



The Supreme Court of the Northwest Territories

PRACTICE DIRECTION EXAMINATIONS FOR DISCOVERY

In order to make it easier for the Bar to conduct examinations for discovery, due to the short supply of available time from official court reporters, the Court will suspend the formal requirement of the Rules of Court that examinations be conducted before an official “examiner”. Rule 249 provides that an examination for discovery shall take place before an “examiner”. Rule 234 defines “examiner” as the Clerk or such other person as may be appointed by the Court. Rule 722 empowers official court reporters to act as examiners.

These rules are suspended for a period of 12 months to enable the use of private reporters or privately operated recording equipment. The following provisions will apply:

- (a) An examination may be held before any person agreed to by the parties.
- (b) Oaths and affirmations may be administered by any person authorized to do so. Pursuant to sections 65 and 66 of the *Evidence Act* (N.W.T.), this would include a barrister and solicitor, notary, and Commissioner for Oaths.
- (c) Objections may be stated on the record but rulings on objections will be made by a judge on application to the court.
- (d) The evidence may be recorded by a stenographer or in any manner that will enable the preparation of a typewritten transcript. This includes audio and video recording.
- (e) If a transcript is produced, it must be certified as being an accurate transcription by the person who prepared it.

These provisions will apply as well to cross-examinations on affidavits and examinations in aid of execution. All of the other requirements of the rules will continue to apply. Counsel are reminded that transcripts are not to be filed with the Court unless a party intends to rely on any part of it at the trial of the action or on a motion.

The judges of the Supreme Court will review these procedures after 12 months.

DATED this 25th day of January, 2000.

J.E. Richard, J.S.C.
Senior Judge