

**SUPREME COURT
OF THE
NORTHERN TERRITORY OF AUSTRALIA**

**PRACTICE DIRECTION
NO 4 of 2004**

Pursuant to Rule 48.28 and for the purpose of considering the practicality of changing Order 48, it is directed that the following new procedure is to apply to all matters commenced after the date of this direction.

The period during which the direction is to apply is 12 months after the date of commencement.

Note: This Practice Direction has been [extended](#) and will expire on 31 December 2020.

There is substituted for Rule 48.06(1)(d) the following:

- “(d) if the originating process has been served and an appearance has been entered -
- (i) consider whether the order referred to R 48.02(2) ought to be made and, if appropriate, make such an order;
 - (ii) determine whether a defence has been filed and served and, if not, to give such directions in that regard as the Master thinks fit.”

There is substituted for Rules 48.07, 48.08, 48.16, 48.17 and 48.18 the following which is hereafter referred to as the “the litigation plan” -

1. The Master or a Judge may dispense with the whole or any part of the litigation plan and restore the same at any time as he thinks fit.
2. If the Master or a Judge dispenses with the whole of the litigation plan then the rules for which the litigation plan is substituted shall be revived.
3. In the litigation plan Master includes Registrar.

LITIGATION PLAN

1. One month after pleadings have closed each party shall file and serve on each other party to a proceeding a **litigation plan** which shall state:
 - 1.1 what the party contends are the primary legal and factual issues and which of those issues, if any, are capable of being agreed;
 - 1.2 what the party contends is the necessary evidence to prove his or her or its case;
 - 1.3 what the party contends are the outstanding and required interlocutory steps to be completed prior to the proceeding being ready for trial;
 - 1.4 what the party contends is a possible timetable for the completion of all outstanding steps prior to trial;
 - 1.5 the numbers of witnesses the party has spoken to as at the date of filing the litigation plan;
 - 1.6 how many proofs of evidence the party has obtained as at the date of filing the litigation plan;
 - 1.7 how many more witnesses the party needs to contact and obtain statements from prior to trial;
 - 1.8 the date by which it is anticipated all necessary proofs of evidence will be obtained and reasons for time required to obtain such proofs of evidence;
 - 1.9 the number of expert witnesses that are likely to be called at trial, the field of expertise and what expert reports have been obtained;
 - 1.10 what steps can be taken to shorten the duration of the proceeding;
 - 1.11 the date when the proceeding is likely to be ready for trial and why such time is necessary to get the matter ready for trial;
 - 1.12 what attempts have been made to settle the proceeding;
 - 1.13 the names of the legal practitioners who have the conduct of the proceeding;
 - 1.14 how many counsel will be briefed;
 - 1.15 a preliminary list of documents that are likely to be tendered in evidence at trial by agreement or otherwise. The list should identify the issues in the proceeding to which the documents relate;
 - 1.16 what directions are required;
 - 1.17 what aspects of the proceeding may be appropriate for separate determination or for mediation;

- 1.18 that the party has been given an estimate as to costs incurred to date and the costs likely to be incurred in the resolution of the proceeding.

The litigation plan shall be signed by the solicitor who has the conduct of the proceeding, and, if the solicitor who has the conduct of the proceeding is not a partner in the firm representing the party, a partner.

2. The Master shall arrange a directions hearing to take place six weeks after pleadings have closed.
3. At the directions hearing the Master shall:
 - 3.1 examine the parties legal representatives as to their litigation plans and the progress of the proceeding;
 - 3.2 make whatever directions are necessary; and
 - 3.3 list the proceeding for trial at a sittings.
4. There will be four sittings a year presided over by two Judges. There may be more proceedings listed than can be heard during a sittings in the anticipation that some will not proceed.
5. There will be a call over by a Judge two months before a sittings is due to commence. The Judge will allocate dates for hearing and make whatever directions that are necessary.
6. This direction will commence on 1 January 2005.
7. Proceedings commenced prior to the date for commencement of this direction will be listed for trial at a sittings.

Chief Justice
13 October 2004