

NORTHERN TERRITORY OF AUSTRALIA

LEGAL PRACTITIONERS (INCORPORATION) ACT

As in force at 1 January 1991

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 1991

LEGAL PRACTITIONERS (INCORPORATION) ACT

An Act to consolidate and amend the law relating to the incorporation of legal practices

1 Short title

This Act may be cited as the *Legal Practitioners (Incorporation) Act*.

2 Act to be read with *Legal Practitioners Act* and Corporations law

Subject to this Act, this Act is incorporated in and shall be read as one with the *Legal Practitioners Act* and the Corporations Law.

3 Definitions

In this Act, unless the contrary intention appears:

director means a director of a practising company.

near relative means a parent, spouse, child, or grandchild of a director.

practising company means a company approved in accordance with this Act.

spouse includes a person who, although not married to a person of the opposite sex, lives with that other person on a bona fide domestic basis.

4 Practising companies

- (1) No person shall form a company, other than a practising company, for the purpose of carrying on the practice of a legal practitioner.
- (2) No person shall form a practising company except with the approval of the Chief Justice upon application in writing.
- (3) An application under subsection (2) shall only be made by a legal practitioner who is proposed as a director of the proposed practising company.

5 Approval of applications

- (1) The Chief Justice shall not approve the formation of a practising company unless the proposed memorandum and articles of the proposed company:
 - (a) provide that each director shall hold an unrestricted practising certificate or, as an alternative where there are only 2 directors, that one director shall hold an unrestricted practising certificate and the other shall be a near relative of the first;
 - (b) provide that the practising company shall not carry on the practice of a legal practitioner while there is no director who holds an unrestricted practising certificate or, in the alternative case referred to in paragraph (a), while one director does not hold an unrestricted practising certificate;
 - (c) provide that all the shares included in all classes of shares that entitle the holder of such a share to exercise a vote at a meeting of the company shall only be held by a director or directors;
 - (d) provide that no share in the company shall be held by a person other than:
 - (i) a director;
 - (ii) a near relative of a person who is, for the time being, a director; or
 - (iii) an executor or administrator of, or trustee for, any of the persons referred to in subparagraphs (i) and (ii); and
 - (e) contain such other provisions as may be prescribed,and are also approved by the Chief Justice.
- (2) An approval of the Chief Justice under this section shall be to the formation of a company as constituted by the approved memorandum and articles of the company.
- (3) The Chief Justice may approve the incorporation of a proposed practising company under a name approved by the Chief Justice, being a name under which a company may be incorporated under the Corporations Law.

6 Incorporation of practising company constituted by approved memorandum and articles

- (1) A company shall not be incorporated as a practising company except as constituted by memorandum and articles approved under section 5.
- (2) An alteration to the memorandum or articles of a practising company shall not be registered except pursuant to a direction of the Chief Justice.

7 Application of *Legal Practitioners Act*

- (1) For the purposes of sections 134, 136 and 139 of the *Legal Practitioners Act*, a practising company shall be deemed to be a legal practitioner.
- (2) For the purposes of the *Legal Practitioners Act*, a practising company shall be deemed to be a partnership comprised of its directors, and each director shall be deemed to be a partner of each other director.

8 Directors to guarantee debts of company

The directors of a practising company shall be deemed jointly and severally to guarantee the debts of the company.

9 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

10 Repeals

The *Legal Practitioners (Incorporation) Ordinance 1974* (No. 19 of 1974) and the *Legal Practitioners (Incorporation) Ordinance (No. 2) 1974* (No. 32 of 1974) are repealed.

11 Savings

A practising company formed pursuant to an enactment repealed by section 10 and in existence as at the commencement of this Act shall continue in existence as if it had been formed pursuant to this Act.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Legal Practitioners (Incorporation) Act 1989 (Act No. 58, 1989)

Assent date	2 October 1989
Commenced	2 October 1989

Corporations (Consequential Amendments) Act 1990 (Act No. 59, 1990)

Assent date	14 December 1990
Commenced	14 December 1990

3 LIST OF AMENDMENTS

s 2	amd No. 59, 1990, s 4
ss 5 – 6	amd No. 59, 1990, s 4