

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1982, No. 4 *

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 twenty-fourth day of March, 1982.

W.E.S. Forster C.J.
J. Toohey J.
J.F. Gallop 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

The Rules of the Supreme Court of the Northern Territory of Australia are amended -

- (a) by omitting from rule 2(1) of Order 26 "within seven days after the receipt of the notice of payment into Court," and substituting "within fourteen days of the receipt of the notice of payment into Court or, where more than one payment into Court has been made, within fourteen days of the receipt of the notice of the last payment into Court,";

* Notified in the *Northern Territory Government Gazette* on 21 May, 1982.

A. B. CAUDELL, Government Printer of the Northern Territory

Price: 50 cents

Supreme Court Rules

(b) by inserting after rule 4 of Order 26 the following:

"4A. Subject to the proviso to rule 1(1) of this Order, a defendant to an action as is referred to in rule 1 may at any time before trial lodge with the Master and serve upon all the parties to the action a notice offering to consent to judgment for such amount of money as the defendant claims will satisfy the plaintiff's claim or offering to consent to judgment for such proportion expressed as a percentage of the plaintiff's claim as he claims to be liable to pay and, where several causes of action are joined a defendant may lodge and serve a notice of offer to consent to judgment with respect to one or more of the causes of action.

"4B. Where a defendant offers to consent to judgment as aforesaid in an action where several causes of action are joined in one action, the notice shall specify the cause or causes of action in respect of which the offer is made.

"4C. Where an offer to consent to judgment for a particular amount is made under rule 4A of this Order, the plaintiff may at any time after receipt of notice thereof, file and serve on all the parties to the action, notice of acceptance of the offer or, where the offer is made in respect of more than one cause of action, such part of the offer as relates to some one or more causes of action and thereupon, unless otherwise ordered by the Court or a Judge -

- (a) he shall be entitled to sign judgment for the amount so offered and to tax his costs of action up to the service of the notice upon him together with the costs of his filing and serving his notice of acceptance and of signing of judgment;
- (b) he may proceed to enforce such judgment; and
- (c) the action shall proceed in respect of any other cause of action.

"4D. Where an offer to consent to judgment for a proportion of a plaintiff's claim is made under rule 4A of this Order, the plaintiff may at any time after receipt thereof file and serve on all parties to the action notice of acceptance of the offer or, where the offer is made in respect of more than one cause of action, such

Supreme Court Rules

part of the offer as relates to some one or more causes of action and thereupon, unless otherwise ordered by the Court or a Judge, he shall be entitled to enter interlocutory judgment for that proportion of his debt or damages to be assessed.

"4E. A defendant who has offered to consent to judgment may at any time before receipt of notice of acceptance thereof and without leave increase, reduce or withdraw his offer by lodging with the Master and serving upon all parties to the action notice of such increase, reduction or withdrawal. A notice under this rule shall take effect from the time of its service upon the plaintiff to whom the offer was made, and rules 4A, 4B and 4C of this Order shall apply in relation to any increased or reduced offer.

"4F. A defendant who has withdrawn an offer to consent to judgment may at any time before trial and without leave make a fresh offer to consent to judgment and rules 4A, 4B and 4C of this Order shall apply in relation to such fresh offer."; and

(c) by omitting rule 6 of Order 26 and substituting the following:

"6. Except in an action to which a defence of tender before action is pleaded, no statement of the fact that money has been paid into Court under the preceding rules of this Order shall be inserted in the pleadings, and no communication of that fact shall at the trial of any action be made to the Judge or jury, until all questions of liability and amount of debt or damages have been decided.

"6A.(1) Unless for special reasons the Judge thinks proper to order otherwise where in respect of a cause of action a plaintiff recovers judgment for an amount of money which is the same or less than the amount of money paid into Court in satisfaction of that cause of action or is the same as or less than the amount of offer to consent to judgment in respect of that cause of action the Judge shall order that the plaintiff recover against the defendant only his costs incurred to date of payment into Court or the offer to consent to judgment, as the case may be, and fourteen days thereafter, and he shall order that the defendant making such payment into Court or offer shall recover against the plaintiff his costs incurred after fourteen days from the payment into Court or the

Supreme Court Rules

making of the offer and where in respect of any cause of action a plaintiff recovers judgment for a proportion of his debt or damages, which is the same as or less than the proportion mentioned in an offer to consent to judgment, in respect of that cause of action the Judge shall with respect to the issue of liability order that the plaintiff recover against the defendant his costs incurred to the date of the offer to consent to judgment and fourteen days thereafter and with respect to that issue shall order that the defendant making such offer shall recover against the plaintiff his costs incurred after fourteen days from the making of the offer.

"(2) For the purpose of sub-rule (1) -

- (a) where an offer to consent to judgment has been increased and the plaintiff recovers judgment for an amount of money which is greater than the amount offered prior to the increase but less than the amount of the increased offer or recovers judgment for proportion of his debt or damages which is greater than the proportion offered prior to the increase but less than the increased proportion the offer shall be deemed to have been made on the day on which notice of the increased offer was given;
 - (b) where an offer to consent to judgment has been increased and the plaintiff recovers judgment for an amount of money which is less than the amount offered prior to the increase or recovers judgment for a proportion of his debt or damages which is less than the proportion offered prior to the increase, the offer shall be deemed to have been made on the day on which notice of prior offer was given;
 - (c) where an offer to consent to judgment has been reduced it shall be deemed to have been reduced on the day on which notice of the original offer was given; or
 - (d) where an offer to consent to judgment has been withdrawn it shall be deemed never to have been made."
-