rule 7	Evidence and direction as to trial	
Order 63, Rule 3	Certain periods not reckoned	
Order 63, Rule 5	Enlargement or abridgement of time	
Order 64, Rules 5 to 7, 9 and 44	Security for costs; costs improperly incurred, etc.; disallowance of costs of improper or vexatious pleadings or proceedings	
Order 65, Rule 5	Mode and time of application and delivery	
Order 66, Rule 6	Substituted service	

Rules of the Supreme Court Amendment

PART 2

Jurisdiction under certain Acts

Column 1	Column 2	Column 3
Act and provision	Description	Restrictions on jurisdiction
<i>Evidence Act</i> - Section 46	Compelling production of banker's books	
Section 47	Inspection of banker's books	
Section 48	Costs of application	
<i>Local Court Act</i> - Section 55	Stay of proceedings after appeal instituted	

PART 3

Provisions of Rules which apply in proceedings before Master

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of powers
Order 11, Rule 1	Mode of application for substituted service	
Order 32, Rules 11 and 12	Clerical mistakes in judgments or orders; amendment of defects or errors	
Order 39	Evidence	
Order 40, Rules 1, 11, 12, 14, 18, 19 and 21	Evidence by affidavit; striking out scandalous matter; alterations in affidavits; filing after time; affidavit founding ex parte order; use of affidavits already read in Court	

Rules of the Supreme Court Amendment

PART 3 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of powers
Order 40, Rule 13	Affidavit by illiterate person	
Order 40, Rule 28	Cross-examination of deponent	
Order 41, Rule 1	Judgment to be on motion	
Order 42, Rule 2	Preparation of judgments and orders	
Order 42, Rule 10	Pre-conditions to judgment by consent	
Order 43, Rule 2	Waiver of judgment on condition	
Order 43, Rule 16(b)	Stay of execution on judgment	
Order 43, Rule 22	Order enforceable as judgment	
Order 52, Rule 4	Judge may inspect	
Order 54, Rule 3	Previous notice of motion required	
Order 54 Rules 6 and 7	Application dismissed or adjourned, for notice to be given; hearing adjourned	
Order 54, Rule 11	Order to bear date of making	
Order 54, Rule 12	Order need not be drawn up in certain cases	

Rules of the Supreme Court Amendment

PART 3 - continued

Column 1	Column 2	Column 3
Provision of the Rules	Description	Restriction of powers
Order 56, Rules 2 to 18 inclusive	Applications and proceedings in Chambers	
Order 58, Rule 13	Accountants, merchants, etc.	
Order 58, Rule 15	Appointment of guardian <i>ad litem</i>	
Order 64, Rules 1 to 4 inclusive	Costs discretionary; when solicitor personally liable for costs	
Order 67, Rule 1	Non-compliance with Rules not to render proceeding void	