



NORTHERN TERRITORY OF AUSTRALIA

Protocol for judicial appointments and appointment as President or Deputy President of the Northern Territory Civil and Administrative Tribunal

1. This Protocol applies to the making of the following appointments:
 - a Judge of the Supreme Court under s 32(1)(d) of the *Supreme Court Act*;
 - the Chief Justice of the Supreme Court under s 32(1)(c) of that Act;
 - an additional Judge of the Supreme Court under s 32(1)(e) of that Act;
 - an acting Judge of the Supreme Court under s 32(2) of that Act;
 - a Chief Judge, Deputy Chief Judge or Judge of the Local Court under s 53(1) of the *Local Court Act*;
 - an acting Judge of the Local Court under s 60(1) of that Act;
 - the President of the Northern Territory Civil and Administrative Tribunal (“the Tribunal”) under s 13(1) of the *Northern Territory Civil and Administrative Tribunal Act 2014*; and
 - a Deputy President of the Tribunal under s 15(2) of that Act.

Appointment of a Judge of the Supreme Court

2. If the Attorney-General proposes to recommend to Cabinet the making of an appointment of a Judge of the Supreme Court, the Attorney-General will appoint an Advisory Panel to perform the function specified in this Protocol in relation to the proposed appointment.

3. The Advisory Panel will be chaired by a former Judge of the Supreme Court of the Northern Territory, or a former Judge of the Supreme Court of a State or Territory or of the Federal Court, who preferably has had experience in the Northern Territory, and who has not been retired for more than seven years.
4. The other members of the Advisory Panel will be the Solicitor-General for the Northern Territory and the Chief Executive Officer of the Department of the Attorney-General and Justice. If the Solicitor-General is unable to participate as a member of the Advisory Panel, his or her place on the Panel should be filled by the Director of Public Prosecutions.
5. The function of the Advisory Panel is to provide a written recommendation to the Attorney-General identifying those persons suitable for appointment, having regard only to considerations of merit. The recommendation to the Attorney-General will identify with brief reasons why those persons are suitable for appointment.
6. The Advisory Panel will recommend to the Attorney-General not less than two persons suitable for appointment.
7. It is not necessary to advertise for expressions of interest by persons interested in being appointed.
8. In its recommendation to the Attorney-General, the Advisory Panel may indicate, but is not obliged to indicate, whether a particular person or particular persons among those suitable for appointment is or are to be preferred. In that event the Panel will provide brief reasons for that preference.

9. Before providing its recommendation to the Attorney-General the Advisory Panel will consult with the following office holders:
 - the Chief Justice;
 - the President of the Northern Territory Bar Association; and
 - the President of the Law Society of the Northern Territory.

10. The consultation with those office holders should involve a face to face meeting. Adequate time should be given to the office holders to prepare for the consultation. The office holders will be invited to comment on those persons under consideration by the Advisory Panel, and will be invited to raise for consideration other persons who might merit appointment.

11. Before the consultation takes place, the President of the Bar Association and the President of the Law Society should consult with specialist and other groups within the legal profession. They should include in their discussion with the Advisory Panel such information as they have acquired that they consider relevant to suitability for appointment.

12. If the Chief Justice expresses an objection to the proposed recommendation of a particular person, the Advisory Panel will communicate that objection in its recommendation to the Attorney-General.

13. After receiving the recommendation of the Advisory Panel, the Attorney-General may meet with the Panel to discuss its recommendation. In that discussion the Attorney-General may seek further details in relation to the persons recommended as suitable for appointment.

14. The recommendation from the Advisory Panel to the Attorney-General will be provided by the Attorney-General to members of Cabinet, before the proposed appointment is considered by Cabinet.
15. The Attorney-General and other members of Cabinet may consult other persons relating to the Advisory Panel's recommendation.
16. If Cabinet proposes to appoint a person not recommended by the Advisory Panel, that proposal should be referred to the Advisory Panel and the Chief Justice for consideration and comment before the appointment is made.
17. If the Attorney-General departs from this Protocol, the Attorney-General will inform Cabinet of that departure, and of its nature.
18. If Cabinet departs from this Protocol, that departure will be made public.

Appointment of Chief Justice

19. The process should be the same as for a Judge of the Supreme Court, except that the Advisory Panel should consult also with the outgoing Chief Justice, if he or she is available for consultation. That part of this Protocol dealing with Probity Checks does not apply to a serving Judge of the Supreme Court or a court of equal status.

Appointment of additional Judge and of acting Judge of the Supreme Court

20. If the Attorney-General proposes to recommend for appointment as additional Judge or acting Judge, a person who is a serving or former Judge of an Australian court, at least

equal in status to the Supreme Court, the process provided by this Protocol need not be followed in relation to that appointment.

21. However, in that event the Attorney-General should consult with the Chief Justice before recommending the appointment.
22. If the Attorney-General proposes to recommend the appointment of an additional Judge or acting Judge who does not hold or who has not held judicial office, the process should be the same as for the appointment of a permanent Judge.

Appointment of a Judge of the Local Court

23. Subject to what follows, the process followed for the appointment of a Judge of the Local Court will be the same as for the appointment of a Judge of the Supreme Court.
24. Expressions of interest will be invited by means of a public advertisement.
25. Before providing its recommendation to the Attorney-General the Advisory Panel will consult with the following office holders:
 - the Chief Justice;
 - the Chief Judge of the Local Court;
 - the President of the Law Society of the Northern Territory; and
 - the President of the Northern Territory Bar Association.
26. If the Chief Justice or Chief Judge of the Local Court expresses an objection to the proposed recommendation of a particular person, the Advisory Panel will communicate that objection in its recommendation to the Attorney-General.

27. If Cabinet proposes to appoint a person not recommended by the Advisory Panel, that proposal should be referred to the Advisory Panel, the Chief Justice and the Chief Judge of the Local Court for consideration and comment before the appointment is made.
28. The Advisory Panel will decide whether or not to interview persons who might be suitable for appointment. The recommendation from the Advisory Panel to the Attorney-General should indicate whether or not the Panel conducted interviews, and if so with whom.
29. The process of advertising for and receiving expressions of interest, collating them and arranging for interviews if they are to take place, should be conducted by the Department of the Attorney-General and Justice, in liaison with the chair of the Advisory Panel.

Appointment of Chief Judge or Deputy Chief Judge of the Local Court

30. The process for the appointment of a Chief Judge of the Local Court should be the same as for a Judge of the Local Court, except that the outgoing Chief Judge of the Local Court should be consulted, if he or she is available for consultation. That part of this Protocol dealing with Probity Checks does not apply to a serving Judge of the Local Court.
31. If the Attorney-General proposes to recommend a person who is a serving Judge of the Local Court for appointment as a Deputy Chief Judge of the Local Court, the process provided by this Protocol need not be followed in relation to that appointment.

32. However, in that event the Attorney-General should consult with the Chief Judge of the Local Court before recommending the appointment.
33. If the Attorney-General proposes to recommend a person who is not a serving Judge of the Local Court for appointment as a Deputy Chief Judge of the Local Court, the process should be the same as for the appointment of a Judge of the Local Court.

Acting Judges of the Local Court

34. If the Attorney-General proposes to appoint or recommend for appointment as an acting Judge of the Local Court a retired Judge of the Local Court or a former Judge of the Local Court who is otherwise no longer in full time employment, the process provided by this Protocol need not be followed in relation to that appointment.
35. However, in that event the Attorney-General should consult with the Chief Judge of the Local Court before recommending the appointment.
36. If the Attorney-General proposes to appoint or recommend the appointment of an acting Judge of the Local Court who is not a retired Judge of the Local Court or former Judge of the Local Court who is otherwise no longer in full time employment, the process should be the same as for the appointment of a Judge of the Local Court.

Appointment or Reappointment of President or Deputy President of the Northern Territory Civil and Administrative Tribunal

37. This Protocol does not apply if the person appointed as President or Deputy President of the Tribunal is a serving Judge of the Local Court, or if the person reappointed is a serving President or Deputy President of the Tribunal.

38. In any other case the process, subject to the provisions of the *Northern Territory Civil and Administrative Tribunal Act*, should be the same as for the appointment of a Judge of the Local Court.

Probity checks

39. A person under consideration for appointment to an office the subject of this Protocol must complete and submit the form of Questionnaire and Consent contained at Appendix 1 to this Protocol before the Advisory Panel recommends that person as suitable for appointment.

APPENDIX 1: QUESTIONNAIRE AND CONSENT

NORTHERN TERRITORY OF AUSTRALIA

STATUTORY DECLARATION

JUSTICE OF THE SUPREME COURT JUDGE OF THE LOCAL COURT PRESIDENT NTCAT DEPUTY PRESIDENT NTCAT (SEPARATE FORM TO BE USED FOR EACH OFFICE)	NORTHERN TERRITORY
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Persons seeking appointment are required to complete and sign this Declaration and Consent.

The information is sought to assist in assessing a person's suitability for nomination/appointment.

Please answer the following questions by circling the reply that applies to your personal circumstances.

If you answer "yes" to any question, please provide details in an attachment to this form. Please note that answering "yes" to any question does not necessarily preclude you from being appointed.

Your response will be treated as confidential and will only be used for purposes connected with this proposed appointment.

Please answer all of the questions. If there is insufficient space, please attach details.

1. Have you ever been charged with a criminal offence in any State or Territory of Australia? [If yes, provide full details by separate annexure.]	Yes / No
2. Do you have any disclosable criminal convictions, i.e. convictions as an adult that form part of your criminal history other than those protected by a Spent Convictions Scheme? [If yes, provide full details by separate annexure.]	Yes / No
3. Are you, or have you been, a party either as plaintiff/applicant or defendant/respondent in any civil or criminal court proceeding (including as a director or other office holder of a company that is or was a party to such a proceeding)? [If yes, provide full details by separate annexure.]	Yes / No

<p>4. (a) Have you ever been declared bankrupt, entered into a debt agreement under Part IX of the <i>Bankruptcy Act 1966</i> or entered into a personal insolvency agreement under Part X of the <i>Bankruptcy Act</i>? [If yes, provide full details by separate annexure.]</p> <p>(b) If you are in a partnership, have any of your partners ever been declared bankrupt, entered into a debt agreement under Part IX of the <i>Bankruptcy Act</i> or entered into a personal insolvency agreement under Part X of the <i>Bankruptcy Act</i>? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p> <p>Yes / No or N/A</p>
<p>5. Has any business or commercial enterprise for which you, or if applicable your partner(s), have had responsibility ever gone into receivership or a similar scheme or arrangement? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>
<p>6. During the last 10 years have you, or if applicable your partner(s), been the subject of a court order in connection with monies owing to another party? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>
<p>7. Have you ever been summonsed or charged concerning non-payment of tax or outstanding tax debts, investigated for tax evasion or defaults, or negotiated with the Australian Taxation Office over outstanding tax debts? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>
<p>8. Have you ever been the subject of a complaint to a professional body which has been concluded, or is currently under investigation? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>
<p>9. Have you ever been dismissed from employment because of a discipline or misconduct issue? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>
<p>10. Do you or your immediate family have any financial interest in any company or business, or are you or your immediate family employed or engaged by any company or business, which might have dealings with, or an interest in the decisions of, the office to which you may be appointed? [If yes, include advice in an attachment on how this conflict of interest would be managed.]</p>	<p>Yes / No</p>
<p>11. Are you aware of any physical or mental medical condition or illness which could impair your ability to discharge the duties of office? [If yes, provide full details by separate annexure.]</p>	<p>Yes / No</p>

Witnessed by:

.....
.....
.....
Name and contact details

.....
Signature

NOTE: This declaration may be witnessed by any person who is at least 18 (eighteen) years of age.

NOTE: This written statutory declaration must comply with Part 4 of the *Oaths, Affidavits and Declarations Act* (NT).

NOTE: Making a declaration knowing it is false in a material particular is an offence for which you may be fined or imprisoned.

THE NORTHERN TERRITORY OF AUSTRALIA

CONSENT

JUSTICE OF THE SUPREME COURT JUDGE OF THE LOCAL COURT PRESIDENT NTCAT DEPUTY PRESIDENT NTCAT (SEPARATE FORM TO BE USED FOR EACH OFFICE)	NORTHERN TERRITORY
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I.....

of

consent to:

1. a National Criminal History Check being conducted in relation to me;
2. the Law Society of the Northern Territory providing the records of any investigation into my professional conduct; and
3. the Law Society or Bar Association of any State or Territory in which I have practised as a solicitor or barrister or both providing such records.

I will provide a copy of a current Practising Certificate, and an Admission Certificate or a document evidencing my academic qualifications, if required.

Date:

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Signature