

## Subordinate Legislation No. 5 of 2025

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# NORTHERN TERRITORY OF AUSTRALIA

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## Subordinate Legislation No. 5 of 2025\*

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### ***Supreme Court Amendment (Civil Procedure) Rules 2025***

We, the undersigned Judges of the Supreme Court of the Northern Territory of Australia, under section 86 of the *Supreme Court Act 1979*, make the following Rules of Court.

Dated 26 May 2025

M. GRANT CJ

J. BLOKLAND J

M. HUNTINGFORD J

J. BURNS J

S. BROWNHILL J

Judges of the Supreme Court  
of the Northern Territory of Australia

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\* Notified in the *Northern Territory Government Gazette* on 16 June 2025.

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**1 Citation**

These Rules may be cited as the *Supreme Court Amendment (Civil Procedure) Rules 2025*.

**2 Commencement**

These Rules commence on 23 June 2025.

**3 Rules amended**

These Rules amend the *Supreme Court Rules*.

**4 Order 1 heading amended**

Order 1, heading, after "**Preliminary**"

*insert*

**matters**

**5 Rule 1.10 amended (Exercise of power)**

Rule 1.10(1)(a)

*omit, insert*

*insert*

- (a) must endeavour to ensure that all questions in the proceeding are resolved justly, promptly, economically and in proportion to the nature of the dispute; and

**6 Order 1A inserted**

After rule 1.15

*insert*

**Order 1A Overarching purpose of Chapter and pre-action conduct**

**Part 1 Overarching purpose**

**1A.01 Overarching purpose of Chapter**

The overarching purpose of this Chapter is to facilitate the resolution of the real issues of substance in dispute in proceedings justly, promptly, economically and in proportion to the nature of the

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dispute.

### **1A.02 Duty of parties**

- (1) A party to a proceeding, and that party's legal practitioner, each have a duty to the Court to assist the Court to further the overarching purpose of this Chapter in relation to the proceeding.
- (2) Subrule (1) does not affect:
  - (a) the duties or obligations of any person, including a legal practitioner, in relation to legal professional privilege; or
  - (b) the other duties that a legal practitioner may owe to the Court.

## **Part 2 Pre-action conduct**

### **1A.03 Application of Part**

This Part applies in relation to each proceeding that is to be, or has been, commenced in Court if there is, or is likely to be, a dispute between the parties as to the orders that the Court should make in the proceeding.

### **1A.04 Objectives of Part**

The objectives of this Part are as follows:

- (a) to encourage the early exchange of full information about a prospective legal claim;
- (b) to enable parties to avoid litigation by agreeing a settlement of the claim before the commencement of proceedings;
- (c) to support the efficient management of proceedings if litigation cannot be avoided.

### **1A.05 Parties to follow reasonable procedure to avoid litigation**

- (1) The parties to a dispute should follow a reasonable procedure, suited to the parties' particular circumstances, that is intended to avoid litigation.
- (2) The procedure should involve the following:
  - (a) the prospective plaintiff giving the prospective defendant a letter setting out the details of the claim in accordance with rule 1A.06;

- 
- (b) the prospective defendant acknowledging the letter of claim promptly in accordance with rule 1A.07;
  - (c) the prospective defendant giving the prospective plaintiff a detailed response to the letter of claim within a reasonable time and in accordance with rule 1A.08;
  - (d) the prospective plaintiff complying with rule 1A.09;
  - (e) the parties conducting, in good faith, genuine and reasonable negotiations with a view to settling the claim economically and without court proceedings.
- (3) If there are circumstances that require a party to commence a proceeding before complying with subrule (1), the parties should endeavour to comply with the spirit of subrule (1) as soon as reasonably possible after the proceeding has commenced.

*Note for subrule (3)*

*An urgent application to the Court for an injunction, or to avoid a proceeding becoming statute barred, might excuse non-compliance with subrule (1).*

#### **1A.06 Letter of claim**

The prospective plaintiff's letter setting out the details of the claim should:

- (a) give sufficient concise details to enable the recipient to understand and investigate the claim without extensive further information; and
- (b) enclose copies of:
  - (i) the essential documents on which the prospective plaintiff relies; and
  - (ii) any documents, other than privileged documents, that might significantly impair the prospective plaintiff's case; and
- (c) request each of the following:
  - (i) a prompt acknowledgement of the letter;
  - (ii) a detailed response to the letter within a reasonable specified period; and
- (d) state whether court proceedings will be issued if the full written response is not received within the specified period; and

- 
- (e) identify and request copies of any essential documents, not in the prospective plaintiff's possession, that the prospective plaintiff wishes to see; and
  - (f) if applicable – state that the prospective plaintiff wishes to enter into mediation or another alternative method of dispute resolution; and
  - (g) make reference to the Court's powers to impose sanctions for failure to comply with this Order and, if the recipient is likely to be unrepresented, enclose a copy of this Order.

#### **1A.07 Acknowledgement of letter of claim**

- (1) The prospective defendant should acknowledge the prospective plaintiff's letter of claim in writing within 14 days of receiving it.
- (2) The acknowledgement should specify:
  - (a) the day by which the prospective defendant will give a detailed response to the letter of claim; and
  - (b) if the response will be given after the period specified in the letter – the reasons why the prospective defendant requires a longer period than specified.

#### **1A.08 Response to letter of claim**

- (1) The prospective defendant's detailed response to the letter of claim should:
  - (a) state that the claim is accepted, in whole or in part, and make proposals for settlement; or
  - (b) state that the claim is not accepted.
- (2) If the claim is accepted in part only, the response should make it clear which part is accepted and which part is not accepted.
- (3) If the prospective defendant does not accept the claim or any part of it, the response should:
  - (a) set out detailed reasons as to why the claim, or part of it, is not accepted, identifying which of the contentions are accepted and which are in dispute; and
  - (b) enclose copies of:
    - (i) the essential documents on which the prospective defendant relies; and

- 
- (ii) any documents, other than privileged documents, that might significantly impair the prospective defendant's case; and
  - (c) enclose copies of the documents requested by the prospective plaintiff or explain why the documents are not enclosed; and
  - (d) identify and request copies of any essential documents, not in the prospective defendant's possession, that the prospective defendant wishes to see; and
  - (e) state whether the prospective defendant is willing to enter into mediation or another alternative method of dispute resolution.

#### **1A.09 Provision of essential documents**

If a prospective defendant's response under rule 1A.08 requests copies of any essential documents, the prospective plaintiff should, within a reasonable time, give the prospective defendant:

- (a) the documents; or
- (b) a written explanation of why the documents have not been given.

#### **1A.10 Consideration of alternative method of dispute resolution**

- (1) If the claim cannot be settled after the parties have complied with rule 1A.05(1), the parties should:
  - (a) consider whether an alternative method of dispute resolution would be more suitable than litigation to resolve the parties' dispute; and
  - (b) if so – endeavour to agree which method to adopt.
- (2) If a proceeding is commenced, both the plaintiff and defendant may be required by the Court to give evidence that an alternative method of dispute resolution was considered.

#### **1A.11 Consequences of non-compliance with Part**

If, in the opinion of the Court, non-compliance with this Part has led to the commencement of a proceeding that might otherwise not have needed to be commenced, or has led to delay or costs being incurred in the proceeding that might otherwise not have been incurred, the orders the Court may make include the following:

- (a) an order that the party at fault pay the costs of the proceeding, or part of those costs, of the other party or parties;



- 
- (b) an order that the party at fault pay those costs on an indemnity basis;
  - (c) if the party at fault is a plaintiff in whose favour an order for the payment of damages or some specified sum is subsequently made, an order:
    - (i) depriving that party of interest on the sum and in respect of a specified period; or
    - (ii) awarding interest at a lower rate than that at which interest would otherwise have been awarded;
  - (d) if the party at fault is a defendant and an order for the payment of damages or some specified sum is subsequently made in favour of the claimant – an order awarding interest on the sum and in respect of a specified period at a higher rate than the rate at which interest would otherwise have been awarded.

#### **1A.12 Use of documents disclosed**

- (1) Documents disclosed by a party in accordance with this Part may not be used for any purpose other than resolving the dispute in relation to which the documents were disclosed, or any subsequent proceeding relating to the dispute.
- (2) Subrule (1) is subject to any order of the Court.

#### **7 Rule 13.01AA inserted**

Before rule 13.01, in Order 13

*insert*

#### **13.01AA General**

- (1) A party or the party's legal practitioner must ensure that each of the following properly identifies only the real issues of substance that are in dispute between the parties:
  - (a) a pleading;
  - (b) a response to a pleading;
  - (c) a request for particulars of a pleading;
  - (d) a response to a request for particulars of a pleading.
- (2) Subrule (1) applies in relation to a pleading, response or request mentioned in subrule (1), despite any other rule.

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**8 Rule 13.01 amended (Formal requirements)**

- (1) Rule 13.01(1)(b)

*omit, insert*

(b) be signed in accordance with subrule (3) and dated; and

- (2) Rule 13.01(1)(a), at the end

*insert*

and

**9 Order 48, Part 1 heading amended (Preliminary)**

Order 48, Part 1, heading, at the end

*insert*

**matters**

**10 Rule 48.01 amended (Definitions)**

- (1) Rule 48.01

*omit*

, unless the contrary intention appears

- (2) Rule 48.01

*insert*

**case management conference** means a case management conference under rule 48.11A and, in relation to a proceeding, includes:

- (a) each case management conference (if any) in the proceeding; and
- (b) if a conference mentioned in paragraph (a) is adjourned – the adjourned conference.

**11 Rule 48.06 amended (Categorising proceedings)**

- (1) Rule 48.06(1)(d)(ii), after "accordance"

*insert*

with

- 
- (2) Rule 48.06(4)(a), at the end  
*insert*  
and
- (3) Rule 48.06(5)(a) and (b), at the end  
*insert*  
or
- (4) Rule 48.06(5)(c)  
*omit*  
direction  
*insert*  
directions
- (5) Rule 48.06(5)(d)  
*omit*  
hearing.  
*insert*  
hearing; or
- (6) After rule 48.06(5)(d)  
*insert*  
(e) direct that the proceeding be set down for a case management conference.

**12 Rule 48.07 amended (Category C and D proceedings)**

Rule 48.07(2)  
*omit*  
promptly, completely, effectively and economically determined  
*insert*  
resolved justly, promptly, economically and in proportion to the nature of the dispute

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**13 Rule 48.08 amended (Category A, B and E proceedings)**

Rule 48.08(1)

*omit*

promptly, completely, effectively and economically determined

*insert*

resolved justly, promptly, economically and in proportion to the nature of the dispute

**14 Rule 48.11A inserted**

After rule 48.11

*insert*

**48.11A Case management conference**

- (1) The purpose of a case management conference is to ensure that a proceeding is the subject of active and effective judicial case management with the aim that the real issues of substance that are in dispute between the parties, and only those issues, are resolved by the Court justly, promptly, economically and in proportion to the nature of the dispute.
- (2) If a Judge or an Associate Judge is of the opinion that a case management conference should be held for a proceeding, the Judge or Associate Judge may direct that the proceeding be set down for a case management conference before a Judge or an Associate Judge.
- (3) The Judge or Associate Judge must give the parties notice of the case management conference and rule 48.05 applies (with the necessary changes) accordingly.
- (4) If a proceeding is set down for a case management conference, the parties must:
  - (a) assist the Court in managing the proceeding to achieve the purpose mentioned in subrule (1); and
  - (b) cooperate to avoid, as far as possible, multiple case management conferences being held.

- 
- (5) In addition to the obligations under subrule (4), the parties should attend the case management conference:
- (a) with an understanding of the nature of the real issues of substance that are in dispute and of their case in relation to those issues; and
  - (b) having considered, discussed and if possible agreed with the other party the directions they propose that the Court should make at the conference; and
  - (c) with sufficient information concerning the availability of all relevant persons to enable a trial date or dates or target trial window to be fixed if not already fixed; and
  - (d) ready to deal with all outstanding procedural issues.
- (6) A case management conference may be held by telephone, videoconference or other audiovisual means.
- (7) At a case management conference, the Court may do the following:
- (a) if it has not already been done:
    - (i) fix a trial date or dates; or
    - (ii) refer the matter to a civil sittings callover or directions hearing; or
    - (iii) identify a target trial window;
  - (b) make directions to ensure that the matter is ready for trial on that date or those dates or during that sittings period or target trial window;
  - (c) scrutinise carefully the parties' respective pleadings to ensure that they properly identify only the real issues of substance that are in dispute;
  - (d) consider whether any claim or plea is appropriate for summary determination, strike out or determination as a preliminary issue;
  - (e) resolve any other outstanding procedural issues between the parties or, if that is not possible, make directions for the resolution of those issues;
  - (f) consider whether any further case management conferences are likely to be required and, if so, fix the date or dates for those conferences;

- 
- (g) consider whether to make directions for a settlement conference under rule 48.12 or a mediation under rule 48.13;
  - (h) make such other orders as it considers appropriate to ensure that the matter is resolved justly, promptly, economically and in proportion to the nature of the dispute.
- (8) Rules 48.16 to 48.19 do not apply to a proceeding in which one or more case management conferences are held.

**15 Rule 48.14 amended (Costs of directions hearings, settlement conferences and mediations)**

- (1) Rule 48.14, heading, after "hearings,"

*insert*

**case management conferences,**

- (2) Rule 48.14, after "hearing,"

*insert*

case management conference,

**16 Rule 48.20 replaced**

Rule 48.20

*repeal, insert*

**48.20 Trial lists**

There are to be kept in the Darwin Registry and Alice Springs Registry lists of proceedings that, under rule 48.17, have been ordered to be placed on a list of proceedings ready for trial.

**17 Rule 48.21A inserted**

After rule 48.21

*insert*

**48.21A Trial dates vacated only in extraordinary circumstances**

- (1) Once a trial date is fixed, the Court will not vacate the date except:
  - (a) in extraordinary circumstances that render a fair trial impossible; and
  - (b) as a last resort after all other options have been exhausted.

- 
- (2) Any party who considers that circumstances have arisen that may mean that a trial will not be able to proceed on the date or dates fixed for trial should immediately notify the Court and the other party, and take out an application for directions.

**18 Order 48, Part 4 heading amended (Directions hearings or listing hearings by videoconference or teleconference)**

Order 48, Part 4, heading

*omit*

**Directions hearings or listing hearings**

*insert*

**Directions hearings and conferences**

**19 Rule 48.23 amended (Proceedings commenced in Alice Springs)**

- (1) Rule 48.23(1)

*omit*

directions hearing or listing hearing

*insert*

hearing or conference

- (2) Rule 48.23(2)

*omit, insert*

- (2) If a hearing or conference is held under subrule (1):

- (a) the Court must provide and meet the expenses of the facilities necessary to enable the hearing or conference to be held by videoconference or teleconference; and
- (b) the Court must notify the parties or their solicitors of the place where they may attend the hearing or conference by use of those facilities; and
- (c) if the Court file is not held by the Court electronically the Court file must be sent by the Alice Springs Registry to the Darwin Registry in time for the hearing or conference; and

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- (d) a party seeking to rely at the hearing or conference on an affidavit or other document that was not filed before the Court file was sent to the Darwin Registry may:
- (i) email the document to the Darwin Registry; and
  - (ii) request that a copy of the document be filed in accordance with this subrule; and
- (e) if a request is made under paragraph (d)(ii) the Darwin Registry must file the document as soon as possible; and
- (f) a copy of a document filed under paragraph (e) is to be treated as if it were the original document duly filed; and
- (g) a Judge or an Associate Judge may:
- (i) take evidence from witnesses who have taken the oath as witnesses at the hearing or conference; and
  - (ii) exercise the same powers in relation to the parties and the witnesses as if the parties and the witnesses were physically in the presence of the Judge or Associate Judge.
- (3) In this rule:

***hearing or conference*** means a directions hearing, a listing hearing, a case management conference or a settlement conference.

## **20 Rule 48.24 amended (Other proceedings)**

- (1) Rule 48.24(1) to (5) and (6)(a)

*omit*

directions hearing or listing hearing

*insert*

hearing or conference

- (2) Rule 48.24(5)(a) and (b), after "hearing"

*insert*

or conference



---

(3) After rule 48.24(6)

*insert*

(7) In this rule:

**hearing or conference** means a directions hearing, a listing hearing, a case management conference or a settlement conference.

## **21 Order 63, Appendix amended**

Order 63, Appendix, Part 3, Composite Scale, item 15, after "at"

*insert*

case management conference or

## **22 Repeal of Rules**

These Rules are repealed on the day after they commence.