



Australian Capital Territory

ACT Civil and Administrative Tribunal Procedures Rules 2020

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made under the

ACT Civil and Administrative Tribunal Act 2008

Republication No 1

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Rules not amended

About this republication

The republished law

This is a republication of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*, made under the *ACT Civil and Administrative Tribunal Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 February 2020. It also includes any commencement, repeal or expiry affecting this republished law.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial amendments

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



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ACT Civil and Administrative Tribunal Procedures
Rules 2020

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Chapter 1 Preliminary

1 Name of rules

These rules are the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.

3 Dictionary

- (1) The dictionary at the end of these rules is part of these rules.

Note 1 The dictionary at the end of these rules defines certain terms used in the rules and includes references (*signpost definitions*) to other terms defined elsewhere in these rules.

For example, the signpost definition ‘*addressee*, for part 2.8 (Subpoenas)—see rule 72.’ means that the term ‘addressee’ is defined in that rule.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire rules unless the definition, or another provision of the rules, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

- (2) Words or phrases in these rules have the same meaning as in the Act, unless otherwise defined in the dictionary.

4 Notes

A note included in these rules is explanatory and is not part of these rules.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5 Application of rules

- (1) These rules apply to a proceeding in the ACT Civil and Administrative Tribunal unless—
- (a) a territory law provides otherwise; or

(b) the tribunal orders otherwise.

Note 1 The [Act](#), s 23 (Tribunal decides own procedure) applies.

Note 2 The [Act](#), s 24 (3) provides that s 24 (Rule-making power) does not limit the power of the tribunal or a tribunal member to control proceedings.

- (2) These rules apply as follows:
- (a) chapter 2 (*general rules*) applies to all proceedings, unless stated otherwise;
 - (b) chapter 3 (*specific rules*) applies only to proceedings in the jurisdiction to which the part applies;
 - (c) if there is inconsistency between a general rule and a specific rule, the specific rule applies to the extent of the inconsistency.

6 Dispensing with rules

- (1) The tribunal may, by order, dispense with the application of a provision of these rules to a particular proceeding on any condition it considers appropriate.
- (2) The tribunal may make an order under subrule (1) on application by a party, another person or on its own initiative.

7 Practice notes

- (1) The registrar may issue a practice note setting out the procedure or practice to be followed in a particular jurisdiction or in relation to a particular issue.
- (2) A practice note must be consistent with these rules.
- (3) The tribunal may decide that a different procedure applies for a particular proceeding.

8 Objectives and principles

- (1) Each of the following people has a duty to cooperate with the tribunal to give effect to the objects and principles of the Act and these rules, to participate in the processes of the tribunal and to comply with directions and orders of the tribunal:
 - (a) a party to a proceeding;
 - (b) an authorised representative of a party to a proceeding;
Note For authorised representatives, see div 2.5.2.
 - (c) anyone else allowed to participate in a proceeding.
- (2) The tribunal must implement its practices and procedures to facilitate the resolution of issues between the parties to a proceeding in a way that the cost to the parties and the tribunal is proportionate to the importance and complexity of the proceeding.

Chapter 2 General rules

Part 2.1 Documents

9 Application—pt 2.1

The rules in this part—

- (a) apply to all applications unless stated otherwise; and
- (b) apply to a document that is prepared for use in tribunal proceedings including—
 - (i) an application or other document starting proceedings; and
 - (ii) a document lodged by a party; and
 - (iii) correspondence sent to the tribunal.

Note For the application of these rules, see r 5.

10 Approved forms

- (1) The tribunal has approved forms.

Note 1 The [Act](#), s 117 (2) provides that if the tribunal approves a form for a particular purpose, the approved form must be used for that purpose.

Note 2 Substantial compliance with an approved form is sufficient (see [Legislation Act](#), s 255 (4)) unless the [Legislation Act](#) s 255 (5) applies.

Under the [Legislation Act](#), s 255 (5) if a form requires the following, the form is properly completed only if the requirement is complied with:

- (a) the form to be signed;
- (b) the form to be prepared in a particular way (for example, on paper of a particular size or quality or in a particular electronic form);
- (c) the form to be completed in a particular way;
- (d) particular information to be included in the form, or a particular document to be attached to or given with the form;

- (e) the form, information in the form, or a document attached to or given with the form, to be verified in a particular way (for example, by statutory declaration).

Note 3 A company search must be attached to the approved form Authority to Act for a Corporation (see r 41).

- (2) The tribunal has template documents that parties may use if there is no approved form.

Note Template documents are on the tribunal website www.acat.act.gov.au or from the registry.

11 What information must a document contain?

- (1) A document lodged or sent to the tribunal for a proceeding must state—
 - (a) if the tribunal has allocated a file number for the proceeding—the file number; and
 - (b) the name or suppression alias of the party lodging or sending it.
- (2) If a document cannot comply with subrule (1), the person lodging the document must lodge a covering note with the document explaining why the document cannot comply.

Note 1 Practice note 1/2020 (Communicating with the tribunal) applies.

Note 2 If the tribunal has made an order under the [Act](#), s 39 (Hearings in private or partly in private), the document must comply with the order.

12 Lodgment of documents

- (1) A document may be lodged by—
 - (a) delivering it to the registry personally (*in person*); or
 - (b) sending it to the registry by pre-paid post (*by post*); or

- (c) sending it to the registry by email if the specific rules for the jurisdiction in which the document is lodged allow email lodgment and the email complies with the procedural requirements (*by email*); or
- (d) sending it to the registry by facsimile, if the specific rules for the jurisdiction in which the document is lodged allow facsimile lodgment and the facsimile complies with the procedural requirements (*by fax*); or
- (e) online, if online lodgment is available on the tribunal’s website and the document complies with the procedural requirements (*online*).

Note 1 Rule 6 (Dispensing with rules) applies.

Note 2 The specific rules may provide for how documents may be lodged for a particular jurisdiction.

- (2) Also, the registrar may accept a document that is not lodged in accordance with subrule (1) if satisfied it is in the interests of justice to do so.

13 Number of copies

- (1) If a document is lodged in person or by post, the person must lodge the number of copies required by the procedural requirements.

Note **Procedural requirements**—see r 58.

- (2) The registrar may also require the original document or additional copies of the document to be lodged.

14 Date of lodgment

- (1) The registrar must record the date that a document is lodged.
- (2) The date of lodgment is—
 - (a) for a document lodged in person before 4.30 pm on a day the registry is open—that day; or

- (b) for a document lodged by post—the day that it is received at the registry; or
- (c) for a document lodged by email, fax or online—
 - (i) before 4:30 pm on a day the registry is open—that day; or
 - (ii) on a day the registry is not open, or after 4:30 pm on a day the registry is open—the next day the registry is open.

15 Sealing and stamping documents

- (1) The tribunal must have a seal.
- (2) The registrar may apply the seal to a document—
 - (a) issued by the tribunal; or
 - (b) required to be sealed under these rules; or
 - (c) at their discretion.
- (3) The registrar may date stamp a document to—
 - (a) record the date that the document is lodged or received; or
 - (b) indicate that it is a copy of a lodged document.
- (4) The seal and date stamp may be applied to a document electronically.
- (5) If the registrar is satisfied that a sealed or date stamped document has been lost or destroyed, the registrar may issue a duplicate copy of the document.

Example

The registrar may seal a written copy of an order provided to a party under the [Act](#), s 59 (Tribunal to record details of order and give copy to parties).

16 Rejecting documents for non-compliance

- (1) The registrar may reject a document that is lodged if—
 - (a) the document, or how it has been lodged, does not comply with the requirements of the Act, these rules or a practice note; or
 - (b) there is an approved form for the document and the document does not substantially comply with the approved form; or
 - (c) the writing is illegible; or
 - (d) a fee determined under the *Court Procedures Act 2004*, section 13 (Determination of fees) is payable and—
 - (i) the fee has not been paid; and
 - (ii) a request about fees has not been made to the tribunal or has been refused.

Note 1 The Act, s 117 (Approved forms) and the Legislation Act, s 255 (Forms) apply.

Note 2 A Request for Exemption from Paying Fees form and Request about Payment of Fees form are available from the tribunal website www.acat.act.gov.au or the registry.

Note 3 The Act, s 112 (Functions of registrar—other) applies.

- (2) A document that is rejected is taken not to have been lodged.

17 Rejecting documents for abuse of process etc

- (1) This rule applies if a document that is lodged appears to the registrar on its face to be—
 - (a) an abuse of the tribunal's process; or
 - (b) frivolous or vexatious.
- (2) The registrar may—
 - (a) reject the document; or

- (b) refer the document to the president for directions about how to deal with it.
- (3) If the registrar refers the document to the president, the president may direct the registrar to—
 - (a) accept the document; or
 - (b) reject the document.
- (4) A document that is rejected is taken not to have been lodged.

Part 2.2 Service

18 Application—pt 2.2

- (1) This part applies to a document that is required to be served, whether the word ‘serve’, ‘give,’ ‘notify’, ‘send’ or any other word is used.
- (2) A document must be served in accordance with these rules unless a territory law expressly provides otherwise.

19 Who serves documents?

- (1) The registrar must serve an application unless—
 - (a) the party lodging the document—
 - (i) undertakes to serve it; or
 - (ii) is required to serve it under these rules, a practice note or by order; or
 - (b) these rules provide for another form of service; or

(c) the registrar requires a person to serve the document.

Note 1 For service of an application generally, see r 35 (8).

Note 2 A rule or practice note for each jurisdiction may set out how the registrar serves an application for the jurisdiction.

Note 3 An issuing party is required to personally serve a subpoena (see r 76).

- (2) The registrar must serve a sealed copy of a response to an application on every other party by ordinary service, unless—
- (a) the party lodging the document—
 - (i) undertakes to serve it; or
 - (ii) is required to serve it under these rules, a practice note or by order; or
 - (b) these rules provide for another form of service; or
 - (c) the registrar requires a person to serve the document.
- (3) If a party lodges a document (other than an application or a response) in a proceeding, the party must serve a copy of the lodged document on each other party as soon as practicable after lodgment.

20 Personal service

- (1) In these rules:

personal service, of a document on a person means—

- (a) giving a copy of the document to the person; or
- (b) personal service by post; or

Note Rule 21 sets out the requirements for personal service by post.

- (c) giving the document to the person in a way agreed by the person;
or

- (d) if the person has instructed the person's solicitor to accept service for the person—serving the document on the person's solicitor; or
- (e) if the person is a corporation—serving the document on the corporation in a way mentioned in rule 23.

Example—par (c)

A party may agree to receive an application by email.

- (2) If a person served with a document under subrule (1) (a) does not accept the document, it is sufficient to serve the document by leaving it at the person's feet.

Note Subpoenas must be served personally on the recipient, but cannot be served by post (see r 76).

- (3) If a person other than the registrar serves a document personally, the person must complete and lodge an affidavit of service.

Note A template affidavit of service is available on the tribunal website www.acat.act.gov.au or from the registry.

21 **Personal service by post**

- (1) A document, including an application, may be served personally on a person (the *recipient*) by post if—
 - (a) if the recipient's address for service is an address in the ACT—the document is sent to the recipient by prepaid post in accordance with subrule (2); or
 - (b) if the recipient's address for service is an address outside the ACT but within Australia—
 - (i) the document is served in accordance with the *Service and Execution of Process Act 1992* (Cwlth); and
 - (ii) the document is sent to the recipient by prepaid post in accordance with subrule (2).

- (2) The document must be sent in an envelope—
- (a) addressed to the recipient at the recipient’s address for service; and
 - (b) marked with the return address GPO Box 370, Canberra ACT 2601; but
 - (c) the return address must not be identified as the registry’s address.
- (3) If the envelope contains an application and is returned to the registry by the postal authority as not having been delivered to the respondent—
- (a) the application is taken not to have been served on the respondent; and
 - (b) the registrar must—
 - (i) if judgment has been entered on the basis of the postal service—set aside the judgment; and
 - (ii) tell the applicant—
 - (A) that the application has not been served; and
 - (B) if judgment has been set aside—that judgment has been set aside; and
 - (c) if the registrar has set aside the judgment—the applicant must, within 2 days after being told that judgment has been set aside, tell any enforcement agency that the judgment has been set aside.

22 Ordinary service

Ordinary service of a document on a person means—

- (a) service in accordance with rule 20; or
- (b) leaving the document at the person’s address for service; or

- (c) sending the document by prepaid post addressed to the person, to the person's address for service; or
- (d) if the address for service includes—
 - (i) a facsimile number—faxing a copy of the document to the facsimile number; or
 - (ii) an email address—emailing a copy of the document to the email address; or
- (e) if the person does not have an address for service—
 - (i) posting the document addressed to the person, to the person's last-known home or business address; or
 - (ii) by leaving it addressed to the person with an individual who appears to be over 16 years old and to live or be employed at the address; or
- (f) giving it to the person in a way the tribunal directs.

Note 1 For address for service, see r 29.

Note 2 The *Court Procedures Act 2004*, pt 4 (Crown proceedings) applies. For service on the Territory, see that *Act*, s 33 (Service generally).

Note 3 For service on the Commonwealth or a State, see the *Judiciary Act 1903* (Cwlth), s 63.

23 Service on a corporation

A document may be served on a corporation—

- (a) by leaving it at, or sending it by post to, the corporation's registered office; or
- (b) in a way provided under the *Corporations Act 2001* (Cwlth) or another applicable law.

Note 1 **Meaning of corporation**

Corporation includes a body politic or corporate (see *Legislation Act*, dict, pt 1).

Note 2 **Corporations Act**

- the [Corporations Act](#), s 109X provides non-exhaustively for the service of documents on a company registered under that Act. That section does not apply to a document that may be served under the [Service and Execution of Process Act 1992](#) (Cwlth) (*SEPA*), s 9 (see s 9 (9))
- the [Corporations Act](#), s 601CX provides for service of documents on a body corporate registered under that Act, pt 5B.1. That section does not apply to a document that may be served under *SEPA*, s 9 (see s 9 (9)).

Note 3 **Service and Execution of Process Act**

SEPA, s 9 provides exhaustively for service of documents under that Act on a company or registered body corporate (see also that [Act](#), s 15 (3)). *SEPA*, s 10 provides non-exhaustively for service of documents under that Act on any other body corporate (but see that [Act](#), s 15 (4) for an originating process). *SEPA*, s 15 (5) provides for service of an originating process under that Act on a body politic.

Note 4 **ACT legislation—general**

The [Legislation Act](#), pt 19.5 provides non-exhaustively for the service of documents on corporations generally (including territory agencies).

Note 5 **ACT legislation—specific**

- the [Associations Incorporation Act 1991](#), s 122 provides non-exhaustively for the service of documents and process on an incorporated association under that Act
- the [Community Title Act 2001](#), s 59 provides for an address for service for a body corporate under that Act (see also [Legislation Act](#), s 246, def *business address*)
- the [Unit Titles \(Management\) Act 2011](#), s 123 provides non-exhaustively for the service of documents on an owners corporation under that Act.

24 Service outside the ACT but within Australia

- (1) This rule applies to service outside the ACT but within Australia.
- (2) The document must be served in accordance with the *Service and Execution of Process Act 1992* (Cwlth).

Note If a party wants to serve a document outside Australia, the party must write to the Registrar to request information about service outside Australia. Service is not effected overseas unless the respondent submits to the jurisdiction.

25 Substituted service

- (1) This rule applies if a document is required to be served in a particular way (the *prescribed way*).
- (2) The tribunal may order that the document is to be served in another way (the *substituted way*).
- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.

Note A request for substituted service can be made using the approved form Application for Interim or Other Orders - General.

- (4) The tribunal may make the order if satisfied that—
 - (a) it is impractical or not possible, for any reason, for the document to be served in the prescribed way; and
 - (b) the substituted way is reasonably likely to bring the document to the attention of the person to be served.
- (5) If the tribunal makes an order under subrule (2), it may provide that the document is taken to have been served on the happening of an event, at a stated time or at the end of a stated period.
- (6) The tribunal may make an order under subrule (2) even though the person to be served is not in the ACT or Australia or was not in the ACT or Australia when the proceeding started.

- (7) For any provision of these rules requiring service of a document on a person, service of the document on the person in the substituted way is taken to be service of the document on the person in the prescribed way.

26 When is a document taken to be served?

A document is taken to be served at an address for service under these rules—

- (a) if the document is left with someone or at a place in accordance with these rules—
 - (i) if the document is left before 4:30 pm on a day—on that day; or
 - (ii) if the document is left at or after 4:30 pm on a day—on the next day; or
- (b) if the document is served by post in Australia in accordance with these rules—7 days after the day it is posted, unless the contrary is proved; or
- (c) if the document is faxed in accordance with these rules—
 - (i) if the document is sent before 4:30 pm on a day—on that day; or
 - (ii) if the document is sent at or after 4:30 pm on a day—on the next day; or
- (d) if the document is emailed to an email address in accordance with these rules—
 - (i) if the document is sent before 4:30 pm on a day—on that day; or
 - (ii) if the document is sent at or after 4:30 pm on a day—on the next day.

27 Dispensing with service

The tribunal may order that a document is not required to be served.

28 Proof of service

- (1) If a person serves an application on a party, the person must give the tribunal proof of service—
 - (a) in the form of an affidavit of service; or
 - (b) as specified by the tribunal or registrar.

Note A template affidavit of service is available from the tribunal website www.acat.act.gov.au or from the registry.

- (2) However, the tribunal may dispense with the requirement to prove service if the tribunal is satisfied that proof of service is not required.
- (3) The tribunal may require a person to provide proof of service of other documents.

29 Address for service of documents including correspondence

Unless the tribunal or registrar orders otherwise, a party's address for service must be the most recent address provided in the—

- (a) application; or
- (b) response; or
- (c) notice of new contact details or representation given to the tribunal; or

- (d) if a party has an authorised representative—the address most recently provided for the authorised representative.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 The [Act](#), s 38 (Hearings usually in public) applies. If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

30 Change of contact details

A party whose contact details or address for service change while an application is before the tribunal must give the new contact details or address for service to the tribunal and each other party to the proceeding as soon as practicable.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

Part 2.3 Amendments

31 **Meaning of *amendment*—pt 2.3**

In this part:

amendment includes an amendment by omission, substitution or addition.

32 **Application—pt 2.3**

This part applies to applications and responses that have been lodged in a proceeding.

33 **When amendment must be made**

- (1) All necessary amendments to an application or response must be made to—
 - (a) decide the relevant issues in the proceeding; or
 - (b) correct any defect or error; or
 - (c) avoid multiple proceedings.
- (2) A party must amend a document as soon as the need to amend becomes apparent.

Note The [Act](#), s 48 (2) (b) may apply if a party causes unreasonable delay or obstruction while the tribunal was dealing with the application.
- (3) If there is a mistake in the name or identity of a party, the tribunal may direct the making of amendments to correct the mistake, even if the effect of the amendments is to substitute another person as a party.

34 How to amend

- (1) An amendment to a document may be made by—
 - (a) striking through the writing intended to be altered so that the original writing is still legible; and
 - (b) adding new words which are underlined.
- (2) An amended document must be signed or attested in the same way as the original document was signed or attested.
- (3) The amendment may be handwritten or made electronically.
- (4) However, if the amendment is handwritten, it must be—
 - (a) legible; and
 - (b) made in a way that—
 - (i) is permanent; and
 - (ii) can be photocopied to produce a legible copy.
- (5) A document must not be lodged if it contains an alteration that causes a material disfigurement.

Part 2.4 Starting proceedings

35 Applications to start proceedings

- (1) The rules in this part apply to all applications unless stated otherwise.
- (2) An application to start a proceeding must be made using the approved form for the type of application.

Note 1 For the application of these rules, see r 5.

Note 2 The [Act](#), s 117 (2) provides that if the tribunal approves a form for a particular purpose, the approved form must be used for that purpose.

Note 3 Substantial compliance with an approved form is sufficient (see [Legislation Act](#), s 255 (4)) unless the [Legislation Act](#), s 255 (5) applies.

Under the [Legislation Act](#), s 255 (5), if a form requires the following, the form is properly completed only if the requirement is complied with—

- (a) the form to be signed; or
- (b) the form to be prepared in a particular way (for example, on paper of a particular size or quality or in a particular electronic form); or
- (c) the form to be completed in a particular way; or
- (d) particular information to be included in the form, or a particular document to be attached to or given with the form; or
- (e) the form, information in the form, or a document attached to or given with the form, to be verified in a particular way (for example, by statutory declaration).

Note 4 Approved forms are available on the tribunal website www.acat.act.gov.au, the ACT Legislation Register www.legislation.act.gov.au or the registry.

- (3) However, the registrar may accept an application that is not made using the approved form if the registrar is satisfied it is in the interests of justice to do so.

Note 1 The registrar may take reasonably practical steps to help a person make an application to the tribunal as the registrar considers appropriate (see [Act](#), s 112 (1) (b)).

Note 2 For an application under the [Utilities Act 2000](#), s 172 the applicant may also ask the registrar to put the application in writing for the person (see that [Act](#), s 173).

- (4) If an application is made by a referral, no application form is required.
- (5) If there is no approved form, the registrar may accept an application if it contains—

- (a) the applicant's name and contact details; and
- (b) if the applicant has an Australian Company Number (ACN) or Australian Registered Body Number (ARBN)—that number and the address of its registered office; and
- (c) the name of all other parties or sufficient information to enable each other party to be identified; and
- (d) the contact details for each other party; and
- (e) the type of claim made and the reasons or grounds for the claim; and
- (f) the orders or remedy sought.

Note An applicant in a civil dispute must certify that the respondent's address provided is the most current address available and that the applicant believes that service of documents to the respondent's address provided will most likely result in the respondent receiving them (see r 100 (5) (Applications to start proceedings)).

- (6) An application must be—
- (a) signed and dated by the applicant; and

- (b) lodged at the tribunal with the required number of copies; and
- (c) accompanied by any determined fee, or a request about fees.

Note 1 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

Note 2 Fees are determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) and are payable in advance under the that *Act*, s 14 (1).

Note 3 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available from the tribunal website www.acat.act.gov.au or the registry.

Note 4 A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the *Act*, section 39.

- (7) The registrar must seal a lodged application.
- (8) A sealed copy of the application must be served on all the other parties named in the application—
 - (a) by personal service; or
 - (b) as directed by the tribunal.

Note An application is usually served by the registrar (see r 19).

36 Moving proceedings between tribunal jurisdictions

- (1) The tribunal may order that an application commenced in 1 jurisdiction of the tribunal is to be heard in a different jurisdiction of the tribunal.
- (2) The tribunal may make an order under subrule (1) on application by a party or on its own initiative.

Note An application to move a proceeding to a different jurisdiction may be made using the approved form Application for Interim or Other Orders - General.

37 Responding to an application

(1) This rule applies to a person named as a respondent to an application.

(2) The respondent must lodge a response within the time specified.

Note 1 The Act, an authorising law or these rules may specify a time for lodging a response, or the tribunal may specify a time for the respondent to lodge a response by order.

Note 2 A response to a civil dispute application must be lodged within 21 days after the application is served (see r 107 (Time for response)).

(3) The respondent may lodge a response using the approved form.

(4) If there is no approved form, the respondent may lodge—

- (a) a notice of new contact details providing the respondent's correct name and contact details or if the respondent has an Australian Company Number (ACN) or Australian Registered Body Number (ARBN), that number and its registered office; and
- (b) a document stating whether the order or orders sought are agreed or opposed.

(5) A response must be—

- (a) signed and dated by the respondent; and
- (b) lodged with the required number of copies.

Note 1 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

Note 2 If the response is a response to a civil dispute and includes a counterclaim, the response must be accompanied by the determined fee for a counterclaim or a request for exemption from paying a fee, or a request to waive, defer, remit or refund a fee.

Note 3 For service of a response to an application, see r 19 (2).

Note 4 The [Act](#), s 38 (Hearings usually in public) applies. If a party does not want information provided to another party, the party must lodge the approved form Application for Interim or Other Orders - General seeking an order under the [Act](#), s 39 (Hearings in private or partly in private).

- (6) The registrar must seal a lodged response.
- (7) A sealed copy of the response must be served on all the other parties named in the application—
 - (a) by personal service; or
 - (b) as directed by the tribunal.

38 Extension of time for making application

- (1) This rule applies if there is a time limit under the Act, another law or these rules for making an application to the tribunal.
- (2) The tribunal may, by order, extend the time for making an application.

Note A request for extension of time may be made even though the time to be extended has already ended (see [Legislation Act](#), s 151C).

- (3) The tribunal may make an order under subrule (2) on application by a party, another person or on its own initiative.

Note An application for an order under this part can be made using the approved form Application for Interim or Other Orders - General.

- (4) The tribunal may extend the time for making an application for review of a decision by up to 56 days—
 - (a) starting on the day after the day the time for making the application ends; and
 - (b) ending at 4:30 pm on the day the extension of time ends.

- (5) This rule is subject to any express provision about the extension of time in these rules or any other law.

Examples

- 1 the *Planning and Development Act 2007* prohibits the extension of time for some applications
- 2 the *Limitation Act 1985* provides for extension of time for some claims

Part 2.5 Participating in proceedings

Note Under r 5 (2) (c) this part applies to all applications unless it is inconsistent with a specific rule.

Division 2.5.1 Including and removing parties

39 Necessary parties

- (1) Each person whose presence as a party is necessary to enable the tribunal to adjudicate effectively and completely on all issues in dispute in a proceeding must be included as a party to the proceeding.
- (2) An application must name a person as a respondent to the application if—
 - (a) the applicant is seeking orders requiring the person to do or not do something; or
 - (b) the person is entitled to be a joint applicant and has not been named or joined as an applicant.
- (3) The tribunal may order that a person be joined as a party or substituted for a party to the proceeding.
- (4) A person may be made an applicant only with the person's consent.
- (5) The tribunal may make an order under subrule (3) on application by a party, another person or on its own initiative.
- (6) If the tribunal orders the inclusion or substitution of someone as a party to the proceeding, it may make any order it considers appropriate about the conduct of the proceedings.

Note 1 The [Act](#), s 29 (Parties to applications) applies.

Note 2 An authorising law may specify the parties to an application. For example, the [Common Boundaries Act 1981](#), s 8 (Parties to applications) provides who are the parties to an application under that Act.

Note 3 For parties to an appeal, see also ch 3, pt 3.1 (Appeals within tribunal).

40 Removing parties

- (1) The tribunal may order that a person be removed as a party to a proceeding if the person—
 - (a) has been inappropriately or unnecessarily included as a party; or
 - (b) is no longer an appropriate or necessary party.
- (2) The tribunal may make an order under subrule (1)—
 - (a) at any stage of the proceeding; and
 - (b) on application by a party to the proceeding or on its own initiative; and
 - (c) whether the person to be removed is an applicant, a respondent or a third party.

Note An application for an order under this part can be made using the approved form Application for Interim or Other Orders - General.

Division 2.5.2 Authorised representatives

41 Appointing an authorised representative

- (1) This rule applies if a party in a proceeding is represented by someone else (an *authorised representative*).
- (2) If the authorised representative is an Australian legal practitioner, the representative must lodge a notice of new contact or representation details, unless the practitioner is appearing before the tribunal on a duty basis.

Note 1 *Australian legal practitioner* is defined in the dictionary.

Note 2 A Notice of New Contact or Representation Details is an approved form.

- (3) If the authorised representative represents a corporation, the authorised representative must lodge at the tribunal—
- (a) an authority to act for the corporation executed by the corporation; and
 - (b) a company search of the corporation.

Note An Authority to Act for a Corporation is an approved form.

- (4) If the authorised representative holds a power of attorney, for the matters set out in rule 42 (1), made under the *Powers of Attorney Act 2006* or equivalent legislation for a party who is a person who does not have a legal disability, the representative must lodge the power of attorney at the tribunal.

Note 1 A template power of attorney for tribunal proceedings is available on the tribunal website www.acat.act.gov.au and from the registry.

Note 2 For def of *person with a legal disability*, see r 46. For representation of a person with a legal disability, see div 2.5.3 (Litigation guardians).

Note 3 Approved forms and templates are available on the tribunal website www.acat.act.gov.au and from the registry. Approved forms are on the ACT Legislation Register www.legislation.act.gov.au.

- (5) The tribunal may require a party or its authorised representative to produce the original document authorising the representation.
- (6) A party and its authorised representative must retain a copy of the authority or other document under which the representative is appointed.

42 What an authorised representative may do

- (1) An authorised representative may, on behalf of the party they represent in a proceeding, do anything that the party may do in the proceeding including the following:
- (a) start, respond to, conduct and discontinue the proceeding;
 - (b) sign and lodge documents;

- (c) attend preliminary conferences, mediations and hearings;
- (d) discuss and enter into agreements resolving or finalising the proceeding;
- (e) agree to consent orders;
- (f) correspond with the tribunal and any other party about the proceeding.

Note For rules about address for service and correspondence if a party has an authorised representative, see r 29 (Address for service of documents including correspondence).

- (2) The tribunal may require a party to attend a preliminary conference, mediation or hearing in person, even if the party has an authorised representative.

43 Knowledge and authority

An authorised representative must have full knowledge and authority to participate effectively in all parts of a proceeding, including a preliminary conference, mediation or hearing, and to discuss and agree to settlement and resolution of the dispute.

Note 1 An authorised representative is under a duty to cooperate with the tribunal to give effect to the objects and principles of the Act (see r 8 (Objectives and principles)).

Note 2 For rules about the removal of authorised representatives, (see r 45 (Removal of authorised representative)).

44 Changing authorised representative

A party who appoints or changes an authorised representative during a proceeding must—

- (a) lodge a notice of new contact or representation details and give a copy to each other party in the proceeding within 1 day of lodgment; and

- (b) if the party is a corporation—lodge an authority to act for the corporation executed by the corporation.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 For appointing an authorised representative, see r 41.

Note 3 For rules about address for service and correspondence if a party has an authorised representative, see r 29.

45 Removal of authorised representative

- (1) The tribunal may by order, stop an authorised representative from taking any further part in a proceeding.
- (2) However, the tribunal may only make an order under subrule (1) if satisfied that—
- (a) the authorised representative does not have sufficient knowledge of the issues in dispute in the proceeding to allow the authorised representative to effectively represent the party at a preliminary conference, mediation or hearing; or
- (b) the authorised representative does not have sufficient authority to bind the party they represent; or
- (c) the authorised representative’s representation is inconsistent with the objects of the Act, or these rules.

Note 1 The tribunal must observe natural justice and procedural fairness (see [Act](#), s 7 (Principles applying to Act)).

Note 2 The objects are in the [Act](#), s 6.

Note 3 An authorised representative is under a duty to cooperate with the tribunal to give effect to the objects and principles of the Act (see r 8 (1) (c) (Objectives and principles)).

Division 2.5.3 Litigation guardians

46 Meaning of *person with a legal disability*

For these rules:

person with a legal disability means a child, or a person who is not legally competent to be a party to an application in a proceeding.

47 Person with a legal disability must have litigation guardian

- (1) This rule does not apply to any of the following:
 - (a) a proceeding under the *Mental Health Act 2015*;
 - (b) a proceeding under the *Guardianship and Management of Property Act 1991*;
 - (c) a referral from or order of a court under the *Crimes Act 1900*;
 - (d) a proceeding by a child to recover an amount owing to the child in relation to the child's employment or a contract for services for work done by the child.
- (2) A person with a legal disability may be a party to an application only by the person's litigation guardian unless the Act, an authorising law or these rules provide otherwise.
- (3) If a party to an application is, or becomes, a person with a legal disability and the party does not have a litigation guardian, the tribunal may—
 - (a) by order, appoint a litigation guardian for the application; or
 - (b) stay the application until a litigation guardian is appointed; or
 - (c) if appropriate, continue to hear and determine the application.

- (4) If an application seeks orders in relation to a person with a legal disability, the tribunal may, by order—
- (a) appoint a litigation guardian for the person; and
 - (b) include the person by their litigation guardian as a party to the application.

48 Litigation guardians

- (1) A person is the *litigation guardian* of a person with a legal disability for an application if the person—
- (a) is authorised to exercise the powers of the person in the application for the matters set out in rule 42 (1) (What an authorised representative may do) under—
 - (i) a territory law; or
 - (ii) an order of a court or tribunal; or
 - (b) is appointed as litigation guardian for the person for the application under rule 49.

Examples—par (a) (i)

- 1 The *Guardianship and Management of Property Act 1991*, s 7 (3) provides that a person's guardian or manager may be given the power by the ACAT to bring or continue legal proceedings for or in the name of the person.
 - 2 The *Powers of Attorney Act 2006*, s 13 (2) provides that a principal may make an enduring power of attorney permitting the attorney to exercise powers in relation to legal proceedings for personal care or property matters, to take effect if the principal becomes a person with impaired decision-making capacity.
- (2) A person who is the litigation guardian of a person with a legal disability under a territory law must lodge a statutory declaration—
- (a) specifying the territory law; and
 - (b) setting out how the territory law applies to them.

- (3) A person who is the litigation guardian of a person with a legal disability under an order of a court or tribunal must lodge with the tribunal—
- (a) a sealed copy of the order; and
 - (b) a statutory declaration stating that—
 - (i) they are the person specified in the order; and
 - (ii) the order remains in place and has not been revoked.

49 Appointing a litigation guardian for an application

- (1) The tribunal may by order appoint a person proposed for appointment as the litigation guardian of a person with a legal disability if the tribunal is satisfied that the person proposed—
- (a) is not a person with a legal disability; and
 - (b) has no interest in the proceeding that conflicts, or might conflict, with the interests of the person with a legal disability; and
 - (c) has agreed to be the person's litigation guardian; and
 - (d) is a suitable person.
- (2) A person proposed for appointment as the litigation guardian of a person with a legal disability must lodge with the tribunal—
- (a) an affidavit or statutory declaration by a solicitor for the person with the legal disability or by someone else with knowledge of the facts stating that the person proposed for appointment—
 - (i) has agreed to be the litigation guardian; and
 - (ii) is a suitable person to be the litigation guardian; and
 - (iii) does not have an interest in the proceeding that may conflict with the interests of the person with a legal disability; and

- (b) the person's written consent to be the litigation guardian of the person with a legal disability; and
- (c) if the person with a legal disability is an applicant—an undertaking by the person to pay any costs that the person with a legal disability might be required to pay.

Note 1 An Affidavit for a Person to Act as Litigation Guardian is an approved form.

Note 2 A Consent and Undertaking by Person to Act as Litigation Guardian is an approved form.

Note 3 Approved forms are available from the tribunal website www.acat.act.gov.au, the registry or the Legislation Register.

- (3) A party to a proceeding who seeks the appointment of a litigation guardian for another party to the proceeding may apply to the tribunal for orders appointing a litigation guardian under the *Guardianship and Management of Property Act 1991*.

50 Removing or replacing a litigation guardian

- (1) If a party has a litigation guardian appointed under rule 49 (1), the tribunal may, by order—
 - (a) end the appointment of the litigation guardian if a litigation guardian is no longer required; or
 - (b) replace the litigation guardian with another litigation guardian.
- (2) The tribunal may make an order under subrule (1)—
 - (a) on application by a party to the proceeding; or
 - (b) on application by another person; or
 - (c) on its own initiative.
- (3) A party applying for an order under subrule (1) must serve the application on—
 - (a) the person with a legal disability; and

- (b) the litigation guardian; and
- (c) if the application is to replace the litigation guardian with someone else—the proposed litigation guardian.

Note An application for costs can be made using the approved form Application for Interim or Other Orders - General.

51 Litigation guardian—liability for costs

- (1) A litigation guardian for a person with a legal disability in a proceeding is liable for any costs that the person might be required to pay in relation to the proceeding from the time they became a litigation guardian.
- (2) A litigation guardian for a person with a legal disability in a proceeding is indemnified by the estate of the person for expenses and costs reasonably charged or incurred.

Note A litigation guardian may also be personally liable for costs or expenses unreasonably incurred.

Part 2.6 Preliminary conferences and mediation

52 Application and purpose—pt 2.6

- (1) The rules in this part apply to all applications unless stated otherwise.

Note For the application of these rules, see r 5.

- (2) To assist with the early resolution of applications, the tribunal may refer parties to a preliminary conference or a mediation at any time, including a dispute resolution process outside the tribunal.

Note 1 The *Court Procedures Act 2004*, pt 5A (Mediation) applies to mediations under the *Act*, s 35 (Mediation for applications).

Note 2 The *Act*, s 33 (Preliminary conferences) and s 34 (Admissibility of evidence given at preliminary conference) apply.

53 Participating in preliminary conferences or mediation

- (1) The participants in a preliminary conference or mediation are—
- (a) the parties; and
 - (b) an authorised representative of a party; and
 - (c) the tribunal member, registrar, deputy registrar or mediator; and
 - (d) anyone else with the consent of all the other participants.
- (2) Each party, including an authorised representative of a party, to a proceeding that has been referred to a preliminary conference or a mediation must take part genuinely and constructively, and act in good faith.
- (3) Each authorised representative attending a preliminary conference or mediation must—
- (a) have full knowledge of the issues in dispute; and

- (b) have authority to discuss and agree to settlement and resolution of the dispute.

54 Confidentiality of preliminary conferences

A preliminary conference is a private process and not open to the public.

Note The [Act](#), s 34 (Admissibility of evidence given at preliminary conference) applies.

55 Confidentiality of mediations

- (1) A mediation is a private process and is not open to the public.
- (2) If the tribunal refers an application to a mediation, subrule (3) and subrule (4) apply to the participants.
- (3) The participants must not disclose to anyone not involved in the mediation any mediation material unless required to do so by law.
- (4) Subject to subrule (7) the following are confidential and privileged, and must not be disclosed, relied on or be the subject of a subpoena in any proceeding in respect of the application:
 - (a) any settlement proposal made by a participant;
 - (b) anything that may show the willingness of a party to consider any settlement proposal;
 - (c) any statement, admission or concession made by a participant during the mediation;
 - (d) any mediation material.
- (5) If the parties reach agreement at a mediation, the terms of the agreement may be reduced to writing and signed by or on behalf of each party (the *settlement agreement*).

- (6) If the parties agree to and lodge the settlement agreement with the tribunal, the settlement agreement is no longer mediation material.

Note The [Act](#), s 55 (Powers of tribunal if parties reach agreement) applies.

- (7) A party may call evidence of the matters in subrule (4) in a proceeding to enforce the settlement agreement.

Note The [Court Procedures Act 2004](#), s 52B (Admissibility of information given at mediation) applies to mediations at the tribunal.

- (8) In this rule:

mediation material means—

- (a) a communication made at a mediation; or
- (b) a document, whether used in a mediation or not, prepared—
 - (i) for or during a mediation; or
 - (ii) following a decision made or undertaking given in a mediation; or
- (c) a settlement agreement.

56 Failure to attend a preliminary conference or mediation

- (1) This rule applies if, at the time set for a preliminary conference or mediation, a party does not attend either in person if required to attend in person, or by an authorised representative.
- (2) The tribunal may—
 - (a) order that the preliminary conference or mediation take place at another time; or
 - (b) adjourn the preliminary conference or mediation; or
 - (c) proceed with the preliminary conference or mediation in the absence of the party either generally or in relation to any relief claimed in the application; or

- (d) if the party is the applicant—dismiss the application; or
- (e) if the party is the respondent—decide the application; or
- (f) take any other steps the tribunal considers appropriate.

Part 2.7 Conduct of proceedings

57 Application—pt 2.7

The rules in this part apply to all applications unless stated otherwise.

Note For the application of these rules, see r 5.

58 Procedural requirements for applications

- (1) A proceeding for an application must be conducted in accordance with the procedural requirements in the Act, the regulation, these rules, any practice notes and directions that apply to the application (the *procedural requirements*).
- (2) Parties to an application must comply with the procedural requirements for the application.

59 Failure to comply with procedural requirements

- (1) Failure to comply with a procedural requirement for an application is an irregularity and does not make a proceeding, or a document lodged, step taken or order made in the proceeding, void.
- (2) If there has been a failure to comply with a procedural requirement, the tribunal may make any order dealing with the proceeding or the application that it considers appropriate.

Note The [Act](#), s 56 (d) applies.

Examples

- 1 If the defaulting party in an application is the applicant, the tribunal may dismiss the application, extend the time to comply with the procedural requirement that has not been complied with or give further directions.
- 2 If the defaulting party in an application is the respondent, the tribunal may decide the application, extend the time to comply with the procedural requirement that has not been complied with or give further directions.

- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.

Note Rule 62 (Interim and other orders) applies to an application.

60 Directions

- (1) The tribunal may, at any stage of a proceeding, by order, give directions requiring a party to do whatever is necessary for the quick and fair conduct of the proceeding, consistent with achieving justice.

Note The [Act](#), s 6 (Objects of Act) and s 31 (Early resolution of applications) apply.

Examples

- 1 setting a timetable for the steps that the parties must take before the hearing
- 2 fixing the time, date, place and duration of the hearing
- 3 referring all or part of the dispute to a preliminary conference or mediation
- 4 requiring a party to the proceeding to produce a document or thing

- (2) The tribunal may give directions under subrule (1) on application by a party or on its own initiative.

Note An application for directions can be made using the approved form Application for Interim or Other Orders - General.

- (3) If a direction is inconsistent with these rules or a practice note, the direction prevails.
- (4) The tribunal may at any time vary or revoke a direction made under this rule on application by a party or on its own initiative.

61 Failure to attend a directions hearing

- (1) This rule applies if, after receiving notice of a directions hearing, a party does not attend the directions hearing.

Note Practice note 3/2020 (Taking part by telephone) may apply.

- (2) The tribunal may do any of the following:
- (a) give any further directions or make any orders it considers appropriate;
 - (b) if the applicant has failed to attend—dismiss the application;
 - (c) if the respondent has failed to attend—decide the application;
 - (d) adjourn the directions hearing.

Note 1 The [Act](#), s 44 (Procedure in absence of party), s 48 (Costs of proceedings) and s 56 (Other actions by tribunal) apply.

Note 2 The [Act](#), s 74 (Failure to comply with orders) applies to directions made by the tribunal under these rules.

- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.
- (4) In deciding whether to dismiss the application or proceeding, the tribunal must have regard to the [Act](#), section 6 (Objects of Act) and section 7 (Principles applying to Act).

62 Interim and other orders

- (1) This rule applies to—
- (a) applications for orders under the following provisions:
 - (i) the [Act](#), section 32 (Dismissing or striking out applications);
 - (ii) the [Act](#), section 39 (Hearings in private or partly in private);

- (iii) the [Act](#), section 53 (Interim orders);
 - (iv) the [Act](#), section 56 (Other actions by tribunal);
 - (v) rule 25 (Substituted service); and
- (b) any other application for which there is no approved form.
- Note* Other applications for which there is no approved form include urgent hearings, directions, and summary dismissal or judgment applications.
- (2) A party must make the application using the approved form Application for Interim or Other Orders - General.
- (3) An application for interim or other orders must—
- (a) state the orders sought; and
 - (b) set out briefly but specifically the grounds and any legislation relied on; and
 - (c) attach any documents or evidence to be relied on in support of the application; and
 - (d) be signed and dated by the person lodging the application; and
 - (e) be lodged.
- Note* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).
- (4) However, the registrar may accept an application that is not made using the approved form, or does not comply with subrule (3), if the registrar is satisfied it is in the interests of justice to do so.
- (5) A copy of the application must be given to every other party.
- Note 1* An application under the [Act](#), s 39 (Hearings in private or partly in private) need not be served on each other party.
- Note 2* The [Act](#), s 7 requires the tribunal to observe natural justice and procedural fairness.

- (6) The tribunal may consider an oral application where the tribunal considers it is appropriate, necessary or convenient to do so.

63 Adjournment

- (1) The tribunal may adjourn a preliminary conference, mediation, hearing or other tribunal proceeding to any time or date.
- (2) The tribunal may make an order under subrule (1) on application by a party or on its own initiative.

Note 1 An application for an adjournment can be made using the approved form Application for Interim or Other Orders - General.

Note 2 Practice note 2/2020 (Adjournment) applies.

Note 3 The [Act](#), s 6 (Objects of Act) and s 7 (Principles applying to Act) apply.

64 Taking part other than in person

- (1) A person who seeks to take part in a proceeding, preliminary conference, mediation or hearing other than in person must ask the tribunal, in writing, for a direction under the [Act](#), section 45 (Taking part other than in person).
- (2) The tribunal or registrar may make a direction on application by a party or on its own initiative.

Note Practice note 3/2020 (Taking part by telephone) may apply.

65 Hearing on the papers

- (1) A party may apply to the tribunal for the hearing to be conducted solely on the basis of the documents lodged by the parties, with no oral evidence from witnesses or oral submissions (a *hearing on the papers*).

- (2) The tribunal may conduct a hearing on the papers if it is in the public interest to do so.

Note 1 The [Act](#), s 56 (Other actions by tribunal) applies.

Note 2 An application for a hearing on the papers can be made using the approved form Application for Interim or Other Orders - General.

66 Orders in chambers

Subject to the Act or an authorising law, the tribunal may make an order in a hearing or in chambers.

Note 1 The [Act](#), s 7 (Principles applying to Act) applies.

Note 2 The [Act](#), s 61 (Making and effect of orders) applies. Section 61 (2) provides that an order takes effect on the day that the order is made.

67 Discontinuing proceedings

- (1) An applicant, including a counterclaimant and an appellant, may apply to discontinue an application, counterclaim or appeal using the approved form.

Note A Notice of Discontinuance is an approved form.

- (2) The tribunal may consider an oral application under subrule (1) if the tribunal considers it is appropriate, necessary or convenient to do so.
- (3) A notice of discontinuance must—
- (a) identify each respondent to the proceeding being discontinued; and
 - (b) be signed and dated; and
 - (c) be lodged; and
 - (d) be given to every other party.
- (4) If a notice of discontinuance is lodged, the tribunal or the appeal tribunal may by order dismiss the application, counterclaim or appeal.

- (5) Unless the tribunal makes an order dismissing the application, counterclaim or appeal, the application, counterclaim or appeal continues.

68 **Costs of discontinued proceedings**

If the tribunal makes an order under rule 67 dismissing an application, counterclaim or appeal, a party may apply for costs within 28 days after receiving a copy of the order dismissing the application, counterclaim or appeal.

Note 1 The [Act](#), s 48 (Costs of proceedings) applies.

Note 2 An application for costs may be made using the approved form Application for Interim or Other Orders - General.

69 **Lapse of proceedings**

- (1) An application lapses and is taken to be dismissed if no step is taken in the proceeding by a party for 1 year after the day the last step was taken.

Example

A civil dispute application seeking payment of a debt is served on the respondent on 1 July 2019. The respondent does not lodge a response. If the applicant fails to take the next step of applying for default judgment on or before 2 July 2020, the proceeding is taken to be dismissed on 2 July 2020.

Note The [Legislation Act](#), s 151 applies to working out periods of time.

- (2) A party may ask the tribunal to reinstate an application dismissed under subrule (1).

Note A request to reinstate an application may be made using the approved form Application for Interim or Other Orders - General.

- (3) The tribunal may reinstate the application if it is in the interests of justice to do so.
- (4) For any time limit (including a limitation period), an application that is reinstated is taken to have commenced on the day the application was lodged and is taken never to have been dismissed.

- (5) Subrule (1) does not apply to a proceeding if a decision in the proceeding has been reserved under the [Act](#), section 62 (Reserving decisions).

70 Setting aside final orders without appeal

- (1) This rule applies to a final order—
- (a) dismissing an application after a notice of discontinuance is lodged; or
 - (b) for default judgment; or
 - (c) made by consent; or
 - (d) made in the absence of a party.

- (2) The tribunal may set aside a final order on application by a party or on its own initiative.

Note 1 A request to set aside final orders can be made using the approved form Application for Interim or Other Orders - General.

Note 2 The [Act](#), s 56 (Other actions by tribunal) provides that the tribunal may amend or set aside a tribunal order if extraordinary circumstances make it appropriate to amend or set aside the order.

- (3) The tribunal may set aside a final order only if it is in the interests of justice to do so.

- (4) In considering whether to set aside a final order dismissing an application after a notice of discontinuance is lodged, the tribunal must take into account the following:

- (a) whether the discontinuance was obtained by fraud, duress, suppression of relevant information or evidence or reliance upon false evidence;
- (b) whether any other party was responsible for the fraud, duress, suppression of relevant information or evidence or false evidence;

- (c) any prejudice to any other party;
 - (d) anything else the tribunal considers relevant.
- (5) In considering whether to set aside a final order made for default judgment, the tribunal must take into account the following:
- (a) when the respondent became aware of the proceeding and the default judgment;
 - (b) the length of any delay by the respondent in lodging the application seeking to set aside the default judgment;
 - (c) the reason for delay;
 - (d) whether the respondent has a defence;
 - (e) any prejudice to any other party;
 - (f) anything else the tribunal considers relevant.
- (6) In considering whether to set aside a final order made by consent, the tribunal may take into account the following:
- (a) whether the consent was obtained by fraud, duress, suppression of relevant information or evidence or reliance on false evidence or information;
 - (b) whether any other party was responsible for the fraud, duress, suppression of relevant information or evidence or false evidence or information;
 - (c) any prejudice to any other party;
 - (d) any other issue the tribunal considers relevant.
- (7) In considering whether to set aside a final order made in the absence of a party, the tribunal must take into account the following:
- (a) the reason why the party was absent;
 - (b) whether it might have made a material difference to the outcome if the party had attended;

- (c) anything else the tribunal considers relevant.
- (8) If the tribunal sets aside a final order under this rule, it may also make—
 - (a) an order for the future conduct of the application including referring the application to a preliminary conference or mediation; and
 - (b) any other order the tribunal considers appropriate.

71 Fixing or assessing costs

- (1) If the tribunal makes a costs order under the [Act](#), section 48 (Costs of proceedings) or an authorising law, the tribunal may order—
 - (a) that the costs be paid as—
 - (i) a fixed amount; or
 - (ii) an amount to be assessed (the *assessed costs*); and
 - (b) which party, if any, pays the costs of the assessment.
- (2) An order for assessed costs may specify the scale or process for assessing costs.
- (3) If the tribunal makes an order for assessed costs, the registrar must assess the costs in accordance with the order and these rules.
- (4) At the end of a costs assessment the registrar must issue an order specifying—
 - (a) the assessed costs for the costs order; and
 - (b) the costs of the assessment.
- (5) If no order is made under subrule (2), the registrar may decide the scale and procedure to be followed to determine the assessed costs and the costs of the assessment.

- (6) Without limiting the registrar’s power to assess costs, the registrar may decide to do any of the following:
- (a) conduct a hearing by any means, including on the papers;
 - (b) require a bill of costs to be prepared;
 - (c) require a list of objections to items in a bill of costs to be prepared;
 - (d) apply a scale of costs under the *Court Procedures Rules 2006*;
 - (e) require the parties to attend a dispute resolution process;
 - (f) assess the costs in an amount agreed by the parties to the costs order without proceeding to a full assessment.
- (7) The registrar may be informed of facts in any way the registrar considers appropriate.

Part 2.8 Subpoenas

72 Definitions—pt 2.8

In this part:

addressee means the person to whom a subpoena is addressed.

conduct money means money or its equivalent to meet the reasonable expenses incurred in attending the tribunal in compliance with a subpoena.

Examples

- 1 pre-paid travel to and from the tribunal
- 2 cost of post or delivery of the material or thing to the tribunal

issuing party means the party who has asked the tribunal to issue a subpoena.

last day for service means the last day that a subpoena may be served on the addressee.

return date means the date and time that a person must appear before the tribunal to—

- (a) for a subpoena to produce—produce the material or thing; or
- (b) for a subpoena to attend—give evidence.

subpoena to attend means a subpoena requiring a person to appear before the tribunal to give evidence—see the [Act](#), section 41 (1) (b).

subpoena to produce means a subpoena requiring a person to produce a stated document or other thing relevant to the hearing—see the [Act](#), section 41 (1) (a).

73 Application—pt 2.8

The rules in this part apply to all subpoenas unless stated otherwise.

74 Issuing subpoenas

- (1) A subpoena is issued by the registrar.

Note The registrar may delegate this function.

- (2) A party may ask the registrar to issue a subpoena by—

- (a) completing the approved form; and
- (b) giving the completed approved form and at least 4 copies to the registry; and
- (c) paying the determined fee or giving the tribunal a request about fees.

Note 1 The [Act](#), s 41 (Powers in relation to witnesses etc) applies.

Note 2 A subpoena is an approved form. Approved forms are available from the tribunal website www.acat.act.gov.au, the registry or the [ACT Legislation Register](#).

Note 3 The registrar may reject a document that does not substantially comply with the approved form (see r 16 (Rejecting documents for non-compliance)).

Note 4 Fees determined under the [Court Procedures Act 2004](#), s 13 (Determination of fees) are payable in advance under that [Act](#), s 14 (1).

Note 5 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available from the tribunal website www.acat.act.gov.au or the registry.

Note 6 If the addressee is outside the ACT, there are additional requirements (see r 78 (Interstate subpoenas)).

- (3) If the registrar issues a subpoena, the registrar must—

- (a) seal the subpoena; and
- (b) list the subpoena for a return date.

- (4) Unless the tribunal orders or otherwise directs, a subpoena must not be issued prior to an application being listed for hearing.

Note The registrar will notify the issuing party if a subpoena is not to be issued.

75 Form of subpoenas

Note A subpoena is an approved form. Approved forms are available on the tribunal website www.acat.act.gov.au, the ACT Legislation Register www.legislation.act.gov.au or the registry.

- (1) A subpoena must not be addressed to more than 1 person.
- (2) A subpoena must identify the addressee by name or by description of position.

Note The [Legislation Act](#), dict, pt 1 defines *position* to include office.

- (3) A subpoena to produce must—
 - (a) identify the document or thing to be produced; and
 - (b) state the date, time and place for production.
- (4) A subpoena must state the last day for service of the subpoena.
- (5) The last day for service of the subpoena in the ACT must be—
 - (a) 5 days before the return date; or
 - (b) if the tribunal has set a different date—the date set.

Note 1 The [Act](#), s 41 (5) (a) requires a subpoena to give evidence to state the time and place at which the person must appear before the tribunal.

Note 2 An issuing party can ask the tribunal for a different last day for service (see r 77 (Permission to serve subpoena late)).

Note 3 The last day for service is different for subpoenas to be served outside the ACT (see r 78 (Interstate subpoenas)).

76 Service of subpoenas

- (1) A subpoena must be personally served on the addressee.

Note 1 For personal service, see r 20 (Personal service).

Note 2 For service of subpoenas interstate, see r 78.

- (2) However, a subpoena must not be served by post.

- (3) The issuing party must serve the subpoena on the addressee.
- (4) Subrule (1) does not apply if—
 - (a) the addressee agrees to accept service by another means; or
 - (b) the tribunal orders otherwise.
- (5) If subrule (3) applies, service is effected when the subpoena has been served by the other means or in accordance with the tribunal's order.
- (6) A subpoena must be served on or before the last day for service.
- (7) The issuing party must give a copy of the subpoena to each other party—
 - (a) as soon as practicable after the subpoena has been served on the addressee; and
 - (b) within a reasonable time before the return date.

77 Permission to serve subpoena late

- (1) A party may apply for permission for a subpoena to be served later than 5 days before the return date.
- (2) A request for permission to serve late does not need to be served on any other party unless the tribunal orders otherwise.
- (3) If the tribunal gives permission under subrule (1), the tribunal must set a date for the last date for service of the subpoena.
- (4) Unless the tribunal orders otherwise, a request under this rule may be dealt with without a hearing and in the absence of the parties.

Note A request for permission for late service may be made using the approved form Application for Interim or Other Orders - General. The application must—

- (a) attach a draft subpoena; and

- (b) include the following information:
- for a subpoena to attend—why the addressee needs to give evidence, why the subpoena was not issued in enough time to be served at least 5 days before the return date, whether the addressee has been told about the hearing and if so, whether the addressee can attend the hearing, the earliest date that the subpoena can be served, and any other relevant information
 - for a subpoena to produce—why the document or thing is required, why the subpoena was not issued in enough time to be served at least 5 days before the return date, whether the addressee has been told about the subpoena and if so, whether the addressee is able to produce the document or thing before the return date, the earliest date that the subpoena can be served, and any other relevant information.

78 Interstate subpoenas

- (1) This rule applies to a subpoena issued by the tribunal which is to be served outside the ACT.
- (2) A request for permission under the *Service and Execution of Process Act 1992* (Cwlth) for service of a subpoena outside the ACT must comply with the *Court Procedures Rules 2006*, rule 6615.

79 Compliance with subpoena

- (1) An addressee is not required to comply with a subpoena unless—
 - (a) conduct money has been provided a reasonable time before the return date; and
 - (b) the subpoena is served on or before the last date for service.
- (2) Despite subrule (1) an addressee must comply with the subpoena even if it has not been correctly served on the addressee if the addressee has, by the last date for service, actual knowledge of the service and its requirements.

- (3) The addressee must comply with a subpoena to produce—
- (a) by attending on the return date and producing to the tribunal—
 - (i) the subpoena or a copy of the subpoena; and
 - (ii) the document or thing; or
 - (b) by delivering or sending to the tribunal so that it is received no later than 2 days before the return date—
 - (i) the subpoena or a copy of the subpoena; and
 - (ii) the document or thing.

Note For a subpoena that is both to attend and produce, the production of the document or thing in accordance with subrule (3) does not discharge the addressee from the obligation to attend to give evidence.

- (4) The registrar may, if asked by the addressee, give a receipt for a document or thing produced under subrule (3) (b).
- (5) For a subpoena to produce, unless the subpoena specifically requires the original to be produced, the addressee may produce a copy of any document required to be produced by the subpoena.
- (6) For subrule (5) a copy of the document may be—
- (a) a photocopy; or
 - (b) any electronic format that the tribunal accepts.
- (7) For a subpoena to produce, an addressee must tell the registrar whether the document or thing produced need not be returned and may be destroyed.

Note 1 The addressee must complete the declaration by addressee which is in the approved form Subpoena about whether documents or things produced must be returned or destroyed.

Note 2 For the disposal of a document or thing produced in response to a subpoena, see r 86 (Disposal of documents and things produced in response to subpoena).

80 Cost and expense of complying with subpoenas

- (1) This rule applies if the addressee is not a party.
- (2) The tribunal may order the issuing party to pay the addressee's reasonable costs or expenses incurred in complying with the subpoena.
- (3) The addressee may apply in writing or orally at the return date for the addressee's costs and expenses to be paid.
- (4) If an order is made under subrule (2) the tribunal may fix the amount or direct that it be assessed in accordance with rule 71 (Fixing or assessing costs).
- (5) An amount fixed under this rule is separate from and in addition to—
 - (a) any conduct money paid to the addressee; and
 - (b) any witness expenses payable to the addressee.

81 Access to and inspection of subpoenaed documents

- (1) This rule applies to a document or thing produced in response to a subpoena to produce.
- (2) The tribunal may, in response to a request, tell a party in general terms what has been produced.
- (3) A party may seek permission under the [Act](#), section 41 (3) to inspect, or make a copy of, a document or thing either—
 - (a) in writing before the return date; or

(b) orally at the return date.

Note 1 The [Act](#), s 41 (3) provides that the tribunal may give a party leave to inspect, or make a copy of, a document produced under subpoena.

Note 2 A request for permission may be made using the approved form Application for Interim or Other Orders - General.

Note 3 Parties must consult with the addressee and each other about access to documents or things produced in response to a subpoena.

- (4) The tribunal may make an order for access, inspection and copying of documents or things produced on application by a party or on its own initiative.
- (5) Unless the tribunal orders otherwise, inspection of a document or thing must take place at the registry.
- (6) A party may inspect a document or thing produced in response to a subpoena only—
- (a) in accordance with these rules; or
 - (b) if the tribunal otherwise orders, in accordance with those orders.

82 Uplifting a document or thing

- (1) This rule applies to a document or thing produced in response to a subpoena to produce.
- (2) A legal practitioner who is an authorised representative for a party may apply for permission to uplift the document or thing from the registry.
- (3) The registrar may—
- (a) allow the document or thing to be uplifted from the registry on any condition the registrar considers appropriate; or
 - (b) not allow the document or thing to be uplifted.

- (4) If a legal practitioner removes a document or thing from the registry, the legal practitioner is taken to have undertaken to the tribunal that—
- (a) the document or thing will be kept in the personal custody of the legal practitioner; and
 - (b) the document or thing will be returned to the registry in the same condition, order and packaging in which it was removed; and
 - (c) the legal practitioner will comply with any condition to which the permission is subject.

83 Objection to production, access, inspection or copying

- (1) If an addressee, party or someone else with sufficient interest objects to a document or thing produced under a subpoena being inspected, the person must tell the tribunal at the return date or in writing before the return date what the objection is and the reason for the objection.
- (2) If the tribunal receives an objection under subrule (1) the registrar must not allow any or any further inspection of the document or thing until the objection is heard.

84 Setting aside subpoena or other relief

- (1) If an addressee objects to producing a document or thing in response to a subpoena, the addressee must tell the tribunal at the return date or in writing before the return date what the objection is and the reason for the objection.
- (2) The [Act](#), section 41 (6) provides that on application by a party or someone else having a sufficient interest, the tribunal may set aside a subpoena completely or partly.

Note An application can be made using the approved form Application for Interim or Other Orders - General.

- (3) If the tribunal receives an application under the [Act](#), section 41 (6) the registrar must not allow any or any further access to any document or thing produced under the subpoena to which objection is taken until the objection is heard.

85 Use of subpoenaed material

Unless the tribunal orders otherwise, a document or thing produced under a subpoena must be used only in the proceeding in which the subpoena has been issued.

86 Disposal of documents and things produced in response to subpoena

Unless the tribunal orders otherwise, after a proceeding including all appeal periods is finalised the registrar may—

- (a) destroy the document or thing if the addressee has, in accordance with rule 79 (7) (Compliance with subpoena), told the registrar, in writing, that a document or thing produced may be destroyed; or
- (b) if the addressee has not told the registrar, in writing, that a document or thing produced may be destroyed—
 - (i) return the document or thing to the addressee; or
 - (ii) inform the addressee that the document or thing may be collected within a specified time; or
 - (iii) take any other steps the registrar considers appropriate, including destroying the document or thing.

Part 2.9 Supreme Court removals and referrals

87 Application—pt 2.9

- (1) The rules in this part apply to all applications unless stated otherwise.
- (2) This part applies to an application—
 - (a) under the [Act](#), section 83 (Removal of applications from tribunal to Supreme Court); and
 - (b) under the [Act](#), section 84 (Referral of questions of law to Supreme Court).

Note For the application of these rules, see r 5.

88 Application for removal—time

An application to have an appeal removed to the Supreme Court must be lodged within—

- (a) 28 days after the date the appeal is commenced; or
- (b) if the tribunal orders another time—that time.

Note An application for further time may be made before or after the 28-day period (see [Legislation Act](#), s 151C).

89 Application for removal or referral—form

- (1) An application for removal or referral to the Supreme Court must—
 - (a) be made, in writing, using the approved form; and
 - (b) state the reason for the request; and
 - (c) if the application is a referral of a question of law—set out the question in a form that requires a yes or no answer; and
 - (d) be signed and dated by the party or parties making the request; and

- (e) be lodged; and
- (f) be accompanied by the determined fee (if any) or a request about fees.

Note 1 The *Court Procedures Rules 2006*, div 2.14.1B (Removal of applications from ACAT to Supreme Court) applies to a request under the *Act*, s 83 (Removal of applications from tribunal to Supreme Court).

Note 2 The *Court Procedures Rules 2006*, div 5.7.1 (Questions referred—Supreme Court) applies to a referral under the *Act*, s 84 (Referral of questions of law to Supreme Court).

Note 3 An Application for Removal or Referral to Supreme Court is an approved form.

Note 4 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies). The application for removal or referral to the Supreme Court may also be lodged by email to tribunal@act.gov.au.

Note 5 The tribunal may require additional copies to be lodged in some circumstances.

Note 6 Fees determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) are payable in advance under that *Act*, s 14 (1).

Note 7 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available from the tribunal website www.acat.act.gov.au or the registry.

Note 8 There is no fee for a referral under the *Act*, s 84 (Referral of questions of law to Supreme Court).

- (2) The party making the application for removal or referral must serve a sealed copy of the request on all other parties by ordinary service.

Chapter 3 Specific rules

Part 3.1 Appeals within tribunal

90 Application—pt 3.1

- (1) The rules in this part apply to appeals within the tribunal under the [Act](#), section 79 (3) from a tribunal decision on an original application.
- (2) If a rule in this part is inconsistent with the rules in chapter 2 (General rules) the rule in this part applies to the extent of the inconsistency.

Note 1 For the application of these rules, see r 5.

Note 2 An appeal within the tribunal is heard by an appeal tribunal constituted under the [Act](#), s 81 (Constitution of appeal tribunal).

Note 3 **Appeal tribunal**—see the [Act](#), dictionary.

Note 4 **Application** includes an application for appeal—see the [Act](#), dictionary.

Note 5 **Original application**—see the [Act](#), s 79 (Appeals within tribunal).

91 Appeals within tribunal—general powers

For an appeal within the tribunal, the appeal tribunal—

- (a) has all the powers and duties of the tribunal that made the order appealed from; and
- (b) may draw inferences of fact; and
- (c) may, if leave is granted, receive further evidence about questions of fact, either orally or in a hearing, by written statement or in another way; and
- (d) may make an order confirming, amending, setting aside or replacing the order of the tribunal appealed from; and

(e) may make any other order it considers appropriate.

Note An appeal tribunal may deal with an appeal as a new application or a review of all or part of the original decision being appealed, as the tribunal considers appropriate (see [Act](#), s 82).

92 Application for appeal within tribunal—requirements

An application for appeal within the tribunal must—

- (a) be made using the approved form; and
- (b) set out briefly but specifically the error in the decision under appeal; and
- (c) set out the orders sought; and
- (d) attach a copy of the orders of the tribunal in the original proceeding if available; and
- (e) be signed and dated; and
- (f) be lodged with the required number of copies; and
- (g) be accompanied by the determined fee, or a request about fees.

Note 1 An Application for Appeal is an approved form.

Note 2 For rules about starting proceedings, see pt 2.4 (Starting proceedings).

Note 3 For rules about authorised representatives, see div 2.5.2 (Authorised representatives).

Note 4 The registrar may require additional copies of the Application for Appeal to be lodged if, for example, there is more than 1 applicant or respondent (see r 13).

Note 5 A fee may be determined under the *Court Procedures Act 2004*, s 13 for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

Note 6 A Request for Exemption from Paying Fees form and Request about Payment of Fees form is available on the tribunal website www.acat.act.gov.au or from the registry.

93 Application for appeal within tribunal—how to lodge

An application for appeal within the tribunal may be lodged—

- (a) in person; or
- (b) by post; or
- (c) by email.

Note 1 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

Note 2 For rules about rejecting documents, see r 16 (Rejecting documents for non-compliance).

Note 3 An Application for Appeal can be lodged by email sent to tribunal@act.gov.au.

94 Application for appeal within tribunal—time for lodging

An application for appeal within the tribunal must be lodged no later than 28 days after the day the orders of the tribunal in the original application were made, or any further time that the tribunal allows.

Note 1 An application for further time may be made before or after the 28-day period (see [Legislation Act](#), s 151C).

Note 2 For rules about extending time, see r 38 (Extension of time for making application).

95 Registrar to give documents to parties

- (1) The registrar must—
- (a) serve a sealed copy of the application for appeal on each party; and
 - (b) tell each party that if a party intends to apply to have the appeal removed to the Supreme Court, that party must, not later than 28 days after the day the application for appeal is served, lodge an application to have the appeal removed to the Supreme Court either alone or jointly.

Note 1 An application for further time to have an appeal removed may be made before or after the 28-day period (see [Legislation Act](#), s 151C).

Note 2 Part 2.9 (Supreme Court removals and referrals) applies.

Note 3 An Application for Removal or Referral to the Supreme Court is an approved form.

- (2) Service of the application for appeal must be effected—
- (a) by personal service; or
 - (b) by email to the address for service provided by the party in the original application.

Note 1 For personal service, see r 20.

Note 2 **Original application**—see the [Act](#), s 79 (Appeals within tribunal).

- (3) The registrar need not act under subrule (1) if the president—
- (a) gives the appellant written notice under the [Act](#), section 80 (1); or

- (b) has not decided whether to take action under the [Act](#), section 80 (2).

Note The president may dismiss an application for appeal if the president has given notice that the subject matter of an appeal is substantially similar to other appeals rejected by the tribunal and the president proposes to dismiss the appeal, and the president has considered any representations by the appellant in response to the notice (see [Act](#), s 80).

96 Parties to appeal

- (1) The applicant in an application for appeal is the person making the application.
- (2) Each other party to the original application being appealed is a respondent.
- (3) A person must be included as a respondent to an appeal if the person—
 - (a) appeared, or was granted leave to appear, before the tribunal in the original proceeding (the *original proceeding*) in which the order appealed from was made; and
 - (b) would be directly affected by the order sought in the application for appeal or is interested in maintaining the order appealed from.
- (4) If an unincorporated organisation or association appeared, or was granted leave to appear, in the original proceeding—
 - (a) a reference in subrule (3) to the person appearing is a reference to an authorised representative for the organisation or association; and

- (b) subrule (3) is taken to require that the interests of the organisation or association, found out from its objects or purposes, would be directly affected by the order sought by the application for appeal or by the maintenance of the order appealed from.

Note The [Act](#), s 29 (Parties to applications) and div 2.5.1 (Including and removing parties) applies.

97 Response to application for appeal not required

A respondent to an application for appeal is not required to lodge a response to the application unless directed by the tribunal.

Part 3.2 **Civil disputes**

Division 3.2.1 **Civil disputes (other than fence disputes)**

Subdivision 3.2.1.1 **Preliminary**

98 **Definitions—div 3.2.1**

In this division:

contractual interest means interest pursuant to a contract or arising from a debt if the contract terms set a rate of interest.

enforcement expenses means expenses incurred enforcing a contract and includes expenses under the *Unit Titles (Management) Act 2011*, section 31 (Recovery of expenditure resulting from member or unit occupier's fault).

Note The *Act*, s 15 (Definitions—pt 4) defines the different types of civil dispute applications.

99 **Application—div 3.2.1**

- (1) The rules in this division—
 - (a) apply to a civil dispute application; but
 - (b) do not apply to a fence dispute application.
- (2) If the rules in this division are inconsistent with the rules in chapter 2 (General rules), the rules in this division apply to the extent of the inconsistency.

Note 1 The *Act*, pt 4 (Civil disputes) applies.

Note 2 For the application of these rules, see r 5.

Subdivision 3.2.1.2 Starting proceedings

100 Applications to start proceedings

- (1) A civil dispute application must be made using the approved form.

Note 1 A Civil Dispute Application is an approved form.

Note 2 Approved forms are available on the tribunal website www.acat.act.gov.au, from the registry or the ACT Legislation Register.

Note 3 A civil dispute application includes a debt application for monies owing pursuant to the *Unit Titles (Management) Act 2011*, s 31 (Recovery of expenses resulting from member or unit occupier's fault).

Note 4 Lawyers are required to comply with the *Civil Law (Wrongs) Act 2002*, s 188 (Certificate that claim or defence has reasonable prospects of success). A Certificate—Reasonable Prospects of Success is an approved form.

- (2) A civil dispute application must—
- (a) enable a respondent to be identified; and
 - (b) set out or attach—
 - (i) the orders sought; and
 - (ii) the grounds relied on; and
 - (iii) any other document or information required by these rules; and
 - (c) be signed and dated; and
 - (d) if the application is not lodged online—be lodged with at least 3 copies; and
 - (e) be accompanied by the determined fee or a request about fees; and

- (f) be accompanied by any other document required by the Act, these rules or any other territory law.

Note 1 For urgent applications, see r 62 (Interim and other orders).

Note 2 A fee may be determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that Act, s 14 (1).

Note 3 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website www.acat.act.gov.au or from the registry.

- (3) A person may make a civil dispute application for a debt declaration only if the respondent has made or attempted to make a demand for payment to the person for payment of the debt.

Note **Debt declaration** is defined in the Act, s 15.

- (4) A civil dispute application that is a contract application or a debt application must—

(a) state or attach—

- (i) the name of the parties to the contract; and
- (ii) what was agreed in the contract; and
- (iii) the terms of the contract relevant to the dispute; and
- (iv) the execution clause; and

(b) attach any written demand for payment; and

(c) if the application includes—

- (i) a claim for contractual interest—the documents and information required by rule 101; or
- (ii) a claim for interest other than contractual interest—the information required by rule 102; or

- (iii) a claim for enforcement expenses—the documents and information required by rule 103.

Note The [Act](#), s 15 defines a **contract application** as an application in relation to a contract, and includes an application for damages for breach of contract. A **debt application** is defined in the [Act](#), s 15 as an application for the recovery of debt.

- (5) The applicant must certify that—
- (a) the respondent’s address provided in the civil dispute application is the most current address available to the applicant; and
- (b) the applicant believes that service of documents to the respondent’s address provided in the civil dispute application will most likely result in the respondent receiving them.

Note 1 For rules about substituted service, see r 25 (Substituted service).

Note 2 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

Note 3 The registrar may require additional copies to be lodged if, for example, there is more than 1 applicant or respondent.

Note 4 A fee may be determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

Note 5 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website www.acat.act.gov.au or from the registry.

- (6) The registrar must personally serve a sealed copy of the civil dispute application on each respondent.

Note For service of applications, see r 19 (Who serves documents?), r 20 (Personal service) and r 21 (Personal service by post).

101 Claim for contractual or statutory interest

- (1) This rule applies if a civil dispute application claims the payment of interest up to the day of final orders either—
 - (a) under a contract; or
 - (b) arising under a territory law.
- (2) The civil dispute application must—
 - (a) state—
 - (i) the amount owing from time to time; and
 - (ii) the start date and end date for which interest is claimed; and
 - (iii) the rate or rates at which interest is claimed; and
 - (iv) the total amount of interest claimed; and
 - (b) attach either—
 - (i) if the contract was in writing—a copy of the contract containing the clause about the payment of contractual interest; or
 - (ii) if the contract was oral or partly oral—a statement setting out the agreed terms about the payment of contractual interest.

Note A template Statement of Interest Claimed - Civil Dispute is available on the tribunal website www.acat.act.gov.au or from the registry.

102 Claim for interest—other

- (1) This rule applies if a civil dispute application claims the payment of interest up to the day of final orders, but rule 101 does not apply to the claim.
- (2) The rate of interest that may be claimed is the rate applying at the time under the *Court Procedures Rules 2006*, schedule 2, part 2.1 (Interest up to judgment), unless the tribunal orders otherwise.
- (3) The civil dispute application must state—
 - (a) the amount owing from time to time; and
 - (b) if any payment has been made and if so, on what date; and
 - (c) the start date and end date for which interest is claimed.

Note A template Statement of Interest Claimed - Civil Dispute is available on the tribunal website www.acat.act.gov.au or from the registry.

103 Claim for enforcement expenses

If a civil dispute application includes an amount for enforcing a contract or other enforcement expense (the *enforcement expenses*) the civil dispute application must—

- (a) attach the parts of the contract or a document setting out the legal and factual basis on which each enforcement expense is claimed; and
- (b) state—
 - (i) what each enforcement expense is; and
 - (ii) the date each enforcement expense was incurred; and
 - (iii) the amount of each enforcement expense; and

(iv) the total amount of enforcement expenses claimed.

Note 1 An applicant may ask the tribunal for permission to amend an application during proceedings to update enforcement expenses.

Note 2 A civil dispute application includes a debt application relying on the *Unit Titles (Management) Act 2011*, s 31 (Recovery of expenditure resulting from member or unit occupier's fault).

104 Civil dispute applications—lodgment

A civil dispute application may be lodged—

- (a) by post; or
- (b) in person; or
- (c) using the tribunal's online form facility if the civil dispute application complies with any requirements for the online form facility.

105 Civil dispute applications—service

A person, other than the registrar, who serves a civil dispute application must prove service—

- (a) by making an affidavit of service; or
- (b) in a way as specified by the tribunal or registrar.

Note 1 Part 2.2 (Service) applies.

Note 2 A template affidavit of service is available on the tribunal website www.acat.act.gov.au or from the registry.

Subdivision 3.2.1.3 Responding to a civil dispute application

106 Form of response

- (1) A respondent may lodge a response to a civil dispute application using the approved form.

Note 1 A Response - Civil Dispute is an approved form.

Note 2 Rule 37 (Responding to an application) applies.

Note 3 A response must be lodged within 21 days after service of a civil dispute application (see r 107 (Time for response)). If a response is not lodged within 21 days after service of the civil dispute application the applicant may apply for default judgment (see r 116 (Default judgment)).

- (2) A respondent to a civil dispute application may—

- (a) admit liability to the application in whole or in part; or
- (b) dispute the application; or
- (c) lodge a counterclaim; or
- (d) rely on a set-off.

Note 1 For admission of liability, see r 108 (Admission of liability by respondent).

Note 2 For disputed applications, see r 111 (Disputed civil dispute applications).

Note 3 For counterclaims, see r 112 (Counterclaims).

Note 4 For set-offs, see r 113 (Set-offs).

- (3) A response must be—

- (a) signed and dated; and
- (b) lodged.

Note The original response only is required to be lodged. No copies are required. However, the registrar may require additional copies to be lodged if, for example, there is more than 1 applicant or respondent.

- (4) The registrar must give a sealed copy of the lodged response to each other party.

107 Time for response

- (1) A respondent must lodge a response to a civil dispute application within 21 days after the application is served.

Note The applicant may apply for default judgment if a response is not lodged within 21 days after the application is served (see r 116 (Default judgment)).

- (2) The tribunal may order that a response to a civil dispute application must be lodged by a date that is less than 21 days after the civil dispute application has been served.
- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.
- (4) If the tribunal makes an order under subrule (2), the registrar must notify the respondent, in writing, of the date by which a response must be lodged.
- (5) The tribunal may list a civil dispute application for a directions hearing, preliminary conference or hearing prior to a response being lodged, either on its own initiative or on application by a party.

Note 1 Rule 60 (Directions) applies.

Note 2 If a response is lodged, the civil dispute proceeding is usually listed for a preliminary conference. Information about the different types of conferences is available on the tribunal website www.acat.act.gov.au.

Note 3 If a response is not lodged within 21 days after service of a civil dispute application the applicant may apply for default judgment (see r 116 (Default judgment)).

108 Admission of liability by respondent

A respondent may, in response to a civil dispute application—

- (a) admit liability for all or part of the application using the approved form; and
- (b) agree to judgment being entered for a stated monetary amount inclusive of any determined fees, interest and any other amounts claimed; and
- (c) state any condition on which the monetary amount is admitted.

Examples—condition

- 1 the date by which the judgment amount will be paid
- 2 that the judgment amount be paid by instalments, the amount of each instalment, when the first instalment will be paid, and the date by which each subsequent instalment will be paid

Note 1 Admission of liability is Section A of the approved form Response - Civil Dispute.

Note 2 Rule 107 (Time for response) applies.

109 Admission of liability by respondent—acceptance by applicant

- (1) This rule applies if a respondent admits liability in accordance with rule 108.
- (2) The applicant may accept the admission of liability by—
 - (a) lodging the approved form; or
 - (b) telling the tribunal, in writing, about the acceptance.

Note An Acceptance of Admission of Liability - Civil Dispute is an approved form.

- (3) The applicant must lodge the approved form, or otherwise tell the tribunal about the acceptance of the admission of liability, within—
 - (a) 21 days after service of the response or other document containing the admission of liability; or
 - (b) another time allowed by the tribunal.
- (4) If the applicant accepts the admission of liability, the tribunal may make—
 - (a) orders in terms of the admission of liability; and
 - (b) orders giving effect to any conditions; and
 - (c) any other order it considers appropriate.

**110 Admission of liability by the respondent—
non-acceptance by applicant**

- (1) This rule applies if—
 - (a) a respondent admits liability in accordance with rule 108; but
 - (b) the admission is not accepted by the applicant in accordance with rule 109.
- (2) The tribunal may—
 - (a) list the application for—
 - (i) a preliminary conference or mediation; or
 - (ii) a directions hearing; or
 - (iii) a hearing; and
 - (b) make any other orders the tribunal considers appropriate.

111 Disputed civil dispute applications

- (1) A respondent may dispute a civil dispute application by—
 - (a) lodging the approved form; or
 - (b) telling the tribunal, in writing, about the dispute.

Note Disputed Claim is Section B of the approved form Response - Civil Dispute.
- (2) The respondent must lodge the approved form, or tell the tribunal about the dispute, within—
 - (a) 21 days after service of the civil dispute application; or
 - (b) another time allowed by the tribunal.
- (3) If the respondent disputes the civil dispute application, the tribunal may—
 - (a) list the application for—
 - (i) a preliminary conference or mediation; or
 - (ii) a directions hearing; or
 - (iii) a hearing; and
 - (b) make any other orders the tribunal considers appropriate.

112 Counterclaims

- (1) A respondent may make a counterclaim to a civil dispute application by—
 - (a) lodging the approved form; or
 - (b) telling the tribunal, in writing, about the counterclaim.

Note 1 A counterclaim is Section C of the approved form Response - Civil Dispute.

Note 2 A respondent may lodge a counterclaim against an applicant instead of starting a separate proceeding.

- (2) A counterclaim must—
- (a) set out—
 - (i) the orders sought including any claim for interest; and
 - (ii) the grounds relied on; and
 - (b) attach any documents or information required by these rules; and
 - (c) be signed and dated; and
 - (d) be lodged—
 - (i) at the same time the respondent lodges the respondent's response; or
 - (ii) at another time allowed by the tribunal; and
 - (e) be accompanied by the determined fee for a counterclaim or a request about fees.

Note 1 The original counterclaim only is required to be lodged. No copies are required. However, the registrar may require copies to be lodged if, for example, there is more than 1 counterclaimant or counterrespondent.

Note 2 An application for permission to lodge a counterclaim at another time may be made using approved form Application for Interim or Other Orders - General.

Note 3 A fee may be determined under the [Court Procedures Act 2004](#), s 13 for proceedings in the tribunal and is payable in advance under that Act, s 14 (1). There is a fee for lodging a counterclaim.

Note 4 A Request for Exemption from Paying Fees form and A Request about Fees form is available on the tribunal website www.acat.act.gov.au or from the registry.

- (3) The registrar must personally serve a sealed copy of the counterclaim on each other party.

Note For service of applications, see r 19 (Who serves documents?), r 20 (Personal service) and r 21 (Personal service by post).

- (4) The tribunal may order that a reply to a counterclaim be lodged and a sealed copy given to each other party.

113 Set-offs

- (1) A respondent may rely on a set-off (whether the amount of the set-off is known or not) as a response to all or part of a civil dispute application.
- (2) The respondent may tell the tribunal and each other party that they intend to rely on a set-off by—
- (a) writing on the approved form—
 - (i) that they intend to rely on a set-off; and
 - (ii) the grounds relied on for the set-off; and
 - (iii) the orders sought (including the amount of the set-off, if known); and
 - (b) attaching any documents in support of the set-off.

Note A Response - Civil Dispute is an approved form.

Subdivision 3.2.1.4 Third parties

Note Rule 39 (Necessary parties) applies.

114 Joining a third party

- (1) A respondent may join a third party to a civil dispute application by—
- (a) lodging the approved form; or
 - (b) telling the tribunal, in writing, about the third-party claim.

Note A Third Party Notice – Civil Dispute is an approved form.

- (2) A respondent must join a person who is not a party to the civil dispute application as a third party to the application if, in the proceeding, the respondent wants to—
- (a) claim contribution or indemnity against the person; or
 - (b) claim relief against the person that—
 - (i) relates to the civil dispute application; and
 - (ii) derives from the relief claimed by the applicant; or
 - (c) have an issue relating to the civil dispute application decided between the applicant and the respondent, and between either of them and the person not a party to the proceeding.
- (3) A third-party notice must—
- (a) enable a third party to be identified; and
 - (b) set out—
 - (i) the grounds relied on; and
 - (ii) the orders sought including any claim for interest; and
 - (iii) be signed and dated; and
 - (iv) be lodged.
- (4) Unless the tribunal orders otherwise, a third-party notice—
- (a) may not be lodged until the respondent seeking to join the third party has lodged a response; and
 - (b) must be lodged within—
 - (i) 21 days after the respondent who lodges the third-party notice has lodged a response; or

- (ii) another time ordered by the tribunal.

Note The third-party notice only is required to be lodged. No copies are required. However, the registrar may require copies to be lodged if, for example, there is more than one applicant or respondent.

- (5) The registrar must personally serve on the third party a sealed copy of—
- (a) the third-party notice; and
 - (b) every other document lodged in the proceeding; and
 - (c) every order, if any, made in the proceeding; and
 - (d) any other document the registrar considers appropriate.

Note 1 The registrar may direct the parties to provide each document they have lodged to the third party.

Note 2 For service of documents, see r 19 (Who serves documents?), r 20 (Personal service) and r 21 (Personal service by post).

- (6) The registrar must give a sealed copy of the third-party notice to each other party in the proceedings.
- (7) A third-party application starts on the day that the third-party notice is lodged.
- (8) A third party is a party to the proceeding for the purpose of the Act and these rules.

115 Responding to a third-party notice

- (1) A third party may lodge a response to the third-party notice by—
- (a) lodging the approved form; or
 - (b) telling the tribunal, in writing, about the response to the third-party claim.

Note A Response to Third Party Notice - Civil Dispute is an approved form.

- (2) A response to a third-party notice must be lodged no later than—
- (a) 21 days after the third-party notice is served; or
 - (b) another time ordered by the tribunal.

- (3) A response to a third-party notice must be—
- (a) signed and dated; and
 - (b) lodged.

Note The original response to a Third-Party Notice - Civil Dispute only is required to be lodged. No copies are required. However, the registrar may require copies to be lodged if, for example, there is more than 1 applicant or respondent.

- (4) The registrar must seal a lodged response to a third-party notice.
- (5) A sealed copy of the response to a third-party notice must be served on all the other parties named in the application by ordinary service.

Subdivision 3.2.1.5 Ending proceedings

Note Rule 67 (Discontinuing proceedings), r 68 (Costs of discontinued proceedings) and r 69 (Lapse of proceedings) apply.

116 Default judgment

- (1) This rule applies if a respondent to a civil dispute application—
- (a) has been served with the application; and
 - (b) either—
 - (i) has not lodged a response; or
 - (ii) has lodged a response but has withdrawn it by written notice.
- (2) This rule does not apply to—
- (a) a nuisance application; or

(b) a trespass application.

(3) An applicant in the civil dispute application may apply for default judgment against the respondent—

(a) after the time for lodging a response under rule 107 has expired; but

(b) no later than 1 year and 21 days after the day the civil dispute application was served on the respondent.

Note 1 Rule 106 (Form of response) requires a response to be lodged within 21 days after service of the civil dispute application.

Note 2 For calculating periods of time, see the [Legislation Act](#), s 151 and s 151A.

(4) An application for default judgment must be lodged using the approved form.

Note An Application for Default Judgment - Civil Dispute is an approved form.

(5) On application under subrule (3) the registrar may—

(a) if an amount of money claimed is stated on the application for default judgment—enter default judgment in the amount stated; or

(b) if an amount of money claimed is not stated on the application for default judgment—enter default judgment and list the proceedings for damages to be assessed or other orders; or

(c) take any action that the registrar considers appropriate.

(6) If default judgment is entered against a respondent under subrule (5) (a), the registrar must—

(a) give a sealed copy of the default judgment to each party; and

(b) tell the respondent that they can apply to set aside an order under rule 70.

- (7) If default judgment is entered and the proceeding is listed under subrule (5) (b), the registrar must—
- (a) give a sealed copy of the default judgment to each party; and
 - (b) tell the parties the date the proceeding is listed for assessment or other orders; and
 - (c) tell the respondent that they can apply to set aside an order under rule 70.

Note 1 The [Act](#), s 59 (Tribunal to record details of order and give copy to parties) applies.

Note 2 Rule 70 (Setting aside final orders without appeal) applies.

Note 3 The registrar must set aside default judgment if an envelope containing an application is returned undelivered (see r 21 (3) (Personal service by post)).

Division 3.2.2 Fence disputes

117 Definitions—div 3.2.2

In this division:

common boundaries determination—see the [Act](#), section 15.

fence dispute application means a common boundaries determination.

fence notice means a notice asking an occupier to discuss a fence under the [Common Boundaries Act 1981](#), section 4 (3) (a), section 5 (3) (a) or section 6 (4) (a).

118 Application—div 3.2.2

- (1) The rules in this division apply to fence dispute applications.
- (2) If the rules in this division are inconsistent with the rules in chapter 2 (General rules), the rules in this division apply to the extent of the inconsistency.

Note For the application of these rules, see r 5.

119 Starting proceedings—fence dispute applications

- (1) A fence dispute application must—
 - (a) be made using the approved form; and
 - (b) enable an occupier of land adjoining the fence or proposed fence to be identified; and
 - (c) enable the land the subject of the dispute to be identified; and
 - (d) set out or attach—
 - (i) the orders sought; and
 - (ii) the grounds relied on; and
 - (iii) any other document or information required by these rules; and
 - (e) be signed and dated; and
 - (f) be lodged with at least 2 copies; and
 - (g) be accompanied by the determined fee, or a request about fees; and

(h) be accompanied by any other document required by the Act, these rules or the *Common Boundaries Act 1981*.

Note 1 A Fence Dispute Application is an approved form.

Note 2 Approved forms are available on the tribunal website www.acat.act.gov.au, from the registry or from the ACT Legislation Register.

Note 3 For urgent applications see r 62 (Interim and other orders).

Note 4 For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

Note 5 The registrar may require additional copies to be lodged if, for example, there is more than 1 applicant or respondent.

Note 6 A fee may be determined under the *Court Procedures Act 2004*, s 13 for proceedings in the tribunal and is payable in advance under that Act, s 14 (1).

Note 7 A Request for Exemption from Paying Fees form and a Request about Payment of Fees form is available on the tribunal website www.acat.act.gov.au or from the registry.

(2) A document mentioned in column 3 for an item in table 119 must be attached to an application mentioned in column 2 for the item.

(3) Information mentioned in column 4 for an item in table 119 must be provided with an application mentioned in column 2 for the item.

Table 119

column 1 item	column 2 kind of fence dispute application	column 3 document to be attached	column 4 information to be provided
1	New fence determination <i>Common Boundaries Act 1981</i> , s 4	(1) A copy of the fence notice given to the other occupier; and (2) At least 1 quote, which is less than 12 months old, for the cost of the fence	The date the fence notice was given to the other occupier, and how the notice was given.

column 1 item	column 2 kind of fence dispute application	column 3 document to be attached	column 4 information to be provided
2	Repair determination <i>Common Boundaries Act 1981</i> , s 5	(1) A copy of the fence notice given to the other occupier; and (2) At least 1 quote, which is less than 12 months old, for the cost of the repair or replacement of the fence	The date the fence notice was given to the other occupier, and how the notice was given
3	Repair cost determination <i>Common Boundaries Act 1981</i> , s 6	(1) A copy of the fence notice given to the other occupier; and (2) At least 1 quote, which is less than 12 months old, for the cost of the repair or replacement of the fence	The date the fence notice was given to the other occupier, and how the notice was given
4	Unleased land determination <i>Common Boundaries Act 1981</i> , s 7	At least 1 quote, which is less than 12 months old, for the cost of the fence	
5	Variation of previous ACAT determination <i>Common Boundaries Act 1981</i> , s 14	The determination which is the subject of the application for variation	The date the determination which is the subject of the application for variation was made.

Note A template fence notice is available from the tribunal website www.acat.act.gov.au or from the registry.

- (4) The applicant must certify that—
- (a) the respondent's address provided in the fence dispute application is the most current address available to the applicant; and
 - (b) the applicant believes that service of documents to the respondent's address provided in the fence dispute application will most likely result in the respondent receiving them.
- (5) The registrar must personally serve a sealed copy of a fence dispute application on each respondent.

Note 1 The *Common Boundaries Act 1981*, s 18 (Service of documents) sets out how documents are required to be served on the occupier of a parcel of land. Section 18 (1) (c) of that Act provides for service by sending the documents by post addressed to the occupier at the occupier's address last known to the person sending the document or at the parcel of land. For service otherwise, see pt 2.2 (Service).

Note 2 For service of applications, see r 19 (Who serves documents?), r 20 (Personal service) and r 21 (Personal service by post).

Note 3 After a fence dispute application is lodged, the application is usually listed for a preliminary conference. For preliminary conferences, see pt 2.6 (Preliminary conferences and mediation).

120 Response to fence dispute application not required

A respondent to a fence dispute application is not required to lodge a response to the application unless directed by the tribunal.

Part 3.3 Applications under the Guardianship and Management of Property Act 1991

121 Application—pt 3.3

- (1) The rules in this part apply to applications under the *Guardianship and Management of Property Act 1991*.
- (2) If the rules in this part are inconsistent with the rules in chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

Note For the application of these rules, see r 5.

122 Application to appoint guardian or manager

- (1) An application for the appointment of a guardian or manager of a person (the *protected person*) under the *Guardianship and Management of Property Act 1991* must—
 - (a) be made using the approved form; and
 - (b) attach—
 - (i) copies of any reports available to the applicant by a health professional, social worker or other professional person relating to the application; and
 - (ii) a statutory declaration made by each person who is proposed to be appointed as a guardian or manager of the protected person, informing the tribunal of the matters set out in the *Guardianship and Management of Property Act 1991*, section 10 (2); and
 - (iii) a written consent to appointment by each person who is proposed to be appointed as a guardian or manager of the protected person; and

- (iv) for an application for the appointment of a manager—a statutory declaration informing the tribunal about the income, assets and debts of the protected person (the *protected person's property*); and
 - (c) be signed and dated; and
 - (d) be lodged.
- (2) Subrule (1) (b) (ii) and (iii) does not apply if the applicant seeks the appointment of the Public Trustee and Guardian as a guardian or manager.
- Note 1* An Application Under the *Guardianship and Management of Property Act 1991* is an approved form.
- Note 2* A Statutory Declaration for the Appointment of a Guardian and/or Manager is an approved form.
- Note 3* A Statutory Declaration - Statement of Protected Person's Property is an approved form.
- (3) The registrar must seal a lodged application.
- (4) The registrar must serve a sealed copy of the application on the respondent—
- (a) by personal service; or
 - (b) by email.
- Note 1* For personal service, see r 20 (Personal service).
- Note 2* Other people are also required to be notified about the hearing of the application (see *Guardianship and Management of Property Act 1991*, s 72A).
- (5) The respondent is not required to lodge a response to the application unless directed by the tribunal.

Part 3.4 Applications under the Mental Health Act 2015

123 Application—pt 3.4

- (1) The rules in this part apply to applications under the *Mental Health Act 2015*.
- (2) If the rules in this part are inconsistent with the rules in chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

Note For the application of these rules, see r 5.

124 Lodgment of application

- (1) An application under the *Mental Health Act 2015* may be lodged—
 - (a) in person; or
 - (b) by post; or
 - (c) by email; or
 - (d) by fax.
- (2) If an application is lodged by email, the application must be lodged by emailing it to acatmentalhealth@act.gov.au.

Part 3.5 Applications for review of administrative decisions

125 Application—pt 3.5

- (1) The rules in this part apply to an application for the review of an administrative decision, including an application for review of a decision about occupational regulation.
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

Note 1 The [Act](#), pt 4A (Administrative review) and div 6.3 (Powers and decisions in applications for administrative review) apply to applications for review of administrative decisions.

Note 2 For rules about applications for occupational discipline, see pt 3.6.

Note 3 For the application of these rules, see r 5.

126 Application for review—starting proceedings

- (1) An application for review of an administrative decision must—
 - (a) be made using the approved form; and
 - (b) attach, if available, a copy of—
 - (i) the reviewable decision notice in relation to the decision; and
 - (ii) the reasons for the decision; and
 - (c) be signed and dated; and
 - (d) be lodged within the prescribed time; and

(e) be accompanied by the determined fee or a request about fees.

Note 1 An Application for Review of a Decision is an approved form.

Note 2 The [Act](#), s 10 (2) and some authorising laws impose time limits for making an application for review of a decision. The time period may be extended in some but not all cases (see r 38 (Extension of time for making application)).

Note 3 Part 2.1 (Documents) set out the requirements for forms, lodging documents and serving documents. Part 2.4 (Starting proceedings) sets out the requirements for applications to start proceedings and extensions of time.

Note 4 A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), section 39.

Note 5 Under the [Act](#), s 38 (Hearings usually in public) an application must be heard in public unless the tribunal makes an order under the [Act](#), s 39 (Hearings in private or partly in private). To apply for a hearing in private or partly in private, see r 62 (Interim or other orders).

(2) An application for review of an administrative decision may be lodged—

(a) in person; or

(b) by post; or

(c) by email.

Note 1 Part 2.1 (Documents) sets out how to lodge documents.

Note 2 To lodge by email, documents must be sent to tribunal@act.gov.au.

Note 3 The application for review only is required to be lodged. No copies are required. However, the registrar may require copies to be lodged if, for example, there is more than 1 applicant or respondent.

(3) The registrar must seal a lodged application.

- (4) The registrar must serve a sealed copy of the application on each respondent—
- (a) by personal service; or
 - (b) by email.

Note For personal service, see r 20 (Personal service).

127 Responding to an application for review

- (1) The respondent to an application for review of an administrative decision is not required to lodge a response to the application.
- (2) Within 7 days of receiving an application for review of an administrative decision, the respondent must—
- (a) lodge a Notice of New Contact or Representation Details; and
 - (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

Note A Notice of New Contact or Representation Details is an approved form.

128 Notifying interested people

- (1) Within 7 days of receiving an application for review of an administrative decision, the respondent must give each interested person a copy of—
- (a) the lodged and sealed application; and
 - (b) this rule and rule 131 (Application to be joined as party); and
 - (c) any notice of listing.

(2) In this rule:

interested person means a person or entity reasonably able to be identified by the respondent who is—

- (a) a person or entity (other than the applicant) entitled to apply for review of the administrative decision the subject of the proceeding; or
- (b) a person or entity who may be joined as a party to the proceeding under the [Act](#), section 29 (Parties to applications).

129 Reasons for decision

- (1) Within 14 days of receiving an application for review of an administrative decision, the respondent must serve on the applicant a statement of reasons for the reviewable decision which—
- (a) sets out the findings on material questions of fact; and
 - (b) refers to the evidence or other material on which those findings are based; and
 - (c) identifies the relevant law; and
 - (d) gives the reasons for the decision.

Note The [Act](#), div 4A.2 (Reasons statements) also relates to reasons statements.

- (2) Unless the tribunal orders otherwise, the respondent must also lodge 2 copies of the statement of reasons for the reviewable decision.

130 Tribunal documents

- (1) Subject to subrules (4) and (5), within 14 days of receiving an application for review of an administrative decision, the respondent must serve on the applicant a copy of every document or part of a document in the respondent's possession or control that the respondent considers to be relevant to the review of the decision by the tribunal (the *tribunal documents*).

- (2) Unless the tribunal orders otherwise, the respondent must also lodge 2 copies of the tribunal documents.
- (3) If the number of tribunal documents is excessive, the respondent may ask the tribunal for permission to lodge and serve the tribunal documents in electronic form.

Note The tribunal may subsequently direct the respondent to provide additional hard or electronic copies of the tribunal documents.

- (4) If the respondent objects to giving part or some or all of the tribunal documents to the applicant, the respondent must, within 14 days of receiving the application for review of an administrative decision—
 - (a) lodge an application seeking orders—
 - (i) to dispense with or vary the requirements of subrule (1); and
 - (ii) that any un-redacted copies of the tribunal documents are suppressed under the [Act](#), section 39 (Hearings in private or partly in private); and
 - (b) include in the application a statement setting out the reasons why the respondent objects to giving part or some or all of the tribunal documents to the applicant; and
 - (c) if the objection is in relation to part of the documents—
 - (i) give the applicant a copy of the tribunal documents with the parts objected to redacted; and
 - (ii) lodge a redacted and an un-redacted copy of the tribunal documents; and
 - (d) if the objection is in relation to some or all of the documents—
 - (i) give the applicant the documents to which the objection does not apply; and

- (ii) lodge a copy of the tribunal documents.

Note An application may be made using the approved form Application for Interim or Other Orders - General. For interim and other orders, see r 62 (Interim and other orders).

- (5) If the respondent objects to giving part or some or all of the tribunal documents to both the applicant and the tribunal, the respondent must, within 14 days of receiving the application for review—
 - (a) lodge an application seeking orders to dispense with or vary the requirements of subrule (1); and
 - (b) include in the application a statement setting out the reasons why the respondent objects to giving part or some or all of the tribunal documents to the applicant and the tribunal; and
 - (c) if the objection is in relation to part of the documents—
 - (i) give the applicant a copy of the tribunal documents with the parts objected to redacted; and
 - (ii) lodge a redacted copy of the tribunal documents; and
 - (d) if the objection is in relation to some or all of the documents—
 - (i) give the applicant the tribunal documents to which the objection does not apply; and
 - (ii) lodge a copy of the tribunal documents to which the objection does not apply.

Note An application may be made using the approved form Application for Interim or Other Orders - General. For interim and other orders, see r 62 (Interim and other orders).

131 Application to be joined as party

- (1) A person who wishes to be joined as a party to a proceeding must apply within 14 days of becoming aware of the application for review of an administrative decision, or another time that the tribunal allows.
- (2) An application to be joined as a party must be made using the approved form.

Note 1 The [Act](#), s 29 (5) allows the tribunal to join a person as a new party to the application if the person has an interest in the application.

Note 2 The tribunal may extend the time for making an application to be joined as a party.

Note 3 An Application for Order to be Joined as a Party is an approved form.

- (3) If the tribunal makes an order joining a person as a party to the application for review of an administrative decision, the respondent must, within 7 days of the order or another time directed by the tribunal, give the person a copy of—
 - (a) the respondent’s lodged Notice of New Contact or Representation Details ; and
 - (b) the statement of reasons for the reviewable decision; and
 - (c) the tribunal documents.

Note A Notice of New Contact or Representation Details is an approved form.

- (4) In this rule:

tribunal documents—see rule 131.

132 Exercise of powers by respondent in relation to reviewable decision after proceeding started

- (1) The lodging of an application for review of an administrative decision does not prevent the respondent from exercising any power it has to vary, amend, reverse, set aside, substitute or otherwise alter the decision under review (the *altered decision*).

- (2) If the respondent alters the decision under review it must, within 7 days of the alteration, notify the tribunal and each other party of the altered decision and the reasons for the alteration.
- (3) If a reviewable decision is altered after an application for review of the decision has been lodged, the applicant may—
- (a) ask the tribunal for an order that the proceeding continues in relation to the altered decision; or
 - (b) discontinue the application for review.
- Note* For rules about discontinuing proceedings, see r 67.
- (4) If a request is made under subrule (3) (a), and the effect of the alteration is that the original decision continues as altered, the tribunal may review the altered decision in the proceeding.
- (5) Subrule (6) applies if—
- (a) a request is made under subrule (3) (a); and
 - (b) the tribunal is satisfied that—
 - (i) the effect of the alteration is that the original administrative decision is no longer in operation; and
 - (ii) the altered decision is a new reviewable decision; and
 - (iii) it is appropriate to proceed under subrule (6).
- (6) The tribunal—
- (a) may direct that—
 - (i) the request is treated as an application for review of the altered decision; and
 - (ii) the date of lodgment is the date of the applicant's request; and

- (iii) documents filed in relation to the application for review of the original administrative decision are taken to be filed in relation to the application for review of the altered decision; and
 - (iv) any directions made in relation to the application for review of the original administrative decision apply to the application for review of the altered decision; and
- (b) may make further directions and review the altered decision as it considers appropriate.

Part 3.6 Applications for occupational discipline

133 Application—pt 3.6

- (1) The rules in this part apply to applications under an authorising law for occupational discipline.
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

Note 1 Part 3.5 (Applications for review of administrative decisions) applies to an application for review of a decision about occupational regulation.

Note 2 The [Act](#), div 6.2 (Powers and decisions in applications for occupational discipline) applies.

Note 3 For the application of these rules, see r 5.

134 Application for occupational discipline—starting proceedings

- (1) An application for occupational discipline must be—
 - (a) made using the approved form; and
 - (b) signed and dated; and
 - (c) lodged; and

(d) accompanied by the determined fee or a request about fees.

Note 1 An Application for Disciplinary Action is an approved form.

Note 2 Approved forms are available on the tribunal website www.acat.act.gov.au, from the registry or from the ACT Legislation Register www.legislation.act.gov.au.

Note 3 Part 2.1 (Documents) sets out requirements for forms.

Note 4 A fee may be determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that *Act*, s 14 (1).

Note 5 A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the *Act*, section 39.

(2) The application for disciplinary action may be lodged—

(a) in person; or

(b) by post; or

(c) by email.

Note 1 Part 2.1 (Documents) sets out how to lodge documents.

Note 2 To lodge by email, documents should be sent to tribunal@act.gov.au.

Note 3 The original application for review only is required to be lodged. No copies are required. However, the registrar may require copies to be lodged if, for example, there is more than 1 applicant or respondent.

(3) The applicant must personally serve a sealed copy of the application on each respondent.

(4) However, the application must not be served by post.

Note 1 For service of applications, see r 19 (Who serves documents?), r 20 (Personal service) and r 21 (Personal service by post).

Note 2 The applicant must give the tribunal proof of service of the application (see r 28).

135 Responding to application for occupational discipline

- (1) The respondent is not required to lodge a response to an application for occupational discipline until directed by the tribunal.
- (2) Within 7 days of being served with the application, the respondent must—
 - (a) lodge a Notice of New Contact or Representation Details; and
 - (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 Under r 37 (Responding to an application) the registrar must serve a sealed copy of the response upon the applicant.

Note 3 Division 2.5.2 (Authorised representatives) applies.

Note 4 For service of a response to an application, see r 19 (2).

136 Application for occupational discipline—Legal Profession Act 2006

- (1) This rule applies to an application for occupational discipline under the *Legal Profession Act 2006*.
- (2) Apart from the respondent's details on the first page of the application, the application, and all other documents lodged for the application, must—
 - (a) if the respondent is a legal practitioner—refer to the respondent as '*the legal practitioner*' and not by name; or
 - (b) if the respondent is an employee of a legal practitioner—refer to the respondent as '*the employee*' and not by name.

Note The *Legal Profession Act 2006*, s 423A (Restriction on publication of certain identifying material from application) applies. The name of the legal practitioner or employee must not be disclosed until the conclusion of any appeal processes.

- (3) Evidence in the application must be given by affidavit unless the tribunal orders otherwise.
- (4) Within 7 days of lodging an application for occupational discipline, the applicant must give each interested person a copy of—
 - (a) this rule and rule 131 (Application to be joined as party); and
 - (b) any notice of listing.
- (5) A person who wishes to be joined as a party to an application for occupational discipline must apply within 14 days of becoming aware of the application, or another time that the tribunal allows.
- (6) An application to be joined as a party must be made using the approved form.

Note 1 The [Act](#), s 29 (5) allows the tribunal to join a person as a new party to the application if the person has an interest in the application.

Note 2 The tribunal may extend the time for making an application to be joined as a party.

Note 3 An Application for Order to be Joined as a Party is an approved form.

- (7) If the tribunal makes an order joining a person as a party to the application for occupational discipline, the applicant must, within 7 days of the order or another time directed by the tribunal, give the person a copy of the sealed application.
- (8) In this rule:

interested person means a person or entity reasonably able to be identified by the respondent who is a person or entity who may be joined as a party to the proceeding under the [Act](#), section 29 (Parties to applications).

Note The [Legal Profession Act 2006](#), s 423 (Parties to application) and s 432 (Notice to complainant of application and decision) apply.

Part 3.7 Referral of discrimination complaints

137 Definitions—pt 3.7

In this part:

applicant includes a complainant.

application includes an application under rule 140 and a referral under the *Human Rights Commission Act 2005*, section 53A.

complainant—see the *Human Rights Commission Act 2005*, dictionary.

Note The *Human Rights Commission Act 2005*, dictionary defines *complainant* as—

- (a) in relation to a complaint—the person who made the complaint; but
- (b) in relation to a commission-initiated consideration under s 48 (2)—the commission and not the person who made the complaint.

respondent means a person complained about.

138 Application—pt 3.7

- (1) The rules in this part apply to discrimination complaints referred to the tribunal under the *Human Rights Commission Act 2005*, division 4.2A (Discrimination complaints to ACAT).
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

Note For the application of these rules, see r 5.

139 Complaint referred under Human Rights Commission Act 2005, s 53A

Note There is no application form for the referral of a discrimination complaint under the *Human Rights Commission Act 2005*, s 53A (see r 35 (4) (Applications to start proceedings)).

- (1) This rule applies if a discrimination complaint is referred to the tribunal under the *Human Rights Commission Act 2005*, section 53A.
- (2) The Human Rights Commission must give the tribunal a copy of the discrimination complaint.
- (3) The registrar must serve a sealed copy of the discrimination complaint and the referral on the parties—
 - (a) by personal service; or
 - (b) by email to the email address provided by the Human Rights Commission for the party.
- (4) Within 7 days of receiving notice from the tribunal that the discrimination complaint has been referred, the applicant must—
 - (a) lodge a Notice of New Contact or Representation Details; and
 - (b) give a copy of the Notice of New Contact or Representation Details to the respondent.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 A referred discrimination complaint is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), section 39.

140 Late application under Human Rights Commission Act 2005, s 53B—starting proceeding

- (1) An application under the *Human Rights Commission Act 2005*, section 53B (Late application in exceptional circumstances) (a *late application*) must—
- (a) be made using the approved form; and
 - (b) attach—
 - (i) the discrimination referral statement under the *Human Rights Commission Act 2005*, section 45 (2) (d); or
 - (ii) the statement under the *Human Rights Commission Act 2005*, section 82 (1) included in a final report; and
 - (c) state the date that the statement was received; and
 - (d) set out the exceptional circumstances that prevented the complainant from requiring the complaint to be referred to the tribunal within the 60-day period; and
 - (e) be signed and dated; and
 - (f) be lodged.

Note 1 A Late Application for Discrimination Commission Complaint to be Heard is an approved form.

Note 2 Approved forms are available on the tribunal website www.acat.act.gov.au, from the registry or the ACT Legislation Register www.legislation.act.gov.au.

Note 3 There is no fee for a late application for a discrimination commission complaint to be heard.

Note 4 A referred discrimination complaint is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the *Act*, section 39.

(2) A late application may be lodged—

- (a) in person; or
- (b) by post; or
- (c) by email.

Note 1 Part 2.1 (Documents) sets out how to lodge documents.

Note 2 To lodge by email, documents must be sent to tribunal@act.gov.au.

Note 3 The original application only is required to be lodged. No copies are required.

(3) The registrar must serve a sealed copy of the late application on the parties—

- (a) by personal service; or
- (b) by email to the email address provided for the party in the application.

(4) If the tribunal grants an application under the [Human Rights Commission Act 2005](#), section 53B (Late application in exceptional circumstances), the applicant must, within 7 days of receiving notice from the tribunal that the proceeding has been started—

- (a) lodge a Notice of New Contact or Representation Details; and
- (b) give a copy of the Notice of New Contact or Representation Details to the respondent.

Note A Notice of New Contact or Representation Details is an approved form.

141 Response to proceeding

- (1) The respondent is not required to lodge a response to a referral or an application under this part unless directed by the tribunal.
- (2) Within 7 days of being served with the referral or application, the respondent to the referral or application must—
 - (a) lodge a Notice of New Contact or Representation Details; and
 - (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

Note 1 A Notice of New Contact or Representation Details is an approved form.

Note 2 The respondent is not required to lodge a response until directed by the tribunal.

Note 3 For service of a response to an application, see r 19 (2).

Dictionary

(see r 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to these rules.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- corporation
- document
- entity
- in relation to
- may (see s 146)
- must (see s 146).

Note 3 Terms used in these rules have the same meaning that they have in the [ACT Civil and Administrative Tribunal Act 2008](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [ACT Civil and Administrative Tribunal Act 2008](#), dict:

- appeal tribunal
- authorising law
- civil dispute (see s 16)
- occupational discipline
- registrar
- tribunal.

Act means the [ACT Civil and Administrative Tribunal Act 2008](#).

addressee, for part 2.8 (Subpoenas)—see rule 72.

amendment, for part 2.3 (Amendments)—see rule 31.

applicant, for part 3.7 (Referral of discrimination complaints)—see rule 137.

application—

- (a) means an application under the [Act](#), section 10; and
- (b) includes the following:
 - (i) a referral under an authorising law;
 - (ii) a counterclaim;
 - (iii) an application for appeal under the [Act](#), section 79; and
- (c) for part 3.7 (Referral of discrimination complaints)—see rule 137.

Australian legal practitioner means an Australian lawyer who holds a local practising certificate or interstate practising certificate.

authorised representative means a person authorised to represent a party under rule 41 (Appointing an authorised representative).

by email, for lodgment of documents—see rule 12.

by fax, for lodgment of documents—see rule 12.

by post, for lodgment of documents—see rule 12.

common boundaries determination, for division 3.2.2 (Fence disputes)—see rule 117.

complainant, for part 3.7 (Referral of discrimination complaints)—see rule 137.

conduct money, for part 2.8 (Subpoenas)—see rule 72.

contractual interest, for division 3.2.1 (Civil disputes (other than fence disputes))—see rule 98.

enforcement expenses, for division 3.2.1 (Civil disputes (other than fence disputes))—see rule 98.

fence dispute application, for division 3.2.2 (Fence disputes)—see rule 117.

- fence notice**, for division 3.2.2 (Fence disputes)—see rule 117.
- in person**, for lodgment of documents—see rule 12.
- interstate practising certificate**—see the [Legal Profession Act 2006](#), dictionary.
- issuing party**, for part 2.8 (Subpoenas)—see rule 72.
- last day for service**, for part 2.8 (Subpoenas)—see rule 72.
- litigation guardian**—see rule 48.
- local practising certificate**—see the [Legal Profession Act 2006](#), dictionary.
- online**, for lodgment of documents—see rule 12.
- original application**—see the [Act](#), section 79.
- personal service**, of a document on a person—see rule 20.
- person with a legal disability**—see rule 46.
- practice note** means a practice note issued under rule 7.
- procedural requirements**—see rule 58.
- request about fees** means a request to waive, remit or defer a fee, or for exemption from paying a fee, under the [Court Procedures Act 2004](#), section 15.
- respondent**, for part 3.7 (Referral of discrimination complaints)—see rule 137.
- return date**, for part 2.8 (Subpoenas)—see rule 72.
- signed**, by a person, means—
- (a) for a document lodged or served electronically—the name of the person written in the place where the person’s signature is required; and
 - (b) in any other case—the person’s signature.

subpoena to attend, for part 2.8 (Subpoenas)—see rule 72.

subpoena to produce, for part 2.8 (Subpoenas)—see rule 72.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

ACT Civil and Administrative Tribunal Procedures Rules 2020 NI2020-64

notified LR 31 January 2020

r 1, r 2 commenced 31 January 2020 (LA s 75 (1))

remainder commenced 3 February 2020 (r 2)

4 Amendment history

Commencement

r 2 om LA s 89 (4)

Repeals

ch 4 hdg om LA s 89 (3)

Legislation repealed

r 142 om LA s 89 (3)

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