

GUIDE TO COMPLETING A FORM 3 ORDINARY APPLICATION

(Note: this guide applies to all NTCAT matters apart from adult guardianship matters.)

For all applications other than an Initiating Application, a party should file a Form 3 Ordinary Application.

Examples of when a Form 3 Ordinary Application should be filed include:

- applying for an order for substituted service;
- applying to re-open a proceeding;
- applying to adjourn a proceeding, such as a compulsory conference or hearing;
- seeking leave to withdraw a proceeding;
- seeking leave to appear by legal practitioner (in proceedings under the *Small Claims Act 2016*);
- seeking leave to appear by a person who is not a legal practitioner (in all NTCAT proceedings);
- seeking leave to appear by telephone in a proceeding;
- applying for an extension of time to comply with NTCAT orders;
- applying for a stay of an NTCAT order; or
- applying to substitute, add or remove a party to a proceeding.

This guide is provided to assist parties in completing a Form 3 Ordinary Application. It provides general information and should not be considered legal advice.

The information in *blue italics* is provided as general guidance about the different parts of the Form 3 Ordinary Application.

The information in *green* is provided as a fictitious example of the type of information that might be included in each part of the Form 3 Ordinary Application.

If you are unsure about any information that is required in the Form 3 Ordinary Application, you should obtain legal advice. NTCAT cannot provide you with legal advice.

PART A – PARTIES

The parties should be identified in the same way as in the Initiating Application (or, if NTCAT has made orders changing the parties, then according to those orders).

PART B – DETAILS OF APPLICATION

When you file a Form 3 Ordinary Application you must identify whether you are the applicant or respondent in the proceeding.

For example:

PARTY MAKING THIS ORDINARY APPLICATION:

Applicant/s

Respondent/s

You must clearly state what decision you want NTCAT to make by selecting the relevant check box in the Form 3 Ordinary Application. You can select more than one check box if you are asking NTCAT to make multiple orders.

For example:

WHAT ORDERS DO YOU WANT NTCAT TO MAKE?

Order for substituted service

Please provide with this application all the material relevant to your efforts to serve the Initiating Application.

Reopening a proceeding

Adjourn a compulsory conference or hearing

Please specify the date to which you seek to have the matter adjourned:

I request that the compulsory conference be listed after 1 May 2019.

Leave to withdraw an initiating application or referral

Leave to appear by legal practitioner (in proceedings under the Small Claims Act)

Leave to appear by a person who is not a legal practitioner (all NTCAT proceedings)

Leave to appear by telephone

Please specify the occasion or occasions on which you seek to appear by telephone:

Please provide a direct contact number:

I request leave to appear by telephone at the compulsory conference. I can be contacted on landline number 08 3333 6666.

Extension of time to comply with NTCAT Orders:

Please specify extension sought, including any extension of other deadlines that may be necessary:

Stay of NTCAT order(s)

Substitute, add or remove a party to a proceeding

Please identify the changes sought regarding the parties:

Other, please specify

If I am not granted leave to appear by telephone at the compulsory conference, I request that NTCAT makes appropriate arrangements so the respondent and I can comply with the current Domestic Violence Order as stated above.

You must provide a brief summary of the reasons you are relying upon for NTCAT to make the orders you are seeking. It is important that your summary is clear and includes enough information for NTCAT and the other party to understand the grounds you are relying on to make the application.

WHAT ARE YOUR REASONS FOR SEEKING THE ABOVE ORDER/S?
(Please provide a summary of the facts relating to the ordinary application):

I request that the compulsory conference be adjourned for a period of two weeks. The respondent and I have a family court matter listed for 1 May 2019. The finalisation of this matter may assist us to reach a settlement in relation to the proceeding I have brought before NTCAT.

I request leave to appear by legal practitioner because English is my second language and I find it difficult to understand the legal complexities of my claim without this assistance. My legal practitioner also understands the context of the proceeding currently before NTCAT since she is also representing me in my family court matter.

I request leave to appear by telephone at the compulsory conference. There is a current Domestic Violence Order between myself and the respondent, which precludes the respondent from being within 100 metres of me at any time. If my legal practitioner is granted leave to appear, she will be attending the compulsory conference in person with full authority to act on my behalf.

PART C - CONSENT

Where possible, you should write to the other party prior to filing a Form 3 Ordinary Application, and seek to obtain their consent to the orders you are seeking.

Whilst it should not always be assumed that NTCAT will make an order just because the other party agrees, consent is a factor that NTCAT may take into account when considering whether or not the orders should be made.

For example:

DOES THE OTHER PARTY/PARTIES AGREE TO THE ORDER(S)?
(Please note that it should not always be assumed that NTCAT will make an order just because the other party agrees)

YES (please note that NTCAT may require evidence of the agreement of the other party/parties)

NO

SIGNATURE

A person signing as a representative of the party filing a Form 3 Ordinary Application warrants to NTCAT that he/she has the lawful authority to do so. Evidence of this authority may be requested when the matter is heard by NTCAT.

For example:

SIGNATURE OF APPLICANT OR APPLICANT'S REPRESENTATIVE:¹

Jim Brown

NAME OF APPLICANT OR APPLICANT'S REPRESENTATIVE: *Jim Brown*

DATE: *22 April 2019*

WHAT HAPPENS NEXT?

The ordinary application is considered by the Registrar or an NTCAT member who will either make the order requested or make orders to enable a hearing of the ordinary application (including orders about serving the ordinary application and any evidence relevant to it).

¹ A person signing as representative of a party warrants to NTCAT that he/she has the lawful authority to do so.