



Northern Territory Civil and Administrative Tribunal Rules
(approved by the NTCAT Rules Committee on 14 April 2016)

1. Interpretation

1A.1 These rules commence on the date they are notified in the Gazette.

1.1. A reference in these rules to the Act is a reference to the *Northern Territory Civil and Administrative Tribunal Act*.

1.2. These rules are to be interpreted and applied so as to give effect to the objects of the Tribunal set out in section 10 of the Act.

1.3. Where these rules refer to steps or actions that are able to be taken by the use of electronic media, then the taking of such steps or actions is permitted, except where doing so would cause inconvenience or hardship to a party.

2. Dispensation

2.1. The Tribunal may at any time dispense with a requirement of these rules.

3. Service of Documents

3.1. [omitted]

3.2. This rule applies when the Act, another rule, or a direction by the Tribunal requires a person to serve a document on another person.

3.3. The person required to serve the document must take reasonable steps to bring the document to the attention of the other person and must do so as soon as they reasonably can.

3.4. The Tribunal may endorse a document with a direction that it is to be served no later than a particular time, but such a direction does not alter the obligation in rule 3.3.

3.4A A document is served on a person for the purposes of the Act and these rules if the person required to serve it:

3.4A.1 has brought the document to the person's attention; or

3.4A.2 has served the document in a way allowed by section 25 of the *Interpretation Act* (NT) or section 109X of the *Corporations Act 2001* (Cth); or

3.4A.3 has served the document in a way directed by the Tribunal under rule 3.8.

- 3.5. The Tribunal may require a person to provide evidence of the steps taken to serve a document.
- 3.6. The Tribunal may refuse to take action in a proceeding if it is not satisfied that a person has been served with a document according to this rule.
- 3.7. A person who is unable, despite reasonable efforts, to serve a document according to this rule, shall advise the Tribunal without delay.
- 3.8. The Tribunal may give directions as to the manner in which a document is to be served.
- 3.9. The Tribunal may regard a document as served on a person despite the fact that there is no conclusive evidence that the person is aware of the document or its contents.

4. Documents

- 4.1. This rule applies when an Act, regulation, or another rule, requires a party to file or serve a document.
- 4.2. If there is not an approved form for a document:
 - 4.2.1. the Tribunal may accept a document that contains the substance of the matters required by the relevant Act, regulation or rule; and
 - 4.2.2. the Tribunal may make a direction in a proceeding regarding the form the document is to take.
- 4.3. The Tribunal may allow a party to file or serve a document that does not comply with this rule.

5. Commencing a proceeding – initiating application

- 5.1. This rule applies to the commencement of a proceeding in either the review jurisdiction or the original jurisdiction of the Tribunal.
- 5.2. A person wishing to commence a proceeding ('applicant') shall file with the Tribunal an initiating application in form 1.
- 5.3. If the initiating application is accepted by the Registrar (see section 94 of the Act) it will be endorsed with:
 - a unique proceeding number;
 - the date of acceptance of the application;
 - the date and time for the initial directions hearing (see rule 7) or compulsory conference (see s 108 of the Act) or final hearing; and

- the seal of the Tribunal;

and the Tribunal will provide a copy of the sealed initiating application to the applicant

5.4. The Tribunal may, at the time of accepting the initiating application, make such directions as it sees fit for the conduct of the proceeding, and may attach notice of the directions to the copy of the sealed initiating application.

5.5. The applicant shall serve copies of the sealed initiating application (including notice of any directions under rule 5.4) upon each other party to the proceeding (see s 127 of the Act).

6. Response to an application

6.1. A person served with an initiating application who wishes to oppose it or who otherwise wishes to be heard in relation to it ('respondent') shall:

6.1.1. file with the Tribunal; and

6.1.2. serve upon each other party to the application

a response in form 2.

6.1A Subject to rule 6.1B, a person may include in a response a claim for relief against the applicant.

6.1B A claim referred to in rule 6.1A may only concern a matter:

6.1B.1 over which NTCAT has jurisdiction; and

6.1B.2 which, in the opinion of NTCAT, is sufficiently connected to the matters raised by the initiating application that it should be dealt with in the same proceeding.

6.2. If a person served with an initiating application does not file a response to it, the Tribunal may proceed on the basis that the person does not oppose the relief or remedy sought in the initiating application.

6.3. The Tribunal may order in a particular matter that a party need not file a response.

7. Initial directions hearing

7.1. Unless the tribunal otherwise directs, an initial directions hearing shall be attended by each applicant and respondent (or by their representatives – see section 130 of the Act).

7.2. The purpose of the initial directions hearing is to enable the Tribunal to:

- identify the areas of agreement and disagreement between the parties;

- identify the types of evidence the parties intend relying upon in the proceeding and make directions requiring the parties to provide that evidence to one another and to the Tribunal;
- make any other directions the Tribunal considers conducive to a prompt and efficient resolution of the proceeding, including appropriate directions about alternative dispute resolution;
- fix a date for any compulsory conference under s 107 of the Act; and
- fix a date for the hearing of the proceeding.

7.3. The Tribunal may conduct the initial directions hearing despite the absence of a party.

7.4. The Tribunal may adjourn the initial directions hearing.

7.5. The Tribunal may conduct a compulsory conference (see Part 4 Division 4 of the Act) without first holding an initial directions hearing.

8. Ordinary applications

8.1. This rule applies when an Act, regulation, or another rule allows a person to make an application to the Tribunal, other than an initiating application (see rule 5) or an application for the issue of an evidence summons (see rule 9).

8.2. Such an application is an ordinary application.

8.3. Nothing in this rule prevents the Tribunal from hearing an ordinary application made otherwise than in compliance with this rule, including an ordinary application made orally.

8.4. Nothing in this rule prevents the Tribunal in an appropriate case from dealing with an ordinary application without the requirement for a hearing.

8.5. The person wishing to make an ordinary application shall file with the Tribunal:

8.5.1. an ordinary application in the approved form;

8.5.2. a copy of any and all evidence the person relies upon in support of the ordinary application.

8.6. If the ordinary application appears to relate to a matter over which the Tribunal has jurisdiction, each copy of it will be endorsed with:

- the date of issue;
- a date (if any) for the hearing of the ordinary application; and
- the seal of the Tribunal;

and the Tribunal will provide one copy of the sealed ordinary application and any accompanying evidence to the person making the ordinary application.

8.7. The person making the ordinary application must serve copies of the sealed ordinary application and any accompanying evidence upon each of the other parties to a proceeding.

8.8. A party served with an ordinary application who wishes to oppose it, or otherwise wishes to be heard in relation to it, shall:

8.8.1. file with the Tribunal; and

8.8.2. serve upon each other party to the application

copies of any and all evidence upon which he or she relies.

8.9. The Tribunal may conduct the hearing of an ordinary application despite the absence of a person served with it.

9. Evidence Summonses

9.1. This rule applies when a party applies for the issue of a summons under section 89 of the Act requiring a person to appear before the Tribunal to give evidence or to produce evidentiary material ('evidence summons').

9.2. A party applying for the issue of an evidence summons shall file with the Tribunal:

9.2.1. an application for an evidence summons in the approved form;

9.2.2. the approved form of the evidence summons being applied for.

9.3. The Tribunal may do any one or more of the following:

- issue the evidence summons;
- issue the evidence summons in a form amended by the Tribunal;
- issue the evidence summons on conditions, including conditions regarding payment of the recipient's costs of complying with the evidence summons;
- request the party applying for the evidence summons to provide further information in support of the application for the issue of the evidence summons; or
- refuse to issue the evidence summons.

9.4. If the Tribunal issues the evidence summons, a copy of it will be endorsed with:

- the date of issue;
- for an evidence summons requiring the production of evidentiary material, the date by which and the place at which the documents must be

produced;

- for an evidence summons requiring a person to appear and give evidence, the date upon which and the place at which the person must appear;
- any amendments made by the Tribunal;
- a statement of any conditions imposed by the Tribunal; and
- the seal of the Tribunal;

and the Tribunal will provide one sealed copy of the evidence summons to the party who applied for it.

9.5. Despite anything in rule 3, the evidence summons must be served on the person required to comply with it by giving the original sealed copy to:

9.5.1. if the recipient is a person – the person; or

9.5.2. if the recipient is a body – an executive officer of the body; or

9.5.3. a person authorised to accept service of documents on behalf of the recipient.

9.6. A person may apply to the Tribunal for orders:

9.6.1. setting aside an evidence summons;

9.6.2. allowing extra time to comply with an evidence summons;

9.6.3. limiting the scope of evidentiary material required to be produced under an evidence summons;

9.6.4. requiring the party who applied for the evidence summons to meet or contribute to the costs of complying with the evidence summons (whether or not the summons was issued on a condition regarding such costs).

10. Costs

10.1. This rule applies to costs orders under Part 4 Division 6 of the Act.

10.2. For the purposes of s 132(2)(d) of the Act, in deciding whether to make a costs order for a proceeding or part of a proceeding, the Tribunal may take into account any respect in which a failure by a party to comply with these rules, or a direction by the Tribunal, has resulted in a waste of time or money.

10.3. A person seeking a costs order for a proceeding or part of a proceeding:

10.3.1. may do so by making an ordinary application; and

10.3.2. shall include in the evidence in support of any application an itemisation of the costs and disbursements in respect of which the order is sought .

11. Matters in which Registrar may constitute Tribunal

11.1. For the purposes of s 22(3) of the Act the following matters or classes of matters are specified as ones in which the President may provide for the Registrar to constitute the Tribunal:

11.1.1. matters in the original jurisdiction of the Tribunal;

11.1.2. hearings and conferences in matters in the review jurisdiction of the Tribunal, other than final hearings.

12. Order that decision maker provide reasons

12.1. An application under s 36(1) of the Act for an order that a decision maker provide reasons shall be made by way of an initiating application under rule 5 and shall be notified to the decision maker by serving it in accordance with rule 3.

12.2. The Registrar may, upon acceptance of the application, appoint a date for a final hearing of the application.

13. Extension of time

13.1. The Tribunal may on its own motion, or upon application by a party under rule 8, extend or shorten a time limit imposed by the Act, another Act or these rules, for doing something in relation to a proceeding.

14. Intervention

14.1. For the purposes of s 129(3)(a) of the Act, the Tribunal may grant a person leave to intervene in a proceeding or part of a proceeding on the following grounds:

14.1.1. that participation by the person is likely to assist the Tribunal in reaching a decision on a matter or matters in issue;

14.1.2. that participation by the person will not substantially delay the proceeding or add substantially to the cost to any party of the proceeding; and

14.1.3. if the person could instead be joined as a party to the proceeding under s 128, that a grant of leave to intervene would be preferable.

15. Reopening of proceeding

15.1. This rule applies to applications under s 80 to reopen a proceeding.

15.2. A party may apply to reopen a proceeding by an ordinary application made under rule 8 no later than close of business on the date 20 clear working days after the date of the relevant proceeding (as defined by s 80(7) of the Act).

15.3. The time in rule 15.2 may only be extended under rule 13 in exceptional circumstances.